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WHEN RECORDED MAIL TO:
DAVIS CREEK L.L.C.
220 SOUTH 200 EAST, #330
SALT LAKE CITY, UT 84111

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JAMES ASHAUER, DAVIS CNTY RECORDER
1998 JUL 22 11:44 AM FEE 53.00 DEP MEC
REC'D FOR DAVIS CREEK LLC

**DECLARATION OF COVENANTS, CONDITIONS, AGREEMENTS AND RESTRICTIONS
AFFECTING THE REAL PROPERTY KNOWN AS**

Lots 101 to 128 & common areas **Creekside Estates P.U.D.**
07-205 +

THIS DECLARATION is made this 2 day of July, 1998, by Robert C. Miller, Member of Davis Creek L.L.C., hereinafter referred to as "Declarant".

WITNESSTH

WHEREAS, the Declarant., a Utah Limited Liability Corporation and record owner of real property more particularly described as follows:

All of Lots 101 through 128, Creekside Estates P.U.D., situated in the City of Farmington, in the County of Davis, in the State of Utah, according to the official plat thereof recorded as Entry No. _____, In Book _____, Page _____, in the office of the Davis County Recorder; hereinafter referred to as "Property".

WHEREAS, it is the desire and intention of the Declarant to subdivide and sell the Property described above and to subject the Property to mutually beneficial restrictions under a general plan of improvement for the benefit of all the Property in the subdivision and the future owners of said Property;

WHEREAS, the Creekside Estates P.U.D. Homeowners Association, hereinafter referred to as the "Association", has been or will be incorporated as a Utah non-profit corporation to act as a homeowners' association with the powers of managing, maintaining the property, administering and enforcing the covenants, conditions and restrictions, and assessing and collecting for on a monthly basis a prorated share of the cost for maintaining and repairing any and all common areas on the Property as described herein, and administering and performing such other acts as are provided for or set forth in this Declaration of Covenants, Conditions, Agreements and Restrictions for the Creekside Estates P.U.D. (this "Declaration") or which generally benefit its members or the Property.

THEREFORE, to further the general purposes herein expressed, Declarant, for itself, its successors and assigns, hereby declares that all of the Property shall at all times, be owned, held, used and occupied subject to the provisions of this Declaration and to the covenants, conditions and restrictions herein contained.

The following additional words, phrases or terms used in this Declaration shall have the following meanings:

- (b) "Board" shall mean the Board of Directors of the Association.
- (c) "Lots" shall mean any area of real property within Creekside Estates P.U.D. designated as an individual lot.
- (d) "Member" shall mean any person holding a membership in the Association.
- (e) "Owner" shall mean (when so capitalized) the record holder of legal title to the fee simple interest in any lot. If there is more than one record holder of legal title to a lot, each record holder shall be an "Owner."

NOW, THEREFORE, Declarant hereby declares, for the purpose of protecting the value and desirability of the Property, that all of the Lots shall be held, sold and conveyed subject to the following easements, restrictions, covenants and

conditions, which shall run with the Lots, and be binding on all parties having any right, title or interest in the Lots or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

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ARTICLE I – ASSOCIATION

- 1.1 FORMATION OF ASSOCIATION:** The Association shall be a Utah non-profit corporation charged with the duties and invested with the powers prescribed by law and set forth in its articles and bylaws and this Declaration. Neither the articles nor bylaws of the Association shall, for any reason be amended, changed or otherwise interpreted so as to be inconsistent with this Declaration.
- 1.2 BOARD OF DIRECTORS AND OFFICERS:** The Board and such Officers shall conduct the affairs of the Association as the board may elect or appoint in accordance with the articles and bylaws of the Association as the same may be amended from time to time. The initial Board shall be composed of two directors. The Board may also appoint various committees and appoint a president and other officers, who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association.

ARTICLE II – ASSOCIATION MEMBERSHIP AND VOTING

- 2.1 MEMBERS:** Every Owner of a Lot shall be a Member of the Association and, all such persons shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to an Owner's lot and any such transfer shall automatically transfer the membership appurtenant to said Lot to the new Owner thereof.
- 2.2 VOTING:** Each Member shall be entitled to one vote for each Lot owned in accordance with the provisions hereof. When any lot is owned by more than one Member, the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. The Association shall have no votes as to Lots owned by it.
- 2.3 NO CUMULATIVE VOTING.** In any election of the members of the Board, the Owner or Owners of a given Lot shall collectively have one vote for each Director position to be elected. The candidate receiving the highest number of votes for a given Director position shall be deemed elected. Cumulative voting shall not be allowed in the election of members of the Board or for any other purposes.

ARTICLE III – RIGHTS AND POWERS OF ASSOCIATION

- 3.1 ASSOCIATION'S RIGHTS:** In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights and powers as are set forth in its articles and bylaws.
- 3.2 RIGHTS OF ENFORCEMENT:** The Association, as the agent and representative of the members, shall have the right to enforce the covenants set forth in this Declaration. The Association, the Declarant or any Owner shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations now or hereafter imposed by the provisions of the Declaration. In addition, the Association and the Declarant shall have the right to enforce at law or in equity, all liens and charges now or hereafter imposed by the provisions of this Declaration. If the Association, Declarant or any Owner prevails in any proceeding at the Association, the Declarant or such Owner, as applicable, is entitled to judgment against the breaching Owner or Member for costs and reasonable attorney's fees associated with the action. Failure by the Association or the Declarant to enforce any covenants or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Neither the Declarant, the Architectural Control Committee (individually or collectively), nor any director of the Board or committee member of the Association shall be personally liable to any Owner, Member, or to any other person, including the Association, for any damage, loss, claim or prejudice suffered or claimed on account of any act, omission to act, or performed intentionally and with malice.

3.3 IMPROPER MAINTENANCE AND LIENS: In the event any portion of any lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of surrounding Lots or in the event any portion of a Lot is being used in a manner which violates this Declaration, or in the event any Owner is failing to perform any of its obligations under this Declaration or the architectural guidelines and standards of the Design Review Committee, the Board may give notice thereof to the offending Owner that unless corrective action is taken within fourteen days, the Board may cause such action to be taken at said Owner's costs. If at the expiration of said fourteen-day period of time the required corrective action has not been taken the Board shall be authorized and empowered to cause such action to be taken, and the cost thereof shall be assessed against such Owner.

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If the assessed cost is not paid by such Owner within thirty days, the amount of the cost plus interest, collection costs and reasonable attorney's fees, constitutes a lien upon the Owner's lot and upon the recording of notice of the lien by the Board, it is a lien upon the Owner's lot in prior to all other liens and encumbrances, recorded or unrecorded, except (1) tax and special assessment liens on the Owner's lot in favor of any assessing unit or special improvement district, and (2) encumbrances on the Owner's Lot recorded prior to the date such notice is recorded.

The Board in cases of extreme hardship may release any such lien if it received other security for the payment of the delinquent costs, which it deems sufficient to protect the interests of the Association.

3.4 BY-LAWS: These provisions allow for the establishment of by-laws which enable a duly elected Board with a majority vote (of legal lot owners of the Property) to assess monies to the legal lot owners of the Property for the installation, maintenance and upkeep of improvements for the common good of the property owners herein. The Board may amend said by-laws from time to time with majority vote of said lot owners. The Board shall be comprised of a minimum of three and a maximum of five legal lot owners of the Property. The Declarant shall be exempt from any lot fees assessed approved by the Board.

ARTICLE IV - ARCHITECTURAL CONTROL COMMITTEE

4.1 COMMITTEE MEMBERSHIP: The Architectural Control Committee shall consist of the following three members: Bruce G. Robinson, Symphony Homes; Robert C. Miller, Symphony Homes, and, Michael C. Flood, Symphony Homes. Action by this committee shall be ratified by at least two members. In the event of death or resignation of any member of the committee, the remaining members of the committee shall have full authority to select a successor.

4.2 COMMITTEE DUTIES: The Committee shall have all authority to interpret these covenants. The Owner must submit two sets of plans to include all front, side and rear elevations detailing all exterior materials to be used, floor plans (including scale & dimensions of the structure to be erected), material specifications, and site plan before the review process can commence. A landscaping plan may be required as part of this initial review if the Committee deems it necessary. The Committee will respond with an approval or disapproval as required in these covenants in writing within ten (10) calendar days. In the event the Committee or its designated representative fails to approve or disapprove within ten (10) calendar days after plans and specifications have been submitted to it, approval will not be required but all related covenants must be fully complied with. Liability for non-compliance with said restrictions and covenants should not be borne by Committee as a result of misrepresentations by applicant or oversights by Committee.

ARTICLE V - RESIDENTIAL AREA COVENANTS

5.1 LAND USE: Each lot shall be used for private residence purposes only, and no pre-existing structure of any kind shall be moved from any other location and placed upon said lot, nor shall any incomplete building be permitted to remain incomplete for a period in excess of one year from the date the building was started, unless approved by the Architectural Control Committee. All construction shall be comprised of new materials, with exception to the use of used brick with prior written approval of the Architectural Control Committee.

All improvements on a Lot shall be made, constructed and maintained, and all activities on a Lot shall be undertaken, in conformity with all laws and ordinances of the city of Farmington, Davis County, and the State of Utah which may apply, including without limiting the generality of the foregoing, all zoning and land use ordinances.

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5.2 DWELLING—SIZE, QUALITY, MATERIALS: The following minimum finished square foot living area requirements shall apply. Living areas shall be calculated exclusive of garages, open porches, and basements. The ground floor shall be defined as the first floor with a floor elevation extending above the top back of curb at the driveway approach side of the lot.

One Story Dwellings (Rambler): The required minimum ground floor finished space shall be 1,700 square feet or more with a minimum 3-car garage required, and 2,000 or more ground floor finished space with a minimum of 2-car garage required.

Two Story Dwellings: The required minimum ground floor finished space shall be 2,100 square feet or more with a minimum 3-car garage required, and 2,300 or more ground floor finished space with a minimum of 2-car garage required. In any case, the combined area of the two stories above curb level shall not be less than 2,100 sq. ft.

Multi-Level Dwellings: The combined area of the ground floor and the adjoining levels, qualifying as stories as herein defined, shall be minimum of 2,200 square feet or more with a minimum 3-car garage required, and 2,400 or more combined finished space of the ground floor and adjoining levels qualifying as finished space with a minimum of 2-car garage required.

LOTS NUMBER 101,102, 107, 109, 110, 123, 124, 125, 126, 127, & 128 MAY BE EXEMPT FROM THE AFOREMENTIONED GARAGE REQUIREMENTS IF THE ARCHITECTURAL CONTROL COMMITTEE DEEMS NECESSARY TO PLACE AN APPROPRIATE HOME ON SAID LOT(S).

Each dwelling must have an attached garage for a minimum of two cars except as required above. The dwelling's front and both side exterior walls shall have a minimum of a 30" wainscot of brick or rock, with the remainder in stucco or comparable product as approved by the Architectural Control Committee. However this condition may be waived where the historic style will not permit its use. All approvals of exterior materials must be approved prior to the beginning of construction of a home. Vinyl or Aluminum siding shall be not allowed except for the soffit, fascia and/or raingutter areas.

Each dwelling must have at least a 30 year architectural (laminated) asphalt type shingle. The Architectural Control Committee must approve any other variation from this specification.

Each property owner will be required to install two (2) brick columns at the entrance of the driveway with a lantern (electrical or gas) style light on top. The Architectural Control Committee will determine a design and detail (including brick style and color, lantern style & type, and locations of columns). One of the columns will serve as a location for a mailbox, of which size and color will be specified. No other mailboxes are allowed unless approval is obtained from the Architectural Control Committee. All lanterns will be individually connected to each property owner's individual utility service and all utility costs and maintenance of such light will be born by the individual property owners. The light is to be kept in working order at all times to maintain the required need for street lighting.

Detached structures may be permitted for storage but must be constructed of identical exterior materials of the primary structure. All property owners are required to check with the governing municipality for building code requirements and zoning restrictions.

5.3 **FENCES:** Fences should be kept to a minimum to encourage the use of natural habitat and aesthetics. Any fence constructed on any lot shall be as approved by the Architectural Control Committee and in conformity with the following guidelines: **E 1425301 B 2329 P 421**

Material: Fences or walls shall be of brick, stone, wrought iron or vinyl. No fence or walls shall be constructed of cedar, chain link, wire mesh, slump block (painted or unpainted) or concrete block unless approved in writing by the Architectural Control Committee. This material provision excludes the two-rail fence along the south side of creek and the north roadside along Shady Creek Lane.

Height: Fences, walls, or hedges shall not exceed eight (8) feet. A 100 foot fence restriction easement, (measured 50 feet in each direction from the centerlines of Creekside Court and Babbling Brook Court along Glover Lane, and extending perpendicular to north boundary of the hammerhead turnaround) is restricted to no more than 4' in height allowing a visual streetscape down said roads. Said fence shall semi-private in nature and of the same material type as the perimeter fence noted in "Location" below.

Location: Unless approved by the Architectural Control Committee, no hedge more than three feet high and no fence or wall shall be erected, placed, altered, or permitted to remain on any lot closer than half-way back on the residential structure on said lots, or where said hedge, fence or wall is located along the boundary line between two adjoining lots, and it shall not be closer to the front street than half-way back on the residential structure furthest from the street. Fences bordering the subdivision along the north property lines of lots 101, 102, 118, 119, 122, 123, & 128 and the East property lines of lots 116, 117, & 118, and the West property lines of 102, 103, shall be of the same construction and style as determined by the Architectural Control Committee. No fence shall be constructed along the banks of Davis Creek channel except for that constructed by the developer unless otherwise approved by the Architectural Control Committee.

5.4 **SET-BACK LINES:** The minimum set-back lines herein shall adhered to unless a written variance is approved by the Architectural Control Committee and written approval is granted by Farmington City. The set backs are as follows: Front Yard – 25 feet and no further than 35 feet; Rear Yard – 30 feet; Side Yards – 10 one side & 12 the other; Side Yard corner – 20 feet; Rear Yard Corner – 15 feet (if garage is attached.)

5.5 **LOT AREA & WIDTH:** No dwelling shall be erected or placed on any lot having a width of less that 85 feet at the point 25 feet behind the front property line, nor shall any dwelling be erected or placed on any lot having an area of less that 10,000 square feet. Lot #102 is exempt from the above front width requirement because of the length of the private access to said lot.

5.6 **DRIVE RESTRICTIONS:** No driveways are to be permitted to enter onto any Public Right of Way where there is a "N.A. Line" shown on the recorded plat. This is a "No Access" line.

5.7 **EASEMENTS & COMMON AREAS:** Seven and ten foot easements for drainage and/or installation and maintenance of utilities are reserved on the front and back lot lines and on some side lot lines as shown on the recorded plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot except for those improvements for which a public authority or utility company is responsible. The easements and common areas to be maintained by the Association are as follows: 1) Monument easements found on the NE property corner of lot #101, and the NW property corner found on lot #128; 2) All public R.O.W. parkstrip improvements (i.e trees, grass, sprinklers, etc.) located along Glover's Lane and 200 East (Hwy 106); the two-rail brick and post fence located along the Davis Creek drainage easement along the North side of Shady Creek Lane.

5.8 **DRAINAGE:** No lot shall be graded and no structure or other obstacle shall be erected, placed, or permitted to remain thereon in such a way as to interfere with the established drainage pattern over the lot to and from adjoining land. In the event it becomes necessary to change the established drainage over a lot, adequate provision shall be made for proper drainage. Any fence or wall erected along the side or rear property line of any lot shall contain "weep holes" or shall be otherwise constructed so as to not prevent the flow of surface water from adjoining land

where such flow is in accord with the established drainage. The sloped areas of each lot and all improvements in them shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority, utility company or the Association is responsible.

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The Davis Creek channel has been recorded as a drainage easement providing access to Davis County Flood Control and/or Farmington City, if necessary, to maintain a free-flowing drainage channel. Any plans to change the existing drainage channel shall be subject to Section 5.20 shown below.

- 5.9 TEMPORARY STRUCTURES:** No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.
- 5.10 NUISANCES:** No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance to the neighborhood.
- 5.11 USE OF OTHER STRUCTURES AS A RESIDENCE:** No trailer, basement, tent, shack, garage, barn or other outbuilding or any structure of a temporary character shall be used on any lot at any time as a residence either temporarily or permanently.
- 5.12 SIGNS:** No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet advertising the property for sale, or signs used by a builder to advertise the property during the construction and sales period unless otherwise authorized by the Architectural Control Committee in writing.
- 5.13 ANIMALS:** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot except that dogs (a maximum of two), cats (maximum of two), or other household pets may be kept provided that (a) they are not kept, bred or maintained for any commercial purpose and (b) they do not become an annoyance or nuisance to the neighborhood. No dog will be allowed to roam unattended in Creekside Estates P.U.D. Dogs shall be kept in the house, a dog run or kennel. All dog runs or kennels shall be screened off and out of the direct view from any street, and should be in the rear yard of the home. At other times, dogs shall be on a leash and under the direct control and supervision of the owner.
- 5.14 REFUSE & DISPOSAL:** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in the sanitary containers provided by the City of Farmington. All containers or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.
- 5.15 EXCAVATIONS & COMPLETING IMPROVEMENTS:** No excavation shall be made on any lot except in connection with the erection, alteration, or repair of a dwelling or other improvement thereon. When excavation or the erection, alteration, or repair of a structure or other improvements has once begun, the work must be executed diligently and completed within a reasonable time.
- 5.16 ROOFTOP ANTENNAS:** No television, ham radio, citizen band or radio antenna or other similar electronic receiving or sending device shall be permitted upon the rooftop or side of any home or elsewhere if exposed to the view from any other lot, unless approved by the Architectural Control Committee. New DSS style "mini-dishes" or the like may be excluded from this provision, Architectural Control Committee approval is still required. In no case will any such receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any neighboring lot owner's premises or home entertainment facilities or equipment.
- 5.17 OFF-SITE IMPROVEMENTS:** Before taking title or possession of any Lot, the Purchaser shall inspect the completed offsite improvements. Except for deficiencies or defects specified by the Purchaser to the developer before ownership is taken, purchaser hereby releases the developer from further obligations or responsibility as to the installation of the off-site improvements.

If the off-site improvements are not complete at the time ownership is taken, the Developer will, upon completion of the uncompleted off-site improvements, give written notice of completion to purchaser and, unless Purchaser notifies the Developer of any deficiencies within seven (7) days after the date of receipt of the notice of completion

the off-site improvements shall be deemed acceptable to the Purchaser and the Developer will be released from any further obligations or responsibilities as to the installation of the previously incomplete off-site improvements.

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CONDITIONS OF ACCEPTANCE: Upon transfer of title from Developer to Purchaser, Purchaser shall assume full responsibility for accepting property 'AS IS' and to make property inspection of the following prior to closing: 1) Sewer; 2) Water; 3) Secondary Water; 4) Gas; 5) Electric; 6) Telephone; 7) Land Drains; 8) Curb & Gutter; 9) Sidewalks; 10) Asphalt roads; 11) Rough Grading; 12) Others as applicable

All property owners understand that the Declarant does not own or exercise any control over the water rights from Davis Creek Channel. All property owners further understand that the Declarant is powerless in seeking to have said water right assigned. See Section 2.20 below for requirements to fill, alter, divert, grade or construct within the Davis Creek drainage channel.

The Property has been developed as a P.U.D., but all streets, water, land drain, storm drain improvements and rights-of-way will be dedicated to and maintained by Farmington City. Farmington City will also be providing water service and garbage removal.

5.18 LANDSCAPING: Initial landscape requirements are as follows: The owner is to landscape all front and side yards (to the rear of the home) in a manner accepted and approved by the Architectural Control Committee. The owner shall begin landscaping within 2 months of builder's receipt of a Certificate of Occupancy from Farmington City (weather permitting), or in the event that weather doesn't permit commencement of landscaping to begin the owner shall begin by April 30th. In either case, all of the landscaping requirements referenced herein shall be completed within 6 months of commencement.

The Owner must submit two sets of plans to include all front and side landscaping plans detailing all trees, plants, and grass locations; planters, rocks, berms, and retaining locations to be used before the review process can commence. The Committee shall have the authority to disapprove any landscape practices including but not limited to extraordinary landscape treatments (I.e. lava rock gardens & parkstrips or other similar practices). The Committee will respond with an approval or disapproval as required in these covenants in writing within ten (10) calendar days. In the event the Committee or its designated representative fails to approve or disapprove within ten (10) calendar days after plans and specifications have been submitted to it, approval will not be required but all related covenants must be fully complied with. Liability for non-compliance with said restrictions and covenants should not be borne by Committee as a result of misrepresentations by applicant or oversights by Committee. A landscaping plan may be required sooner if the Architectural Control Committee deems necessary as a part of approving the architectural style of the home as found in Section 4.2 above.

Any trees planted within public rights-of-way shall comply with Farmington City's Ordinances and Approved Tree Species List. Each owner must plant a minimum of two 3" caliper trees in the front yard or parkstrip found on the above referenced Farmington City Approved Tree Species List within the prescribed time allotted to complete the initial landscaping requirements. The Architectural Control Committee shall have authority to specify and limit the type and placement and/or removal of trees and other foliage. All trees, lawns, shrubs or other plantings shall be properly nurtured and maintained or replaced at the Owner's expense upon request of the Architectural Control Committee.

5.19 REPAIR OF BUILDINGS & IMPROVEMENTS: No building(s) or improvement(s) upon any lot shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof.

5.20 STREAM ALTERATION & ACCESS RESTRICTIONS: Certain lots within the subdivision include portions of Davis Creek. Federal, State, and local laws prohibit any alteration of these waterways unless a joint permit is first obtained from the U S. Army Corps of Engineers and State Division of Water Rights. Prohibited activities include (without limitation) filling, leveling, clearing, grading, and constructing roads and other improvements. Each owner of a lot, by accepting a deed to the lot or any ownership interest in the lot, agrees to comply with all laws and regulations concerning stream alteration and releases the Declarant from any responsibility or liability

relating to existence of said creek. Lots number 103, 104, 117, 120, 121, 125, and 126 are restricted from having driveway access across Davis Creek as noted in Section 5.6 above. Walkways such as bridges may only be allowed if (a) design, style, and location is approved by the Architectural Control Committee, (b) the lot owner has made application and received approval from all applicable governmental agencies, (c) the design does not inhibit the flow of water at any flow level within the existing channel.

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ARTICLE VI - GENERAL PROVISIONS

- 6.1 **ENFORCEMENT:** Any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by any Owner to enforce any covenants or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 6.2 **SEVERABILITY:** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision, which shall remain in full force and effect.
- 6.3 **AMENDMENT:** Exceptions to the strict interpretation of these guidelines that would cause undo hardship serving no public purpose may be appealed to the Architectural Control Committee. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended or terminated by a vote of at least seventy-five percent (75%) of the total votes of all Owners, which vote shall be taken at a duly called meeting. Any amendment approved shall be written, signed, and recorded against the Lots.

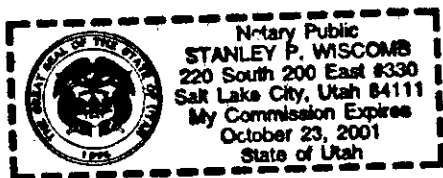
IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand this 3RD day of July, 1998.

DECLARANT:

Davis Creek L.L.C.

By: Robert Miller, (PRINT) Robert Miller
President of Symphony Development Corp., a Member of Davis Creek L.L.C.

On the 3RD day of July, 1998, personally appeared before me ROBERT C. MILLER, who being by me duly sworn did say that he is the PRESIDENT OF SYMPHONY DEVELOPMENT CORP., a MEMBER of DAVIS CREEK L.L.C., that he signed the foregoing instrument by proper authority, and he/she duly acknowledged to me that said corporation executed the same.



Signed: [Signature]
NOTARY PUBLIC

Residing at SALT LAKE CNTY.

My commission expires OCTOBER 23, 2001