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RANDALL A. COVINGTON
UTAH COUNTY RECORDER
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RECORDED FOR CENTURY TITLE

AMENDED AND RESTATED

~~RECORDED FOR CENTURY TITLE~~

**DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS
DIAMOND SPRINGS AT RED HAWK RANCH**

The following Declaration of Covenants, Conditions and Restrictions for Diamond Springs at Red Hawk Ranch replaces in its entirety the previously recorded Declaration of Covenants Conditions and Restrictions as recorded on December 18, 1998 at the office of the County Recorder of Utah County, Utah, Entry #132738, BK. 4906, Page 133.

**DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS
DIAMOND SPRINGS AT RED HAWK RANCH**

THIS DECLARATION OF Covenants, Conditions and Restrictions is made this 12 day of April, 1999 by Sundance Homes, Inc., a Utah limited liability corporation (hereinafter "Declarant"), whose project is known as Diamond Springs at Red Hawk Ranch. The Town of Eagle Mountain is included as a party Declarant in this Declaration of Covenants, Conditions and Restrictions; the Town of Eagle Mountain is not the record owner of property but is included as a Declarant for the purpose of permitting the Town of Eagle Mountain to enforce certain Covenants, Conditions and Restrictions concerning architectural guidelines.

WHEREAS Diamond Springs at Red Hawk Ranch is an area of unique natural beauty, featuring distinctive terrain; and

WHEREAS by subjecting Diamond Springs at Red Hawk Ranch to this Declaration, it is the desire, intent and purpose of Declarant to create a community in which beauty shall be substantially preserved, which will enhance the desirability of living on those portions of Diamond Springs at Red Hawk Ranch, subject to this Declaration, and which will increase and preserve the attractiveness, quality and value of the lands and improvements therein; and

WHEREAS this Declaration shall apply to the lands described on Exhibit A hereto and to such additional lands as may be hereafter subject to this Declaration in the manner set forth below in Article II.

NOW, THEREFORE, Declarant hereby declares that Diamond Springs at Red Hawk Ranch is and shall henceforth be owned, held, conveyed, encumbered, leased, improved, used, occupied and enjoyed subject to the following uniform Covenants, Conditions, Restrictions and Equitable Servitude. That said Covenants, Conditions, Restrictions and Equitable Servitude are in furtherance of, and the same shall constitute, a general plan for the ownership, improvement, sale, use and occupancy of Diamond Springs at Red Hawk Ranch and that they are also in furtherance of and designed to accomplish the desires, intentions, and purposes set forth above in the recitals. This Declaration shall run with the real property described on Exhibit A and shall inure to the benefit of and be binding upon every part thereof and every interest therein. Further this Declaration shall inure to the benefit of, be binding upon, and be enforceable by Declarant and its successors in interest and each owner and its successors in interest. The Town of Eagle Mountain is included as an additional Declarant and shall be treated as a Declarant in all circumstances.

These covenants, conditions and restrictions are subject to and, to the extent they are inconsistent with, shall be superseded by, The Ranches Master Covenants, Conditions and Restrictions including The Ranches Community Design Guidelines, attached thereto as an exhibit, to be recorded by The Ranches, L.C., Declarant of the entire project known as The Ranches, of which Diamond Springs at Red Hawk Ranch is a part. The subordination of these Covenants, Conditions and Restrictions to the Master Covenants, Conditions and Restrictions shall be recorded in the future and is not subject to the approval of any buyers of lots or homes in Diamond Springs at Red Hawk Ranch.

This Declaration shall be recorded and may be enforced as provided for herein.

ARTICLE I

DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in the Declaration shall have the meanings hereinafter specified.

SECTION 1.01. **The Ranches Master Homeowners Association Design Review Committee** shall mean the committee created pursuant to Article IX hereof.

SECTION 1.02. **Design Review Committee Rules** shall mean the rules adopted by the Design Review Committee pursuant to Article IX hereof.

SECTION 1.03 **Design Guidelines** shall mean those Community Design Guidelines for The Ranches dated Feb. 15, 1999 and approved by the Eagle Mountain Town Council, and attached as an exhibit to The Ranches Master Covenants, Conditions and Restrictions.

SECTION 1.04. **Assessments** shall mean the sums levied for the purposes set forth in Article X hereof.

SECTION 1.05. **Beneficiary** shall mean a mortgagee under a mortgage, a beneficiary under a deed of trust, or a seller under a title retaining contract, as the case may be.

SECTION 1.06. **Board** shall mean the Board of Trustees of the Ranches Master Homeowners Association, as appropriate.

SECTION 1.07. **Declarant** shall mean Sundance Homes, Inc. or the Town of Eagle Mountain as the context requires.

SECTION 1.08. **Deed of Trust** shall mean a mortgage, a deed of trust, or a title retaining contract, as the case may be, granted on a Lot to secure the payment of a debt.

SECTION 1.09. **Improvement** shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to, buildings, patios, tennis courts, swimming pools, garages, doghouses, mailboxes, aerials, antennas, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, planting, planted trees and shrubs, poles, signs, exterior air conditioning, water softener fixtures or equipment, pumps, wells, tanks, reservoirs, pipes, lines, meters, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

SECTION 1.10. **Diamond Springs at Red Hawk Ranch** shall mean Diamond Springs at Red Hawk Ranch Subdivision.

SECTION 1.11. **Lot** shall mean any unit of land that is designated on any recorded Subdivision Plat of Diamond Springs at Red Hawk Ranch whether or not improved.

SECTION 1.12. **Manager** shall mean any person, firm or corporation employed by the Ranches Master Homeowners Association pursuant to Article XII hereof and delegated duties, powers, or functions by the Association.

SECTION 1.13. **Mortgage** shall mean any mortgage deed of trust or title retaining contract granted on a Lot to secure the payment of a debt.

SECTION 1.14. **Exterior Materials** shall mean stone, rock, stucco, vinyl or wood siding, finished lumber, brick, or other similar materials but shall not mean cinder block or concrete block or aluminum siding. Exterior residence materials shall be of a noncombustible material as approved by the Town of Eagle Mountain. The determination as to if any specific material constitutes an acceptable Exterior Material as its use is proposed in a given structure in Diamond Springs at Red Hawk Ranch shall be made by the Design Review Committee.

SECTION 1.15. **Notice and Hearing** shall mean ten (10) days written notice given and a public hearing at which the person to whom the notice is directed shall have the opportunity to be heard in person or by counsel at his expense.

SECTION 1.16. **Owner** shall mean (1) the person or persons, including Declarant and, holding an aggregate fee simple interest in a Lot or, as the case may be, (2) the purchaser of an aggregate fee simple interest in a Lot under an executory contract sale.

SECTION 1.17. **Person** shall mean a natural individual or any other entity with the legal right to hold title to real property.

SECTION 1.18. **Plans and Specifications** shall mean any and all documents designed to guide or control the construction, or alterations, or improvements, or other proposal in question, including but not limited to documents indicating the size, shape, configuration and/or materials, to be incorporated; all site plans, excavation and grading plans, elevation drawings, floor plans, techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to the improvement or proposal in question.

SECTION 1.19. **Record, Recorded, and Recordation** shall mean, with respect to any document, the recordation of such document in the office of the Recorder of Utah County.

SECTION 1.20. **Subdivision** shall mean a parcel of land, which has been shown on a final and recorded subdivision plat consisting of two or more lots.

SECTION 1.21. **Declaration** shall mean this instrument as it may be amended from time to time.

SECTION 1.22. **Period of Declarant's Control** shall mean a period from the date of recording of this Declaration until the later to occur of the events set forth in Article IX.

ARTICLE II

SUBJECTION OF LAND TO THIS DECLARATION

SECTION 2.01. Declarant may at any time and from time to time subject additional Real Property to the provisions of this Declaration in accordance with the procedures set out in this Article II. Upon the recording of a Notice of Addition of Real Property containing the provisions set forth below in this Article, the covenants, conditions, restrictions and equitable servitude's contained in this Declaration shall apply to such additional Real Property in the same manner as to the Real Property originally subject to this Declaration and thereafter, the rights, privileges, duties and liabilities of all persons subject to this

Declaration shall be the same with respect to all additional Real Property, as with respect to all additional Real Property, as with respect to the property originally covered by this Declaration.

The Notice of Addition of Real Property referred to herein above shall contain the following provisions:

- A. A reference to this Declaration, which reference shall state the date of recordation hereof and the book and page numbers wherein this Declaration is recorded.
- B. A statement that the provisions of this Declaration shall apply to the additional Real Property as set forth herein.
- C. A complete adequate legal description of the added land; and
- D. Declarant's written consent.

ARTICLE III

BASIC BUILDING RESTRICTIONS

SECTION 3.01. Use of Property. Each Lot shall be used solely for residential purposes.

SECTION 3.02. Design Review Committee Approval. The Plans and Specifications, including the location of all improvements must be approved in writing by the Design Review Committee prior to commencement of any construction in accordance with and subject to the provisions of Article IX hereof.

SECTION 3.03. Architecture - Elevation Articulation Ratio (EAR). The elevation articulation ratio is intended to establish a measure of acceptable architectural material and massing for an elevation. This ratio shall be established for all elevations of a dwelling as well as averaged in order to meet the minimum requirements. The EAR shall be meet the criteria of Design Guidelines as recorded by the County Recorder in Utah County, Utah for "Entry-Level Neighborhoods", found on page 36, paragraph 6.4.2.2 of the Design Guidelines.

SECTION 3.04. Property Line Setbacks. Any structures to be constructed on a Lot shall comply with the following minimum property line setbacks.

- Front yard - 15 feet from back of sidewalk
- Rear yard - 25 feet
- Side yards - 5 feet on each side
- Alley Loaded Garage - 2 feet from alley curb

SECTION 3.05. Floor Space. The minimum size of each single story, bi-level or tri-level dwelling unit shall meet the criteria of Design Guidelines as recorded by the County Recorder in Utah County, Utah for "Entry-Level Neighborhoods" as found on page 36, paragraph 6.4.2.2.A of the Design Guidelines.

SECTION 3.06. Exterior Materials. All exterior surfaces of any building shall be of materials and of colors approved by the Design Review Committee and as specified in Article 1.14 of this Declaration, and in accordance with Section VI: Architecture Guidelines found on pages 29-39 of the Design Guidelines.

SECTION 3.07. **Roofs.** All roofs shall be constructed in accordance with the Design Guidelines as set forth on page 33, paragraph 6.4.1.3.C and page 36, paragraph 6.4.2.2.E.

SECTION 3.08. **Roof Overhangs.** Shall be constructed as set forth on page 33, paragraph 6.4.1.3.C of the Design Guidelines.

SECTION 3.09. **Height.** No building shall exceed thirty-five feet in height measured from the highest natural ground level adjacent to such building to the highest point of the ridge line of such building. See page 29, paragraph 6.3.1.A of the Design Guidelines.

SECTION 3.10. **Garages.** All Garages must meet the criteria of Design Guidelines as found on page 33, paragraph 6.4.1.3.D and page 36, paragraph 6.4.2.2.A.

SECTION 3.11. **Garage Doors.** Garage doors shall be as required in the Design Guidelines, page 30, paragraph 6.3.1.E and page 33, paragraph 6.4.1.3.D.

SECTION 3.12. **Porches and Covered Entries.** Front porches and/or covered entries shall be required on all front and Public Street facing elevations. Front porches/covered entries shall measure a minimum of eighty (80) square feet and shall be a minimum of six (6) feet deep. See page 33, paragraph 6.4.1.3.E of the Design Guidelines.

SECTION 3.13. **Foundations.** A maximum of eight (8) inches of exposed concrete foundation shall be permitted. A maximum of twenty (20) inches of exposed concrete shall be permitted on elevations where the grade slopes along the dwelling. Requirements are specifically addressed on page 30, paragraph 6.3.1.B of the Design Guidelines.

SECTION 3.14. **Windows.** A minimum of one window on each elevation of a dwelling shall be required. Criteria are set forth on page 30 paragraph 6.3.1.D of the Design Guidelines.

SECTION 3.15. **Decks.** Decks shall be integrated with the architecture of the main dwelling. See page 30, paragraph 6.3.1.C of the Design Guidelines for further information.

SECTION 3.16. **Construction Time Requirement.** Construction must be commenced within 18 months of the closing on a Lot purchase.

SECTION 3.17. **New Construction.** All dwelling units shall be of new construction. No other building (including but not limited to playhouses, and storage sheds) may be moved onto a Lot without the prior written approval of the Design Review Committee.

SECTION 3.18. **Storage of Building Materials.** No building materials shall be stored on any Lot except temporarily during construction of an improvement or its alteration, renovation or remodeling, and then only when a building permit is in force.

SECTION 3.19. **Landscaping and Fencing.** See Article VIII of these Covenants, Conditions and Restrictions.

SECTION 3.20. **Occupancy During Construction.** No improvement structure shall be occupied in the course of original construction until the appropriate governmental authorities have issued all required certificates of occupancy. All work of construction shall be prosecuted diligently and continuously from the time of commencement until completed within nine (9) months from the date that site excavation was commenced.

SECTION 3.21. **Temporary Structures.** No trailer, mobile home, tent, shack or other temporary building, improvement or structure shall be placed upon any property without the prior approval of the Design Review Committee except that temporary structures necessary for storage of tools and equipment and for office space for architects, sales personnel, builders and foremen during actual construction may be maintained with the prior approval of the Design Review Committee, with such approval to include the nature, size and location of such structure.

SECTION 3.22. **Construction Activities.** This Declaration shall not be construed so as to unreasonably interfere with, or prevent normal construction of improvements by any Owner, provided that when completed such improvements shall in all ways conform to this Declaration. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs, or similar activities, provided that such construction is pursued to completion with reasonable diligence and is in compliance with applicable federal, state and local laws and ordinances and any rules and regulations adopted pursuant thereto, and conforms to usual construction practices in the area. In the event of any dispute, a temporary waiver of the applicable provision, including but not limited to any provision prohibiting temporary structures, may be granted by the Design Review Committee, provided that such waiver shall be only for the reasonable period of such initial construction. Such waiver may, but need not, be recorded or in recordable form.

SECTION 3.23. **Driveways.** Driveways for dwellings shall be large enough to accommodate at least two (2) parked automobiles. Hard surface driveways (concrete, brick, pavers, etc.) are required and shall be properly maintained. No asphalt or gravel driveways are permitted.

SECTION 3.24. **Mail Box.** Each Lot when improved shall have a Mail Box and post in compatible with the architecture and materials of the home, and must be in compliance with the requirements of the Design Review Committee.

ARTICLE IV

ANIMALS

Animals kept on any Lot shall be properly fenced, sheltered and cared for. All dogs shall be kept on a hand-held leash except when on Owner's own Lot. Each Owner shall maintain and clean facilities for their pets and no objectionable odors, pests, insects, etc. No animal or other pet of any kind other than common domesticated animals shall be allowed, including but not limited to cats and dogs which in the opinion of the Association's Board might be dangerous or which makes an unreasonable amount of noise or odor or is a nuisance. Each Owner of pets and animals shall be financially responsible and liable for any damage caused by said Owner's pets and animals and shall be responsible for the pickup and disposal of any excrement deposited by his pets and animals.

ARTICLE V

COMMON AREA AMENITIES

SECTION 5.01. **Parks.** Parks located in the Diamond Springs at Red Hawk Ranch Subdivision will be made available to all Lot Owners, tenants and their accompanied guests or invitees. The Ranches Master Homeowner's Association, Inc. shall maintain the parks.

