

Prowswood, Inc.  
4885 South 9th East  
Salt Lake City, Utah 84117  
Attention: Alan J. Wood

4150  
*Quentin J. Wood*  
Attorney for Prowswood, Inc.

SECURITY TITLE CO.

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KATHLEEN  
RECORDS  
SALT LAKE COUNTY  
UTAH

3728826

FOURTH SUPPLEMENTARY DECLARATION

TO THE

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF BROOKSTONE

A PROWSWOOD OPEN SPACE CONDOMINIUM PHASE NO. 1

CONDOMINIUM PROJECT

THIS FOURTH SUPPLEMENTARY DECLARATION is made and executed on the 15th day of October, 1982, by Prowswood, Inc., a Utah Corporation (the "Declarant").

RECITALS

A. On June 3, 1978, Declarant made and executed the Declaration of Covenants, Conditions and Restrictions of Brookstone, a Prowswood Open Space Community Phase No. I (the "Declaration") as the initial part of a Plan for the Brookstone Condominium Project (the "Project"). The Declaration was recorded in the Official Records of Salt Lake County, State of Utah, on June 12, 1978, in Book 4687 at Pages 1204, et seq. as Entry No. 3121458. The related Record of Survey Map ("Phase I Map") was recorded concurrently with the Declaration as Entry No. 3212457 in Book 78-6-167. The Declaration and Phase I Map submitted to the provisions of the Act the following described real property situated in Salt Lake County, State of Utah, to-wit:

Beginning at a point on the centerline of 6400 South Street, said point being S 0°07'45" W 1404.54 feet; thence N 89°57'30" W 2639.85 feet to a monument; thence N 89°46'54" W along the centerline of said 6400 South Street 378.466 feet from the Northeast Corner of Section 21, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 356.88 feet; thence East 59.25 feet; thence South 338.00 feet; thence West 112.00 feet; thence South 160.45 feet; thence S 60°00' W 176.17 feet to a point on a curve to the right, the radius point of which is N 60°00' E 232.50 feet; thence Northwesterly along the arc of said curve 29.42 feet to a point of tangency; thence N 22°45' W 161.05 feet to a point of a 1150.0 foot radius curve to the left; thence Northwesterly along the arc of said curve 225.80 feet to a point of a reverse curve to the right, the radius point of which is N 56°00' E 210.0 feet; thence Northerly along the arc of said curve 142.94 feet;

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thence S 87°13'06" W 196.87 feet; thence N 2°46'54" W 447.00 feet to the centerline of said 6400 South Street; thence S 89°46'54" E along said centerline 641.234 feet to the point of beginning.

RESERVED FROM THE FOREGOING SUBMISSION are such easements and rights of ingress and egress over, across, through, and under the above-described tracts and any improvements now or hereafter constructed thereon as may be necessary to develop the entire Project. If pursuant to this reservation, the above-described real property or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservation hereby effected shall terminate upon the completion and sale by Declarant of all Units in the Project. The foregoing submission is subject to a 12 ft. drainage and irrigation easement to Salt Lake County Flood Control and to Little Cottonwood Ditch Company described as follows:

Beginning at a point on the South line of 6400 South Street said point being South 1431.74 feet and West 3661.10 feet from the Northeast corner of Section 21, Township 2 South, Range 1 East, Salt Lake Base and Meridian and running thence South 2°46'54" East 413.95 feet; thence North 87°13'06" East 12.00 feet; thence North 2°46'54" West 413.32 feet to the South line of said 6400 South Street; thence North 89°46'54" West along said Southline 12.02 feet to the point of beginning. And subject, also, to easements of record and visible and subject, further, to restrictions, conditions and covenants of record.

B. Under the Declaration (Section 27 of Article III) Declarant reserved the right to expand the Project until the seventh anniversary of the recording of the Declaration.

C. On January 31, 1979, Declarant executed an instrument entitled "Supplementary Declaration of and Amendment to Covenants, Conditions and Restrictions of Brookstone, a Prowswood Open Space Community Condominium (Phase I)", hereinafter referred to as the "First Supplementary Declaration". The First Supplementary Declaration was recorded in the Official Records of Salt Lake County, Utah on February 5, 1979, in Book 4810, at Page 269, et seq. as Entry No. 3233272. Concurrently with the recording of the First Supplementary Declaration, there was recorded in "Supplemental Record of Survey Map of Phase II", hereinafter the "Phase II Map", in Book 79-2-42 as Entry No. 3233273. The First Supplementary Declaration and the Phase II Map submitted to the provisions of the Act the following described tract of real property in Salt Lake County, State of Utah:

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Beginning at the center of Section 21, Township 2 South, Range 1 East, Salt Lake Base and Meridian and running thence N 89°37'20" W along the South line of the Northwest quarter of said section 1096.07 feet to the East line of Rothmoor Estates No. 1 Subdivision; thence along the East line of said Subdivision as follows: N 26°13'06" E 287.73 feet; thence N 70°43'06" E 188.10 feet; thence N 26°16'54" W 272.24 feet; thence N 36°31'54" W 132.00 feet; thence N 2°46'54" W 114.01 feet; thence leaving said East line N 87°13'06" E 196.87 feet to a point on a curve to the left; the radius point of which is S 85°00' E 210.0 feet; thence Southeasterly along the arc of said curve 142.94 feet, to a point of a reverse curve to the right, the radius point of which is S 56°00' W 1150.0 feet; thence Southeasterly along the arc of said curve 225.80 feet to a point of tangency; thence S 22°45' E 161.05 feet to a point of a 232.50 foot radius curve to the left; thence Southeasterly along the arc of said curve 29.42 feet; thence N 60°00' E 176.17 feet; thence North 160.45 feet; thence East 112.00 feet; thence North 338.0 feet; thence East 68.765 feet to a point of a 90.0 foot radius curve to the right; thence Southeasterly along the arc of said curve 145.56 feet to a point of tangency; thence S 2°40' W 137.00 feet to a point of a 1000.0 foot radius curve to the left; thence Southerly along the arc of said curve 168.715 feet to a point of tangency; thence S 7°00' E 170.00 feet to a point of 120.0 foot radius curve to the right; thence Southwesterly along the arc of said curve 128.42 feet; thence S 35°41' E 38.465 feet; thence S 89°54'30" E 325.20 feet; thence S 0°05'30" W 56.135 feet; thence S 20°14'17" W 85.37 feet; thence S 0°16'04" W 31.00 feet; thence N 89°43'56" W 130.90 feet to the point of beginning. Contains 12.197 acres

Subject to easements of record, and visible, and subject, also, to restrictions and covenants of record.

RESERVING UNTO THE DECLARANT a perpetual 24 foot right-of-way easement for ingress and egress the centerline of which is described as follows:

Beginning at a point on the South right of way line of 6400 South Street, said point being North 89°46'54" West along the center line of said 6400 South Street 537.59 feet and South 0°13'06" West 33.00 feet from a Salt Lake County Monument at point where the center line of said 6400 South Street intersects the West line of the Northeast quarter of Section 21, Township 2 South, Range 1 East, Salt Base and Meridian; said point of beginning also being North 1203.13 feet and West 535.74 feet from the center of said Section 21 and running thence South 0°13'06" West 324.485 feet; thence East 288.50 feet to a point

of a 90.0 foot radius curve to the right; thence Southeasterly along the arc of said curve 145.56 feet to a point of tangency; thence South 2°40' West 137.00 feet to a point of a 1000.0 foot radius curve to the left; thence Southerly along the arc of said curve 168.715 feet to a point of tangency; thence South 7°00' East 170.00 feet to a point of 120.00 foot radius curve to the right; thence Southwesterly along the arc of said curve 128.42 feet; thence South 35°41' East 38.465 feet; thence South 89°54'30" East 170.58 feet; thence South 69°54'30" East 21.93 feet; thence South 89°54'30" East 52.82 feet; thence South 44°54'30" East 102.47 feet to a point on the Northwesterly line of a RV storage area said point being North 86.68 feet and East 151.80 feet from the center of said Section 21.

D. On November 26, 1979, Declarant executed an instrument entitled "Second Supplementary Declaration of and Amendment to Covenants, Conditions and Restrictions of Brookstone, A Prowswood Open Space Community Condominium (Phase I)", hereinafter referred to as the "Second Supplementary Declaration". The Second Supplementary Declaration was recorded in the Official Records of Salt Lake County, Utah on January 4, 1980 in Book 5019, at Page 314, et seq. as Entry No. 3384830. Concurrently with the recording of the Second Supplementary Declaration, there was recorded the "Supplemental Record of Survey Map of Phase III", hereinafter the "Phase III Map", in Book 80-1-4 of Plats as Entry No. 3384831. The Second Supplementary Declaration and the Phase III Map submitted to the provisions of the Act the real property particularly described in Article II of the Second Supplementary Declaration.

E. On April 6, 1982, Declarant executed an instrument entitled "Third Supplementary Declaration to the Declaration of Covenants, Conditions and Restrictions of Brookstone A Prowswood Open Space Condominium Phase No. 1 Condominium Project", hereinafter referred to as the "Third Supplementary Declaration". The Third Supplementary Declaration was recorded in the Official Records of Salt Lake County, Utah on April 6, 1982 in Book 5359, at Page 465, et seq. as Entry No. 3663886. Concurrently with the recording of the Third Supplementary Declaration, there was recorded the "Supplemental Record of Survey Map of Phase IV", hereinafter the "Phase IV Map", in Book of Plats as Entry No. 3663887. The Third Supplementary Declaration and the Phase III Map submitted to the provisions of the Act the real property particularly described in Article II of the Third Supplementary Declaration.

F. This Fourth Supplementary Declaration applies to the Declaration, the First Supplementary Declaration, the Second Supplementary Declaration, and to the Third Supplementary Declaration and the real property described therein. The Record

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of Survey Map Phase IV of the Project ("Phase IV Map"), heretofore recorded, consisting of nine sheets prepared and certified to by Robert B. Jones, a duly registered Utah Land Surveyor, described the Phase IV Land and constitutes the last expansion of the Project.

G. There currently exists in the Project Two Hundred and Twenty (220) Units and the Common Areas.

H. It is the intent of the Declarant to set forth clearly and unequivocally the process of transition from the developer to the Association of Unit Owners and to correct certain technical errors and omissions found in the Declaration, the Supplementary Declaration, the Second Supplementary Declaration, and the Third Supplementary Declaration. To this end and for the benefit of the Project and the Owners thereof, Declarant makes this Fourth Supplementary Declaration.

NOW, THEREFORE, for the foregoing purposes, Declarant hereby makes the following Fourth Supplementary Declaration:

#### I. DEFINITIONS

When used in this Declaration (including in that portion hereof headed "Recitals") the following terms shall have the meaning indicated. Any term used herein which is defined by the Act shall, to the extent permitted by the context hereof, have the meaning ascribed by the Act. Except as otherwise defined herein or as may be required by the context, all terms or expressions defined in Article I of the Declaration, the First, Second and Third Supplementary Declarations shall have such defined meaning when used in this Fourth Supplementary Declaration.

1. Fourth Supplementary Declaration shall mean and refer to this Fourth Supplementary Declaration of Covenants, Conditions and Restrictions of Brookstone A Prowswood Open Space Condominium Phase I Condominium Project.

2. The Definitions contained in Paragraphs 4, 6, 7, 8, 9 and 15 of Article I of the Declaration are hereby deleted in their entirety, and the following are substituted in lieu thereof:

(a) "4. Record of Survey Map or Survey Map or Map shall mean and refer to the Record of Survey Map filed with the Declaration, consisting of Seven (7) sheets, and prepared and certified to by Robert B. Jones, a duly registered Utah Land Surveyor having Certificate No. 1525; the Supplemental Record of Survey Map of Phase II of Brookstone Condominium Project ("the Supplemental Map II") executed and acknowledged by Declarant, prepared and certified to by Robert B. Jones and filed for record in the Office of the County Recorder of Salt

Lake County, Utah concurrently with the filing of the Supplementary Declaration; Record of Survey Map Phase III of Brookstone Condominium Project ("the Supplemental Map III") executed and acknowledged by Declarant, prepared and certified to by Robert B. Jones and filed for record in the Office of the County Recorder of Salt Lake County, Utah concurrently with the filing of the Second Supplementary Declaration; and Record of Survey Map Phase IV of Brookstone Condominium Project ("the Supplemental Map IV") executed and acknowledged by Declarant, prepared and certified to by Robert B. Jones and filed for record in the Office of the County Recorder of Salt Lake County, Utah concurrently with the filing of the Third Supplementary Declaration".

(b) "6. Management Committee or Committee shall mean and refer to the Management Committee of the Brookstone Condominium Project as it exists at any given time".

(c) "7. Common Areas and Facilities or Common Areas shall mean, refer to and include:

(a) The real property and interests in real property which this Declaration submits to the terms of the Act.

(b) All Common Areas and Facilities designated as such in the Survey Map.

(c) All Limited Common Areas and Facilities.

(d) All foundations columns, girders, beams, supports, perimeter walls, roofs, and lobbies constituting a portion of or included in the improvements which comprise a part of the Project and any stairs, stairways, entrances, and exits which are designed for the use of more than one Unit, parking spaces, access roads, driveways, walkways, pedestrian sidewalks, landscape and planting areas, fences, brick walls, street lights and other common facilities.

(e) All apparatus, installations, and facilities included within the Project and existing for common use.

(f) All portions of the Project not specifically included within the individual Units."

(d) "8. Limited Common Areas and Facilities or Limited Common Area shall mean and refer to those Common Areas and Facilities designated herein or in the Survey Map as reserved for the use of a certain Unit or Units to the exclusion of the other Units. Limited Common Areas consist of certain open parking spaces provided adjacent to certain end Units and

balconies both indicated in the Map by double-crosshatching, as are the entrances and exits of each Unit although not indicated on the Map".

(e) "9. Condominium Unit or Unit means and refers to a separate physical part of the Property intended for independent use, consisting of rooms or spaces located in a building. Units are shown in the Map by single cross-hatching. Mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only the Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, fixtures and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of window frames, doors and door frames, and trim, consisting of, inter alia and as appropriate, wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Unit and serving only the Unit, and any structural members or any other property of any kind including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety, or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit".

(f) "15. Condominium Project or Project shall mean and refer to the Brookstone Condominium Project".

3. Other Definitions. Except as herein otherwise defined, the definitions of a certain word or words contained in this Fourth Supplementary Declaration shall be the same as those defined in the Declaration.

## II. AMENDMENTS TO THE DECLARATION

Under Paragraph 29 of Article (A) III of the Declaration, Declarant reserved the right to unilaterally amend the Declaration until all but five Units of the entire Project have been sold. Declarant is Owner of more than five Units of the entire Project. To enhance the Project's goals, Declarant has concluded that the Declaration, Supplementary Declaration, Second Supplementary Declaration and Third Supplementary Declaration should be amended in certain respects as hereinafter contained which may significantly advance the interests of each Unit Owner but will not substantially and adversely affect the interest of the Association of Unit Owners. Accordingly, Declarant hereby amends Article III of the Declaration as follows:

1. Delete in its entirety Section 8 Article III of the Declaration and the following is substituted in lieu thereof:

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"8. Access for Repair of Common Areas. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of the other Units shall have the irrevocable right, to be exercised by the Committee, as its agent, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or to another Unit or Units. The Committee shall also have such rights independent of the agency relationship. Damage to the interior of any part of a Unit or Units resulting from the maintenance repair, emergency repair, or replacement of any of the Common Areas or as a result of emergency repairs within another Unit or Units at the instance of the Committee or of Unit Owners shall be the financial responsibility of the Association of Unit Owners through the Management Committee; provided, however, that if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all such damage. Such damage shall be repaired and the property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Committee by assessment".

2. Delete in its entirety Section 15 of Article I of the Declaration and the following is substituted in lieu thereof:

"15. Composition of Management Committee. The Committee shall be composed of five members. At the first regular Owners meeting three Committee members shall be elected for two-year terms and two members for one-year terms. At each annual Owners meeting thereafter any vacant seat on the Committee shall be filled with a member elected for a two-year term. Only Unit Owners and officers and agents of Owners other than individuals shall be eligible for Committee membership. At each annual meeting the Percentage Interest appurtenant to a Unit may be voted in favor of as many candidates for Committee membership as there are seats on the Committee to be filled; provided, however, that until the happening of the event described in the second Paragraph of this Section 15 Declarant alone shall be entitled to select three of the five Committee members.

The event referred to in the first Paragraph of this Section 15 shall be the first to occur of the following:

(a) The expiration of Six (6) years after the date on which this Declaration is filed for record in the Office of the County Recorder of Salt Lake County, Utah, which is June 12,



1984; or (b) when all but Five (5) Units of the entire Project have been sold by Declarant.

On the Transfer date referred to in Article III, Section 24, the Committee shall be composed of Five (5) members and shall be constituted as follows: The Declarant, prior to the Transfer Date, may in its discretion appoint three Unit Owners as members of the Committee to hold office. If the Declarant so elects, the previous Management Committee shall resign and Unit Owners shall call a meeting to elect members to fill the two vacancies on the Management Committee to take office effective on the Transfer Date.

In the event a Committee seat which was filled by Declarant becomes vacant prior to the happening of the event described in the second Paragraph of this Section 15 whether by reason of forfeiture or due to another cause, Declarant shall select a replacement member to sit on the Committee for the balance of the term associated with the vacated seat. In all other cases of vacancy, the remaining Committee members shall elect a replacement to sit on the Committee until his successor is elected and qualified. Committee members shall be reimbursed for all expenses reasonably incurred in connection with Committee business. The Committee may fix such compensation for any member as may be reasonable in light of the Committee duties which that member is required to perform."

3. Delete in its entirety Section 24 of Article III of the Declaration and the following is substituted in lieu thereof:

"24. Transfer of Management. Notwithstanding the fact that transfer of management from Declarant to the Association of Unit Owners shall be required upon the first to occur of the following:

(a) The expiration of Six (6) years after the date on which this Declaration is filed for record in the Office of the County Recorder of Salt Lake County, Utah which is June 12, 1984; or (b) when all but Five (5) Units of the entire Project have been sold by Declarant.

Declarant may, at any time, either relinquish its reserved right to select the members of the Committee and/or transfer the management of the Project to the Committee.

If and when Declarant elects so to do, Declarant shall send written notification of the effective date of such transfer (Transfer Date) at least 45 days prior thereto. If necessary, Unit Owners shall call a meeting to elect members to fill any vacancies in the Management Committee and to take office as of the Transfer Date.

Declarant covenants to cooperate with Unit Owners in effecting orderly transition of management.

Declarant shall be entitled to all accounts receivable and Declarant shall be responsible for all accounts payable to the Transition Date. All monies held in reserve obtained from the Unit Owners shall be transferred by Declarant to the Management Committee on the Transition Date. At that time, the reserve shall be under the direction and control and shall be the responsibility of the Management Committee."

4. Delete in its entirety the last sentence of Section 1 of Article III of the Third Supplemental Declaration and the following is substituted in lieu thereof:

"The buildings are composed of the following materials: wood frame with load and non-load bearing wall studded with wood; basement floor of concrete; first and second floors of wooden joists; interior surfaced with sheet rock, exterior of brick veneer and hand split wood shake roof."

5. Delete in its entirety Section 4 of Article III of the Third Supplemental Declaration and the following is substituted in lieu thereof:

"4. Computation of Percentage Interest. The proportionate share of the Unit Owners in the Common Areas of the Project, at any point in time, is based on the Size that each of the Units bears to the total Size of all Units then included in the Project. The Percentage interest which becomes appurtenant, with this Third Supplementary Declaration has been recomputed in the aforesaid manner and is depicted in the Revised Exhibit "A" hereto attached and made a part hereof applicable to all Units after this Phase of the Project. All expansion of the Project has been completed. There will be no future expansion.

### III. EFFECTIVE DATE

This Fourth Supplementary Declaration shall take effect upon its being properly signed, executed and filed for record in the Office of the County Recorder of Salt Lake County, State of Utah.

EXECUTED on the day and year first above written.

PROWSWOOD, INC.

By: 

ROBERT W. WOOD  
Executive Vice-President

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

On this 15<sup>TH</sup> day of OCTOBER, 1982, personally appeared before me ROBERT W. WOOD, who, being by me duly sworn, did say that he is the Executive Vice-President of Prowswood, Inc., and that the within and foregoing instrument was signed on behalf of said Corporation by authority of a Resolution of its Board of Directors and said ROBERT W. WOOD acknowledged to me that said Corporation executed the same.

Nancy H. Bartlett  
NOTARY PUBLIC  
Residing at: Salt Lake City, Utah

My Commission Expires:  
1-14-84

