

THIRD AMENDMENT TO THE DECLARATION OF CONDOMINIUM FOR BIRKHILL
(a Utah Expandable Condominium Project)

THIS THIRD AMENDMENT TO THE DECLARATION OF CONDOMINIUM for BIRKHILL ("Third Amendment") is made this 22 day of Sept., 2009, by Fireclay at Birkhill, LLC, a Utah limited liability company (the "Declarant").

WITNESSETH:

WHEREAS, Fireclay at Birkhill, made, executed and caused to be recorded, as Declarant, that certain:

(a) Declaration of Condominium for Birkhill (a Utah Expandable Condominium Project) recorded among the Salt Lake County Recorder's Office, Entry 10523182, Book 9643, Pages 7965 - 8058 on September 18, 2008, pursuant to which the Declarant formed an association known as "Birkhill Condominium Association, Inc." ("Association"),

(b) First Amendment to the Declaration of Condominium for Birkhill (a Utah Expandable Condominium Project) recorded among the Salt Lake County Recorder's Office, Entry 10603095, Book 9676, Pages 4603-4615 on January 22, 2009, and

(c) Second Amendment to Declaration of Condominium for Birkhill (a Utah Expandable Condominium Project) recorded among the Salt Lake County Recorder's Office, Entry 10730956, Book 9736, Pages 1499-1504 on June 16, 2009, 2009.

WHEREAS, pursuant to Article XVI of the Declaration, Declarant reserved the right to add to the Property additional Buildings with Units and Common Areas and Facilities in the Project within that area described in Exhibit "B" attached to said Declaration and the right to shift the percentages of the Common Areas and Facilities in accordance with any amendment to the Declaration; and

WHEREAS, Declarant, is the owner of that certain property described in Exhibit "A-1" attached hereto and incorporated herein, and that property is within the area described in Exhibit "B" attached to said Declaration and Declarant wishes to add the Building with Units and Common Areas and Facilities described in Exhibit "A-1" attached hereto to the Property subjected to said Declaration.

NOW, THEREFORE, the Declarant hereby declares that the Declaration be amended as follows:

1. Subject to the Declaration, the Building with Units and Common Areas and Facilities described in Exhibit "A-1" attached hereto are to be included in the Project, and shall be held, sold, and conveyed subject to the easements, declarations, covenants and conditions set forth in the Declaration, which are for the purpose of protecting the value and desirability, and enhancing the attractiveness of the Property, and which shall run with the Property and shall be binding upon all parties having any right, title or interest in the Property or any part thereof, their

heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner of the Property or any part thereof and their respective heirs, personal representatives, successors and assigns, and the Association.

2. The undivided interest in the Common Areas and Facilities appurtenant to each Unit and the proportionate share of the Common Areas and Facilities appurtenant to each Unit, as expanded, shall be as set forth on Exhibit "B" attached hereto.

3. In all other respects, the Declaration remains unchanged.

WITNESS the hand of Fireclay at Birkhill, LLC, on the day herein above first written:

WITNESS/ATTEST:

FIRECLAY AT BIRKHILL, LLC
By: Hamlet Homes Corporation, Member

_____ By: *John Aldous* (SEAL)
John Aldous, President

STATE OF UTAH, CITY/COUNTY OF SALT LAKE, TO WIT:

I HEREBY CERTIFY that on this 11 day of Sept., 2009, before me, the subscriber, a Notary Public of the state of Utah, personally appeared John Aldous, known to me or suitably proven, who acknowledged himself to be President of Hamlet Homes Corporation, Member of Fireclay at Birkhill, LLC, the entity named in the foregoing instrument, and who, being authorized to do so, in my presence, signed and sealed the same and acknowledged the same to be the act and deed of such entity.

AS WITNESS my hand and seal.

Linda Sparks-Phillips
Notary Public

My Commission Expires: 6/3/2013



CONSENT AND AGREEMENT OF TRUSTEES AND BENEFICIARY

U S TITLE OF UTAH, Trustee, and WELLS FARGO BANK, N.A., Beneficiary, under that certain Deed of Trust dated May 23, 2007 and recorded in the office of the Recorder of Salt Lake County, Utah in Book 9475, pages 8410 et seq., the Deed of Trustee dated January 29, 2008, and recorded in the office of the Recorder of Salt Lake County, Utah, in Book 9565, pages 7677 et seq. and that certain Security Agreement recorded in the office of the Recorder of Salt Lake County, Utah, in Book 9565, pages 7572 et seq., as the same may be supplemented from time to time (the "Deed of Trust"), hereby join in the foregoing Declaration for the express purpose of subordinating all of their respective right, title and interest under such Deed of Trust in and to the real property described in the Declaration to the operation and effect thereto.

Nothing in the foregoing provisions of this Consent and Agreement of Trustees and Beneficiary shall be deemed in any way to create between the person named in such Declaration as "the Declarant" and any of the undersigned any relationship of partnership or joint venture, or to impose upon any of the undersigned any liability, duty or obligation whatsoever.

IN WITNESS WHEREOF, each of the said Trustees and Beneficiary has executed and sealed this Consent and Agreement of Trustees and Beneficiary or caused it to be executed and sealed on its behalf by its duly authorized representatives, this 22 day of September, 2009.

WITNESS/ATTEST:

U S TITLE OF UTAH

Larry S. Punt (SEAL)

ATTEST:

Frances H. Franchi
FRANCES H. FRANCHI

BENEFICIARY:
WELLS FARGO BANK, N.A.

By: Nathan E. Baker (SEAL)
Nathan E. Baker
Senior Vice President

STATE OF CALIFORNIA
COUNTY OF Placer ss.

On September 21, 2009, before me, Kimberly Ladd, Notary Public,
personally appeared Nathan E. Baker

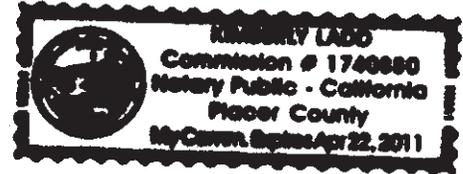
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature Kimberly Ladd

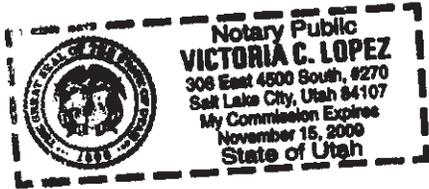
My commission expires April 22, 2011



STATE OF UTAH: COUNTY OF SALT LAKE: TO WIT:

I HEREBY CERTIFY, that on this 22nd day of September, 2009, before me, the subscriber, a Notary Public of the state aforesaid, personally appeared Larry Burton, who acknowledged himself to be the President of U S TITLE OF UTAH, Trustee, and that he/she, being authorized to do so, executed this Consent and Agreement of Trustees and Beneficiary for the purposes contained therein by signing the on behalf of the Corporation, in my presence.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.



[Signature]
Notary Public
My commission expires on 11/15/09

STATE OF UTAH: COUNTY OF SALT LAKE: TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 2009, before me, the subscriber, a Notary Public of the state aforesaid, personally appeared _____, who acknowledged himself to be the _____ of WELLS FARGO BANK, N.A., Beneficiary, and that he/she, being authorized to do so, executed this Consent and Agreement of Trustees and Beneficiary for the purposes contained therein by signing the on behalf of the Corporation, in my presence.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Notary Public
My commission expires on _____

EXHIBIT "A-1"
Legal Description of the Land Being Added to the Property

All of Phase B-3 including units 103, 104, 105, 207, 208, 209, 210, 306, 307, 308, 309, 310, 311, 406, 407, 408, 409, 410 and 411 of BIRKHILL PHASE 1 - AMENDED LOT B, recorded in the Office of the Salt Lake County Recorder in Book 9643 at Page 7792.

Tax ID No.

21-01-230-001	21-01-230-021	21-01-230-015
21-01-230-019	21-01-230-022	21-01-230-016
21-01-230-031	21-01-230-010	21-01-230-017
21-01-230-032	21-01-230-011	21-01-230-027
21-01-230-033	21-01-230-012	21-01-230-028
21-01-230-002	21-01-230-013	21-01-230-044
21-01-230-003	21-01-230-023	21-01-230-045
21-01-230-004	21-01-230-024	21-01-230-046
21-01-230-005	21-01-230-038	21-01-230-047
21-01-230-006	21-01-230-039	21-01-230-048
21-01-230-007	21-01-230-040	21-01-230-049
21-01-230-008	21-01-230-041	21-01-230-029
21-01-230-009	21-01-230-042	21-01-230-030
21-01-230-020	21-01-230-043	21-01-230-018
21-01-230-034	21-01-230-025	
21-01-230-035	21-01-230-026	
21-01-230-036	21-01-230-014	
21-01-230-037		

EXHIBIT "B"

Percentage Ownership of Common Areas and Facilities and Map of the Project

Phase 1-B1		
Unit #	Square Footage	% Ownership
#101	1586	2.50%
#106	1327	2.08%
#107	1581	2.49%
#108	2125	3.34%
#201	1,061	1.91%
#202	1127	1.91%
#203	978	1.91%
#204	978	1.91%
#205	978	1.91%
#213	978	1.91%
#301	1061	1.91%
#302	1127	1.91%
#303	978	1.91%
#314	978	1.91%
#401	1061	1.91%
#402	1127	1.91%
#403	978	1.91%
#414	978	1.91%

Phase 1 - B2		
Unit #	Square Footage	% Ownership
#102	2611	4.10%
#206	978	1.91%
#211	978	1.91%
#212	978	1.91%
#304	978	1.91%
#305	978	1.91%
#312	978	1.91%
#313	978	1.91%
#404	978	1.91%
#405	978	1.91%
#412	978	1.91%
#413	978	1.91%

Phase 1 – B3		
Unit #	Square Footage	% Ownership
#103	1835	2.89%
#104	1561	2.46%
#105	1164	1.83%
#207	978	1.91%%
#208	1005	1.91%%
#209	760	1.91%%
#210	978	1.91%%
#306	978	1.91%%
#307	978	1.91%%
#308	1005	1.91%%
#309	760	1.91%%
#310	978	1.91%%
#311	978	1.91%%
#406	978	1.91%%
#407	978	1.91%%
#408	1005	1.91%%
#409	760	1.91%%
#410	978	1.91%%
#411	978	1.91%%