

WHEN RECORDED, MAIL TO:

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**FIFTH AMENDMENT
TO
CONDOMINIUM DECLARATION
FOR
STONEBROOK CONDOMINIUMS**

an Expandable Utah Condominium Project containing Convertible Land

THIS FIFTH AMENDMENT TO CONDOMINIUM DECLARATION is made and executed by **STONEBROOK, L.C.**, a Utah limited liability company (the "Declarant").

RECITALS

A. By that certain Record of Survey Map of Stonebrook Condominiums Phase I (the "Map") recorded January 29, 1996, as Entry No. 7086, and Map Filing No. 6434, in the Office of the County Recorder of Utah County, Utah, and by that certain Condominium Declaration for Stonebrook Condominiums (the "Declaration") recorded concurrently with the Map in said office as Entry No. 7087, in Book 3873, at Pages 658 through 714, inclusive, Declarant submitted that certain real property more particularly described on Exhibit A attached hereto and by this reference made a part hereof (the "Property"), to the provisions of the Condominium Ownership Act of the State of Utah (the "Act") as an expandable Utah condominium project containing convertible land known as Stonebrook Condominiums (the "Project"), the defined terms of which Declaration are hereby made a part hereof by this reference.

B. By that certain First Supplemental Record of Survey Map of Stonebrook Condominiums Phase II (the "First Supplemental Map") recorded May 1, 1996, as Entry No. 36177, and Map Filing No. 6576, in the Office of the County Recorder of Utah County, Utah, and by that certain First Amendment to Condominium Declaration for Stonebrook Condominiums (the "First Amendment") recorded concurrently with the First Supplemental Map in said office as Entry No. 36178, in Book 3957, at Pages 313 through 322, inclusive, Declarant expanded the Project by adding to the Project that portion of the Additional Land described in the First Supplemental Map and First Amendment and by creating new Units, Common Areas and

Facilities and Limited Common Areas within that portion of the Additional Land thereby added to the Project.

C. By that certain Second Amendment to Condominium Declaration for Stonebrook Condominiums (the "Second Amendment") recorded July 18, 1996, as Entry No. 59128, in Book 4022, at Pages 568 through 572, inclusive, in the Office of the County Recorder of Utah County, Utah, Declarant further amended the Declaration as more particularly set forth in the Second Amendment.

D. By that certain Second Supplemental Record of Survey Map of Stonebrook Condominiums Phase III (the "Second Supplemental Map") recorded July 18, 1996, as Entry No. 59129, and Map Filing No. 6687, in the Office of the County Recorder of Utah County, Utah, and by that certain Third Amendment to Condominium Declaration for Stonebrook Condominiums (the "Third Amendment") recorded concurrently with the Second Supplemental Map in said office as Entry No. 59130, in Book 4022, at Pages 573 through 582, inclusive, Declarant expanded the Project by adding to the Project that portion of the Additional Land described in the Second Supplemental Map and Third Amendment and by creating new Units, Common Areas and Facilities and Limited Common Areas within that portion of the Additional Land thereby added to the Project.

E. By that certain Third Supplemental Record of Survey Map of Stonebrook Condominiums Phase IV (the "Third Supplemental Map") recorded _____, 199____, as Entry No. _____, and Map Filing No. _____, in the Office of the County Recorder of Utah County, Utah, and by that certain Fourth Amendment to Condominium Declaration for Stonebrook Condominiums (the "Fourth Amendment") recorded concurrently with the Third Supplemental Map in said office as Entry No. _____, in Book _____, at Pages _____ through _____, inclusive, Declarant expanded the Project by adding to the Project that portion of the Additional Land described in the Third Supplemental Map and Fourth Amendment and by creating new Units, Common Areas and Facilities and Limited Common Areas within that portion of the Additional Land thereby added to the Project.

F. Under the provisions of Article XXXI of the Declaration, Declarant explicitly reserved the right, at its sole and exclusive option and without the consent of any Unit Owners or any other person or entity having any right or interest in all or any portion of the Project, to expand the Project from time to time by adding to the Project all or any portion of the Additional Land described in the Declaration, together with all improvements constructed or to be constructed thereon, and by creating new Units, Common Areas and Facilities and/or Limited Common Areas within those portions of the Additional Land added to the Project, so long as Declarant does so in accordance with the provisions of said Article XXXI and Section 57-8-13.6 of the Act.

G. Declarant now desires further to expand the Project by adding to the Project another portion of the Additional Land described in the Declaration and by creating new

Units, Common Areas and Facilities and Limited Common Areas within that portion of the Additional Land hereby added to the Project, all as hereinafter more particularly set forth.

H. In order to do so, the Act and Article XXXI of the Declaration require Declarant to record a supplemental record of survey map containing the information necessary to comply with the Act and to record simultaneously therewith an amendment to the Declaration containing a legal description by metes and bounds of that portion of the Additional Land being added to the Project and reallocating undivided interests in the Common Areas and Facilities in accordance with Subsection 57-8-13.10(2) of the Act.

A M E N D M E N T

NOW, THEREFORE, the Declaration is hereby amended as follows, with such amendment to become effective upon the recording of this Fifth Amendment and that certain Fourth Supplemental Record of Survey Map of Stonebrook Condominiums Phase V, an expandable Utah condominium project containing convertible land, in the office of the County Recorder of Utah County, Utah:

1. **Article II, Subsection 2(u) (Definition of Fourth Supplemental Map).** The following subsection is hereby added to Section 2 of Article II of the Declaration at the end thereof:

(u) **"Fourth Supplemental Map"** shall mean and refer to that certain Fourth Supplemental Record of Survey Map of Stonebrook Condominiums recorded concurrently with that certain Fifth Amendment to the Declaration.

2. **Article III (Submission to Condominium Ownership).** The following is hereby added to Article III of the Declaration entitled "Submission to Condominium Ownership," at the end thereof:

Declarant hereby submits that portion of the Additional Land more particularly described on Exhibit B attached to this Fifth Amendment to the Declaration and by this reference made a part hereof, to the provisions of the Act as a part of the Condominium Project created by the Map and the Declaration, as concurrently amended by the Fourth Supplemental Map and this Fifth Amendment to the Declaration, hereby adds that portion of the Additional Land described on Exhibit B attached hereto to the Project and hereby expands the Project to include said portion of the Additional Land described on Exhibit B attached hereto, with said submission, addition and expansion to become effective upon the recording of this Fifth Amendment to the Declaration and the Fourth Supplemental Map in the office of the recorder of the county in which the Project is situated. This Fifth Amendment to the Declaration is submitted in accordance

with the terms and provisions of the Act and shall be construed in accordance therewith. It is the intention of Declarant that the provisions of the Act shall apply to that portion of the Additional Land described on Exhibit B attached hereto and that said portion of the Additional Land described on Exhibit B attached hereto shall hereafter be construed to be an integral part of the Property as defined in the Declaration.

3. **Article V, Section 1 (Description of Land).** The following is hereby added to Section 1 of Article V of the Declaration entitled "Description of Land," at the end thereof:

The land is also that tract or parcel more particularly described on Exhibit B to this Fifth Amendment to the Declaration.

4. **Article V, Section 2 (Description of Improvements).** The following is hereby added to Section 2 of Article V of the Declaration entitled "Description of Improvements," at the end thereof:

That portion of the Project which will be constructed on that portion of the Additional Land added to the Project by the Fourth Supplemental Map and this Fifth Amendment to the Declaration will be constructed on said land in accordance with the information contained in the Fourth Supplemental Map. The Fourth Supplemental Map shows the number of stories to be contained in the one (1) building within said portion of the Project which will contain Units. Approximately half of the lower level of this building will be below ground level. Otherwise, this building will not contain any basement. This building in said portion of the Project will contain a total of twelve (12) Units. This building in said portion of the Project will be of a French country with river stone wainscot architectural style and will be of wood-frame construction with part stucco, part rock, and part brick veneers, aluminum siding beneath the roof peaks, aluminum covered soffits, metal deck and stair railings, asphaltic composition shingle roof and concrete foundation. Each of the Units in this building will contain three bedrooms, a master bath, a bath/utility room, a kitchen, a dining room and a living room, as well as various other amenities. This portion of the Project will also include walkways, and seventy-seven (77) parking spaces, twelve (12) of which will be covered and are Limited Common Areas reserved for the exclusive use of the respective Owners of the Units indicated on the Fourth Supplemental Map. Electricity and natural gas will be separately metered to each Unit. Water, sewage disposal, garbage disposal and cable television services will not be separately metered or billed, but will be paid for as part of Common Expenses. Each Unit will contain carpets and floor coverings and will be equipped with kitchen

appliances. This portion of the Project will also be subject to the easements which are reserved through the Project and as may be required for utilities.

5. Article V, Section 4 (Description of Common Areas and Facilities).

The following is hereby added to Section 4 of Article V of the Declaration entitled "Description of Common Areas and Facilities," at the end thereof:

The Common Areas and Facilities within that portion of the Project which will be constructed on that portion of the Additional Land added to the Project by the Fourth Supplemental Map and this Fifth Amendment to the Declaration are as indicated on the Fourth Supplemental Map and include, but are not limited to, common driveways, common walkways, common parking spaces and common landscaped areas. Except as otherwise provided in the Declaration, the Common Areas and Facilities also consist of the areas and facilities described in the definitions and constitute in general all of the parts of the Property except the Units.

6. Article VII, Subsection 2(b) (Restrictions on Use). Subsection 2(b) of Article VII of the Declaration, as previously amended, is hereby deleted in its entirety and the following is substituted in its stead:

(b) The Common Areas and Facilities shall be used only for the purposes for which they are intended. One-hundred ninety-one (191) of the parking spaces constitute Common Areas and Facilities and are not reserved for the exclusive use of the respective Owners of any particular Units unless subsequently so reserved by rules and regulations promulgated by the Board of Trustees, or unless those parking spaces located within Convertible Land are converted into Limited Common Areas in accordance with the provisions of Article XXXII of the Declaration. Sixty (60) of the parking spaces are Limited Common Areas reserved for the exclusive use of the respective Owners of the Units indicated on the Map, the First Supplemental Map, the Second Supplemental Map, the Third Supplemental Map and the Fourth Supplemental Map. Each parking space shall be used for the parking of operable motor vehicles of a size no larger than a standard automobile or a 3/4 ton truck and for no other purpose. No more than one (1) vehicle may be parked in any parking space at one time. Declarant reserves the right, as its option, to construct storage areas at the front of the covered parking spaces. If Declarant constructs such storage areas, they shall constitute Limited Common Areas reserved for the exclusive use of the respective Owners of the Units which have the right to use the respective covered parking spaces.

7. Article IX, Section 4 (Ownership of Common Areas and Facilities).

Section 4 of Article IX of the Declaration entitled "Ownership of Common Areas and Facilities,"

as previously amended, is hereby deleted in its entirety and the following is substituted in its stead:

4. **Ownership of Common Areas and Facilities.** The Common Areas and Facilities contained in the Project are described and identified in Article V 4. of this Declaration. Said Common Areas and Facilities shall be owned by the Unit Owners as tenants in common. No percentage ownership interest in the Common Areas and Facilities shall be separated from the Unit to which it appertains, and even though not specifically mentioned in the instrument of transfer, such a percentage of undivided ownership interest shall automatically accompany the transfer of the Unit to which it relates. Each Unit Owner shall have an equal undivided, 1.6667% ownership interest in the Common Areas and Facilities within the Project for all purposes, including voting and assessment of Common Expenses. Further exercise of Declarant's right to expand the Project in accordance with Article XXXI hereof will result in a further reallocation of the undivided interest in the Common Areas and Facilities appurtenant to each Unit.

8. **Article XIX, Section 3 (Amount and Payment of Assessments; Initial Purchasers' Additional Assessments).** Section 3 of Article XIX of the Declaration entitled "Amount and Payment of Assessments; Initial Purchasers' Additional Assessments", as previously amended, is hereby deleted in its entirety and the following is substituted in its stead:

3. **Amount and Payment of Assessments; Initial Purchaser's Additional Assessments.** The portion payable with respect to each Unit in and for each year or for a portion of a year shall be a sum equal to the aggregate amount of the Common Expenses for such year, or portion of year, determined as aforesaid, divided by the number of Units in the Project. Such assessments, together with any additional sums accruing under this Declaration, shall be payable monthly in advance, or in such payments and installments as shall be provided by the Board of Trustees. The Board of Trustees has estimated that the Common Expenses for the first year will be \$50,040.00 and that the monthly share thereof initially attributable to each Unit will be \$69.50. The latter estimate constitutes the initial monthly assessment of Common Expenses for each Unit. An additional one-time assessment equal to twice the initial monthly assessment is to be paid by the initial purchaser only of each Unit at the time of purchase, which assessment is an addition to and not in lieu of all other assessments due hereunder. The foregoing is only an estimate, however, and may be revised by the Board of Trustees as experience is accumulated.

9. **Construction.** From and after the day and time this Fifth Amendment becomes effective, all references in the Map, in the Declaration and in the exhibits to the Declaration as previously amended and supplemented shall be deemed to and shall refer to the Map, the Declaration and to the exhibits to the Declaration as previously amended and

supplemented and as amended hereby and as supplemented by the Fourth Supplemental Map and not to the form of the same as they existed prior to the time this Fifth Amendment becomes effective. Except as herein otherwise expressly provided, all provisions of the Map, the Declaration and the exhibits to the Declaration as previously amended and supplemented shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF the undersigned has caused this Fifth Amendment to be executed on its behalf this 24 day of April, 1997.

STONEBROOK, L.C.,
a Utah limited liability Company

By [Signature]
David L. Clark, Manager

By [Signature]
Robert A. Barrus, Manager

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 24 day of April, 1997, by **DAVID L. CLARK** and **ROBERT A. BARRUS**, Managers of the STONEBROOK, L.C., a Utah limited liability company.

[Signature]
NOTARY PUBLIC
Residing at: Orem, Utah

My Commission Expires:

10-22-2000

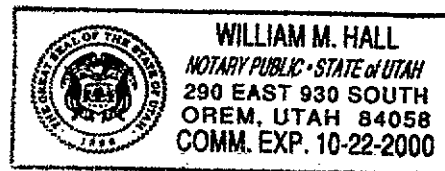


EXHIBIT A**Legal Description of the Property**

Beginning at a point North 1,129.73 feet and West 76.40 feet from the South Quarter Corner of Section 4, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 00°22'15" West 265.08 feet; thence South 89°37'45" West 37.28 feet; thence SOUTH 91.57 feet; thence WEST 66.41 feet; thence North 00°22'15" West 16.62 feet; thence WEST 116.50 feet; thence SOUTH 13.08 feet; thence WEST 66.30 feet; thence South 00°14'09" East 7.83 feet; thence EAST 59.78 feet; thence South 36°36'02" East 119.57 feet; thence South 89°37'45" West 72.00 feet; thence South 65°26'19" West 33.08 feet; thence South 24°33'41" East 74.00 feet; thence North 65°26'19" East 17.22 feet; thence North 89°37'45" East 212.87 feet to the point of beginning.

Containing 1.00 acres

EXHIBIT B

**Legal Description of that Portion of the Additional Land added to the Project
by
this Fifth Amendment to the Declaration**

Beginning at a point which is North 1,298.70 feet and West 364.67 feet from the South Quarter Corner of Section 4, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 00°14'09" West 7.83 feet; thence North 00°14'29" West 86.39 feet; thence South 89°37'45" West 46.44 feet; thence South 65°26'19" West 34.75 feet; thence North 24°33'41" West 74.00 feet; thence South 65°26'19" West 227.15 feet; thence South 31°32'20" East 45.47 feet; thence South 24°21'43" East 121.39 feet; thence North 65°26'19" East 233.32 feet ; thence EAST 29.73 feet to the point of beginning.

Containing 0.98 acres