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RANDALL A. COVINGTON
UTAH COUNTY RECORDER
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WHEN RECORDED, MAIL TO:
C. Craig Liljenquist, Esq.
Prince, Yeates & Geldzahler
City Centre I, Suite 900
175 East 400 South
Salt Lake City, UT 84111

Space Above for Recorder's Use Only

CONDOMINIUM DECLARATION

FOR

STONEBROOK CONDOMINIUMS

an Expandable Utah Condominium Project containing Convertible Land

THIS DECLARATION is made and executed by **STONEBROOK, L.C.**, a Utah limited liability company, hereinafter referred to as "Declarant," pursuant to the provisions of the Utah Condominium Ownership Act, Utah Code Annotated §§ 57-8-1 through 57-8-36, for itself, its successors, grantees and assigns.

ARTICLE I

RECITALS

Declarant is the sole owner of that certain land situated in the City of Orem, County of Utah, State of Utah, which is more particularly described in Exhibit A attached hereto and hereby made a part hereof by this reference.

A building and other improvements will be constructed on said land in accordance with the information set forth in the Record of Survey Map recorded concurrently herewith, consisting of one (1) sheet, prepared and certified by Donald Clair Allen, a registered land surveyor.

Declarant desires by recording this Declaration and the aforesaid Record of Survey Map to submit the above-described land and the said building and other improvements constructed thereon to the provisions of the Utah Condominium Ownership Act as an expandable condominium project containing convertible land (which expansion may include the creation of additional convertible land) known as STONEBROOK CONDOMINIUMS.

Declarant desires and intends to sell the fee title to the individual units contained in said Condominium Project, together with the undivided ownership interests in the Common

Areas and Facilities appurtenant thereto, to various purchasers, subject to the covenants, limitations, and restrictions contained herein.

NOW, THEREFORE, for such purposes, Declarant hereby makes the following Declaration:

ARTICLE II

DEFINITIONS

1. **Name.** The name by which the Condominium Project shall be known is STONEBROOK CONDOMINIUMS.

2. **Definitions.** The terms used herein shall have the meaning stated in the Utah Condominium Ownership Act and as given in this Section 2.

(a) **"Act"** shall mean and refer to the Condominium Ownership Act of the State of Utah, Utah Code Annotated 1953, §§ 57-8-1 through 57-8-36 as the same now exists and as it may be amended from time to time.

(b) **"Association of Unit Owners"** or **"Association"** shall mean and refer to Stonebrook Condominiums Owners Association, Inc., a Utah nonprofit corporation formed to manage the affairs of the Project in accordance with this Declaration and **Articles of Incorporation** and the **Bylaws** of the Association attached hereto as Exhibit B, which Articles and Bylaws are hereby made a part hereof by this reference.

(c) **"Board of Trustees"** shall mean and refer to the governing Board of the Association, appointed or elected in accordance with this Declaration, the Articles of Incorporation and the Bylaws.

(d) **"Common Areas and Facilities"** shall mean and refer to:

(1) The land described in Exhibit A attached hereto;

(2) That portion of the Property not specifically included in the respective Units as herein defined;

(3) All foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, stairs, stairways, yards, landscaping, fences, service and parking areas and in general all other apparatus, installations and other parts of the Property necessary or convenient to the existence, maintenance and safety of the foregoing or normally in common use;

(4) Those areas specifically set forth and designated in the Map as "Common Area" or "Limited Common Area"; and

(5) All Common Areas and Facilities as defined in the Act, whether or not expressly listed herein.

(e) **"Common Expenses"** shall mean and refer to:

(1) All sums described in the Act, this Declaration, the Bylaws or in the rules and regulations promulgated by the Board of Trustees which are lawfully assessed against the Unit Owners or any of them in accordance with the Act, this Declaration, the Bylaws or such rules and regulations;

(2) All expenses of operation, administration, maintenance, repair and replacement of the Common Areas and Facilities, including but not limited to, such aggregate sum as the Board of Trustees shall from time to time estimate, in its best judgment, is needed during each year or other appropriate time period to pay all budgeted expenses and other cash requirements arising out of or in connection with operation, administration, maintenance, repair and/or replacement of the Common Areas and Facilities, including but not limited to:

(i) all costs and expenses of operation of the Association, all costs of management of the Common Areas and Facilities, all costs of enforcement of the Act, this Declaration, the Bylaws and the rules and regulations promulgated by the Board of Trustees, all costs of repair and reconstruction of the Common Areas and Facilities, all insurance premiums, all Utility Services, all wages and salaries, all legal and accounting fees, all management fees and all other expenses and liabilities incurred by the Association under or by reason of this Declaration;

(ii) the payment of any deficit remaining from any previous year or time period;

(iii) the creation, maintenance or expansion of an adequate reserve or contingency fund for maintenance, repairs and/or replacement of those Common Areas and Facilities that must be replaced on a periodic basis, and/or for unforeseen emergencies; and

(iv) all other costs and expenses relating to the Project;

(3) Expenses agreed upon as Common Expenses by the Association; and

(4) All other expenses declared to be Common Expenses by the Act, this Declaration, the Bylaw or the rules and regulations promulgated by the Board of Trustees.

(f) **"Condominium"** shall mean and refer to a single unit in this Condominium Project together with an undivided interest in common with other Unit Owners in the Common Areas and Facilities of the Property, and together with all other appurtenances belong thereto, as described in this Declaration.

(g) **"Condominium Project"** or sometimes the **"Project"** shall mean and refer to the entire Property, as defined below, together with all rights, obligations and organizations established by this Declaration.

(h) **"Declarant"** shall mean STONEBROOK, L.C., a Utah limited liability company, sole owner as described on the Record of Survey Map, which has made and executed this Declaration and/or any successor to or assignee of Declarant which, either by operation of law or through a voluntary conveyance, transfer or assignment, comes to stand in the same relation to the Project as did its predecessor.

(i) **"Declaration"** shall mean this instrument by which the within-described Project is established as a Condominium Project.

(j) **"Limited Common Area"** shall mean and refer to those portions of the Common Areas and Facilities reserved for the exclusive use of certain Unit Owners, as specified herein and as more particularly identified in the Map.

(k) **"Manager"** shall mean and refer to the person, persons or corporation, if any, selected by the Association to manage the affairs of the Condominium Project, subject to the provisions of Article XII, Section 6 hereof.

(l) **"Map"** shall mean and refer to the Record of Survey Map of the within-described Project recorded herewith by Declarant.

(m) **"Mortgage"** shall mean and include both a mortgage and a deed of trust on any Condominium. **"First Mortgage"** shall mean a Mortgage, the lien of which is prior and superior to the lien of any other Mortgage on the same Condominium.

(n) **"Mortgagee"** shall mean and include both the mortgagee under a mortgage and the beneficiary under a deed of trust on any Condominium. **"First Mortgagee"** shall mean the Mortgagee under a First Mortgage on any Condominium.

(o) **"Property"** shall mean and include the land described in Article I, the buildings, all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(p) **"Unit"** shall mean and refer to one of the Units which is designated as a Unit on the Map and more particularly described in Article V 3. hereof.

(q) **"Unit Owner"** or **"Owner"** shall mean the entity, person or persons owning a Unit in the Condominium Project in fee simple and an undivided interest in the fee simple estate of the Common Areas and Facilities as shown in the records of the County Recorder of the county in which the Project is situated. The term Unit Owner or Owner shall not mean or include a mortgagee or beneficiary or trustee under a deed of trust unless and until such a party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, but shall include persons or entities purchasing a Unit under contract.

(r) **"Utility Services"** shall include, but not be limited to, water, sewage disposal, garbage disposal and cable television services and all other similar services provided to the Project which are not separately billed or metered to the individual Units by the utility or party furnishing such service.

(s) Those definitions contained in the Act, to the extent they are applicable hereto and not inconsistent herewith, shall be and are hereby incorporated herein by reference and shall have the same effect as if expressly set forth herein and made a part hereof.

ARTICLE III

SUBMISSION TO CONDOMINIUM OWNERSHIP

Declarant hereby submits the Property to the provisions of the Act as a Condominium Project, with said submission to become effective upon the recording of this Declaration and the Map in the office of the recorder of the county in which the Project is situated. This Declaration is submitted in accordance with the terms and the 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 the Property.

ARTICLE IV

COVENANTS TO RUN WITH THE LAND

This Declaration contains covenants, conditions and restrictions relating to the Project which, in accordance with the provisions of the Act, are and shall be enforceable equitable servitudes, shall run with the land and shall be binding upon Declarant, its successors and assigns and upon all Unit Owners or subsequent Unit Owners, their grantees, mortgagees, successors, heirs, personal representatives, devisees, lessees, assigns and guests.

ARTICLE V

DESCRIPTION OF PROPERTY

1. **Description of Land.** The land is that tract or parcel more particularly described in Article I and Exhibit A of this Declaration.

2. **Description of Improvements.** The Project will be constructed on said land in accordance with the information contained in the Map. The Map shows the number of stories to be contained in the one (1) building within the Project which will contain Units. Approximately half of the lower level of said building will be below ground level. Otherwise, said building will not contain any basement. The building in the Project will contain a total of twelve (12) Units, which is the minimum number of Units the Project will contain. The building in 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 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. The Project will also include walkways, and thirty (30) parking spaces, twelve (12) of which will be covered. 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. The Project will be subject to the easements which are reserved through the Project and as may be required for utilities.

3. **Description and Legal Status of Units.** The Map shows the unit number of each Unit, its location, and the Common Areas and Facilities to which it has access. Each Unit contains 980 square feet. All Units shall be capable of being independently owned, encumbered and conveyed. Each Unit shall include that part of the building containing the Unit which lies within the boundaries of the Unit, which boundary shall be determined in the following manner:

(a) The upper boundary shall be the plane of the unfinished lower surface of the ceiling;

(b) The lower boundary shall be the plane of the unfinished upper surface of the floor; and

(c) The vertical boundaries of the Unit shall be the unfinished interior surface of the walls bounding a Unit.

4. **Description of Common Areas and Facilities.** The Common Areas and Facilities are as indicated on the Map and include, but are not limited to, common driveways, common walkways, common parking spaces, and common landscaped areas. Except as otherwise provided in this 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. Without limiting the generality of the foregoing, the Common Areas and Facilities shall include the following, whether located within the bounds of a Unit or not:

(a) All structural parts of the building including, without limitation, foundations, columns, joists, beams, supports, supporting walls, floors, ceilings and roofs;

(b) Common hallways, walkways, driveways, parking areas, landscaped areas, balconies, patios, lawns, shrubs, trees and entrance ways;

(c) Any utility pipe or line or system servicing more than a single Unit, and all ducts, wires, conduits, and other accessories used therewith;

(d) All other parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in common use, or which have been designated as Common Areas and Facilities in the Map; and

(e) All repairs and replacements of any of the foregoing.

ARTICLE VI

RIGHT TO COMBINE UNITS

With the written consent of the Board of Trustees, which consent shall not be unreasonably withheld, two or more Units may be utilized by the Owner or Owners thereof as if they were one Unit. To the extent permitted in the written consent of the Association, any walls, floors, or other structural separations between any two such Units, or any space which would be occupied by such structural separations but for the utilization of the two Units as one Unit, may, for as long as the two Units are utilized as one Unit, be utilized by the Owner or Owners of the adjoining Units as Limited Common Areas, except to the extent that any such structural separations are necessary or contain facilities necessary for the support, use, or enjoyment of other parts of the Project. At any time, upon the request of the Owner of one of such adjoining Units, any opening between the two units which, but for joint utilization of the two Units, would have been occupied by structural separation, shall be closed, at the equal expense of the Owner or Owners of each of the two Units and the structural separations between the two Units shall thereupon become Common Areas.

ARTICLE VII

STATEMENT OF PURPOSE AND RESTRICTION ON USE

1. **Purpose.** The purpose of the Condominium Project is to provide residential housing space for Unit Owners, their families, guests, lessees and tenants, and the family and guests of such lessees and tenants, and to provide parking for use in connection therewith, all in accordance with the provisions of the Act.

2. **Restriction on Use.** The Units and Common Areas and Facilities shall be used and occupied as hereinafter set forth:

(a) **Residential Use Only.** Each of the Units shall be occupied only as a residence and for no other purpose. No business shall be operated in or from any residential Unit itself other than the rental of the Unit itself, subject to applicable zoning and business regulation laws and ordinances.

(b) **Common Areas; Parking Restrictions.** Common Areas and Facilities shall be used only for the purposes for which they are intended. The eighteen (18) uncovered 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. The twelve (12) covered parking spaces are Limited Common Areas reserved for the exclusive use of the respective Owners of the Units indicated on the 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.

(c) **Insurance Rates; Compliance with Laws.** Nothing shall be done or kept in any Unit or in the Common Areas and Facilities which will increase the rate of insurance on the building or contents thereof beyond that customarily applicable for the use authorized for such Unit, or will result in the cancellation of insurance on the building, or the contents thereof, without the prior written consent of the Association. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Areas and Facilities which is in violation of any law or regulation of any governmental authority.

(d) **Visible Changes; Signs.** No Unit Owner shall cause or permit anything (including, without limitation, an awning, canopy, shutter, storm door or screen door) to hang, be displayed, be visible or otherwise be placed on the exterior walls or roof of any building or any part thereof, or on the outside of windows or doors, without the prior written consent of the Association. Except for signs of a permanent nature which are originally installed by Declarant in the course of constructing the Project, no sign of any kind shall be displayed to the public view on or from any Unit or the Common Areas and Facilities without the prior written consent of the Association.

(e) **Offensive Activities; Nuisances.** No noxious or offensive activity shall be carried on in any Unit or in the Common Areas and Facilities, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants.

(f) **Structural Integrity.** Nothing shall be done in any Unit or in, on or to the Common Areas and Facilities which will impair the structural integrity of the building or any part thereof or which would structurally change the building or any part thereof except as is otherwise provided herein.

(g) **Pets.** No pets or animals of any kind shall be allowed, kept, bred or raised in any Unit or on any of the Common Areas and Facilities in the Project, except pursuant to rules and regulations established by the Association.

(h) **Debris.** The Common Areas and Facilities shall be kept free and clear of all rubbish, debris and other unsightly materials.

(i) **Admission Fees.** No admission fees, charges for use, leases or other income-generating arrangement of any type shall be employed or entered into with respect to any portion of the Common Areas and Facilities without the prior written consent of the Association.

ARTICLE VIII

PERSON TO RECEIVE SERVICE OF PROCESS

The person to receive service of process in the cases provided herein or in the Act is ROBERT A. BARRUS whose address within the County in which the Project is situated is c/o Aspen Real Estate & Development, 2230 North University Parkway, Suite 7B, Provo, Utah 84604. The said person may be changed by the recordation by the Association of an appropriate instrument.

ARTICLE IX

OWNERSHIP AND USE

1. **Ownership of a Unit.** Except with respect to any of the Common Areas and Facilities located within the bounds of a Unit, each Unit Owner shall be entitled to the

exclusive ownership and possession of his Unit and to the ownership of an undivided interest in the Common Areas and Facilities. Exercise of Declarant's right to expand the Project in accordance with Article XXXI hereof will result in a reallocation of the undivided interest in the Common Areas and Facilities appurtenant to each Unit.

2. **Nature of and Restrictions on Ownership and Use.** Each Unit Owner shall have and enjoy the rights and privileges of fee simple ownership of his Unit. There shall be no requirements concerning who may own Units, it being intended that they may and shall be owned as any other property rights by persons, corporations, partnerships or trusts and in the form of common or joint tenancy. The Unit Owners may lease or rent their Units with their appurtenant rights subject to terms and conditions chosen solely by the Unit Owner and his lessee or tenant, except that all Unit Owners, their tenants and other occupants or users of the Project, shall be subject to the Act, this Declaration, the Bylaws, and all rules and regulations of the Association.

3. **Prohibition against Subdivision of Unit.** Except as provided in Article VI above, no Unit Owner, by deed, plat or otherwise, shall subdivide or in any other manner cause his Unit to be separated into physical tracts or parcels smaller than the whole Unit as shown on the Map, nor shall any Unit Owner cause, suffer or permit the fee ownership of his Unit to be separated or divided in annually recurring or any other time periods for which the Unit will be separately owned.

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, 8.333% ownership interest in the Common Areas and Facilities within the Project for all purposes, including voting and assessment of Common Expenses. Exercise of Declarant's right to expand the Project in accordance with Article XXXI hereof will result in a reallocation of the undivided interest in the Common Areas and Facilities appurtenant to each Unit.

5. **Use of Common Areas and Facilities.** The Common Areas and Facilities shall be used only in a manner which is consistent with their community nature and with the use restrictions applicable to the Units contained in the Project, subject to this Declaration, the Bylaws, and the rules and regulations promulgated by the Association. This right of use shall be appurtenant to and run with each Unit.

ARTICLE X

LIMITED COMMON AREAS

Each Unit Owner shall be entitled to the exclusive use and occupancy of the Limited Common Areas reserved to his Unit as set forth herein and/or as shown on the Map, subject, however, to the same restrictions on use which apply generally to the Common Areas and Facilities and to rules and regulations promulgated by the Association. Such right to use the Limited Common Areas shall be appurtenant to and contingent upon ownership of the Unit associated therewith, and even though not specifically mentioned in the instrument of transfer, shall automatically pass to the grantee or transferee of such Unit. Such right of use shall not be revocable, nor may it be voluntarily or involuntarily relinquished, waived, or abandoned.

ARTICLE XI

VOTING - MULTIPLE OWNERSHIP

The vote attributable to and exercisable in connection with a Unit shall be the percentage of undivided ownership interest in the Common Areas and Facilities which is appurtenant to such Unit. In the event there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine among themselves. A vote cast at any meeting by any of such Owners shall be conclusively presumed to be the vote attributable to the Unit concerned unless an objection is immediately made by another Owner of the same Unit. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

ARTICLE XII

MANAGEMENT

1. **The Association.** The business, property and affairs of the Project shall be managed, operated and maintained by the Association as agent for the Unit Owners. All duties, responsibilities, rights and powers imposed upon or granted to the "management committee" or to the "manager" under the Act shall be duties, responsibilities, rights and powers of the Association hereunder. In addition to its other authority and powers set forth in the Act, the Articles of Incorporation and elsewhere in this Declaration, the Association shall have, and is hereby granted, the following authority and powers:

(a) the authority, without the vote or consent of the Unit Owners or of any other person(s), to grant or create, on such terms as it deems advisable, utility and similar easements, over, under, across and through the Common Areas and Facilities;

(b) the authority to execute and record, on behalf of all Unit Owners, any amendment to the Declaration or Map which has been approved by the vote or consent necessary to authorize such amendment;

(c) the power to sue;

(d) the authority to enter into contracts which in any way concern the Project, so long as any vote or consent of the Unit Owners necessitated by the subject matter of the agreement has been obtained;

(e) the power and authority to convey or transfer any interest in real property, so long as any vote or consent necessary under the circumstances has been obtained;

(f) the authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the interests of the Unit Owners; and

(g) the power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Association to perform its functions as agent for the Unit Owners.

Any instrument executed by the Association that recites facts which, if true, would establish the Association's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

2. **Composition of the Board of Trustees.** Declarant shall have the exclusive right to appoint and to remove all members of the Board of Trustees of the Association until the first to occur of the following; provided, however, that Declarant may, at its sole option, transfer this right to the Owners by written notice thereof prior to the end of such time period:

(a) The date which is six (6) years after the date this Declaration is recorded in the office of the recorder of the County in which the Project is situated; or

(b) The later to occur of:

(i) the date Units to which three-fourths (3/4) of the undivided interest in the Common Areas and Facilities appertain have been conveyed by Declarant; or

(ii) the date all Additional Land (as defined in Article XXXI hereof) has been added to the Project.

3. **Responsibility of the Board of Trustees.** The Board of Trustees shall be responsible for the control, operation and management of the Project in accordance with the provisions of the Act, this Declaration, such administrative, management and operational rules and regulations as it may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by said Board of Trustees.

4. **Approval Required.** The Board of Trustees shall not, without the prior favorable vote or the written consent of the Owners of a majority interest in the undivided ownership of the Common Areas and Facilities, have the authority to purchase or sell any real property or add any property to the Common Areas and Facilities, except for property used in the management of the Project.

5. **Additional Facilities.** The Board of Trustees shall, subject to any necessary approval, have the authority to provide such facilities, in addition to those for which provision has already been made, as it may deem to be in the best interests of the Unit Owners and to effect the necessary amendment of documents and maps in connection therewith.

6. **Manager.** The Board of Trustees may carry out through a Manager any of its functions which are properly the subject of delegation. Any Manager so engaged shall be responsible for managing the Project for the benefit of the Association and the Unit Owners, and shall, to the extent permitted by law and the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Board of Trustees itself. Any agreement for professional management of the Project, or any other contract providing for services of the Declarant, or any lease to which Declarant is a party which may be entered into by the Board of Trustees or the Association shall call for a term not exceeding two (2) years and shall provide that such agreement or lease may be terminated by either party thereto without cause and without payment of a termination fee upon not in excess of thirty (30) days written notice.

ARTICLE XIII

EASEMENTS

1. **To Service Common Areas and Facilities.** Each Unit shall be subject to such easements as may be necessary for the installation, maintenance, repair or replacement of any Common Areas and Facilities located within the boundaries of such Unit or reasonably accessible only through such Unit.

2. **For Encroachments.** In the event that, by reason of the construction, reconstruction, settlement or shifting of any part of a building, any part of the Common Areas and Facilities encroaches or shall hereafter encroach upon any part of any Unit or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Areas and Facilities or any other Unit, valid easements for such encroachment and the maintenance of such

encroachment are hereby established and shall exist for the benefit of such Unit and the Common Areas and Facilities, as the case may be, so long as all or any part of the building containing any such Unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Unit Owner or in favor of the Unit Owners as owners of the Common Areas and Facilities if such encroachment occurred due to the willful conduct of such Unit Owner or Owners occurring after the date on which this Declaration is recorded.

ARTICLE XIV

CHANGE IN OWNERSHIP

The Association shall maintain up-to-date records showing the name of each Owner, the address of such Owner, and the Unit which is owned by him. In the event of any transfer of a fee or undivided fee interest in a Unit either the transferor or transferee shall furnish the Association with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the office of the recorder of the county where the Project is located. The Association may for all purposes act and rely on the information concerning Owners and Unit ownership which is thus acquired by it or, at its option, the Association may act and rely on current ownership information respecting any Unit or Units which is obtained from the office of the county recorder of the county where the Project is located. The address of an Owner shall be deemed to be the address of the Unit owned by such Owner unless the Association is otherwise advised. An Owner who fails to so furnish the above information shall continue to be liable for monthly assessments of Common Expenses even after transferring ownership of the Unit.

ARTICLE XV

ASSESSMENTS

Every Unit Owner shall pay his proportionate share of the Common Expenses. Payment thereof shall be in such amounts and at such times as the Association determines in accordance with the Act, this Declaration, the Articles of Incorporation or the Bylaws. There shall be a lien for non-payment of Common Expenses as provided in the Act.

In assessing Unit Owners for capital improvements, no assessment for a single improvement in the nature of a capital expenditure exceeding the sum of Ten Thousand Dollars ($10,000.00) shall be made without the same having been first voted on and approved by at least a majority of the Project's undivided ownership interest in the Common Areas and Facilities.

ARTICLE XVI

DESTRUCTION OR DAMAGE

In the event of destruction of or damage to part or all of the improvements in the Condominium Project, the procedures of this Article shall apply.

1. **If Insurance Proceeds are Sufficient.** If the proceeds of the insurance maintained by the Association are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be carried out.

2. **If Insurance Proceeds are Insufficient.** If less than seventy-five percent (75%) of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Association are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all of the Unit Owners shall be assessed for any deficiency on the basis of their respective appurtenant percentages of undivided ownership interest in the Common Areas and Facilities, said assessment becoming a lien on the Units as provided in the Act.

3. **If Insurance Proceeds are Insufficient and 75% Destruction.** If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Association are not alone sufficient to accomplish restoration, and if the Unit Owners within one hundred (100) days after the destruction or damage by a vote of at least seventy-five percent (75%) of the entire undivided ownership interest in the Common Areas and Facilities of the Project elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under section 2 above.

4. **If Owners Elect Not to Reconstruct.** If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Association are insufficient to accomplish restoration, and if the Unit Owners do not, within one hundred (100) days after the destruction or damage and by a vote of at least seventy-five percent (75%) of the entire undivided ownership interest in the Common Areas and Facilities of the Project, elect to repair or reconstruct the affected improvements, the Association shall promptly record with the recorder of the county where the Project is located a notice setting forth such facts. Upon the recording of such notice the provisions of subsections (1) through (4) of Section 57-8-31 of the Act shall apply and shall govern the rights of all parties having an interest in the Project or any of the Units.

5. **Supervision by Board of Trustees; Appraisers.** Any reconstruction or repair which is required to be carried out by this Article shall be accomplished at the instance and direction of the Board of Trustees. Any determination which is required to be made by this

Article regarding the extent of damage to or destruction of Project improvements shall be made as follows:

The Board of Trustees shall select three (3) appraisers; each appraiser shall independently estimate the percentage of Project improvements which have been destroyed or substantially damaged; the percentage which governs the application of the provisions of this section shall be the median of the three (3) estimates.

ARTICLE XVII

TAXES

It is understood that under the Act each Unit, together with its percentage of undivided interest in the Common Areas and Facilities in the Project, is deemed a parcel and subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law. Each Unit Owner will, accordingly, pay and discharge any and all taxes which may be assessed against his Condominium.

ARTICLE XVIII

INSURANCE

1. **Hazard Insurance.** The Association shall at all times maintain in force hazard insurance meeting the following requirements:

(a) A multi-peril type policy covering the entire Condominium Project (both Units and Common Areas and Facilities, including, without limitation, fixtures, machinery, equipment and supplies maintained for the service of the Project and fixtures, improvements, alterations and equipment within the individual Units) shall be maintained. Such policy shall provide coverage against loss or damage by fire and other hazards covered by the standard extended coverage blanket "all risk" endorsement and by debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, and such other risks as customarily are covered with respect to condominium projects similar to the Project in construction, location, and use. As a minimum, such policy shall provide coverage on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage specified in the policy, but not less than one hundred percent (100%) of the full insurable value of the Project (based upon replacement cost). Deductibles shall not exceed the lower of $10,000 or one percent of the applicable amount of coverage. Funds for such deductibles shall be included in the Association's reserves and shall be so designated. Such policy shall include an "Agreed Amount Endorsement" or its equivalent, and, if necessary or appropriate, an "Increased Cost of Construction Endorsement" or its equivalent.

(b) If a steam boiler is or comes to be contained in the Project, there shall be maintained boiler explosion insurance and a broad form policy of repair and replacement boiler and machinery insurance, evidenced by the standard form of boiler and machinery insurance policy. The insurer's minimum liability per accident under boiler and machinery coverage shall equal the insurable value of the building housing such boiler or machinery or Two Million Dollars ($2,000,000), whichever is less. Deductibles shall not exceed the lower of $10,000 or one percent of the applicable amount of coverage. Funds for such deductibles shall be included in the Association's reserves and shall be so designated.

(c) If the Project is or comes to be situated in a locale identified by the Secretary of Housing and Urban Development (HUD) or the Director of the Federal Emergency Management Agency (FEMA) as a Special Flood Hazard Area, flood insurance on the Condominium Project shall be obtained and maintained providing coverage at least equivalent to that provided under the National Flood Insurance Program (NFIP) for buildings (including equipment and machinery), detached Common Areas and Facilities, and contents not part of buildings (including equipment and machinery owned by the Association) in an amount at least equal to the lesser of (i) one hundred percent (100%) of their insurable value, or (ii) the maximum coverage available under the NFIP with deductibles not to exceed the higher of $1,000 or one percent of the applicable amount of coverage, subject to the maximum deductible amount allowed under the NFIP. Funds for such deductibles shall be included in the Association's reserves and shall be so designated.

(d) The named insured under each policy required to be maintained by the foregoing items (a), (b) and (c) shall be in form and substance essentially as follows: "Stonebrook Condominiums Owners Association, Inc. for the use and benefit of the individual Owners."

(e) Each such policy shall provide that notwithstanding any provision thereof which gives the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable if it is in conflict with any requirement of law or without the prior written approval of the Association.

2. **Fidelity Insurance.** The Association shall maintain in force fidelity insurance covering losses resulting from dishonest or fraudulent acts committed by the Association's managers, trustees, employees, officers, committee members, or volunteers who manage the funds collected and held for the benefit of the Association. The fidelity insurance shall name the Association as the insured and shall be in an amount at least equal to the maximum amount of funds in the Association's custody at any one time, but in no event less than the sum of three (3) months of assessments on the entire Project plus reserves. An appropriate endorsement to the policy shall be secured to cover persons who serve without compensation if the policy would not otherwise cover volunteers. Any professional management firm retained by the Association shall also maintain in force such fidelity insurance at said firm's sole cost and expense and shall submit evidence of such coverage to the Association.

3. **Liability Insurance.** The Association shall at all times maintain in force comprehensive general liability (CGL) insurance covering all of the Common Areas and Facilities. Such insurance shall include a "Severability of Interest Endorsement" or its equivalent which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of other Owners, the Board of Trustees, or the Association of Unit Owners. The Association shall also maintain in force any additional coverage commonly required by private mortgage investors for developments similar to the Project in construction, location and use, including the following where applicable and available: contingent liability from operation of building laws, comprehensive automobile liability, bailee's liability, elevator collision liability, garage keeper's liability, host liquor liability, worker's compensation and employer's liability and contractual liability. The limits of liability under such insurance shall not be less than One Million Dollars ($1,000,000.00) for personal injury, bodily injury or property damage arising out of a single occurrence.

4. **General Requirements Concerning Insurance.** Each insurance policy maintained pursuant to the foregoing Article XVIII Sections 1. through 3. shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a general policyholders rating of B+ or better and a financial category rating of Class XII or better in Best's Insurance Guide and shall contain the standard mortgagee clause commonly used by private institutional mortgage investors. No such policy shall be maintained where:

(a) under the terms of the carrier's charter, bylaws or policy, contributions may be required from, or assessments may be made against, a Unit Owner, a Mortgagee, the Board of Trustees, the Association, a Unit, the Common Areas, or the Project;

(b) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members;

(c) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled from collecting insurance proceeds; or

(d) the policy provides that the insurance thereunder shall be brought into contribution with insurance purchased by the individual Unit Owners or their Mortgagees.

Each such policy shall provide that:

(e) coverage shall not be prejudiced by any act or neglect of the Unit Owners when such act or neglect is not within the control of the Association of Unit Owners or the Board of Trustees;

(f) coverage shall not be prejudiced by any failure by the Association or Board of Trustees to comply with any warranty or condition with regard to any portion of the Project over which the Association and Board of Trustees have no control;

(g) coverage may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days prior written notice to any and all insureds named therein, including any Mortgagee named as an insured; and

(h) the insurer waives any right of subrogation it might have to any and all claims against the Association, the Board of Trustees, any Unit Owner, and/or their respective agents, employees or tenants, and any defense it might have based upon co-insurance or upon invalidity arising from acts of the insured.

If, due to changed circumstances, excessive cost, or any other reason, any of the insurance coverage required to be obtained and maintained under Sections 1. through 3. of this Article XVIII cannot reasonably be secured, with respect to such coverage the Association or the Board of Trustees shall obtain and maintain such substitute, different or other coverage as may be reasonable and prudent under the circumstances as they then exist.

ARTICLE XIX

PAYMENT OF COMMON EXPENSES

1. **Payment Obligation; Late Charges; Interest.** Each Unit Owner shall pay the Association his allocated portion of the Common Expenses upon the terms, at the time, and in the manner herein provided without any deduction on account of any set-off or claim which the Owner may have against the Board of Trustees or Association. If any Unit Owner shall fail to pay any installment of Common Expenses within ten (10) days of the time when the same becomes due, a late charge in an amount determined from time to time by the Board of Trustees may be assessed against that Owner. If any Unit Owner shall fail to pay any installment of Common Expenses within one (1) month of the time when the same becomes due, the Owner shall pay interest thereon at the rate of eighteen percent (18%) per annum from the date when such installment shall become due to the date of the payment thereof.

2. **Alteration of Common Expenses; Reserves.** The Board of Trustees may, from time to time, up to the close of the year or other time period for which the Common Expenses have been fixed or determined, increase or diminish the amount previously fixed or determined for such year. It may include in the Common Expenses for any year, any liabilities or items of expense which accrued or became payable in the previous year, or which might have been included in the Common Expenses for a previous year, but were not included therein; and also any sums which the Board of Trustees may deem necessary or prudent to provide a reserve against liabilities or expenses then accrued or thereafter to accrue although not payable in that year.

3. **Amount and Payment of Assessments; Initial Purchasers' 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 $10,008.00 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.

4. **Board of Trustees Establishes Common Expenses.** The Board of Trustees shall have discretionary powers to prescribe the manner of maintaining and operating the Condominium Project and to determine the Common Expenses of the Project to be paid as aforesaid by the Owners under this Declaration. Every such reasonable determination by the Board of Trustees within the bounds of the Act and this Declaration, shall be final and conclusive as to the Owners, and any expenditures made by the Board of Trustees, within the bounds of the Act and this Declaration shall as against the Owner be deemed necessary and properly made for such purpose.

5. **Right to Collect from Tenants.** If an Owner shall at any time let or sublet his Unit and shall default for a period of one (1) month in the payment of any assessments, the Board of Trustees may, at its option, so long as such default shall continue, demand and receive from any tenant or subtenants of the Owner occupying the Unit so much of the rent due or becoming due and payable as is necessary to cure said default and the payment of such rent to the Board of Trustees shall be sufficient payment and discharge of such tenant or subtenant and the Owner to the extent of the amount so paid.

6. **Enforcement of Payment; Lien; Priority of Lien.** Each monthly assessment and each special assessment of Common Expenses shall be separate, distinct and personal obligations of the Owner(s) of the Unit against which the same is assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid Common Expenses may be maintained without foreclosure or waiving the lien (described hereafter) securing the same. If not paid when due, the amount of any assessment, whether regular or special, assessed to a Unit plus interest at eighteen percent (18%) per annum, costs of action and reasonable attorney's fees, shall become a lien upon such Unit upon recordation of a notice thereof as provided by the Act. The said lien for non-payment of Common Expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only:

(a) tax and special assessment liens on the Unit in favor of any assessing unit, or special district; and

(b) encumbrances on the interest of the Unit Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

7. **Grantor and Grantee Liability.** In any conveyance, except to a Mortgagee as hereinafter set forth, the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the Manager or Board of Trustees setting forth the amounts of the unpaid assessments against the grantor, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount set forth.

8. **Certificate of Unpaid Common Expenses; Failure to Provide; Encumbrancer Right to Pay Common Expenses.** A certificate executed and acknowledged by the Manager or Association stating the unpaid Common Expenses then outstanding with respect to a Unit shall be conclusive upon the Association and the Owners as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner or encumbrancer or prospective Owner or encumbrancers of a Unit upon request at a reasonable fee initially not to exceed Ten Dollars ($10.00). Unless the request for a certificate of indebtedness shall be complied with within ten (10) days, all unpaid Common Expenses which become due prior to the date of making of such request shall be subordinate to the lien or interest held by or obtained by the person making the request. Any encumbrancer holding a lien on a Unit may pay any unpaid Common Expenses payable with respect to such Unit and upon such payment that encumbrancer shall have a lien on that Unit of the same rank as the lien of his encumbrance for the amounts paid.

9. **Release of Lien Upon Payment; Foreclosure of Lien.** Upon payment or other satisfaction of delinquent assessments concerning which a notice of non-payment has been recorded, the Board of Trustees shall cause to be recorded in the same manner as the notice of non-payment a further notice stating the satisfaction and release of the lien thereof. Such lien for non-payment of assessment may be enforced by sale by the Board of Trustees or by a bank or trust company or title insurance company authorized by the Board of Trustees, such sale to be conducted in accordance with the provisions of the law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Unit Owner shall be required to pay the costs and expenses of such proceedings including reasonable attorney's fees. The Association or Manager shall have the power to bid on the Unit at foreclosure or other sale and to hold, lease, mortgage and convey the Unit.

10. **Rent During Redemption Period.** In the event of foreclosure, the Unit Owner, if he is an owner-occupier and desires to remain in the Unit during any redemption period, shall be required to pay a reasonable rental for the Unit and the plaintiff in the foreclosure action shall be entitled to the appointment of a receiver to collect the rental without regard to the value of the security.

ARTICLE XX

MORTGAGEE PROTECTION

1. **Requests to Notify Mortgagees.** From and after the time a Mortgagee makes written request to the Board of Trustees or the Association of Unit Owners therefor, the Board of Trustees or the Association shall notify such Mortgagee in writing in the event that the Owner of the Unit encumbered by the Mortgage held by such Mortgagee neglects for a period of sixty (60) or more days to cure any failure on his part to perform any of his obligations under this Declaration.

2. **Priority of First Mortgages Over Assessment Liens.** The lien or claim against a Unit for unpaid assessments or charges levied by the Board of Trustees or by the Association of Unit Owners pursuant to this Declaration or the Act shall be subordinate to a First Mortgage affecting such Unit. A First Mortgagee who obtains title to a Unit pursuant to his First Mortgage or a deed or assignment in lieu of foreclosure shall not be liable for such Unit's unpaid assessments which accrue prior to the acquisition of title to such Unit by the First Mortgagee and shall take the same free of such lien or claim for unpaid assessments or charges, but only to the extent of assessments or charges which accrue prior to the acquisition of title to such Unit by the First Mortgagee (except for claims for a pro rata share of such prior assessments or charges resulting from a pro rata reallocation thereof to all Units including the Unit in which the First Mortgagee is interested). No assessment, charge, lien or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not a burden to a First Mortgagee coming into possession pursuant to his First Mortgage or a deed or assignment in lieu of foreclosure shall be collected or enforced by either the Board of Trustees or the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Unit affected or previously affected by the First Mortgage concerned (to the extent any such collection or enforcement would prejudice the interests of the First Mortgagee or successor in title to the First Mortgagee interested in such Unit).

3. **Approval of First Mortgagees Required to Take Certain Actions.** Without the prior written approval of at least two-thirds (2/3) of the First Mortgagees (based on one vote for each First Mortgage owned), neither the Board of Trustees nor the Association of Unit Owners shall be entitled, by act, omission, or otherwise:

(a) to seek to abandon or terminate the Condominium Project or to abandon or terminate the arrangement which is established by this Declaration and the Record of

Survey Map (except as provided in Article XVI hereof in the event of certain destruction or damage);

(b) to partition or subdivide any Unit;

(c) to seek to abandon, partition, subdivide, encumber, sell or transfer all or any of the Common Areas and Facilities (except for the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas and Facilities, and except as provided in Article XVI hereof in the event of certain destruction or damage);

(d) to use hazard insurance proceeds resulting from damage to any part of the Condominium Project (whether to Units or to the Common Areas) for purposes other than the repair, replacement, or reconstruction of such improvements, except as provided by statute in the event of substantial loss to the Units and/or Common Areas and Facilities;

(e) to change the pro rata interests or obligations of any Unit which apply for (1) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or for (2) determining the pro rata share of ownership of each Unit in the Common Areas and Facilities; provided, however, that nothing herein shall impair, restrict or prevent the exercise of Declarant's right to expand the Project in accordance with Article XXXI hereof, even though such expansion will result in a pro rata reallocation of undivided ownership of the Common Areas and Facilities; or

(f) to alter the provisions of Article XVIII hereof in such a way as to diminish the insurance protection required to be afforded to the parties designed to be protected thereby, or to fail to maintain the insurance coverage described therein.

4. **Rights of Mortgagees to Records.** Any Mortgagee shall have the right, at its request and expense and upon reasonable notice, to examine the books and records of the Board of Trustees, or the Association of Unit Owners, or of the Condominium Project. From and after the time a Mortgagee makes written request to the Board of Trustees or the Association of Unit Owners therefor, the Board of Trustees or the Association shall furnish to such Mortgagee copies of such annual operating reports and other reports or writings summarizing or reflecting the financial position or history of the Condominium Project as may be prepared for distribution to or use by the Board of Trustees, the Association, or the Unit Owners.

5. **Reserves to be Funded from Regular Assessments.** The Board of Trustees and the Association shall establish an adequate reserve fund to cover the deductibles under all hazard insurance policies maintained by the Association (which reserve shall be so designated) and the cost of reasonably predictable and necessary major repairs and replacements of the Common Areas and Facilities and shall cause such reserve to be funded by regular monthly or other periodic assessments against the Units rather than by special assessments.

6. **Notice to Mortgagees of Damage or Loss.** From and after the time a Mortgagee makes written request to the Board of Trustees or the Association of Unit Owners therefor, the Board of Trustees or the Association shall notify such Mortgagee in writing in the event that there occurs any damage or loss to, or any taking or anticipated condemnation of: (a) the Common Areas and Facilities involving an amount in excess of, or reasonably estimated to be in excess of, Ten Thousand Dollars ($10,000.00); or (b) any Unit involving an amount in excess of, or reasonably estimated to be in excess of, One Thousand Dollars ($1,000.00). Said notice shall be given within ten (10) days after the Board of Trustees or said Association learns of such damage, loss, taking or anticipated condemnation.

7. **No Priority in Distributions.** Nothing contained in this Declaration shall give a Unit Owner, or any other party, priority over any rights of a First Mortgagee pursuant to its First Mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of condominium Units and/or Common Areas and Facilities.

8. **Greater Mortgagee Protection Provisions Control.** In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Article, the provision or clause which results in the greater protection and security for a Mortgagee shall control the rights, obligations, or limits of authority as the case may be, applicable to the Board of Trustees and Association of Unit Owners with respect to the subject concerned.

9. **No Diminishment of Protection Without Mortgagee Approval.** Except with respect to combination of Units pursuant to Article VI which may be accomplished without consent of any Mortgagee, and except with respect to expansion of the Project pursuant to Declarant's right to expand as set forth in Article XXXI hereof, which also may be accomplished without the consent of any Mortgagee, and except with respect to Declarant's right to create additional Limited Common Areas in the Convertible Land pursuant to Article XXXII hereof, which also may be accomplished without the consent of any Mortgagee, no amendment to this Article which has the effect of diminishing the rights, protection or security afforded to Mortgagees shall be accomplished or effective unless all of the Mortgagees of the individual Units have given their prior written approval to such amendment. Any amendment to this Article shall be accomplished by an instrument executed by the Board of Trustees and filed for record in the office of the County Recorder of the county where the Project is located. In any such instrument the Board of Trustees shall certify that any prior written approval of Mortgagees required by this Article as a condition to amendment has been obtained.

ARTICLE XXI

EMINENT DOMAIN

In the event that eminent domain proceedings are commenced against the Project or any portion thereof, the provisions of § 57-8-32.5, Utah Code Annotated, as amended, shall apply. The Board of Trustees shall give written notice of such proceedings to all Mortgagees of record. No first lien priority of any Mortgagee shall be diminished or otherwise disturbed by virtue of such proceedings.

ARTICLE XXII

MAINTENANCE

1. **Owner's Obligation to Maintain; Limitations on Limited Common Areas.** Each Owner of a Unit at his own expense shall keep the interior of such Unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating and painting which may at any time be necessary to maintain the good appearance of such Unit. Except to the extent that the Association on behalf of all Unit Owners is protected by insurance against such injury, the Unit Owner shall repair all injury or damages to the Unit, building or buildings caused by the act, negligence or carelessness of the Unit Owner or that of any tenant or subtenant or any member of the Unit Owner's family or of the family of any tenant or subtenant or any agent, employee or guest of the Owner or his tenant or subtenant and all such repairs, redecorating and painting shall be of a quality and kind equal to the original work. Each Unit Owner shall be entitled to the exclusive use and possession of the Limited Common Areas appurtenant to his Unit; provided, however, that without the written permission of the Board of Trustees first had and obtained, a Unit Owner shall not make or permit to be made any structural alteration, in or to the Unit or in or to the exterior of the building, and shall not paint or decorate any portion of the exterior of the Unit or of the building in which the Unit is located.

2. **Association's Obligation to Maintain.** Except as hereinafter provided, the Association shall provide for such maintenance and operation of the Common Areas and Facilities as may be reasonably necessary to keep them clean, functional, attractive and generally in good condition and repair. The Association shall have no obligation regarding maintenance or care of Units.

ARTICLE XXIII

RIGHT OF ENTRY

The Board of Trustees and its duly authorized agents shall have the right to enter any and all of the Units in case of an emergency originating in or threatening such Unit or any other part of the Project, whether or not the Unit Owner or occupant thereof is present at the time. The Board of Trustees and its duly authorized agents shall also have the right to enter into any and all of said Units at all reasonable times as required for the purpose of making necessary repairs upon the Common Areas and Facilities and adjacent Units of the Project or for the purpose of performing emergency installations, alterations or repairs to the mechanical or electrical devices or installations located therein or thereon; provided, however, such emergency installations, alterations or repairs are necessary to prevent damage or threatened damage to other Units in the Project; and provided further, that the Unit Owner affected by such entry shall first be notified thereof if available and if time permits.

ARTICLE XXIV

ADMINISTRATIVE RULES AND REGULATIONS

The Board of Trustees shall have the power to adopt and establish by resolution, such rules and regulations as it may deem necessary for the maintenance, operation, management and control of the Project including, but not limited to, rules and regulations levying special assessments against and/or imposing other appropriate sanctions upon Unit Owners who fail to comply with any provisions of the Act, this Declaration, the Articles of Incorporation, the Bylaws and/or such rules and regulations. The Board of Trustees may from time to time, by resolution, alter, amend and repeal such rules and regulations. When a copy of any amendment or alteration or provision for repeal of any rules or regulations has been furnished to the Unit Owners, such amendment, alteration or provision shall be taken to be a part of such rules and regulations. Unit Owners shall at all times obey such rules and regulations and see that they are faithfully observed by their respective tenants and by all other persons over whom they have or may exercise control and supervision, it being understood that such rules and regulations shall apply and be binding upon all Units Owners, tenants, subtenants and other occupants of the Units. Each and every special assessment levied against a Unit Owner under such rules and regulations shall constitute a special assessment of Common Expenses against such Unit Owners and shall be payable and collectible in the same manner as other Common Expenses in accordance with Article XIX hereof.

ARTICLE XXV

OBLIGATION TO COMPLY HEREWITH

Each Unit Owner, tenant, subtenant or other occupant of a Unit shall comply with the provisions of the Act, this Declaration, the Articles of Incorporation, the Bylaws, and the rules and regulations promulgated by the Board of Trustees, and with all agreements and determinations lawfully made and/or entered into by the Board of Trustees or the Association, when acting in accordance with their authority, and any failure to comply with any of the provisions thereof shall be grounds for all remedial actions granted thereby and/or for an action by the Association, any aggrieved Unit Owner or other aggrieved party for injunctive relief or to recover any loss or damage resulting therefrom, including costs and reasonable attorney's fees.

ARTICLE XXVI

INDEMNIFICATION OF BOARD OF TRUSTEES

Each member of the Board of Trustees shall be indemnified and held harmless by the Association of Unit Owners against all costs, expenses and liabilities whatsoever, including, without limitation, attorney's fees reasonably incurred by him in connection with any proceeding in which he may become involved by reason of his being or having been a member of the Board of Trustees; provided, however, the foregoing indemnification shall not apply if the loss, expense or liability involved resulted from the willful misconduct or gross negligence of the member.

ARTICLE XXVII

AMENDMENT

Subject to the terms of Articles XX, XXXI and XXXII hereof, this Declaration and/or the Map may be amended upon the affirmative vote or approval of Unit Owners having ownership of not less than sixty-six and two-thirds percent (66-2/3%) of the undivided interest in the Common Areas and Facilities, except in circumstances where the Act requires a greater affirmative vote or approval and consent, in which event the provisions of the Act shall be controlling. Any amendment so authorized shall be accomplished by recordation of an instrument executed by the Board of Trustees. In said instrument the Board of Trustees shall certify that the vote required by this Article has occurred. Notwithstanding any other provision contained herein:

1. **Declarant's Approval Rights.** Until the Occurrence referred to in Article XXIX hereof, no amendment to the Map or to any provision of this Declaration which has or may have the effect of diminishing or impairing any right, power, authority, privilege, protection or control given to Declarant (in its capacity as Declarant) herein shall be accomplished or effect unless the instrument through which such amendment is purported to be accomplished is consented to in writing by Declarant, and

2. **VA Secretary's Approval Rights.** So long as Declarant retains the right to appoint and to remove the members of the Board of Trustees of the Association, neither this Declaration, nor the Map nor the Articles of Incorporation or the Bylaws of the Association, may be amended, nor may the Project or the Association be merged with a successor condominium project or owners association, without the prior written approval of the United States Secretary of Veterans Affairs (the "Secretary"); provided, however, that the prior approval of the Secretary shall not be required to expand the Project in accordance with Article XXXI hereof, or to convert Convertible Land in accordance with Article XXXII hereof, if

said expansion and/or conversion merely implements a general plan for the total development which has previously been approved by the Secretary.

ARTICLE XXVIII

CONSENT IN LIEU OF VOTE

In any case in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, without a meeting, unanimous consents in writing to such transaction from all Unit Owners. The following additional provisions shall govern any application of this section:

1. **Maximum of 120 Days Allowed.** All necessary consents must be obtained prior to the expiration of one hundred twenty (120) days after the first consent is given by any Owner;

2. **Subsequent Ownership Changes Ignored.** Any change in ownership of a Unit which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose; and

3. **Consent of all Owners of Each Unit Required.** Unless the consents of all Owners having an interest in the same Unit are secured, the consent of none of such Owners shall be effective.

ARTICLE XXIX

DECLARANT'S SALES PROGRAM

Notwithstanding any other provision of this Declaration, until Declarant has, pursuant to Article XXXI hereof, either added all Additional Land to the Project or its right to do so has expired, and has, pursuant to Article XXXII hereof, either converted all Convertible Land within the Project and which may be created within said Additional Land or its right to do so has expired, and thereafter Declarant ceases to be a Unit Owner (hereinafter referred to as the "Occurrence"), Declarant shall have the following rights in furtherance of any sales, promotional, or other activities designed to accomplish or facilitate the sale of all Units owned by Declarant:

1. **Sales Office; Model Units.** Declarant shall have the right to maintain a sales office and/or model Units. Such office and/or model Units may be Units (at any location) owned or leased by Declarant.

2. **Promotional Signs.** Declarant shall have the right to maintain a reasonable number or promotional, advertising, and/or directional signs, or similar devices at any

place or places on the Property, but any such device shall be of a size and in a location as is reasonable and customary.

3. **Use of Common Areas and Facilities.** Declarant shall have the right to use the Common Areas and Facilities of the Project to entertain prospective purchasers or to otherwise facilitate Unit sales, provided said use is reasonable as to both time and manner.

4. **Right to Relocate.** Declarant shall have the right from time to time to locate or relocate its sales office, model units, and/or signs, banners or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding portion of this Article.

Within a reasonable period of time after the happening of the Occurrence, Declarant shall have the right to dismantle and/or remove from the Project any sales office or model unit which is not designated as a Unit by this Declaration or the Map and also to remove from the Project, any signs, banners or similar devices.

ARTICLE XXX

LIMITATION ON IMPROVEMENTS BY ASSOCIATION

Until the Occurrence described in Article XXIX, neither the Association nor the Board of Trustees shall, without the written consent of Declarant, make any improvement to or alteration in any of the Common Areas and Facilities, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas and Facilities as they exist at the time of completion of their initial construction.

ARTICLE XXXI

EXPANSION OF PROJECT

The Project is an expandable condominium project; that is to say, a condominium project to which additional land or an interest therein may be added in accordance with this Declaration and the Act.

1. **Description of Additional Land.** The land which may be added to the Project (the "Additional Land") is more particularly described on Exhibit C attached hereto and hereby made a part hereof by this reference.

2. **Declarant's Reservation of Option to Expand.** Declarant hereby reserves the right, at its sole and exclusive option, but without any obligation whatsoever to do so, to expand the Project from time to time by adding to the Project all or any portion of the Additional Land, together with all improvements heretofore or hereafter 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 this Article and Section 57-8-13.6 of the Act, but subject to the following limitations:

(a) If not exercised, Declarant's right to expand the Project shall expire without further act of Declarant on the date which is seven (7) years after the date this Declaration is recorded in the office of the recorder of the county in which the Project is situated;

(b) The maximum number of Units that may be created on the Additional Land is 204 (resulting in a maximum number of 216 Units in the fully-expanded Project), and the maximum number of Units per acre that may be created on any portion of the Additional Land added to the Project is 24. Accordingly, if no expansion whatsoever occurs, each Unit will have an equal appurtenant 8.333% undivided ownership interest in the Common Areas and Facilities, which percentage is the maximum possible percentage of such ownership interest; and if the Project is expanded to include the maximum number of Units that may be created within the Additional Land, each Unit will have the minimum possible undivided ownership interest in the Common Areas and Facilities of 0.463%;

(c) All Units that may be created on the Additional Land shall be used exclusively for residential purposes; and

(d) All structures erected on any portion of the Additional Land added to the Project shall be compatible with structures on the land originally within the Project in terms of quality of construction.

3. **Consent Not Required.** Declarant shall not be required to obtain consent of any Unit Owners or any other person or entity having any right or interest in all or any portion of the Project prior to or subsequent to expanding the Project by adding all or any portion of the Additional Land to the Project.

4. **No Limitation on Size of Addition.** Declarant may add all or any portion of the Additional Land to the Project without any limitation whatsoever as to the size of the portion or portions of the Additional Land added to the Project.

5. **Expansion May Occur at Different Times.** Declarant may add portions of the Additional Land to the Project at different times and from time to time as Declarant sees fit.

6. **No Assurances as to Certain Matters.** Subject to the provisions of Section 2 of this Article, Declarant makes no assurances whatsoever:

(a) As to the location of any improvements which Declarant may elect to make on any portion or portions of the Additional Land added to the Project;

(b) As to whether structures which may be erected on any portion of the Additional Land added to the Project will be compatible with structures on the Property in terms of the principal materials used or architectural style;

(c) As to the description of any other improvements that may be made on any portion of the Additional Land added to the Project;

(d) That any Units created on any portion of the Additional Land added to the Project will be substantially identical to the Units on the Property; or

(e) As to the types, sizes or maximum number of Limited Common Areas which Declarant may create within any portion of the Additional Land added to the Project.

7. **Recording of Supplemental Map and Amendment to Declaration.** In order to expand the Project as provided in this Article, Declarant shall, within seven (7) years after the date this Declaration is recorded in the office of the recorder of the county in which the Project is situated:

(a) Record a new or supplemental record of survey map (the "Supplemental Map") containing the information necessary to comply with the Act on an equal basis so that all Units in the expanded Project have an equal undivided ownership interest in the Common Areas and Facilities; and

(b) Simultaneously record with each Supplemental Map an amendment to this Declaration (the "Amendment"), duly executed and acknowledged by Declarant and all of the owners and lessees of the Additional Land added to the Project. Each such Amendment shall contain a legal description by metes and bounds of that portion of the Additional Land being added to the Project and shall reallocate undivided interests in the Common Areas and Facilities in accordance with subsection 57-8-13.10(2) of the Act on an equal basis so that all Units in the expanded Project have an equal undivided ownership interest in the Common Areas and Facilities.

8. **Consequences of Expansion.** Immediately upon compliance with Section 7 of the Article:

(a) The Additional Land, or any portion thereof, added to the Project and all improvements (including Units, Common Areas and Facilities and Limited Common Areas) located or to be located thereon, shall become a part of the Project and shall be governed and subject to each, every and all of the definitions, terms, provisions, covenants, conditions and restrictions applicable to the Project under the Act, this Declaration, the Articles of Incorporation, the Bylaws and the rules and regulations promulgated by the Board of Trustees, all as amended to the date thereof;

(b) Without further act of Declarant, such compliance shall operate to grant, transfer and convey pro tanto to those Owners owning Units within the Project immediately prior to such expansion their respective undivided interest in the new Common Areas and Facilities added to the Project as a result of such expansion and to reduce pro tanto such Owners' respective undivided interest in the Common Areas and Facilities of the Project as such Common Areas and Facilities of the Project existed immediately prior to such expansion. Such compliance shall also operate (1) to vest in any then Mortgagee of any Unit in the Project such interest so acquired by the Unit Owner, thus encumbering the new Common Areas and Facilities added to the Project to the extent of such Unit Owner's interest therein, and (2) to conform the undivided interest of both Unit Owners and Mortgagees to the interest set forth in the Amendment, for all purposes, including, but not limited to, voting and assessment of Common Expenses. Prior to recording of a Supplemental Map and Amendment, all deeds to Units shall be delivered subject to a conditional limitation that the percentage undivided interest in the Common Areas and Facilities which is appurtenant to such Unit shall be automatically reallocated pro tanto on the recording of such documents, whether or not explicitly stated in such deeds; and

(c) Each Unit Owner and each Mortgagee shall be deemed to have acquiesced to each Supplemental Map and Amendment recorded in accordance with and for the purposes set forth in this Article, shall be deemed to have granted unto Declarant an irrevocable power of attorney, coupled with an interest, to effectuate, execute, acknowledge, deliver and record any further instruments as may from time to time be required in order to accomplish the purposes of this Article, and shall be deemed to have agreed and covenanted to execute such further instruments, if any, as may be required by Declarant, its successors or assigns, to accomplish such purposes.

9. **No Encumbrance on Additional Land Until Expansion.** Nothing contained in this Declaration shall constitute or be deemed to create a lien, encumbrance, restriction or limitation upon the Additional Land or any portion thereof until such land is actually added to the Project in accordance with this Article.

10. **Amendment.** No provision of this Article shall be amended without the prior written consent of Declarant

ARTICLE XXXII

CONVERTIBLE LAND

The Project initially contains Convertible Land, that is to say, a portion of the Common Area and Facilities within which additional Limited Common Areas may be created (the "Convertible Land"). Further, if and when the Project is expanded pursuant to the provisions of Article XXXI hereof, the Additional Land added to the Project pursuant to Article XXXI hereof may contain additional Convertible Land.

1. **Description of Convertible Land.** The Convertible Land initially contained within the Project is more particularly described on Exhibit D attached hereto and hereby made a part hereof. The location and dimensions of the Convertible Land initially contained in the Project are shown on the Map and labeled as such. The legal description of any Convertible Land contained within any Additional Land added to the Project shall be contained in an Amendment to this Declaration recorded pursuant to Article XXXI hereof. The location and dimensions of any such Convertible Land shall be shown on a Supplemental Map recorded pursuant to Article XXXI hereof and labeled as such.

2. **Declarant's Reservation of Right to Convert All or Portions of Convertible Land.** Declarant hereby reserves the right, at its sole and exclusive discretion, but without any obligation whatsoever to do so, to create from time to time and at different times additional Limited Common Areas within any Convertible Land so long as Declarant does so in accordance with the provisions of this Article XXXII and Section 57-8-13.2 of the Act, but subject to the following limitations:

(a) If not exercised, Declarant's right to convert both Convertible Land initially contained within the Project and created within Additional Land added to the Project shall expire without further act of Declarant on the date which is five (5) years after the date this Declaration is recorded in the office of the recorder of the county in which the Project is situated;

(b) Only additional Limited Common Areas may be created within the Convertible Land, whether such Convertible Land is initially contained within the Project or is contained within any Additional Land added to the Project pursuant to Article XXXI hereof. No additional Units whatsoever may be created within any such Convertible Land. Accordingly, no conversion of any Convertible Land shall in any way affect or reallocate the undivided ownership interests in the Common Areas and Facilities;

(c) All structures erected on any Convertible Land shall be compatible with existing structures within the Project in terms of quality of construction;

(d) The only other improvements that may be made on the Convertible Land initially within the Project are those which in Declarant's sole and exclusive judgment are necessary or desirable to support additional Units added to the Project pursuant to Article XXXI hereof, including, without limitation, driveways, landscaping, covered parking areas, entries, storage buildings and areas and other similar improvements associated with such additional Units. Any Amendment to this Declaration recorded pursuant to Article XXXI hereof shall describe all other improvements that may be made on any Convertible Land thereby added to the Project;

(e) All Limited Common Areas created within the Convertible Land initially contained within the Project shall be substantially of the same types, sizes and maximum number as those existing with regard to the then existing Units within the Project. The Amendment to this Declaration recorded pursuant to Article XXXI hereof shall describe Declarant's reserved right to create Limited Common Areas within any Convertible Land thereby added to the Project in terms of the types, sizes and maximum number of Limited Common Areas within such Convertible Land.

3. **Declarant's Reservation of Conversion Easement.** Declarant hereby reserves unto itself an easement in, under, over, along, upon, through and across the Common Areas and Facilities of the Project to do all things reasonably necessary and proper, but only those things reasonably necessary and proper, in connection with Declarant's exercise of its rights reserved under this Article, for so long as Declarant may exercise its rights reserved under this Article and until all improvements to be constructed in connection with any exercise of Declarant's rights under this Article have been completed; subject, however, to Declarant's obligation to repair all damage to and to restore the Common Areas and Facilities of the Project to a condition compatible with the remainder of the Project promptly following the completion of all such improvements.

4. **Consent Not Required.** Declarant shall not be required to obtain consent of any Owners or of any other person or entity having any right or interest in all or any portion of the Project prior to or subsequent to creating additional Limited Common Areas within any Convertible Land.

5. **No Assurances As to Certain Matters.** Subject to the provisions of Section 2 of this Article, Declarant makes no assurances whatsoever as to whether any structures which may be erected on any portion of any Convertible Land initially contained within the Project or created within any Additional Land added to the Project pursuant to Article XXXI hereof will be compatible with structures on other portions of the Property in terms of principal materials to be used or architectural style.

6. **Recording of Supplemental Map and Amendment to Declaration.** In order to create additional Limited Common Areas within any Convertible Land, Declarant shall, within five (5) years after the date this Declaration is recorded in the Official Records of Utah County, Utah:

(a) Record a new or supplemental record of survey map (the "Supplemental Map") containing the information necessary to comply with the Act. If less than all of any Convertible Land is being converted, the Supplemental Map shall show the location and dimensions of the remaining portion or portions of the Convertible Land not being converted.

(b) Record simultaneously with each Supplemental Map an amendment to this Declaration (the "Amendment") describing the conversion. Each such Amendment shall describe or delineate the Limited Common Areas formed out of the Convertible Land, showing or designating the Unit or Units to which each is assigned.

7. **Convertible Land Not Converted.** So long as any Convertible Land, or any portion thereof, which is initially contained within the Project or which has been added to the Project pursuant to Article XXXI hereof, is not converted pursuant to this Article XXXII, it shall be deemed part of the Common Areas and Facilities for all purposes.

8. **Amendment.** No provision of this Article XXXII shall be amended without the prior written consent of Declarant.

ARTICLE XXXIII

SEVERABILITY

The invalidity of any one or more phrases, sentences, subparagraphs, paragraphs, sections or articles hereto shall not affect the remaining portions of this instrument nor any part thereof, and in the event that any portion or portions of this instrument should be invalid or should operate to render this instrument invalid, this instrument shall be construed as if such invalid phrase or phrases, sentence or sentences, subparagraph or subparagraphs, paragraphs or paragraphs, section or sections, or article or articles had not been inserted.

ARTICLE XXXIV

DECLARANT'S RIGHTS ASSIGNABLE

All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any mortgage covering all Condominium Units in the Project, title to which is vested in the Declarant, shall, at any given point in time and whether or not such mortgage does so by its terms, automatically cover, encumber, and include all of the then-unexercised or then-unused rights, powers, authority, privileges, protections and controls which are accorded to Declarant (in its capacity as Declarant herein).

ARTICLE XXXV

GENDER

The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

ARTICLE XXXVI

WAIVERS

No provision contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

ARTICLE XXXVII

TOPICAL HEADINGS

The topical headings contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Declaration.

ARTICLE XXXVIII

EFFECTIVE DATE

This Declaration shall take effect upon recording.

ARTICLE XXXIX

AVAILABILITY OF DOCUMENTS

The Association shall make available for inspection, upon request, during normal business:

1. **To Owners and Mortgages.** To Unit Owners and Mortgagees and the holders, insurers and guarantors of any First Mortgage, current copies of this Declaration, the Articles of Incorporation and Bylaws of the Association, rules and regulations adopted by the Board of Trustees, and other books, records, and financial statements of the Association.

2. **To Prospective Purchasers.** To prospective purchasers, current copies of this Declaration, the Articles of Incorporation and Bylaws of the Association, rules and

regulations adopted by the Board of Trustees and the most recent annual audited financial statement, if such financial statement is prepared.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed on its behalf this 26 day of January, 1996.

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

By: David L. Clark
David L. Clark, Manager

By: Robert A. Barrus Manager
Robert A. Barrus, Manager

STATE OF UTAH)
: ss.
COUNTY OF Utah)

The foregoing instrument was acknowledged before me this 26th day of January, 1996, by **DAVID L. CLARK and ROBERT A. BARRUS**, Managers of STONEBROOK, L.C., a Utah limited liability company.

STANLEY W. WARNICK
NOTARY PUBLIC • STATE of UTAH
768 SOUTH 400 EAST
OREM, UTAH 84058
COMM. EXP. 11-1-96

Stanley W. Warnick
NOTARY PUBLIC
Residing at: Pleasant Grove, Ut.

My Commission Expires:

11/1/96

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

ARTICLES OF INCORPORATION
OF
STONEBROOK CONDOMINIUMS OWNERS ASSOCIATION, INC.

A Utah Nonprofit Corporation

ROBERT A. BARRUS, the undersigned natural person over the age of twenty-one years, acting as incorporator of a non-profit corporation pursuant to the Utah Nonprofit Corporation and Co-Operative Association Act, hereby adopts the following Articles of Incorporation for such nonprofit corporation.

ARTICLE I

NAME

The name of the nonprofit corporation is **Stonebrook Condominiums Owners Association, Inc.**, hereinafter referred to as the "Association."

ARTICLE II

DEFINITIONS

Except as otherwise provided herein or as may be required by the context, all terms defined in Article II of the Condominium Declaration for Stonebrook Condominiums, an expandable Utah Condominium Project containing convertible land, hereinafter referred to as the "Declaration," shall have such defined meanings when used in these Articles of Incorporation.

ARTICLE III

DURATION

The Association shall exist perpetually, or until dissolved pursuant to law.

ARTICLE IV

PURPOSES

The Association is organized as a nonprofit corporation and shall be operated exclusively for the purpose of maintaining, operating, and governing Stonebrook Condominiums, an expandable Utah Condominium Project containing convertible land, hereinafter referred to as the "Project," which is located upon real property in the County of Utah, State of Utah described in the Declaration.

The Association is organized and shall be operated to perform the functions and provide the services contemplated in the Declaration, which document is to be recorded in the office of the County Recorder of Utah County, State of Utah. No dividend shall be paid and no part of the net income of the Association, if any, shall be distributed to the Members, Trustees, or Officers of the Association, except as otherwise provided herein, in the Declaration, or under Utah law. Except as otherwise provided herein or as may be required by the context, all terms defined in the Declaration shall have such defined meanings when used herein.

ARTICLE V

POWERS

Subject to the purposes declared in Article IV above and any limitations herein expressed, the Association shall have and may exercise each and all of the following powers and privileges:

(a) The power to do any and all things that the Association is authorized or required to do under the Declaration, as the same may from time to time be amended, including, without limiting the generality of the foregoing, the specific power to fix, levy, and collect the charges and assessments provided for in the said Declaration;

(b) The power to purchase, acquire, own, hold, lease, mortgage, sell, and dispose of any and all kinds and character of real, personal, and mixed property (the foregoing particular enumeration in no sense being used by way of exclusion or limitation), and while the owner of any of the foregoing, to exercise all rights, powers, and privileges appertaining thereto; and

(c) The power to do any and all things that a non-profit corporation may now or hereafter do under the laws of the State of Utah.

ARTICLE VI

MEMBERSHIP

The members of the Association shall be all of the record owners of Condominiums in the Project, as such owners are shown on the records of the County Recorder of Utah County, State of Utah. The term record owner shall not include any mortgagee, trustee, or beneficiary under any mortgage, trust deed, or other security instrument by which a Condominium or any part thereof is encumbered (unless such mortgagee, trustee, or beneficiary has acquired title for other than security purposes), but shall include persons or entities purchasing a Condominium under contract. If record ownership of a Condominium in the Project is jointly held, the Membership appertaining to such Condominium shall also be jointly held. Membership in the Association shall be mandatory and not optional. Each Membership in the Association shall be appurtenant to and shall not be separated from the Condominium to which it relates. No person or entity other than an owner of a Condominium in the Project may be a Member of the Association.

ARTICLE VII

MEMBERSHIP CERTIFICATES

The Association may issue certificates of Membership, but such certificates shall not be necessary to evidence Membership in the Association. Membership in the Association shall begin immediately and automatically upon becoming a record owner of the Condominium to which such Membership appertains and shall cease immediately and automatically upon an Owner ceasing to be a record owner of such Condominium.

ARTICLE VIII

VOTING RIGHTS

The vote attributable to and exercisable by Members in connection with a Condominium shall be the percentage of undivided ownership interest in the Common Areas and Facilities which is appurtenant to such Condominium, as set forth in the Declaration. If a Membership is jointly held, any or all holders thereof may attend any meeting of the Members, but such holders must act unanimously to cast the votes relating to their joint Membership. Any designation of a proxy to act for joint holders of a membership must be signed by all such holders. With respect to matters to be voted upon by the Members as provided in the Declaration, the voting requirements and proportions shall be as set forth in the Declaration. Cumulative voting is not permitted.

ARTICLE IX

ASSESSMENTS

Members of the Association shall be subject to assessments by the Association from time to time in accordance with the provisions of the Declaration and shall be liable to the Association for payment of such assessments. Members shall not be individually or personally liable for the debts or obligations of the Association.

ARTICLE X

PRINCIPAL OFFICE AND REGISTERED AGENT

The address of the initial principal office of the Association is C/O ASPEN REAL ESTATE & DEVELOPMENT, 2230 NORTH UNIVERSITY PARKWAY, SUITE 7B, PROVO, UTAH 84604, and the name of the initial registered agent of the Association at such address is ROBERT A. BARRUS.

ARTICLE XI

BOARD OF TRUSTEES

The affairs of the Association shall be managed by a Board of Trustees, consisting of not less than three (3) nor more than nine (9) Trustees, as prescribed in the Bylaws. Stonebrook, L.C., a Utah limited liability company, its successors and assignees, hereinafter referred to as "Declarant," shall have the exclusive right to appoint and to remove all members of the Board of Trustees of the Association until the expiration of the time period referred to in the Declaration. Trustees may, but need not be, Members of the Association. The number of Trustees constituting the initial Board of Trustees shall be three (3). The names and addresses of the persons who are to serve as the initial Trustees and until the successors of such Trustees are elected or appointed and shall qualify are as follows:

Name	**Address**
David L. Clark	717 Columbia Lane Provo, UT 84601
Thomas L. Clark	717 Columbia Lane Provo, UT 84601
Robert A. Barrus	c/o Aspen Real Estate & Development 2230 North University Parkway, Suite 7B Provo, UT 84604

ARTICLE XII

MANAGER

The Board of Trustees may by written contract delegate to a professional management organization or individual such of its managerial duties, responsibilities, functions, and powers as are properly delegable. However, any agreement for professional management of the Project, or any other contract providing for services of the Declarant, or any lease to which

Declarant is a party which may be entered into by the Board of Trustees or the Association shall call for a term not exceeding two (2) years and shall provide that such agreement or lease may be terminated by either party thereto without cause and without payment of a termination fee upon not in excess of thirty (30) days written notice.

ARTICLE XIII

BYLAWS, RULES, AND REGULATIONS

The Board of Trustees may adopt, amend, repeal, and enforce Bylaws and reasonable rules and regulations governing the operation of the Association and the operation and use of the Project, to the extent that the same are not inconsistent with these Articles of Incorporation or the Declaration.

ARTICLE XIV

INCORPORATOR

The name and address of the incorporator of the Association is as follows:

Robert A. Barrus c/o Aspen Real Estate & Development
2230 North University Parkway, Suite 7B
Provo, UT 84604

ARTICLE XV

AMENDMENTS

Except as otherwise provided by law or by the Declaration, these Articles of Incorporation may be amended in accordance with Utah law upon the affirmative vote of not less than sixty-six and two-thirds percent (66 2/3%) of the voting power of the Members of the Association. However, so long as Declarant retains the right to appoint and to remove the members of the Board of Trustees of the Association, neither these Articles of Incorporation or the Bylaws of the Association, nor the Declaration, nor the Map, may be amended, nor may the Project or the Association be merged with a successor condominium project or owners association, without the prior written approval of the United States Secretary of Veterans Affairs (the "Secretary"); provided, however, that the prior approval of the Secretary shall not be required to expand the Project in accordance with Article XXXI of the Declaration, or to convert Convertible Land in accordance with Article XXXII of the Declaration, if said expansion and/or conversion merely implements a general plan for the total development which has previously been approved by the Secretary.

DATED this _____ day of ____________________, 199___.

____
ROBERT A. BARRUS
Incorporator

____
ROBERT A. BARRUS
Registered Agent

VERIFICATION

STATE OF UTAH)
: ss.
COUNTY OF ____________)

On the _____ day of ____________________, 199___, personally appeared before me **ROBERT A. BARRUS,** who being by me duly sworn did say that he is THE INCORPORATOR OF STONEBROOK CONDOMINIUMS OWNERS ASSOCIATION, INC., that he signed the foregoing Articles of Incorporation of Stonebrook Condominiums Owners Association, Inc. as incorporator of such nonprofit corporation, and that the statements therein contained are true and correct.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of ____________________, 199___.

____
NOTARY PUBLIC
Residing at: ____________________

My Commission Expires:

____

EXHIBIT B
(continued)

BYLAWS
OF
STONEBROOK CONDOMINIUMS OWNERS ASSOCIATION, INC.

A Utah Nonprofit Corporation

Pursuant to the provisions of the Utah Nonprofit Corporation and Cooperative Association Act, the Board of Trustees of Stonebrook Condominiums Owners Association, Inc., a Utah nonprofit corporation, hereby adopts the following Bylaws for such nonprofit corporation.

ARTICLE I

NAME AND PRINCIPAL OFFICE

1.01 **Name.** The name of the nonprofit corporation is STONEBROOK CONDOMINIUMS OWNERS ASSOCIATION, INC., hereinafter referred to as the "Association".

1.02 **Offices.** The Principal office of the Association shall be at c/o Aspen Real Estate & Development, 2230 North University Parkway, Suite 7B, Provo, Utah, 84604.

ARTICLE II

DEFINITIONS

2.01 **Definitions.** Except as otherwise provided herein or as may be required by the context, all terms defined in Article II of the Condominium Declaration for Stonebrook Condominiums, an expandable Utah condominium project containing convertible land, hereinafter referred to as the "Declaration", shall have such defined meanings when used in these Bylaws.

ARTICLE III

MEMBERS

3.01 **Annual Meetings.** The annual meeting of Members shall be held in January of each year, the specific date, time, and place to be fixed by the Board of Trustees, beginning with the year following the year in which the Articles of Incorporation are filed, for the purpose of electing Trustees and transacting such other business as may come before the meeting. If the election of Trustees shall not be held on the day designated herein for the annual meeting of the Members, or at any adjournment thereof, the Board of Trustees shall cause the election to be held at a special meeting of the Members to be convened as soon thereafter as may be convenient. The Board of Trustees may from time to time by resolution change the date and time for the annual meeting of the Members.

3.02 **Special Meetings.** Special meetings of the Members may be called by the Board of Trustees, the President, the Declarant, or upon the written request of Members holding not less than ten percent (10%) of the voting power of the Members of Association, such written request to state the purpose or purposes of the meeting and to be delivered to the Board of Trustees or the President.

3.03 **Place of Meetings.** The Board of Trustees may designate any place in Utah County, State of Utah as the place of meeting for any annual meeting or for any special meeting called by the Board. A waiver of notice signed by all of the Members may designate any place, either within or without the State of Utah, as the place for holding such meeting. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be at the principal office of the Association.

3.04 **Notice of Meetings.** The Board of Trustees shall cause written or printed notice of the time, place, and purposes of all meetings of the Members (whether annual or special) to be delivered, not more than fifty (50) nor less than ten (10) days prior to the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail addressed to the Member at his registered address, with first-class postage thereon prepaid. Each Member shall register with the Association such Member's current mailing address for purposes of notice hereunder. Such registered address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, a Member's Lot address shall be deemed to be his registered address for purposes of notice hereunder.

3.05 **Members of Record.** Upon purchasing a Condominium in the Project, each Owner shall promptly furnish to the Association a certified copy of the recorded instrument by which ownership of such Condominium has been vested in such Owner, which copy shall be maintained in the records of the Association. For the purpose of determining Members entitled to notice of or to vote at any meeting of the Members, or any adjournment thereof, the Board of Trustees may designate a record date, which shall not be more than fifty (50) nor less than ten (10) days prior to the meeting, for determining Members entitled to notice of or to vote at any meeting of the Members. If no record date is designated, the date on which notice of the meeting is mailed shall be deemed to be the record date for determining Members entitled to notice of or to vote at the meeting. The persons or entities appearing in the records of the Association on such record date as the owners of record of Condominiums in the Project shall be deemed to be the Members of record entitled to notice of and to vote at the meeting of the Members.

3.06 **Quorum.** At any meeting of the Members duly called and noticed, the Members and proxy holders present shall constitute a quorum for the transaction of business.

3.07 **Proxies.** At each meeting of the Members, each Member entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Member himself or by his attorney thereunto duly authorized in writing. If a membership is jointly held, the instrument authorizing a proxy to act must have been executed in writing. Such instrument authorizing a proxy to act shall be delivered at the beginning of the meeting to the Secretary of the Association or to such other officer or person who may be acting as secretary of the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

3.08 **Votes.** With respect to each matter submitted to a vote of the Members, each Member entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Condominium of such Member, as set forth in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Members, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, the Declaration, or Utah law. The election of Trustees shall be by ballot. If a membership is jointly held, all or any holders thereof may attend each meeting of the Members, but such holders must act unanimously to cast the votes relating to their joint Membership.

3.09 **Waiver of Irregularities.** All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting form of proxies, and method of ascertaining Members present shall be deemed waived if no objection thereto is made at the meeting.

3.10 **Informal Action by Members.** Any action that is required or permitted to be taken at a meeting of the Members may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof.

ARTICLE IV

BOARD OF TRUSTEES

4.01 **General Powers.** The property, affairs, and business of the Association shall be managed by its Board of Trustees. The Board of Trustees may exercise all of the powers of the Association, whether derived from law or the Articles of Incorporation, except such powers as are by law, by the Articles of Incorporation, by these Bylaws, or by the Declaration vested solely in the Members. The Board of Trustees may be written contract delegate, in whole or in part, to a professional management organization or person such of its duties, responsibilities, functions, and powers as are properly delegable. However, any agreement for professional management of the Project, or any other contract providing for services of the Declarant, or any lease to which Declarant is a party which may be entered into by the Board of Trustees or the Association shall call for a term not exceeding two (2) years and shall provide that such agreement or lease may be terminated by either party thereto without cause and without payment of a termination fee upon not in excess of thirty (30) days written notice.

4.02 **Number, Tenure and Qualifications.** The number of Trustees of the Association shall be three (3). The initial Board of Trustees specified in the Articles of Incorporation, or their successors appointed by Declarant, shall serve until Declarant turns over to the Members, as provided in Section 2 of Article XII of the Declaration, the responsibility for electing Trustees. At the first annual meeting of the Members held thereafter, the Members shall elect three (3) Trustees to serve for the following respective terms: One (1) Trustee to serve for a term of Three (3) years; one (1) Trustee to serve for a term of Two (2) years; and one (1) Trustee to serve for a term of One (1) year. At each annual meeting thereafter, the Members shall elect for a term of Three (3) years one Trustee to fill the vacancy created by the expiring term of a Trustee. Trustees may, but need not be, Members of the Association. Each Trustee shall hold office until his successor shall have been elected or appointed and qualified.

4.03 **Regular Meetings.** The regular annual meeting of the Board of Trustees shall be held without other notice than this Bylaw immediately after, and at the same place as, the annual meeting of the Members. The Board of Trustees may provide by resolution the time and place for holding of additional regular meetings without other notice than such resolution.

4.04 **Special Meetings.** Special meetings of the Board of Trustees may be called by or at the request of any Trustee. The person or persons authorized to call special meetings of the Board of Trustees may fix any place, within or without the State of Utah, as the place for holding any special meeting of the Board of Trustees called by such person or persons. Notice of any special meeting shall be given at least five (5) days prior thereto by written notice delivered personally, or mailed to each Trustee at his registered address, or by Telegram. If mailed, such notice shall be deemed to be delivered when deposited in the U. S. mail so addressed, with first-class postage thereon prepaid. If notice is given by telegram, such notice shall be deemed to have been delivered when the telegram is delivered to the telegraph company. Any Trustee may waive notice of a meeting.

4.05 **Quorum and Manner of Acting.** A majority of the then authorized number of Trustees shall constitute a quorum for the transaction of business at any meeting of the Board of Trustees. The act of a majority of the Trustees present at any meeting at which a quorum is present shall be the act of the Board of Trustees. The Trustees shall act only as a Board, and individual Trustees shall have no powers as such.

4.06 **Compensation.** No Trustee shall receive compensation for any services that he may render to the Association as a Trustee; provided, however, that a Trustee may be reimbursed for expenses incurred in performance of his duties as a Trustee to the extent such expenses are approved by the Board of Trustees and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as a Trustee.

4.07 **Resignation and Removal.** A Trustee may resign at any time by delivering a written resignation to either the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Trustee, except a Trustee appointed by Declarant, may be removed at any time, for or without cause, by the affirmative vote of seventy-five percent (75%) of the voting power of the Members of the Association at a special meeting of the Members duly called for such purpose.

4.08 **Vacancies and Newly Created Trusteeships.** If vacancies shall occur in the Board of Trustees by reason of the death, resignation or disqualification of a Trustee (other than a Trustee appointed by Declarant), or if the authorized number of Trustees shall be increased, the Trustees then in office shall continue to act, and such vacancies or newly created Trusteeships shall be filled by a vote of the Trustees then in office, though less than a quorum, in any way approved by such Trustees at the meeting. Any vacancy in the Board of Trustees occurring by reason of removal of a Trustee by the Members may be filled by election at the meeting at which such Trustee is removed. If vacancies shall occur in the Board of Trustees by reason of death, resignation or removal of a Trustee appointed by Declarant, such vacancies shall be filled by appointments to be made by Declarant. Any Trustee elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor or for the term of the newly created Trusteeship, as the case may be.

4.09 **Informal Action by Trustees.** Any action that is required or permitted to be taken at a meeting of the Board of Trustees, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Trustees.

ARTICLE V

OFFICERS

5.01 **Officers.** The officers of the Association shall be a President, Vice President, Secretary, Treasurer and such other officers as may from time to time be appointed by the Board of Trustees.

5.02 **Election, Tenure and Qualifications.** The officers of the Association shall be chosen by the Board of Trustees annually at the regular annual meeting of the Board of Trustees. In the event of failure to choose officers at such regular annual meeting of the Board of Trustees, officers may be chosen at any regular or special meeting of the Board of Trustees. Each such officer (whether chosen at a regular annual meeting of the Board of Trustees or otherwise) shall hold his office until the next ensuing regular annual meeting of the Board of

Trustees and until his successor shall have been chosen and qualified, or until his death, or until his resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any one person may hold any two or more of such offices, except that the President may not also be the Secretary. No person holding two or more offices shall act in or execute any instrument in the capacity of more than one office. The President, Vice President, Secretary and Treasurer shall be and remain Trustees of the Association during the entire term of their respective offices. No other officers need be a Trustee.

5.03 **Subordinate Officers.** The Board of Trustees may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board of Trustees may from time to time determine. The Board of Trustees may from time to time delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective titles, terms of office, authorities, and duties. Subordinate officers need not be Members or Trustees of the Association.

5.04 **Resignation and Removal.** Any officer may resign at any time by delivering a written resignation to the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board of Trustees at any time, for or without cause.

5.05 **Vacancies and Newly Created Offices.** If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board of Trustees at any regular or special meeting.

5.06 **The President.** The President shall be the chief executive officer of the Association and shall exercise general supervision over its property and affairs. The President shall preside at meetings of the Board of Trustees and at meetings of the Members. He shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things that the Board of Trustees may require of him. The president shall be invited to attend meetings of each committee.

5.07 **The Vice President.** The Vice President shall act in the place and stead of the President in the event of the President's absence or inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Trustees.

5.08 **The Secretary.** The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, or any resolution of the Board of Trustees may require him to keep. The Secretary shall also act in the place and stead of the President in the event of the President's and the Vice President's absence or inability or refusal to act. He shall be the custodian of the seal of the Association, if any, and shall affix such seal, if any, to all papers and instruments requiring the same. He shall perform such other duties as the Board of Trustees may require of him.

5.09 **The Treasurer.** The Treasurer shall have the custody and control of the funds of the Association, subject to the action of the Board of Trustees, and shall, when requested by the President to do so, report the state of the finances of the Association at each annual meeting of the Members and at any meeting of the Board of Trustees. He shall perform such other duties as the Board of Trustees may require of him.

5.10 **Compensation.** No officer shall receive compensation for any services that he may render to the Association as an officer; provided, however, that an officer may be reimbursed for expenses incurred in performance of his duties as an officer to the extent such expenses are approved by the Board of Trustees and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as an officer.

ARTICLE VI

COMMITTEES

6.01 **Designation of Committees.** The Board of Trustees may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. The membership of each such committee designated hereunder shall include at least one (1) Trustee. No committee member shall receive compensation for services that he may render to the Association as a committee member; provided, however, that a committee member may be reimbursed for expenses incurred in performance of his duties as a committee member to the extent that such expenses are approved by the Board of Trustees and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as a committee member.

6.02 **Proceedings of Committees.** Each committee designated hereunder by the Board of Trustees may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board of Trustees.

6.03 **Quorum and Manner of Action.** At each meeting of any committee designated hereunder by the Board of Trustees, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event less than two members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board of Trustees hereunder shall act only as a committee, and the individual members thereof shall have no powers as such.

6.04 **Resignation and Removal.** Any member of any committee designated hereunder by the Board of Trustees may resign at any time by delivering a written resignation to the President, the Board of Trustees, or the presiding officer of the committee of which he is a member. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board of Trustees may at any time, for or without cause, remove any member of any committee designated by it hereunder.

6.05 **Vacancies.** If any vacancy shall occur in any committee designated by the Board of Trustees hereunder, due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy, constitute the then total authorized membership of the committee and, provided that two or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board of Trustees.

ARTICLE VII

INDEMNIFICATION

7.01 **Indemnification: Third Party Actions.** The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a Trustee or officer of the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by an adverse judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

7.02 **Indemnification: Association Actions.** The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a Trustee or officer of the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

7.03 **Determinations.** To the extent that a person has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Sections 7.01 or 7.02 hereof, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under Sections 7.01 or 7.02 hereof shall be made by the Association only upon a determination that indemnification of the person is proper in the circumstances because he has met the applicable standard of conduct set forth respectively in Sections 7.01 or 7.02 hereof. Such determination shall be made either (i) by the Board of Trustees by a majority vote of disinterested Trustees or (ii) by independent legal counsel in a written opinion, or (iii) by the Members by the affirmative vote of at least fifty percent (50%) of the voting power of the Members of the Association at any meeting duly called for such purpose.

7.04 **Advances.** Expenses incurred in defending a civil or criminal action, suit, or proceeding as contemplated in this Article may be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon a majority vote of a quorum of the Board of Trustees and upon receipt of an undertaking by or on behalf of the person to repay such amount or amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by this Article or otherwise.

7.05 **Scope of Indemnification.** The indemnification provided for by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision in the Association's Articles of Incorporation, Bylaws, agreements, vote of disinterested Members or Trustees, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. The indemnification authorized by this Article shall apply to all present and future Trustees, officers, employees, and agents of the Association and shall continue as to such persons who cease to be Trustees, officers, employees, or agents of the Association and shall inure to the benefit of the heirs and personal representatives of all such persons and shall be in addition to all other rights to which such persons may be entitled as a matter of law.

7.06 **Insurance.** The Association may purchase and maintain insurance on behalf of any person who was or is a Trustee, officer, employee, or agent or was or is serving at the request of the Association as a trustee, director, officer, employee, or agent of another corporation, entity, or enterprise (whether for profit or not for profit).

7.07 **Payments and Premiums.** All indemnification payments made, and all insurance premiums for insurance maintained, pursuant to this Article shall constitute expense of the Association and shall be paid with funds from the Assessments referred to in the Declaration.

ARTICLE VIII

FISCAL YEAR AND SEAL

8.01 **Fiscal Year.** The fiscal year of the Association shall begin on the first day of January each year and end on the 31st day of December next following, except that the first fiscal year shall be a partial year and shall begin on the date of incorporation.

8.02 **Seal.** The Board of Trustees may by resolution provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation, and the words "Corporate Seal".

ARTICLE IX

RULES AND REGULATIONS

9.01 **Rules and Regulations.** The Board of Trustees may from time to time adopt, amend, repeal, and enforce reasonable rules and regulations governing the use and operation of the Project, to the extent that such rules and regulations are not inconsistent with the rights and duties set forth in the Articles of Incorporation, the Declaration, or these Bylaws. The Members shall be provided with copies of all rules and regulations adopted by the Board of Trustees, and with copies of all amendments and revisions thereof.

ARTICLE X

AMENDMENTS

10.01 **Amendments.** Except as otherwise provided by law, by the Articles of Incorporation, by the Declaration, or by these Bylaws, these Bylaws may be amended, altered, or repealed and new Bylaws may be made and adopted by the Members upon the affirmative vote of at least fifty-one percent (51%) of the voting power of the Members of the Association; provided, however, that such action shall not be effective unless and until a written instrument setting forth (i) the amended, altered, repealed, or new bylaw, (ii) the number of votes cast in favor of such action, and (iii) the total voting power of the Members of the Association, shall have been executed and verified by the current President of the Association. However, so long as Declarant retains the right to appoint and to remove the members of the Board of Trustees of the Association, neither the Articles of Incorporation or these Bylaws of the Association, nor the Declaration, nor the Map, may be amended, nor may the Project or the Association be merged with a successor condominium project or owners association, without the prior written approval of the United States Secretary of Veterans Affairs (the "Secretary"); provided, however, that the prior approval of the Secretary shall not be required to expand the Project in accordance with Article XXXI of the Declaration, or to convert Convertible Land in accordance with Article XXXII of the Declaration, if said expansion and/or conversion merely implements a general plan for the total development which has previously been approved by the Secretary.

IN WITNESS WHEREOF, the undersigned, constituting all of the Trustees of STONEBROOK CONDOMINIUMS OWNERS ASSOCIATION, INC., have executed these Bylaws on the _____ day of ________________________, 199___.

____

David L. Clark, Trustee

____

Thomas L. Clark, Trustee

____

Robert A. Barrus, Trustee

EXHIBIT C

Legal Description of Additional Land

Beginning at a point North 917.12 feet and West 84.03 feet from the South Quarter Corner of Section 4, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 89°59'37" West 394.11 feet; thence North 24°21'43" West 433.77 feet; thence North 31°32'20" West 395.30 feet; thence North 56°41'14" East 139.67 feet; thence EAST 460.42 feet; thence SOUTH 153.00 feet; thence EAST 198.42 feet; thence South 00°22'15" East 181.02 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; thence South 00°22'15" East 209.72 feet to the point of beginning.

Containing 9.14 acres

EXHIBIT D

Legal Description of Convertible Land initially contained within the Project

Convertible Land No. 1

Beginning at a point North 1,131.63 feet and West 130.13 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 22.00 feet; thence South 89°37'45" West 67.00 feet; thence South 00°22'15" East 22.00 feet; thence North 89°37'45" East 67.00 feet to the point of beginning.

Containing 1,474 square feet.

Convertible Land No. 2

Beginning at a point North 1,130.75 feet and West 266.30 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 22.00 feet; thence South 89°37'45" West 31.00 feet; thence South 00°22'15" East 22.00 feet; thence North 89°37'45" East 31.00 feet to the point of beginning.

Containing 682 square feet.

Convertible Land No. 3

Beginning at a point North 1,129.78 feet and West 301.00 feet from the South Quarter Corner of Section 4, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 24°33'41" West 22.00 feet; thence South 65°26'19" West 16.53 feet; thence South 24°33'41" East 22.00 feet; thence North 65°26'19" East 16.53 feet to the point of beginning.

Containing 364 square feet.

Convertible Land No. 4

Beginning at a point North 1,170.47 feet and West 313.00 feet from the South Quarter Corner of Section 4, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 24°33'41" West 22.00 feet; thence South 65°26'19" West 22.53 feet; thence South 24°33'41" East 22.00 feet; thence North 65°26'19" East 22.53 feet to the point of beginning.

Containing 496 square feet.