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C. Craig Liljenquist, Esq.
8103 Old Coventry Circle
Sandy, Utah 84093-6304

ENT 5892 BK 4942 PG 57
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
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**NINTH AMENDMENT
TO
CONDOMINIUM DECLARATION
FOR
STONEBROOK CONDOMINIUMS**

2nd RECORDING
ENT 8361 BK 4948 PG 428
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
1999 Jan 25 10:16 am FEE 46.00 BY SS
RECORDED FOR CENTURY TITLE

an Expandable Utah Condominium Project containing Convertible Land

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

RECITALS

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

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

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

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

E. By that certain Third Supplemental Record of Survey Map of Stonebrook Condominiums Phase IV (the "Third Supplemental Map") recorded February 11, 1997, as Entry No. 10586, and Map Filing No. 6913, in the Office of the County Recorder of Utah County, Utah, and by that certain Fourth Amendment to Condominium Declaration for Stonebrook Condominiums (the "Fourth Amendment") recorded concurrently with the Third Supplemental Map in said office as Entry No. 10587, in Book 4189, at Pages 713 through 722, inclusive, Declarant expanded the Project by adding to the Project that portion of the Additional Land described in the Third Supplemental Map and Fourth Amendment and by creating new Units, Common Areas and Facilities and Limited Common Areas within that portion of the Additional Land thereby added to the Project.

F. By that certain Fourth Supplemental Record of Survey Map of Stonebrook Condominiums Phase V (the "Fourth Supplemental Map") recorded April 28, 1997, as Entry No. 31622, and Map Filing No. 7023, in the Office of the County Recorder of Utah County, Utah, and by that certain Fifth Amendment to Condominium Declaration for Stonebrook Condominiums (the "Fifth Amendment") recorded concurrently with the Fourth Supplemental Map in said office as Entry No. 31623, in Book 4253, at Pages 317 through 325, inclusive, Declarant expanded the Project by adding to the Project that portion of the Additional Land described in the Fourth Supplemental Map and Fifth Amendment and by creating new Units, Common Areas and Facilities and Limited Common Areas within that portion of the Additional Land thereby added to the Project.

G. By that certain Fifth Supplemental Record of Survey Map of Stonebrook Condominiums Phase VI (the "Fifth Supplemental Map") recorded January 13, 1998, as Entry No. 3221, and Map Filing No. 7390, in the Office of the County Recorder of Utah County, Utah, and by that certain Sixth Amendment to Condominium Declaration for Stonebrook Condominiums (the "Sixth Amendment") recorded concurrently with the Fifth Supplemental Map

in said office as Entry No. 3222, in Book 4491, at Pages 40 through 49, inclusive, Declarant expanded the Project by adding to the Project that portion of the Additional Land described in the Fifth Supplemental Map and Sixth Amendment and by creating new Units, Common Areas and Facilities and Limited Common Areas within that portion of the Additional Land thereby added to the Project.

H. By that certain Sixth Supplemental Record of Survey Map of Stonebrook Condominiums Phase VII (the "Sixth Supplemental Map") recorded April 24, 1998, as Entry No. 40334, and Map Filing No. 7505, in the Office of the County Recorder of Utah County, Utah, and by that certain Seventh Amendment to Condominium Declaration for Stonebrook Condominiums (the "Seventh Amendment") recorded concurrently with the Sixth Supplemental Map in said office as Entry No. 40335, in Book 4611, at Pages 190 through 199, inclusive, Declarant expanded the Project by adding to the Project that portion of the Additional Land described in the Sixth Supplemental Map and Seventh Amendment and by creating new Units, Common Areas and Facilities and Limited Common Areas within that portion of the Additional Land thereby added to the Project.

I. By that certain Seventh Supplemental Record of Survey Map of Stonebrook Condominiums Phase VIII (the "Seventh Supplemental Map") recorded October 1, 1998, as Entry No. 99758, and Map Filing No. 7751, in the Office of the County Recorder of Utah County, Utah, and by that certain Eighth Amendment to Condominium Declaration for Stonebrook Condominiums (the "Eighth Amendment") recorded concurrently with the Seventh Supplemental Map in said office as Entry No. 99759, in Book 4797, at Pages 517 through 528, inclusive, Declarant expanded the Project by adding to the Project that portion of the Additional Land described in the Seventh Supplemental Map and Eighth Amendment and by creating new Units, Common Areas and Facilities and Limited Common Areas within that portion of the Additional Land thereby added to the Project.

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

K. Under the provisions of Article XXXII of the Declaration, Declarant also explicitly reserved the right, at its sole and exclusive discretion and without the consent of any Owners or any other person or entity having any right or interest in all or any portion of the Project, to create from time to time and at different times additional Limited Common Areas (1) within the Convertible Land initially contained within the Project as described in the Declaration and the Map, and (2) within any additional Convertible Land contained within Additional Land

subsequently added to the Project pursuant to Article XXXI of the Declaration, so long as Declarant does so accordance with the provisions of said Article XXXII and Section 57-8-13.2 of the Act.

L. Declarant now desires further to expand the Project by adding to the Project another portion of the Additional Land described in the Declaration and by creating new Units, Common Areas and Facilities and Limited Common Areas within that portion of the Additional Land hereby added to the Project, all as hereinafter more particularly set forth.

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

N. Declarant also now desires (1) to create certain additional Limited Common Areas within a portion of the Convertible Land now contained within the Project, and (2) to continue to reserve its right so to convert the remaining Convertible Land in the future, all as hereinafter more particularly set forth.

O. In order to do so, the Act and Article XXXII of the Declaration require Declarant to record a supplemental record of survey map containing the information necessary to comply with the Act and to record simultaneously therewith an amendment to the Declaration describing the conversion.

A M E N D M E N T

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

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

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

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

Declarant hereby submits that portion of the Additional Land more particularly described on Exhibit B attached to this Ninth Amendment to the Declaration and by this reference made a part hereof, to the provisions of the Act as a part of the Condominium Project created by the Map and the Declaration, as concurrently amended by the Eighth Supplemental Map and this Ninth Amendment to the Declaration, hereby adds that portion of the Additional Land described on Exhibit B attached hereto to the Project and hereby expands the Project to include said portion of the Additional Land described on Exhibit B attached hereto, with said submission, addition and expansion to become effective upon the recording of this Ninth Amendment to the Declaration and the Eighth Supplemental Map in the office of the recorder of the county in which the Project is situated. This Ninth Amendment to the Declaration is submitted in accordance with the terms and provisions of the Act and shall be construed in accordance therewith. It is the intention of Declarant that the provisions of the Act shall apply to that portion of the Additional Land described on Exhibit B attached hereto and that said portion of the Additional Land described on Exhibit B attached hereto shall hereafter be construed to be an integral part of the Property as defined in the Declaration.

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

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

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

Phase IX of the Project which will be constructed (1) on that portion of the Additional Land added to the Project by the Eighth Supplemental Map and this Ninth Amendment to the Declaration, and (2) on a portion of Convertible Land No. 2 and on all of Convertible Land No. 3 which were initially included within the Project as described in the Declaration and Map, which are more particularly described on Exhibit D to the Declaration and which are depicted on the Map, and (3) on Convertible Land No. 9 which was added to the Project by the Third Supplemental Map and the Fourth Amendment to the Declaration, which is more particularly described on Exhibit C to the Fourth Amendment to the Declaration and which is depicted on the Third Supplemental Map, and will be

constructed on said land in accordance with the information contained in the Eighth Supplemental Map. The Eighth Supplemental Map shows the number of stories to be contained in the one (1) building within said portion of the Project which will contain Units. Approximately half of the lower level of this building will be below ground level. Otherwise, this building will not contain any basement. This building in Phase IX of the Project will contain a total of twelve (12) Units. This building in Phase IX of the Project will be of a French country with river stone wainscot architectural style and will be of wood-frame construction with part stucco, part rock, and part brick veneers, aluminum siding beneath the roof peaks, aluminum covered soffits, metal deck and stair railings, asphaltic composition shingle roof and concrete foundation. Each of the Units in this building will contain three bedrooms, a master bath, a bath/utility room, a kitchen, a dining room and a living room, as well as various other amenities. Phase IX of the Project will also include walkways, an additional thirty-two (32) parking spaces and a tennis court. Two (2) of said additional parking spaces, plus ten (10) of the existing parking spaces which are now being converted into Limited Common Area parking spaces, will be covered and are Limited Common Areas reserved for the exclusive use of the respective Owners of the Units indicated on the Eighth Supplemental Map. Electricity and natural gas will be separately metered to each Unit. Water, sewage disposal, garbage disposal and cable television services will not be separately metered or billed, but will be paid for as part of Common Expenses. Each Unit will contain carpets and floor coverings and will be equipped with kitchen appliances. Phase IX of the Project will also be subject to the easements which are reserved through the Project and as may be required for utilities.

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

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

The Common Areas and Facilities within Phase IX of the Project are as indicated on the Eighth Supplemental Map and include, but are not limited to, common driveways, common walkways, common parking spaces, common landscaped areas and a tennis court. Except as otherwise provided in the Declaration, the Common Areas and Facilities also consist of the areas and facilities described in the definitions and constitute in general all of the parts of the Property except the Units.

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

(b) The Common Areas and Facilities shall be used only for the purposes for which they are intended. Three-hundred eighteen (318) of the parking spaces constitute Common Areas and Facilities and are not reserved for the exclusive use of the respective Owners of any particular Units unless subsequently so reserved by rules and regulations promulgated by the Board of Trustees, or unless those parking spaces located within Convertible Land are converted into Limited Common Areas in accordance with the provisions of Article XXXII of the Declaration. One-hundred eight (108) of the parking spaces are Limited Common Areas reserved for the exclusive use of the respective Owners of the Units indicated on the Map, the First Supplemental Map, the Second Supplemental Map, the Third Supplemental Map, the Fourth Supplemental Map, the Fifth Supplemental Map, the Sixth Supplemental Map, the Seventh Supplemental Map and the Eighth Supplemental Map. Each parking space shall be used for the parking of operable motor vehicles of a size no larger than a standard automobile or a 3/4 ton truck and for no other purpose. No more than one (1) vehicle may be parked in any parking space at one time. Declarant reserves the right, as its option, to construct storage areas at the front of the covered parking spaces. If Declarant constructs such storage areas, they shall constitute Limited Common Areas reserved for the exclusive use of the respective Owners of the Units which have the right to use the respective covered parking spaces.

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

Section 4 of Article IX of the Declaration entitled "Ownership of Common Areas and Facilities," as previously amended, is hereby deleted in its entirety and the following is substituted in its stead:

4. **Ownership of Common Areas and Facilities.** The

Common Areas and Facilities contained in the Project are described and identified in Article V 4. of this Declaration. Said Common Areas and Facilities shall be owned by the Unit Owners as tenants in common. No percentage ownership interest in the Common Areas and Facilities shall be separated from the Unit to which it appertains, and even though not specifically mentioned in the instrument of transfer, such a percentage of undivided ownership interest shall automatically accompany the transfer of the Unit to which it relates. Each Unit Owner shall have an equal, undivided 0.9259% ownership interest in the Common Areas and Facilities within the Project for all purposes, including voting and assessment of Common Expenses. Further exercise of Declarant's right to expand the Project in accordance with Article XXXI hereof will result in a further reallocation of the undivided interest in the Common Areas and Facilities appurtenant to each Unit.

8. **Remaining Convertible Land.** That portion of Convertible Land No. 2 which is not now being converted is more particularly described on Exhibit C attached hereto and by this reference made a part hereof. Also, the location and dimensions of all remaining


Convertible Lands which are not now being converted are shown on the Eighth Supplemental Map and labeled as such.

9. **Construction.** From and after the day and time this Ninth Amendment becomes effective, all references in the Map, in the Declaration and in the exhibits to the Declaration as previously amended and supplemented shall be deemed to and shall refer to the Map, the Declaration and to the exhibits to the Declaration as previously amended and supplemented and as amended hereby and as supplemented by the Eighth Supplemental Map and not to the form of the same as they existed prior to the time this Ninth Amendment becomes effective. Except as herein otherwise expressly provided, all provisions of the Map, the Declaration and the exhibits to the Declaration as previously amended and supplemented shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF the undersigned has caused this Ninth Amendment to be executed on its behalf this 19 day of January, 1999.

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

By 
David L. Clark, Manager

By 
Robert A. Barrus, Manager

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

ENT ~~5892 BK 4942 PG 65~~

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The foregoing instrument was acknowledged before me this 19 day of January, 1999, by **DAVID L. CLARK** and **ROBERT A. BARRUS**, Managers of the **STONEBROOK, L.C.**, a Utah limited liability company.

Susan Palmer

NOTARY PUBLIC
Residing at: Mapleton, Utah

My Commission Expires:

8-27-00

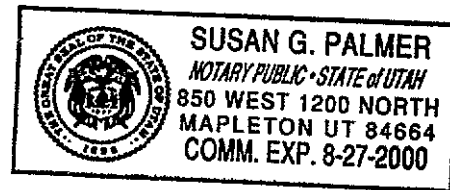


EXHIBIT A**Legal Description of the Property**

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 $00^{\circ}22'15''$ West 265.08 feet; thence South $89^{\circ}37'45''$ West 37.28 feet; thence SOUTH 91.57 feet; thence WEST 66.41 feet; thence North $00^{\circ}22'15''$ West 16.62 feet; thence WEST 116.50 feet; thence SOUTH 13.08 feet; thence WEST 66.30 feet; thence South $00^{\circ}14'09''$ East 7.83 feet; thence EAST 59.78 feet; thence South $36^{\circ}36'02''$ East 119.57 feet; thence South $89^{\circ}37'45''$ West 72.00 feet; thence South $65^{\circ}26'19''$ West 33.08 feet; thence South $24^{\circ}33'41''$ East 74.00 feet; thence North $65^{\circ}26'19''$ East 17.22 feet; thence North $89^{\circ}37'45''$ East 212.87 feet to the point of beginning.

Containing 1.00 acres

EXHIBIT B

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

Commencing at a point North 917.15 feet and West 292.31 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 185.45 feet; thence North 24°21'43" West 138.73 feet; thence North 65°26'19" East 138.99 feet; thence South 24°33'41" East 25.00 feet; thence North 65°26'19" East 119.75 feet; thence North 89°37'45" East 27.58 feet; thence South 00°22'15" East 110.33 feet; thence South 47°00'00" West 43.49 feet; thence South 00°22'15" East 71.40 feet to the point of beginning.

Containing 0.95 acres

EXHIBIT C

**Legal Description of the Remaining Portion of Convertible Land No. 2
Which is Not Now Being Converted**

Beginning at a point which is North 1,133.57 feet and West 257.63 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 11.00 feet; thence South 00°22'15" East 22.00 feet; thence North 89°37'45" East 11.00 feet to the point of beginning.

Containing 242 square feet