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GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
JEFFREY DUKE  
6925 S UNION PARK AVE STE 355  
SLC UT 84047  
BY: SBM, DEPUTY - WI 3 P.

After recordation, return to:

Jeffrey Duke  
6925 South Union Park Ave  
Suite 355  
Salt Lake City, Utah 84047

**FIFTH SUPPLEMENT TO  
DECLARATIONS OF EASEMENTS, COVENANTS,  
CONDITIONS AND RESTRICTIONS  
OF  
WYNGATE TOWN HOMES**

**A Planned Unit Development (Expandable)**

**South Jordan, Salt Lake County, Utah**

**THIS FIFTH SUPPLEMENTAL TO DECLARATION** is made as of this 20th day of August 2004, by WYNGATE TOWNHOMES, LLC., a Utah limited liability company (the "Declarant"), pursuant to the following:

**RECITALS:**

- A. Declarant is the developer of Wyngate Town Homes, an expandable Planned Unit Development in South Jordan, Utah (The "Development").
- B. On Oct 23, 2002, Declarant caused to be recorded as Entry No. 8395491, Book 8670, Page 7408-7425, in the office of the Recorder of Salt Lake County, Utah, that certain **Declaration of Easements, Covenants, Conditions and Restrictions of Wyngate Town Homes, A Planned Unit Development (Expandable), South Jordan, Salt Lake County, Utah** (the "Declaration") relating to the Development.
- C. Pursuant to 3.03 of the Declaration, Declarant is permitted to annex into the Development additional real property ("Additional Land") as set forth and described in the Declaration (including any exhibit thereto) for purpose of development into additional Lots and Common Areas, if any, consistent with the existing Phases of the Development and with the Declaration.
- D. Declarant desires to annex a portion of the Additional Land into the Development for development as Phase "VI" of the Development.

**NOW, THEREFORE,** Declarant hereby declares as follows:

- 1. All defined terms as used in this Fifth Supplement to Declaration shall have the same meaning as those set forth and defined in the Declaration.
- 2. The following described real property situated in the city of South Jordan, Salt Lake County, Utah, is hereby submitted to the provisions of the Declaration and, pursuant thereto, is hereby annexed into the Development to be held, transferred, sold, conveyed and occupied as a part thereof:

**TOGETHER WITH** all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property, whether or not the same are reflected on the Plat.

**RESERVING UNTO DECLARANT,** however, such easements and rights of ingress and egress over, across, through, and under, the said property and any improvements (including buildings) now or hereafter constructed thereon as may be reasonably necessary for Declarant (in manner which is reasonable and consistent with the provisions of the Declaration): (i) to construct and complete each of the Buildings and Units and all of the other improvements described in the Declaration or in the Plat recorded concurrently herewith, and to do all things reasonably necessary or proper on connection therewith; (ii) to construct and complete on the Additional Land or any portion thereof such improvements as Declarant shall determine to build in its sole discretion (and whether or not the Additional Land or any portion thereof has been or hereafter will be added to the Development); and (iii) to improve portions of the said property with such other or additional

improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners and Declarant may reasonably determine to be appropriate. If, pursuant to the foregoing reservations, the said property of any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservations hereby effected shall, unless, sooner terminated in accordance with their terms, expire ten (10) years after the date on which the Declaration is filed of record in the office of the County Recorder of Salt Lake County, Utah.

ALL FOREGOING IS SUBJECT TO all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; all mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described real property or any portion thereof, including, without limitation, any Mortgage (and nothing in the paragraph shall be deemed to modify or amend such Mortgage); all visible easements and rights-of-way, encroachments, or discrepancies shown on or revealed by the Plat or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the said property at such time as construction of all Development improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities; AND TO EACH OF THE COVENANTS, EASEMENTS, CONDITIONS AND RESTRICTIONS CONTAINED IN THIS DECLARATION.

3. Section 3.02 of the Declaration is amended in its entirety to read as follows:

3.02 Subdivision into Lots. The Development is hereby subdivided into One Hundred Sixty (160) Lots, as set forth and described in the Plats, each with appurtenant and equal rights and easements of use and enjoyment in and to any Common Areas, as well as appurtenant obligations, all as set forth in this Declaration.

4. Except as amended by the provisions of this Fifth Supplement to Declarations, the Declaration shall remain unchanged and, together with this Fifth Supplement to Declaration shall constitute the Declarations of Easements, Covenants, Conditions and Restrictions for the Development as expanded by the annexation of the Additional Land described herein.

5. This Fifth Supplement to Declaration shall be recorded concurrently with the Plat entitled Phase VI, Wyngate Town Homes, A Planned Unit Development (Expandable), City of South Jordan, Salt Lake County, Utah, prepared and certified to by Keith Russell (a duly registered Utah Land Surveyor holding Certificate No. 164386), executed and acknowledged by Declarant, accepted by South Jordan City, and filed for record in the office of the County Recorder of Salt Lake County.

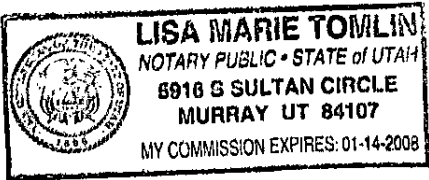
IN WITNESS WHEREOF, Declarant has executed this instrument the day and year first above set forth.

DECLARANT:  
Wyngate Townhomes, LLC  
A Utah limited Liability Company

By: Jeffrey Duke  
Jeffrey Duke, Manager

State of Utah )  
County of Salt Lake ) : ss.

On this 8 day of Sept., 2004, personally appeared before me Jeffrey Duke, who being by me duly sworn, did say that he is the Manager of Wyngate Townhomes, LC., a Utah limited liability company, that said instrument was signed by him in behalf of said company pursuant to authority, and that said company executed the same.



Lisa Marie Tomlin  
NOTARY PUBLIC

**EXHIBIT A  
TO  
FIFTH SUPPLEMENT TO  
  
DECLARATIONS OF EASEMENTS, COVENANTS,  
CONDITIONS AND RESTRICTIONS  
OF  
  
WYNGATE TOWNHOMES  
A Planned Unit Development (Expandable)  
South Jordan, Salt Lake County, Utah**

**THIS DESCRIPTION OF THE ADDITIONAL LAND IS SET FORTH AND ATTACHED IN THIS EXHIBIT A TO THE DECLARATION SOLEY FOR PURPOSES OF IDENTIFICATION. THE DECLARATION NOT INTENDED AS AND SHOULD NOT BE DEEMED TO CONSTITUTE ANY LIEN, ENCUMBRANCE, RESTRICTION, OR LIMITATION UPON ANY PORTION OF THE EXPANSION LAND UNLESS AND UNTIL SUCH PORTION IS ADDED TO THE DEVELOPMENT IN ACCORDANCE WITH THE PROVISIONS OF THE DECLARATION.**

**Phase VI**

Part of Lot 4, South Jordan Business Center Subdivision, more particularly described as follows:

Beginning at the Southwest Corner of Wyngate P.U.D. Phase 5, said point also being on the east line of Wyngate P.U.D. Phase 3 and being North 0°03'10" East 1,214.60 feet along the quarter section line East 906.01 feet from the South Quarter Corner of Section 15, Township 3 South, Range 1 West, Salt Lake Base and Meridian, and running:

thence South 70°26'50" East 194.77 feet along the boundary line of said Wyngate P.U.D. Phase 5;  
thence Northeasterly 81.42 feet along an arc of a 2104.42 foot radius curve to the left (center bears South 70°26'51" East long chord bears North 20°39'40" East 81.42 feet with a central angle of 2°13'00") along the boundary line of said Wyngate P.U.D. Phase 5;  
thence South 68°13'50" East 28.00 feet along the boundary line of said Wyngate P.U.D. Phase 5;  
thence Southwesterly 5.35 feet along the arc of a 2076.42 foot radius curve to the left (center bears South 68°13'50" East and long chord bears South 21°41'45" West 5.35 feet, with a central angle of 0°08'51") along the boundary line of said Wyngate P.U.D. Phase 5;  
thence South 68°22'41" East 119.99 feet along the boundary line of said Wyngate P.U.D. Phase 5 to the west line of the South Jordan Canal;  
thence South 21°46'10" West 140.94 feet along the west line of the South Jordan Canal;  
thence South 16°17'31" West 187.66 feet along the west line of the South Jordan Canal;  
thence North 73°49'33" West 110.70 feet;  
thence North 68°11'04" West 28.00 feet;  
thence Northwesterly 8.66 feet along an arc of a 5.00 foot radius curve to the left (center bears North 68°11'04" West and long chord bears North 27°49'31" West 7.62 feet with a central angle of 99°16'54");  
thence North 77°27'58" West 14.59 feet;  
thence North 14°00'15" East 109.03 feet;  
thence North 72°34'19" West 179.45 feet;  
thence North 17°25'41" East 91.42 feet to the Southeast Corner of Wyngate P.U.D. Phase 3;  
thence North 21°46'10" East 66.42 feet along the east line of Wyngate P.U.D. Phase 3 to the point of beginning.

Containing 80,829 square feet; 1.856 acres; 18 units.