

WHEN RECORDED RETURN TO:
DAYBREAK AT HARVEST HILLS DEVELOPMENT, L.C.
Wayne H. Corbridge
758 South 400 East
Orem, Utah 84058
(801) 227-0550

ENT 92636:2002 PG 1 of 9
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2002 Aug 13 10:45 am FEE 122.00 BY JRD
RECORDED FOR CITY OF SARATOGA SPRINGS

**FIFTH SUPPLEMENT TO THE
DECLARATION OF CONDOMINIUM FOR DAYBREAK AT HARVEST HILLS**
an expandable Utah condominium project

This FIFTH SUPPLEMENT TO THE DECLARATION OF CONDOMINIUM FOR DAYBREAK AT HARVEST HILLS, an expandable Utah condominium project, is made and executed by DAYBREAK AT HARVEST HILLS DEVELOPMENT, L.C., a Utah limited liability company, of 758 South 400 East, Orem, Utah 84097 and POINT ASSET MANAGEMENT INC., a California Corporation, of 3746 Amaryllis Drive, San Diego, California 92106 and STANFORD J. RICKS, an individual, of 758 South 400 East, Orem, Utah 84097 (the "Declarants").

RECITALS

Whereas, the original Declaration of Condominium for DAYBREAK AT HARVEST HILLS was recorded in the office of the County Recorder of Utah County, Utah on the 2 day of May, 2002 as Entry No. 50342 in Book 2002 at Page(s) 1-59 of the Official Records of the County Recorder of Utah County, Utah (the "Declaration").

Whereas, the related Plat Map(s) for Phase I of the Project has also been recorded in the office of the County Recorder of Utah County, Utah.

Whereas, the First Supplemental Declaration was recorded in the office of the County Recorder of Utah County, Utah on the 24 day of May, 2002, as Entry No. 59660 in Book No. 2002 of the Official Records of the County Recorder of Utah County, Utah (the "First Supplement").

Whereas, the related Plat Map(s) for Phase II of the Project has also been recorded in the office of the County Recorder of Utah County, Utah.

Whereas, the Second Supplemental Declaration was recorded in the office of the County Recorder of Utah County, Utah on the 13 day of AUGUST, 2002, as Entry No. 92627 in Book No. 2002 at Page _____ of the Official Records of the County Recorder of Utah County, Utah (the "Second Supplement").

Whereas, the related Plat Map(s) for Phase III of the Project has also been recorded in the office of the County Recorder of Utah County, Utah.

Whereas, the Third Supplemental Declaration was recorded in the office of the County

Recorder of Utah County, Utah on the 13 day of August, 2002, as Entry No. 92630 in Book No. 2002 at Page _____ of the Official Records of the County Recorder of Utah County, Utah (the "Second Supplement").

Whereas, the related Plat Map(s) for Phase IV of the Project has also been recorded in the office of the County Recorder of Utah County, Utah. ENT 92636:2002 PG 2 of 9

Whereas, the Fourth Supplemental Declaration was recorded in the office of the County Recorder of Utah County, Utah on the 13 day of August, 2002, as Entry No. 92633 in Book No. 2002 at Page _____ of the Official Records of the County Recorder of Utah County, Utah (the "Second Supplement").

Whereas, the related Plat Map(s) for Phase V of the Project has also been recorded in the office of the County Recorder of Utah County, Utah.

Whereas, under Article III, Section 45 of the Declaration, Declarants reserved an option, until the seven (7) years from the date following the first conveyance of a Unit in Phase I to a Unit purchaser, to expand the Project in accordance with the Act.

Whereas, Declarants is the fee simple owner of record of that certain real property located in Utah County, Utah and described with particularity on Exhibit "A-6" attached hereto and incorporated herein by this reference (the "Phase VI Property").

Whereas, under the provisions of the Declaration, Declarants expressly reserved the absolute right, subject to the approval of the Department of Veterans Affairs, to add to the Project any or all portions of the Additional Land at any time and in any order, without limitation.

Whereas, Declarants desires to expand the Project by creating on the Phase VI Property a residential condominium development.

Whereas, Declarants now intends that the Phase VI Property shall become subject to the Declaration.

A G R E E M E N T

NOW, THEREFORE, for the reasons recited above, and for the benefit of the Project and the Unit Owners thereof, Declarants hereby executes this FIFTH SUPPLEMENT TO THE DECLARATION OF CONDOMINIUM FOR DAYBREAK AT HARVEST HILLS.

1. **Supplement to Definitions.** Article I of the Declaration, entitled "Definitions," is hereby modified to include the following supplemental definitions:

A. **Fifth Supplement to the Declaration** shall mean and refer to this FIFTH SUPPLEMENT TO THE DECLARATION OF CONDOMINIUM FOR DAYBREAK AT HARVEST HILLS.

B. **Fifth Supplemental Map or Phase VI Map** shall mean and refer to the Supplemental Plat Map for Phase V of the Project, prepared and certified to by Gary Wier, a duly registered Utah Land Surveyor holding Certificate No. 333098, and filed for record in the Office of the County Recorder of Utah County, Utah concurrently with the filing of this Fourth Supplement to the Declaration.

Except as otherwise herein provided, the definition of terms contained in the Declaration are incorporated herein by this reference.

2. **Legal Description.** The real property described in Exhibit A-6 is hereby submitted to the provisions of the Act and said land shall be held, transferred, sold, conveyed and occupied subject to the provisions of the Declaration, as supplemented.

3. **Annexation.** Declarants hereby declares that the Phase VI Property shall be annexed to and become subject to the Declaration, which upon recordation of this Fifth Supplement to the Declaration shall constitute and effectuate the expansion of the Project, making the real property described in Exhibit A-6 subject to the functions, powers, rights, duties and jurisdiction of the Association.

4. **Total Number of Units Revised.** As shown on the Phase VI Map, one Building and twelve (12) additional Units are or will be constructed and/or created in the Project on the Phase VI Property. The additional Building and Units are located within a portion of the Additional Land. Upon the recordation of the Phase VI Map and this Fifth Supplement to the Declaration, the total number of Units in the Project will be seventy-two (72). The additional Building and Units are or will be substantially similar in construction, design, and quality to the Building and Units in the prior Phase.

5. **Percentage Interest Revised.** Pursuant to the Act and the Declaration, Declarants is required, with the additional Units, to reallocate the undivided percentages of ownership interest in the Common Areas and Facilities. Fourth Revised Exhibit "C" (Percentages of Undivided Ownership Interests) to the Declaration is hereby deleted in its entirety and "Fifth Revised Exhibit 'C,'" attached hereto and incorporated herein by this reference, is substituted in lieu thereof.

6. **Effective Date.** The effective date of this Fifth Supplement to the Declaration and the Phase VI Map shall be the date on which said instruments are filed for record in the Office of the County Recorder of Utah County, Utah.

EXECUTED the 24 day of June, 2002.

DAYBREAK AT HARVEST HILLS DEVELOPMENT, L.C.,
a Utah limited liability company

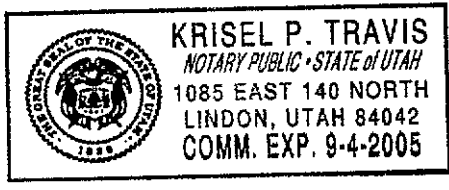
By: [Signature]
Name: WAYNE H. CORBRIDGE
Title: Manager

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STATE OF UTAH)
)ss:
COUNTY OF UTAH)

On the 2^d day of June, 2002 personally appeared before me WAYNE H. CORBRIDGE, who by me being duly sworn, did say that he is the Manager of DAYBREAK AT HARVEST HILLS DEVELOPMENT, L.C., a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said Company by authority of a resolution of its Members, and said WAYNE H. CORBRIDGE duly acknowledged to me that said Company executed the same.

[Signature]
NOTARY PUBLIC
Residing At:
Commission Expires:



POINT ASSET MANAGEMENT, INC.

POINT ASSET MANAGEMENT, INC.

By: Steven R. Keeling, President

By: Barbara A. Keeling, Secretary

STATE OF California)
(ss
COUNTY OF)

VOID

see next page

On the _____ day of _____, 2002, personally appeared before me Steven R. Keeling and Barbara A. Keeling, who, being by me duly sworn, did say that they are the President and Secretary and that the said instrument was signed in behalf of said corporation by authority of Steven R. Keeling and Barbara A. Keeling and the aforesaid officers acknowledged to me that said corporation executed the same.
~~SIGNATURES CONTINUED ON NEXT PAGE~~

Notary Public

My Commission Expires: _____
Residing at: _____

POINT ASSET MANAGEMENT, INC.

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By: Steven R. Keeling
Name: Steven R. Keeling
Title: President

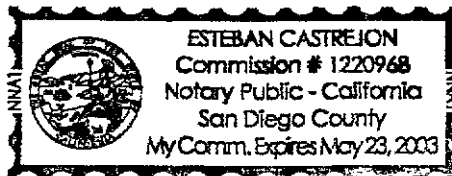
By: Barbara A. Keeling
Name: Barbara A. Keeling
Title: Secretary

STATE OF CALIFORNIA)
(ss
COUNTY OF SAN DIEGO)

On the 5th day of JULY, 2002, personally appeared before me Steven R. Keeling and Barbara A. Keeling, who, being by me duly sworn, did say that they are the President and Secretary of POINT ASSET MANAGEMENT, INC., a California corporation, and that the said instrument was signed in behalf of said corporation by authority of Steven R. Keeling and Barbara A. Keeling pursuant to a Resolution of the Board of Directors or its Articles of Incorporation, and the aforesaid officers acknowledged to me that said corporation executed the same.


Esteban Castrejon
Notary Public

My Commission Expires: 5-23-03
Residing at: San Diego, CA.



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SIGNATURES CONTINUE ON NEXT PAGE

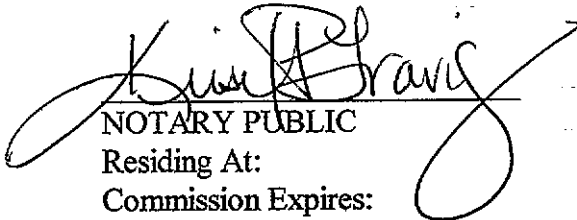
STANFORD J. RICKS



Stanford J. Ricks

STATE OF UTAH)
 SS.
COUNTY OF Utah)

On this day personally appeared before me Stanford J. Ricks to me known to be the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned. Given under my hand and official seal this 27 day of June, 2002.



NOTARY PUBLIC
Residing At:
Commission Expires:

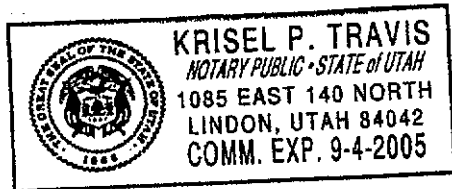


EXHIBIT "A-6"

**DAYBREAK AT HARVEST HILLS PHASE IV
LEGAL DESCRIPTION**

The land described in the foregoing document is located in Utah County, Utah and is described more particularly as follows:

Commencing North 00°34'14" East along the Section Line 660.35 feet and East 806.90 feet from the West Quarter Corner of Section 11, Township 5 South, Range 1 West, Salt Lake Base and Meridian; thence as follows, North 44°15'39" East 122.20 feet along Daybreak Condominiums Phase 5; thence South 45°39'08" East 39.68; thence North 44°20'50" East 47.82; thence South 00°52'22" West 1.10 feet; thence South 44°53'59" East 114.28 feet; thence South 45°31'08" West 187.50 feet; thence North 44°28'52" West 55.00 feet; thence North 45°31'08" East 16.66 feet; thence North 44°28'52" West 96.06 feet to the point of beginning.

FIFTH REVISED EXHIBIT "C"
PERCENTAGES OF UNDIVIDED OWNERSHIP INTEREST

<u>Phase</u>	<u>Building No.</u>	<u>Unit No.</u>	<u>Percentage of Ownership Interest</u>
1	A	1	1.388%
1	A	2	1.388%
1	A	3	1.388%
1	A	4	1.388%
1	A	5	1.388%
1	A	6	1.388%
1	A	7	1.388%
1	A	8	1.388%
1	A	9	1.388%
1	A	10	1.388%
1	A	11	1.388%
1	A	12	1.388%
2	B	1	1.388%
2	B	2	1.388%
2	B	3	1.388%
2	B	4	1.388%
2	B	5	1.388%
2	B	6	1.388%
2	B	7	1.388%
2	B	8	1.388%
2	B	9	1.388%
2	B	10	1.388%
2	B	11	1.388%
2	B	12	1.388%
3	C	1	1.388%
3	C	2	1.388%
3	C	3	1.388%
3	C	4	1.388%
3	C	5	1.388%
3	C	6	1.388%
3	C	7	1.388%
3	C	8	1.388%
3	C	9	1.388%
3	C	10	1.388%
3	C	11	1.388%
3	C	12	1.388%

FIFTH REVISED EXHIBIT "C"
PERCENTAGES OF UNDIVIDED OWNERSHIP INTEREST

<u>Phase</u>	<u>Building No.</u>	<u>Unit No.</u>	<u>Percentage of Ownership Interest</u>
4	D	1	1.388%
4	D	2	1.388%
4	D	3	1.388%
4	D	4	1.388%
4	D	5	1.388%
4	D	6	1.388%
4	D	7	1.388%
4	D	8	1.388%
4	D	9	1.388%
4	D	10	1.388%
4	D	11	1.388%
4	D	12	1.388%
5	E	1	1.388%
5	E	2	1.388%
5	E	3	1.388%
5	E	5	1.388%
5	E	6	1.388%
5	E	7	1.388%
5	E	8	1.388%
5	E	9	1.388%
5	E	10	1.388%
5	E	11	1.388%
5	E	12	1.388%
6	F	1	1.388%
6	F	2	1.388%
6	F	3	1.388%
6	F	4	1.388%
6	F	5	1.388%
6	F	6	1.388%
6	F	7	1.388%
6	F	8	1.388%
6	F	9	1.388%
6	F	10	1.388%
6	F	11	1.388%
6	F	12	1.388%
TOTAL:	6	72	100.0%