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DECLARATION OF CONDOMINIUM
FOR
MOUNTAIN VIEW PROFESSIONAL PLAZA

THIS DECLARATION OF CONDOMINIUM ("Declaration:") is made and executed by MOUNTAIN VIEW PROFESSIONAL PLAZA, ("Declarant:") pursuant to the provisions of Title 57, Chapter 8, Utah Code Annotated, as amended. Declarant is the owner of the Property, as defined below, and upon which Declarant has developed a commercial condominium project. Declarant hereby submits the Property to the covenants, conditions, restrictions, terms and provisions hereof, which shall be enforceable equitable servitudes and shall run with the land constituting the Property.

1. Definitions. The following terms shall be defined as follows:

a. The "Act" means the Utah Condominium Ownership Act (Title 57, Chapter 8, Utah Code).

b. DELETED

c. "Amendment" means any amendment to this Declaration made in accordance with this Declaration and the Act.

d. "Articles" means the Articles of Incorporation of the Association. The initial Articles are attached hereto as Exhibit "C".

e. "Assessments" means those Assessments described in Section 21 to fund the Common Expenses, and includes Regular Assessments, Special Assessments and any other assessments levied by the Association.

f. "Association" means Mountain view Professional Plaza, appointed or elected in accordance with this Declaration and the Bylaws. The Board shall constitute the "management committee" defined under the Act.

g. The "Board" means the Board of Trustees of the Association, appointed or elected in accordance with this Declaration and the Bylaws. The Board shall constitute the "management committee" defined under the Act.

h. "Buildings" means the Buildings described in Section 2.

i. The "Bylaws" means the Bylaws of the Association, as amended from time to time. The initial Bylaws are attached hereto as Exhibit D.

j. "Common Areas and Facilities" means all portions of the Project other than the Units, as described in Section 5, including the Limited Common Areas and Facilities.

k. "Common Expenses" means all expenses of the administration, maintenance, repair, or replacement of the Common Areas and Facilities and all other expenses denominated as Common Expenses by this Declaration or by the Act.

l. "Common Expense Fund" means one or more deposit or investment accounts of the Association into which Assessments are deposited.

m. "Cost of Living Index" means the Consumer Price Index, all Urban Consumers – U.S. City Average – All Items (1928-84 = 100). Declarant may select any other comparable index which measures changes in the cost of living

n. "Declarant" means the original Declarant named herein as well as any successor in interest as defined by the Act.

o. DELETED

p. "First Mortgage" refers to a Mortgage having priority as to all other Mortgages encumbering a Unit or any part thereof or interest therein.

q. "First Mortgagee" means any person or entity holding a First Mortgage including any insurer or guarantor of a First Mortgage. Any and all Mortgagee protections contained in this Declaration shall also protect the Declarant as the holder of a First Mortgage of a Unit or any interest therein.

r. "Interest" means undivided interest in the Common Areas and Facilities appurtenant to each Unit, as described in Section 4 and as set forth in Exhibit B hereto, as such Exhibit may be amended as provided herein.

s. "Limited Common Areas and Facilities" means any portion of the Common Areas and Facilities allocated by this Declaration or the Act, or as may be shown on the Map, for the exclusive use of one or more, but fewer than all, of the Units.

t. "Manager" means the person, firm or company, if any, designated by the Association to manage, in whole or in part, the affairs of the Association and the Project.

u. "Map" means the Record of Survey Map of Mountain View Professional Plaza, recorded in the office of the Recorder, as it may be amended from time to time pursuant to this Declaration and the Act. It is contemplated that the initial Map may be amended at such time as the Buildings are constructed in the event there are material changes in the Buildings' boundaries or elevations as constructed. The Map shall also be amended to reflect such changes to the Project as are permitted and effected under this Declaration. Such amendments to the

Map are expressly authorized and may be undertaken by Declarant without the joinder or consent of any other Owners.

v. "Member" means and refers to a member of the Association

w. "Membership" means membership in the Association.

x. "Mortgage" means any mortgage, deed of trust or other security instrument (including the seller's rights under a contract for deed) by which a Unit or any part thereof or interest therein is encumbered.

y. "Mortgagee" means any person or entity named as the mortgagee, beneficiary or holder of the seller's interest under any Mortgage by which the interest of any Owner is encumbered, or any successor to the interest of such person under such Mortgage.

z. "Owner" means any person or entity, but expressly excluding Declarant, at any time owning a Unit (including, to the extent permitted by law, those purchasing an interest pursuant to a contract for deed who have given written notice of their purchase and a copy of their contract to the Association). The term "Owner" shall not refer to Declarant, and it shall not refer to any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.

aa. "Project" means the Property, the Units, the Common Areas and Facilities, Limited Common Areas and Facilities and all improvements submitted by this Declaration to the provisions of the Act. The Project shall be known as Mountain View Professional Plaza.

bb. "Property" means that certain real property situated in the County of Salt Lake, State of Utah, described in Section 2 below and in Exhibit A attached hereto.

cc. "Recorder" means the Official Recorder of Salt Lake County, Utah.

dd. "Regular Assessments" means the annual Assessments levied by the Association to pay the budgeted Common Expenses.

ee. "Section" refers to the numbered sections of this Declaration, and includes any parts and subparts contained within each such section.

ff. "Special Assessments" means Assessments that the Association may levy from time to time, in addition to the Regular Assessments, for unexpected Common Expenses or other purposes as provided herein.

gg. "Supplemental Map" means any amendment to the Map made in accordance with this Declaration and the Act.

hh. "Total Votes of the Association" means the total number of votes appertaining to all Units of the Building, as described in Section 9 hereof.

ii. "Unit" means a physical portion of the Project designed for separate ownership and occupancy as described in Section 4 hereof.

jj. "Unit Number" means the number, letter or combination of numbers and letters that identifies a Unit.

2. The Property and the Improvements. The Property is legally described on Exhibit A attached hereto. The initial improvements on the Property shall consist of one building (the "Building") with two (2) floors. The Building address 6783 South Redwood Road, West Jordan, Utah, each floor consisting of approximately 6,500 feet. The building is principally constructed as follows: concrete footings and foundation; steel and wood frame; stucco and stone exteriors; sheet rock interiors and asphalt shingle roofs; and such other materials as allowed by current building codes. The Building is supplied with telephone, electricity, water, natural gas and sewer service. The Project also includes the Common Areas and Facilities described herein.

3. Submission to Act. Declarant hereby submits the Property, the Buildings and all other improvements thereon to the provisions of the Act. All of said Project is and shall be held, conveyed, encumbered, leased, subleased, rented, used and improved as a condominium project. All of the Project is and shall be subject to the covenants, conditions, restrictions, uses, limitations and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of the Project and in furtherance of a plan for improvement of the Project and division thereof into Units. This Declaration shall be deemed to run with and benefit and burden the land and shall benefit and bind the Declarant, the Owners, the successors and assigns of the Declarant, and any person acquiring, leasing, subleasing or owning an interest in the Project, their assigns, lessees, sublessees, heirs, executors, administrators, devisees and successors. The Declarant and the Association are hereby granted a limited license to use the name "Mountain View Professional Plaza." in connection with the administration, sale and operation of their respective interests in the Project.

4. Description of Units. The boundary lines of each Unit are as set forth on the Map. The Units shall include the interior and exterior of all walls, including without limitation, all perimeter walls, lowermost floor, uppermost ceiling, and the interior and exterior surfaces of windows and doors and all equipment, facilities and systems within the space encompassed within the boundary of the Unit. Each Unit shall include the portions of a Building that are Limited Common Areas and Facilities designated for the exclusive or nonexclusive use of that boundary lines and space so encompassed. Without limitation, a Unit shall include any finishing material applied or affixed to the interior surfaces of the interior walls, bearing walls; floors, ceilings and exterior walls; and all utility outlets, fixtures or appliances, foundations, ceiling equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes conduits, wires and other utility installations within the Unit and the walls, floors, and ceiling of such Unit, including but not limited to furnaces, air conditioning units, and bathroom fixtures within boundaries of the

Unit, the Building roofs are not a specific part of any Unit, it being understood that the roofs shall constitute Limited Common Areas and Facilities servicing all of the Units in the Building under said roof. The Map and Exhibit B hereto contain the Unit Number of each Unit in the Project.

5. Common Areas and Facilities. The Common Areas and Facilities shall mean and include the Property on which all Units are located and all portions of the Project not included as part of any Unit, including, but not by way of limitation, except as otherwise provided herein, the grounds in the Project designated as part of the Common Areas and Facilities on the Map, including, except as otherwise provided on the Map, all sidewalks, walkways, landscaping, parking areas and drive aisles which have been designated as Common Areas and Facilities on the Map or any Supplemental Map; and all repairs and replacements of any of the foregoing. The Association shall have the right and obligation to design, maintain, replace and otherwise control all landscaping in the Project including all landscaping within the Common Areas and Facilities. The individual Owners may not repair, replace, maintain or otherwise alter in any manner the landscaping in the Common Areas and Facilities.

6. Limited Common Areas and Facilities. Limited Common Areas and Facilities shall mean a portion of the Common Areas and Facilities reserved for the use of certain Owners to the exclusion of the other Owners. Limited Common Areas and Facilities shall serve and be appurtenant only to the Units of the Building where such Limited Common Areas and Facilities are located. Mechanical systems (including heating, ventilation and air conditioning systems), hallways and other common walkways serving only separate Units shall be Limited Common Areas and Facilities with respect to the Units they serve. The Limited Common Areas and Facilities shall also be areas designated as such on the Map, as specified in this Declaration or as provided for by the Act. Without limiting the generality of the foregoing, Limited Common Areas and Facilities shall include the roof of a Building, porches of a Building, balconies of a Building, interior and exterior stairways of a Building, fire escapes serving a Building, and basement areas of Buildings designated on the Map. Unless specifically designated otherwise on the Map or a Supplemental Map, all of the hallways and stairwells of all _____ Buildings shall be Limited Common Areas and Facilities servicing only the Buildings and Units where such hallways and stairwells are located. The Owners of a Unit shall be individually responsible to repair, replace and maintain all Limited Common Areas and Facilities appurtenant exclusively to their particular Unit. All of the Owners of Units in the same Building shall be jointly and severally responsible to repair, replace and maintain all Limited Common Areas and Facilities which serve all of the Units of the Building, as designated on the Map, and including, for example, Building roof, porches of a Building, balconies of a Building serving all of the Units of the Building, interior and exterior stairways of a Building but outside any individual Unit in the Building, fire escapes serving a Building, and basement areas of Buildings serving all Units of the Building. The following shall also be Limited Common Areas and Facilities servicing only Units and Buildings to which they relate: installations of all central services, including power, light, gas, hot and cold water facilities, heating, ventilation and garbage collection; tanks, pumps, motors, fans, ducts and, in general, all apparatuses and installations existing for common use of a Building; all utility pipes, lines or systems servicing the Units of a Building; all ducts, flues,

chutes, wires, conduits and other accessories and utility installations to the outlets used for any Building. Each Unit shall have its own separate power and gas meters, which metered separately and shall be an expense to the Unit owners of the Particular Building. Water for internal and external use (including landscaping needs) shall be a Common Area expense paid by the Association and assessed in proportion to each Unit owner's interest in the undivided interest in the Common Area.

7. DELETED

8. Ownership.

a. Each Unit is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Declaration.

b. Each owner shall have the exclusive right to paint, repaint, tile, paper, carpet, or otherwise decorate the surfaces of the walls, ceilings, floors and door, inside its Unit. Each Owner shall keep the interior of its Unit, including without limitation, interior walls, windows, ceilings, floors and permanent fixtures and appurtenances thereto, and including the Limited Common Areas and Facilities designated for the exclusive use of such Unit, in a clean and sanitary condition and in a state of good repair. In the event that any Unit or Limited Common Areas and Facilities accessible from a Unit should develop an unsanitary or unclean condition or fall into a state of disrepair, and in the event that the Owner of such Unit should fail to correct such condition or state of disrepair promptly following notice from the Association, or in the event any Common Areas and Facilities are most easily accessible from a Unit, the Association shall have the right, at the expense of the Owner to remedy the Owner's failure in its obligation to maintain, and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary or unclean condition or state of disrepair.

c. With the written consent of the Board, two or more Units may be utilized by the Owners thereof as if they were one Unit. To the extent permitted in the written consent of the Board, any walls, floors or other structural separations between any two such Units may, for as long as the two Units are utilized as one Unit, be utilized by the Owners thereof as Limited Common Areas and Facilities, 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 that, but for Joint utilization of the two Units, would have been occupied by the structural separation, shall be closed, at the equal expense of the Owners of each of the two Units, and the structural separations between the two Units shall thereupon become Common Areas and Facilities. It is understood and agreed that Building _____ shall be designated as one Unit.

d. Units may be subdivided or combined as set forth in the following paragraphs:

i. No Units shall be subdivided and or combined either by agreement or legal proceedings, except as provided in this Section. An Owner or Owners may propose subdividing or combining Units by submitting the proposal in writing to the Board, the Mortgagees of the subject Units and, if required by applicable law, West Jordan City, or any successor governmental authority having jurisdiction. The proposal must include complete plans and specifications for accomplishing the subdivision or combination and proposed amendments of this Declaration and the Map

ii. A proposal that contemplates subdivision of a Unit will be accepted only if approved in writing by the Board, the Mortgagees of the Units to be subdivided, and West Jordan City, or successor governmental entity, to the extent required by applicable law. The Board may approve the proposal as to form and legal sufficiency. Salt Lake County, or successor governmental entity, if required, may approve the proposal as the applicable planning and zoning requirements. No proposal shall be approved unless the resulting Units provide adequate facilities and means of ingress and egress to comply with applicable zoning and condominium statutes and regulations.

e. A proposal to subdivide Units shall provide for reallocation of the appurtenant basement Unit as well as the percentage ownership in the Common Areas and Facilities among the resulting Units on the basis otherwise provided herein, so that the combined percentages of ownership of the resulting Units are identical with the percentage ownership of the subdivided Units prior to subdivision. The Owners of the Units to be subdivided or combined shall be responsible for all costs associated with the proposal and its implementation including but not limited to costs of Amendment of this Declaration and Map and recording the same to effect the proposal; review of the proposal, including reasonable attorneys fees incurred by the Board, the Mortgagees and Salt Lake County; and the cost of any Modifications to the Project to implement the proposal.

f. Upon approval of the proposal, the Owners making the proposal may proceed according to the proposed plans and specifications, provided that the Board may, in its discretion, require that the Board administer the work, or that provisions for the protections of other Units or Common Areas and Facilities and/or reasonable deadlines for completion of the work be inserted in the contracts for the work. The changes in the Map, if any, and the changes in this Declaration shall be placed of record, at the requesting Owner's expense, as amendments thereto.

g. The exterior surfaces of the Units shall not be altered or modified without the prior written approval of the Board unless such changes or modifications are consistent with any written rules or regulations for the exterior surfaces established by the Board. In the absence of such written rules or regulations, no exterior alterations, improvements, or remodeling, whether structural or cosmetic, will be made without the prior written approval of the Board.

h. Each Unit shall be deemed to be a parcel and shall be assessed

separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision thereof or of any special improvements district of any other taxing or assessing authority. All such taxes, assessments, and other charges on each respective Unit shall be separately levied against the Owner thereof. No forfeiture or sale of any Unit for delinquent taxes, assessments, or other - governmental charges shall divest or in any way affect the title to any other Unit.

9. Voting. At any meeting of the Association, each Owner, including Declarant, either in person or by proxy, shall be entitled to vote the number of votes held such Unit owners. The voting rights appurtenant to each Unit shall vest upon execution and recording of this Declaration. The owners of Units shall be entitled to a total of not more than 1 vote per 100 square feet of useable space rounded, notwithstanding any future subdivision of any Unit or Building.

10. Title of Units.

a. Title to a Unit may be held or owned by any person or entity and in any manner in which title to any other real property may be held or owned in the State of Utah.

b. Title to a part of a Unit may not be separated from any other part thereof during the period of ownership, and each Unit, and the Interest appurtenant to each, shall always be conveyed, devised, encumbered and otherwise affected only as a complete Unit. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Unit, or any part thereof, shall be construed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law and by this Declaration, including appurtenant Membership as herein set forth.

c. The Common Areas and Facilities shall be owned in common by all of the Owners, and no Owner may bring any action for partition thereof.

d. Each Owner shall have the right to encumber his interest in a Unit with a Mortgage. However, no Owner shall attempt to or shall have the right to encumber the Common Areas and Facilities or any Limited Common Areas and Facilities or part thereof except the Interest therein appurtenant to his interest in a Unit. Any Mortgage of any Unit shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

e. No labor performed or services or materials furnished with the consent of or at the request of an Owner may be the basis for the filing of a lien against the Unit of any other Owner, or against any part thereof, or against any other property of any other Owner, unless the other Owner has expressly consented to or requested the performance of such labor or furnishing of such services. Express consent shall be deemed to have been given by the Owner in the case of emergency repairs thereto. Labor performed or services or materials furnished for the

Project, if authorized by the Association and provided for in this Declaration, shall be deemed to be performed or finished with the express consent of each Owner. The Owner may remove his Unit from a lien against two or more Units or any part thereof by payment to the holder of the lien of the fraction of the total sums secured by such lien which is attributable to his Unit.

f. Every contract for the sale of a Unit and every other instrument affecting title to a Unit may describe a Unit by the name of the Project, the recording date for this Declaration, the county wherein the Project is located and its Unit Number as indicated in this Declaration or as shown on the Map. Such description will be construed to describe the Unit, together with the appurtenant Interest, and to incorporate all the rights incident to ownership of the Unit and all of the limitations on such ownership as described in this Declaration.

11. Additional Development Rights. The following additional Development Rights are hereby granted or reserved by Declarant:

a. Declarant hereby reserves an easement throughout the Project and all portions thereof for a period of eight (8) years from the recording of this Declaration for the purpose of completing all improvements contemplated by this Declaration and the Map, including but not limited to improvements to Additional Land.

b. Declarant hereby reserves the right to maintain sales offices, management offices, and signs advertising the Project, in any of the Units that it owns or on the Common Areas and Facilities for a period often (10) years from the recording of this Declaration.

c. There is hereby established a period of Declarant control of the Association during which period Declarant or persons designated by it shall have the authority to appoint and remove Association officers and members of the Board. The period of Declarant control shall terminate the earlier of:

ii. six (6) years from and after the recording of this Declaration; or

ii. after conveyance of Units to which three-fourths of the Interests appertain or after all Additional Land has been added to the Project, whichever last occurs.

12. Restrictions on Use. The Units, and Common Areas and Facilities, except as otherwise permitted in writing by the Board, shall be used in accordance with the following restrictions:

a. The Units and Unconverted Space within the Project may be used only as business offices, professional offices, as approved by the Association; provided, however, that if the particular use of any Unit increases the rate of insurance on the Project or any part thereof over what the Association, but for such activity, would pay, the Owner of such Unit shall be assessed for and shall pay the amount of such increase.

b. All customers, clients, patrons, and licensees of Owners of Units shall be permitted to enter upon the Project and shall have a nonexclusive easement across the Common Areas and Facilities to the extent reasonably necessary for access to such Unit.

c. No noxious, offensive or illegal activity shall be carried on in or upon any part of the Project, nor shall anything be done on or placed in or upon any part of the Project that is or may become a nuisance or may cause embarrassment, disturbance or annoyance to Owners.

d. No activities shall be conducted or improvements constructed in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

e. No signs, flags or advertising devices of any nature, including without limitation political, informational or directional signs or devices, shall be erected or maintained on any part of the Project, except as may be necessary temporarily to caution or warn of danger in the Association's opinion, or except as may be used by Declarant as part of its sales program, or as approved by the Board and City of West Jordan (if required by law) with respect to the Units.

f. The interior window coverings in Units shall present a uniform appearance from the outside of the Units. All interior window coverings shall be installed or employed in each Unit by the Board or with the prior inspection and written approval of the Board. The Board shall have the right to establish rules requiring window coverings to present a uniform appearance from the exterior of the Buildings. Interior blinds shall be 2 inches made of wood or shutter composite. Owners shall not erect or display any signs, banners or similar items on, from or in their Units without the prior written consent of the Board.

g. Except as otherwise provided in this Declaration, no Unit or portion thereof may be combined with any other Unit or portion thereof or further divided or subdivided or a fractional portion thereof sold or conveyed so as to be held in divided ownership (as opposed to community property, tenancy in common, or other form of joint undivided ownership).

h. No Owner shall, without the prior written consent of the Board, do any act that would impair the structural soundness or integrity of any Buildings or the safety of property, impair any easement or other appurtenance to the Project, or make or permit to be made any alteration, improvement or addition to the Common Areas and Facilities.

i. There shall be no obstruction of the Common Areas and Facilities by any Owner. Owners shall neither store nor leave any of their property in the Common Areas and Facilities, other than Limited Common Areas and Facilities appurtenant to their Units, except with the prior written consent of the Board.

j. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or any part thereof that would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit that would increase the rate of insurance on the Project or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Board. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or any part thereof that would be in violation of any statute or rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas and Facilities or any part thereof shall be committed by any Owner or guest, lessee, licensee, or invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his guests, lessees, licensees, or invitees.

k. No Owner shall violate the rules and regulations for the use of Units and Common Areas and Facilities as adopted from time to time by the Association. Owner shall be a Member of the Association. One Membership inseparably appurtenant thereto and shall automatically transfer if title to any Unit is held by more than one Owner, the shall be shared by all such Owners in the same proportionate.

13. The Association. Every Owner shall be a Member of the Association. One Membership Unit shall exist for each Unit, shall be inseparably appurtenant thereto and shall automatically transfer therewith but only therewith. If title to any Unit is held by more than one Owner, the Membership related to such Unit shall be shared by all such Owners in the same proportionate interests and by the same type of tenancy in which they hold title to such Unit. No person other than an Owner shall be a Member. The management and maintenance of the Project and the administration of the affairs of the Association shall be conducted by the Board, which shall be composed as provided in the Bylaws. The Board shall be elected as provided in this Declaration and in the Bylaws. Except as otherwise provided herein, the Board shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, this Declaration and the Bylaws, including but not limited to the following:

- a. To make and enforce all rules and regulations covering the operation, use and maintenance of the Project, the Units, and the Common Areas and Facilities.
- b. To engage the services of the Manager, accountants, attorneys, or other employees or agents and to pay to said persons a reasonable compensation therefor.
- c. To operate, maintain, repair, improve and replace the Common Areas and Facilities.
- d. To determine and pay the Common Expenses.
- e. To assess and collect the proportionate share of Common Expenses from the Owners, as provided herein.

f. To grant easements and licenses and enter into contracts, deeds, leases, and/or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

g. To open bank accounts and borrow money on behalf of the Association and to designate the signatories therefor.

h. To purchase, hold, sell, convey, mortgage or lease any one or more Units in the name of the Association or its designee.

i. To bring, prosecute and settle litigation for itself; the Association and the Project.

j. To obtain insurance for the Association with respect to the Units and the Common Areas and Facilities, workers' compensation insurance, and any other insurance it deems necessary or appropriate to protect the Owners and the Association.

k. To repair or restore the Project following damage or destruction or a permanent taking by the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation not resulting in the removal of the Project from the provisions of the Act.

l. To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the owners, items of personal property necessary to or convenient to the management of the business and affairs of the Association and the Board and to the operation of the Project, GD including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies.

m. To keep adequate books and records and implement the policies and procedures for the inspection of the books and records of the Project by Owners in accordance with the terms of the Bylaws.

n. To do all other acts necessary for the operation and maintenance of the Project, including the maintenance and repair of any Unit if the same is necessary to protect or preserve the Project.

o. To prepare, adopt, amend and disseminate budgets and other information from time to time in accordance with the terms of the Bylaws.

p. To grant easements and rights-of-way over the Common Areas and Facilities and to approve signage for the Project and enter into contracts with other entities. Such contracts may, among other things, obligate the Association to pay assessments and other costs associated with the maintenance of roads and other amenities that benefit the Association.

q. Subject to the limitations of the Act, and any other applicable law, the Board may delegate to the Manager by written agreement all of the foregoing powers, duties and responsibilities referred to in this Section.

r. The Board may convey or subject to a Mortgage all or portions of the Common Areas and Facilities of the Project if Owners entitled to cast a majority of the Total Votes of the Association so approve. However, all Owners of Units to which any Limited Common Areas and Facilities are appurtenant must agree to convey those Limited Common Areas and Facilities or subject the same to any Mortgage. Any such agreement shall comply with all other applicable provisions of the Act.

s. Members of the Board, the officers and any assistant officers, agents and employees of the Association (i) shall not be liable to the Owners as a result of their activities as such for any mistake of judgment, negligence, or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such; (iii) shall have no personal liability in tort to any Owner or any person or entity, direct or imputed, by virtue of acts performed by them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse condition of the Project, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

t. When a member of the Board is sued for liability for actions undertaken in his role as a member of the Board, the Association shall indemnify him for his losses or claims, and undertake all costs of defense, until and unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the Association is no longer liable for the cost of defense, and may recover costs already expended from the member of the Board who so acted. Members of the Board are not personally liable to the victims of crimes occurring at the Project. Punitive damages may not be recovered against the Association, but may be recovered from persons whose activity gave rise to the damages.

Neither the Board nor the Manager shall sell any property of the Association except as permitted by the Act. The Board may enter into a contract with the Manager for the management of the Project.

14. Maintenance, Alteration and Improvement. The maintenance, replacement and repair of the Common Areas and Facilities shall be the responsibility of the Association, and the cost thereof shall be a Common Expense. All incidental damages caused to a Unit by the maintenance, replacement and repairs of the Common Areas and Facilities or utility services shall be repaired promptly and the cost thereof charged as a Common Expense. The Association shall also have the irrevocable right to have access to any Unit when necessary in connection with any cleaning, maintenance, repair, replacement, painting, landscaping, construction or reconstruction for which the Association is responsible or for the purpose of abating a nuisance

or a known or suspected dangerous or unlawful condition. Such entry shall be made with as little inconvenience to the Owners as is practicable under the circumstances and any damages caused thereby shall be repaired by the Association.

15. Insurance. Commencing not later than the time of the first conveyance of a Unit to an Owner other than Declarant, the Association shall maintain, to the extent reasonably available, insurance as follows:

a. The Association shall maintain property insurance on the Common Areas and Facilities insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils. The total amount of insurance, without regard to any deductibles, shall be not less than one hundred percent (100%) of the replacement value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies. (b) The Association shall maintain liability insurance in an amount determined by the Board but not less than \$1,000,000 for any one person injured in any one occurrence and not less than \$2,000,000 for property damage in each occurrence covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Units and the Common Areas and Facilities.

The insurance maintained under paragraph (a) of this Section shall include the Units but need not include improvements installed by Owners or the personal property of Owners. The Association may carry any other insurance it deems appropriate to protect the Association or the Owners. Where applicable, insurance policies carried by the Association shall provide the following:

i. Each Owner, or the Association, as agent for each of the Owners, shall be an insured person under the policy with respect to liability or loss arising out of his Interest or Membership.

ii. The insurer waives its right to subrogation under the policy against any Owner or members of his household.

iii. No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or operate as a condition to recovery under the policy by another person.

iv. If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same property covered by the policy, then the Association's policy provides primary insurance.

v. All Owners as a class shall be named as additional insureds in any policy issued to the Association.

An insurance policy issued to the Association shall not prevent an Owner from obtaining insurance for his own benefit. Any loss covered by the property policy described above shall be adjusted with the Association, but the insurance proceeds for that loss shall be payable to an insurance trustee designated for that purpose by the Association and not to the Association or any Mortgagee. The insurance trustee shall hold any insurance proceeds in trust for the Association, Owners and Mortgagees as their interests may appear. Subject to the provisions of Section 16 of this Declaration, the proceeds shall be disbursed first for the repair or restoration of the damaged property, and the Association, Owners, and Mortgagees shall not be entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the Project is terminated. An insurer that has issued an insurance policy under this Section shall issue certificates or memoranda of insurance to the Association and, on written request, to any Owner or Mortgagee. The insurer issuing the policy shall not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Owner, and each Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses. This Section does not prohibit the Board from acquiring additional or greater amounts of coverage as it reasonably deems appropriate. The Board shall require the Manager to obtain and maintain fidelity bonding of the Manager and employees of the Association having control of, or access to, the funds of the Association with loss coverage ordinarily not less than the maximum amount of funds of the Association over which the principals under the bond may reasonably be expected to have control or access at any time.

16. Destruction or Damage. In case of fire or any other disaster that causes damage or destruction to all or part of the Project, the Board, with the help of an independent appraiser, shall determine the percentage that was destroyed or substantially damaged. If less than two-thirds (2/3) of the project was destroyed or substantially damaged, the Board shall arrange for the prompt repair and restoration thereof, using the proceeds of insurance on the Project for that purpose and the Owners shall be liable for assessment for any deficiency in proportion to their respective interests. Reconstruction of the Project shall mean restoring to substantially the same condition existing prior to the damage or destruction, with each Unit and the Common Areas and Facilities having approximately the same vertical and horizontal boundaries as before, unless the destruction or damage is by reason of eminent domain, in which event the provisions of Section 18 hereby shall apply. If two-thirds (2/3) or more of the Project is destroyed or substantially damaged, the Board shall, within one hundred (100) days after such destruction or damage, call a special meeting of the Association for the purpose of deciding whether or not the Project shall be repaired and restored. If Owners hold three fourths (3/4) or more of the Total Votes of the Association, in person or by proxy, vote to repair or restore the Project, the Board shall promptly arrange for the reconstruction of the Project using the proceeds of insurance therefrom for that purpose, and the Owners shall be liable for any deficiency in the proportion to their respective interests. At such election, if Owners holding three-fourths (3/4) or more of the Total Votes of the Association do not vote either in person or by proxy to make provision for reconstruction, the Board shall record with the Recorder a notice that complies with Section 57-8-31 of the Act setting forth such facts, and upon the recording of such notice (1) the Project shall be deemed to be owned in common by the Owners as tenants in common, each Owner owning an undivided

interest in the Project equal in his Interest; (ii) any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of any Owner, in which event the net proceeds of the sale, together with the net proceeds of the insurance on the Project, shall be considered as one fund and shall be divided among all Owners in an amount equal to the ownership interest owned by each Owner in the Project, after first paying out of the respective shares of the Owners, to the extent sufficient for such purposes, all sums necessary to satisfy liens on the undivided interest in the Project owned by each Owner.

17. Termination. In the event that such fraction or percentage of the Project is destroyed or substantially damaged so as to bring into effect the provisions of Section 16 above and the Owners do not vote to reconstruct the Project as provided therein, the Project shall be removed from the provisions of the Act without further agreement one hundred and one (101) days after such destruction or damage. The Owners by unanimous vote may remove the Project from the provisions of the Act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the Units consent or agree by instruments duly recorded that their liens are transferred to the fractional ownership interest of the Owners in the Project. Provided further, as long as Declarant has ownership of any Unit, its consent shall also be required to remove the Project from the provisions of the Act. After removal of the Project from the Act, the Owners shall own the Project and all assets of the Association as tenants in common and the respective Mortgagees and lienors shall have mortgages and liens upon the respective undivided interests of the Owners. Such undivided interests of the Owners shall be in the same proportions as their Interests. This Section cannot be amended without consent of all Owners and Mortgagees.

18. Eminent Domain. Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury or destruction of all or part of the Common Areas and Facilities or one or more Units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation, the Board and each Owner shall be entitled to notice thereof and the Board shall, and the Owners at their respective expense may, participate in the proceedings incident thereto. With respect to the Common Areas and Facilities, including Limited Common Areas and Facilities, any damages or awards shall be determined for such taking, injury or destruction as a whole and not for each Owner's interest therein. After such determination, each Owner shall be entitled to a share in the damages in the same proportion as his interest. This provision does not prohibit a majority of the Owners from authorizing the Board to use such damages or awards for replacing or restoring the Common Areas and Facilities so taken on the remaining land or on other acquired land, provided that this Declaration and the Map are duly amended. With respect to one or more Units or portions thereof, the damages or awards for such taking shall be deemed to be proceeds from insurance on account of damages or destruction pursuant to Section 16 above and shall be deposited with the Board as trustee. Even though the damage or awards may be payable to one or more Owners, the Owners shall deposit the damaged or awards with the Board as trustee. In the event an Owner refuses to so deposit his award with the Board, then at the option of the Board, either a Special Assessment shall be made against the defaulting Owner and his Unit in the amount of this award

or the amount of such award shall be set off against the sum hereafter made payable to such Owner. In the event the Project is removed from the provisions of the Act pursuant to Section 16 above, the proceeds of the damages or awards shall be distributed or used in accordance with the Owners' respective Interests. If one or more Units are taken, in whole or in part, and the Project is not removed from the provisions of the Act, the taking shall have the following effects:

a. If the taking reduces the size of a Unit and the remaining portion of the Unit may be made tenantable, the Unit shall be made tenantable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the Owners of the Unit. The balance of the award, if any, shall be distributed to the Mortgagee to the extent of the unpaid balance of its Mortgage and the excess, if any, shall be distributed to the Owner.

b. If the taking destroys or so reduces the size of a Unit that it cannot be made tenantable, the award shall be distributed to the Mortgagee of the Unit to the extent of the unpaid balance of its Mortgage and the excess, if any, shall be distributed to the Owner. The remaining portion of such Unit, if any, shall become a part of the Common Areas and Facilities and shall be placed in condition for use by all Owners in the manner approved by the Board. The Interests appurtenant to the Units that continue as part of the Project shall be equitably adjusted to distribute the Interests among the remaining Owners.

Changes in Units, in the Common Areas and Facilities, and in the ownership of the Common Areas and Facilities that are affected by the taking referred to in this Section shall be evidenced by an Amendment to this Declaration and the Map, which need not be approved by the Owners.

19. Mortgagee Protection. The Board shall maintain a roster of Owners, which roster shall include the mailing addresses of all Owners. The Board will also maintain a roster containing the name and address of each First Mortgagee of a Unit if the Board is provided notice of such First Mortgage by way of a certified copy of the recorded instrument evidencing the First Mortgage and containing the name and address of the First Mortgagee and a statement that the Mortgage is a First Mortgage. The First Mortgagee shall be stricken from the roster upon request by such First Mortgagee or upon receipt by the Board of a certified copy of a recorded release or satisfaction of the First Mortgage. Notice of such removal shall be given to the First Mortgagee unless the removal is requested by the First Mortgagee. The Board shall give to any First Mortgagee on the roster written notification of any default by the mortgagor of the respective Unit in the performance of such mortgagor's obligations under this Declaration that is not cured within thirty (30) days. Except as otherwise required by the Act, a First Mortgagee of any Unit who comes into possession of the Unit pursuant to the remedies provided in the First Mortgage or foreclosure of the First Mortgage, or by way of deed or assignment in lieu of foreclosure shall take the property free of any claims for unpaid Assessments or charges against the mortgaged Unit which accrued prior to the time such First Mortgagee comes *into* the possession of the Unit, except for claims for a pro rata share of such Assessments or charges resulting from a pro rata reallocation of such Assessment or charges to all Units, including the mortgaged Unit. Furthermore, upon such foreclosure or deed or assignment in lieu of foreclosure,

any rights with respect to any Unit which have been suspended with respect to the defaulting Owner shall be reinstated. Except as otherwise required by the Act, any liens created under the Act, pursuant to this Declaration or the Bylaws, upon any Unit shall be subject and subordinate to and shall not affect the rights of a First Mortgagee under a First Mortgage on such Unit made in good faith and for value; provided, however, that any lien created after a foreclosure sale shall have the same effect and be enforced in the same manner as provided in the Act, this Declaration and/or the Bylaws. No amendment to this paragraph shall adversely affect a First Mortgagee who has recorded a valid First Mortgage prior to the recordation of any such amendment.

20. Amendment. Except as otherwise provided in this Declaration or by the Act, the provisions of this Declaration may be amended only by the affirmative vote or written assent of at least a bare majority of the Total Votes of the Association. The percentage of votes necessary to amend a specific clause in this Declaration shall not be less than the percentage of affirmative votes or written assents required for action to be taken under that clause. Any amendment shall be evidenced by an instrument containing a certification from an officer of the Association designated for that purpose, or in the absence of such designation, by the President of the Association that the appropriate consent has been obtained, and shall be duly recorded with the Recorder. Notwithstanding anything to the contrary contained or implied herein, Declarant reserves as long as it has any interest hereunder, and the Association shall thereafter have, the right, without the consent of any other Owners, to amend any provisions of this Declaration to comply with the then existing statutes, regulations or other requirements of the Utah Department of Commerce-Real Estate Division or any other federal, state or local regulatory authority affecting the Project. Also notwithstanding anything to the contrary contained or implied herein, as long as Declarant owns any Unit(s), Declarant shall have the unilateral right without the consent or approval of any Owner, any Lender or the Association to amend this Declaration and the Map to further divide and for adjust the boundary lines between any Units owned by Declarant and alter the dimensions and interior elements and configuration thereof.

21. Assessments. The Association shall make and collect Assessments from the Owners for their respective shares of Common Expenses pursuant to the Bylaws and subject to the following provisions:

The Association shall establish a regular, equal monthly assessment to be paid by each Owner (the "Common Expense Fund"). Each such Owner shall pay their percentage share in even monthly installments of one-twelfth (1/12) thereof on the first day of each month during the fiscal year. The Board in its discretion may specify a payment schedule other than monthly. Assessments are based on square footage and include roof, exterior, landscaping, asphalt, snow removal, lawn care, garbage pickup and sign. Upon acquisition of record title to a Unit, each such Owner (but specifically excluding Developer with respect to any unsold Units that Declarant intends to sell) shall contribute to the capital of the Association an amount equal to one-sixth (1/6) of the amount of the projected annual assessment for the Unit. This amount shall be deposited by the new Owner into the purchase and sale escrow and disbursed from the escrow to the Association. Any amounts paid into this fund by a new Owner shall not be considered as

advance payments of regular assessments. The foregoing method of assessing the Common Expenses to the Owners may be altered by the Association so long as the method it adopts is consistent with good accounting practice and requires that the portion of Common Expenses borne by each Owner be equal. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Unit. Notwithstanding any provision of this Declaration or applicable law to the contrary, any Unit owned by Declarant that is intended to be sold by Declarant, shall not be subject to any assessment whatsoever (Special, regular or otherwise) for the Common Expense Fund or otherwise. Notwithstanding any provision of this Declaration or applicable law to the contrary, with respect to any such unsold Unit owned by Declarant, Declarant shall have no duty or responsibility under this Declaration or under applicable law to contribute to the capital of the Association any amount of the projected annual assessment or Special Assessment or other assessment for the Unit.

a. Except as otherwise provided in this Declaration, each Owner, for each Unit which it owns, shall be liable for a proportionate share of the Common Expenses, such share being the same as such Owner's Interest. Such combined expenses shall constitute the Common Expenses, and the funds received from Assessments under this Section shall be the Common Expense Fund. Assessments shall include both Regular Assessments and Special Assessments. After the Association has made an Assessment, Regular Assessments must be made at least annually, based on a budget adopted at least annually by the Association in accordance with the provisions of this Declaration and the Bylaws. Except as otherwise provided in this Declaration, regular Assessments shall be levied against each separate Unit, and shall commence as to all Units on the first day of the month following the closing of the first sale of a Unit.

b. The Association shall provide notice, by first class mail to all Owners, of any increase in the Regular Assessments not less than thirty (30) nor more than sixty (60) days prior to the date the increased Regular Assessment is due.

c. In addition to the Regular Assessments, the Association may levy in any calendar year Special Assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, or a described capital improvement upon any Common Areas and Facilities, including the necessary fixtures and personal property related thereto, and other costs, expenses of operation or shortfalls in the collection of Assessments from the Owners. The portion of any Special Assessment levied against a particular Unit shall be equal to the Interest appurtenant to such Unit. These provisions with respect to the imposition or allocation of Special Assessments shall not apply when the Special Assessment against an Owner is a remedy utilized by the Association to reimburse the Association for costs incurred in bringing the Owner and or his Unit into compliance with the provisions of this Declaration, the Bylaws, rules and regulations of the Association, or any other governing instrument for the Project. The Board shall provide notice by first class mail to all Owners of any Special Assessments not less than thirty (30) nor more than sixty (60) days prior to the date such Assessment is due.

d. All Assessments shall be due as determined pursuant to the Bylaws. Assessments and any installments thereof not paid on or before thirty (30) days after the date when due shall bear interest at the rate of eighteen percent (18%) per annum, or at such lower rate of interest as may be set by the Board, from the date when due until paid. Furthermore, Owners who do not pay their Assessments when due shall be subject to a late fee in the amount of \$5.00 per day, plus interest, adjustable from year to year at the discretion of the Board pursuant to the Cost of Living Index. Any payments of Assessments shall be first applied to accrued interest and late fees, and then to the Assessment payment first due. All Assessments to pay a judgment against the Association may be made only against the Units in the Project at the time the judgment was entered, in proportion to their liabilities for Common Expenses. If any Common Expense is caused by the misconduct of any Owner, the Association may assess that expense exclusively against such Owner's Unit(s). If the Owners' Interests are reallocated, Assessments and any installments thereof not yet due shall be recalculated in accordance with the reallocated Interests.

e. There shall be a lien upon the applicable Unit for all unpaid Assessments, together with late fees, interest and costs (including attorneys' fees) charged pursuant to this Declaration and the Act. The lien for unpaid Assessments and related charges shall be effective upon recordation with the Recorder of a written notice of lien by the Board or the Manager. Such lien shall be superior and prior to all other liens and encumbrances except liens and encumbrances recorded before the recordation of this Declaration, a First Mortgage on a Unit, and assessments, liens and charges in favor of the state or any political subdivision thereof for taxes and other governmental assessments or charges past due and unpaid on the Unit. Such lien may be enforced by judicial foreclosure or by non-judicial foreclosure in the same manner in which mortgages and deeds of trust on real property may be foreclosed in the State of Utah. A lien for unpaid Assessments shall be enforced in accordance with the provisions of this Section or the then applicable provisions of the Act. The lien procedures described herein do not prohibit actions to recover sums for which the Act creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. A judgment or decree in any action brought hereunder must include costs and reasonable attorney fees for the prevailing party.

f. The Board upon written request shall furnish to an Owner a statement setting forth the amount of unpaid Assessments against the Unit. This statement must be furnished within twenty (20) business days after receipt of the request and is binding on the Association, the Board, the Manager and every Owner, in favor of all who rely on such statement in good faith. The Board shall include in the Assessments amounts representing sums to be used for the replacement of or additions to the capital items or improvements in the Project. Said amounts shall be dedicated for the uses provided in this Section and shall be set up as capital accounts for each Unit. In the event of transfer of a Unit, the capital account for such Unit shall be deemed transferred to the transferee of the Unit. The Board shall not expend funds designated as reserves for any purpose other than the repair, restoration, replacement or maintenance of major components of the Common Areas and Facilities for which the Association is responsible and for which the reserve fund was established or for litigation

involving such matters. Never the less, the CD Board may authorize the temporary transfer of money from the reserve account to the Association's operating account from time to time to meet short term cash flow requirements and pay other expenses. Any such funds so transferred shall constitute a debt of the Association, and shall be restored and returned to the reserve account within three (3) years of the date of the initial transfer; provided, however, the Board may, upon making a documented finding that a delay in the restoration of such funds to the reserve account would be in the best interests of the Project and Association, delay such restoration until the time it reasonably determines to be necessary. The Board shall exercise prudent fiscal management in the timing of restoring any transferred funds to the reserve account and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limit specified above. Any such Special Assessment shall not be subject to the limitations otherwise set forth in this Section. If the current replacement value of the major components of the Common Areas and Facilities which the Association is obligated to repair, replace, restore or maintain is equal to or greater than one-half of the total budgeted common Expenses for any fiscal year, then at least once every three (3) years the Board shall cause a study to be conducted of the reserve account of the Association and its adequacy to satisfy anticipated future expenditure requirements. The Board shall, thereafter, annually review the reserve account study and shall consider and implement necessary adjustments to reserve account requirements and funding as a result of that review. Any reserve account study shall include, at a minimum:

- i. Identification of the major components which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a useful life of less than 30 years.
- ii. Identification of the probable remaining useful life of the items identified in subparagraph a, above, as of the date of the study.
- iii. An estimate of the cost of repair, replacement, restoration or maintenance of each item identified in subparagraph(a), above, during and at the end of its useful life.
- iv. An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore or maintain each item during and at the end of its useful life, after subtracting total reserve funds as of the date of the study.

For the purposes of this section, the term "reserve account requirements" means the estimated funds which the Board has determined are required to be available at a specified point in time to repair, replace or restore those major components which the Association is obligated to maintain. If Owner shall at any time lease his Unit and shall default in the payment of Assessments, the Board may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due, and the payment of such rent to the Board shall be sufficient payment and discharge of such tenant and the Owner for such Assessments to the extent of the amount so paid.

22. Easements. If any part of the Common Areas and Facilities encroaches or shall hereafter encroach upon a Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas and Facilities, or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Areas and Facilities or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the Project, by error in the Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof Improvements, including Units, Common Areas and Facilities and Limited Common Areas and Facilities, constructed as subsequent phases of the Project, if any, may encroach upon portions of the Common Areas and Facilities of earlier phases of the Project. A perpetual easement for such encroachment and the activities necessary to repair, maintain and operate such improvements is hereby granted. Declarant shall have a transferable easement over, across and within the property for the purposes of (i) completing construction of the Project and improvements therein as shown on the Map and for doing all things reasonably necessary or appropriate in connection therewith,(ii) connecting the Buildings to other adjoining structures or buildings, and (iii) constructing pedestrian bridges, walkways or other connecting devices capable of adjoining the Buildings, and other buildings which may be constructed in the Project, to other structures or buildings to be constructed in the Project. Each owner shall have the right to ingress and egress over, upon and across the Common Areas and Facilities as necessary for access to his unit(s) and to any Limited Common Areas and Facilities appurtenant to his Unit(s), and shall have the right to the horizontal, vertical and lateral support of this Unit(s). The Association and the Manager shall have an easement to make such use of the Common Areas and Facilities as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct and maintain the Common Areas and Facilities for use by the owners and the Association. All conveyances of Units within the Project hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

23. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally, by first class mail, by express mail or over night courier service providing proof of delivery, or by telecopy or facsimile transmission. Notice to Owners shall be addressed to each owner at the address given by such owners to the Board for the purpose of service of such notice or to the unit of such owner if no such address has been given to the Board. Notice shall be deemed given when actually received I f personally delivered or sent by overnight courier; if faxed, when the fax is received, except that if the fax is received at a time other than the normal business hours of the office at which it is received, on the next regular business day; and if by mail, the earlier of the day actually received or the third business day after the notice is deposited in the United states Mail, properly addressed and postage prepaid. Such address maybe changed from time to time by notice in writing to the Board addressed to:

Mountain View Professional Plaza
6783 South Redwood Road
West Jordan, Utah 84044

24. No Waiver. The failure of the Board or its agents or designees to insist, in one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration or the Bylaws, to exercise any right or option herein contained or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction; but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the Board or its agents or designees of the payment of any Assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board.

25. Enforcement. All Owners, guests or lessees of an Owner, and persons under Owner's control, shall strictly comply with the provisions of this Declaration, the Bylaws and the rules and regulations of the Association and decisions issued pursuant thereto. Failure to so comply shall be grounds for: (i) an action to recover sums due for damages or injunctive relief or both, maintainable by the Board or its agent or designee on behalf of the Owners, or in an appropriate case, by Declarant or an aggrieved Owner; and/or (ii) the Board to impose monetary penalties, temporary suspensions of an owner's right to the use of a Unit or the common Areas and Facilities, or other appropriate discipline so long as any such owner has been given notice and has had an opportunity to present a written or oral defense to the charges in a hearing. The Board shall determine whether the owner's defense shall be oral or written. After the hearing, but before any disciplinary action is taken, the owner shall be notified of the decision of the Board. The Board may delegate to the Manager, the power and authority to carry out disciplinary actions duly imposed. The Association shall not have the power to cause the absolute forfeiture of an owner's right, title or interest in the Project on account of the owner's failure to comply with the provisions of this Declaration or the rules and regulations of the Association for the Project except pursuant to (a) the judgment of a court, or (b) a foreclosure for the failure of an Owner to pay Assessments duly levied by the Association.

26. Agent for Service of Process. The agent for service of process under the Act until the expiration of the option to Expand shall be Crown Enterprises, LLC whose address is 1667 East Hidden Valley Club Drive, Sandy, Utah 84092. Thereafter, the agent for service of process shall be the Association.

27. Severability. Invalidation of any of the provisions contained in this Declaration, or any application thereof, by judgment or court order, shall in no way affect any of the other provisions of this Declaration or any other application thereof and the remainder of this Declaration and all otherwise valid applications of the provisions hereof shall remain in effect, and any invalid provisions hereof shall be construed, and this Declaration shall be deemed amended, as if such provisions were replaced with enforceable provisions which effectuates, as

nearly as possible, the manifest intention of this Declaration.

28. Time Period. If any time period set forth herein or any rights granted to Declarant thereunder are determined by a court of competent jurisdiction to exceed those permitted by law, the same shall be modified so that they instead apply to the maximum extent legally permitted from time to time.

29. Captions. The captions in this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

30. Construction Law. This Declaration and the Map shall be construed and controlled by and under the laws of the State of Utah.

31. Construction. The provisions of this Declaration shall be in addition and supplemental to the Act and to all other provisions of law. Wherever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

32. Effective Date. This Declaration shall take effect when recorded.
IN WITNESS WHEREOF, the undersigned has executed this instrument the date of notarization appearing below.

DECLARANT:

CROWN ENTERPRISES, LLC

By Robert Boyer
Robert Boyer

By Jack Rasmussen
Jack Rasmussen

BOYER FAMILY TRUST DATED 5/23/1984

By Richard B. Boyer, Trustee
Richard B. Boyer, Trustee
R.B.

By Elaine L. Boyer, Trustee
Elaine L. Boyer, Trustee

LEGAL DESCRIPTION

Parcel No.1:

Commencing at a point North 0°01'25" West 1485 feet and 41 feet East from the South quarter corner of Section 22, Township 2 South, Range 1 West, Salt Lake Meridian; and running thence North 82.5 feet; thence East 239.5 feet; thence South 82.5 feet; thence West 239.5 feet to the beginning.

Less and Excepting:

A parcel of land in fee for the widening of Redwood Road known as Project No. 102, being part of an entire tract of property, situate in the Northwest quarter Southeast quarter of Section 22, Township 2 South, Range 1 West, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at the Southeast corner of said entire tract, which point is 1485 feet North 0°01'25" West and 41 feet East from the South quarter corner of said Section 22, thence East 12 feet along the South boundary line of said entire tract to a point 53.00 feet perpendicularly distant Easterly from the centerline of said project; thence North 82.5 feet along a line parallel to said centerline to the North boundary line of said entire tract; thence West 12 feet along said North boundary line to the Northwest corner thereof; thence South 82.5 feet along the West boundary line of said entire tract to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

Tax Parcel No.:	21-22-403-002
Property Address	6783 SOUTH REDWOOD ROAD SOUTH JORDAN, UT 84084

Parcel No.2:

Beginning at a point North 0°01'25" West 1402.5 feet and 53 feet East from the South Quarter corner of Section 22, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running thence North 82.5 feet; thence East 227.5 feet; thence South 82.5 feet; thence West 227.5 feet to the point of beginning.

Tax Parcel No.:	21-22-403-003
Property Address	6785 SOUTH REDWOOD ROAD SOUTH JORDAN, UT 84084

BOUNDARY DESCRIPTION

Beginning at a point on the east line of Redwood Road, said point being North $0^{\circ}01'25''$ West 1401.90 feet (1402.50, Deed) along the section line, and East 53.00 feet to the east line of said road, from the South Quarter Corner of Section 22, Township 2 South, Range 1 West, Salt Lake Base and Meridian and running;

thence North $0^{\circ}01'25''$ West 176.31 feet (record bearing being North) along said east road line;

thence North $89^{\circ}58'35''$ East 227.68 feet (record distance being 227.50 feet) to the west line of Bunker Hill Sub-Phase II (Plat 2) as on file at the Salt Lake County Recorder's Office;

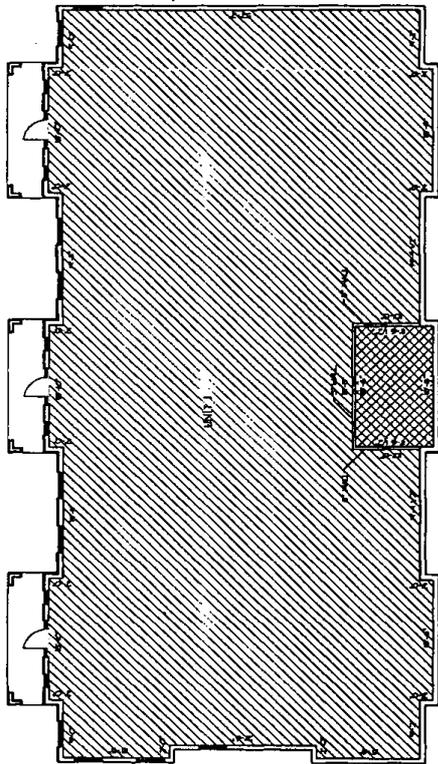
thence South $0^{\circ}01'00''$ West 176.40 feet (record bearing being South) along the west line of said subdivision plat;

thence West 227.55 feet (record distance being 227.50 feet) to the point of beginning.

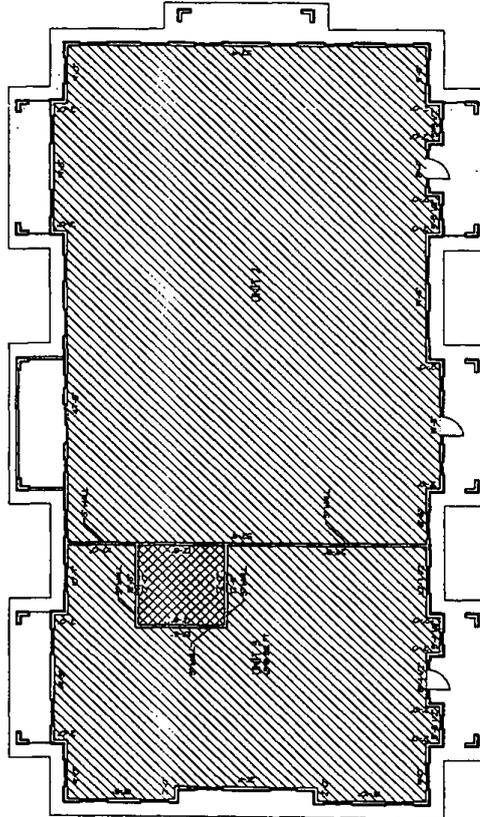
EXHIBIT:
COMMON AREA.

	% OF COMMON AREA.
UNIT 1	50%
UNIT 2	33%
UNIT 3	17%.

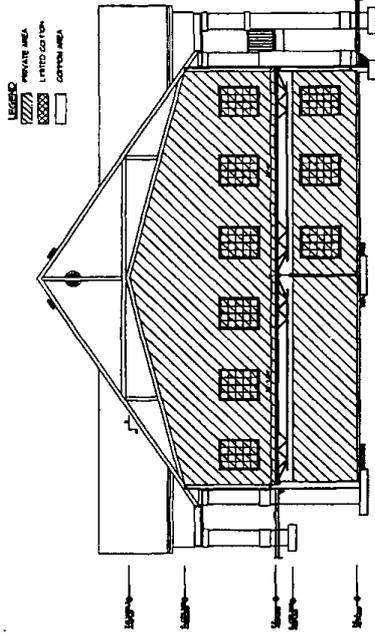
EXHIBIT "B"



LOWER FLOOR PLAN



UPPER FLOOR PLAN



LEGEND
 PRIVATE AREA
 LIMITED COMMON AREA
 COMMON AREA

EN S I O N
 ARCHITECTS - INCORPORATED
 20 East First South, Suite 200 Salt Lake City, Utah 84143
 Phone: (801) 524-4400
 Fax: (801) 524-4400

MOUNTAIN VIEW BUSINESS CENTER CONDOMINIUMS

LOCATED IN THE BOUNDARY QUARTER
 TOWNSHIP 2 NORTH, RANGE 1 WEST,
 SALT LAKE BASIN, FREEDMAN,
 SALT LAKE COUNTY, UTAH

STATE OF UTAH, COUNTY OF SALT LAKE, RECORDED AND FILED AT THE
 OFFICE OF THE COUNTY CLERK
 DATE _____ TIME _____ BOOK _____ PAGE _____
 FILE # _____ SALT LAKE COUNTY RECORDER

Page 3 of 3

EXHIBIT "C"

ARTICLES OF INCORPORATION
OF

Mountain View Professional Plaza, Inc.

A Utah Profit Corporation
(Pursuant to the provisions U.C.A. 16-6a-202)

We, the undersigned, persons acting as incorporators under the Utah Revised Business Corporation Act, adopt the following Articles of Incorporation for such Corporation:

Article I

The name of this corporation is Mountain View Professional Plaza, Inc.

Article II

The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the laws of Utah other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the Utah Statutes.

This corporation shall have the broad general powers set forth in the Utah Statutes and in addition the following powers:

Own Real Estate

Article III

The corporation shall have the authority to issue 100,000 shares of stock which stock shall be of one class only which shall be common voting stock. The common stock shall have unlimited voting rights provided in the Utah Revised Business Corporation Act.

Article IV

The address of the corporation's principal office shall be:

6783 South Redwood Road
West Jordan, Utah 84084

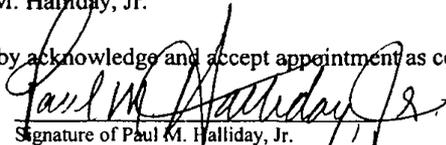
The address of the corporation's initial registered agent shall be:

376 East 400 South, Suite 300
Salt Lake City, Utah 84111

The corporation's initial registered agent at such address shall be:

Paul M. Halliday, Jr.

I hereby acknowledge and accept appointment as corporation registered agent:



Signature of Paul M. Halliday, Jr.

Article V

The name and address of the incorporators are:

Jack Rasmussen
6783 South Redwood Road
West Jordan, Utah 84084

Robert Boyer
6783 South Redwood Road
West Jordan, Utah 84084

The name and address of the officers and directors are:

Jack Rasmussen, President
6783 South Redwood Road
West Jordan, Utah 84084

Robert Boyer, Secretary/Treasurer
6783 South Redwood Road
West Jordan, Utah 84084

In Witness Whereof, We, Jack Rasmussen, Robert Boyer, have executed these Articles of Incorporation in duplicate this 21 day of March, 2007, and state:

They are all incorporators herein; they have read the above and foregoing Articles of Incorporation; know the contents thereof and that the same is true to the best of their

knowledge and belief, excepting as to matters herein alleged upon information and belief
and as to those matters they believe to be true.


Jack Rasmussen, Incorporator


Robert Boyer, Incorporator

EXHIBIT "D"

BYLAWS

OF

Mountain View Professional Plaza, Inc.

(A Utah Profit Corporation)

Effective Date of Incorporation:

State of Incorporation: Utah

Fiscal Year End:

Mountain View Professional Plaza, Inc.

BY-LAWS

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CERTIFICATION

Part One
Stock, Stock Certificates and Shareholders

1.1 **Stock Certificates.** The certificates for shares of the capital stock of the corporation shall be in a form not inconsistent with the Articles of Incorporation, and shall be prepared or be approved by the board of directors. The certificates shall be signed by the president or vice president and the secretary or assistant secretary.

1.2 **Stock Records.** A stock register shall be kept by the transfer agent, in which shall be accurately recorded the issuance of each certificate of stock, the date of issuance thereof, the name and post office address of the person, firm or corporation to whom issued, a record of the transfer in whole or in part of the shares represented thereby, with a similar record of any certificate or certificates representing any shares so transferred.

1.3 **Transfer.** Shares of the capital stock of the corporation shall be transferable upon the books of the corporation by the holders thereof presenting certificates evidencing ownership to the secretary or the duly authorized transfer agent or agents of the company, properly endorsed, and the corporation shall not be bound to recognize any rights of any transferee until such transfer is so made on the books of the corporation.

1.4 **Replacement of Mutilated Certificates.** A new certificate may be issued in lieu of any certificate previously issued that may be defaced or mutilated, upon surrender for cancellation of a part of the old certificate, sufficient, in the opinion of the secretary or the duly authorized transfer agent, to fully identify the defaced or mutilated certificate. Where sufficient identification is lacking, evidence satisfactory to the board may be required.

1.5 **Replacement of Lost Certificates.** A new certificate may be issued in lieu of any certificate lost or destroyed upon the owner or claimant thereof establishing its loss or destruction by evidence satisfactory to the board and giving to the corporation indemnity satisfactory to the board.

1.6 **Record Date.** For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other purpose, the board of directors may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, 60 days. If the stock transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least 10 days immediately preceding such meeting.

If the stock transfer books are not closed for any reason, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for determination of shareholders.

1.7 **Stock Rules and Regulations.** The board of directors may make such rules and

regulations as it may deem expedient not inconsistent with the Bylaws or with the Articles of Incorporation concerning the issue, transfer and registration of certificates for shares of the corporation.

Part Two
Shareholders Meetings

2.1 **Regular and Special Meetings; Place of Meetings.** The annual meetings shall be the only regular meetings of the shareholders. Special meetings of the shareholders may be held when called as hereinafter provided. Any shareholders meetings may be held within or without the State of Utah, but shall always be held at the time and place fixed in the call for such meeting or in any resolution adjourning the same. If no other place is designated in the resolution adjourning such meeting, the adjourned meeting shall be held at the place designated in the call for the meeting.

2.2 **Annual Meeting.** The annual meeting of the shareholders for the election of directors shall be held on a date in the third week of the month preceding the end of the corporation's fiscal year. If, for any reason, such meeting shall not be held or a board of directors shall not be elected at such meeting or at an adjournment thereof, a board of directors may be elected at a special meeting to be called by the board of directors then in office or upon their order.

2.3 **Special Meetings.** Special meetings of the shareholders, for any purpose or purposes other than the election of directors as hereinabove provided, may be held at the call of the chairman of the board, or the president of the corporation, or the board of directors, and shall be called by the president at the request of the holders of one of all the outstanding shares of the corporation entitled to vote at the meeting.

2.4 **Quorum.** Except as otherwise provided by law, a majority of the outstanding shares of stock entitled to vote at any meeting shall constitute a quorum of such meeting.

2.5 **Notice.** Notice of all shareholders meetings shall be in writing, signed by the chairman, the president, the secretary, the treasurer, or an assistant secretary or assistant treasurer, or such other officer or person as may be designated by the board of directors. A copy of such notice shall be sent by mail not less than ten calendar days nor more than 50 calendar days prior to the date of the meeting, unless a longer period is required by law, to each shareholder of record entitled to notice of such meeting, at the registered post office address of such shareholder as it appears upon the records of the corporation. Such notice shall state the time and place of the meeting and the purpose for which it is called, so far as is known at the date of the notice, and if the call be for an annual meeting, the notice shall so state. Such notice shall be sufficient for such meeting and any adjournment thereof. If any shareholder shall transfer any of his stock after notice of such meeting, it shall not be necessary to notify the transferee. Any shareholder may waive notice of any meeting either before, at or after the meeting.

2.6 **Proxies.** Any shareholder of the corporation entitled to vote at any meeting may be represented and vote at such meeting by a proxy appointed by an instrument in writing signed by him or by his duly authorized agent or attorney-in. In the event such instrument shall designate two or more persons to act as proxy, the majority of such persons present at such meeting, or if only one should be present then that one, shall have and may exercise all the powers conferred by such instrument upon all the persons so designated, unless such instrument shall otherwise

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provide. All proxies will be received and taken in charge and all questions touching the qualifications of voters and the validity of proxies will be decided and all ballots shall be received and counted by two referees, who shall be appointed by the presiding officer of the meeting by and with the consent of the majority of the shares represented.

2.7 **Business to be Transacted.** Any question may be considered and acted upon at an annual meeting, but no question not stated in the call for a special meeting shall be acted upon thereat except by the consent of the holders of a majority of the shares as reflected in the records of the corporation.

2.8 **Election of Directors.** The directors shall be elected by a majority of the shares at the annual shareholders meeting, subject to the cumulative voting provisions set forth in paragraph 2.10 below. Prior to each annual election of directors, the shareholders shall pass a resolution designating the number that shall constitute the board of directors for the ensuing year, and such number shall not be increased or diminished during any year except by the vote of the holders of a majority of the outstanding stock of the corporation at a meeting legally held.

2.9 **Voting.** Except as provided in paragraph 2.10 below, the holders of common stock of shareholders meeting. For purposes of this provision, the holder is to be determined by the name appearing on the corporation's books; except that shares standing in the name of a deceased person may be voted by his legal representative, and a receiver may vote shares not standing in his name if he has the authority to do so by an appropriate order of the court which appointed him.

2.10 **Cumulative Voting.** At all elections for directors, each shareholder shall be entitled to as many votes as shall equal the number of his shares of stock multiplied by the number of directors to be elected, and he may cast all of such votes for a single director, or may distribute them among the number to be voted for, or any two or more of them, as he sees fit.

2.11 **Removal of Director.** The shareholders of the corporation may, at any meeting called for that purpose, remove any director from office, with or without cause, by a vote of a majority of the outstanding shares of the class of stock which elected the director or directors to be removed; provided, however, that no director shall be removed in case the votes of a sufficient number of shares are cast against his removal, which, if cumulatively voted at an election of the entire board of directors, would be sufficient to elect him.

2.12 **Informal Action by Shareholders.** Any action which may be taken by the shareholders at a meeting may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all the shareholders entitled to vote with respect to the subject matter of the action.

2.13 **Waiver.** When the holders of all the shares issued and outstanding and entitled to vote shall be present or expressly waive their presence at a meeting, and shall sign a written consent thereto on the record thereof, all the acts of such meeting shall be binding, regardless of the

manner in which the meeting is called.

2.14 **Inspection of Records.** The books of account and stock records of the corporation shall be available for inspection at reasonable times by any shareholder.

Part Three
Board of Directors

3.1 **Number and Eligibility.** The board of directors shall consist of not fewer than one nor more than 25 persons, all of whom shall be of lawful age and all of whom may be or may not be shareholders of the corporation.

3.2 **Annual Meeting and Election of Chairman of the Board.** Immediately after the adjournment of the annual shareholders meeting, the board of directors elected thereat shall convene in annual meeting and shall elect a chairman from among its number, who shall hold office for a period of one year or until his successor has been duly elected and qualified. It shall be the duty of the chairman to preside at all meetings of the shareholders and board of directors, and to insure compliance with the rules and regulations as herein set forth, and to perform such duties as may be delegated to him and prescribed by the board of directors.

3.3 **Election of Officers.** At the annual meeting of the board of directors, the board shall elect the officers of the corporation as follows: a president, a vice president, a secretary, a treasurer, and such other officers with such titles and with such powers and duties as may be deemed necessary by the board of directors. The officers need not be shareholders of the corporation.

3.4 **Special Meetings.** Special meetings of the board of directors may be held from time to time upon call issued by the chairman, the president, a majority of the directors, or the holders of a majority of the outstanding stock of the corporation. Such meetings may be held either within or without the State of Utah and may be held by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this provision shall constitute presence in person at such meetings.

Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Notice of special meetings of the board shall be signed by the person or persons calling the same as aforesaid, or by someone designated and so authorized and instructed by the person or persons calling the same, and shall be sent by mail to each director at his post office address of record with the corporation not less than five calendar days and not more than 20 calendar days prior to the date of the meeting. Such notice shall state the time and place of the meeting and the purposes for which it is called.

3.5 **Quorum and Waiver of Notice.** A majority of the members of the board at the time holding office shall constitute a quorum for the transaction of business. No special meeting of the board shall be valid unless notice of the meeting has been mailed to each member of the board as provided in paragraph 3.4 above, or the giving of such notice shall have been waived in writing.

3.6 **Voting.** Each director present shall be entitled to one vote at each directors' meeting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors.

3.7 **Presumption of Assent.** A director of the corporation who is present at a meeting of the board of directors or of any committee, at which action is taken on any corporate matter, will be presumed to have assented to the action taken unless his dissent is entered in the minutes of the meeting, or unless he filed his written dissent of such action with the person acting as secretary of the meeting before the adjournment of the meeting, or forwards his dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. The right to dissent will not be available to a director who voted in favor of the action.

3.8 **Filling Vacancies.** Any vacancy in the board of directors or in the officers of the corporation caused by the death, resignation, removal or other disqualification of a director or an officer may be filled by a majority vote of the remaining directors by the election of some other person who shall hold such office of director or officer by like tenure for the remainder of the term. However, prior to such action by the board, the shareholders shall have the right, at any special meeting called for that purpose, to fill any vacancy occurring on the board.

3.9 **Tenure.** The directors shall hold office from the time of their election until the next annual election of directors, as provided by these or until their successors are duly elected and qualified.

3.10 **Compensation.** By resolution of the board, the directors may be paid their expenses, if any, of attending board meetings or any committee meetings. Directors may be paid a fixed sum for each meeting they attend, or may be paid a stated salary as a director or committee member. These payments will not preclude any director from serving the company in any other capacity and receiving compensation for that service.

3.11 **Powers.** The business of this corporation shall be conducted by the board of directors, and the board shall have the right to fix the compensation of all officers and directors for services rendered and, except as prescribed in these Bylaws to the contrary, prescribe their duties and powers.

3.12 **Dividends.** The board of directors may declare dividends on the stock of the corporation as provided by the laws of the State of Utah.

3.13 **Action by Resolution.** The board of directors shall, except as otherwise herein provided by law, have power to act in the following manner: A resolution in writing, signed by all the members of the board of directors, shall be deemed to be action by such board to the effect therein expressed, with the same force and effect as if the same had been duly passed by the same vote at a duly convened meeting, and it shall be the duty of the secretary of the corporation to record such resolution in the minute book of the corporation under its proper date.

3.14 **Arbitration of Deadlocks Within Board of Directors.** If the board of directors of this

corporation ever is composed of an even number of directors and these directors are deadlocked as to a major issue affecting the corporation, which deadlock prevents a necessary decision of the corporation, then, in that event, the directors shall agree on an arbiter, who will arbitrate the issue; or, if they cannot agree on a disinterested, objective, qualified arbiter, the then existing attorney and accountant for the corporation shall select a disinterested arbiter, and the corporate attorney, who is familiar with the legal problems, and the corporate accountant, who is familiar with the financial problems, and the disinterested third person, whom these two professionals believe is objective and qualified to decide the issue involved, shall arbitrate the issue at a meeting of the board of directors held for that purpose, and the directors agree to be bound by their decision with regard to the deadlock.

Prior to the decision by the arbitrator or board of arbitrators, all directors shall have the opportunity to present facts and arguments with regard to the issue before a decision is rendered by the arbitrators. This provision recognizes that in all human endeavors, there will be times when honest and reasonable men cannot agree. It further recognizes that the directors and other persons who have chartered and formed this company are interested in continuity and interested in having the corporate purposes placed above what may be a honest difference of opinion. Therefore, this Bylaw has been enacted to allow the corporation to move past impasses caused by such deadlocks.

3.15 **Executive Committee.** The board of directors, by resolution adopted by a majority of the full board, may designate two or more of its members to constitute an Executive Committee. The designation of such committee and the obligation thereto of authority shall not operate to relieve the board of directors, or any members thereof, of any responsibility imposed by law.

3.15.a **Authority.** The executive committee, when the board of directors is not in session, shall have and may exercise all the authority of the board of directors except to the extent, if any, that such authority shall be limited by the resolution appointing the executive committee and except also that the executive committee shall not have the authority of the board of directors in reference to amending the Articles of Incorporation, adopting a plan of merger or consolidation, recommending to the shareholders the sale, lease or other disposition of all or substantially all the property and assets of the corporation otherwise than in the usual and regular course of its business, recommending to the shareholders a voluntary dissolution of the corporation or a revocation thereof, or amending the Bylaws of the corporation.

3.15.b **Tenure and Qualifications.** Each member of the executive committee shall hold office until the next regular annual meeting of the board of directors following his designation and until his successor is designated as a member of the executive committee and is elected and qualified.

3.15.c **Meetings.** Regular meetings of the executive committee may be held without notice at such times and places as the executive committee may fix from time to time by resolution. Special meetings of the executive committee may be called by any member thereof upon not less than one day's notice stating the place, date and hour of the meeting, which notice may be written or oral, and if mailed, shall be deemed to be delivered when deposited in the

United States mail addressed to the member of the executive committee at his business address. Any member of the executive committee may waive notice of any meeting and no notice of any meeting need be given to any member thereof who attends in person. The notice of a meeting of the executive committee need not state the business proposed to be transacted at the meeting.

3.15.d **Quorum.** A majority of the members of the executive committee shall constitute a quorum for the transaction of business at any meeting thereof; and action of the executive committee must be authorized by the affirmative vote of a majority of the members present at which a quorum is present.

3.15.e **Action Without a Meeting.** Any action that may be taken by the executive committee at a meeting may be taken without a meeting if a consent in writing, setting forth the action so to be taken, shall be signed before such action by all the members of the executive committee.

3.15.f **Vacancies.** Any vacancy in the executive committee may be filled by a resolution adopted by a majority of the full board of directors.

3.15.g **Resignations and Removals.** Any member of the executive committee may be removed at any time with or without cause by resolution adopted by a majority of the full board of directors. Any member of the executive committee may resign from the executive committee at any time by giving written notice to the president or secretary of the corporation, and unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective.

3.15.h **Procedure.** The executive committee shall elect a presiding officer from its members and may fix its own rules of procedure, which shall not be inconsistent with these Bylaws. It shall keep regular minutes of its proceedings and report the same to the board of directors for its information at the meeting thereof held next after the proceedings shall have been taken.

3.16 **Special Committees.** The board of directors may also, from time to time, appoint any other special committees deemed by it expedient, and refer to such special committees any special matters with instructions and/or powers to act. All such special committees shall keep regular minutes of the transaction of their meetings and make such minutes available to the board of directors at the next meeting thereof following the proceedings of the special committee.

Part Four
Officers, Powers and Duties

4.1 **Officers.** The officers of this corporation shall consist of a president, a vice president, a secretary, a treasurer, and such other officers with such titles, powers and duties as may be prescribed by the board of directors.

4.2 **Tenure.** All officers shall hold office from the time of their election until the next annual election of officers or until their respective successors are elected and qualified, provided, however, any officer may be removed from office by a majority vote of the directors at any legally held meeting of the board.

4.3 **Bonds and Other Requirements.** The board of directors may require any officer to give bond to the corporation (with sufficient surety and conditioned for the faithful performance of the duties of his office) and to comply with such other conditions as may from time to time be required of him by the board.

4.4 **Removal of Officers.** If the majority of the board concurs, the board of directors may at any time, with or without cause, remove any officer or agent of the corporation and declare his office or offices vacant or, in the case of the absence or disability of any officer or for any other reason considered sufficient, the board may temporarily delegate his powers and duties to any other officer or to any director.

4.5 **President.** In the absence of the chairman, the president shall preside at all meetings of the shareholders and board of directors. The president, along with other authorized officers, shall sign for and on behalf of the corporation, or in its name, all certificates of stock, deeds, mortgages, contracts and other instruments in writing, except that contracts may be signed with like effect by any other officer or employee of the corporation specified in these Bylaws or designated by the board of directors. While actively engaged in conducting the business of the corporation, he shall be charged with all the duties and have all the authority customarily performed and exercised by the chief executive of a corporation organized under the laws of Utah, and shall perform such other duties as may be prescribed by the board.

4.6 **Vice President.** The vice president shall have and may exercise such powers and shall perform such duties as may be delegated to him by the board of directors or the president of the corporation. The vice president shall, in the event of the death, absence, or other disability of the president, perform all the duties and exercise all the authority of the president.

4.7 **Secretary.** It shall be the duty of the secretary to record and keep the minutes of all meetings of the shareholders, the board of directors, and the executive committee of the board of directors. At the discretion of the board, he shall give bond made by a duly authorized surety company in such sum as may be required of him by the board, conditioned for the proper accounting of all moneys and property coming into his hands by virtue of this office. The premium on such bond shall be paid by the corporation. He shall fill in and countersign all certificates of stock and keep the stock records of the corporation so as to show the aggregate number of shares outstanding and the date, the number of shares, the name of the holders, and all

other necessary information relating to each outstanding stock certificate. He shall keep the seal of the corporation and affix and attest the same upon any instrument executed by the corporation requiring a seal, except as otherwise ordered by the board of directors. At the expiration of his term, from whatever cause, he shall surrender all books, moneys, papers and property of the corporation to his successor.

4.8 **Treasurer.** The treasurer shall be the custodian of all moneys belonging to the corporation and shall hold all funds of the corporation subject to the order of the board of directors or persons thereunto authorized by the board of directors. He shall deposit the funds of the corporation with such bank or banks as the board of directors may approve and designate. At each annual meeting of the shareholders, and at each annual meeting of the directors, and whenever called upon at any other directors' meeting, he shall make a complete and correct report of his accounts and disclose the true financial condition of the corporation. He shall submit his books and accounts for audit when so requested by the board of directors. At the discretion of the board, he shall give bond, made by a duly authorized surety company, in such sum as may be required of him by the board, conditioned for the property accounting of all moneys and property coming into his hands by virtue of his office. The premium on such bond shall be paid by the corporation. At the expiration of his term of office, from whatever cause, he shall deliver up all books, papers and moneys of the corporation to his successor.

4.9 **Other Officers.** If an assistant secretary be elected by the board of directors, he shall have and may exercise the same powers and perform the same duties as the secretary; and if an assistant treasurer be elected by the board, he shall have and may exercise the same powers and perform the same duties as the treasurer. Such assistant secretary, assistant treasurer, and any and all other officers elected by the board, shall have and may exercise such powers and perform such duties as may be assigned to them by the board.

4.10 **Salaries.** Officers' salaries may from time to time be fixed by the board of directors or (except as to his own) be left to the discretion of the president. No officer will be prevented from receiving a salary by reason of the fact that he is also a director of the corporation.

4.11 **Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the board of directors for the remaining portion of the term.

Part Five
Corporate Seal

5.1 **Description.** The corporation shall have a corporate seal in the form of two circular conforming metal discs bearing the imprint and inscription of the name of the corporation with, in the center, the words Corporate Seal, Utah and the year of incorporation.

5.2 **Use.** The corporate seal shall be impressed upon all instruments executed by the corporation upon which a seal is required by law.

5.3 **Authorization.** In the absence of the secretary or assistant secretary, any officer authorized by the board of directors so to do may affix the seal of the corporation to any instrument requiring a seal.

Part Six
Fiscal and Legal

6.1 **General.** All moneys of every kind belonging to the corporation shall be deposited to its credit in a bank or banks designated by the board of directors, and no moneys shall be withdrawn wherefrom unless the checks or other orders evidencing such withdrawals are signed by such officers or employees of the corporation as may be designated by resolution of the board of directors duly adopted.

6.2 **Contracts.** The board of directors may authorize any officer or officers, agent or agents of the corporation, in addition to the officers so authorized by these Bylaws to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

6.3 **Checks, Drafts, Etc.** All checks, drafts, orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the board of directors. In the absence of such determination by the board of directors, such instruments shall be signed by the treasurer or an assistant treasurer and countersigned by the president or a vice president of the corporation.

6.4 **Deposits.** All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositories as the board of directors may select.

6.5 **Gifts.** The board of directors may accept on behalf of the corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the corporation.

6.6 **Fiscal Year.** The fiscal year of this corporation shall be that set forth on the caption page of these Bylaws.

**Part Seven
Amendments**

7.1 **Vote Required.** These bylaws may be enlarged, amended or repealed by a majority vote of the outstanding stock of the corporation at any regular meeting of the shareholders or at any special meeting of the shareholders called for that purpose, or by a two vote of the board of directors at any meeting of the board of directors called for that purpose.

7.2 **Meetings for Adoption.** Such amendment, enlargement or repeal may be adopted at any annual meeting of the shareholders without previous notice, but if contemplated at a special shareholders meeting, notice thereof shall be given in the call for the meeting.

Part Eight
Pre-Emptive and Preferential Rights

8.1 **Pre-Emptive and Preferential Rights.** Each shareholder or subscriber shall be entitled to full pre-emptive or preferential rights, as such rights have heretofore been defined at common law, to purchase and/or subscribe for his or her proportionate part of any shares which may be issued at any time by this corporation.

8.1.a **Sale or Transfer.** Before there can be a valid sale or transfer of any of the shares of this corporation by the holders thereof, the holder of the shares to be sold or transferred shall first give notice in writing to the secretary of this corporation of his intention to sell or transfer such shares. Such notice shall specify the number of shares to be sold or transferred, the price per share, and the terms upon which such holder intends to make such sale or transfer. The secretary shall, within five days thereafter, mail or deliver a copy of such notice to each of the other shareholders of record of this corporation. Such notice may be delivered to such shareholder personally or may be mailed to the last known addresses of such shareholders, as the same may appear on the books of this corporation. Within 40 days after mailing or delivering these notices to such shareholders, any such shareholder or shareholders desiring to acquire any part or all of the shares referred to in that notice shall deliver by mail or otherwise to the secretary of this corporation a written offer or offers to purchase a specified number or numbers of such shares at the price and upon the terms stated in that notice.

If the total number of shares specified in such offers exceeds the number of shares referred to in the notice, each offering shareholder shall be entitled to purchase such proportion of the shares referred to in the notice as the number of shares of this corporation which he holds bears to the total number of shares held by all such shareholders desiring to purchase the shares referred to in the notice to the secretary.

If all the shares referred to in the notice to the secretary are not disposed of under such apportionment, each shareholder desiring to purchase shares in a number in excess of his proportionate share, as provided above, shall be entitled to purchase such proportion of those shares which remain thus indisposed of, as the total number of shares which he holds bears to the total number of shares held by all the shareholders desiring to purchase shares in excess of those to which they are entitled under such apportionment.

If none or only part of the shares referred to in the notice to the secretary are purchased, as aforesaid, in accordance with offers made within the 40 day period, the shareholders desiring to sell or transfer may dispose of all shares of stock referred to in that notice not so purchased by the other shareholders, to any person or persons he may so desire, provided, however, that he shall not sell or transfer such shares at a lower price or on terms more favorable to the purchaser or transferee than those specified in the notice to the secretary.

Any sale or transfer, or purported sale or transfer, of the shares of this corporation shall be null and void unless the terms, conditions and provisions of this paragraph 8.1.a are strictly observed and followed.

8.1.b **Written Consent.** No sale, lease, conveyance, transfer, exchange or other disposition of all, or substantially all, the property and assets of this corporation, and no mortgage, deed of trust, pledge or hypothecation of all or substantially all the property, real or personal, of this corporation shall be made unless approved by the vote or written consent of the shareholders entitled to exercise a majority of the voting power of this corporation.

8.2 **New Issues of Stock.** As long as the original incorporators own stock in the corporation, it shall not issue new stock unless all incorporators approve that issue.

8.3 **Endorsement of Stock Certificates.** Upon the issuance of shares, each certificate of capital stock in the corporation shall be endorsed as follows:

NOTICE IS HEREBY GIVEN that the redemption, sale, assignment, transfer, pledge or other disposition of the shares of capital stock represented by this certificate are subject to certain restrictions which are set forth in the Articles of Incorporation and the Bylaws of this corporation, copies of which are on file in the office of the secretary of the corporation, and the corporation will furnish upon request and without charge a list of designations, preferences, limitations and relative rights.

All stock of the corporation shall be subject to these restrictions and have endorsed thereon the appropriate notice contained in this paragraph.

Part Nine
Miscellaneous

9.1 **Election of Chairman Pro Tem.** In the absence of the chairman, the president, and any vice president at any shareholders or directors meeting, the shareholders or directors present shall select a chairman pro tem, who shall preside at the meeting and exercise the same powers as the chairman, the president, or the vice president could if present.

9.2 **Parliamentary Law.** When not in conflict with these Bylaws, Robert's Rules of Order, Revised, 75th Anniversary Edition, shall establish the rule of procedure at all shareholders and directors meetings, and the provisions of that publication are incorporated by reference herein as the ruling law for this corporation.

9.3 **Power to Vote Shares Held by the Corporation.** In the event that this corporation owns shares of stock of another corporation, the president of this corporation shall be authorized to vote those shares on behalf of this corporation. A certified copy of this Bylaws shall be prepared to accompany the president at any shareholders' meeting which he attends for purposes of voting stock on behalf of this corporation, or a certified copy of this Bylaws shall be attached to any proxy which the president may execute for the purpose of permitting another person to act as his proxy to vote the stock of another corporation.

Shares of its own stock held by this corporation shall not be voted, directly or indirectly, at any meeting and shall not be counted in determining the total number of outstanding shares at any time, except that shares of its own stock held by the corporation in a fiduciary capacity may be voted and shall be counted in determining the total number of outstanding shares at any given time.

9.4 **Corporate Minute Books and Stock Records.** The minute book of this corporation shall be prepared in triplicate, with the original placed in the office of the corporate attorney, who shall act as assistant secretary and transfer agent for the corporation at all times, a duplicate in the office where the corporation has its principal place of business, and a second duplicate in the office of the accountant for the corporation. Whenever any minutes, reports or other corporate documents are prepared, they shall be prepared in at least three copies, with one copy executed and placed in the original minute book and two conformed copies placed in the respective duplicate minute books.

Both the president and the attorney shall have at all times a legal size file which shall contain originals or copies of all legal documents which do not readily fit in the corporate minute book and which have any effect upon the legal rights and duties of the corporation.

The attorney, other individual or entity who serves as transfer agent for the corporation shall have in his possession at all times a duplicate corporate seal, the blank copies of corporate stock certificates, and the stock records, which shall be available to the shareholders at all times.

9.5 **Loans to Corporation.** Should any of the shareholders be asked to lend money to the corporation in the form of either promissory notes or bonds, these loans shall be executed in writing in the usual form for promissory notes or bonds, and shall bear the maximum rate of interest which the law permits a corporation to pay for money that the corporation may borrow. This provision applies to all moneys or assets which a shareholder may transfer to the corporation with the intent that such moneys or assets be treated as loans.

9.6 **Dealings by Directors.** No contract or other transaction between this corporation and any other corporation, whether or not a majority of the shares of the capital stock of such other corporation is owned by this corporation, and no act of this corporation shall in any way be affected or invalidated by the fact that any of the directors of this corporation are pecuniary or otherwise interested in, or are directors or officers of, such other corporation. Any director individually, or any firm of which that director may be a member, may be a party to or may be pecuniary or otherwise interested in any contract or transaction of this corporation, provided that the fact that he or his firm have an interest in the transaction shall be disclosed to a majority of the board of directors of this corporation. Any director of this corporation who is also a director or officer of another corporation dealing with this corporation, or who has any personal interest in a matter before the board of this corporation, may be counted in determining the existence of a quorum at any meeting of the board of directors of this corporation which shall authorize any action that may affect that director or that other corporation. That director may vote at such a meeting as if he were not a director or officer of the other corporation or was not personally interested.

9.7 **Seniority of Articles of Incorporation.** Any reference made in these Bylaws to the corporation's Articles refers to this corporation's Articles of Incorporation and all amendments on file with the Utah Secretary of State. The Articles will in all respects be considered senior and superior to these Bylaws, with any inconsistency to be resolved in favor of the Articles.

9.8 **Settlement of Disputes.** Any dispute arising out of or in connection with these Bylaws including disputes between or among the corporation, the incorporators, the shareholders, and the directors, shall be settled by the negotiation, mediation and arbitration provisions of that certain LawForms Uniform Agreement Establishing Procedures for Settling Disputes entered into by the parties prior to or concurrently with the adoption of these Bylaws.

9.9 **Interpretation.** Should there be any question in the interpretation of any provision of the Articles of Incorporation or Bylaws of this corporation, then an interpretation given in writing by Paul M. Halliday, Jr. the attorney who drew these documents, shall be binding. If that attorney is no longer practicing law at the time such interpretation is required, then a written interpretation by a senior member of the last law firm with which the named attorney practiced shall be binding. If that law firm has ceased to be in existence at the time of such interpretation, then written interpretation shall be obtained by the board of directors from three disinterested attorneys specializing in corporate law in the state of incorporation, and the interpretation rendered by a majority of them shall be binding.

9.10 **Non-Liability of Shareholders, Officers and Directors.** The shareholders, officers and directors of this corporation shall not be individually liable for the corporation debts or other liabilities, and private property of such individuals shall be exempt from corporation debts or liabilities.

No director of the corporation shall be personally liable to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director; provided, however, that this by-law shall not eliminate or limit the liability of a director (a) for any breach of the director's duty of loyalty to the corporation or its shareholders; (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (c) for authorizing the unlawful payment of a dividend or other distribution on the corporation's capital stock or the unlawful purchase of its capital stock; (d) a violation of Utah law (Conflict of Interest); or (e) for any transaction from which the director derived an improper personal benefit.

9.11 **Indemnification of Officers, Employees and Agents.** The corporation shall indemnify every officer, employee and agent, his heirs, executors and administrators, against all expenses reasonably incurred by such person in connection with any action, suit or proceeding to which such person may be made a party by reason of that person being or having been an officer, employee or agent of this corporation, or by reason of that person being or having been an officer, employee or agent of any other corporation of which this corporation is a shareholder or creditor, and from which other corporation such person is not entitled to be indemnified, or by reason of such officer, employee or agent or former officer, employee or agent becoming a party to any such action, suit or proceeding at the request of or at the direction of this corporation or any successor hereto; provided, however, there shall be no indemnification in relation to any matter as to which such person shall be finally adjudged in such action, suit or proceeding to be liable for negligence or misconduct.

In the event of a settlement of such action, suit or proceeding, indemnification of such person shall be provided only in connection with such matters covered by such settlement as to which the corporation is advised by counsel that such person to be indemnified did not commit such a breach of duty. This right of indemnification shall be exclusive of other rights to which such person may be entitled. As used in this bylaw, expenses shall include, but shall not be limited to amounts of judgments, penalties or fines, and interest thereon for reasonable periods of time, rendered, levied or adjudged against such persons, costs of the action, suit or proceeding, attorneys' fees, expert witness fees and amounts paid in settlement by such persons, provided that such settlement shall have been or is thereafter approved by the board of directors of this corporation. This Bylaw is made a part of these Bylaws to comply with and to take full advantage of Utah laws governing such indemnification.

9.12 **Authority to Sell Corporate Assets.** With the consent or ratification in writing or pursuant to the vote of the holders of a majority in interest of the capital stock issued and outstanding, the board of directors will have the powers and authority to lease, sell, assign, transfer, convey or otherwise dispose of the entire property of the corporation, irrespective of the effects thereof upon the continuance of the business of the corporation and the exercise of its franchise; but the corporation may not be dissolved except as provided by the laws of the State of

Part Ten
Emergency ByLaws

10.1 **When Operative.** The emergency by provided herein shall be operative during any emergency in the conduct of the business of the corporation resulting from an attack on the United States or any nuclear or atomic disaster, notwithstanding any different provision in other paragraphs of these Bylaws the Articles of Incorporation, or in the Utah Business Corporation Act. To the extent not inconsistent with the provisions of this Part Ten, the other provisions of the by-laws shall remain in effect during such emergency, and upon its termination these emergency bylaws shall cease to be operative.

10.2 **Event of Emergency.** During any such emergency as described in provision 10.1, the following actions shall be taken:

10.2.a A meeting of the Board of Directors may be called by any officer or director of the corporation. Notice of the time and place of the meeting shall be given by the person calling the meeting to such of the directors as it may be feasible to reach by any available means of communication. Such notice shall be given at such time in advance of the meeting as

10.2.b At any such meeting of the Board of Directors, a quorum shall consist of any two directors, one director and one officer, or any two officers. For the purpose of attaining a quorum in times of such emergency to effect the continued conduct of the business, all officers of the corporation shall immediately become temporary directors of the corporation until the termination of the emergency, without election by the shareholders or appointment by the board of directors.

10.2.c The Board of Directors, either before or during any such emergency, may provide, and from time to time modify, lines of succession in the event that during such an emergency any or all officers or agents of the corporation shall for any reason be rendered incapable of discharging their duties.

10.2.d The Board of Directors, either before or during any such emergency, may, effective in the emergency, change the head office or designate several alternative head offices or regional offices, or authorize the officers so to do.

10.3 **Non Liability.** No officer, director or employee acting in accordance with these emergency by-laws shall be liable except for willful misconduct.

10.4 **Amendment or Repeal.** These emergency by-laws shall be subject to repeal or change by further action of the board of directors or by action of the shareholders, but no such repeal or change shall modify the provisions of the next preceding paragraph with regard to action taken prior to the time of such repeal or change. Any amendment of these emergency bylaws may make any further or different provision that may be practical and necessary for the circumstances of the emergency.

Part Eleven
Buy and Sell

11.1 Stock Purchase Arrangement in Event of Death of Shareholder or Desire to Sell Out. In the event that a shareholder dies or mails to the president of the corporation, at the principal place of business of the corporation, a written notice stating that the shareholder desires to sell his interest in the corporation, then, in that event, this provision shall become applicable.

Within ten days after the death of a shareholder or the notice of sellout, the directors of the corporation shall call a meeting for determining the fair market value of the stock of the corporation as of the date of death of a deceased shareholder or as of the date of the written notice of a shareholder desiring to sell out. The shareholder desiring to sell out, or the lawful representative of a deceased shareholder, shall attend the board of directors meeting thus called, and every attempt shall be made by the parties present to establish an agreed fair market value for the stock. If at this meeting the parties attending are unable to agree as to the fair market value of the stock, then, in that event, the dispute as to the value shall be negotiated, mediated and arbitrated in accordance with the provisions of the LawForms Uniform Agreement Establishing Procedures for Settling Disputes entered into by the shareholders, directors and officers of the corporation prior to or concurrently with the adoption of these by-laws. The mediators and arbitrators selected in accordance with that Uniform Agreement shall meet with the officers of the corporation and have access to the books and records of the corporation, and shall make every attempt to arrive at the fair market value of the stock as of the day prior to the date of death of a deceased shareholder or as of the date of the written notice of a shareholder desiring to sell out, unless the parties agree to fix the value as of another date.

As soon as the fair market value of the stock has been established, the president of the corporation shall send a notice to all shareholders of the value thus established and offer the shares to the remaining shareholders on a pro rata basis.

If the shareholders fail to purchase their pro rata shares of the stock within 15 days after the mailing of this notice for the price offered, then the shares which have not been purchased shall be purchased by the corporation in the following manner: The corporation shall execute a promissory note for 75% of the full value of the unsold shares of a shareholder voluntarily selling out, or for 90% of the full value of the unsold shares in the case of a deceased shareholder, with the successor of the deceased shareholder as the payee or the shareholder desiring to sell out as the payee. This promissory note shall be payable in regular monthly installments over a five year period, and shall bear interest on the unpaid balance at 1% over the prime rate then being charged by the largest bank in the city where the principal place of business of the corporation is located. The promissory note shall be in the usual form and shall be prepared by the corporate attorney. The shares sold in the corporation shall be pledged by the corporation as security for the promissory note thus executed.

11.2 Optional Method of Fixing Purchase Price. The shareholders may, at the annual meeting of shareholders, determine the value of the stock of the corporation. If a valuation is set by the shareholders at the annual meeting under this provision, a certificate of value in a form

exemplified in Exhibit A attached shall be used for this purpose and signed by each shareholder as evidence of the value. This value, if set at the annual meeting, shall control the value should a shareholder die thereafter, and the provisions of paragraph 11.1 relating to the special meeting of the directors to determine the value or to the negotiation, mediation and arbitration provisions of the LawForms Uniform Agreement Establishing Procedures for Settling Disputes to determine the value shall not apply in situations of the death of a shareholder only.

Shareholders desiring to sell out (and not being deceased) cannot use the valuation set by the shareholders at the annual meeting, but are limited to the valuation methods set forth in paragraph 11.1 above.

11.3 **Failure to Fix Price at Annual Meeting.** Should the shareholders fail to agree on the value for the stock of the corporation at the annual meeting of shareholders in accordance with paragraph 11.2 above, then the purchase price shall be the total sum of the following:

11.3.a The most recent agreed value as set forth in the latest schedule reflecting the per share value of the stock, plus

11.3.b The per share amount of the net earnings or losses, less dividends, of the corporation from the date of each fiscal year closing after the annual meeting of shareholders following the date of the last fixing of an agreed value, up through the end of the month in which the death occurred.

At the option of the representative of a deceased shareholder, a redetermination has not been endorsed on a schedule reflecting the per share value within 12 months preceding the death, then, in that event, three parties shall be appointed to establish a valuation: one by and to represent the surviving shareholders; one by and to represent the legal representative; and the two so appointed to select a third. The decision of the parties shall be by majority vote.

Notwithstanding the above procedures, the legal representative and the surviving shareholders may accept as controlling the last valuation made by the shareholders. It is the intent of the parties that the value of the shareholders' interest as herein determined does include good will.

11.4 **Method of Determining Net Earnings or Losses.** The determination of net earnings or losses, in accordance with paragraph 11.3.b above, shall be made in accordance with generally accepted accounting practices used in determining the net earnings or losses of the corporation and shall include a reasonable allowance for federal and state income taxes for the year in which death occurs.

11.5 **Fixes Full Value.** The execution by all shareholders of the schedule reflecting the per share value of the stock shall reflect the agreement between and among the shareholders that the purchase price determined by that schedule is the full value of each share of the stock of the corporation, and that purchase price shall in no manner be altered, and that all assets, both tangible and intangible, if any, as well as all liabilities, including mortgages, liens or other

encumbrances of any kind whatsoever, if any, or upon the assets of the corporation have been considered in determining that value.

11.6 **Reduction in Discount.** Notwithstanding the percentages set forth in provision 11.1 above (Stock Purchase Arrangement in Event of Death of Shareholder or Desire to Sell Out), for every year that a shareholder has owned stock in the corporation, the above stated discount charged against the retiring shareholder shall be reduced by 1%. The purpose of this provision is to encourage shareholders to remain in the corporation as long as possible before withdrawing from participation in the corporation. For instance, if the discount is 25% and the shareholder has held stock in the corporation for three full years, then the discount would be reduced to 22%. If a shareholder died, having held corporate stock for eight years, then the discount would be reduced accordingly, and the heirs of the shareholder would be paid 98% of the value of the stock.

11.7 **Compliance with Utah Law.** In no event shall the corporation enter into an agreement whereby the corporation repurchases its own stock pursuant to a redemption without complying with Utah law.

11.8 **Formal Buy and Sell Agreement.** In the event the shareholders enter or have entered into a formal written stock redemption or buy and sell agreement which includes provisions governing the sale of stock by a withdrawing, deceased or disabled shareholder, and if any provisions of this Part Eleven of these by-laws are in conflict with that formal written stock redemption or cross agreement, then the provisions of the formal written stock redemption or cross purchase buy and sell agreement shall take precedence over this Part Eleven.

Part Twelve
Protection for Shareholders and Corporation

Should the Corporation elect to be taxed under Subchapter "S" of the Internal Revenue Code, all shareholders shall acknowledge their intention to continue such election unless they shall terminate it in accordance with the provisions of these By-laws. The shareholders agree that they will do nothing, directly or indirectly, which will cause an inadvertent or wrongful termination of the Corporation's Subchapter "S" election. Furthermore, the shareholders agree to take such action as may be required to continue such election and to prevent its termination as set forth below.

12.1 Prohibition Against Shareholder Transfers that Result in Termination of "S" Status. In order to prevent an inadvertent or wrongful termination of the Corporation's Subchapter "S" election, no shareholder shall transfer any stock owned by him or her to:

12.1.a A person who, when added to the other shareholders of the Corporation, would cause the total number of shareholders of the Corporation to exceed the number permitted by Internal Revenue Code §1361(b)(1)(A);

12.1.b An individual who is a nonresident alien;

12.1.c A trust which fails to satisfy the requirements of Internal Revenue Code §1361(c)(2) or (d);

12.1.d A personal representative, who on such shareholder's death, revokes the Corporation's Subchapter "S" election (except for a revocation permitted in accordance with these by-laws); or

12.1.e Any person, whom the shareholder knows, or has reasonable grounds to believe, will take actions which will cause the Corporation's Subchapter "S" election to terminate.

Any such transfer shall be null and void.

12.2 Restriction on Disposition of Stock. No shareholder shall at any time, directly or indirectly, voluntarily or involuntarily, by law, by judicial or other government process, order or proceeding, or otherwise, dispose of all or any part of his or her shares of stock in the Corporation then owned by such shareholder, without the written consent of the Corporation, the written consent of all the other shareholders, and the written opinion of the Corporation's legal counsel that the transfer will not cause a termination of the Corporation's Subchapter "S" election. The term dispose of as used in these by-laws shall include the sale, assignment, transfer, conveyance, gift, encumbrance, pledge, hypothecation, levy, attachment, execution, and other disposition of stock in the Corporation. In the absence of such written consent and favorable opinion by counsel, any such disposition is null and void.

12.3 **Prohibition Against Corporate Activity that Results in Termination of "S" Status.** In order to prevent an inadvertent or wrongful termination of the Corporation's Subchapter "S" election, the Corporation shall not own more than eighty percent (80%) of the outstanding stock of another corporation such that the Corporation would be considered a member of an affiliated group in violation of Internal Revenue Code §1361(b)(2)(A); provided, however, that nothing in these by-laws shall prohibit the Corporation from owning this percentage of the stock of another corporation if such ownership would not cause the Corporation's Subchapter "S" election to terminate, as for example is permitted by Internal Revenue Code §1361(c)(6).

12.4 **Prohibition Against Second Class of Stock.** In order to prevent the Corporation's debt instruments from being treated as a second class of stock, these by-laws shall govern the Corporation's issuance of any debt instruments to its shareholders. All such debt shall be straight debt within the meaning of §1361(c)(5) of the Internal Revenue Code, and the debt instruments shall mature at the end of a specified number of years, will not be convertible into stock of the Corporation, and will be nontransferable during the shareholder's life or by his or her estate after death unless the transferee is a person who is permitted to own shares in an "S" corporation.

12.5 **Tax Matters Shareholder.** The parties hereby appoint the majority shareholder of the Corporation as the tax matters shareholder to act on behalf of the shareholders and the Corporation for federal tax audit purposes.

12.6 **Indemnification.** Each shareholder agrees that should he or she violate these by-laws and cause a termination of the Corporation's Subchapter "S" election, he or she will indemnify and hold harmless the other shareholders with respect to any damages they suffer as a result of the termination.

The parties agree that upon the sale or transfer of his or her shares of stock in accordance with these by-laws:

12.6.a The disposing shareholder will indemnify and hold harmless the other shareholders with respect to the disposing shareholder's pro rata share of tax liabilities which may have accrued during the time that the disposing shareholder held his or her stock in the Corporation; and

12.6.b The Corporation and the other shareholders will indemnify and hold harmless the disposing shareholder with respect to any tax liabilities or loss of tax benefits such shareholder may incur as a result of any action taken by the Corporation or other shareholders after the disposal of said stock, including by way of example, any action which results in the termination of the Corporation's Subchapter "S" election, or causes a retroactive change or adjustment in the Corporation's tax returns, method of accounting or status as an "S" Corporation.

12.7 **Agreement Concerning Tax Matters.** The parties agree that upon the affirmative vote of not less than fifty percent (50%) of the voting shares of the Corporation's stock, all of the shareholders will:

12.7.a Enter into an agreement under §1362(f)(4) of the Internal Revenue Code, to make adjustments to income as required by the Internal Revenue Service to avoid an inadvertent termination of the Corporation's Subchapter "S" election;

12.7.b Consent to the election under §1362(e) of the Internal Revenue Code, to allocate items of income deduction or loss upon the termination of the Subchapter "S" election of the Corporation between the "S" short year and the "C" short year according to the time they were incurred or realized as reflected on the books and records of the Corporation, rather than on a pro rata basis;

12.7.c Consent to the election under §1377(a)(2) of the Internal Revenue Code, to allocate income upon the termination of a shareholder's stock interest in the Corporation as if the taxable year had consisted of two taxable years, rather than on a pro rata basis; and

12.7.d Consent to the election under §1368(e)(3) of the Internal Revenue Code, to treat all distributions during the Corporation's taxable year as being out of the Corporation's accumulated earnings and profits to the extent thereof, rather than from the accumulated adjustments account.

Each shareholder hereby irrevocably appoints each executive officer of the Corporation (President, Vice-President, Secretary, and Treasurer) as his attorney-in-fact to enter into the above agreements and consents on behalf of the shareholder, if the requisite vote is obtained. This power is coupled with an interest, shall constitute an irrevocable proxy to vote stock, shall not expire on the death or incapacity of the appointing shareholder, and may not be revoked while these by-laws are in effect.

12.8 **Estate Plans of Shareholders.** Each shareholder agrees to disclose his or her current estate planning documentation (and any revisions thereto), on a completely confidential basis, to the Corporation's legal counsel so that an inadvertent termination of the Corporation's Subchapter "S" status will not occur.

Furthermore, in order to prevent a revocation of the Corporation's Subchapter "S" election by a personal representative owning a majority of the Corporation's stock, each shareholder shall prepare and execute a will or a codicil to his or her existing will, which shall contain the following provision:

If at the time of my death, I own a majority interest in stock of any corporation which has in force a valid election under Subchapter "S" of the Internal Revenue Code, it is my desire that such Subchapter "S" election continue after my death. Therefore, unless otherwise permitted by the by-laws or Shareholder's Agreements in these corporations, I direct that my personal representative not file a consent to revocation of such election and that he or she take such other steps as may be required by the Internal Revenue Code to continue the Subchapter "S" election.

So long as the Corporation's election under Subchapter "S" continues in effect, all succeeding wills executed by each shareholder shall contain the above provision.

12.9 **Escrow of Stock.** Each certificate of stock owned by a shareholder shall be deposited with the Corporation's attorney who shall act as an Escrow Agent, to be held in escrow in order to carry out the terms of these by-laws. All parties shall sign such written escrow instructions as are agreed on between Escrow Agent and the Corporation which are consistent with the terms of these by-laws. Such escrow instructions shall include a provision that no certificate shall be released from the escrow for transfer unless such transfer is made in accordance with the terms of these by-laws. Such escrow instructions shall also include provisions to the effect that the Escrow Agent shall not have the powers of a trustee and that there is no intent to create a trust relationship. If there is a conflict between the terms of these by-laws and the escrow instructions, the terms of these by-laws shall prevail.

12.10 **Revocation of Subchapter "S" Election.** Notwithstanding anything contained in these by-laws to the contrary, the parties agree that the Corporation's Subchapter "S" election may be revoked upon the affirmative vote of not less than fifty percent (50%) of the voting shares of the Corporation's stock. If the requisite vote is obtained, each shareholder agrees to execute the necessary forms to implement the revocation.

Each shareholder hereby irrevocably appoints each executive officer of the Corporation (President, Vice-President, Secretary, and Treasurer) as his attorney-in-fact to enter into the above agreements and consents on behalf of the shareholder, if the requisite vote is obtained. This power is coupled with an interest, shall constitute an irrevocable proxy to vote stock, shall not expire on the death or incapacity of the appointing shareholder, and may not be revoked while these by-laws are in effect.

12.11 **Distributions to Shareholders for Payment of Taxes.** The Corporation agrees to distribute cash to each shareholder, within forty-five (45) days after the end of the Corporation's tax year, equal to no less than fifty percent (50%) of the net distributive share of income, credits, deductions, etc., that have passed through to the shareholder under Internal Revenue Code §1366, as is shown on such shareholder's Schedule K-1 of the Corporation's Informational Tax Return, Form 1120-S.

CERTIFICATION

We, the undersigned, the duly elected and acting Directors of Mountain View Professional Plaza, Inc., do hereby certify that the within and foregoing bylaws were adopted as the bylaws of that corporation on _____ and that the same do now constitute the bylaws of that corporation.

IN WITNESS WHEREOF, we have hereunto subscribed our names and affixed the seal of the corporation this date: .



Robert Boyce, Director



Jack Rasmussen, Director

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