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GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
SP EVERGREEN LLC  
2430 MEADOWS DR  
PARK CITY UTAH 84060  
By: SAM  
RECORDER, DEPUTY - WI 14 P.

**RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:**

13  
SP Evergreen LLC  
2430 Meadows Dr  
Park City UT 84060

Space Above For Recorder's Use Only

**SHARED DRIVEWAY EASEMENT AGREEMENT**

This SHARED DRIVEWAY EASEMENT AGREEMENT ("Easement Agreement") is entered into this 12<sup>th</sup> day of ~~April~~<sup>September</sup>, 2007 ("Effective Date"), by and between SP Evergreen, LLC, a Utah limited liability company ("SP Evergreen") and FJI Corporation, a Utah corporation ("FJI") (collectively, the "Parties" and individually, a "Party").

**WITNESSETH:**

- A. SP Evergreen is the owner of the parcel labeled Parcel 2 on the survey attached hereto as Exhibit A (the "Survey") and more particularly described on Schedule I attached hereto ("Parcel 2"); and
- B. FJI is the owner of the parcel labeled Parcel 1 on the Survey and more particularly described on Schedule II attached hereto ("Parcel 1"); and
- C. SP Evergreen and FJI desire to share the driveway located on Parcel 1 and Parcel 2 that is shown as the "Driveway" on Exhibit B attached hereto and more particularly described on Schedule III attached hereto ("Driveway") in accordance with and pursuant to the terms of this Easement Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**AGREEMENT**

**1. Ingress and Egress Cross Easement and Parking.**

A. SP Evergreen, as owner of Parcel 2 hereby grants to FJI, as owner of Parcel 1, its contractors, employees, agents, licensees, customers and invitees ("Permittees"), for the benefit of Parcel 1, a nonexclusive easement for ingress

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and egress by vehicular and pedestrian traffic upon, over and across that portion of the Driveway that is located on Parcel 2.

B. FJI, as owner of Parcel 1 hereby grants to SP Evergreen, as owner of Parcel 2, and its Permittees for the benefit of Parcel 2, a nonexclusive easement for ingress and egress by vehicular and pedestrian traffic upon, over and across that portion of the Driveway that is located on Parcel 1.

C. Either Party may allow the customers of their respective tenants to park in the striped spaces (if any) in the Driveway on a first come, first serve basis.

2. **Maintenance.** SP Evergreen shall maintain the Driveway in good clean condition and repair, including, without limitation, maintaining, repairing, repainting and resurfacing all paved surfaces when necessary. SP Evergreen shall also keep the Driveway free of snow and ice. Notwithstanding the foregoing, FJI shall have the right to remove snow, ice, rubbish or obstructions from the Driveway at any time. No obstructions shall be erected or permitted upon the Driveway which will in any way interfere with any rights granted by this Agreement.

3. **Cost to Maintain.** SP Evergreen and FJI shall each contribute fifty percent (50%) of the cost to maintain the Driveway. SP Evergreen shall deliver to FJI copies of invoices for FJI's share of such costs and FJI shall pay such amount within thirty (30) days after receipt of such invoice.

4. **Failure to Maintain.**

A. **Routine Maintenance.** In the event SP Evergreen fails to maintain the Driveway in accordance with the provisions of Section 2 above, FJI may give SP Evergreen written notice of its failure to so perform detailing the particular maintenance issue. If SP Evergreen does not correct the failure set forth in such maintenance notice within five (5) business days or, if such failure is not susceptible of correction within five (5) days and SP Evergreen does not commence such correction within five (5) days and diligently pursue such correction to completion, then FJI may arrange for or perform such work as it necessary to resolve the issue to its reasonable satisfaction. FJI may submit written invoices in connection with its work on the Driveway to SP Evergreen, and SP Evergreen shall reimburse FJI in an amount equal to fifty percent (50%) of the cost of the work specified therein within thirty (30) days of receipt of such invoices.

B. **Emergency Maintenance.** If SP Evergreen fails to maintain the Driveway and such failure creates a dangerous, hazardous or otherwise threatening condition, FJI shall promptly notify SP Evergreen. Dangerous, hazardous or

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otherwise threatening conditions shall include without limitation snow, ice or hazardous debris located within or blocking all or portions of the Driveway. If SP Evergreen does not correct or commence work to correct such condition within one (1) hour of receipt of notice thereof and diligently pursue such resolution to completion, FJI may arrange for or perform such work as is necessary to resolve such condition to its reasonable satisfaction. FJI may submit to SP Evergreen written invoices in connection with its emergency work on the Driveway accompanied by reasonable documentation thereof, and SP Evergreen shall reimburse FJI in an amount equal to fifty percent (50%) of the cost of the work specified therein within thirty (30) days of receipt of such invoices.

**5. Changes to the Easement Area.** Neither SP Evergreen, nor FJI shall take any action which would prohibit restrain, frustrate, or otherwise deter the other party and its Permittees from passing freely into, out of, on and over the Driveway. SP Evergreen, however, may close off the Driveway for such reasonable period or periods of time as may be required for maintenance and repair and as may be legally necessary to prevent the acquisition of prescriptive rights by anyone, provided, however, prior to closing off any portion of the Driveway, as herein provided, SP Evergreen shall give written notice to FJI of its intention to do so, and shall coordinate such closing with FJI so that no unreasonable interference with FJI's operations shall occur.

**6. Modification and Termination.** This Easement Agreement may not be modified in any respect whatsoever or terminated, in whole or in part, except with the consent of SP Evergreen and FJI, and then only by written instrument duly executed and acknowledged by SP Evergreen and FJI and recorded in the office of the Salt Lake County recorder.

**7. Not a Public Dedication.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Parcels or the Driveway to the general public or for the general public or for any public purpose whatsoever, it being the intention of the Parties that this Easement Agreement shall be strictly limited to and for the purposes herein expressed, and, upon mutually agreed date and duration each year, the Parties may together cordon off the Driveway to restrict public access.

**8. Breach Shall Not Permit Termination.** It is expressly agreed that no breach of this Easement Agreement shall entitle SP Evergreen or FJI to terminate this Easement Agreement, but such limitation shall not affect in any manner any other rights or remedies which SP Evergreen or FJI may have hereunder by reason of any breach of this Easement Agreement. Any breach of this Easement Agreement shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value.

9. **Default.** A person shall be deemed to be in default of this Easement Agreement only upon the expiration of thirty (30) days from receipt of written notice from the other party specifying the particulars in which such person has failed to perform the obligations of this Easement Agreement unless such person, prior to the expiration of said thirty (30) days has rectified the particulars specified in said notice of default. However, such person shall not be deemed to be in default if such failure cannot be rectified within said thirty (30) day period and such person is using good faith and commercially reasonable efforts to rectify the particulars specified in the notice of default.

10. **Notices.**

a. **Delivery.** Any notice required or permitted to be delivered under this Agreement shall be in writing and shall be deemed given (i) on the date of receipt, in the case of delivery by courier service or personal delivery, (ii) three (3) business days after being sent by the United States Postal Service, postage prepaid, certified or registered mail, return receipt requested, (iii) the next business day if sent by a reputable national overnight express mail service or (iv) when sent if sent by facsimile during business hours, provided that a written confirmation or transmittal report indicating that such facsimile was successfully sent has been received by the sender. Notices must be sent the parties as set forth below:

SP Evergreen:: SP Evergreen, LLC  
2430 Meadows Drive  
Park City, UT 84060  
Attn: Alexander Lofft  
Fax: 435-608-6314

FJI: FJI Corporation  
815 East 400 South  
Salt Lake City, UT 84102  
Attn: Falecia Hertzog  
Fax: 801-\_\_\_\_\_

The person and address to which notices are to be given may be changed at any time by any Party upon written notice to the other Party. All notices given pursuant to this Easement Agreement shall be deemed given upon receipt.

b. **Receipt.** For the purpose of this Easement Agreement, the term "receipt" shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document to the address specified pursuant to subparagraph (a) above as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified pursuant to subparagraph (a) above, or (iii) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of: (A) the date of the attempted

delivery or refusal to accept delivery; (B) the date of the postmark on the return receipt; or (C) the date of receipt of notice of refusal or notice of non-delivery by the sending Party or in the case of a telefacsimile, the date and time of receipt as shown on the confirmation of the telefacsimile transmission.

**11. Severability.** If any term or provision of this Easement Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Easement Agreement or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Easement Agreement shall be valid and shall be enforced to the extent permitted by law.

**12. Not a Partnership.** The provisions of this Easement Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the Parties.

**13. No Third Party Beneficiary Rights.** This Easement Agreement is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not a Party hereto.

**14. Captions and Headings.** The captions and headings in this Easement Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein.

**15. Entire Agreement.** This Easement Agreement contains the entire agreement between the Parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Easement Agreement shall be construed as a whole and not strictly for or against either Party.

**16. Construction.** In construing the provisions of this Easement Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

**17. Recordation.** This Easement Agreement shall be recorded in the office of the Salt Lake County, Utah, recorder.

**18. Governing Law.** This Easement Agreement shall be governed by and constructed and enforced in accordance with the internal laws of the State of Utah.

**19. Counterparts.** This Easement Agreement may be executed in counterparts, each of which shall be an original, but such counterparts together shall constitute one and the same instrument.

**20. Exhibits and Schedules.** All Exhibits and are considered an integral part of this Easement Agreement and are hereby incorporated herein and this Easement Agreement shall not be considered executed and/or complete until and unless they shall be attached hereto.

**21. Successors.** This Easement Agreement shall run with the land and shall bind and inure to the benefit of the Parties hereto and their respective successors and assigns. At such time as a Party or its successor ceases to have an interest in such Party's parcel, such Party or successor shall thereupon be deemed released and discharged from any and all obligations under this Easement Agreement accruing thereafter.

*[SIGNATURES APPEAR ON SEPARATE PAGES  
REMAINDER OF PAGE LEFT BLANK]*

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

SP Evergreen, LLC

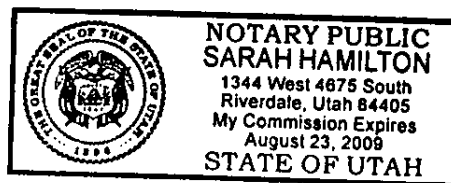
By: *Alexander H. Coffey*  
Print Name: Alexander H. Coffey  
Title: Authorized Representative

STATE OF UTAH  
COUNTY OF SALT LAKE

On this 12<sup>th</sup> day of ~~April~~ September, 2007, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Alexander Coffey, to me personally known to be the person described in and who executed the foregoing instrument, who, being by me first duly sworn, stated that he/she is the Authorized Representative of SP Evergreen, LLC and that he/she executed such instrument on behalf of said corporation by authority of its board of directors, and said person acknowledged to me that he/she executed such instrument as the act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public: *Sarah Hamilton*  
Printed Name: Sarah Hamilton  
My Commission Expires: 8-23-2009



FJI Corporation

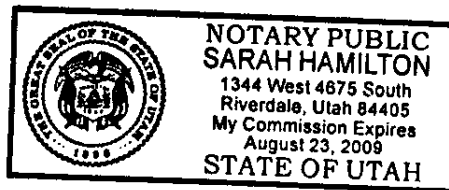
By: [Signature]  
Print Name: Taledia Harting  
Title: Authorized Representative

STATE OF UTAH  
COUNTY OF SALT LAKE

On this 12 day of ~~April~~ <sup>September</sup>, 2007, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Taledia Harting, to me personally known to be the person described in and who executed the foregoing instrument, who, being by me first duly sworn, stated that he/she is the Authorized Representative of FJI Corporation and that he/she executed such instrument on behalf of said corporation by authority of its board of directors, and said person acknowledged to me that he/she executed such instrument as the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public: [Signature]  
Printed Name: Sarah Hamilton  
My Commission Expires: 8-23-2009





Schedule I

Legal Description Parcel 2

PARCEL 2:

821-823 EAST 400 SOUTH.  
SALT LAKE CITY UT 84102

COMMENCING AT THE SOUTHWEST CORNER OF LOT 3, BLOCK 41, PLAT "B", SALT LAKE CITY SURVEY, AND RUNNING THENCE EAST 37.75 FEET; THENCE NORTH 10 RODS; THENCE WEST 49.75 FEET; THENCE SOUTH 10 RODS; THENCE EAST 12 FEET TO THE POINT OF BEGINNING.

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Schedule II

Legal Description Parcel 1

PARCEL 1:

815 EAST 400 SOUTH  
SALT LAKE CITY, UT 84102

COMMENCING 12 FEET WEST FROM THE SOUTHEAST CORNER OF LOT 4, BLOCK 41, PLAT "B", SALT LAKE CITY SURVEY, AND RUNNING THENCE WEST 45.75 FEET; THENCE NORTH 10 RODS; THENCE EAST 45.75 FEET; THENCE SOUTH 10 RODS TO THE POINT OF BEGINNING.

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Schedule III

Legal Description Driveway

Not included (please see  
survey, attached)

Exhibit A

Survey

SEE ATTACHED SURVEY

Exhibit B

Driveway Area

SEE ATTACHED SURVEY

*AT ALL*

