

WHEN RECORDED RETURN TO:

**PRIVATE ROAD EASEMENTS,
CONSTRUCTION AND MAINTENANCE AGREEMENT**

THIS PRIVATE ROAD EASEMENTS, CONSTRUCTION AND MAINTENANCE AGREEMENT (hereinafter "Agreement"), made and entered into this 17 day of October, 1998, by and among Kathleen Shaw Gambles and Erin Shaw Taggart, as Trustees of the Shaw Family Trust established by Trust Agreement dated October 4, 1989 (hereinafter collectively referred to as "Shaw"), Garry S. Walker and Cynthia L. Walker (hereinafter collectively referred to as "Walker"); D. J. INVESTMENT CO., a Utah limited partnership (hereinafter "D.J. Investments"), DENNIS K. HOLMES and BEVERLY C. HOLMES (hereinafter collectively referred to as "Holmes"); SCOTT BAKER (hereinafter "Baker"); and DAVID TANNER (hereinafter "Tanner"); (said Shaw, Walkers, D.J. Investment Co., Holmes and Baker being hereinafter collectively referred to as the "Parties" and individually as a "Party");

RECITALS:

A. WHEREAS, on 16th of October, 1998, the Weber County Commission approved a private road plat (hereinafter "Private Road Plat"), which is filed in the Weber County Recorder's Office as Entry No. 1581803, in Book No. _____, at Page No. _____; and

B. WHEREAS, pursuant to a prior settlement agreement signed between the parties, the grant of several easements are necessary to enable the parties to use the Private Road set forth in the Private Road Plat.

C. WHEREAS, the Private Road Plat sets forth a private road (hereinafter "Private Road") which provides access from a County dedicated highway to the various parcels owned by the Parties; and

D. WHEREAS, upon approving the Private Road Plat, Weber County Commission relieved the Parties of the duty to file a completion or payment bond;

E. WHEREAS, upon approving the recorded plat, Weber County Commission relieved the Parties of the duty to file a formal incorporated homeowner's association agreement; and

E# 1581804 BK 1963 PG 1834
DOUG CROFTS, WEBER COUNTY RECORDER
16-OCT-98 500 PM FEE \$64.00 DEP MB
REC FOR: GARY WILLIAMS

F. WHEREAS, in lieu of a payment bond and formal incorporated homeowner's association agreement, the County requires that the Parties enter into a construction and maintenance agreement setting forth each Party's duty to pay for the construction and maintenance of the Private Road, which agreement is to be recorded and is to run with the land.

NOW, THEREFORE, the Parties intending to be legally bound and in consideration of the respective undertakings made and described herein, do agree as follows:

1. **Recitals.** The above recitals are incorporated and are made a part hereof.

2. **Definitions.**

a. "Walker Property" means the property owned by Garry S. Walker and Cynthia L. Walker, which is identified on the Private Road Plat as ID. No. 22-025-0027, and more particularly described as:

PART OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT WHICH IS NORTH 0D16'15" WEST 195.0 FEET ALONG THE SECTION LINE AND EAST 1320.0 FEET FROM THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER AND RUNNING THENCE EAST 197.92 FEET; THENCE NORTH 11D EAST 536.05 FEET; THENCE WEST 300.20 FEET; THENCE SOUTH 0D16'15" EAST 526.20 FEET TO THE POINT OF BEGINNING.

SUBJECT TO A 2 ROD RIGHT-OF-WAY OVER THE WEST PORTION OF SAID PROPERTY.

b. "D.J. Investment Property" means the property owned by D.J. Investment Company, a Utah limited partnership, which is identified on the Private Road Plat as ID. No. ~~22-025-0009~~, and more particularly described as:

22-025-0009 *(MISSING 1 DIRECTION)
A PART OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT WHICH IS NORTH 0D16'15" WEST 670.00 FEET ALONG THE QUARTER SECTION LINE FROM THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER SECTION, RUNNING THENCE NORTH 0D16'15" WEST 372.00 FEET ALONG THE QUARTER SECTION LINE, THENCE SOUTH 79D24'32" EAST 936.78 FEET, THENCE EAST 200.00 FEET, THENCE NORTH 0D16'15" WEST 260.00 FEET, THENCE*200.00 FEET, THENCE SOUTH 0D16'15" EAST 459.82 FEET, THENCE WEST 1320.00 FEET TO THE POINT OF BEGINNING.

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c. "Holmes Property" means the property owned by Dennis K. Holmes and Beverly C. Holmes, which is identified on the Private Road Plat as ID. No. 22-025-0033 and is more particularly described as:

COMMENCING AT A POINT 195 FEET NORTH AND 1320 FEET EAST OF THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; RUNNING THENCE NORTH 475 FEET; THENCE WEST 550 FEET; THENCE SOUTH 475 FEET; THENCE EAST 550 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH A RIGHT-OF-WAY FOR INGRESS AND EGRESS TO SAID PROPERTY: COMMENCING AT THE ABOVE BEGINNING POINT; RUNNING NORTH 1325 FEET, MORE OR LESS, TO THE ROAD; THENCE NORTHEAST ALONG SAID ROAD 2.5 RODS; THENCE SOUTH TO A POINT 2 RODS EAST OF THE POINT OF BEGINNING; THENCE WEST 2 RODS TO THE POINT OF BEGINNING.

d. "Baker Property" means the property owned by Scott Baker, which is identified on the Private Road Plat as ID. No. 22-025-0011, and is more particularly described as:

COMMENCING 721.20 FEET NORTH AND 1320 FEET EAST OF THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, RUNNING THENCE EAST 300.20 FEET TO THE WEST LINE OF WALTER A. CLARK PROPERTY; RUNNING THENCE NORTH 11D EAST 627.95 FEET, MORE OR LESS, TO THE SOUTH LINE OF SPRING MOUNTAIN RANCH PROPERTY; RUNNING THENCE SOUTH 65D10' WEST 465 FEET; THENCE SOUTH TO THE POINT OF BEGINNING. SUBJECT TO A 2 ROD RIGHT-OF-WAY OVER THE WEST PORTION OF SAID PROPERTY (1128-409).

e. "Shaw Property" means the property owned by the Shaw Family Trust, which is identified on the Private Road Plat as ID. No. 22-025-0038, and more particularly described as:

PART OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT 1194 FEET SOUTH 330 FEET NORTH 83D13' WEST AND 314.3 FEET SOUTH 86D10' WEST FROM THE NORTHEAST CORNER OF SAID QUARTER SECTION, RUNNING THENCE SOUTH 62D10' WEST 400.00 FEET; THENCE 65D10' WEST 220.00 FEET TO THE EAST LINE OF SPRING MOUNTAIN

RANCHETTES; THENCE 4 COURSES ALONG SAID EAST LINE AS FOLLOWS: NORTH 18D21'89" WEST 245 FEET, NORTHERLY ALONG THE ARC OF A 245.19 FOOT RADIUS CURVE TO THE LEFT 39.47 FEET (L C BEARS NORTH 22D58'12" WEST 39.43 FEET), EASTERLY ALONG THE ARC OF A 25 FOOT RADIUS CURVE TO THE RIGHT 43.95 FEET (L C BEARS NORTH 22D46'47" EAST 38.50 FEET) AND NORTH 78D08'29" EAST 133.85 FEET TO THE SOUTH LINE OF THE SPRING CREEK ROAD; THENCE EASTERLY 750 FEET, MORE OR LESS, ALONG SAID SOUTH LINE TO A POINT NORTH 86D10' EAST OF THE POINT OF BEGINNING; THENCE SOUTH 86D10' WEST 250 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

f. "Private Road" means the county-approved Private Road set forth in the county-approved Private Road Plat, which runs through the Shaw Property, Baker Property, D.J. Investments Property, Walker Property and Holmes Property, and is more particularly described as: ²²⁻⁰²⁷⁻⁰⁰¹³ 22-025-0009, 0011, 0027, 0033, 0038

PART OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN: BEGINNING AT A POINT SOUTH 0D16'15" EAST (SOUTH 0D13'28" EAST STATE PLANE GRID) 1171.28 FEET, NORTH 87D20'47" WEST 1057.35 FEET AND SOUTH 67D28'51" WEST 50.17 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 30 AND RUNNING THENCE SOUTH 73D08'29" WEST 154.63 FEET; THENCE SOUTH 22D46'47" WEST 6.39 FEET; THENCE SOUTH 22D58'12" EAST 25.69 FEET; THENCE SOUTH 18D21'29" EAST 278.59 FEET; THENCE SOUTH 65D10'00" WEST 150.69 FEET; THENCE SOUTH 00D31'23" WEST 552.22 FEET; THENCE ALONG THE ARC OF A 20.00 FOOT RADIUS CURVE TO THE LEFT (D=54D13'27", L=18.93 FEET); THENCE ALONG THE ARC OF A 45 FOOT RADIUS CURVE TO THE RIGHT (D=288D26'54", L=226.55 FEET); THENCE ALONG THE ARC OF A 20 FOOT RADIUS CURVE TO THE LEFT (D=54D13'27", L=18.93 FEET); THENCE NORTH 0D31'23" EAST 575.00 FEET; THENCE NORTH 65D10'00" EAST 141.32 FEET; THENCE THE FOLLOWING FOUR (4) COURSES ALONG THE EASTERLY LINE OF SPRING MOUNTAIN RANCHETTES: (1) NORTH 18D21'29" WEST 245.00 FEET; (2) ALONG THE ARC OF A 245.19 FOOT RADIUS CURVE TO THE LEFT (D=9D13'25" L=39.43 FEET LC=N22D58'12"W 39.43'); (3) ALONG THE ARC OF A 25 FOOT RADIUS CURVE TO THE LEFT (D=100D43'23" L=38.50' LC=N22D46'47"E 38.50') (4) NORTH 73D08'29" EAST 144.96' MORE OR LESS TO THE SOUTH LINE OF COUNTY ROAD: THENCE ALONG THE ARC OF A 262.00 FOOT RADIUS CURVE TO THE LEFT (D=5D33'56", L=25.35' LC=S66D36'22"E 25.44'), THENCE SOUTH 87D23'33" EAST 11.06

FEET, THENCE ALONG THE ARC OF A 36 FOOT RADIUS CURVE TO THE RIGHT (D=56D00'35", L=35.19', LC=S45D08'11"W 33.81') TO THE POINT OF BEGINNING.

g. "Private Road User(s)" collectively refers to Baker, D.J. Investments, Walker, and Holmes, or the heirs and assigns of the Baker Property, the D.J. Investments Property, the Walker Property, and/or the Holmes Property.

h. "Tanner Property" means the property owned by David Tanner ("Tanner") adjoining the D.J. Investments Property, and more particularly described as:

22-025-0045

PART OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY; BEGINNING AT A POINT WHICH IS NORTH 0D16'15" WEST 1042.00 FEET ALONG THE QUARTER SECTION LINE FROM THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER SECTION, RUNNING THENCE NORTH 0D16'15" WEST 279.26 FEET, THENCE EAST 1001.30 FEET, THENCE SOUTH 25D30' WEST 212.10 FEET, THENCE EAST 210.92 FEET, THENCE SOUTH 0D16'15" EAST 260.00 FEET, THENCE WEST 200.00 FEET, THENCE NORTH 79D24'32" WEST 986.78 FEET TO THE POINT OF BEGINNING. CONTAINS 9.064 ACRES.

3. Granting of Easement on Shaw Property.

a. Shaw Easement Grant. For good and valuable consideration, receipt of which is hereby acknowledged, Shaw does hereby convey, grant and transfer to the Private Road Users, and each of them, and to Tanner, an easement and right of way (hereinafter "Shaw Easement") of ingress and egress and underground utilities across that portion of the Private Road which lies within the Shaw Property.

b. Use and Scope. The following terms and conditions shall apply to the Shaw Easement:

(i) The Shaw Easement shall become effective upon execution of this Agreement and shall continue in perpetuity;

(ii) The rights created in this Shaw Easement shall be for the non-exclusive, perpetual right of way for the ingress and egress of pedestrian and vehicular traffic over and across the Shaw Easement for the benefit of each Private Road User and Tanner, as used by the guests and invitees of the Private Road Users and Tanner, and for construction of a paved road thereon, and to lay, maintain, repair, inspect, protect, remove, and replace utility lines

through, across and under the Private Road, subject to the covenants and restrictions imposed by the Parties as authorized by this Agreement;

(iii) The Private Road Users or Tanner shall not use, or grant permission to any person to use, or allow any guest or invitee to use any portion of the Private Road in any manner (including snow removal) which might damage any trees or other foliage which now or hereafter adjoins the Private Road or which creates a nuisance which unreasonably hinders Shaw's use and enjoyment of its property.

(iv) All utilities crossing that portion of the Private Road which lies within the Shaw Property must be underground and as reasonably close to the physical, driveable surface of the Private Road as is legally permissible.

(v) The Private Road Users or Tanner shall not use, or grant permission to any person, guest or invitee to use, any portion of the Private Road in any manner except the physical, driveable surface thereof (i.e., the temporary gravel road described in paragraph 6 and, upon completion, the paved road described in paragraph 7), except as reasonably required to access, construct, maintain or repair said temporary gravel road and paved road, any drainage system, or any utility easement within the Private Road.

c. Obstructions. Shaw, the Private Road Users and Tanner hereby agree not to obstruct, impede, or interfere with, one with the other, the reasonable use of the Shaw Easement for the purposes set forth above. However, the Private Road User's shall periodically block the Private Road at the point that it intersects the county road (3350 North) so as to prevent the public from acquiring any rights by use or otherwise to the Private Road or any portion thereof. Shaw shall have the right, but not the obligation, to likewise periodically block the Private Road for the same purpose, upon notice to the Private Road Users.

d. Appurtenant. The covenants, rights, benefits and burdens created by the Shaw Easement are appurtenant to, and shall run with, the land.

e. Other Easements. Any and all future easements and rights of way granted by Shaw within the boundaries of the Shaw Easement shall be appurtenant, rather than in gross, and shall be limited by and subject to the terms of this Agreement. Shaw shall not convey or grant any portion of the Shaw Easement for use by the general public.

4. Access Easement to David Tanner.

a. Tanner Easement Grant. For good and valuable consideration, receipt of which is hereby acknowledged, Baker and D.J. Investments, and each of them,

hereby convey, grant and transfer to David Tanner ("Tanner"), a non-exclusive easement and right of way (referred to as "Tanner Easement") for ingress and egress, and for utilities, over:

(i) that portion of the Private Road which lies within the Baker Property and the D.J. Investments Property; and

(ii) an access, 12 feet in width, across the northern property line of the D.J. Investments Property.

b. Use and Scope. The following terms and conditions shall apply to the Tanner Easement:

(i) The Tanner Easement shall become effective upon execution of this Agreement and shall continue in perpetuity;

(ii) The rights created in this Tanner Easement shall be for the non-exclusive, perpetual right of way for the ingress and egress of pedestrian and vehicular traffic and for utilities over and across the Tanner Easement for the benefit of the Tanner Property, as used by the guests and invitees of Tanner and for construction of a paved road thereon, and to lay, maintain, repair, inspect, protect, remove, and replace utility lines through, across, and under the Tanner Easement, subject to the covenants and restrictions imposed by the Parties as authorized by this Agreement;

c. Obstructions. Tanner and the Private Road Users hereby agree not to obstruct, impede, or interfere with, one with the other, the reasonable use of the Tanner Easement for the purposes set forth above.

d. Appurtenant. The covenants, rights, benefits and burdens created by the Tanner Easement are appurtenant to, and shall run with, the land.

5. Granting of Mutual Easement on Remaining Properties.

a. Mutual Easement Grant. For good and valuable consideration, receipt of which is hereby acknowledged, the Private Road Users, and each of them, do hereby convey, grant and transfer a mutual easement and right of way of ingress and egress, and for utilities, to each other (hereinafter "Mutual Easement"), across that portion of the Private Road which lies within the Walker Property, the D.J. Investments Property, the Holmes Property, and the Baker Property.

b. Use and Scope. The following terms and conditions shall apply to the Mutual Easement:

(i) The Mutual Easement shall become effective upon execution of this Agreement and shall continue in perpetuity;

(ii) The rights created by this Mutual Easement shall be for the non-exclusive, perpetual right of way for the ingress and egress of pedestrian and vehicular traffic over and across the Private Road for the benefit of each party, as used by the guests, invitees, and licensees of the Private Road Users and for construction of a paved road thereon, and to lay, maintain, repair, inspect, protect, remove, and replace utility lines through, across and under the Private Road, subject to the covenants and restrictions imposed by the Parties as authorized by this Agreement;

c. Obstructions. The Private Road Users hereby agree not to obstruct, impede, or interfere with, one with the other, the reasonable use of the Mutual Easement for the purposes set forth above.

d. Appurtenant. The covenants, rights, benefits and burdens created by the Mutual Easement are appurtenant to, and shall run with, the land.

6. **Temporary Road.** Upon recording of this Agreement, the Private Road Users agree to construct a temporary gravel road within the Private Road, 12 feet in width, which shall give the Private Road Users access to their properties until the paved road described in the Private Road Plat is constructed.

a. New Development. It is understood that this temporary road is insufficient to provide the frontage and legal access required for new development under current development ordinances.

b. Exception. Pursuant to a 1970s variance, Weber County has approved the development of a single family residence on the Walker Property and on the Holmes Property, provided Walker and Holmes have a gravel road access of at least 12 feet in width. Therefore, Walker and Holmes, only, may begin building upon construction of the temporary road.

c. Cost. The Private Road Users shall share equally in the cost of constructing the temporary road.

7. **Construction of Paved Road.**

a. Paved Road. As soon as any Private Road User desires to develop their property described herein, the county-approved paved road set forth in the Private Road Plat shall be constructed.

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b. Cost. Private Road Users shall share equally in the costs of construction of the paved road.

c. Notice and Bid. Any Private Road User who desires to develop his property and thereby trigger the required construction of the paved road shall give 30 days written notice to each Private Road User of the intent to develop and the requirement to construct the road. Thereafter, the Private Road User desiring to develop shall obtain and submit three contractor bids for road construction to the other Private Road Users. Any Private Road User may submit alternative contractor bids, and give notice thereof to the other Private Road Users. Within 20 days of notice of the three original bids, each Private Road User shall vote for the bid of their choice. The Private Road Users shall accept a contractor bid by majority vote, with any tie being broken by the Private Road User who obtained and submitted the original bids.

d. Construction Agreement. Upon choosing a bid contractor, each of the Private Road Users shall enter into a construction agreement with the bid contractor, which contract shall require each Private Road User to pay an equal share of the construction costs.

e. Breach. Should any Private Road User fail or refuse to enter into the construction agreement, and thereby breach this Agreement, the remaining Private Road Users may seek injunctive relief requiring such Private Road User to enter the contract, or may proceed with the construction agreement without such Private Road User, and thereafter seek damages, costs, and attorney's fees from the breaching Private Road User. Furthermore, any failure to pay or material breach of the construction agreement by one or more Private Road Users which adversely effects the interests of another Private Road User, shall constitute a material breach of this Agreement.

8. **Maintenance, Repair and Snow Removal.**

a. Cost. Costs of maintenance, repair and snow removal (hereinafter "Maintenance Costs") of the Private Road shall be shared equally by each Private Road User.

b. Supervision. From time to time, the Private Road Users, or their successors in interest, shall elect one of the Private Road Users by majority vote, to coordinate maintenance, repair and snow removal work, or may divide such responsibilities amongst two or more such Private Road Users (hereinafter referred to as "Supervising Private Road User(s)"). Supervising Private Road User(s) shall act as an agent of the other Private Road Users in contracting for the maintenance, repair and snow removal of the Private Road.

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c. Monthly Payment. The Supervising Private Road User(s) shall, from time to time fix a monthly payment amount to be apportioned to each Private Road User for Maintenance Costs and shall fix the day of the month on which such amounts shall be due. Failure of any Private Road User to make such payments within 15 days of written notice of a payment default, shall constitute a material breach of this Agreement.

d. Funds in Trust. The Supervising Private Road User shall hold all maintenance funds in trust, and shall apportion any excess amounts to future Maintenance Costs. The Supervising Private Road User shall keep a record of all invoices and payments, and shall make an accounting to any Private Road User, upon request.

e. Emergency Repair. In an emergency, any Private Road User may authorize reasonable maintenance and repair work. Each Private Road User shall share equally in the cost of such emergency maintenance and repair work.

9. Subdivision of Properties and Costs Split Among Private Road Users. For purposes of sharing any costs among Private Road Users as set forth in this Agreement, any subdivision of the Baker Property, the D.J. Investments Property, the Walker Property, or the Holmes Property, shall create a duty to pay an additional equal share of future costs, for each additional lot created by any such subdivision. Each owner of any additional subdivided lots shall be considered a separate Private Road User. This paragraph shall likewise apply to any other property owner who becomes obligated to share costs pursuant this agreement.

10. Duties of Future Shaw Easement Grantees. If Shaw, or its heirs and assigns, conveys an easement or right of way to any other person ("grantee") over or through the portion of the Private Road which lies within the Shaw Property (the Shaw Easement), the grantee of any such future easement or right of way shall be liable to the Private Road Users for road construction costs incurred previous to the easement grant, in an amount equal to what the grantee's equal share would have been if the grantee had been a Private Road User as defined in this Agreement, at the time of construction. A grantee shall share equally in future road construction costs and Maintenance Costs, and be subject to all other terms of this Agreement, as if grantee were a Private Road User. However, such grantee does not by this Agreement take an interest in the Mutual Easement through the Private Road User's properties, rather, any interest therein must be separately negotiated and granted by the individual property owners. Notwithstanding the foregoing, however:

a. Tanner Property. The duty of Tanner or that of his heirs and assigns, to pay past construction costs, future construction costs and future Maintenance costs as set forth in Paragraph 10, shall not arise until the first occurrence of one of the following events: a) a building permit is issued for the construction of any building/structure on the Tanner Property; b) a permit is issued by the Health Department for any water system structure on the Tanner Property, other than a

single family use well permit, c) actual construction of any structure on the Tanner Property is commenced, except the construction of a small livestock shelter designed for four (4) animals or less;

b. **Shaw Property.** Shaw, or its heirs or assigns, shall not be liable for any costs described in Paragraph 10, nor be subject to the construction and maintenance provisions of this Agreement, unless any portion of the Private Road is used as a significant access to a development on the Shaw Property, at which time Shaw, or its heirs and assigns, shall be required to pay only an equal share of future Maintenance Costs, and no construction costs.

11. **No Representation by Shaw:** The Shaws make no representations as to the factual accuracy of, and have no obligation or responsibility with respect to, nor any duty to enforce, the provisions of paragraphs 4 through 9, inclusive, of this Agreement.

12. **Runs With the Land.** The covenants, duties, rights, benefits and burdens created by the Agreement shall run with the land.

13. **Amendment.** Any amendment, modification, termination, or rescission affecting this Agreement shall be made in writing, signed by the parties, and attached hereto.

14. **Effective Date.** The Agreement shall become effective upon execution by all parties.

15. **Successors.** This Agreement shall be binding upon, and inure to the benefit of, the legal representatives, successors and assigns of the parties hereto.

16. **Severability.** Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

17. **Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.

18. **Counterparts.** The fact that the parties hereto execute multiple but identical counterparts of this Agreement shall not affect the validity or efficacy of their execution, and such counterparts, taken together, shall constitute one and the same instrument, and each such counterpart shall be deemed an original.

19. **Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision, regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving party.

20. **Captions.** The Captions preceding the paragraphs of this Agreement are for convenience only and shall not affect the interpretation of any provision herein.

21. **Integration.** This Agreement contains the entire and integrated Agreement of the parties as of its date, and no prior or contemporaneous promises, representations, warranties, inducement, or understandings between the parties and not contained herein shall be of any force or effect.

22. **Attorney's Fees.** In the event either party hereto defaults in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including a reasonable attorney's fee, incurred by the other party.

DATED this 29 day of September, 1998.

SHAW FAMILY TRUST

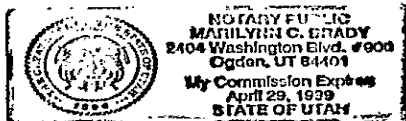
Kathleen Shaw Gambles
Kathleen Shaw Gambles, as Trustee of the
Shaw Family Trust

Erin Shaw Taggart
Erin Shaw Taggart, as Trustee of
the Shaw Family Trust

STATE OF UTAH)
) ss.
COUNTY OF WEBER)

On this 29 day of September, 1998, Kathleen Shaw Gambles and Erin Shaw Taggart as Trustees of the Shaw Family Trust, appeared before me, and, being personally known to me or proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument, they acknowledged that they executed the same on behalf of the Shaw Family Trust.

Marilyn C. Grady
NOTARY PUBLIC



E: 1581804 BK1963 PG1845

DATED this 6 day of Oct, 1998.

BAKER:

[Signature]
Scott Baker

STATE OF UTAH)
) ss.
COUNTY OF WEBER)

On this 6 day of October, 1998, Scott Baker appeared before me, and, being personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, he acknowledged to me that he executed the same.

Karol J. Phipps
NOTARY PUBLIC

DATED this 13th day of October, 1998.



HOLMES:

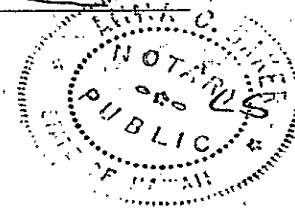
[Signature]
Dennis K. Holmes

[Signature]
Beverly C. Holmes

State of Hawaii)
) ss.
County of Mau)

On this 13th day of October, 1998, Dennis K. Holmes and Beverly C. Holmes, being personally known to me or proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

[Signature]
NOTARY PUBLIC



ANNA C. BAKER
NOTARY PUBLIC
STATE OF HAWAII
My Commission Exp. Nov. 20, 2001

DATED this 29 day of September, 1998.

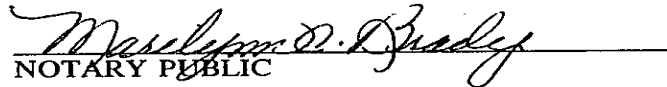
TANNER:




David Tanner

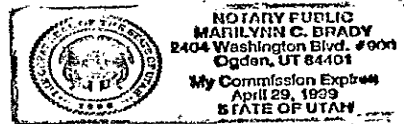
State of Utah)
County of Weber) ss.

On this 29 day of September, 1998, David Tanner, being personally known to me or proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.


NOTARY PUBLIC

APPROVED AS TO FORM
WEBER COUNTY ATTORNEY:

By: 



96-018676983(4) 7/8/98

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