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NANCY WORKMAN
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Michael W. Spence, Esq.
SCALLEY & READING, P.C.
261 East 300 South, Suite 200
Salt Lake City, Utah 84111

6819547

EASEMENT AND MAINTENANCE AGREEMENT

THIS AGREEMENT (the "Agreement"), dated as of the 18th day of December, 1997, is entered into by and among the HEBER S. JACOBSEN, an individual ("Jacobsen"), and WILLOW CREEK SYSTEMS, INC., a Utah corporation ("Willow Creek"). Jacobsen and Willow Creek are sometimes hereinafter referred to collectively as the "Parties" and individually as a "Party."

RECITALS

A. WHEREAS, Willow Creek is the fee simple owner of certain real property located at 1969 West North Temple, Salt Lake City, Utah (the "Willow Creek Property"), and more particularly described in Exhibit "A," which Exhibit "A" is attached hereto and incorporated herein by this reference; and

B. WHEREAS, Jacobsen and Willow Creek are the sole fee simple owners of the following two parcels of real property which shall become certain easements or rights-of-way: (1) real property serving as a roadway on the west side of the Willow Creek Property (the "Roadway Easement"), and which is more particularly described in Exhibit "B," which Exhibit "B" is attached hereto and incorporated herein by this reference, and (2) real property serving as an access on the south side of the Willow Creek Property (the "Access Easement"), and which is more particularly described in Exhibit "C," which Exhibit "C" is attached hereto and incorporated herein by this reference; and

C. WHEREAS, Jacobsen and Willow Creek desire to grant to each other a certain non-exclusive reciprocal easement for ingress and egress to, from, upon, over, and across the "Roadway Easement," and a certain non-exclusive reciprocal easement for ingress and egress to, from, upon, over, and across the "Access Easement," each for the benefit of the real property described herein and each subject to the terms, covenants and conditions of this Agreement; and

D. WHEREAS, Jacobsen and Willow Creek also desire to establish certain agreements regarding the maintenance of the Roadway Easement and the Access Easement.

BK 7835 PG 2526

LTC/19028

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and conditions contained herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree, or, as appropriate, consent, as follows:

1. Roadway Easement. Jacobsen and Willow Creek hereby grant and convey to each other, for use by them and by each of their successors and assigns, and by each of their tenants, subtenants, invitees, licensees, customers, concessionaires, agents, employees and contractors to whom the grantee in question (or its successors or assigns) may choose to extend or delegate such use rights (hereinafter collectively referred to as "Permittees"), a reciprocal, non-exclusive easement to, from, upon, over, and across the Roadway Easement, which is described on the attached Exhibit "B," for the purposes of both vehicular and pedestrian access, ingress, and egress.

This Roadway Easement shall not prohibit the right of Jacobsen and Willow Creek to construct and maintain the roadways, passageways, driveways, and driving lanes located within the Roadway Easement, so long as any such action does not unreasonably prevent the passage by vehicles or pedestrians to, from, upon, over, and across the Roadway Easement and to the public roads, as appropriate. Jacobsen and Willow Creek further agree that they will take no action that would materially impede access to, from, upon, over and across this Roadway Easement, except for temporary disruptions for repairs, replacements, casualty and other causes beyond their respective control. Such repairs or replacements shall be done in a manner which attempts to minimize, to the extent reasonably possible, the interference with the use of such Roadway Easement.

2. Maintenance of Roadway Easement. Jacobsen and Willow Creek hereby agree, and Jacobsen hereby covenants, that Jacobsen shall be responsible, at all times, to maintain the Roadway Easement and keep the Roadway Easement in good condition and repair as a roadway and passageway for vehicular and pedestrian traffic including, without limitation, such paving with concrete or asphalt, such marking with painted lines, and such snow removal as are necessary and consistent with the maintenance of a commercial business park.

If Jacobsen shall fail to properly maintain or repair the Roadway Easement as required by this paragraph 2, Willow Creek shall give Jacobsen written notice of the claimed maintenance or repair failure, and Jacobsen shall have fifteen (15) days following the receipt of such written notice to cure such failure. If Jacobsen fails to cure the maintenance or repair failure within the fifteen (15) day period, or if such failure is not curable within the fifteen (15) day period and Jacobsen has failed to begin to cure such failure within the fifteen (15) day period, Willow Creek may, but shall not be required to, cure the maintenance or repair failure, and may deduct any

reasonable costs it incurs in curing such failure from the "Roadway Easement Maintenance Fee," as that term is hereinafter defined, next due and owing. If the reasonable costs incurred by Willow Creek to cure a maintenance or repair failure are in excess of the amount of the next owing Roadway Easement Maintenance Fee; then Willow Creek shall have the right to demand that Jacobsen pay the sum which exceeds the next owing Roadway Easement Maintenance Fee, and Jacobsen shall be obligated to pay such excess amount within fifteen (15) days after written demand for such payment. If Jacobsen fails to pay such excess amount in full within the fifteen (15) day period, the unpaid amount shall bear interest at the rate of fifteen percent (15%) per annum from the date of receipt of the written notice until the date such excess amount is paid in full.

3. Roadway Easement Maintenance Fee. Beginning on April 1, 1998, and continuing on the first day of each quarter (i.e. January 1st, April 1st, July 1st, and October 1st) for every year thereafter, Willow Creek shall pay to Jacobsen a quarterly maintenance fee (the "Roadway Easement Maintenance Fee") for the repair and maintenance of the Roadway Easement. This Roadway Easement Maintenance Fee shall represent a contribution of the owner(s) of the Willow Creek Property towards payment of the entire costs of repairing and maintaining the Roadway Easement from the North Temple boundary on the north side of the Roadway Easement to the north boundary of the so-called "New Life" property on the south end of the Roadway Easement (the "Roadway Easement Maintenance Portion") during the prior quarter. The amount of the Roadway Easement Maintenance Fee shall be an amount equal to the total, reasonable costs incurred by Jacobsen during the prior quarter for the actual repair and maintenance of the Roadway Easement Maintenance Portion multiplied by a fraction, the numerator of which is the total frontage which the Willow Creek Property maintains on the Roadway Easement Maintenance Portion, and the denominator of which is the total frontage of all of the properties with frontage on the Roadway Easement Maintenance Portion (i.e. frontage on both the east and west sides of the Roadway Easement Maintenance Portion), plus an amount equal to five percent (5%) of the sum calculated above. Such five percent (5%) amount shall be paid by Willow Creek as a management fee for Jacobsen's administration of all repairs and maintenance of the Roadway Easement.

Willow Creek shall pay the Roadway Easement Maintenance Fee by no later than the fifteenth day of each applicable quarter (i.e. January 15th, April 15th, July 15th, October 15th); provided, however, that Jacobsen has provided Willow Creek with an itemized bill detailing the Roadway Easement Maintenance Fee by the fifth day of the applicable quarter. If Jacobsen fails to provide such billing by the fifth day of the applicable quarter, Willow Creek shall have ten (10) days after its receipt of the billing to pay the Roadway Easement Maintenance Fee. In the event Willow Creek fails to timely pay the Roadway Easement Maintenance Fee for any applicable quarter, such unpaid amount shall bear interest at the rate of fifteen percent (15%) per annum from the due date until the date such amount is paid in full.

Additionally, in the event that Willow Creek's failure to pay the Roadway Easement Maintenance Fee continues beyond sixty (60) days after it is due, then Jacobsen shall be entitled to record a Notice of Lien against the Willow Creek Property in the amount of the Roadway Easement Maintenance Fee which is then due and owing. Notwithstanding the foregoing, if Willow Creek gives written notice, prior to the expiration of such sixty (60) day period, that it is contesting the amount or payment of the Roadway Easement Maintenance Fee, and provided that Willow Creek also either posts a bond in favor of Jacobsen or pays into escrow the amount being contested pending resolution, then Jacobsen shall not be entitled to record a Notice of Lien against the Willow Creek Property. Willow Creek, and its agent or representatives, shall be permitted, upon forty-eight (48) hours advance written notice to Jacobsen, to review Jacobsen's accounting, books, and supporting documentation for the Roadway Easement Maintenance Fees.

4. Access Easement. Jacobsen and Willow Creek hereby grant and convey to each other, for use by them and by each of their successors and assigns, and by each of their tenants, subtenants, invitees, licensees, customers, concessionaires, agents, employees and contractors to whom the grantee in question (or its successors or assigns) may choose to extend or delegate such use rights (hereinafter collectively referred to as "Permittees"), a reciprocal, non-exclusive easement to, from, upon, over, and across the Access Easement, which is described on the attached Exhibit "C," for the purposes of both vehicular and pedestrian access, ingress, and egress.

This Access Easement shall not prohibit the right of Jacobsen and Willow Creek to construct and maintain the roadways, passageways, driveways, and driving lanes located within the Access Easement, so long as any such action does not unreasonably prevent the passage by vehicles or pedestrians to, from, upon, over, and across the Access Easement and to the Roadway Easement and public roads, as appropriate. Jacobsen and Willow Creek further agree that they will take no action that would materially impede access to, from, upon, over and across this Access Easement, except for temporary disruptions for repairs, replacements, casualty and other causes beyond their respective control. Such repairs or replacements shall be done in a manner which attempts to minimize, to the extent reasonably possible, the interference with the use of such Access Easement.

5. Maintenance of Access Easement. Jacobsen and Willow Creek hereby agree, and Jacobsen hereby covenants, that Jacobsen shall be responsible, at all times, to maintain the Access Easement and keep the Access Easement in good condition and repair as a roadway and passageway for vehicular and pedestrian traffic including, without limitation, such paving with concrete or asphalt, such marking with painted lines, and such snow removal as are necessary and consistent with the maintenance of a commercial business park.

If Jacobsen shall fail to properly maintain or repair the Access Easement as required by this paragraph 5, Willow Creek shall give Jacobsen written notice of the claimed maintenance or repair failure, and Jacobsen shall have fifteen (15) days following the receipt of such written notice to cure such failure. If Jacobsen fails to cure the maintenance or repair failure within the fifteen (15) day period, or if such failure is not curable within the fifteen (15) day period and Jacobsen has failed to begin to cure such failure within the fifteen (15) day period, Willow Creek may, but shall not be required to, cure the maintenance or repair failure, and may deduct any reasonable costs it incurs in curing such failure from the "Access Easement Maintenance Fee," as that term is hereinafter defined, next due and owing. If the reasonable costs incurred by Willow Creek to cure a maintenance or repair failure are in excess of the amount of the next owing Access Easement Maintenance Fee, then Willow Creek shall have the right to demand that Jacobsen pay the sum which exceeds the next owing Access Easement Maintenance Fee, and Jacobsen shall be obligated to pay such excess amount within fifteen (15) days after written demand for such payment. If Jacobsen fails to pay such excess amount in full within the fifteen (15) day period, the unpaid amount shall bear interest at the rate of fifteen percent (15%) per annum from the date of receipt of the written notice until the date such excess amount is paid in full.

6. Access Easement Maintenance Fee. Beginning on April 1, 1998, and continuing on the first day of each quarter (i.e. January 1st, April 1st, July 1st, and October 1st) for every year thereafter, Willow Creek shall pay to Jacobsen a quarterly maintenance fee (the "Access Easement Maintenance Fee") for the repair and maintenance of the Access Easement. This Access Easement Maintenance Fee shall represent a contribution of the owner(s) of the Willow Creek Property towards payment of the entire costs of repairing and maintaining the Access Easement during the prior quarter. The amount of the Access Easement Maintenance Fee shall be an amount equal to the total, reasonable costs incurred by Jacobsen during the prior quarter for the actual repair and maintenance of the Actual Easement multiplied by a fraction, the numerator of which is the total frontage which the Willow Creek Property maintains on the Access Easement, and the denominator of which is the total frontage of all of the properties with frontage on the Access Easement (i.e. frontage on both the north and south sides of the Access Easement), plus an amount equal to five percent (5%) of the sum calculated above. Such five percent (5%) amount shall be paid by Willow Creek as a management fee for Jacobsen's administration of all repairs and maintenance of the Access Easement.

Willow Creek shall pay the Access Easement Maintenance Fee by no later than the fifteenth day of each applicable quarter (i.e. January 15th, April 15th, July 15th, and October 15th); provided, however, that Jacobsen has provided Willow Creek with an itemized bill detailing the Access Easement Maintenance Fee by the fifth day of the applicable quarter. If Jacobsen fails to provide such billing by the

fifth day of the applicable quarter, Willow Creek shall have ten (10) days after its receipt of the billing to pay the Roadway Easement Maintenance Fee . In the event Willow Creek fails to timely pay the Access Easement Maintenance Fee for any applicable quarter, such unpaid amount shall bear interest at the rate of fifteen percent (15%) per annum from the due date until the date such amount is paid in full. Additionally, in the event that Willow Creek's failure to pay the Access Easement Maintenance Fee continues beyond sixty (60) days after it is due, then Jacobsen shall be entitled to record a Notice of Lien against the Willow Creek Property in the amount of the Access Easement Maintenance Fee which is then due and owing. Notwithstanding the foregoing, if Willow Creek gives written notice, prior to the expiration of such sixty (60) day period, that it is contesting the amount or payment of the Access Easement Maintenance Fee, and provided that Willow Creek also either posts a bond in favor of Jacobsen or pays into escrow the amount being contested pending resolution, then Jacobsen shall not be entitled to record a Notice of Lien against the Willow Creek Property. Willow Creek, and its agents or representatives, shall be permitted, upon forty-eight (48) hours advance written notice to Jacobsen, to review Jacobsen's accounting, books, and supporting documentation for Access Easement Maintenance Fee.

The Parties acknowledge and agree that, at some point in the future, certain real property located adjacent to and directly east of the Access Easement (the "East Property"), may be developed by Willow Creek, Jacobsen, or some other person or entity, and that such East Property, when developed, may require use of the Access Easement. The Parties hereby agree that, at such time as an actual plan for development is submitted to Jacobsen and Willow Creek, or their successors, with respect to such East Property, the Parties shall use reasonable, good faith efforts, at that time and subject to the actual development of the East Property, to mutually agree upon a new method or formula for the calculation of the amount of the Access Easement Maintenance Fee in order to reflect such development and expanded use of the Access Easement.

7. Indemnification. Each holder of the benefitted or dominant tenement pertaining to the Roadway Easement and the Access Easement granted herein shall indemnify and hold the owner and lessee, if any, of the burdened or servient tenement harmless from and against all claims, demands, liabilities, losses, costs, damages, penalties and expenses, including, but not limited to, reasonable attorneys' fees and legal costs, arising out of or resulting from the use by such holder of the dominant tenement or its Permittees of such easement.

8. Amendment or Modification. This Agreement may be amended or modified from time to time only by a recorded document executed by all of the owner(s), lessees, and holders of recorded mortgages or deeds of trust which then encumber the fee or lease estate of the real property which is the subject of the easements granted herein. The

consent or approval of no other person shall be required to accomplish any amendment or modification hereto.

9. Covenants Run with the Land. All of the provisions, agreements, rights, powers, covenants, conditions, obligations, and easements contained in this Agreement shall be binding upon and inure to the benefit of the Parties, their respective successors, assigns, heirs, devisees, executors, administrators, subsidiaries, representatives, lessees, sublessees, members and all other persons or entities acquiring either tenement, or any portion thereof or interest therein. All of the provisions, agreements, rights, powers, covenants, conditions, obligations and easements contained in this Agreement shall be covenants running with the land, both for the benefit of each tenement and as a burden upon each, pursuant to the applicable laws of the State of Utah.

10. Use by Holder of Servient Tenement. The Parties agree that nothing set forth herein shall prohibit the holders of the servient tenement under the easements granted herein from utilizing the real property which is the subject of such easements so long as such use does not unreasonably interfere with the use of such easements by the holders of the dominant tenements. The use by the holders of the dominant tenements of the easements granted herein shall be limited to such uses as are described herein, which uses shall be made in such a manner as will least interfere with the use of the servient tenements by the owners and lessees thereof.

11. Attorneys' Fees. If a lawsuit is commenced or any other action taken to enforce or interpret any of the provisions of this Agreement, the prevailing or non-defaulting Party, as applicable, shall have the right to recover its reasonable attorneys' fees and legal costs from the unsuccessful or defaulting Party, as applicable, including all such fees and costs incurred in bankruptcy proceedings and in any appellate process.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Utah. The Courts of Salt Lake County, State of Utah shall have exclusive jurisdiction over any and all disputes arising out of this Agreement.

13. Severability. The invalidity or unenforceability of any provision of this Agreement with respect to a particular Party or set of circumstances shall not in any way affect the validity or enforceability of any other provision hereof, or the same provision when applied to another Party or to a different set of circumstances.

14. Entire Agreement. This Agreement, including the attached exhibits, contain the entire agreement between the Parties with respect to the subject matter of this Agreement, and all prior negotiations and agreements with respect to such subject matter are merged herein.

15. Notices. Notices, demands, and statements required or desired to be given hereunder shall be in writing and shall be by personal delivery thereof or by deposit in the United States mail, certified mail, return receipt requested, postage prepaid, addressed to a good and sufficient address for the intended recipient. The date notice is deemed to have been given shall be the date of actual delivery to the Party concerned.

16. Authority. The undersigned represent and warrant that each of them has been duly authorized by all necessary corporate or company action, as appropriate, to execute this Agreement for and on behalf of the respective Parties. The undersigned further represent and warrant that this Agreement, when fully executed, shall constitute a legal, valid, and binding agreement for each of the respective Parties, enforceable in accordance with its terms.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

Heber S. Jacobsen
HEBER S. JACOBSEN

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)

On this 18th day of December, 1997, personally appeared before me Heber S. Jacobsen, who being by me duly sworn, acknowledged to me that he executed the foregoing document for its stated purpose.

Michelle Magleby
Notary Public



Handwritten initials

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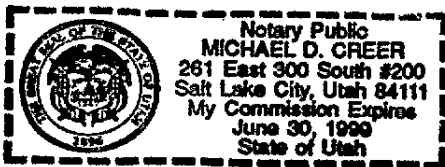
WILLOW CREEK SYSTEMS, INC., a Utah corporation

By: 
George Richards

Its: PRESIDENT/CEO

STATE OF UTAH)
 : SS
COUNTY OF SALT LAKE)

On this 18th day of December, 1997, personally appeared before me George Richards, who being by me duly sworn, did say that he is the President & CEO of Willow Creek Systems, Inc., a Utah corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its by-laws or a resolution of its Board of Directors or other appropriate governing body, and said George Richards acknowledged to me that said corporation executed the same.




Notary Public



BK 7835 PG 2534

EXHIBIT "A"

(Legal Description of the Willow Creek Property)

Situated in Salt Lake County, State of Utah, to-wit:

BEGINNING on the South right-of-way line of North Temple Street at a point North 89°12'01" East 504.03 feet, more or less, and North 700.45 feet, more or less, from the Southwest corner of Section 34, Township 1 North, Range 1 West, Salt Lake Base and Meridian, said Section corner being an unmarked County Survey Monument located at the South right-of-way line of the Salt Lake Garfield and Western Railroad, said beginning point is also South 0°04'57" West 34.69 feet and North 89°12'01" East 504.03 feet, more or less, and North 700.45 feet, more or less, from an unmarked County Survey Monument which is South 89°57'27" West 2639.8 feet from the North Quarter corner of Section 3, Township 1 South, Range 1 West, Salt Lake Base and Meridian as shown on the Area Reference Plat on file in the Salt Lake County Surveyor's Office, and said point of beginning being also North 89°58'38" East 501.33 feet and South 66.60 feet from a Salt Lake City Survey Monument, said Monument being South 89°58'38" West 2577.29 feet from a Salt Lake City Monument at the intersection of North Temple Street and Redwood Road to the North, said point of beginning having also been described as being East 504 feet and North 704 feet, more or less, from the Southwest corner of Section 34, Township 1 North, Range 1 West, Salt Lake Base and Meridian, and running thence South 210.00 feet; thence South 89°58'38" West 0.20 feet to a fence line; thence South 0°14'09" West along said fence line 121.51 feet; thence South 89°58'38" West 161.82 feet; thence North 331.51 feet to the South right-of-way line of said North Temple Street; thence North 89°58'38" East along said South line, 162.52 feet to the point of BEGINNING.

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BK 7835 PG 2535

EXHIBIT "B"
(Legal Description of the Roadway Property)

Situated in Salt Lake County, State of Utah, to-wit:

BEGINNING on the South line of North Temple Street at a point 323.33 feet North $89^{\circ}58'38''$ East and South 66.60 feet from a Salt Lake City Survey Monument, said monument being South $89^{\circ}58'38''$ West 2577.29 feet from a Salt Lake City Monument at the intersection of North Temple Street and Redwood Road to the North, said point of beginning being also East 326 feet and North 704 feet, more or less, from the Southwest corner of Section 34, Township 1 North, Range 1 West, Salt Lake Base and Meridian, and running thence South 360 feet, more or less; thence South $19^{\circ}28'15''$ East 6.06 feet to the Southeast corner of the land conveyed to ROBERT H. BREINHOLT and JANE T. BREINHOLT in that certain Special Warranty Deed recorded April 16, 1993 as Entry No. 5479167 in Book 6640 at Page 2658 of the Official Records of the Salt Lake County Recorder; thence East 28 feet; thence North $19^{\circ}28'15''$ West 6.06 feet; thence North 360 feet, more or less, to the South line of North Temple Street; thence West 28 feet to the point of BEGINNING.

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EXHIBIT "C"
(Legal Description of the Access Easement)

Situated in Salt Lake County, State of Utah, to-wit:

BEGINNING at a point North 89°58'38" East 351.33 feet and South 383.91 feet from a Salt Lake City Survey Monument, said monument being South 89°58'38" West 2577.29 feet from a Salt Lake City Monument at the intersection of North Temple Street and Redwood Road to the North, said point of beginning being also East 354 feet and North 704 feet, more or less, and South 317.51 feet from the Southwest corner of Section 34, Township 1 North, Range 1 West, Salt Lake Base and Meridian, and running thence North 89°58'38" East 149.36 feet to a fence line; thence South 0°14'09" West along said fence line 28.00 feet; thence South 89°58'38" West 149.25 feet; thence North 28.00 feet to the point of BEGINNING.

BSS
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