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EXPRESSWAY BUSINESS PARK Condo's  
PHASES I, II + III

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF  
EXPRESSWAY OWNERS ASSOCIATION

THIS DECLARATION is made this 30<sup>th</sup> day of November, 2006 by Expressway Business Park, LLC. hereinafter referred to as "DECLARANT" and is based upon the following facts:

A. Declarant is the owner of certain property in Spanish Fork, Utah County, State of Utah, known as 1100 East to Highway 51 on Expressway Lane, Spanish Fork, Utah, which is more particularly described on Exhibit "A" attached hereto and by this reference incorporated herein, hereinafter referred to as "Property" as herein defined; and

B. Declarant desires to create, on the Property, a condominiumized business, office, and commercial facility with permanent Common Areas, and Common Areas and Facilities, (as herein defined) and desires to provide for the preservation of the values and amenities in said development and for the maintenance of the Common Areas, and Common Areas and Facilities. To this end, and for the benefit of the Property and the Owners thereof, Declarant desires to subject the Property to the easements, covenants, conditions, restrictions, charges, and liens hereinafter set forth; and

C. Declarant desires to develop the Property as individual units (hereinafter referred to as "Unit or Units"), each of which shall be subject to the provisions of this Declaration; and

D. The owners of the said Units shall constitute an unincorporated association, which shall own the common areas and facilities as soon as common areas and facilities are transferred from the Declarant.

NOW, THEREFORE, Declarant hereby declares that the Property described above shall be held, sold, conveyed, transferred, leased, subleased, and occupied subject to the following easements, covenants, conditions, and restrictions which shall run with the Property and which are for the purpose of protecting the value and desirability of the Property, and every portion thereof, shall be binding upon all parties having any right, title, or interest in the Property or any portion thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof:

ARTICLE I  
DEFINITIONS

ENT 163807:2006 PG 1 of 18  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
2006 Dec 05 3:26 pm FEE 109.00 BY SN  
RECORDED FOR SPANISH FORK CITY CORPORATI

1.1 "Act" shall mean and refer to the Utah Condominium Ownership Act. Title 57, Chapter 8, Utah Code Annotated, as amended or any amendments thereto.

1.2 "Assessment" shall mean and refer to an assessment levied by the Association to offset common expenses, whether annual or special in nature.

1.3 "Association" shall mean and refer to the Unit owners as a group in accordance with the Declaration, known as Expressway Owners Association, an unincorporated association.

1.4 "Board of Directors" shall mean and refer to the group of persons on the governing board of Expressway Owners Association.

1.5 "Capital Improvement" shall mean and refer to all improvements that are of a long-lasting nature which add to the Capital Value of the Property, excluding any repairs and maintenance, as herein defined.

1.6 "Common Areas" or "Common Areas and Facilities" shall mean and refer to and include:

1.6.1 The land on which the buildings and other improvements are constructed and submitted by this Declaration to the terms of the Act.

1.6.2 Those Common Areas and Facilities specifically set forth and designated in the respective Units as hereinafter defined.

1.6.3 That part of the Property not specifically included in the respective Units as hereinafter defined.

1.6.4 All Limited Common Areas.

1.6.5 . All exterior walkways, streets, yards, gardens, fences, open parking spaces, installation of central services such as power, light, gas, all apparatus and installations existing for common use.

1.6.6 All other parts of the Property normally in common use or necessary or convenient to its use, existence, maintenance, safety or management.

1.6.7 All Common Areas and Facilities as defined in the Act, whether or not expressly listed herein.

1.7 "Common Areas Manager" shall mean and refer to Declarant, until they shall have transferred ownership of the common Areas and Common Areas and Facilities to the Association. Thereafter, the Board of Directors of the Association shall be the "Common Areas Manager". The Common Areas Manager shall have the responsibility and authority to make and enforce all of the reasonable rules and regulations covering the operation and maintenance of the property.

1.8 "Common Expenses" shall mean and refer to any of the following:

1.8.1 Expenses or reasonable reserves for the maintenance, management, operation, repair, or replacement of the Common Areas or Limited Common Areas:

1.8.2 Expenses of management and administration of the Association, including any compensation paid by the Association to a manager, accountant, attorney, or to any employees or agents; and

1.8.3 Any other item or items designated by the Act, or this Declaration to be common expenses, and any other expenses reasonably incurred by the Association on behalf of all of the Owners or Occupants.

1.9 "Declarant" shall mean and refer to Expressway Business Park, LLC

1.10 "Declaration" shall mean and refer to this Declaration. This Declaration has been drafted to comply with the requirements of the Act Any ambiguities, omissions, or conflicts shall be construed to comply with the Act.

1.11 "Improvements" shall mean and refer to and include but not be limited to, buildings, outbuildings, driveways, exterior lighting, fences, landscaping, lawns, loading areas, parking areas, retaining walls, roads, screening walls, signs, utilities, walkways, berms, and swales any of which are located on the Property.

1.12 "Landscaping" shall mean and refer to a space of ground covered with lawn, ground cover, shrubbery, trees, and the like which may be complemented with earth berms, masonry, or similar materials, all harmoniously combined with themselves and with other improvements.

1.13 "Limited Common Areas" shall mean and refer to those Common Areas that are reserved for use of a certain Unit, or Owner to the exclusion of other Units, or Owners, including but not limited to sidewalk entries, parking, and the exterior porches to any Unit.

1.14 "Map" shall mean and refer to the Record of Survey Map filed herewith and captioned

1.15 "Property" shall mean and refer to the tract or Entire Tract described in Exhibit "A", the buildings, all improvements and the structures thereon, all easements, rights, with appurtenances belonging thereto with all articles of personal property, intended for use in connection therewith.

1.16 "Occupant" shall mean and refer to an entity<sup>7</sup>, whether it be an individual, corporation, joint venture, partnership, limited liability company, or association, which has purchased, leased, rented, or otherwise legally acquired the right to occupy and use any Unit or portion thereof, whether or not such right is exercised.

1.17 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Unit which is a part of the Property, but excluding those having such interest solely as security for the performance of an obligation in which event the equitable owner of such fee simple title shall be deemed to be the Owner thereof.

1.18 "Repairs and Maintenance<sup>7</sup> shall mean and refer to repairs, maintenance, upkeep, and service of existing buildings, structures, and parking areas.

1.19 "Size" shall mean and refer to the number of square feet of floor space of the Units. The "Size" of each Unit is shown on Exhibit "B" attached hereto.

1.20 "Unit" shall mean and refer to one of the Units intended for independent use as defined in the Act and as shown in the Map. Mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only that Unit, such appliances, electrical receptacles and outlets shall be considered part of the Unit, as shall all decorated interiors, all surfaces of interior structural walls, floors and ceilings, windows and window frames, doors and door frames, and trim, consisting of, inter alia and as appropriate, wallpaper, paint, flooring, carpeting and tile. All pipes- wires, conduits. or other public utility lines or installation constituting a part of the Unit or serving only the Unit, and any structural members. of any other property of the kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit.

## ARTICLE II DESCRIPTION OF PROPERTY

2.1 Description of Improvements. The improvements included in the Property are now or will be located on the above described property and all of such improvements are described on the Map. The Map indicates the number of Units which are to be contained in the building(s) which comprise such improvements, the dimensions of the Units and other significant facts relating to such buildings and Common Areas. The Expressway Business Park presently consists of \_\_\_\_\_ Units and common area of

\_\_\_\_\_ square feet.

2.2 Description and Legal Status of Units. The Map shows the Unit Number of each Unit, its location and dimensions, the Limited Common Areas which are reserved for its use, and the Common Areas of the Property. The individual Unit shall be legally designated and described by the unit number.

2.3 Exhibit "B" Contents. Exhibit "B" attached to this Declaration and made a part hereof furnishes the following information with respect to each Unit: (a) Unit designation; (b) the square footage of each Unit; (c) Voting of each Unit based on Size; (d) its appurtenant Undivided Ownership Interest in the Common Areas; and (e) the Membership Interest in the Association, based on "Size."

2.4 Common and Limited Common Areas. The Common Areas contained in the project are described and identified in Article I hereof and on the Map. Neither the Ownership of an Undivided Interest in the Common Areas nor the right of exclusive use of a Limited Common Area shall be separated from the Unit to which it appertains: and even though not specifically mentioned in the instrument of conveyance, such percentage of Undivided Interest and such right of exclusive use shall automatically accompany the conveyance of the Unit to which they relate.

2.5 Determination of Interest in Common Areas. The proportionate share of the Unit Owners in the Common Areas of the Property is based on the Size that each of the Units bear to the total Size of all the Units.

2.6 Holding Title. Title to a Unit may be held or owned by any entity and in any manner in which title to any other real property may be held or owned in the State of Utah, including, but without limitation, joint tenancy or tenancy in common.

2.7 No Separation. No part of a Unit or the legal rights comprising ownership of a Unit may be separated from any other part thereof during the period of Condominium Ownership described herein, so that each Unit, the Undivided Interest in the Common Areas appurtenant to such Unit, and the exclusive right to use and occupy the Limited Common Areas appurtenant to each Unit, shall always be conveyed, devised, encumbered, and otherwise effect only together and may never be separated from one another. Every gift, devise, bequest, transfer, encumbrance or other disposition of Unit or any part thereof shall constitute a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law or by this Declaration.

2.8 No Partition. The Common Areas shall be owned in common by all the Owners of the Units, and no Unit Owner may bring action for partition thereof.

2.9 Unit- Maintenance. Each Owner shall at their own cost and expense maintain, repair, paint, re-paint, tile, wax, paper or otherwise refinish and decorate the interior walls and trim the interior surfaces of the walls, ceiling, floors and windows and doors forming the boundaries of their Unit and all walls, ceilings, floors, windows and doors within such boundaries. In addition to decorating and keeping the interior of their Unit in good repair and in a clean and sanitary condition, each Owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heater, heating equipment, air conditioner, lighting fixtures, or other fixtures that may be in, or connected with their Unit.

2.10 Easement for Encroachment. If any part of the Common Areas or Limited Common Areas encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance for the same, shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas or Limited Common Areas, an easement for such

encroachment and for maintenance shall and does exist. Such encroachment shall not be considered to be encumbrances in the Common Areas, Limited Common Areas, or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building on the Property, by error in the Map, by settling, raising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Property or any part thereof.

2.11 Access for Repair of Common Areas. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through The Units. The Owners of the other Units shall have the irrevocable rights, to be exercised by the Common Areas Manager, as their agents, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas. Limited Common Areas, or another Unit or Units. The Common Areas Manager shall also have such rights independent of the agency relationship. Damage to the interior of any part of the Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas. Limited Common Areas or as a result of emergency repairs within another Unit at the instance of The Common Areas Manager or of Unit Owners, shall be an expense of all the Unit Owners and assessed proportionately based on Size; provided, that if such damage is The result of the negligence of the Unit Owner, then such Owner shall be financially responsible for all such damage.

2.12 Rights of Ingress, Egress, Lateral Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to his Unit and to the Limited Common Areas designated for use in connection with their Unit, and each Owner shall have the right to the horizontal and lateral support of a Unit, and such rights shall be appurtenant-to and pass with the title to each Unit.

2.13 Easement to Common Areas Manager. The Common Areas Manager shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties, and functions which they are obligated or permitted to perform pursuant to this Declaration.

2.14 Easement for Utility Services. The attached Exhibit A shows the established utility easement. Association retains the right to establish, as needed, additional easements upon, across, over and under The Property above described in Article II for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to. water, sewers, gas, telephone, electricity, and other utility services.

2.15 Legal Description of a Unit. Each conveyance or contract for the sale of a Unit and every other instrument affecting title to a unit may describe that Unit by the number shown on the Map with the & appropriate reference to the Map and to this Declaration, as each shall appear on the Records of the County Recorder of Utah County, Utah and in substantially the following form:

Unit \_\_\_\_ shown in the Record of Survey Map for the \_\_\_\_\_ appearing in the Records of the County of Utah in Book \_\_\_\_\_ Page \_\_\_\_\_ of Plats, and as defined and described in the Declaration of Condominium, appearing in such Records in Book \_\_\_\_\_ Page \_\_\_\_\_ of Records, together with a proportionate interest in the Common Areas and Limited Common Areas. This conveyance is subject to the provisions of the aforesaid Declaration of the \_\_\_\_\_

ARTICLE III  
PROPERTY RIGHTS

3.1 Owners Rights and Easements of Enjoyment. Every Owner shall have a right of easement and enjoyment in and to all of the Common Areas and Common Areas and Facilities, which right and easement shall be appurtenant to and shall pass with the title to every Unit. Every Owner may delegate its right and easement to the Common Areas and Common Areas and Facilities to its employees, tenants, invitees, lessees, guests, or contract purchasers.

ARTICLE IV  
MAINTENANCE OF COMMON AREAS AND FACILITIES

4.1 Improvement to Common Areas. The Common Areas Manager shall maintain and operate or provide for the maintenance and operation of, the Common Areas and Common Areas Facilities and the improvements located thereon or related thereto and may reconstruct, repair, or replace any capital improvement thereon.

4.2 Exterior Maintenance. The Association will provide maintenance to and upon the exterior of the Common Areas, Limited Common Areas and exterior and roofs of the Units as follows: paint, stain, repair, replace, and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, street; and parking, including snow removal therefrom, and all other exterior improvements but excluding glass surface on any Unit.

4.3 Maintenance of Limited Common Areas. Each Owner, at their own cost and expense, shall have the duty and responsibility to maintain and repair the Limited Common Area related to their individual Unit, except for the limited Common Area related to the parking area. In the event an Owner fails to do so in a manner satisfactory to the Common Areas Manager, then after reasonable notice, the Association shall have the right, through its agents and employees, to enter upon such Owner's Unit to repair, maintain, and restore such Limited Common Areas to a standard consistent with the Property, the cost thereof to be added to and become a part of the assessment to which such Unit is subject.

ARTICLE V  
STATUS AND GENERAL AUTHORITY OF COMMON AREAS MANAGER

5.1 Except as hereinafter provided, the Property shall be managed, operated and maintained by The Common Areas Manager as agent for the Unit Owners. The Common Areas Manager shall, in connection with its exercise of any of the powers hereinafter provided, constitute a legal entity capable of dealing in the Common Areas Manager's name. The Common Areas Manager shall have, and is hereby granted, the following authority and powers:

5.1.1 The authority, with the consent of a majority of the Unit Owners, based on Size to grant or create on such terms as it deems advisable, utility and similar easements over, under, across and through The Common Areas.

5.1.2 The authority, with the consent of a majority of the Unit Owners, based on Size, to execute and record, on behalf of all Unit Owners, any amendments to the Declaration or the Map.

5.1.3 The power to sue and be sued.

5.1.4 The authority, with the consent of a majority of the Unit Owners, based on Size, to enter into contracts relating to the Common Areas and other matters over which it has jurisdiction.

5.1.5 The authority, with the consent of a sixty percent (60%) of the Unit Owners, to convey or

transfer any interest in real property. Percentage to be determined based on square footage owned by each Unit Owner as a percentage of the overall square footage of the building.

5.1.6 The authority, with the consent of a majority of the Unit Owners, based on Size, to purchase, or otherwise acquire, and accept title to, any interest in real property, except if the cost to acquire said property shall exceed \$5,000.00, then the Common Areas Manager shall only have such authority, with the consent of sixty (60%) percent of the Unit Owners, based on Size.

5.1.7 The authority with the consent of a majority of the Unit Owners, based on Size, to add any interest in real property obtained pursuant to Subparagraph 5.1.6 above to the Property.

5.1.8 The authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Common Areas Manager in carrying out its function or to insure that the Property is maintained and used in a manner consistent with the interests of the Unit Owners.

5.1.9 The power and authority to perform any other acts and to enter into any other transactions, subject to the rights of the Association, which may be reasonable and necessary for the Common Areas Manager to perform its functions.

5.2 Board of Directors. The Board of Directors of Expressway Owners Association shall be composed of three (3) Directors. The Directors shall be elected by the Owners. Each Director shall hold office for a period of two years. At the initial election of Directors, two directors shall serve for a period of two years and the third for a period of one year, thus off setting the service period of the Directors. Directors shall serve on the Board until their successors are elected and qualified at the annual meeting of the Owners. Only Unit Owners or spouses of Unit Owners and officers, directors, agents, and employees of Owners other than individuals, shall be eligible to serve on the Board of Directors. At the annual meeting, each Unit Owner may vote the Size of the Unit in favor of as many candidates for the Board of Directors as there are seats on the Board to be filled. In all other cases of vacancy, the remaining members of the Board of Directors shall elect a replacement to sit on the Board of Directors until the expiration of the term for which the member being replaced was elected.

5.3 Common Areas Manager. The Common Areas Manager shall be the independent Common Areas Manager of the unincorporated association.

5.4 Rights and Duties. The Common Areas Manager, subject to the rights and duties of the Association, and this Declaration regarding the Property maintenance as provided herein shall be responsible for the general management of the Property. It is understood that the Common Areas Manager has the obligation to maintain the Common Areas of the Property.

5.5 Right of Delegation to Manager. The Common Areas Manager may carry out any of its functions which are capable of delegation through a manager. The Manager so engaged shall be responsible for managing the Common Areas and shall, to the extent permitted by law and the terms of the agreement with the Common Areas Manager, be authorized to perform any of the unctions or acts required or permitted to be performed by the Common- Areas Manager, itself.

5.6 Payment of Services, Etc. It is recognized that the Common Areas Manager may arrange with other persons to furnish snow removal, ground maintenance and other common services to the Property whether such personnel are furnished or employed directly by the Common Areas Manager.

5.7 Personal Property Ownership and Use. The Common Areas Manager may acquire and hold for the use and the benefit of all of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Association. Such interest shall not be transferable except with the transfer of a Unit.

5.8 Rules and Regulations. The Common Areas Manager may make reasonable rules and regulation governing the operation and use of the Common Areas and other matters over which it has jurisdiction, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Common Areas Manager has the authority to notify any Owner, visitor, invitee, guest, employee or other of any violation of the Voters' regulations. In the event that an individual, Owner, or other such invitee does not correct the violation after-two (2) written notices of the same violation within a ninety (90) day period, the Common Areas Manager has the authority to impose a fine. The fine shall be \$10.00 for the first offense and shall increase \$10.00 for each subsequent offense. Once the offense is to the stage of a fine, the ninety (90) day period is no longer relevant and the fines may continue until corrected. The Unit Owner is responsible for any fine assessed to an employee, invitee, guest, or otherwise. Said fine shall be paid within ten (10) days of the assessment or shall become specially assessed as provided in Paragraph 6.7 hereinafter. The Common Areas Manager may also take judicial action against any Owner to enforce compliance with such rules and regulations or other obligation or to obtain damages for noncompliance, all to the extent provided by law.

5.9 Capital Improvements. There shall be no structural alterations, capital additions to, or capital improvements of the Common Areas requiring expenditure in excess of \$3,000.00 without the prior consent of the Unit Owners holding more than sixty (60%) percent based on Size.

5.10 Common Areas Manager Rights. The Common Areas Manager may exercise any other right or privilege given to it expressly by this Declaration or by law and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

## ARTICLE VI ASSESSMENTS

6.1 Creation of a Lien and Personal Obligation. The Declarant, for each Unit owned by it in the Property hereby covenants and agrees, and each Owner of any Unit, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Association; (a) annual Common Assessments or charges; and (b) special assessments for Capital Improvements, such assessments to be established and collected as hereinafter provided. Common and Special Assessments, together -with interest, costs, and reasonable attorney's fees incurred in any collection thereof shall be a charge on the land and shall be a continuing lien upon the Unit against which the Declarant or its successor may take such action as is necessary to enforce including foreclosure. Each such assessment, together with interest, costs, and reasonable attorney's fees incurred in any collection thereof shall also be the personal obligation of the person who was the Owner of such Unit at the time of the assessment. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them; provided however, that nothing herein shall be construed to prevent the creation of such lien upon an Owner's Unit as herein set forth.

6.2 Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and for the improvement and maintenance of the Common Areas and Common Areas and Facilities of the



Property.

6.3 Annual Budget. Not less than thirty (30) days prior to the commencement of each calendar year of the Association the Board of Directors shall establish an annual budget for such calendar year, including therein all anticipated items of income and all anticipated items of Common Expenses together with a reasonable reserve for contingencies, not to exceed ten percent (10%) of each year's budget.

6.4 Basis of Assessments. The total annual assessments against all Units shall be based upon advance estimates of cash requirements by the Common Areas Manager to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas and Common Areas and Facilities, which estimates may include among other things, expenses of management, taxes and special assessments levied by governmental authorities, until the Units are separately assessed as provided herein; premiums for all insurance which the Common Areas Manager is required or permitted to maintain pursuant hereto; lighting, water, sewer, heating, and air conditioning, repair and maintenance of the Common Areas, wages for employees of the Common Areas Manager, legal and accounting fees; any deficit remaining from a previous period, creation of reasonable contingency' reserve, surplus and/or sinking find, any other expenses and liabilities which may be incurred by the Common Areas Manager for the benefit of the owners or by reason of this Declaration.

6.5 Apportionment of Expenses. Expenses attributable to the Common Areas and Common Areas and Facilities as a whole shall be apportioned among all Units in proportion to their respective Size. Expenses attributable to heating, air conditioning, water, sewer, lighting, taxes, and insurance shall be paid by each owner among all Units in proportion to their Size, except utilities or expenses which are separately metered or invoiced.

6.6 Method, Payment of Assessments, Etc. Annual assessments shall be made on a calendar year basis. The Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year, provided, however, that the first annual assessment shall be for the balance of the calendar year remaining after the day fixed by the Common Areas Manager as the date of commencement of the assessment. Each annual assessment shall be due and payable in-.monthly installments. Each monthly assessment shall bear interest at-the rate of eighteen percent (18%) per annum from the date it becomes due and payable if not paid within fifteen (15) days after such date. Such monthly assessment becomes payable upon the date the Unit Owner purchases their Unit whether by conveyance of title or entering into a contract of sale and purchase, and thereafter each monthly payment shall be due and payable on the first day of each and every month in advance.

6.7 Special Assessments. In addition to the annual assessments authorized hereunder, the Board of Directors may levy in any assessment year special assessments, payable over such period as the Common Areas Manager may determine for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Common Areas or of the Property or any other part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration. This paragraph shall not be construed as an independent source of authority for the Board of Directors to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other paragraphs hereof. Any amount assessed pursuant thereto shall be assessed to Owners in proportion to their respective Size. Notice in writing of the amount of such special assessment and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall be given. A special assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date it becomes due and

payable if not paid within thirty (30) days after such dates.

6.8 Liens for Unpaid Assessments. All sums assessed to any Unit pursuant to this article, together with interest thereon as provided herein shall be secured by a lien on such Unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Unit, except:

6.8.1 tax and special assessment liens on the Unit in favor of any assessing unit or special improvement district

6.8.2 encumbrances on the interest of the Unit Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances,

6.9 Notices. Any Owner who encumbers its Unit by a mortgage or trust deed shall furnish the Association with the name and address of the mortgagee or beneficiary and the Association shall maintain such information in a book entitled "Mortgages of Units." ,

6.10 Evidence of a Lien. To evidence a lien for sums assessed pursuant to this Section, the Common Areas Manager may prepare a written notice of lien setting forth the amount of the assessment, the due date, the amount remaining unpaid, the name of the Owner of the unit, and a description of the Unit. Such notice shall be signed by the Common Area manager or Board of Directors and may be recorded in the Office of the County Recorder of Utah County, Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by the Common Areas Manager or Board of Directors in the same manner in which a mortgage or trust deed on real property may be foreclosed in Utah. In any such foreclosure, the Owner shall be required to pay the cost and expenses of such proceedings, the cost and expenses of filing the notice of lien and all reasonable attorney's fees. All such costs, expenses and fees shall be secured by the lien being foreclosed. The lien shall also secure, and the Owner shall also be required to pay to the Association any assessments against the Unit which shall become due during the period of foreclosure. The Common Areas Manager shall have the right and the power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

6.11 Release of Lien. A release of notice of lien shall be executed by the Common Areas Manager or Board of Directors and recorded in the Office of the County Recorder of Utah County, Utah, upon payment of all sums and secured by a lien which has been made the subject of a recorded notice of lien.

6.12 Other Lien Holders. Any encumbrancer holding a lien on a Unit may pay, but shall not be required to pay, any amounts secured by the lien created by this article, and upon such payments such encumbrancer shall be subrogated to all rights of the Common Areas Manager with respect to such lien, including priority.

6.13 Notice to Junior Lien Holders. The Common Areas Manager shall report to any encumbrancer of a Unit any unpaid assessment remaining unpaid for longer than sixty (60) days after the same shall have become due; provided, however, that such encumbrancer first shall have furnished to the Common Areas Manager written notice of such encumbrance and request for notice.

6.14 Personal Obligation Assessments. The amount of any annual or special assessment against any Unit shall be the personal obligation of the Owner thereof to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Common Areas Manager, the Board of Directors, or the Associates or any Unit owner without foreclosing or waiving -the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of

any of the Common Areas or by abandonment of their Unit.

6.15 Information Concerning Unpaid Assessments. Upon payment of a reasonable fee not to exceed Ten Dollars (\$10.00) and upon written request of any Owner or mortgagee, prospective mortgagee or prospective purchaser of a Unit, the Common Areas Manager shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Unit; the amount of the current yearly assessment and the portion thereof which has theretofore been paid; credit for advance payments of prepaid items including but not limited to, an Owner's share of prepaid insurance premiums, and such statement shall be conclusive upon such Common Areas Manager in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid assessments which become due prior to the lien of the mortgagee which become due prior to the date of making such request shall be subordinate to the lien of the mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligation of the purchaser shall be released automatically if the statement is not furnished within the twenty (20) day period provided herein and if an additional written request is made by such purchaser and is not complied with within twenty (20) days and the purchaser subsequently acquires the Unit.

6.16 Purchaser's Obligation. Subject to the provisions of subparagraph (6.15) a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

6.17 Collection by the Common Areas Manager. It is recognized that the Common Areas Manager under this Declaration will maintain the Common Areas of the Property except as otherwise contained therein. It is further recognized that the Common Areas Manager of the Property is authorized to levy assessments for the purposes of performing functions it is authorized to perform within the Property. With respect to the Units, the Common Areas Manager shall be authorized to collect from the Unit Owners and enforce liability for the payment of assessments levied pursuant to this Declaration.

6.18 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit as a result of court foreclosure of a first mortgage, foreclosure through the Public Trustee, or any proceeding in lieu of foreclosure, shall extinguish the lien of such assessments as to payments thereof which become due prior to the time that such first mortgagee acquires title, but shall not relieve any former Owner of personal liability therefor. No sale or transfer shall relieve such Unit from liability for any assessments becoming due after such mortgagee acquires title.

## ARTICLE VII INSURANCE

7.1 The Common Areas Manager shall secure or cause to be secured and maintain at all times the following insurance coverage:

7.1.1 A policy or policies of fire and casualty insurance with extended coverage endorsement, for the full insurable replacement value of the entire Property. Such policy or policies shall be made payable to the Association and all persons holding an interest in the Property or any of the Units, as their interests may appear

7.1.2 An appropriate fidelity bond coverage for any person or entity handling funds of the

Common Areas Manager, including but not limited to, employees of the professional managers, the amount of such coverage to be equal to the estimated maximum of funds, including reserve funds, in the custody of the Association or the Common Areas Manager at any given time during the term of the fidelity bond, but not less than a sum equal to three months' aggregate assessment on all Units plus reserve funds, said bond to name the Association as an obligee.

7.1.3 A policy or policies insuring the Common Areas Manager, the Association and the Unit Owners against any liability incident to the ownership, use or operation of the Property or of any Unit which may arise among themselves, to the public and to any invitees or tenants of the Property or of the Unit Owners. Limits of liability under such insurance shall not be less than \$500,000.00 for any person injured, \$1,000,000.00 for all persons injured in any one accident, and \$1,000,000.00 for property damage resulting from one occurrence. Such policies shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement pursuant to which the rights of the named insureds as between themselves are not prejudiced.

7.1.4 The following additional provisions shall apply with respect to insurance:

7.1.4.a In addition to the insurance described above, the Common Areas Manager shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with condominium projects similar to the Property in construction, nature and use.

7.1.4.b The Common Areas Manager shall have the authority to settle losses or property damage claims or liability claims which are not in excess of \$5,000 00 for any one claim.

7.1.4.c Insurance secured and maintained by the Common Areas Manager shall, if possible, provide a waiver of the insurer's subrogation rights with respect to the Common Areas Manager, the Association, the Unit Owners, and their respective servants, agents and guests; that it cannot be canceled, suspended, or invalidated due to the conduct of any member; officer, or employee of the Association or the Common Areas Manager without prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners.

7.1.4.d Any Unit Owner may obtain additional insurance, at their own expense, so long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Common Areas Manager. Any Unit Owner who individually obtains insurance covering any portion of the Property shall supply the Common Areas Manager with a copy of the policy within thirty (30) days after they acquire such insurance.

## ARTICLE VIII RESTRICTIONS

8.1 Specific Uses. Each Unit shall be occupied and used by its Owner solely for retail office use together with support facilities. Uses are limited to those allowed by zoning regulations.

8.2 Restrictions Concerning Common Areas. There shall be no obstructions of the Common Areas by the Owners, their tenants, guests or invitees without the prior written consent of the Common Areas Manager. The Common Areas Manager may, by rules and regulations, prohibit or limit the use of the

Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Units or the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Common Areas Manager, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Areas except upon prior written consent of the Common Areas Manager.

8.3 Miscellaneous Restrictions. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would result in the cancellation of the insurance on the Property or any part thereof or increase of the rate of the insurance on the Property or any part thereof over what the Common Areas Manager, but for such activity, would pay, without the prior written consent of the Common Areas Manager. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Common Areas Manager and other Owners harmless against all loss resulting from any such damage or waste caused by their invitees: provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner. No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Property.

8.4 Alterations. No Owner shall make structural alterations or exterior modifications to its Unit or to any of the Common Areas or Limited Common Areas, including but not limited to, the erection or antennas (including satellite "dishes"), aerials, awnings, the placement of any reflective, or other materials in the windows of its Unit or other exterior attachments, signs, or advertising devices without the prior written approval of the Common Areas Manager. The Common Areas Manager shall not approve any alteration, decoration, or modifications which would jeopardize or impair the soundness, safety, or appearance of the Property.

8.5 No Violation of Rules and Regulations. No Owner shall violate the rules and regulations for the use of the Units and the Common Areas as adopted from time to time by the Common Areas Manager.

8.6 Signs. No signs or other advertising devices shall be displayed which are visible from the exterior of any Unit or on the Common Areas or Limited Common Areas including "For Sale" signs, except as follows;

8.6.1. General Requirements

8.6.1.1 All signs for the sole use and benefit of any particular owner shall be furnished, installed, and maintained by the individual owner. All manufacturing installations shall be done by a licensed sign contractor.

8.6.1.2 Each individual owner of the Association shall be responsible for any liability pertaining to his/her particular sign as well as responsible to maintain the business-like appearance of said sign.

8.6.1.3 All required permits, fees, and inspections shall be obtained and paid for by the individual owner.

8.6.1.4 The owner shall be responsible for the fulfillment of all these requirements by its

representative contractors and applicable governmental authorities.

#### 8.6.2 Location and Number

8.6.2.1 The owner(s) of each Unit has the opportunity, but not the obligation, to affix sign(s) to the outside structure of the building.

8.6.2.2. Each sign shall be affixed in the place designated by the Board of Directors.

8.6.2.3 No sign of any sort shall be permitted on the roof

8.6.2.4 Sign(s) shall be mounted on the surface of building, in the space designated by the Board of Directors.

8.6.2.5 Content of all signs must be approved by the Board of Directors of the Association with specific instruction to limit itself to the logo of the business organization, and shall not contain the name of the Unit owners.

8.6.2.6. The Developer will purchase a monumental type sign for a listing of the businesses located at the entrance near 1 100 East and Expressway Lane and listing the names of the businesses involved in the Association. The Unit owners shall be responsible to maintain the sign and for all costs to place a listing on the monumental type sign.

8.6.2.6.1. The monumental type sign shall be divided as follows:

8.6.2.6.1.1 Each Unit to receive portions of the sign for the logo and the name of company, as determined by the Board of Directors.

#### 8.6.3 Size and design.

8.6.3.1. Signs may be illuminated.

8.6.3.2. Painted lettering of the sign will not be permitted.

8.6.3.3 No animated, flashing, or audible signs will be permitted. All signs must function solely as a graphic visual identification of the business name.

8.6.3.4. No exposed lamps will be permitted.

8.5.3.5 All illuminated signs shall bear the UL label of approval and shall conform to all local building codes.

8.6.3.6 No exposed raceways, crossovers, or conduits will be permitted.

8.6.3.7 Electrical service to the owners illuminated signs shall be on the individual Owner's meters and shall be controlled by owner but must conform to the hours established by the Association.

8.6.3.8 All service and switches shall be provided and installed at individual: owners expense.

8.6.3.9 The sign shall be installed and maintained by a licensed sign contractor.

#### 8.6.4 Requirement as to Safety

8.6.4.1 All penetrations of any walls required for the sign installation and/or electrical service shall be neatly sealed in a water tight condition pursuant to all local building and electrical codes.

8.6.4.2. All illuminated signs shall be of a full welder construction and approved by the Association.

8.6.4.3. All required labels, including the UL label, will be attached to all signs requiring any such labels. Required labels shall be placed in the most conspicuous location possible in order to avail itself to inspection.

8.6.4.4 No sign shall obstruct the view of persons inside the building of persons outside the building, nor shall it obstruct the view of pedestrians and/or customers of the building, other than the space necessary to affix the sign.

#### 8.6.5. Miscellaneous Requirements

8.6.5.1 The individual owners agree to indemnify and hold Association and other owners of the Association harmless from any liability or damage arising resulting from the use of/ or erection of any signs on the premises.

8.6.5.2 In the event of any violation of any ordinance applicable to any signs that were erected or constructed, individual owner agrees to forthwith correct such violation and comply with any such ordinance.

8.6.5.3 Owner further expressly agrees that at any time of the attempted sale of their portion of the building, that any sign advertising the portion of the building for sale will be placed in a manner conducive to the spirit of these rules as well as proper commercial building sales practices.

8.6.5.4 Any sign displayed with the express purpose of selling portions of the premises must be approved by all other owners in the Association.

8.6.5.5 Except as herein provided no advertising, placards, banners, pennants, names, and trademarks with descriptive materials shall be affixed and maintained upon any exterior surface of the building other than the one approved sign pursuant to paragraph 8.6.2.1 of these requirements.

#### 8.6.6. Cooperation Requirements

8.6.6.1 Individual owners agree to allow the ingress and egress of workman or assigned contractor to cross individual owners property to hang or maintain said sign.

8.6.6.2 No sign may be used to obstruct the ingress and egress of customers and/or clients.

8.6.6.3 All signs must effectively display the dignity and character of the purpose for this building, which is first and foremost a business park of considerable repute.

8.6.6.4 All owners in the Association agree to operate in spirit of good faith and enforcing as well as fulfilling the signed criteria for the owners Association.

8.7 Failure to follow these guidelines will cause grounds for all signs of the owner to be removed and the cost for such removal billed to each individual owner whose signs are removed.

## ARTICLE IX DEFAULT

9.1 Definition. Failure to comply with any of the terms of this Declaration, and the duly adopted Rules and Regulations of the Association shall constitute an event of default and shall be grounds for relief, which may include, without limitation, actions to recover sums due for damages or injunctive relief or a combination thereof.

9.2 Costs and Attorney's Fees. In any proceeding arising because of any alleged default by any Owner, the Association if successful, shall be entitled to recover the costs of the proceedings and reasonable attorney's fees from such Owner

9.3 Remedies Cumulative. The failure of the Association or of any Owner to enforce any right, provision, covenant, or condition which may be granted by this Declaration, and the Rules and Regulations, shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies, and privileges shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies, or privileges, as may be available to such party at law or in equity.

## ARTICLE X GENERAL PROVISIONS

10.1 Acceptance of Governing Rules. The Association, all present or future Owners, tenant or futures tenants, or any other persons utilizing any facility or improvement with in the Property are subject to and shall comply with this Declaration, and the Rules and Regulations and the acquisition, occupancy or rental of a Unit shall signify that all such documents are accepted and ratified. In the event of a conflict in any of the provisions of any such documents, the documents shall govern or control in the following order of preference; (a) this Declaration; (b) the Rules and Regulations.

10.2 Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restriction, conditions, covenants, reservations, liens, and charges now and hereafter imposed by time provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

10.3 Delivery of Notices. All notices or other documents required herein to be delivered by the Association or Owners may be delivered either personally or by mail. If delivered personally, such notice shall be deemed to have been delivered when actually received by the Owner or when left at the front door of its Unit. If mailed, such notice shall be deemed delivered when deposited in the United States Mail addressed to the Owner at its address as it appears on the records of the Association with postage prepaid thereon.



10.4 Severability. If any of the provision of the Declaration or any paragraph, sentence, clause or phrase, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any provision, paragraph, sentence, clause, or phrase in any other circumstances shall not be affected thereby.

10.5 Amendment. The covenants and restriction of this Declaration shall run with the land and be appurtenant thereto. This Declaration may be amended by an instrument signed by not less then sixty percent (60%) of the Unit Owners based on Size. Any amendments hereto must be recorded.

10.6 Headings and Titles. Headings and titles of articles, sections, or paragraphs are used in this Declaration for convenience of reference and are not intended to limit, enlarge, or change the meaning or contents thereof.

## ARTICLE XI DAMAGE TO PROPERTY

11.1 In the event the damage to or destruction of part or all of the improvements in the Property, the following procedures shall apply;

11.1.1 If proceeds of the insurance maintained by the Common Areas Manager are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be carried out.

11.1.2 If less than 73% of the Property's improvements are destroyed or substantially damaged and if proceeds of the insurance maintained by the Common Areas Manager are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and upon approval of at least 50% of the affected Unit Owners, all affected Owners shall be assessed for any deficiency on the basis of their Size.


11.1.3 If 75% or more of the Property's improvements are destroyed or substantially damaged and if proceeds of the insurance maintained by the Common Areas Manager are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and upon approval of at least 60% of the affected Unit Owners, all affected Owners shall be assessed for any deficiency on the basis of their Size.

11.1.4 If 75% or more of the Property's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Common Areas Manager are insufficient to accomplish restoration, and if the Unit Owners do not, within 100 days after the destruction or damage and by a vote of at least 60%, elect to repair or reconstruct the affected improvements, the Common Areas Manager shall promptly notify the Owners and obtain approval thereof and the Common Areas Manager shall promptly record with Utah County Recorder a notice setting forth such facts. Upon the recording of such notice, the provisions of subsection 1 through 4 of Section 37-8-3 1, Utah Code Annotated (1983) shall apply and govern the rights of all parties having an interest in the Property or any of the Units.

11.2 Any reconstruction or repair which is required to be carried out by Paragraph 1 1.1 shall be accomplished at the instance and direction of the Common Areas Manager. Any determination which is required to be made by this Paragraph 11-1 regarding the extent of the damage to or destruction of Property improvement, shall be made by three (3) MAI appraisers selected by the Common Areas Manager. The decision of any two (2) such appraisers shall be conclusive.

IN WITNESS WHEREOF, the undersigned, being the Declaration herein, has hereunto caused this Declaration to be executed the day and year first above written.

EXPRESSWAY BUSINESS PARK, LLC

  
\_\_\_\_\_  
By: Reed H. Larsen  
Title: Manager

STATE OF UTAH                    )  
  :SS  
COUNTY OF Salt Lake )

On this 30th day of 2006, personally appeared before me, Reed Larsen, the manager of Expressway Business Park, LLC, who duly acknowledged to me that he executed the above document.

Lindsey Madsen  
Notary Public

