

When Recorded, Mail To:

Kirton & McConkie  
Attn: Mr. Robert Hyde  
1800 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84145-0120

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10/19/2007 2:34:00 PM \$23.00  
Book - 9527 Pg - 9788-9793  
Gary W. Ott  
Recorder, Salt Lake County, UT  
FIRST AMERICAN TITLE  
BY: eCASH, DEPUTY - EF 6 P.

(Space above for Recorder's use only)

### **AMENDMENT TO EASEMENT RIGHTS IN WARRANTY DEEDS**

THIS AMENDMENT TO EASEMENT RIGHTS IN WARRANTY DEEDS (this "**Amendment**") is entered into this 19th day of September, 2007, by and between CITY CREEK RESERVE, INC., a Utah nonprofit corporation ("**CCRI**"), and BENEFICIAL LIFE INSURANCE COMPANY, a Utah corporation ("**Beneficial**").

#### **RECITALS**

A. CCRI is the owner of certain real property located in Salt Lake City, Utah, as more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "**CCRI Property**"), which property includes floors one (1) through six (6) of the building constructed thereon (the "**Building**").

B. Beneficial is the fee title owner of certain air space above the CCRI Property, as more particularly described on Exhibit B attached hereto and incorporated herein by this reference (the "**Beneficial Property**"), which air space includes floors seven (7) through twenty seven (27) of the Building.

C. Beneficial obtained its interest in the Beneficial Property pursuant to (i) that certain Warranty Deed, dated April 30, 1975, recorded in the office of the Salt Lake County Recorder on May 1, 1975, in Book 3848, Page 51, as Entry No. 2704207, (ii) that certain Warranty Deed, dated October 31, 1975, recorded in the office of the Salt Lake County Recorder on November 3, 1975, in Book 4015, Page 54, as Entry No. 2756684, and (iii) that certain Warranty Deed, dated December 30, 1976, recorded in the office of the Salt Lake County Recorder on January 6, 1977, in Book 4435, Page 393, as Entry No. 2895420 (collectively, the "**Deeds**").

D. In addition to transferring title of the Beneficial Property to Beneficial, the Deeds grant certain easement rights to Beneficial relating to the CCRI Property (the "**Easement Rights**") as more fully set forth therein.

E. CCRI and Beneficial now desire to amend the Easement Rights as set forth below.

## AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual promises and subject to the conditions set forth below, the parties agree as follows:

1. Grant of Easement. In lieu of any emergency access easements set forth in the Deeds, and in addition to the other Easement Rights, CCRI hereby conveys to Beneficial a non-exclusive emergency and evacuation access, ingress and egress easement (the "**Easement**") in and through all stairwells, as the same may exist from time to time, within the common areas of that portion of the Building owned by CCRI (the "**Easement Areas**"), but not including any areas within that portion of the Building owned by CCRI which are intended for the exclusive use of any single tenant, user or occupant.

2. Relocation of the Easement Area. Beneficial hereby acknowledges and agrees that the Easement Areas are subject to alteration, relocation, reconstruction, or modification by CCRI, its successors and assigns, at any time or from time to time, in CCRI's sole and absolute discretion.

3. Condition of the Easement Areas. Beneficial accepts the Easement Areas and the use of the same in their "AS IS", "WHERE IS" condition, without warranties, either express or implied, and "WITH ALL FAULTS", including but not limited to both latent and patent defects, and the existence of hazardous materials, if any. Beneficial hereby waives all warranties, express or implied, regarding the title, condition and use of the Easement Areas. Beneficial shall enter upon the Easement Areas at its sole risk and hazard, and Beneficial, and its successors and assigns, hereby release CCRI, and its successors and assigns, from any claims relating to the condition of the Easement Areas and the entry upon the Easement Areas by Beneficial or any tenants, employees, occupants, or users of the Beneficial Property (and any invitees, employees, guests, customers, subtenants, licensees, agents, servants, and contractors of such parties) (collectively, the "**Beneficial Parties**").

4. Indemnification. Beneficial and its successors and assigns hereby agree to indemnify, save, defend (with counsel acceptable to CCRI) and hold harmless CCRI, and any entity controlling, controlled by or under common control with CCRI ("**Affiliates**"), and its and their Affiliates' officers, directors, employees, managers, members, agents, contractors, servants, successors, and assigns from and against any and all liens, encumbrances, costs, demands, claims, judgments, and/or damage caused by or arising out of: (i) the acts and/or omissions of Beneficial or any Beneficial Parties in connection with the Easement; or (ii) the use of the Easement Areas by Beneficial or any Beneficial Parties. The terms and conditions of this provision shall remain effective, notwithstanding the expiration or termination of this Amendment or the Easement contained herein.

5. Reservation by CCRI. CCRI hereby reserves the right to use the Easement Areas for any use not inconsistent with Beneficial's permitted use of the Easement Areas.

6. Miscellaneous.

6.1 Interpretation. Section titles and captions to this Amendment are for convenience only and shall not be deemed part of this Amendment and in no way define, limit, augment, extend, or describe the scope, content, or intent of any part of this Amendment. The parties acknowledge that this Amendment was negotiated at arms' length and waive any presumption or claim that this Amendment should be interpreted against any particular party.

6.2 Run with the Land/Successors. Subject to the terms and conditions of this Amendment, the Easement granted herein shall be perpetual and shall run with the land, and the terms and conditions of this Amendment shall inure to the benefit of and be binding upon the parties, their successors and assigns.

6.3 Integration. This Amendment constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto. No covenant, representation, or condition not expressed in this Amendment shall affect or be deemed to interpret, change, or restrict the express provision hereof. Any amendment or modification to this Amendment shall be in writing and signed by authorized agents or officers of the parties.

6.4 Effect of Amendment. Except as otherwise expressly modified by this Amendment, all Easement Rights set forth in the Deeds remain in full force and effect.

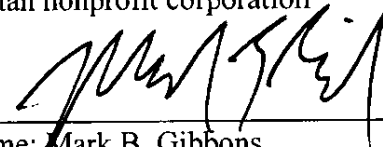
6.5 No Public Use/Dedication. The Easement Areas are and shall at all times remain the private property of CCRI. The parties do not intend to make any public dedication of the Easement Areas. The use by Beneficial of the Easement Areas is permissive and shall be limited to the express purposes contained herein. Neither Beneficial, nor its successors or assigns, shall acquire or be entitled to claim or assert any rights to the Easement Areas beyond the express terms and conditions of this Amendment.

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Amendment on the day and year first above written.

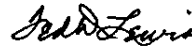
**CCRI:**

**CITY CREEK CENTER RESERVE, INC.,**  
a Utah nonprofit corporation

*M/M* By:   
Name: Mark B. Gibbons  
Title: President

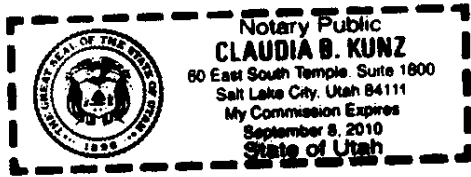
**BENEFICIAL:**

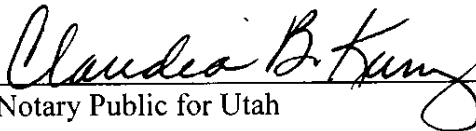
**BENEFICIAL LIFE INSURANCE COMPANY,**  
A Utah corporation

By:   
Name: Ted D. Lewis  
Title: Senior Vice President and General Counsel

STATE OF UTAH            )  
                                  :SS  
COUNTY OF SALT LAKE )

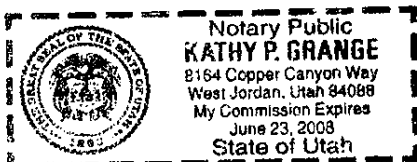
On this 19<sup>TH</sup> day of OCTOBER, 2007, personally appeared before me Mark B. Gibbons, known or satisfactorily proved to me to be the President of City Creek Reserve, Inc., a Utah nonprofit corporation, who acknowledged to me that he signed the foregoing instrument as President for said corporation.

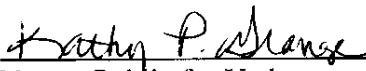


  
Notary Public for Utah

STATE OF UTAH            )  
                                  :SS  
COUNTY OF SALT LAKE )

On this 19<sup>th</sup> day of September, 2007, personally appeared before me Ted D. Lewis, known or satisfactorily proved to me to be the Senior Vice President and General Counsel of Beneficial Life Insurance Company, a Utah corporation, who acknowledged to me that he signed the foregoing instrument as Senior VP and General Counsel for said corporation.



  
Notary Public for Utah

**EXHIBIT A**

**Legal Description of CCRI Property**

All the volume of space which lies at and below an elevation of 4424.92, as measured vertically at Salt Lake City Level Datum, formed by projecting vertically upwards from the ground level to said height along the following boundaries:

Beginning South 0° 10' 30" West 19 feet from the Southeast Corner of Lot 7, Block 75, Plat "A", Salt Lake City Survey, and running thence West 206 feet, thence North 104 feet, thence East 206 more or less to the East line of said Block, thence South 0° 10' 30" West 104 feet more or less to the point of beginning.

The above description includes floors 1 through 6 of the Beneficial Life Tower, the perimeter of which is described as follows:

Beginning at point 15.51 feet West of the Southeast Corner of Lot 7, Block 75, Plat "A", Salt Lake City Survey, and running thence South 13.00 feet; thence South 45° West 3.54 feet; thence West 182.00 feet; thence North 45° West 3.54 feet; thence North 92.00 feet; thence North 45° East 3.54 feet; thence East 182.00 feet; thence South 45° East 3.54 feet; thence South 79.00 feet to the point of beginning, containing 18,126.5 square feet.

The above-described property includes all or a portion of Tax Parcel Number:  
16-06-101-016-0000

**EXHIBIT B**

**Legal Description of Beneficial Property**

All the volume of space which lies above an elevation of 4424.92, as measured vertically above Salt Lake City Level Datum, formed by projecting vertically upwards the following boundaries:

Beginning South 0° 10' 30" West 19 feet from the Southeast Corner of Lot 7, Block 75, Plat "A", Salt Lake City Survey, and running thence West 206 feet, thence North 104 feet, thence East 206 more or less to the East line of said Block, thence South 0° 10' 30" West 104 feet more or less to the point of beginning.

The above description includes floors 7 through 27 of the Beneficial Life Tower, the perimeter of which is described as follows:

Beginning at point 15.51 feet West of the Southeast Corner of Lot 7, Block 75, Plat "A", Salt Lake City Survey, and running thence South 13.00 feet; thence South 45° West 3.54 feet; thence West 182.00 feet; thence North 45° West 3.54 feet; thence North 92.00 feet; thence North 45° East 3.54 feet; thence East 182.00 feet; thence South 45° East 3.54 feet; thence South 79.00 feet to the point of beginning, containing 18,126.5 square feet.

The above-described property includes all or a portion of Tax Parcel Number:  
16-06-101-005-0000