

6462963

After recording, return to:  
Salt Lake City Airport Authority  
Finance & Administration  
AMF Box 22084  
Salt Lake City, Utah 84122

6462963  
09/25/96 09:36 AM \*\*\*NO FEE\*\*  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
SL CITY AIRPORT AUTHORITY  
REC BY:V ASHBY ,DEPUTY - WI

**AVIGATION EASEMENT**

Avigation Easement affecting county tax parcel number 07-36-126-003. W/H NO. 29 L.L.C., hereinafter referred to as "Grantor," hereby grants and conveys to SALT LAKE CITY CORPORATION, hereinafter referred to as "Grantee," for good and valuable consideration given by the Grantee to the Grantor in the form of Grantee's approval of the development of Grantor's land by memorializing an existing prescriptive common law avigation easement associated with the Airport and aircraft activity and around the Salt Lake City International Airport, the receipt and sufficiency of which is hereby acknowledged, a perpetual and assignable easement in the airspace above and over the parcel of land described in Exhibit "A," attached hereto and by this reference incorporated herein, hereinafter referred to as the "Real Property," for the free and unrestricted passage of aircraft of any and all kinds now or hereafter developed for the purpose of transporting persons or property through the air, in, through, across and about the airspace over the Real Property, and all other aeronautical activities therein. The airspace shall mean that space above the Real Property which is above the height limit established for the Salt Lake City International Airport by the Revised Ordinances of Salt Lake City, which for the Real Property is that space above the flat plain 4,377

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feet mean sea level, as determined by U.S.G.S. datum coterminous with the boundaries of the Real Property (hereinafter referred to as the "Airspace").

Said easement is granted under the condition that civil aircraft yearly average noise level does not exceed 75 LDN for Zone B and 65 LDN for Zone C as those zones are described in Figure 3-1 of the Salt Lake City International Airport Land Use Policy Plan dated August, 1982, as amended from time to time, which may be obtained from the Salt Lake City Airport Authority (hereinafter referred to as the "Plan"), or the equivalent to 65 LDN or 75 LDN, as appropriate, if a designation other than LDN is adopted by the U.S. Federal Government and is recognized as the generally accepted environmental noise descriptor, in which case the alternate equivalent designation shall apply. Zone A, as described in the Plan, shall not be restricted to any maximum yearly average noise level. During any period the maximum yearly average noise level was exceeded on any portions of the Real Property by civil aircraft within Zone B or Zone C, this easement shall be inoperative solely with respect to the levels of noise exceeding the maximum level authorized for said portions. However, on all other portions of the property where it cannot be proven that the authorized noise levels have been exceeded, this easement shall remain in full force and effect.

Grantor further agrees that the easement and rights hereby granted to the grantee in the Airspace above and over the Real Property are for the purpose of insuring that the Airspace shall remain free and clear for the flight of aircraft landing

at or taking off from or otherwise using the Salt Lake City International Airport described in Exhibit "B" attached hereto, and by this reference incorporated herein, (hereinafter referred to as "Airport"). Said easement and the rights appertaining thereto shall be for the benefit of Grantee, its successors, assigns, guests, invitees, including any and all persons, firms or corporations operating aircraft to or from the Airport. In perpetuity, said easement and the burden thereof, together with all things which may be alleged to be incidental to or to result from the use and enjoyment of said easement, shall constitute permanent burdens and servient tenements on the Real Property, and the same shall run with the land and be binding upon and enforceable against all successors in right, title or interest to said Real Property and shall be unlimited as to frequency.

Grantor agrees that it, its heirs, successors and assigns shall not hereafter erect or permit the erection or growth of any object within the Airspace. This easement grants the right of flight for the passage of aircraft in the Airspace, together with the right to cause or create, or permit or allow to be caused or created in the Airspace, and within, above and adjacent to the Real Property, such annoyances as may be inherent in, or may arise or occur from or during the operation of aircraft subject to the noise limitations described above.

Grantor further agrees that all structures to be constructed on Grantor's Real Property described in Exhibit "A" shall provide and maintain applicable sound

attenuation ordinance requirements to insulate occupants from noise to mitigate any adverse impact from aircraft noise.

WITNESS the hand of Grantor this 6<sup>th</sup> day of September, 1996.

GRANTOR(S)


W/H NO. 29 L.L.C.

Signed by:

Print Name: GERARDO A. PIEROTA

Title: MEMBER

ATTEST:

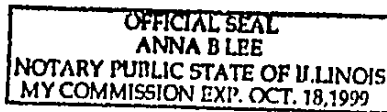
  
Print Name: Timothy J. McENERY  
Title (if any): \_\_\_\_\_

ILLINOIS  
STATE OF UTAH )  
          DUPAGE       : ss  
COUNTY OF SALT LAKE )

On the 6<sup>th</sup> day of September, 1996, personally appeared before me  
~~Anna B. Lee~~ Gerald A. Pientra who being duly sworn, did say that (s)he is a  
Member of W/H NO. 29 L.L.C., a limited liability company existing under  
the laws of the State of Utah; and that said instrument was signed with proper  
authority by him/her on behalf of said limited liability company and said  
\_\_\_\_\_ acknowledged to me that said limited liability company  
executed the same.

Anna B. Lee  
NOTARY PUBLIC, residing in  
DuPage County

My Commission Expires:  
Oct 18, 1999



**EXHIBIT "A"**

The following description is the Grantor's Real Property situated in Salt Lake County, commonly referred to as \_\_\_\_\_  
(Name of subdivision, if applicable)  
Subdivision.

DESCRIPTION: (Tax Parcel #07-36-126-003)

**(Please attach to this Exhibit A the Tax Assessor's legal description (County printout) showing ownership, or other evidence of ownership as approved by City.)**

Recorded at the request of:  
File Number: 96013911

METRO NATIONAL TITLE

MAIL TAX NOTICE TO:  
WH NO. 29, L.L.C.  
c/o WALSH, HIGGINS & COMPANY  
101 East Erie Street, Suite 800  
Chicago, IL 60611  
Attn: Gerald A. Plank, President

RECORDED 8-16-96 AT 3:21 P.M. BY  
METRO NATIONAL TITLE COMPANY IN THE OFFICE  
OF THE SALT LAKE COUNTY RECORDER, AS ENTRY  
NO. 6431968  
IN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
BY \_\_\_\_\_ METRO NATIONAL TITLE

### SPECIAL WARRANTY DEED

HOLTZBRINCK PUBLISHING HOLDINGS LIMITED PARTNERSHIP, a New York limited partnership doing business as "VON HOLTZBRINCK PUBLISHING SERVICES"

with an office at c/o Henry Holt 115 West 18th Street, New York, New York, 10011 hereby CONVEYS and WARRANTS BY THROUGH AND UNDER THEM ONLY TO:

WH NO. 29, L.L.C., a Utah limited liability company

of 101 East Erie Street, Suite 800, Chicago, IL 60611 for the sum of TEN AND 00/100'S DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION, the following described tract(s) of land in SALT LAKE County, State of Utah:

SEE EXHIBIT "A" ATTACHED HERETO

SUBJECT TO: SEE EXHIBIT "B" ATTACHED HERETO.

WITNESS, the hand(s) of said grantor(s), this 13<sup>th</sup> day of August, 1996.

HOLTZBRINCK PUBLISHING HOLDINGS  
LIMITED PARTNERSHIP, DBA VON  
HOLTZBRINCK PUBLISHING SERVICES  
By: Its General Partner  
HOLTZBRINCK PUBLISHING GROUP, INC.

Charles H. Fischer, III  
By: Charles H. Fischer, III  
Its: Chief Operating Officer

State of N.Y. )  
County of N.Y. ) 96

On this 13<sup>th</sup> day of August, 1996, personally appeared before me Charles H. Fischer, III, who being by me duly sworn did say that he is the Chief Operating Officer of HOLTZBRINCK PUBLISHING GROUP, INC., the general partner of HOLTZBRINCK PUBLISHING HOLDINGS LIMITED PARTNERSHIP, DBA VON HOLTZBRINCK PUBLISHING SERVICES, who being by me duly sworn (or affirmed) upon oath did say that such entity is the general partner of the named partnership and that the foregoing instrument was executed pursuant to the partnership agreement with consent of non executing partners as may be required by law, and Charles H. Fischer, III acknowledged to me that such person executed the same as the act of said partnership.

Paul S. Jankowski  
NOTARY PUBLIC  
My commission expires:  
Residing in:

PAULA G. TOLENTINO  
Notary Public, State of New York  
No. 21-4801800  
Qualified in New York County  
Commission Expires May 24, 1997

FOR COPY  
CO. RECORDER

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EXHIBIT "A"

All of Lot 2, AMENDED PLAT SALT LAKE INTERNATIONAL CENTER PLAT 5, according to the official plat thereof, on file and of record in the office of the Salt Lake County Recorder, recorded August 11, 1994 in Book 9408 of Plats at page 241.

Said Lot 2, also being described as follows:

Beginning at the North quarter corner of Section 36, Township 1 North, Range 2 West, Salt Lake Base and Meridian; and running thence North 89 deg. 58' East 217.26 feet; thence South 0 deg. 02'00" East 380.38 feet to a point on the arc of a 73.00 foot radius curve to the left, radial to which bears North 28 deg. 54'32" West (central angle - 126 deg. 14'55"); thence Southerly and Southeasterly along the arc of said curve 160.85 feet; thence South 0 deg. 02'00" East 350.38 feet to the point of curvature to a 30.00 foot radius curve to the right (central angle - 90 deg. 00'); thence Westerly 47.12 feet along the arc of said curve; thence South 89 deg. 58'00" West 1114.56 feet; thence North 0 deg. 02'00" West 891.00 feet; thence North 89 deg. 58' East 927.30 feet to the point of beginning.

POOR COPY -  
CO. RECORDER

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Exhibit B -- Permitted Exceptions

1. Real estate taxes, assessments and special assessments not due and payable as of the Closing Date (exclusive of any so-called appendix real estate taxes or other real estate taxes, assessments or special assessments for 1993 or prior years);
2. Easement for drainage and utilities, as disclosed by plat of subdivision on file and of record in the office of the Salt Lake County Recorder recorded August 11, 1994 in Book 9408 of Plats at page 241;
3. Master Declaration of Establishment of Easements, Covenants, Conditions and Restrictions recorded in the office of the Salt Lake County Recorder April 30, 1975 as Entry No. 2703864;
4. Amendment to Master Declaration of Establishment of Easements, Covenants, Conditions and Restrictions recorded in the office of the Salt Lake County Recorder July 21, 1976 as Entry No. 2836791;
5. Supplemental Declaration of Establishment of Easements, Covenants, Conditions and Restrictions recorded in the office of the Salt Lake County Recorder August 7, 1978 as Entry No. 311959; and
6. An undivided one-half (1/2) interest in and to any and all present rights to oil, gas and other minerals in and under the Property reserved in (a) that certain Special Warranty Deed recorded in the office of the Salt Lake County Recorder September 13, 1974 as Entry No. 2651040, in Book 3679, at Page 392, and (b) that certain Warranty Deed recorded in the office of the Salt Lake County Recorder January 23, 1981 as Entry No. 3588350, in Book 5274, at Page 465.

FOUR COPY  
CO. RECORDER

**EXHIBIT "B"**  
**Salt Lake City International Airport**  
**Boundary Description**

Beginning at a point 806.03 feet N. 0°02'38" E. of the South 1/4 corner of Section 33, Township 1 North, Range 1 West, Salt Lake Base and Meridian, said point being on the northerly right-of-way line of North Temple Street, and running thence S. 89°58'38" W. 340.71 feet along said right-of-way line; thence S. 0°02'38" W. 805.75 feet to the south line of Section 33; thence N. 89°58'33" E. 340.71 feet along said section line to the south 1/4 corner of Section 33 (said 1/4 corner is also the north 1/4 corner of Section 4, T.1 S., R.1 W.); thence S. 0°11'26" E. 2,290.43 feet to the northerly right-of-way of the Western Pacific Railroad main-line siding; thence S. 77°49'01" W. 581.95 feet; thence S. 0°12'04" E. 238 feet, more or less, to the 1/4 section line; thence S. 89°57'09" W. 185 feet, more or less; thence N. 0°12'04" W. 197 feet, more or less, to the northerly right-of-way line of the Western Pacific Railroad main-line siding; thence S. 77°49'01" W. 1,932.50 feet to the west line of said Section 4 (said line is also the east line of Section 5, T.1 S., R.1 W.); thence S. 77°49'01" W. 230.26 feet to a point on a 3,852.83 foot radius curve to the left, said point also being on the northerly right-of-way line of the relocated Salt Lake Garfield & Western Railroad; thence South 77°33' West 397.14 feet along said curve to a point 116 feet perpendicularly distant northwesterly to the Western Pacific Railroad main-line track; thence southwesterly and parallel to said railroad track 3,459 feet, more or less; thence S. 78°00'55" W. 1,343 feet, more or less, to the west line of said Section 5, (said line is also the east line of Section 6, T.1 S., R.1 W.); thence S. 78°00'55" W. 238 feet, more or less, to the westerly highway right-of-way and nonaccess line of U.D.O.T. project No. 1-80-3(5)116; thence N. 1°25'59" W. 622 feet, more or less, along said right-of-way line to a point on a 1,527.89 foot radius curve to the left (note: Tangent to said curve at its point of beginning bears N. 1°50'34" W.); thence northwesterly 769.68 feet along said curve to the North line of the NE 1/4 SE 1/4 of said Section 6; thence northwesterly 971.37 feet along the arc of a 1,672.95 foot radius curve to the left (note: Tangent to said curve at its point of beginning bears N. 34°24'21" W.); thence N. 63°47'38" W. 1,084.09 feet; thence N. 55°55'36" W. 436.08 feet; thence west 83.57 feet to a point on a 2,894.79 foot radius curve to the left (note: Tangent to said curve at its point of beginning bears N. 51°35'12" W.); thence northwesterly 246.45 feet along said curve; thence N. 57°07'49" W. 100.52 feet; thence N. 57°27'53" W. 328.82 feet; thence N. 57°47'59" W. 200.79 feet to a point on a 5,759.58 foot radius curve to the left (note: Tangent to said curve at its point of beginning bears N. 58°28'02" W.); thence northwesterly 640 feet, more or less, along said curve; thence North 545 feet more or less, to the north section line of said Section 6; thence North 850.50 feet; thence East 46.47 feet; thence N. 4°58'32" W. 4,445.67 feet to the north line of Section 31, T.1 N., R.1 W.; thence West 1,009.82 feet along said line to the northwest corner of

said Section 31; thence North 15,840 feet to the northwest corner of Section 18, T.1 N., R.1 W.; thence East 10,560 feet to the northeast corner of Section 17, T.1 N., R.1 W.; thence South 5,280 feet to the northwest corner of Section 21, T.1 N., R.1 W.; thence East 2,640.0 feet; thence South 660.0 feet; thence East 1,320.0 feet; thence South 14,374.25 feet to the northerly right-of-way line of North Temple Street; thence S. 89°58'38" W. 1,254 feet, more or less, along said right-of-way line to the point of beginning;

And beginning at a point 660 feet West and 792 feet North of the South 1/4 corner of Section 16, T.1 N., R.1 W., Salt Lake Base and Meridian; running thence North 198 feet; thence East 660 feet; thence North 33 feet; thence East 165 feet; thence South 264 feet; thence West 165 feet; thence North 33 feet; thence West 660 feet to the point of beginning;

And beginning at a point 660 feet West and 990 feet North of the South 1/4 corner of Section 16, T.1 N., R.1 W., Salt Lake Base and Meridian; running thence North 519.75 feet; thence East 660 feet; thence South 189.75 feet; thence East 165 feet; thence South 297 feet; thence West 165 feet; thence South 33 feet; thence West 660 feet to the point of beginning;

And beginning at the South Quarter Corner of Section 16; Township 1 North, Range 1 West, Salt Lake Base and Meridian; running thence West 660 feet along the South line of said section; thence North 792 feet; thence East 660 feet; thence South 792 feet to the point of beginning;

And beginning at a point 660 feet West and 792 feet North of the South Quarter Corner Section 16, Township 1 North, Range 1 West, Salt Lake Base and Meridian; running thence North 198 feet; thence East 660 feet; thence North 33 feet; thence East 165 feet; thence South 264 feet; thence West 165 feet; thence North 33 feet; thence West 660 feet to the point of beginning;

And beginning in the South line of the Northeast quarter of Section 6 at a point 470.36 feet West from the East quarter corner of said Section 6; thence West 1205.35 feet along said South line; thence North 25°05'47" West 265.54 feet; and thence N. 25°25'49" West 100.52 feet; thence Northwesterly 1287.85 feet along the arc of a 2394.79 foot radius curve to the left to the North line of the Southwest quarter Northeast quarter of said Section 6 (Note: Tangent to said curve at its point of beginning bears North 26°05'48" West); thence East 83.57 feet along said North line to the Southwesterly right-of-way and no-access line of the freeway known as Project No. 80-3; thence South 55°55'36" East 436.08 feet; thence South 63°47'38" East 1084.09 feet to a point on a 1672.95 foot radius curve to the right; thence Southeasterly 971.37 feet along the arc of said curve to the point of beginning. (Note: Tangent to said curve at its point of beginning bears South 67°40'25" East);

And beginning in the south line of the Northeast quarter of said Section 6 at a point approximately 1741.94 feet West from the East quarter corner of said Section 6; thence West 903.79 feet, more or less, to the West line of the Northeast quarter of said Section 6; thence North 1254.38 feet along said West line to a point on a 2834.79 foot radius curve to the right; thence Southeasterly 1220.69 feet along the arc of said curve (Note: Tangent to said curve at its point of beginning bears South 50°46'08" East); thence South 25°25'43" East 99.48 feet; thence South 25°05'47" East 237.49 feet to the point of beginning;

And beginning at the Northwest corner of the Southeast quarter of Section 16, Township 1 North, Range 1 West, Salt Lake Base and Meridian, said point being the center of Section 16; thence East 165 feet; thence South 1320 feet; thence West 165 feet; thence North 1320 feet to the point of beginning.

Contains 6,822.59 acres, more or less (excluding the highway R.O.W.).

### OWNERSHIP CERTIFICATE

Without limitation, the undersigned hereby represent to Salt Lake City Corporation that they constitute all of the owners of the Real Property bearing Salt Lake County Tax Parcel Number 07-36-126-003 as of the date set forth below, and they further represent and agree as follows:

They have full capacity to execute this Avigation Easement and make a binding conveyance thereof, and they know of no other acts in addition to the execution of this Avigation Easement necessary to make a valid and binding conveyance of the same.

They will not transfer any interest in the Real Property prior to the recording of this Avigation Easement by Salt Lake City Corporation without providing prior written notice to the City.

There is no other person or entity having any rights or interests with respect to the Real Property whose consent or conveyance may be necessary in order to make this Avigation Easement fully enforceable against the Real Property with respect to all parties.

After the recording of this Avigation Easement, they will obtain the consent or conveyance of any party with rights or interests created prior to that time which may be necessary in order to make this Avigation Easement fully enforceable against the Real Property with respect to all parties.

Date: September 6, 1996

Record Owners of Salt Lake County Tax  
Parcel Number 07-36-126-003

W/H NO. 29 S.L.C.

Signed by: 

Print Name: GERALD A. PLONERT

Title: MEMBER

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