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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
MIDVALLEY MEDICAL DEVELOP LLC
BY: KLD, DEPUTY - WI 43 P.

DECLARATION OF CONDOMINIUM

FOR

MID-VALLEY MEDICAL

A Commercial Condominium Project
Located in
Salt Lake County, Utah

WHEN RECORDED, RETURN TO:

Gordon R. Jacobson
53 West 9000 South
Sandy, Utah 84070
(801) 597-5500

**DECLARATION OF CONDOMINIUM
FOR
MID-VALLEY MEDICAL
(Including Bylaws)**

THIS DECLARATION OF CONDOMINIUM FOR MID-VALLEY MEDICAL, (this "Declaration") is made by the undersigned owner of all of the property made subject to this Declaration (the "Declarant").

RECITALS

A. Declarant is the owner of certain real property located in Salt Lake County, Utah and more particularly described in **Exhibit A** attached hereto (the "Property").

B. Declarant has constructed, or will construct, on the Property a commercial condominium project (the "Project") substantially in accordance with the plans as set forth in the Condominium Plat of Mid-Valley Medical (the "Map") filed concurrently herewith, as such Map may be amended in the future. The Project shall be known as "Mid-Valley Medical." Declarant intends to establish the Project under and pursuant to the provisions of the Utah Condominium Ownership Act, Code Ann. § 57-8-1 *et seq.* (as amended, supplemented or superseded from time to time, the "Condominium Act").

DECLARATION

Declarant, as the current owner of the Property, hereby grants the following easements and makes the following covenants, which are intended to burden, benefit, and run with the Property and to be binding upon and enforceable against the owner or owners of the Property, as applicable.

**ARTICLE 1
DEFINITIONS**

Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings set forth in the Recitals hereto and this **ARTICLE 1**. Terms used and not otherwise defined herein shall have the meanings given them in the Condominium Act or, if no definition is provided therein, such terms shall have their natural, commonly accepted meanings.

1.1 "Association" shall mean the Mid-Valley Medical Owners Association, a Utah nonprofit corporation, organized to be the Association of the Unit Owners of the Condominiums.

1.2 "Board of Directors" shall mean the governing board of the Association, appointed or elected in accordance with this Declaration and the Articles of Incorporation and Bylaws of the Association.

1.3 "Building" shall mean any building containing Units constructed on the Property as permitted by this Declaration.

1.4 "Common Areas" shall mean all physical portions of the Project not included in the Units, including without limitation, all real property designated as common area, structural separations between Units, and all common areas and facilities as identified on the Map or as defined in the Condominium Act.

1.5 "Common Facilities" shall mean all furniture, furnishings, equipment, mechanical systems, HVAC units, facilities, and other property (real, personal, or mixed) and interests therein at any time leased, acquired, owned, or held by the Association for the use and benefit of all Owners and all other property (real, personal, or mixed) hereafter purchased in accordance with this Declaration with monies from the Common Expense Fund. Common Facilities shall be deemed to be part of the Common Area, except to the extent otherwise expressly provided in this Declaration. The Common Facilities includes the HVAC units that are used for the benefit of individual Units.

1.6 "Common Expense Fund" shall mean the fund established by the Association containing annual and special assessments paid by the Owners and any other amounts the Association collects or receives pursuant to this Declaration or the Bylaws, which fund shall be used to pay Common Expenses and other expenses as permitted by this Declaration or the Bylaws.

1.7 "Condominium" shall mean a Unit and the undivided interest (expressed as a percentage of the entire ownership interest) in the Common Areas appurtenant to such Unit, as set forth in **Exhibit B** hereto.

1.8 "Condominium Act" shall have the meaning provided in the Recitals to this Declaration.

1.9 "Convertible Land" shall mean the building site that is legally described on **Exhibit C**, within which additional Units or Common Areas and Common Facilities may be created in accordance with this Declaration, **Exhibit D**, and the Condominium Act. Until conversion, the Convertible Land will be deemed a portion of the Common Area.

1.10 "Manager" shall mean the person, firm, or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and the Project.

1.11 "Map" shall mean that certain record of survey map of Mid-Valley Medical pertaining to the Project and recorded or to be recorded in the office of the County Recorder of Salt Lake County, State of Utah, as the same may be hereafter amended or supplemented as permitted by this Declaration.

1.12 "Mortgage" shall mean any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof is encumbered.

1.13 "Mortgagee" shall mean (i) any person named as the mortgagee or beneficiary under any Mortgage by which the interest of any Owner is encumbered, or (ii) any successor to the interest of such person under such Mortgage.

1.14 "Owner" shall mean the person or persons, including the Declarant, owning in fee simple a Condominium in the Project, as such ownership is shown by the records of the County Recorder of Salt Lake County, State of Utah and shall be deemed to be a "Unit Owner." The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has acquired title for other than security purposes) or to any person or persons purchasing a Condominium under contract (until such contract is fully performed and legal title conveyed of record).

1.15 "Par Value" shall mean the number of point values assigned to each Unit by this Declaration in **Exhibit B**. In accordance with Section 57-8-13.10(1)(a) of the Condominium Act, all Units created in the Convertible Land will be substantially identical to the other Units. The Par Value of each Unit will be determined by assigning each such Unit one (1) point for each one hundred (100) square feet of floor space within such Unit, rounded up or down, as applicable, to the nearest 100.

1.16 "Period of Declarant's Control" shall mean and refer to a period of time commencing on the date this Declaration is recorded and terminating on the occurrence of the earliest of the following events:

- (a) the time period set forth in Section 57-8-16.5(1)(a) for a condominium project containing convertible land (i.e., four years);
- (b) the last to occur of the following: (i) not less than one hundred and twenty (120) days after more than seventy-five percent (75%) of all Units that are built or that are under construction have been conveyed by the Declarant to unrelated Persons, and (ii) all Convertible Land has been converted; and
- (c) the Declarant executes and records a written Waiver of his right to control.

1.17 "Project" shall mean the Property, the Buildings, all improvements and equipment submitted by this Declaration and the Map to the provisions of the Condominium Act.

1.18 "Total Votes of the Association" shall mean the total number of votes appertaining to all Condominiums in the Project, as shown in **Exhibit B** attached hereto.

1.19 "Unit" shall mean the space inside a unit of the Condominiums as such units are designated on the Map, including (i) the interior surfaces of the walls, doors, windows and floors that surround such space as shown on the Map, and (ii) any mechanical equipment located outside of the Unit that is used exclusively for the benefit of the Unit.

ARTICLE 2 SUBMISSION AND DIVISION OF PROJECT

2.1 Submission to Condominium. It is intended that the Condominium Act shall apply to the Project. In accordance with such intent, Declarant, as record fee simple owner of the real property comprising the Project, hereby submits the real property comprising the Project to the provisions of the Condominium Act. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a fee simple Condominium

Project to be known as Mid-Valley Medical. All of said real property is and shall be subject to the covenants, conditions, restrictions, uses, limitations, and obligations set forth herein, which are declared and agreed to be for the benefit of said Project and in furtherance of a plan for improvement of said real property and division thereof into Condominiums; *further*, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit to Declarant, and to any person acquiring, leasing, or owning an interest in the real property and improvements comprising the Project, and to its successors and assigns.

2.2 Division into Condominiums. The Project is hereby divided into Condominiums, each such Condominium consisting of a Unit and an appurtenant undivided interest in the Common Areas, as set forth in **Exhibit B** attached hereto and by this reference made a part hereof.

2.3 Declarant Right to Convert Convertible Land. Declarant, for itself and its successors, reserves the right to convert any portion of the Convertible Land into one or more Units, Common Areas or Common Facilities, including limited common areas and facilities, without the consent of any other Owner. Declarant's conversion right shall be subject to the limitations and restrictions specified in this Declaration, **Exhibit D**, and the Condominium Act. Any such conversion shall be deemed to have occurred at the time of recording the appropriate instruments under Section 57-8-13(2) of the Condominium Act. Simultaneously with the recording of the supplemental record of survey map pursuant to Section 57-8-13(2) of the Condominium Act, Declarant shall prepare, execute, and record an Amendment to Declaration describing the conversion. The Amendment to Declaration shall assign an identifying number to each Unit formed out of a Convertible Land and shall allocate to each Unit that number of votes and that portion of the undivided interest in the Common Areas and Common Facilities appertaining to that space. The amendment shall further describe or delineate the limited common areas and facilities formed out of the Convertible Land, showing or designating the Unit or Units to which each is assigned. When converting all or any portion of any Convertible Land into one or more Units or limited common areas and facilities, Declarant shall record, with regard to the structure or portion of it constituting that Convertible Land, a supplemental condominium plat showing the location and dimensions of the vertical and horizontal boundaries of each Unit formed out of that space. The supplemental map shall be certified as to its accuracy and compliance with Section 57-8-13(3) of the Condominium Act by the applicable land surveyor. Convertible Land or any portion thereof may be converted in any number of conversions over any period of time while this Declaration remains in effect until all Convertible Land has been converted, subject to the time limitation set forth in Section 57-8-13.2(3) of the Condominium Act (i.e., five [5] years). After the expiration of such time period, Declarant may only create additional Units in the Convertible Land by first obtaining the prior written consent of three-fourths of the Unit Owners. Declarant has no obligation hereunder to construct any improvements on the Convertible Land.

ARTICLE 3 NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

3.1 Interior of Units. Each Owner shall have the right to paint, repair, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of its Unit and the surfaces of all walls, ceilings, floors, and doors within such boundaries.

3.2 Maintenance of Units. Each Owner shall keep the interior of its Unit, including without limitation, interior walls, ceilings, floors, and permanent fixtures and appurtenances thereto, together with all doors and windows separating its Unit from Common Areas or from the exterior of the Building, in a clean and sanitary condition and in a state of good repair. In the event that any such Unit, doors, windows, or other improvements shall develop an unsanitary or unclean condition or fall into a state of disrepair, and in the event that the Owner of such Unit shall fail to correct such condition or state of disrepair within thirty (30) days following written notice from the Association, the Association shall have the right, at the expense of the Owner, and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary or unclean condition or state of disrepair.

3.3 Title. Title to a Condominium within the Project may be held or owned by one or more persons or entities or any combination thereof and in any manner in which title to any other real property may be held or owned in the State of Utah, including without limitation, joint tenancy or tenancy in common; *provided, however*, that all votes associated with such Unit must be voted as a single block pursuant to **Section 6.2** hereof., and not divided among separate owners of such Unit; and *provided further*, that the Association reserves the right to require those persons holding at least a majority of the undivided interests of a Unit to certify in writing the name of the individual that is authorized to vote on behalf of such Unit Owner.

3.4 Ownership of Common Areas. The undivided interest in the Common Areas appurtenant to each Unit in the Project shall be as set forth in **Exhibit B** attached hereto and by this reference made a part hereof. Except as otherwise provided in this Declaration (e.g., conversion or expansion) or in the Condominium Act, the percentages appurtenant to each Unit as shown in said **Exhibit B** shall have a permanent character and shall not be altered without the approval of a majority of the Total Votes of the Association expressed in an amendment to this Declaration duly recorded. Except as otherwise provided in this Declaration, any Owner shall be entitled to nonexclusive use of the Common Areas in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to any rules and regulations promulgated by the Association or the terms of any lease or other agreement with any other party with respect to any portion of the Common Areas. The Board of Directors on behalf of the Association may enter into leases, management agreements or operating agreements with other parties with respect to the Common Areas on such terms as it may elect that are not otherwise inconsistent with the provisions of this Declaration.

3.5 Inseparability. Except as permitted by **Section 3.3** hereof, title to no part of a Condominium within the Project may be separated from any other part thereof during the period of condominium ownership hereunder, and each Unit and the undivided interest in the Common Areas appurtenant to each Unit shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Condominium. Every devise, encumbrance, conveyance, or other disposition of a Condominium, or any part thereof, shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Condominium, together with all appurtenant rights created by law or by this Declaration, including appurtenant membership in the Association as hereinafter set forth.

3.6 No Subdivision. No Unit or portion thereof may be divided or subdivided or a fractional portion thereof sold or conveyed so as to be held in divided ownership. Under no

circumstances shall interests in a Unit be divided into, leased, sold, conveyed or used as time periods of intervals or sold or conveyed to owners or holders for use on a time share basis.

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

3.8 Separate Mortgages by Owners. Each Owner shall have the right to separately mortgage or otherwise encumber its Condominium. No Owner shall attempt to or shall have the right to mortgage or otherwise encumber the Common Areas or any part thereof, except the undivided interest therein appurtenant to its Condominium. Except as provided in **ARTICLE 13** hereof, any mortgage or other encumbrance of any Condominium within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

3.9 Separate Taxation. Each Condominium within the Project, including each Unit and appurtenant undivided interest in the Common Areas, shall be deemed to be a parcel and shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision or of any special improvement district or of any other taxing or assessing authority. For purposes of such assessment, the valuation of the Common Areas shall be apportioned among the Units in proportion to the undivided interests in Common Areas appurtenant to such Units. All such taxes, assessments, and other charges on each respective Condominium shall be separately levied against the Owner thereof. No forfeiture or sale of any Condominium for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Condominium.

3.10 Description of Condominium. Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium within the Project shall describe a Unit by its identifying number or symbol as indicated in this Declaration or as shown on the Map and shall set forth the percentage of undivided interest in the Common Areas appurtenant to such Unit. Such description will be construed to describe the Unit, together with the appurtenant undivided interest in the Common Areas, and to incorporate all the rights incident to ownership of a Condominium within the Project and all of the limitations on such ownership as described in this Declaration and/or the Articles of Incorporation and Bylaws of the Association.

ARTICLE 4 EASEMENTS

4.1 Easements for Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon any Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches upon the Common Areas, or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of a Building or any improvements constructed or to be constructed within the Project, by error in the Map, by settling,

rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project, or any part thereof, in accordance with the provisions of this Declaration.

4.2 Easements for Maintenance, Cleaning, and Repair. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right 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, cleaning, repair, or replacement of any Common Areas or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas or to any Unit. In addition, the Association or its agents may enter any Unit when necessary in connection with any cleaning, maintenance, repair, replacement, landscaping, construction, or reconstruction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association with funds from the Common Expense Fund.

4.3 Right to Ingress, Egress, and Support. Each Owner shall have the right to ingress and egress over, upon, and across the Common Areas as necessary for access to such Owner's Unit, and shall have the right to horizontal, vertical, and lateral support of such Unit, and such rights shall be appurtenant to and pass with title to each Condominium.

4.4 Association's Right to Use Common Areas. The Association shall have an easement to make such use of the Common Areas as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including without limitation, the right to construct and maintain in the Common Areas facilities for use by Owners generally or by the Association and its agents exclusively.

4.5 Easements Deemed Created. All conveyances of Condominiums within the Project hereafter made, whether by a Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

ARTICLE 5 RESTRICTIONS ON USE

5.1 Units. The Units within the Project shall be used exclusively for professional office purposes. No Unit shall be used for retail, storage, warehousing, manufacturing or residential purposes.

5.2 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on in or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or may cause embarrassment, disturbance, or annoyance to Owners. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project, which are unsafe or hazardous to any person or property; *provided, however,* that nothing contained herein shall be deemed to prohibit the use or storage in Units of items that are routinely used in medical, dental and related disciplines.

5.3 Restrictions on Signs. No signs, neon lighting, flags, or advertising devices of any nature, including without limitation commercial, political, informational, or directional signs or devices, shall be erected or maintained on any part of the Project except in compliance with the Bylaws and rules of the Association and with applicable law. Such rules of the Association that restrict signs may be amended from time to time by the affirmative vote of the Board of Directors.

5.4 Alterations. No Owner shall, without the prior written consent of the Association, do any act that would impair the structural soundness or integrity of, or alter the exterior appearance of, the Building or the safety of property or impair any easement or hereditament appurtenant to the Project.

5.5 No Obstructions. Except as permitted by the Bylaws or rules of the Association, there shall be no obstruction of the Common Areas by any Owner, nor shall Owners store or leave any of their property in the Common Areas.

5.6 Prohibition of Damage and Certain Activities. Except with the prior written consent of the Association, nothing shall be done or kept in any Unit, in the Common Areas, or in any other part of the Project which would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit which would increase the rate of insurance on the Project or any part thereof over that which the Association, but for such activity, would pay. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or guest of any Owner, and each Owner shall indemnify and hold harmless the Association and the other Owners from and against all loss resulting from any such damage or waste caused by such Owner or its guests, lessees, licensees, or invitees.

5.7 Parking. Owners shall have the right to use and occupy Common Areas dedicated for parking of vehicles only in connection with the actual occupancy of a Unit. No such areas shall be used for storage of a vehicle. The Association shall have the right to require that vehicles be temporarily removed from any and all parking areas for maintenance or snow removal purposes. The Association may, from time to time, designate certain parking stalls for patient use only. All other parking stalls will be unassigned.

5.8 Rules and Regulations. The Owners shall comply with each and all of the rules and regulations governing use of the Units and/or Common Areas, as such rules and regulations may from time to time be adopted, amended, or revised by the Association, in the reasonable judgment of its Board of Directors. The Association may enforce the rules pursuant to **Section 7.5** hereof.

ARTICLE 6 THE ASSOCIATION

6.1 Membership. Each Owner shall be entitled and required to be a member of the Association. Membership shall begin immediately and automatically upon becoming an Owner

and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Condominium is held by more than one person, the membership appurtenant to that Condominium shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which title to the Condominium is held. An Owner shall be entitled to one membership for each Condominium owned by him. Each membership shall be appurtenant to the Condominium to which it relates and shall be transferred automatically by conveyance of that Condominium. Ownership of a Condominium within the Project cannot be separated from membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of a Condominium shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the Owner's membership in the Association and rights appurtenant thereto. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Condominium.

6.2 Votes. The number of votes appurtenant to each respective Condominium shall be one (1) vote for each one hundred (100) square feet of floor space within the Unit of such Condominium, rounded up or down to the nearest 100, and shall be as set forth in **Exhibit B** attached hereto and by this reference made a part hereof. The number of votes appurtenant to each Condominium as set forth in said **Exhibit B** shall have a permanent character and shall not be altered without the affirmative vote of a majority of the Total Votes of the Association expressed in an amendment to this Declaration duly recorded. If more than one person or entity owns a Unit, then all votes associated with such Unit must be voted as a single block and not divided among separate owners of such Unit; *provided* that the Association reserves the right to require those persons holding at least a majority of the undivided interests of a Unit to certify in writing the name of the individual that is authorized to vote on behalf of such Unit Owner.

6.3 Amplification. The provisions of this **ARTICLE 6** may be amplified by the Articles of Incorporation and Bylaws of the Association; *provided, however*, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration. A copy of the initial Bylaws of the Association are attached hereto as **Exhibit E** and by this reference made a part hereof.

6.4 Board of Directors. Until the expiration of the Period of Declarant's Control, the Declarant shall have the exclusive and irrevocable right to appoint all of the members of the Board of Directors and their successors or replacements. At the first annual Owners meeting after the expiration of the Period of Declarant's Control, new Members of the Board of Directors shall be elected in accordance with the Bylaws.

ARTICLE 7 CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

7.1 Common Areas. Subject to the rights and duties of the Owners as set forth in this Declaration, the Association shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including the Common Facilities), and shall keep the same in a good, clean, attractive, safe, and sanitary condition, order and repair. The Association shall be responsible for the maintenance and repair of the exterior of the Buildings and the grounds, including without limitation painting, repair and replacement of exterior trim

and roofs, and maintenance of landscape, walkways, and driveways. The Association shall also be responsible for maintenance, repair and replacement of Common Areas within the Buildings, including, without limitation, hallways, stairways, elevators, utility lines, and all Common Facilities, improvements, and other items located within or used in connection with the Common Areas. The specification of duties of the Association with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas, as set forth in the first sentence of this Section. All goods and services procured by the Association in performing its responsibilities under this Section shall be paid for with funds from the Common Expense Fund.

7.2 Manager. The Association may by written contract delegate in whole or in part to a professional Manager, including the Declarant, such of the Association's duties, responsibilities, functions, and powers hereunder as are properly delegable. The services of any Manager retained by the Association shall be paid for with funds from the Common Expense Fund.

7.3 Miscellaneous Goods and Services. The Association may obtain and pay for the services of such personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. In addition to the foregoing, the Association may acquire, and pay for out of the Common Expense Fund, water, sewer, garbage collection, electrical, gas, telephone, Internet, cable or satellite television and other necessary or desirable utility services for the Common Areas (and for the Units to the extent not separately metered or billed), and insurance, bonds; and other goods and services common to the Units.

7.4 Real and Personal Property. The Association may acquire and hold real, personal, and mixed property of all types for the use and benefit of all of the Owners and may dispose of such property by sale or otherwise. All such property, including Common Facilities, shall be paid for out of the Common Expense Fund and all proceeds from the disposition thereof shall be part of such Fund.

7.5 Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Units and the Common Areas, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Association may take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of Owners arising hereunder, or to obtain damages for noncompliance therewith, as permitted by law. In the event of such judicial action, the Association shall be entitled to recover its costs, including reasonable attorneys' fees, from the offending Owner.

7.6 Granting Easements. The Association may, without the vote or consent of the Owners or of any other person, grant or create, on such terms as it deems advisable, utility and similar easements and rights-of-way over, under, across, and through the Common Areas.

7.7 Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE 8 ASSESSMENT

8.1 Agreement to Pay Assessments. Declarant, for each Condominium owned by it within the Project, hereby covenants, and each Owner of any Condominium by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all assessments made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established, and collected from time to time as provided in this **ARTICLE 8**.

8.2 Initial Fees. In addition, each Owner shall be required to prepay at the time of Unit purchase, whether as a first time or subsequent Owner, a one-time sum equal to two times the then monthly installment of the annual assessment. Such fees shall become part of the Association's general fund to be utilized as necessary and shall be in addition to monthly installments which shall commence as to an Owner when he becomes an Owner.

8.3 Annual Assessments. Annual Assessments shall be computed and assessed against all Condominiums in the Project as follows:

(a) Common Expense. Annual Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with maintenance and operation of the Common Areas and Common Facilities and/or furnishing utility services and other common items to the Units. Such estimated expenses may include, among other things, the following: expenses of management; taxes and special assessments (until the Condominiums are separately assessed); premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance and wages for Association employees, including fees for and out-of-pocket expenditures of a Manager (if any); utility charges, including charges for utility services to the Units to the extent not separately metered or billed; legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve, surplus, and/or sinking fund; and any other expenses and liabilities which may be incurred by the Association for the benefit of all of the Owners under or by reason of this Declaration. Such shall constitute the Common Expense, and all funds received from assessment under this **Section 8.2** shall be part of the Common Expense Fund. Any costs incurred by the Association for maintenance or repair of doors or windows between a Unit and the exterior of the Building or Common Areas shall be charged by the Association directly to the owner of the Unit adjacent to said doors or windows and shall not be deemed Common Expense, but only to the extent that such damage is caused by and/or is otherwise the fault of such adjacent Unit Owner.

(b) Apportionment. Expenses attributable to the common expense or to the Project as a whole shall be apportioned among and assessed to all Owners in proportion to their respective undivided interests in the Common Areas; *provided, however*, that any expenses attributable to other than common expense or to the Project as a whole shall be apportioned among and assessed to all Owners to whom such expenses are equitably allocated in proportion to their respective undivided interests in the Common Areas. For all such expenses not equally serving the Project as a whole and equitably allocable to some but not all Owners, the Association shall have the right to separately assess the benefited Owners for payment of such expenses, and payment of any such special assessment shall be secured by a lien as provided in **Section 8.5** hereof.

(c) Annual Budget. Annual Assessments shall be determined on a fiscal year basis as determined by the Board of Directors. At least thirty (30) days prior to the commencement of each fiscal year, the Association shall prepare or cause to be prepared an operating budget for the upcoming fiscal year. The budget shall itemize the estimated expenses of common expense for such fiscal year, anticipated receipts (if any), and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period.

(d) Notice and Payment. Annual Assessments shall be made on a fiscal year basis as determined by the Board of Directors. The Association shall furnish to each Owner a copy of the budget and notify each Owner as to the amount of the Annual Assessment with respect to its Condominium no less than twenty (20) days prior to the commencement of each fiscal year. Each Annual Assessment shall be payable in twelve (12) equal monthly installments due on the first day of each calendar month during the fiscal year to which the assessment relates or at the discretion of the Board of Directors in quarterly and/or unequal installments; *provided, however*, that the first Annual Assessment shall be based upon and shall be payable in installments during the balance of the fiscal year remaining after the date hereof. All unpaid installments of any Annual Assessment shall bear interest at the rate of eighteen percent (18%) per annum (or at such lesser rate equal to the maximum interest rate allowed by applicable law) from the date each such installment is due until paid. The failure of the Association to give timely notice of any Annual Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the Owner in the manner provided in this Declaration.

(e) Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Association may levy additional assessments in accordance with the procedure set forth in **Section 8.4** below, except that the vote therein specified shall be unnecessary.

8.4 Special Assessments. In addition to the Annual Assessments authorized by this Article, the Association may levy, at any time and from time to time, upon affirmative vote of at least a majority of the Total Votes of the Association, Special Assessments, payable over such periods as the Association 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 Project or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration (including without limitation Common Expenses). This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective undivided interests in the Common Areas. Notice in writing of the amount of such Special Assessments and the time for payment thereof shall be given promptly to the Owners. No payment shall be due less than fifteen (15) days after such notice shall have been given. All unpaid portions of any Special Assessment shall bear interest at the rate of one and one-half percent (1 ½ %) per month (or at such lesser rate equal to the maximum interest rate allowed by applicable law) from the date such portions become due, until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund.

8.5 Lien for Assessments. All sums assessed to Owners of any Condominium within the Project pursuant to the provisions of this **ARTICLE 8**, together with interest thereon as provided herein, shall be secured by a lien on such Condominium in favor of the Association. To evidence a lien for sums assessed pursuant to this **ARTICLE 8**, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Condominium, and a description of the Condominium. Such a notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder of Salt Lake County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in the State of Utah. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees) and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Condominium which shall become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed. The Association shall have the right and power to bid in at any foreclosure sale, and to hold, lease, mortgage, or convey the subject Condominium. The rights of the Association under this **Section 8.5** shall be in addition to any other rights provided by law with respect to liens for and collection of unpaid assessments.

8.6 Personal Obligation of Owner. The amount of any Annual or Special Assessment against any Condominium shall be the personal obligation of the Owner of such Condominium to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of its Condominium or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and

expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

8.7 Statement of Account. Upon payment of a reasonable fee and upon written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Condominium, the Association shall issue a written statement setting forth the following: the amount of the unpaid assessments, if any, with respect to such Condominium; the amount of the current Annual Assessment and the date or dates upon which installments thereof become due; and any outstanding credit for advanced payments or prepaid items, including without limitation the Owner's share of prepaid insurance premiums. Such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith.

8.8 Personal Liability of Purchaser. Subject to the provisions of **Section 8.7** and **ARTICLE 13** hereof, a purchaser of a Condominium shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Condominium up to the time of the grant or conveyance; *provided, however*, that the provisions of this Section shall not prejudice the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

8.9 Annual Financial Statements. Promptly following the close of each fiscal year of the Association, the Association shall cause to be prepared and provided to each Owner financial statements containing a balance sheet of the Association as of the last day of the fiscal year and reasonable detail as to the income and expenses of the Association during said fiscal year.

ARTICLE 9 INSURANCE

9.1 Types of Insurance. The Association shall obtain and keep in full force and effect at all times the following types of insurance coverage, provided by companies licensed to do business in the State of Utah, where such coverages are reasonably available.

(a) Fire and Casualty Insurance. The Association shall obtain a policy or policies of insurance on the Project in such amounts as shall provide for replacement thereof in the event of damage or destruction from the casualty against which such insurance is obtained, which insurance shall be in accordance with coverage customarily maintained by other condominium projects similar in construction, design, and use. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice. The Association shall have no responsibility to insure the personal property of anyone located within any Unit but may provide such coverage from time to time at the option of the Association.

(b) Public Liability and Property Damage Insurance. The Association shall obtain a broad form of comprehensive liability insurance coverage, in such amounts and in such forms as it deems advisable to provide adequate protection against liability for

personal injury, death, and property damage; *provided, however*, that in no event shall the single combined liability limit of such insurance coverage be less than One Million Dollars (\$1,000,000). Coverage shall include, without limitation, liability for operation of automobiles on behalf of the Association and all activities in connection with the ownership, operation, maintenance, and other use of the Project including Common Areas.

(c) Workers' Compensation Insurance. At all times that the Association has employees, the Association shall obtain and maintain workers' compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(d) Fidelity Bond. The Association may, in its discretion, obtain and maintain a fidelity bond indemnifying the Association and the Board of Directors from and against any loss of money or other personal property belonging to the Association or for which the Association is legally liable, occasioned by any dishonest or fraudulent acts committed by the officers, Directors, or employees of the Association. When a management agent has the responsibility for handling or administering funds of the Association, the management agent shall be required to maintain any fidelity bond coverage required by the Association. If such bond is obtained, the fidelity bond shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three (3) months aggregate assessments on all Units plus reserve funds. If such bond is obtained, the bond shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The premiums on all bonds required herein, except those maintained by the management agent, shall be paid by the Association as a Common Expense. The bonds shall provide that they may not be canceled or subsequently modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association. The bonds shall provide that first mortgagees, upon request, shall receive notice of cancellation or modification.

(e) Directors' and Officers' Coverage. The Association may in its discretion obtain and maintain directors' and officers' coverage for the officers and directors of the Association.

9.2 Form of Insurance. Insurance coverage on the Project, insofar as possible, shall be in the following form:

(a) Casualty Insurance. Casualty insurance shall be carried in a form or forms naming the Association as the insured, as trustee for the Owners, and such policy or policies shall specify the interest of each Owner (Owner's name, Unit number, and the appurtenant undivided interest in the Common Areas). Each policy shall provide a standard, noncontributory mortgagee clause in favor of each Mortgagee which from time to time shall give notice to the Association of its Mortgage. Each policy also shall provide

that it cannot be canceled either by the insured or by the insurance company until after fifteen (15) days prior written notice is first given to each Owner and to each Mortgagee which has requested such notice in writing. The Association shall furnish to each Owner, and to each Mortgagee requesting the same, a certificate of coverage, including an identification of the Owner's interest.

(b) Public Liability and Property Damage Insurance. Public liability and property damage insurance shall name the Association as the insured, as trustee for each Owner and for each Declarant (for so long as such Declarant holds an interest in the Project whether or not such Declarant is an Owner), and shall protect the Association, each Owner, and each Declarant against liability for acts or omissions of the Association and all other persons and entities in connection with the ownership, operation, maintenance, or other use of the Project. Each such policy shall provide that it cannot be canceled either by the insured or by the insurance company until after fifteen (15) days prior written notice to the Association, to each Owner, and to each Declarant.

(c) Policies. All insurance policies obtained by the Association pursuant to this Declaration shall be issued by an insurance company or companies licensed to do business in the State of Utah which has or have a general policy holders rating of A or better and a financial category rating of Class IX or higher in Best's Insurance Guide. The Association shall secure the insurance policies that will provide for the following:

(i) The insurer shall waive subrogation as to any claims against the Association, the Declarant, the Manager, the Owners, and their respective servants, agents, and guests;

(ii) The policy or policies on the Project cannot be canceled, invalidated, or suspended on account of the conduct of any one or more individual Owners;

(iii) The policy or policies on the Project cannot be canceled, invalidated, or suspended on account of the conduct of any trustee, officer, or employee of the Association, without a prior demand in writing that the Association cure the defect; and

(iv) Any "no other insurance" clause in the policy or policies on the Project shall exclude individual Owners' policies from consideration.

9.3 Additional Coverage. The provisions of this Declaration shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required by this Declaration, in such amounts and in such forms as the Association may deem appropriate from time to time.

9.4 Adjustment and Contribution. Exclusive authority to adjust losses under policies hereafter in force on the Project shall be vested in the Association. In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees.

9.5 Owner's Own Insurance. Notwithstanding the provisions hereof, each Owner shall obtain insurance at its own expense providing coverage upon its Condominium, its personal property, for its personal liability, and covering such other risks as the Owner may deem appropriate; *provided*, that each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this Article. To the extent it is possible without extra cost to the Owner, the Association shall be named as an additional insured on any policy obtained by the Owner covering the Owner's Unit. All such insurance of the Owner's Condominium shall waive the insurance company's right of subrogation against the Association, the Declarant, the Manager, other Owners, and their respective servants, agents, and guests, if such insurance can be obtained pursuant to industry practice without additional premium charge for the waiver of subrogation rights.

9.6 Review of Insurance. The Association shall review annually the coverage and policy limits of all insurance on the Project and adjust same at its discretion. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or by such other qualified appraisers as the Association may select.

ARTICLE 10 DAMAGE OR DESTRUCTION

10.1 Association as Attorney in Fact. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place, and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from any Declarant or from any Owner shall constitute an appointment by said grantee of the Association as its attorney in fact as herein provided. As attorney in fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted.

10.2 Definition of Repair and Reconstruction. Repair and reconstruction of the improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having substantially the same vertical and horizontal boundaries as before.

10.3 Procedures. In the event any part of the Project is damaged or destroyed, the Association shall proceed as follows:

(a) Estimate of Costs. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct that part of the Project damaged or destroyed.

(b) Sufficient Insurance. If the proceeds of the insurance maintained by the Association equal or exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, such repair and reconstruction shall be carried out. The

proceeds of all insurance collected or maintained by the Association shall be available to the Association to pay the costs of such repair and reconstruction. If the proceeds of such insurance are insufficient to pay the actual costs of such repair and reconstruction, the Association shall levy a Special Assessment sufficient to provide funds to pay such actual costs of repair and reconstruction. Such Special Assessment shall be allocated and collected as provided in **Section 8.4** hereof; except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

(c) Insufficient Insurance -- Less than 75% Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if less than seventy-five percent (75%) of the Building is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The proceeds of all insurance collected or maintained by the Association shall be available to the Association to pay the costs of such repair and reconstruction. The Association shall levy a Special Assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Assessment shall be allocated and collected as provided in **Section 8.4** hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

(d) Insufficient Insurance - 75% or More Destruction. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if seventy-five percent (75%) or more of the Building is damaged or destroyed, such damage or destruction shall be repaired and reconstructed as provided in **Section 10.3(c)** hereof if, but only if, within one hundred (100) days following the damage or destruction, the Owners shall elect by a vote of at least seventy-five percent (75%) (or such higher percentage as designated in the Bylaws in effect from time to time) of the Total Votes of the Association to carry out such repair and reconstruction. If, however, the Owners shall not, within one hundred (100) days after such damage or destruction, elect by the required percentage vote to carry out such repair and reconstruction, the Association shall record in the office of the County Recorder of Salt Lake County, State of Utah, a notice setting forth such facts and such other documents as are necessary to dissolve the condominium. Upon the recording of such notice and other documents, the following shall occur:

(i) The Project shall be deemed to be owned in common by the Owners;

(ii) The undivided interest in the Project owned in common which shall appertain to each Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas;

(iii) Any liens affecting any of the Condominiums shall be deemed to be transferred, in accordance with the existing priorities, to the undivided interest of the respective Owner in the Project; and

(iv) (iv) The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with the net proceeds of the insurance on the Project, if any, shall be considered as one fund and shall be divided among all Owners in a percentage equal to the percentage of undivided interest owned by each respective Owner in the Common Areas, as set forth in **Exhibit B** attached hereto, after first paying out of the respective shares of each Owner, to the extent sufficient for the purposes, all liens on the undivided interest in the Project owned by such Owner.

10.4 Repair or Reconstruction. If the damage or destruction is to be repaired and reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having the same vertical and horizontal boundaries as before.

10.5 Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and any amounts received from assessments made pursuant to **Sections 10.3(b), (c) and (d)** hereof shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost of repair and reconstruction shall be made from insurance proceeds. If there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to their respective percentages of ownership of the Common Areas.

ARTICLE 11 CONDEMNATION

11.1 Condemnation. If at any time or times during the continuance of condominium ownership pursuant to this Declaration all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain.

11.2 Proceeds. All compensation, damages, and other proceeds from any such taking by power of eminent domain (hereinafter the "condemnation award") shall be made payable to the Association and shall be distributed by the Association as herein provided.

11.3 Complete Taking. In the event the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall terminate and the condemnation award

shall be allocated among and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Such distribution shall be made by check payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

11.4 Partial Taking. In the event less than the entire Project is taken by power of eminent domain, the following shall occur:

(a) Allocation of Award. As soon as practicable, the Association shall, reasonably and in good faith, apportion the condemnation award between compensation, severance damages, or other proceeds, and shall allocate such apportioned amounts and pay the same to the Owners as follows:

(i) The total amount apportioned to taking of or injury to the Common Areas shall be allocated among and distributed to all Owners (including Owners whose entire Units have been taken) in proportion to their respective undivided interests in the Common Areas;

(ii) The total amount apportioned to severance damages shall be allocated among and distributed to the Owners of those Condominiums that have not been taken, in proportion to their respective undivided interests in the Common Areas;

(iii) The respective amounts apportioned to the taking of or injury to a particular Unit shall be allocated and distributed to the Owner of such Unit;

(iv) The total amount apportioned to consequential damages and any other takings or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances;

(v) If apportionment or allocation is already established by negotiation, judicial decree, statute, or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable; and

(vi) Distribution of allocated proceeds shall be made by check payable jointly to individual Owners and their respective Mortgagees, as appropriate.

(b) Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall not terminate, but shall continue unless the Owners determine otherwise in compliance with the Bylaws. If any partial taking results in the taking of an entire Unit, the Owner thereof shall cease to be a member of the Association. The Association shall reallocate the voting rights and the undivided interest in the Common Areas appurtenant to such Unit in accordance with the Condominium Act.

(c) Repair and Reconstruction. Any repair and reconstruction necessitated by condemnation shall be governed by the provisions specified in **ARTICLE 10** hereof for cases of damage or destruction; *provided, however*, that the provisions of said Article dealing with sufficiency or insufficiency of insurance proceeds shall not be applicable.

ARTICLE 12
COMPLIANCE WITH DECLARATION AND BYLAWS

12.1 Compliance. Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation and the Bylaws of the Association, rules and regulations promulgated by the Association, and the decisions and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief or for both, maintainable by the Association or, in a proper case, by an aggrieved Owner.

12.2 Enforcement and Remedies. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to the Association or Condominiums within the Project shall be enforceable by any Declarant or by any Owner of a Condominium within the Project, subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or Amended Declaration, with respect to a person or entity or property of a person or entity other than the Association or the Declarant shall be enforceable by the Declarant or by the Association or, in a proper case, by an aggrieved Owner by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid.

ARTICLE 13
MORTGAGEE PROTECTION

13.1 Request for Notice. From and after the time a Mortgagee makes written request to the Association therefor, the Association shall notify such Mortgagee in writing in the event that the Owner of the Unit encumbered by the mortgage held by such Mortgagee neglects for a period of sixty (60) or more days to cure any failure on its part to perform any of its obligations under this Declaration.

13.2 Priority of Mortgages as to Assessments. The lien or claim against a Unit for unpaid assessments or charges levied by the Association pursuant to this Declaration or the Act shall be subordinate to a first Mortgage affecting such Unit. A Mortgagee who obtains title to a Unit pursuant to its Mortgage or a deed or assignment in lieu of foreclosure shall not be liable for such Unit's unpaid assessments which accrue prior to the acquisition of title to such Unit by the Mortgagee and shall take the same free of such lien or claim for unpaid assessments or charges, but only to the extent of assessments or charges which accrue prior to the acquisition of title to such Unit by Mortgagee (except for claims for a pro rata share of such prior assessments or charges resulting from a pro rata reallocation thereof to all Units including the Unit in which the Mortgagee is interested). No assessment, charge, lien or claim which is described in the preceding sentence as being subordinate to a Mortgage or as not a burden to a Mortgagee coming into possession pursuant to its Mortgage or a deed or assignment in lieu of foreclosure shall be collected or enforced by the Association from or against a Mortgagee, a successor in title to a Mortgagee, or the Unit affected or previously affected by the Mortgage concerned (to the extent any such collection or enforcement would prejudice the interests of the Mortgagee or successor in title to the Mortgagee's interest in such Unit).

13.3 Abandonment or Modification of Project. Without the approval of at least sixty-seven percent (67%) of the first Mortgagees, neither the Board of Directors nor the Association shall be entitled, by act, omission, or otherwise:

(a) to seek to abandon or terminate the Project or to abandon or terminate the arrangement which is established by this Declaration and the Record of Survey Map (except as provided in **ARTICLE 10** hereof in the event of certain destruction or damage);

(b) to partition or subdivide any Unit;

(c) to seek to abandon, partition, subdivide, encumber, sell or transfer all or any of the Common Areas and Facilities (except for the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas and Facilities and except as provided in **ARTICLE 10** hereof in the event of certain destruction or damage);

(d) to use hazard insurance proceeds resulting from damage to any part of the Project (whether to Units or to the Common Areas) for purposes other than the repair, replacement, or reconstruction of such improvements, except as provided by statute in the event of substantial loss to the Units and/or Common Areas and Common Facilities;

(e) to change the pro rata interests or obligations of any Unit which apply for (1) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or for (2) determining the pro rata share of ownership of each Unit in the Common Areas and Common Facilities; or

(f) to alter the provisions of **ARTICLE 9** hereof in such a way as to diminish the insurance protection required to be afforded to the parties designed to be protected thereby, or to fail to maintain the insurance coverage described therein.

13.4 Right to Examine Books and Records. Any Mortgagee shall have the right, at its request and expense and upon reasonable notice, to examine the books and records of the Association, or of the Project. From and after the time a Mortgagee makes written request to the Association therefor, the Association shall furnish to such Mortgagee copies of such annual operating reports and other reports or writings summarizing or reflecting the financial position or history of the Project as may be prepared for distribution to or use by the Board of Directors, the Association, or the Unit Owners.

13.5 Reserve Funds. The Board of Directors shall establish an adequate reserve fund to cover the cost of reasonably predictable and necessary major repairs and replacements of the Common Areas and Common Facilities and shall cause such reserve to be funded by regular monthly or other periodic assessments against the Units rather than by Special Assessments.

13.6 Damage, Loss or Condemnation. From and after the time a Mortgagee makes written request to the Association therefor, the Association shall notify such Mortgagee in writing in the event that there occurs any damage or loss to, or any taking or anticipated condemnation of:
(a) the Common Areas and Common Facilities involving an amount in excess of, or reasonably

estimated to be in excess of, Twenty Thousand Dollars (\$20,000); or (b) any Unit involving an amount in excess of, or reasonably estimated to be in excess of, Ten Thousand Dollars (\$10,000). Said notice shall be given within ten (10) days after the Board of Directors of the Association learns of such damage, loss, taking or anticipated condemnation.

13.7 Priority of Mortgages as to Insurance or Condemnation Awards. Nothing contained in this Declaration shall give a Unit Owner, or any other party, priority over any rights of a first Mortgagee pursuant to its Mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of condominium Units and/or Common Areas and Common Facilities.

13.8 Conflicting Provisions. In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or claims of this Article, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority as the case may be, applicable to the Association with respect to the subject concerned.

13.9 Restrictions on Amendment of Articles. Except as otherwise set forth herein, no amendment to this Article which has the effect of diminishing the rights, protection or security afforded to Mortgagees shall be accomplished or effective unless more than fifty percent (50%) of all of the Mortgagees of the individual Units have given their prior written approval to such amendment. Any amendment to this Article shall be accomplished by an instrument executed by the Association and filed for record in the office of the Salt Lake County Recorder. In any such instrument an officer of the Association shall certify that any prior written approval of Mortgagees required by this Article as a condition to amendment has been obtained.

ARTICLE 14 RIGHTS AND RESERVATIONS OF DECLARANT

14.1 Marketing of Units. Notwithstanding any other provision of this Declaration, until Declarant has completed and sold or leased all of the Units (including but not limited to any Units created in the Convertible Land), Declarant may take the following actions without the consent of the Owners, the Association, or the Board of Directors:

(a) Sales Office and Model Units. Declarant shall have the right to maintain one (1) or more sales offices and one (1) or more model Units at any one time. Such office and/or models may be on one or more of the Units owned by it, or one or more of any separate structures or facilities placed on the Property for the purpose of aiding Declarant's sales effort, or any combination of the foregoing.

(b) Promotional. Declarant shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners or similar devices at any place or places on the Property, including without limitation "for sale" signs or "for rent" signs.

(c) Common Area Use. Declarant shall have the right to use the Common Areas of the Project to facilitate sales.

(d) Relocation and Removal. Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices. Within a reasonable period of time after the sale of its final Unit, Declarant shall have the right to remove from the Project any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Declarant's sales effort.

14.2 Alterations. The Declarant reserves the right at any time prior to the end of the Period of Declarant's Control to:

(a) Excavate and grade on the Property, and to remove material from or deposit material on the Property in connection with the development of the Property.

(b) Amend the MAP, make changes to the design and construction of the improvements located in or on the Common Areas without additional approval required, including without limitation the consent of the Association or the Owners.

(c) Install cable service lines, Internet, satellite dishes or antennas as needed throughout the Project in connection with its development.

14.3 Transfer of Interest. During the Declarant's Period of Control, any dedication of an easement or transfer in an interest in the Common Areas shall be effective only if approved in writing by the Declarant.

14.4 Assessments. Anything to the contrary notwithstanding, the Declarant shall not be obligated to pay Assessments on Units owned by the Declarant until the earlier to occur of: (i) a certificate of permanent occupancy is issued for, and the applicable Unit is either sold or rented, or (ii) Declarant elects in writing to pay the Assessments for one or more of such Units.

14.5 Certain Provisions Applicable to Declarant. Notwithstanding any other provision herein contained, for so long as Declarant continues to own any of the Units, the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Declarant from any obligations of an Owner to pay Assessments, except as herein otherwise provided, as to each Unit owned by Declarant in accordance with the Declaration:

(a) Declarant specifically disclaims any intent to have made any warranty or representation in connection with the Project or the Declaration except as specifically set forth herein or in any agreement for sale of a Unit, and no person shall rely upon any warranty or representation not so specifically made therein; and

(b) No amendment may be made to the Declaration without the written consent of Declarant so long as Declarant retains the ownership of a Unit within the Project.

ARTICLE 15
GENERAL PROVISIONS

15.1 Intent and Purpose. The provisions of this Declaration, and any Supplemental or Amended Declaration, shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a Condominium Project. Failure to enforce any provision, restriction, covenant, or condition in this Declaration, or in any Supplemental or Amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

15.2 Construction. The provisions of this Declaration shall be in addition and supplemental to the Condominium Act and to all other provisions of law. Wherever used herein, unless the context shall otherwise require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders, the Article and Section headings set forth herein are for convenience and reference only and are not intended to describe, interpret, define, or otherwise affect the content, meaning, or intent of this Declaration or any Article, Section, or provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

15.3 Notices and Registration of Mailing Address. Each Owner shall register from time to time with the Association its current mailing address. All notices, demands, and other communications to any Owner as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally served or if sent by first class U.S. mail, postage prepaid, addressed to the Owner at its registered mailing address or, if no address has been registered, to the Unit of such Owner. All notices, demands, and other communications to the Association as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally served or if sent by first class U.S. Mail, postage prepaid, addressed to the Association at its offices at the Project, or to such other address as the Association may hereafter specify to the Owners in writing. Any notice, demand, or communication referred to in this Declaration shall be deemed given when personally served or when deposited in the U.S. Mail, postage prepaid, and in the form provided for in this Section, as the case may be.

15.4 Audit. Any Owner may at any reasonable time, upon appointment and at its own expense, cause an audit or inspection to be made of the books and records maintained by the Association.

15.5 Signage. A large sign board visible to the general public may be installed by the Declarant on the Property to identify the Project and provide space for Unit Owners to display their business name. The Declarant or, after the expiration of the Declarant's Period of Control, the Association shall:

- (a) Designate a location on the exterior wall and/or overhead door of each Unit for individual signs or lettering;
- (b) Permit lettering to appear on the walk-in door to a Unit;

- (c) Approve the styles, types and methods of providing such signage; and
- (d) Adopt written standards or may approve such matters in their discretion on a case-by-case basis.

(e) No sign, flag, lettering, display, or advertising device of any nature may be erected, displayed or maintained on any part of the Project (including placement of signs within a Unit or other location of the Project which are visible from the Common Areas) without prior approval of the Declarant or, after the expiration of the Declarant's Period of Control, the Association, except as may be necessary to temporarily caution or warn of danger or to provide directions s required by law, and such signs as Declarant may erect or maintain incident to the original construction, legal requirements, and original sale of Units.

(f) The Declarant or, after the expiration of the Declarant's Period of Control, the Association shall have the right to approve or withhold consent from any design, lettering content and color of any sign, flag, lettering, display or advertising device displayed on the Project, including the aforementioned sign board. Any and all unauthorized signage shall be removed promptly upon request.

15.6 Effective Date. This Declaration shall take effect upon recording.

15.7 Amendments. All amendments to this Declaration require a duly executed instrument to be recorded in the office of the County Recorder of Salt Lake County, State of Utah. Such amendments will be effective upon recording. This Declaration may be amended as follows:

(a) Amendments by Declarant Prior to First Sale. Except as provided elsewhere in this Declaration, prior to the conveyance of the first Unit to an Owner other than a Declarant, this Declaration and any amendments thereto may be amended or revoked by the execution by Declarant of an instrument amending or revoking the same.

(b) Amendments by Declarant After First Sale. Except as provided elsewhere in this Declaration, Declarant (without obtaining the approval of Owners, the Association, or existing Mortgagees) may unilaterally amend or modify this Declaration in the exercise of its rights set forth in this Declaration. Also, notwithstanding anything herein to the contrary, Declarant shall have the unilateral right (without obtaining the approval of the Owners, the Association, or existing Mortgagees) to amend this Declaration until the termination of the Period of Declarant's Control, if such amendment is required solely: (a) to comply with applicable law or to correct any error or inconsistency of the Declaration and if such amendment does not adversely affect the rights of any Owner or Mortgagee, or governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments (including, without limitation, the Small Business Administration, Federal Housing Administration, or any similar agency). If such amendment bears recitation that it is recorded based on such technical error or the requirements of any of the foregoing agencies, such amendment shall not require approval of any Owners or Mortgagees.

(c) General Amendment Requirements. Subject to **Section 13.9**, this Declaration may be amended only by vote or agreement of at least a majority of the Total Votes of the Association. Prior to the expiration of the Period of Declarant's Control, this Declaration shall not be amended without Declarant's prior written consent. An amendment shall not terminate or decrease any unexpired development right, or Period of Declarant's Control unless the Declarant approves or consents in writing.

15.8 Agent for Service. The agent for service of process under the Condominium Act shall initially be Gordon R. Jacobson, having an address at 53 West 9000 South, Sandy, Utah 84070. The Association shall have the right to change said agent for service of process at any time in which event the Association shall cause such agent's name and address to be listed in an appropriate instrument filed with the Utah Division of Corporations and Commercial Code.

15.9 Owner's Obligations. All obligations of an Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may be leasing, renting, or selling under contract its Condominium. Except for interest charges on any unpaid assessment, the Owner of a Condominium within the Project shall have no obligation for expenses or other obligations accruing after he conveys such Condominium.

15.10 Limitation on Association's Liability. Neither the Association, the Board of Directors or the Declarant shall be liable for any failure of water service, electricity, or other utility service (if any) to be obtained and paid for by the Association hereunder, or for injury to or damage of any person or property caused by the elements or by another Owner or person in the Project, or resulting from electricity, water, rain, snow, or ice which may leak or flow from outside or from any parts of the Building or its drains, pipes, conduits, appliances, conduits, or equipment, or from any other place, unless caused by the grossly negligent or willful misconduct of the Association. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or improvements in or maintaining the Project or any part thereof, or from any action taken to comply with the laws, ordinances, regulations, rules, or orders of any governmental authority.

15.11 Limitation of Liability. Neither the Association, Board of Directors, nor the Declarant, or any of their employees, agents, representatives or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications. By accepting a deed or other document of conveyance to a Unit, each Owner agrees to and shall defend, indemnify, save and hold the Declarant, Association, and the Board of Directors, and their agents, representatives, members and employees, harmless from any and all loss, damage or liability they may suffer, including defense costs and attorney fees, as a result of any claims, demands, costs, awards or judgments arising out of their review or approval of architectural designs, plans and specifications.

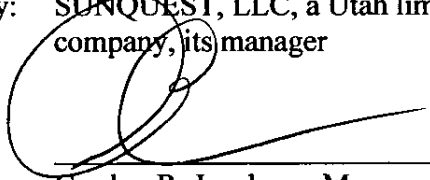
[signature on following page]

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the day and year first above written.

DECLARANT:

MID-VALLEY MEDICAL DEVELOPMENT, LLC, a Utah limited liability company

By: ~~SUNQUEST, LLC, a Utah limited liability company, its manager~~




Gordon R. Jacobson, Manager

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 19 day of Dec, 2006, by Gordon R. Jacobson, the manager of Sunquest, LLC, on behalf of such company and Mid-Valley Medical Development, LLC.





NOTARY PUBLIC

**EXHIBIT A
TO
DECLARATION OF CONDOMINIUM
FOR
MID-VALLEY MEDICAL**

**Legal Description of
The Property**

Real property located in Salt Lake County, Utah, legally described as follows:

BEGINNING AT A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF FASHION BOULEVARD, SAID POINT BEING S89°55'00"E, 156.52 FEET AND S00°00'10"W, 32.51 FEET FROM THE CENTER OF SECTION 18, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE S00°00'10"W, 485.28 FEET; THENCE N77°57'00"W, 419.507 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF FASHION BOULEVARD; THENCE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY 219.026 FEET ALONG THE ARC OF A 400.00 FOOT RADIUS CURVE TO THE RIGHT (CHORD BEARS N36°04'48"E, 216.30 FEET), THENCE CONTINUING ALONG SAID RIGHT-OF-WAY N51°46'01"E, 360.159 FEET TO THE POINT OF BEGINNING. CONTAINS 2.577 ACRES, MORE OR LESS.

**EXHIBIT B
TO
DECLARATION OF CONDOMINIUM
FOR
MID-VALLEY MEDICAL**

Ownership Interests

| Unit Number | Unit Square Footage | % Undivided Ownership of Common Area | Undivided Ownership In Sq. Footage | Total Sq. Feet Of Ownership | Par Value | Number of Votes |
|--------------------|----------------------------|---|---|------------------------------------|------------------|------------------------|
| 110 | 703 | 2.716% | 170.2932 | 873.2932 | 7 | 7 |
| 120 | 1,958 | 7.566% | 474.3882 | 2432.3882 | 20 | 20 |
| 130 | 1,138 | 4.397% | 275.6919 | 1413.6919 | 11 | 11 |
| 140 | 1,158 | 4.474% | 280.5198 | 1438.5198 | 12 | 12 |
| 150 | 1,934 | 7.473% | 468.5571 | 2402.5571 | 19 | 19 |
| 180 | 3,730 | 14.413% | 903.6951 | 4633.6951 | 37 | 37 |
| 190 | 2,334 | 9.019% | 565.4913 | 2899.4913 | 23 | 23 |
| 210 | 1,096 | 4.235% | 265.5345 | 1361.5345 | 11 | 11 |
| 220 | 1,629 | 6.294% | 394.6338 | 2023.6338 | 16 | 16 |
| 230 | 1,207 | 4.664% | 292.4328 | 1499.4328 | 12 | 12 |
| 240 | 2,405 | 9.293% | 582.6711 | 2987.6711 | 24 | 24 |
| 250 | 874 | 3.377% | 211.7379 | 1085.7379 | 9 | 9 |
| 260 | 991 | 3.829% | 240.0783 | 1231.0783 | 10 | 10 |
| 270 | 2,433 | 9.401% | 589.4427 | 3022.4427 | 24 | 24 |
| 280 | 1,156 | 4.467% | 280.0809 | 1436.0809 | 12 | 12 |
| 290 | 1,134 | 4.382% | 274.7514 | 1408.7514 | 11 | 11 |
| Total | 25,880 | 100.000% | 6,270 | 32,150 | 258 | 258 |

**EXHIBIT C
TO
DECLARATION OF CONDOMINIUM
FOR
MID-VALLEY MEDICAL**

Legal Description of the Convertible Land

BEGINNING AT A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF FASHION BOULEVARD SOUTH 89°55'00" EAST, 156.52 FEET AND SOUTH 00°00'10" WEST, 32.51 FEET FROM THE CENTER OF SECTION 18, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 51° 46'01" WEST ALONG SAID RIGHT-OF-WAY LINE 219.41 FEET; THENCE SOUTH 38°41'01" EAST, 74.10 FEET; THENCE SOUTH 89°59'50" EAST, 126.02 FEET; THENCE NORTH 00°00'10" EAST, 193.63 FEET TO THE POINT OF BEGINNING.

COUNTAINS 0.467 ACRES, MORE OR LESS.

**EXHIBIT D
TO
DECLARATION OF CONDOMINIUM
FOR
MID-VALLEY MEDICAL**

Additional Provisions Regarding Convertible Land

1. The Convertible Land consists of the northeastern portion of the Property. Notwithstanding the foregoing, the boundaries of the Convertible Land are not fixed, and any or all of such Convertible Land may be added at any time pursuant to the terms of the Declaration. A legal description of the Convertible Land is described as **Exhibit C**.
2. Subject to applicable zoning requirements, the Convertible Land will include a maximum of six (6) Units.
3. None of the Units established by the Original Declaration were restricted exclusively to residential use, thus a statement regarding floor area is not required by Section 57-8-10(3)(a)(iii) of the Condominium Act.
4. No assurances are given with respect to the improvements that will be located on the Convertible Land, except that the building constructed on the Convertible Land will generally be compatible with the other building in the Project in terms of quality of construction, the principal materials used, and architectural style.
5. A separate building may be constructed on the Convertible Land. No other assurances as to the location or type of improvements are given for the Convertible Land.
6. All Units created in the Convertible Land will be substantially identical to the Units in the other areas of the Project. (See Section 57-8-13.10(1)(a) of the Condominium Act).
7. The Declarant reserves the right to create limited common areas and facilities within the Convertible Land as the Declarant may deem reasonable, in the Declarant's sole discretion.
8. Sufficient parking stalls will be included in the Convertible Land so that the Project will be in compliance with applicable parking ordinances.

**EXHIBIT E
TO
DECLARATION OF CONDOMINIUM
FOR
MID-VALLEY MEDICAL**

BYLAWS

**FOR
MID-VALLEY MEDICAL
OWNERS ASSOCIATION**

[beginning on following page]

BYLAWS
OF
MID-VALLEY MEDICAL CONDOMINIUM ASSOCIATION

ARTICLE 1
PLAN OF UNIT OWNERSHIP AND INCORPORATION

1.1 Declaration; Definitions. These are the Bylaws referred to in the Declaration of Condominium for Mid-Valley Medical (the "**Declaration**"), a commercial condominium project located on Fashion Boulevard in Salt Lake County, State of Utah. Capitalized terms used in these Articles, if not defined herein, shall have the meanings set forth in the Declaration. These Bylaws shall govern the administration of the Project and the Association.

1.2 Organizational Form. Mid-Valley Medical Condominium Association (the "**Association**") is incorporated as a nonprofit corporation under the laws of the State of Utah, and these Bylaws shall constitute the Bylaws of the Association.

1.3 Office and Registered Agent. The initial Registered Agent shall be Gordon R. Jacobson, 53 West 90000 South, Sandy, Utah 84070. However, after transfer of management and control of the Association is made by the Declarant to the members of the Association, the Registered Agent shall be the President of the Association and the Registered Office shall be the home or place of business of the President or such other place as shall be designated by him and reported to the Utah Division of Corporations.

ARTICLE 2
ASSOCIATION

2.1 Composition. The association of Unit Owners is a mandatory association consisting of all Owners.

2.2 Place of Meeting. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place as may be designated by the Board of Directors from time to time and stated in the notice of meeting.

2.3 Notice of Meeting. It shall be the duty of the Secretary to hand deliver or mail to each owner at his last known address, by regular U.S. mail postage prepaid, a notice of (a) each annual meeting of the Association not less than fifteen (15) and not more than thirty (30) days in advance of such meeting. The notice shall state the purpose, day, date, time and place of the meetings. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

2.4 Qualified Voters. An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if he is in full compliance with all of the terms, covenants, and conditions of the Declaration, and shall have fully paid all fees and assessments required by the Declaration to be paid by him.

2.5 Proxies. The votes appertaining to any Unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Unit Owner, or in cases where the Owner is more than one person, by or on behalf of all such persons. Any proxy shall be void if it is not dated, if it purports to be revocable without notice, or if it is not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Unless it expressly states otherwise, a proxy shall terminate automatically (a) if the Owner attends the meeting in person, (b) it is revoked in writing and written notice of the revocation is given to the Secretary of the Association prior to the meeting, and (c) upon the adjournment of the first meeting held on or after the date of that proxy. Each proxy must be filed with the Secretary of the Association prior to the meeting.

2.6 Quorum Voting. Except as may otherwise be provided in the Declaration or in the Articles of Incorporation for the Association, fifty-one percent (51%) of the members of the Association shall constitute a quorum for the adoption of decisions. If however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote at such meeting, present in person or represented by proxy, shall have power to adjourn the meeting and reschedule for a time no earlier than two days after the set time for the original meeting. No notice of such rescheduled meeting shall be required except an oral announcement at the meeting to be rescheduled. Those Owners present, either in person or by proxy, at the rescheduled meeting shall constitute a quorum for the adoption of decisions. When a quorum is present at any meeting, the vote of the Owners representing a majority of the members of the Association in person or by proxy, shall decide any question brought before the meeting; *provided, however,* that to the extent that the Declaration or the Articles of Incorporation may require more than a majority of the members of the Association to approve any action, the Declaration or the Articles of Incorporation shall govern.

2.7 Order of Business. The order of business at all meetings of the Association shall be as follows:

- a. Roll call;
- b. Proof of notice of meeting or waiver of notice;
- c. Reading of minutes of preceding meeting;
- d. Reports of officers;
- e. Report of committees, if any;
- f. Election of Board Members, if applicable;
- g. Unfinished business; and
- h. New business.

2.8 Conduct of Meeting. The President, or in his absence the Vice-President, shall preside over all meetings of the Association; and the Secretary shall keep the minutes of the meeting as well as record of all transactions occurring at such meeting.

ARTICLE 3 BOARD OF DIRECTORS

3.1 Powers and Duties. The affairs and business of the Association shall be managed by the Board of Directors. The Board of Directors shall have all of the powers and duties

necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration and may do all such acts and things necessary to operate and maintain the Project, the Buildings and the Common Areas. The Board shall have the power from time to time to adopt any Rules and Regulations deemed proper for the exercise of its management powers. The Board may delegate its authority to one or more managers. Subject to any limitations or provisions contained in the Declaration, the Board shall be responsible for at least the following:

- a) Preparation of an annual budget, capital asset table and reserve account analysis;
- b) Establishing the amount of dues and assessments to be charged to each Owner and Unit;
- c) Maintaining the Common Areas and Common Facilities;
- d) Managing employees and personnel hired by the Association;
- e) Collecting and depositing the dues and assessments;
- f) Making, amending, and enforcing the Rules and Regulations;
- g) Establishing bank accounts;
- h) Enforcing by legal means any contracts or agreements entered into by the Association
- i) Obtain and keep in effect appropriate insurance coverage;
- j) Keeping books and records with detailed accounts of the receipts and expenditures affecting the Property, and the administration of the Project, specifying the maintenance and repair expenses of the Common Areas and Common Facilities and any other expenses incurred. Said documents, books and financial statements shall be available for examination by the Owners, their duly authorized agents or attorneys, during general business hours on working days at the times and in the manner that shall be set and announced by the Board for the general knowledge of the Owners. All books and records shall be kept in accordance with generally accepted accounting practices. Upon approval of a majority of the Members, the Association may obtain a review, compilation, or audit of its books and records. Such accounting report (if approved by the Members) will be prepared by an outside auditor employed by the Board who shall not be an occupant of the Project or an Owner therein. The cost of such Audit shall be a Common Expense. Copies of books and records, financial statements, reports, compilations, and audits shall be supplied to any first mortgagee of any Unit in the Project who requests the same in writing from the Secretary. A mortgage holder, at its expense, may have an audited financial statement prepared at any time;
- k) Providing common utility services;
- l) Doing such other things and acts necessary to accomplish the foregoing and not inconsistent with the Declaration or Bylaws, or to do anything required by a proper resolution of the Board of Directors or Association.

3.2 Composition of Board of Directors. The Board of Directors shall be composed of an uneven number of no less than three (3), nor more than seven (7) members. Each member of the Board of Directors must be an Owner of a Unit, or an agent of an Owner of a Unit. Notwithstanding the foregoing, the Declarant may appoint a person to the Board of Directors that is not an Owner of a Unit or an agent of an Owner of a Unit.

3.3 Election and Term of Office of Board Members. Except as provided below with respect to the initial Board members, the term of office of Board members shall be two (2) years. At the expiration of the member's term, a successor shall be elected. In the initial election of Board members after the Declarant releases control of the Project, the Board members receiving the fewest number of votes shall serve for a term of one (1) year only, so that a majority of the Board members elected shall serve two (2) year terms, and the remaining Board members so elected shall serve one (1) year terms. Thereafter, persons subsequently elected to take the place of those Board members elected to serve one (1) year terms will, instead, serve terms of two (2) years.

3.4 Annual Meeting. The annual meeting of the members of the Board of Directors shall be immediately following the annual meeting of the Association or at such other time and place designated by the Board.

3.5 Regular Meetings. Regular meetings of the Board of Directors may be held from time to time and at such time and place as shall be determined by a majority of the members of the Board, but not less often than semi-annually.

3.6 Special Meetings. Special meetings of the Board of Directors may be called by the President, Vice President or a majority of the members of the Board on at least forty-eight (48) hours prior notice to each member of the Board. Such notice shall be given personally, by regular U.S. Mail postage prepaid (three (3) days shall be added for mailing and notice shall be deemed properly given as of the third day) or by telephone, and such notice shall state the time, place and purpose of the meeting. Any meeting attended by all members of the Board shall be valid for any and all purposes.

3.7 Waiver of Notice. Before or at any meeting of the Board of Directors, any member of the Board may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board at any meeting of the Board shall constitute a waiver of notice. If all the members of the Board are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

3.8 Quorum of the Board. Except as may otherwise be provided in the Declaration or the Articles of Incorporation, a majority of the members of the Board then in office shall constitute a quorum for the transaction of business at a meeting of the Board of Directors, and the acts of the majority of all the Board members present at a meeting at which a quorum is present shall be deemed to be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time but for no longer than two days. At any such rescheduled meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

3.9 Vacancies. Vacancies in the Board of Directors caused by any reason other than expiration of the regularly scheduled term of a particular director or removal of a director by a vote of the Association shall be filled by vote of the majority of the remaining members of the Board at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy, even though the total members of the Board remaining may constitute less than a quorum of the Board; and each person so elected shall be a director for the remainder of the term of the director so replaced. A vacancy created by the removal of a member by a vote of the Association shall be filled by the election and vote of the Association.

3.10 Removal of Board Member. A member of the Board of Directors may be removed with or without cause, and his successor elected, at any duly called regular or special meeting of the Association at which a quorum of the Association is present, by an affirmative vote of a majority of the members of the Association.

3.11 Conduct of Meetings. The President shall preside over all meetings of the Board and the Secretary shall keep a Minute Book of the Board recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings.

3.12 Open Meeting Policy. All Board of Directors meetings shall be open to all voting members, but attendees other than members of the Board of Directors may not participate in any discussion or deliberation unless a majority of a quorum requests that they be granted permission to speak. In such case, the President may limit the time any such individual may speak.

3.13 Action May Be Taken Without A Meeting. Any action to be taken, or that may be taken, at a meeting of the Board of Directors may be taken without a meeting if a written consent, setting forth the action so taken, shall be signed by the applicable members of the Board pursuant to Section 16-6a-813 of the Utah Revised Nonprofit Corporation Act. An explanation of the action taken shall be posted at a prominent place or places within the common areas within five (5) days after such action by written consent is effective.

3.14 Executive Session. The Board of Directors, with approval of a majority of a quorum, may adjourn a meeting and reconvene an executive session to discuss and vote upon personnel matters, litigation or threatened litigation in which the Association is or may become involved, and orders of business of a privileged, confidential, sensitive or similar nature. The nature of any and all business to be considered in an executive session shall first be announced in open session. Only members of the Board of Directors shall be allowed to attend meetings of the Board held in executive session.

3.15 Report of Board. The Board shall present at each annual meeting, and when called for by vote of the Association at any special meeting of the Association, a full and clear statement of the business and condition of the Association.

ARTICLE 4 OFFICERS

4.1 Designation. The principal officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer, all of whom shall be appointed by the Board. The President, Secretary and Treasurer must be members of the Board. Two or

more offices may be held by the same person, except that the President shall not hold any other office. Notwithstanding the foregoing, during the Period of Declarant's Control, the President may hold more than one office.

4.2 Appointment of Officers. The officers of the Association shall be appointed annually by the Board at the first meeting of each Board immediately following the annual meeting of the Association and shall hold office at the pleasure of the Board. Any vacancy in an office shall be filled by the Board at a regular meeting or special meeting called for such purpose.

4.3 Removal of Officers. The officers shall hold office until their respective successors are chosen and qualified. Any officer elected or appointed by the Board may be removed at any time by the affirmative vote of a majority of the Board, and his successor may be elected at any regular meeting of the Board, or at any special meeting of the Board called for such purposes.

4.4 President. The President shall be the chief executive officer; he shall preside at meetings of the Association and the Board shall be an ex officio member of all Boards; he shall have general and active management of the business of the Board and shall see that all orders and resolutions of the Board are carried into effect. He shall have all of the general powers and duties which are usually vested in or incident to the use of president of a corporation organized under the laws of the State of Utah.

4.5 Vice-President. The Vice-President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Board or the President shall prescribe. If neither the President nor the Vice President is able to act, the Board shall appoint a member of the Board to do so on an interim basis.

4.6 Secretary. The secretary shall attend all meetings of the Board and all meetings of the Association and record all votes and the minutes of all proceedings in a book to be kept by him for that purpose and shall perform like duties for committees when required or when requested to do so by the Board of Directors. The secretary shall give, or cause to be given, notices for all meetings of the Association and the Board and shall perform such other duties as may be prescribed by the Board. The Secretary shall compile and keep current at the principal office of the Association, a complete list of the members of the Association and Owners of Units together with their last known mailing address. This list shall be open to inspection by all members of the Association and Owners of Units and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days. The Secretary shall also keep current and retain custody of the Minute Book of the Association, containing the minutes of all annual and special meetings of the Association and all sessions of the Board, including resolutions adopted by the Board.

4.7 Treasurer. The Treasurer shall have custody of all funds and securities that are not under the control of the manager of the Project, and with the assistance of the manager of the Project, shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all monies and other valuable effects in such depositories as may be designated by the Board. The Treasurer shall disburse funds as ordered by the Board,

taking proper vouchers for such disbursements, and shall render to the President and members of the Board of Directors, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Project.

ARTICLE 5 FISCAL YEAR

5.1 Fiscal Year. The fiscal year of the Association shall be the calendar year consisting of the twelve (12) month period commencing on January 1 of each year and terminating on December 31 of the same year. The fiscal year herein established shall be subject to change by the Board should it be deemed advisable or in the best interests of the Association.

ARTICLE 6 INVESTMENT OF COMMON FUNDS

6.1 Common Funds. Common funds may only be deposited into institutions which are federally insured.

ARTICLE 7 AMENDMENT TO BYLAWS

7.1 Amendments. Except as may be otherwise provided in the Declaration or the Articles of Incorporation, these Bylaws may be modified or amended by a majority of the voting interests held by members of the Association.

7.2 Recording. An amendment to these Bylaws shall become effective immediately upon recordation in the Office of the County Recorder of Salt Lake County, State of Utah.

ARTICLE 8 NOTICE

8.1 Manner of Notice. All notices, demands, bills, statements, or other communications provided for or required under these Bylaws (except as to notices of Association meetings which were previously addressed in Article II of these Bylaws) shall be in writing and shall be deemed to have been duly given if delivered personally or sent by regular U.S. Mail postage pre-paid, a) if to an Owner, at the address of his Unit or at such other address as the Owner may have designated by notice in writing to the Secretary; or b) if to the Board or the Manager, at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section.

8.2 Waiver of Notice. Whenever any notice is required to be given under the provisions of the statutes, the Declaration, or of these Bylaws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of the Declaration.

ARTICLE 9
COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

9.1 Conflict. These Bylaws are subordinate and subject to all provisions of the Declaration. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration. In the event of any conflict between these Bylaws and the Declaration, the provision of the Declaration shall control.

9.2 Waiver. No restriction, condition, obligation, or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

9.3 Captions. The captions contained in these Bylaws are for convenience only and are not part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

9.4 Interpretation. Whenever in these Bylaws the context so requires, the singular number shall refer to the plural and the converse; and the use of any gender shall be deemed to include both masculine and feminine; and the term "shall" is mandatory while the term "may" is permissive.

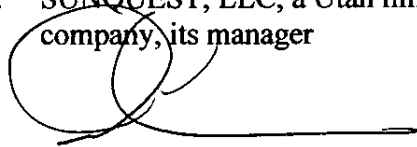
9.5 Severability. The invalidity of any one or more phrases, sentences, subparagraphs, subsections or sections hereof shall not affect the remaining portions of this instrument or any part thereof, and in the event that any portion or portions of this document should be invalid or should operate to render this document invalid, this document shall be construed as if such invalid phrase or phrases, sentence or sentences, subparagraph or subparagraphs, paragraph or paragraphs, subsection or subsections, or section or sections had not been inserted.

[signature on following page]

DECLARANT:

MID-VALLEY MEDICAL DEVELOPMENT,
LLC, a Utah limited liability company

By: SUNQUEST, LLC, a Utah limited liability
company, its manager



Gordon R. Jacobson, Manager

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 11 day of Dec, 2006, by Gordon R. Jacobson, the manager of Sunquest, LLC, on behalf of such company and Mid-Valley Medical Development, LLC.



Morgan H. Talkington
NOTARY PUBLIC