

**ARTICLES OF INCORPORATION
OF
MOUNTAIN VIEW MEDICAL PLAZA CONDOMINIUM ASSOCIATION, INC.**

The undersigned natural person, having capacity to contract and acting as the Incorporator of a nonprofit corporation under the Utah Revised Nonprofit Corporation Act hereby adopts the following Articles of Incorporation for such corporation:

1. **NAME.** The name of the corporation is Mountain View Medical Plaza Condominium Association, Inc., hereinafter referred to as the “Corporation”.

2. **REGISTERED AGENT.** The name and address of the Corporation’s initial registered agent is Kevin Johnson, Mountain View Hospital, 1000 E 100 N Payson, Utah 84651.

3. **INITIAL DIRECTORS.** The names and address of the Corporation’s initial directors are Kevin Johnson, CFO?, and COO?. Each has an office at Mountain View Hospital, 1000 E 100 N Payson, Utah 84651.

4. **INCORPORATOR.** The name and address of the incorporator of the Corporation is Susan B. Peterson, 170 S. Main Street, Suite 1500, Salt Lake City, Utah 84101-1644.

5. **PRINCIPAL OFFICE.** The address of the principal office of the Corporation in the State of Utah is 1000 E 100 N Payson, Utah 84651.

6. **NONPROFIT CORPORATION.** The Corporation is a nonprofit corporation.

7. **PURPOSES.** The purpose for which the Corporation is organized is to provide an entity, pursuant to the Utah Condominium Ownership Act, which may hereinafter be referred to as the “Condominium Act”, for the operation of Mountain View Medical Plaza Condominium, hereinafter referred to as the “Condominium”, located upon property in Utah County, Utah. The Corporation shall be operated exclusively for the purpose of maintaining, operating, and governing the Condominium and to perform the functions and provide the services contemplated by the Declaration Establishing Mountain View Medical Plaza Condominium (the “Declaration”). Capitalized terms used and not otherwise defined herein shall have the meanings given them in the Declaration.

8. **POWERS.** The Corporation shall have the power to engage in (i) any lawful act for which a nonprofit corporation may be organized under the Utah Revised Nonprofit Corporation Act, and (ii) any act in which an “association or unit owners” or a “management committee”, as such terms are defined in the Condominium Act, is authorized to engage. Such powers shall include, but not be limited to, the following:

 (a) To make and collect assessments against members to defray the costs, expenses, and losses of the Condominium;

 (b) To use the proceeds of assessments in the exercise of its powers and duties, in accord with the Declaration and the By Laws of the Corporation, hereinafter referred to as “By Laws”;

(c) To maintain, repair, replace, and operate the condominium property;

(d) To purchase insurance upon the condominium property and insurance for the protection of the Corporation and its members;

(e) To reconstruct improvements after casualty and to further improve the property;

(f) To make and amend reasonable regulations respecting the use of the property in the Condominium;

(g) To enforce, by legal means, the provisions of the Condominium Act, Declaration, these Articles, the By Laws and the regulations for the use of the condominium property;

(h) To contract for the management of the Condominium; and

(i) To employ personnel to perform the services required for proper operation of the Condominium.

The powers of the Corporation shall be subject to, and shall be exercised in accordance with, the provisions of the Declaration and the By Laws.

9. **VOTING MEMBERS.** The Corporation shall have one class of voting members, who shall consist of all of the Unit Owners in the Condominium, in accordance with the By Laws. Neither the issuance nor the holding of shares of stock shall be necessary to evidence membership in the Corporation. Membership in the Corporation shall be mandatory, and not optional, and shall be appurtenant to and may not be separated from the ownership of any Unit. Change of membership in the

Corporation shall be consummated by the transfer of title to a Unit. The share of a member in the funds and assets of the Corporation cannot be assigned, hypothecated, or transferred in any manner, except as an appurtenance to a member's Unit. The aggregate number of votes for all members of the Corporation shall be 100, and votes shall be allocated to each Unit, as set forth in the By-laws. The procedures to be followed by multiple or corporate owners of a Unit and the manner of exercising voting rights shall be determined by the By Laws.

10. **DISSOLUTION.** Except as otherwise provided in the Declaration or in the Condominium Act, the Association may be dissolved only with the unanimous consent of the members entitled to vote. Upon dissolution of the Association, other than incident to a merger or consolidation, all assets of the Corporation shall be distributed to the Unit Owners in accordance to the percentage of the undivided ownership interest of each Unit Owner in the Common Elements of the Condominium, as such percentage interest is set forth in the Declaration, or dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created or granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

11. **NO DISTRIBUTION OF INCOME.** The Corporation shall make no distributions of income to its members, directors, or officers; provided, however, this provision shall not preclude the payment of reasonable sums for services rendered or supplies furnished to the Corporation by the aforesaid persons.

12. **FUNDS HELD IN TRUST FOR MEMBERS.** All funds, and the titles of all properties acquired by the Corporation, and the proceeds thereof, shall be held in trust for the members, or used to pay Common Expenses in accordance with the provisions of the Declaration, these Articles, and the By Laws.

13. **BOARD OF DIRECTORS.** The affairs of the Corporation shall be managed by a board consisting of the number of directors as shall be determined by the By Laws, but not less than three directors, and, in the absence of such determination, shall consist of three directors. Except as otherwise provided herein, the directors of the Corporation shall be elected or removed, and vacancies on the Board of Directors shall be filled, at the annual meeting of the members in the manner determined by the By Laws as follows:

(a) The Declarant may appoint and remove all officers and Directors of the Corporation until the earlier of (i) the date on which Declarant has conveyed Units with seventy-five percent (75%) of the ownership of the Common Elements appurtenant thereto (Units comprising seventy-five percent (75%) of the total area of Units in the Condominium) to Unit Owners other than Declarant or any affiliate of Declarant, or (ii) three (3) years from the date of the closing of the sale of the first Unit conveyed by Declarant. The initial directors shall serve without compensation. Thereafter, the compensation, if any, of the Directors shall be as fixed by the vote of a majority of the Unit Owners.

(b) Within one hundred twenty (120) days after Unit Owners other than Declarant are entitled to elect the Directors, the Corporation shall call, and give

not less than sixty (60) days notice of a meeting of members called to elect the Directors of the Corporation. At such meeting, three persons shall be elected to serve as the Board of Directors. The term of office of those elected shall be one (1) year.

(c) All elections shall be by ballot and by a plurality of the votes cast, each member voting must cast his vote (or votes) for as many nominees as there are vacancies to be filled, but there shall be no cumulative voting.

(d) Except as to vacancies provided by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors until the next annual meeting at which time a Director shall be elected to fill the remaining term of any such vacancy, except in the event of the resignation or removal of a Director appointed by Declarant, the replacement director shall be appointed by Declarant.

(e) Any Director, other than a Director appointed by Declarant, may be removed by concurrence of two thirds (2/3) of the votes of the entire membership at a special or general meeting of the members called for that purpose. The vacancy in the Board of Directors so created shall be filled by the members of the Corporation at the same meeting.

(f) A Director's term of service shall extend until his successor is elected at the annual meeting of the members and thereafter until his successor is qualified and assumes office, or until he is removed in the manner elsewhere provided.

14. **OFFICERS.** The affairs of the Corporation shall be administered by officers appointed by the Declarant or elected by the Board of Directors in accordance with the By Laws. The officers shall serve at the pleasure of the Board of Directors.

15. **INDEMNIFICATION.** Every director and every officer of the Corporation shall be indemnified by the Corporation against all expenses and liabilities, including counsel fees, reasonably incurred by, or imposed upon him, in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being, or having been, a director or officer of the Corporation, or any settlement thereof, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that, in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Corporation. The foregoing right of indemnification shall be in addition to, and not exclusive of, all other rights to which such director or officer may be entitled.

16. **BYLAWS.** The By Laws have been adopted by Mountain View Hospital, Inc., as “Declarant” of the Condominium, the Incorporator and by the initial directors.

17. **AMENDMENTS.** Amendments to these Articles shall be proposed and adopted in the following manner:

(a) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

(b) A resolution approving a proposed amendment may be proposed by either the Board of Directors or by the members of the Corporation. Directors and members not present in person or by proxy at the meetings considering the amendment may express their approval in writing, providing such approval is delivered to the Secretary at or prior to the meeting.

(c) Approval of an amendment must be by, (i) not less than two-thirds ($2/3$) of the entire membership of the Board of Directors, and by not less than two-thirds ($2/3$) of the votes of the entire membership of the Corporation, or, (ii) not less than 80% of the votes of the entire membership of the Corporation (if not proposed by the directors).

(d) No amendment to these Articles shall make any changes in the qualifications for membership, nor the voting rights of members, without a corresponding amendment to the Declaration, passed in accordance with the provisions of the Declaration.

(e) A copy of each amendment shall be filed with the Utah Department of Commerce, Division of Corporations and Commercial Code.

18. LIABILITY OF DIRECTORS. A director of the Corporation shall not be personally liable to the Corporation or its members for monetary damages for breach of fiduciary duty as a director, except: (i) for any breach of the director's duty of loyalty to the Corporation or (ii) for acts or omissions not in good faith or which involved intentional misconduct or a knowing violation of law. If the Utah Revised Nonprofit Corporation Act is amended or superseded after the filing of these Articles

to further eliminate or limit the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Utah Revised Nonprofit Corporation Act as so amended or by such act as may supersede it. Any repeal or modification of these Articles by the directors or members of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

WITNESS MY HAND effective this ____ day of _____, 2020.

Susan B. Peterson, Incorporator

THE UNDERSIGNED ACKNOWLEDGES HIS/HER APPOINTMENT AS
REGISTERED AGENT:

Name: Kevin Johnson

THIS INSTRUMENT PREPARED BY
and return to:
James C. Cotey, Esq.
Mountain View Hospital, Inc.
1100 Dr. Martin L. King Jr. Blvd.
Nashville, Tennessee 37203

**DECLARATION ESTABLISHING
MOUNTAIN VIEW MEDICAL PLAZA CONDOMINIUM**

MADE BY:

Mountain View Hospital, Inc.

("Declarant")

Payson, Utah County, Utah

**DECLARATION ESTABLISHING
MOUNTAIN VIEW MEDICAL PLAZA CONDOMINIUM**

THIS DECLARATION, made as of _____, 2020, by MOUNTAIN VIEW HOSPITAL, INC., a Utah corporation, hereinafter referred to as “Declarant”, for itself, its successors, grantees, and assigns.

W I T N E S S E T H:

1. SUBMISSION TO CONDOMINIUM OWNERSHIP.

a. Declarant owns the land and easements (collectively, the “Land”) described in Exhibit A, and the medical office building and other improvements located thereon (the “Improvements”).

b. The purpose of this Declaration is to submit Declarant’s interest in the Land and the Improvements located thereon, and its interest in the rights and easements appurtenant to the Land set forth in the Declaration of Covenants, hereinafter defined, to the condominium form of ownership and use, in the manner provided under the provisions of the Utah Condominium Ownership Act (the “Condominium Act”).

c. The name by which this condominium is to be identified is “Mountain View Medical Plaza Condominium”, hereinafter called the “Condominium”.

d. The Declarant by the recording of this Declaration does hereby submit and subject its interest in the Land and Improvements to the provisions of the Condominium Act and to the covenants, conditions and restrictions set forth in this Declaration.

e. The Land and Improvements which are hereby submitted to the condominium form of ownership, are fully described in Exhibit A hereto, which, by reference, is made a part hereof as fully as if copied herein.

f. The Improvements include one building, which contains three (3) stories and one basement, and 251 surface spaces (per code 1 per 200 sq. ft.), plus a 2-story parking garage and a covered walkway. The structural system and principal building materials for the Building consist of: a foundation of reinforced concrete slab on concrete footings; steel frame structural system; exterior walls are stucco; built-up flat roof system; HVAC provided by package units; 2 elevators; building is sprinkled; and interior contains a mix of carpet, vinyl composition tile, and laminated flooring, painted dry wall, painted dry wall ceiling; and lighting is primarily provided by fluorescent fixtures.

g. The Building contains of [REDACTED] Units. The description and identification of the Units are shown on the Plat of Mountain View Medical Plaza Condominium, hereinafter referred to as the "Plat", which Plat will be recorded in the Recorder's Office for Utah County, Utah concurrently with the recordation of this Declaration, and which Plat is incorporated by reference herein.

2. DEFINITIONS. The terms used herein and in the By Laws, which are attached hereto as Exhibit D, shall have the meanings as follows:

a. **Assessment** means a share of the funds required for the payment of expenses and charges which from time to time may be assessed against each Unit Owner with respect to each Unit.

b. **Association** means Mountain View Medical Plaza Condominium Association, Inc., a Utah nonprofit corporation, not for profit, being the entity responsible for the operation of the Condominium and its successors. Copies of the By Laws and Articles of Incorporation ("Articles") of the Association are attached hereto, and made a part hereof as Exhibit D and E, respectively.

c. **Building** means the medical office building containing the Units.

d. **Common Elements** means all of the real property, improvements, and facilities of the Condominium, other than the Units, as the same are hereinafter defined.

e. **Common Expenses** means the following:

- i. Expenses of administration of the Condominium;
 - ii. Expenses of maintenance, operation, repair, or replacement of the Common Elements and Limited Common Elements;
 - iii. Expense of Utility Services to the extent not separately metered or otherwise paid by individual Unit Owners with respect to their individual Units;
 - iv. Expenses declared Common Expenses by provisions of this Declaration or by the By Laws; and
 - v. Any valid charge against the Condominium as a whole.
- f. **Condominium** means the Mountain View Medical Plaza Condominium, and includes all Units and the Common Elements.
- g. **Declarant** means Mountain View Hospital, Inc., its successors and assigns, provided such successors and assigns are designated in writing by Declarant as a successor or assign of the rights of Declarant set forth herein.
- h. **Declaration of Covenants** means the **Declaration of Covenants, Restrictions and Easements**, of record as Entry No. [REDACTED] in Book [REDACTED], Page [REDACTED], in the Recorder's Office for Utah County, Utah, and any subsequent amendments, modifications, revisions or supplements thereto of record.
- i. **Hospital** means Mountain View Hospital located on the Hospital Property.
- j. **Hospital Property** means the real property described in Exhibit F.
- k. **Limited Common Elements** means a portion of the Common Elements allocated by this Declaration for the exclusive use of one or more but fewer than all the Units.
- l. **Plat** means the **Mountain View Medical Plaza Condominium Plat**, recorded in the Recorder's Office for Utah County, Utah as [REDACTED], and any subsequent amendments, modifications, revisions or supplements thereto of record.

m. **Unit** shall mean such area as is identified, located and described as such on the Plat and as hereinafter set forth.

i. The boundaries of each Unit shall be as follows:

- (1) The upper boundary shall be the lowest surface of the structural truss above the Unit's ceiling or if such truss is covered by drywall, then the lowest surface of such drywall,
- (2) The lower boundary shall be the upper unfinished surface of its floor (i.e. that surface directly beneath the carpeting, or other floor covering),
- (3) The vertical boundaries (measuring the horizontal area of a Unit) shall be as shown on the Plat, being the perimeter walls and the centerline of any partition wall separating the Units, provided that in the event a partition wall is not erected between Units, the vertical boundary shall consist of the plane between the floor and the ceiling along the boundary line of the Unit, as shown on the Plat.

ii. Notwithstanding the definition of the boundaries of a Unit contained in subparagraph (1) above, in order to more precisely define the boundaries of a Unit, the following shall govern in determining whether an item is part of the Unit, a Limited Common Element, or a portion of the Common Elements:

- (1) All wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, carpet, finished flooring, suspended ceilings, lath, furring, and any other materials constituting any part of the finished surfaces of the upper, lower and vertical boundaries, are part of the Unit, and all other portions of the walls (including windows and exterior doors), floors,

or structural trusses constituting part of such boundaries are a part of the Common Elements.

- (2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.
- (3) Subject to the provisions of the immediately preceding subparagraph (2), all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.
- (4) The roofs of the Building, central heating and air conditioning equipment, interior hallways outside the boundaries of Units, lobbies, elevators (subject to **subparagraph (5)** below), parking areas, retaining walls, driveways, and landscaping improvements shall be deemed Common Elements.

n. **Unit Owner** means the person or persons holding title to a Unit.

o. **Utility Services** shall include, but not be limited to, water, sewer, garbage collection, electricity required to operate the central heating and air conditioning equipment, lights and other elements deemed to be Common Elements by this Declaration, and other utility services provided to the Condominium as a whole. If any utility service provided to individual Units is separately metered by the Association or the utility provider, individual Unit Owners shall make payment for

such utility services directly to the Association or to the utility providing such service. Otherwise, such utility services shall be a Common Expense.

3. OWNERSHIP OF COMMON ELEMENTS AND COMMON EXPENSE LIABILITY.

a. Each Unit Owner shall own an undivided interest in the Common Elements, and each Unit Owner shall be liable for payment of the percentage of Common Expenses equal to the percentage of the undivided interest in the Common Elements appertaining to each Unit as set forth in Exhibit B attached hereto and by reference incorporated herein; provided, however, that the Common Expenses incurred with respect to a Limited Common Element shall be paid by the owners of the Unit or Units to which such Limited Common Element was assigned at the time the expense was incurred as provided in Section 8 of this Declaration. The percentage of undivided interest in the Common Elements and the percentage of Common Expenses is allocated to individual Units based upon the ratio of the area in square feet of each Unit to the area in square feet of all Units in the Condominium.

b. Any conveyance of an individual Unit shall be deemed to also convey the undivided interest of the Unit Owner in the Common Elements and Limited Common Elements appertaining to such Unit even if such conveyance does not specifically refer to such undivided interest.

4. EASEMENTS. Easements are hereby granted as follows:

a. The following easements are granted to the Association for the following purposes:

i. Easements through or over the Units and any Limited Common Element allocated to any Unit for conduits, ducts, plumbing, wiring and other facilities for the furnishing or repair of utility service to Units, Limited Common Elements or Common Elements;

ii. Easements through or over the Units and any Limited Common Element allocated to any Unit for the purpose of maintaining or repairing any portion of the Common Elements, Limited Common Elements or any Unit. All

incidental damage caused to a Unit by such maintenance or repair work shall be promptly repaired at the expense of the party responsible for the maintenance or repair which caused such damage;

iii. Easements of support in every portion of a Unit which contributes to the support of the Building, including easements for access to and repair of such elements of support;

iv. Easements for encroachments of any portion of the Common Elements upon the boundary of any Unit whether caused by the settlement of the Building or by minor inaccuracies in the Plat, or rebuilding of any part of the Building, whether such encroachments now exist or hereafter may exist. All such easements shall continue until such encroachments shall cease to exist.

b. The following easements are granted to Unit Owners:

(i) As an appurtenance to each Unit, easements are granted to the Unit Owners for encroachments by any portion of the boundaries of each Unit upon the Common Elements or upon another Unit, whether caused by the settlement of the Building or by minor inaccuracies in the Plat, or rebuilding of any part of the Building, whether such encroachments now exist or hereafter may exist. All such easements shall continue until such encroachments shall cease to exist.

(ii) Unit Owners, their agents, employees, guests and visitors are hereby granted a nonexclusive easement for ingress and egress over the streets, walks and other rights of way serving the Units of the Condominium as part of the Common Elements necessary to provide reasonable access to public ways. Such easements shall not be encumbered by any leasehold or lien other than those on the Units.

c. Easements are reserved to Declarant, its agents and invitees to the extent necessary, as determined by Declarant, to enable Declarant to carry on any sale, leasing, maintenance, and repair activity, as more specifically provided for in Section 17 of this Declaration.

5. MAINTENANCE AND ALTERATION OF UNITS.

a. The maintenance and repair of the Unit shall be the responsibility and expense of the Unit Owner.

b. The Unit Owners shall not make any changes, decorations or alterations of their Units that would affect the exterior appearance of any portion of the Building. Unit Owners shall not decorate the doors or windows serving their Units or otherwise change the appearance of the doors or windows as viewed from the exterior of the Unit, except for (i) blinds, drapes or curtains, and (ii) lettering which must comply with the rules and regulations adopted by the Association.

c. No Unit Owner shall place any sign on the Condominium in an area visible to the public unless such sign has been approved by Declarant or if Declarant has transferred such approval rights to the Association by a written instrument, then by the Association.

d. The Unit Owner shall promptly report in writing to the Association any defect or need for repairs, the responsibility for which is that of the Association.

e. In replacing those portions of a Unit which affect the exterior appearance of any portion of the Building, the Unit Owner shall use components of the same color, grade and style as those originally in place, unless permission is otherwise obtained from the Association.

f. Except as reserved herein to the Declarant, neither a Unit Owner nor the Association shall make any alteration in the portions of a Unit or the Condominium which are to be maintained by the Association, or remove any portion thereof, or make any additions thereto, or do anything which would jeopardize the safety or soundness of the Condominium, or impair any easement, without first obtaining approval in writing of the owners of all Units in which such work is to be done, the written approval of the Board of Directors of the Association and the written consent of the Hospital as provided in Section 17. A copy of plans for all of such work prepared by an architect, licensed to practice in this state, shall be filed with the Association prior to the start of the work, unless such requirement is waived in

writing by the Directors of the Association. The time of performance of such work must be approved, in advance, by the Directors of the Association, or their agent.

g. If a Unit Owner fails to maintain and repair his Unit as required herein, the Association may perform such maintenance or repair and assess the Unit Owner for all expenses incurred, together with up to a twenty percent (20%) service charge for the Association's services.

6. MAINTENANCE AND ALTERATION OF COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.

a. The maintenance, operation and repair of the Common Elements shall be the responsibility and the expense of the Association, except the Unit Owners shall be responsible for cleaning the interior surfaces of the windows.

b. The maintenance, operation and repair of the Limited Common Elements shall be the responsibility of the Association, and shall be a Common Expense initially paid for by the Association but assessed back against the Unit Owners as provided for in Section 8 of this Declaration.

c. Unit Owners shall not make any changes, decorations or alterations of any Limited Common Element allocated to their Unit which would affect the exterior appearance of any portion of the Building.

d. If a Unit Owner fails to maintain and repair any Limited Common Element allocated to such Owner's Unit as required herein, the Association may perform such maintenance or repair and assess the Unit Owner for all expenses incurred, together with up to a twenty percent (20%) service charge for the Association's services.

e. Except as reserved herein by Declarant, there shall be no alteration or further improvement of the Common Elements without prior approval in writing by the owners of not less than two-thirds (2/3) of the votes of the Association, except as provided by the By Laws, and any such alteration or improvement, if undertaken, shall not interfere with the rights of any mortgagee or Unit Owner. The shares of any cost of such alteration or improvement shall be assessed to the Unit Owners in accordance with their interest in the Common

Elements. There shall be no change in the shares and rights of a Unit Owner in the Common Elements which are altered or further improved.

f. No changes, alterations, or improvements shall be made to the Common Elements which affect the appearance of the exterior of the Condominium without the prior written consent of the Hospital.

g. The Declarant specifically reserves the right, upon receipt of the written consent of the Hospital, to make additions or alterations to the parking easement areas, driveways and landscaping improvements located on the Land so long as such additions or alterations do not result in the failure of the Condominium to be in compliance with all applicable zoning laws and regulations.

7. CHART OF IDENTIFICATION OF CONDOMINIUM COMPONENTS AND ALLOCATION OF MAINTENANCE RESPONSIBILITY AND EXPENSE. The Chart of Identification of Condominium Components and Allocation of Maintenance Responsibility and Expense attached hereto as Exhibit C provides for the following:

a. Identification of the components of Units, Limited Common Elements and Common Elements;

b. Allocation of maintenance responsibility for such components;
and

c. Designation of the party responsible for the expense of maintenance of such components. The chart is merely illustrative and is not intended as an exclusive identification of condominium components or allocation of maintenance responsibility and expense. It does not affect other identifications or maintenance and expense allocations made by this Declaration or the By Laws.

8. ASSESSMENTS.

a. Assessments against Unit Owners for Common Expenses shall be made pursuant to the By Laws and shall be allocated as set forth in Section 3 of this Declaration. Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element, however, shall be assessed in equal shares against the Units to which that Limited Common Element was assigned at

the time the expense was incurred, except as otherwise provided in Section 6 of this Declaration.

b. Assessments, and installments thereon, paid on or before fifteen days after the date when due shall not bear interest, but all sums not paid on or before fifteen days after the date when due shall bear interest at the rate of fifteen percent per annum or at such other rate of interest determined by the Association not to exceed the maximum rate allowed under applicable laws and shall be subject to such late charge amount as may be adopted by the Association. All payments upon account shall be first applied to late charges, then interest and then to the assessment payment first due.

c. The Association shall have a lien on each Unit and the undivided interest in the Common Areas appurtenant thereto for unpaid assessments as provided by the Condominium Act and this Declaration. Such lien shall also secure reasonable attorney's fees and all costs of collection incurred by the Association incident to the collection of such assessment or enforcement of such lien. The Association shall have the right to record a memorandum of lien with the Recorder's Office for Utah County, Utah. For purposes of foreclosure of such lien by trustee's sale, the Declarant appoints Susan B. Peterson, Esq., with an address at 170 South Main Street, Suite 1500, Salt Lake City, Utah 84101, to have and exercise the power of the trustee and the power to bid on a Unit at a foreclosure and to acquire, hold, and convey such Unit. The Declarant hereby conveys and warrants, pursuant to U.C.A. Sections 57-1-20 and 57-8-45, to Susan B. Peterson, Esq., with power of sale, each Unit and all improvements to the Unit for the purpose of securing payment of assessments under the terms of this Declaration. The Association may appoint another qualified trustee by executing and recording a substitution of trustee.

d. In any foreclosure of a lien for assessments, the Unit Owner of the Unit subject to the lien shall be required to pay a reasonable rental for the Unit after foreclosure proceedings are commenced, and the Association shall be entitled to the appointment of a receiver to collect such rental.

e. The Unit Owner and the Unit Owner's grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of a conveyance, but without prejudice to the rights of the grantees to recover from the grantor the amounts paid by the grantee for delinquent assessments. Such liability may not be avoided by a waiver of the use of any Common Element or by the abandonment of the Unit. The Association shall have the right to sue for and collect any such unpaid assessments, to foreclose upon the lien securing the assessments or to institute any other competent proceeding. In any event, the Association shall be entitled to recover all delinquent payments, together with late charges, interest, and all costs of collection, including reasonable attorneys' fees.

9. RIGHTS OF MORTGAGE HOLDERS IN RELATION TO ASSESSMENTS.

a. The liens as herein set out for the enforcement of assessments shall be subordinate to first mortgage liens on the individual Units, to the extent provided in the Condominium Act, as amended.

b. The holder of a first mortgage, upon request, shall be notified by the Association in writing of any default by the mortgagor of a Unit in the performance of such mortgagor's obligations under this Declaration, the By Laws, or rules and regulations promulgated by the Association which is not cured within sixty (60) days.

10. ASSOCIATION. The operation of the Condominium shall be by the Association, which shall be organized and shall fulfill its functions pursuant to the following provisions:

a. The members of the Association shall be the Unit Owners.

b. The By Laws of the Association shall be in the form attached as Exhibit D.

c. The Association shall be incorporated under Articles of Incorporation in the form attached as Exhibit E.

d. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner, except as an appurtenance to a Unit.

e. Whenever the decision of a Unit Owner is required under any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such Unit Owner if in an Association meeting, unless the joinder of the record Owner of the Unit is specifically required by this Declaration.

11. INSURANCE.

a. The Association shall cause the following insurance coverage to be maintained to the extent such coverage is reasonably available for purchase by or on behalf of the Association:

i. Multi-peril, all risk type, fire and extended coverage insurance covering the entire Condominium, the Improvements, the Building, all additions and extensions attached thereto, and all heating and air conditioning equipment, whether located within or outside the boundaries of individual Units and whether owned in common or owned by an individual Unit Owner and all personal property included in the Common Elements and Limited Common Elements. The personal property contents of the Units shall be excluded. The Association shall have no duty to provide insurance for loss of use and shall have no liability for any Unit Owner's loss of use of a Unit. The multi-peril, all risk type policy purchased by or on behalf of the Association shall provide insurance on a replacement cost basis in an amount not less than that necessary to comply with any co insurance percentage stipulated in the policy. The face amount of such policy or policies shall not be less than one hundred percent (100%) of the insurable value (based upon replacement cost) of the property required to be covered by this paragraph. Such policy shall contain an agreed value endorsement. Such insurance coverages may exclude foundation and excavation costs, but shall afford protection against loss or damage as is commonly covered by a multi-peril all risk type policy with fire and extended coverage endorsement, and such other risks as are customarily covered with respect

to buildings similar to the Building. The multi-peril, all risk type insurance policy shall be purchased by or on behalf of the Association for the use and benefit of individual Unit Owners and their mortgagees. The Association shall issue certificates of insurance to each Unit Owner showing and describing the insurance coverage for the interest of each such Unit Owner, and shall develop procedures for the issuance, upon request, of a certified copy of the policy together with standard mortgagee endorsement clauses to the mortgagees of Unit Owners. Such policy shall waive rights of subrogation as between Unit Owners. To the extent that such Unit Owners are covered by such multi-peril, all risk type insurance policies purchased by or on behalf of the Association, or themselves, they shall not be liable for damage caused by their acts, or negligent acts which cause damage to the Common Elements, Limited Common Elements, or any Unit.

ii. Public liability insurance shall be secured in such amounts, and with such coverage, as shall be determined by the Board of Directors of the Association but such policy or policies shall be in an amount not less than One Million Dollars (\$1,000,000) per occurrence, including, but not limited to, hired automobile and non owned automobile, with cross liability endorsement to cover liabilities of the Unit Owners as a group to individual Unit Owners;

iii. Workman's compensation as required by law;

iv. Directors and officers liability insurance in an amount determined by the Board of Directors, but not less than \$250,000 per occurrence; and

v. Such other insurance as the Association shall determine from time to time to be desirable and in the best interest of Unit Owners.

b. The Association shall give Declarant thirty (30) days notice prior to making any change in the carrier, type of coverage, or policy limits of any insurance policy maintained by or on behalf of the Association. Any change which has the effect of decreasing the type or amount of insurance required under the terms of this Declaration, or which lowers the rating required of an insurance carrier, shall require prior approval in writing of seventy five percent (75%) of the votes of the Association.

c. All policies of insurance shall show the named insured, in form and substance, similar to the following:

“Mountain View Medical Plaza Condominium Association, Inc., for use and benefit of the individual Unit Owners.” Such policy shall contain, or have issued in connection therewith, a loss payable clause which shall provide that any proceeds due in excess of \$500,000 shall be paid to the Insurance Trustee, as hereinafter defined, subject to the provisions of this Declaration for the use and benefit of the mortgagees of individual Units, if any, and Unit Owners, as their interests may appear.

d. To the extent reasonably available, all hazard insurance policies shall be written by a hazard insurance carrier which has a financial rating by Best’s Insurance Reports of B-9 or better.

e. Premiums upon insurance policies purchased by or on behalf of the Association shall be paid by the Association and the costs thereof included in the Common Expenses.

f. The Association is hereby irrevocably appointed agent for each Unit Owner to purchase insurance as described and set forth in a., i., ii., iii., iv. and v. above and to adjust all claims arising under insurance policies purchased by or on behalf of the Association with the consent of mortgagees holding liens on the affected property and with the consent of such mortgagees to execute and deliver releases upon the payment of claims. However all insurance drafts, notices, policies, invoices, and other necessary documents shall be delivered, after settlement, directly to the affected mortgagee or its servicer.

g. Notwithstanding the foregoing, any of the insurance coverage required under this Section 11 may be obtained under a blanket policy(ies) purchased through Declarant and its affiliates.

12. RESPONSIBILITIES OF INSURANCE TRUSTEE.

a. All insurance policies purchased by or on behalf of the Association shall provide that proceeds covering property losses in excess of \$500,000 shall be paid to any bank or title insurance company in Utah which is selected by the

Association as a Trustee, which entity is herein referred to as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of policies, or for the failure to collect any insurance proceeds.

b. In the event any portion of a Unit or the Common Elements is taken through the exercise of a power of eminent domain or other action exercised by a governmental authority, the proceeds in excess of \$500,000 resulting from such action shall be paid to the Insurance Trustee.

c. The duty of the Insurance Trustee shall be to receive such proceeds as are paid, and to hold them in trust for the benefit of the mortgagees of individual Units, if any, and Unit Owners as their interests may appear. An undivided share of such proceeds on account of damage to Common Elements shall be allocated to the Unit Owners according to their ownership interest in the Common Elements as set forth in Section 3. In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the named mortgagees and the Unit Owner as their interests may appear.

d. Expenses and fees of the Insurance Trustee shall be paid by the Association and costs thereof included in the Common Expenses.

e. Proceeds of insurance policies received by the Insurance Trustee shall be distributed as follows:

i. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be expended as provided in Section 14. Any proceeds remaining after payment of repair or reconstruction expenses shall be distributed to the beneficial owners, with remittances to Unit Owners and mortgagees of individual units being payable jointly to them. This is a covenant for the benefit of any mortgagee of an individual Unit and may be enforced by such mortgagee.

ii. If it is determined, as provided in Section 13, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the mortgagees of individual Units, if any, and Unit

Owners as their interests may appear. This is a covenant for the benefit of any mortgagee and may be enforced by such mortgagee.

f. Proceeds resulting from condemnation actions shall be distributed to the mortgagees of individual Units, if any, and Unit Owners as their interest may appear. This is a covenant for the benefit of any mortgagee and may be enforced by such mortgagee.

g. In making distributions to Unit Owners and mortgagees, the Association or if applicable, the Insurance Trustee shall rely upon a certificate executed (i) by the Association as to the names of the Unit Owners, and (ii) by each of the mortgagees as to their respective shares of the distribution.

13. WHEN DAMAGED PROPERTY IS TO BE RECONSTRUCTED OR REPAIRED.

a. Any portion of the Condominium for which insurance is required that is damaged or destroyed shall be promptly repaired or replaced by the Association unless the Condominium is terminated, repair or replacement would be illegal under any state or local health or safety statute or ordinance, or at least eighty percent (80%) of the Unit Owners, including each owner of a Unit or assigned Limited Common Element that will not be rebuilt or repaired, vote to not rebuild. A vote to not rebuild does not increase an insurer's liability to loss payment obligation under a policy, and the vote does not cause a presumption of total loss. The cost of repair or replacement in excess of the insurance proceeds and reserves is a common expense. If the entire Condominium is not repaired or replaced, any insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium, the insurance proceeds attributable to Units and Limited Common Elements that are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those Limited Common Elements were assigned, or to their mortgagees, as their interests may appear, and the remainder of the proceeds shall be distributed to all the Unit owners as their interests may appear. If the Unit Owners vote to not rebuild any Unit, that Unit's allocated interests shall be automatically reallocated on the vote

as if the Unit had been condemned, and the Association shall prepare, execute, and record an amendment to this Declaration reflecting the reallocation.

b. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Building or if not, then according to plans and specifications approved by at least sixty-seven percent (67%) of the votes of members of the Association, including the Owners of the damaged Units, which approval shall not be unreasonably withheld.

14. RESPONSIBILITIES AND PROCEDURES AS TO PAYMENT FOR REPAIRS.

a. If damage occurs to those parts of a Unit or Limited Common Element that the Unit Owner has the responsibility of maintaining and repairing, then the Unit Owner shall be responsible for the prompt reconstruction and repair of such damage after the casualty. In all other instances, the Association shall have the responsibility of reconstruction and repair. In the event the Unit Owner fails to make such repairs or reconstruction promptly, the Association reserves the right to make such repairs and to assess the Unit Owner for all expenses, together with a service fee of up to twenty percent (20%) of such expenses for the Association's services.

b. Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association may obtain reliable and detailed estimates of the cost to rebuild or repair, and shall rebuild or repair the damaged property to a condition as good as that existing immediately before the casualty.

c. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, the amount of the deficiency shall be assessed against the party who is responsible for the cost of maintenance and repair pursuant to the terms of this Declaration. (See Exhibit C for allocation of maintenance expense.) Additional assessments may be made at any time during or following the completion of construction.

d. If the amount of the estimated costs of reconstruction and repair for which the Association is responsible is more than Five Hundred Thousand Dollars

(\$500,000.00) in excess of the amount of insurance proceeds available for such reconstruction or repair, the assessments paid to meet such costs shall be deposited by the Association with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such assessments and disburse them in payment of the costs of reconstruction and repair.

e. The proceeds from assessments and insurance shall be disbursed as follows:

i. The portion of insurance proceeds for damage which is the responsibility of the Unit Owner to repair or reconstruct shall be paid to the Unit Owner for such repair or reconstruction, or if there is a mortgagee endorsement, then to the Owner and the mortgagee jointly.

ii. The portion of insurance proceeds for damage which is the responsibility of the Association to repair or reconstruct shall be disbursed in payment of the costs of such repair and reconstruction in the manner required by the Board of Directors of the Association.

15. USE RESTRICTIONS. The use of the Condominium shall be in accordance with the following provisions:

a. The Units and Common Elements are subject to the Declaration of Covenants. All Unit Owners shall use the Units and Common Elements in compliance with the Declaration of Covenants.

b. The Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units.

c. No use or practice shall be permitted on the Condominium which is the source of annoyance to occupants, or which interferes with the peaceful possession and proper use of the Condominium by its occupants. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage shall be allowed to accumulate, nor any fire hazard allowed to exist. No Unit Owner shall permit any use of such Owner's Unit, or of the Common Elements, which will increase the rate of insurance upon the Condominium. No improper,

offensive, or unlawful use shall be made of the Condominium or any part thereof. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification, or repair of the Condominium shall be the responsibility of the person or entity responsible for the maintenance and repair of the property concerned.

d. The rules and regulations concerning the use of the Condominium property are attached hereto as Exhibit G, as amended from time to time by the Association in the manner provided by its Articles and By Laws. Copies of such regulations and amendments thereto shall be furnished by the Association to all Unit Owners and occupants of the Condominium upon request.

16. [Intentionally Omitted]

17. DECLARANT'S RIGHTS AND PRIVILEGES.

a. Declarant shall have the right to transact, on the Condominium property, any business deemed necessary by Declarant to consummate the sale, lease, or resale of Units. Signs and all items pertaining to sales shall not be considered Common Elements and shall remain the property of Declarant.

b. As long as any Unit belonging to Declarant remains unsold, neither the Unit Owners, nor the Association, shall interfere with the sale of Units, and, so long as there are unsold Units, the Declarant shall own such Units under the same terms and conditions as other Unit Owners, save for the right to sell, rent or lease as contained in this Section 17(b).

c. Declarant, and other persons it may select, shall have the right of ingress and egress over, upon and across the Common Elements (including any Limited Common Elements) and Declarant shall have the right to store materials thereon and make such other use thereof as may be reasonably necessary and incident to maintenance, repair, and sale of Units and the operation of the Units and Common Elements in connection with the Condominium.

d. For a period of fifty (50) years from the date of the recording of this Declaration, without the prior written consent of the Hospital (i) no modifications

shall be made to the exterior surfaces of the Buildings, the Common Elements or the Land, and (ii) no additional improvements shall be constructed on the Land or other Common Elements.

e. The Declaration of Covenants reserves certain easements in favor of the Hospital Owner as defined therein. Such reserved easements include, but are not limited to, access easements, parking easements, utility easements, encroachment and attachment easements, atrium easements, party wall easements, connector easements and pedestrian corridor easements as more particularly provided in the Declaration.

18. MANAGEMENT. The Association shall enter into a contract with a manager for the management of the Condominium. The management contract shall be cancelable by either party upon ninety (90) days written notice. Any management fee paid to a Unit Owner or an affiliate of a Unit Owner for providing management services to the Association as manager shall not be more than the management fee that would be payable to an unaffiliated third party providing similar services.

19. NOTICE OF MORTGAGE LIEN OR SUIT.

a. A Unit Owner shall give notice to the Association of every lien upon such Owner's Unit other than for taxes and special assessments, within ten (10) days after the attaching of the lien.

b. Notice shall be given to the Association of every suit or other proceeding which may affect the title to a Unit within five (5) days after the Unit Owner receives knowledge thereof.

c. Failure to comply with this Section 19 will not affect the validity of any mortgage instrument or the enforcement thereof at any public or judicial sale.

20. COMPLIANCE, DEFAULT AND REMEDIES. Each Unit Owner shall be governed by, and shall comply with, the terms of the Declaration of Covenants, this Declaration, the Articles, By Laws, and Rules and Regulations adopted pursuant thereto, as any of the same may be amended from time to time. In addition to the remedies provided by the Condominium Act, a default by a Unit

Owner shall entitle the Association, acting through the Board of Directors or through the Managing Agent, to the following relief:

a. Additional Liability. A Unit Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by such Unit Owner's act, neglect, or carelessness, or by that of their guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a Unit, or its appurtenances.

b. Costs and Attorney's Fees. In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the court.

c. No Waiver of Rights. Failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles, the By laws, or the Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter. All rights, remedies and privileges granted to the Association or any Unit Owner pursuant to the terms of the Condominium Act, this Declaration, the By laws or Rules and Regulations of the Association shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising such other privileges as may be granted to such party by the Condominium Act, the condominium instruments above named, or at law or equity.

d. Abating and Enjoining Violations. The violation of any restriction, condition or regulation adopted by the Board of Directors, or the breach of any covenant or provision herein contained, shall give the Board of Directors or its Managing Agent the right, in addition to any other rights provided for in this Declaration:

i. to enter upon the Unit, or any portion of the Condominium upon which or as to which such violation or breach exists, and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Board of Directors, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass; or

ii. to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or

iii. to take possession of such Unit Owner's interest in the Land and to maintain an action for possession of such Unit in the manner provided by law.

iv. Notwithstanding anything contained in this paragraph to the contrary, in the event the Board of Directors or Managing Agent uses the right of summary abatement or similar means to enforce any violation of any restriction or condition or regulation, or the breach of any covenant or provision herein contained, the Board of Directors or Managing Agent shall institute appropriate judicial proceedings for such violations or breach before any items of construction can be altered or demolished.

e. Legal Proceedings. Any violation of the provisions of the Condominium Act, this Declaration, the By laws, or the Rules and Regulations adopted pursuant thereto, shall be grounds for relief, including, but not limited to, an action for money damages, injunctive relief, specific performance, or foreclosure of the lien for payment of all assessments. All expenses of the Association incurred in connection with any such actions or proceedings, including court costs, attorney's fees, all damages and interest thereon at the highest rate allowed by applicable law, shall be assessed against such defaulting Unit Owner and shall be deemed part of such Unit Owner's respective share of the Common Expenses. The Association shall have a lien for all of the same upon the Unit and its appurtenant interest in the Common Elements, upon all of the Unit Owner's additions and improvements thereto

and upon all of the Unit Owner's personal property in the Unit or located elsewhere on the land.

f. Actions to Foreclose Lien of Association. All actions to foreclose the lien of the Association shall be initiated and conducted pursuant to the Condominium Act.

g. Service of Process. The person designated to receive service of process on behalf of the project shall be the registered agent of the Association designated in the Articles of Incorporation for the Association, as such registered agent may be changed from time to time as shown in the records of the Utah Secretary of State.

21. LEASE AND TRANSFER OF A UNIT; NOTICE TO ASSOCIATION.

a. Leases. All leases of any Unit shall be in writing. A copy of every lease of a Unit shall be furnished to the Board prior to occupancy by the tenant. Every such lease shall provide that the lessee shall be bound by and subject to the Rules and Regulations of the Association. A copy of the Rules and Regulations shall be attached to each lease and shall be delivered by the Unit Owner to the lessee. The Unit Owner making such lease shall not be relieved thereby from any of the Unit Owner's obligations under this Declaration.

b. Notice of Transfer of Unit. Whenever a Unit Owner shall sell, give or otherwise transfer a Unit, or any interest therein, such Unit Owner shall give the Association written notice thirty (30) days prior to the transfer, which notice shall briefly describe the transfer and shall state the name and address of the transferee.

c. Miscellaneous.

i. A transfer or lease of a Unit, or interest therein, by or to the Board or the Declarant shall not be subject to the provisions of this Section 21.

ii. All notices referred to or required under this Section 21 shall be given in writing by certified mail return receipt requested or by personal service.

iii. The Board may adopt rules and regulations, from time to time, not inconsistent with the provisions of this Section 21, for the purpose of implementing and effectuating said provisions.

iv. If any transfer or lease of a Unit is made or attempted without complying with the provisions of this Section 21, such transfer or lease shall be subject to each and all of the rights and options of, and remedies and actions available to, the Association hereunder and otherwise.

22. ASSOCIATION'S RIGHT TO PURCHASE AT A FORECLOSURE SALE.

a. The Board shall have the power and authority to purchase, on behalf of the Association, any Unit, or interest therein, at a sale pursuant to this Declaration, a mortgage foreclosure, a foreclosure of the lien for Common Expenses under the Condominium Act, or an order or direction of a court, or at any other involuntary sale, upon the consent or approval of Unit Owners owning not less than seventy five percent (75%) of the total ownership of the Common Elements.

b. The Board of Directors shall have authority to make special assessments proportionately among the respective Unit Owners, and such other financing arrangements as the Board of Directors may deem desirable, in order to close and consummate the purchase of a Unit, by the Association. However, no such financing arrangement may be secured by an encumbrance on any interest in property other than the Unit to be purchased and such Unit's appurtenant interest in the Common Elements.

c. The Association shall hold or lease any Unit, pursuant to the terms hereof, in the name of the Association, or a nominee thereof designated by the Board of Directors, for the benefit of all Unit Owners. The Board of Directors shall have authority at any time to sell, lease or sublease said Unit on behalf of the Association upon such terms as the Board shall deem desirable.

23. COMBINATION AND SUBDIVISION OF UNITS; USE OF UNITS AS SINGLE UNIT.

a. The Unit Owners of two or more adjoining Units shall have the right upon approval of the Board of Directors to combine one or more adjoining Units or portions thereof and to alter or amend this Declaration to reflect such combination.

b. A Unit Owner shall have the right to subdivide the Unit owned by such Unit Owner upon the approval of the Board of Directors and to alter or amend this Declaration in accordance with this Section 23 to reflect such subdivision.

c. The combination or subdivision of Units, or portions thereof, by Declarant shall not require approval of the Board of Directors.

d. Such amendments may be accomplished by the recording in the Recorder's Office for Utah County, Utah an amendment or amendments to this Declaration and the Plat containing the same information with respect to the altered Units as required in this initial Declaration and the Plat with respect to the initial Units. Such amendment must be executed by the Unit Owners of the affected Units, all lienholders of record and the President of the Association, except that in the case of a combination or subdivision of Units by Declarant only Declarant is required to execute such amendment. All costs and expenses in connection with such amendments shall be borne by the Unit Owner(s) desiring such combination or subdivision.

e. All such amendments to the Declaration and Plat must be approved by attorneys employed by the Board of Directors to insure the continuing legality of the Declaration. The cost of such review by the attorneys shall be borne by the Unit Owner(s) wishing to combine the Units.

f. Any amendment of the Declaration pursuant to this Section 23 shall reflect the changes occasioned by the combination or subdivision. Such changes shall include a change in the percentage of undivided interest in the Common Elements which are appurtenant to the Units involved in the combination or subdivision. The remaining combined Unit, if two or more Units are totally combined, will acquire the total of the percentage of undivided interest in the Common Elements

and facilities appurtenant to the Units that are combined as set forth in Exhibit B. If a portion of one Unit is combined with another or subdivided, the resulting Units shall acquire a proportionate percentage of the total undivided interest in the Common Elements of the Units involved in the combination or subdivision on the basis of area remaining in the respective, combined or subdivided Units. The percentage of undivided interest in the Common Elements appurtenant to all other Units shall not be changed. All such amendments must be consented to by the Board of Directors and by all other persons holding an interest in the Units affected except no such consent shall be required if Declarant is the owner of the Units involved in such combination or subdivision. The consent of other Unit Owners need not be obtained to make such amendments or alterations valid, providing the percentages of undivided interest in the common areas and facilities of the other Unit Owners remain unchanged.

g. Two or more adjoining Units may be used as a single Unit subject to the use restrictions of this Section 23. The Common Elements located between and separating two or more adjacent Units used together may be altered or removed to afford ingress and egress to and from such Units to enhance the use of such Units as a single Unit. The Unit Owner's right to use this portion of the Common Elements shall be pursuant to a license agreement with the Association subject to the following conditions:

i. The expense of making such alterations shall be paid in full by the Unit Owner or Owners making such alterations;

ii. In the event such Units shall cease to be used as a single Unit, the Unit Owner or Owners shall pay the full expense of restoring such Common Elements to their condition prior to such alterations; and

iii. The Unit Owner must comply with the requirements of Section 5(f) of this Declaration for the construction or removal of the Common Elements separating such Units.

h. All legal, recording, architectural and engineering costs incurred by the Association in connection with the evaluation or approval of amendments to

the Plat or Declaration in connection with the combination or subdivision of any Unit shall be borne by the Unit Owner making such request.

24. AMENDMENTS. This Declaration may be amended in the following manner:

a. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Association at which a proposed amendment is considered.

b. A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the members of the Association. Directors and members not present in person or by proxy at the meetings in which the amendment is considered may express their approval in writing, providing such approval is delivered to the secretary at or prior to the meeting. Such approval must be by sixty-seven percent (67%) of the votes of the entire membership of the Association. Until the first election of Directors, any amendment must be approved by the initial Board of Directors.

c. Any amendment which restricts any of Declarant's rights reserved pursuant to Section 17 hereof shall require the written consent of Declarant.

d. Declarant hereby reserves the power to amend this Declaration and any Exhibit hereto without the consent of any Unit Owner for the purposes hereinafter set forth. Such power of Declarant shall expire upon the earlier to occur of (i) three (3) years from the date this Declaration is filed of record in the Recorder's Office for Utah County, Utah, or (ii) the date at least three-fourths (3/4) of all Units have been conveyed by Declarant to a non-affiliated third party. This power to amend shall be used to correct clerical errors and make other clarifications and to adjust boundary lines where necessary for clarification or to reflect accurate surveys and for the purposes set forth in the Condominium Act. Declarant shall exercise this power to amend by filing an amendment of record in the Recorder's Office for Utah County, Utah. Declarant shall in no way be obligated to amend this Declaration or any Exhibit hereto.

e. No amendment shall discriminate against any Unit Owner, or against any Unit or class or group of Units, unless the Unit Owners so affected shall consent. No amendment shall change any Unit, nor the share of the Common Elements appurtenant to it, nor increase the Unit Owner's share of the Common Expenses, or change the number of votes of any Unit in the Association, unless such Unit Owner and all record owners of liens thereon, shall approve such amendment in writing.

f. A copy of each amendment, except amendments which Declarant alone may execute, shall be certified by the President of the Association as having been duly adopted and all amendments shall be effective when recorded in the Recorder's Office for Utah County, Utah.

25. TERMINATION. The Condominium may be terminated as provided in the Condominium Act.

26. ASSURANCES FOR FIRST MORTGAGEES. In addition to all other rights as may be provided herein or in the Condominium Act, the following provisions shall be complied with regarding the Condominium:

a. Any first mortgagee who obtains title to a Unit pursuant to the remedies provided in the mortgage or deed of trust, or upon foreclosure of the mortgage or deed of trust or upon receiving a deed (or assignment) in lieu of foreclosure will be exempt from the provisions of Section 21 relating to the rights of the Association upon transfer of a Unit. Specifically, and without limitation upon the above provisions of this Section 26(a), the Declaration, the attached By Laws, or any other of the Condominium's constituent documents shall not impair the rights of a first mortgagee to:

i. Foreclose or take title to a Unit pursuant to the remedies provided in the mortgage, or

ii. Accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor.

b. First mortgagees shall have the right to examine the books, records and financial statements of the Association, as well as the By Laws and other rules concerning the Condominium at reasonable times and upon reasonable notice.

c. First mortgagees shall have the right, upon written request, to receive a financial statement from the Association for the immediately preceding fiscal year.

d. Condominium assessments to fund a reserve fund for maintenance, repair and replacement of those Common Elements that must be replaced on a periodic basis are not required but may be established at the discretion of the Board of Directors of the Association. The Association shall conduct reserve analyses and provide information regarding reserves as required by Section 57-8-7.5 of the Condominium Act.

e. No interpretation shall be given to this Declaration or any of the other Condominium constituent documents which would give a Unit Owner, or any other party, priority over any rights of first mortgagees of Units pursuant to their mortgages in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Elements.

f. The Association, upon receiving notification of the existence of a first mortgage on any particular Unit, shall provide notice in writing to such mortgagee, or to such other entity as such mortgagee may direct (i.e. insurer or guarantor of the mortgage), of any loss to, or taking of, the Common Elements of the Condominium if such loss or taking exceeds the market value of any one Unit, or damage to a Unit covered by such mortgage if such loss or taking exceeds ten percent (10%) of the market value of any one Unit.

g. First mortgagees shall have the right, upon written request, to receive notice from the Association of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

h. First mortgagees shall also have the right, upon written request, to receive written notice from the Association of any proposed action which requires the consent of a specified percentage of mortgage holders.

27. NON-LIABILITY OF THE DECLARANT, DIRECTORS AND OFFICERS OF THE ASSOCIATION. The Declarant, directors and officers of the Association shall not be personally liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Declarant, director or officer, except for any acts or omissions found by a Court to constitute gross negligence or fraud. The Unit Owners shall indemnify and hold harmless each of the directors, officers, or Declarant, and their respective heirs, executors, administrators, successors and assigns, in accordance with the provisions of Section 8 of the By Laws.

28. SEVERABILITY. The invalidity in whole or in part of any covenant or restriction, or any paragraph, subparagraph, sentence, clause, phrase, or word, or other provision of this Declaration and the Articles, By Laws, and Regulations of the Association shall not affect the validity of the remaining portions thereof.

29. WAIVER. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

30. CAPTIONS. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

31. GENDER. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine or neuter genders whenever the context so requires.

33. AUTHORITY OF DECLARANT TO GRANT AND TERMINATE PUBLIC UTILITY EASEMENTS. Declarant reserves the right to grant public utility easements or abandon easements, with respect to the Land and easements described on Exhibit A, without the joinder of any Unit Owner, provided such action does not interfere with the provision of such utility services to the Condominium.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Declarant, as owner of the leasehold estate under the Ground Lease Land has executed this Declaration as of the date first set forth above.

DECLARANT:

MOUNTAIN VIEW HOSPITAL, INC., a
Utah corporation

By: _____
Name: Nicholas L. Paul
Title: Vice President

STATE OF TENNESSEE

COUNTY OF DAVIDSON

On this ____ day of _____, in the year 2020, before me, _____, a notary public, personally appeared Nicholas L. Paul, Vice President of Mountain View Hospital, Inc., a Utah corporation, who proved on the basis of satisfactory evidence to the person whose name is subscribed to this instrument, and acknowledged that he executed the same. Witness my hand and official seal.

Notary Public

EXHIBIT A TO DECLARATION

Description of Land

NEED

EXHIBIT B TO DECLARATION

Condominium Percentage of Undivided Ownership Interest in Common Elements

Unit No.	Approximate Sq. Feet	Percent Of Undivided Ownership Interest In Common Elements (Par Value)
NEED INFO		
TOTAL		100.00%

EXHIBIT C TO DECLARATION

Component Identification, Maintenance & Expense Chart

I. Identification

<i>COMPONENTS OF UNIT</i>	<i>LIMITED COMMON ELEMENTS</i>	<i>COMMON ELEMENTS</i>
All components located within or constituting the boundaries of the unit including, but not limited to: wallboard; wallpaper; paint; all finished flooring; carpet; all pipes, ducts, electrical wiring and conduits located entirely within a Unit and serving only such Unit.	Those portions of any chute, flue, duct, wire, or conduit located partially within and partially outside a Unit which serve one or more but less than all Units.	Land; parking areas, sidewalks; landscaping improvements; water detention facilities; all interior hallways; central heating and air conditioning equipment; those portions of any chute, flue, duct, wire, or conduit, located partially within and partially outside a Unit which serve more than one Unit or any portion of Common Elements; load-bearing columns and load-bearing walls; exterior doors and windows; exterior of building; roof of building; all real property, improvements and facilities other than the Units and Limited Common Elements.

II. Assignment of Maintenance Responsibilities

<i>UNIT</i>	<i>LIMITED COMMON ELEMENTS</i>	<i>COMMON ELEMENTS</i>
Responsibility of Unit Owner.	Responsibility of Association.	Responsibility of Association, except Unit Owners shall be responsible for cleaning the interior surfaces of exterior windows.

III. Allocation of Maintenance Expense

<i>UNIT</i>	<i>LIMITED COMMON ELEMENTS</i>	<i>COMMON ELEMENTS</i>
Expense of Unit Owner.	Charged to Unit Owners to whom Limited Common Element is allocated.	Common Expense of Association.

Note: This chart is merely illustrative and not exhaustive.

It is not intended to be an exclusive identification of components or allocation of maintenance responsibilities and expenses, and does not affect other identification, maintenance of expense allocations made by the Declaration or By-laws.

EXHIBIT D TO DECLARATION

By Laws For Mountain View Medical Plaza Condominium and Mountain View Medical Plaza Condominium Association, Inc.

1. Identity.

(a) These are the By Laws of Mountain View Medical Plaza Condominium, herein called the “Condominium”, and Mountain View Medical Plaza Condominium Association, Inc., herein called the “Association”, a nonstock corporation, incorporated under the laws of the State of Utah, the Articles of Incorporation which are to be filed with the Utah Secretary of State.

(b) The Association has been organized for the purpose of administering the Condominium established by a Declaration Establishing Mountain View Medical Plaza Condominium, recorded in the Recorder’s Office for Utah County, Utah, herein called the “Declaration”, pursuant to the Utah Condominium Act, herein called the “Condominium Act”, which Condominium is identified by the name Mountain View Medical Plaza Condominium.

2. Members.

The members of this Association shall be Mountain View Hospital, Inc., a Utah corporation, hereinafter referred to as “Declarant” and all subsequent Unit Owners in the Condominium.

3. Meetings of Members.

(a) The members of the Association shall have annual meetings. The first annual meeting of the members of the Association shall be held, at the office of the Association or other place to be designated by the initial Board of Directors, within 180 days from the date of the first conveyance to a Unit Owner, (“First Annual Meeting”) on a date scheduled by the Board of Directors. Thereafter, annual meetings shall be scheduled by the Board of Directors.

(b) Special meetings of members shall be held whenever called by the President, Vice President, or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from members entitled to cast not less than one third (1/3) of the votes of the entire membership.

(c) Notice of all members' meetings, stating the time and place, and the objects for which the meeting is called, shall be given by the President, Vice President or Secretary, unless waived in writing. Such notice shall be in writing to each member at his address as it appears on the books of the Association or to an email address designated by such member, and shall be mailed or sent by email not less than ten (10) days, nor more than sixty (60) days, prior to the date of the meeting. Proof of such mailing or email shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings.

(d) A quorum at members' meetings shall consist of persons entitled to cast thirty percent (30%) of the votes of the entire membership. If any meeting of the members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting for at least ten (10) days, and adequate notice of the new date shall be given as described in subparagraph (c) of this Section 3.

(e) The aggregate number of votes for all Unit Owners shall be one hundred (100), and each Unit shall be allocated a number of votes equal to the percentage including fractions thereof, of the undivided interest in the Common Elements appertaining to such Unit, such percentage being set forth in Exhibit B to the Declaration.

(f) Only one person may exercise the voting rights for a Unit. If a Unit is owned by one (1) person, his right to vote shall be established by the record title to his Unit. If a Unit is owned by more than one (1) person, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the record owners of the Unit and filed with the Secretary of the Association. If a Unit is owned by a corporation, partnership, or other legal entity, the person entitled to cast the vote for the Unit shall be designated by a certificate of appointment signed by the

President or Vice-President of the corporation, or the appropriate partners, or other authorized persons, and filed with the Secretary of the Association. Such certificates shall be valid until revoked, or until superseded by a subsequent certificate, or until a change in the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote of a Unit may be revoked by any Unit Owner at any time. If a certificate required hereunder is not filed according to the requirements set forth above, or if more than one person seeks to exercise the voting rights appurtenant to a Unit, such voting rights shall be suspended until such time as the requirements of this subparagraph have been fulfilled.

(g) Votes may be cast in person or by proxy. Proxies may be made by any person entitled to vote. They shall be valid only for the particular meeting designated and must be filed with the Secretary before the appointed time of the meeting.

(h) Any Unit Owner who is delinquent for more than sixty (60) days in the payment of any assessment owing for his Unit as determined by the books of the Association as of the date of a meeting, shall not be entitled to vote at such meeting.

(i) The presence of individual Unit Owners entitled to cast thirty percent (30%) of the votes of the Association is required at members' meetings to adopt decisions, except where approval by a greater number of members is required by the Declaration, Articles, or these By Laws.

(j) The order of business at annual members' meetings, and as far as practical at all other members' meetings, shall be:

(1) election of a chairman of the meeting, if the President is unavailable to preside;

(2) calling of the roll and certifying the proxies;

(3) proof of notice of meeting or waiver of notice;

(4) reading and disposal of any unapproved minutes;

(5) reports of officers;

(6) reports of committees;

- (7) election of inspectors of election;
- (8) election of Directors;
- (9) unfinished business;
- (10) new business, and
- (11) adjournment.

4. **Directors.**

(a) The affairs of the Association shall be managed by a three member Board of Directors. The Declarant may appoint and remove all officers and Directors of the Association until the earlier of (i) the day that Declarant has conveyed Units with seventy-five percent (75%) of the ownership of the Common Elements appurtenant thereto (Units comprising seventy-five percent (75%) of the total area of Units in the Condominium) to Unit Owners other than Declarant or any affiliate of Declarant, or (ii) three (3) years from the date of the closing of the sale of the first Unit conveyed by Declarant. The initial directors shall serve without compensation. Thereafter, the compensation, if any, of the Directors shall be as fixed by the vote of a majority of the Unit Owners.

(b) Within one hundred twenty (120) days after Unit Owners other than Declarant are entitled to elect the Directors, the Association shall call, and give not less than sixty (60) days notice of a meeting of members called to elect the Directors of the Association. At such meeting, three persons shall be elected to serve as the Board of Directors. The term of office of those elected shall be one (1) year.

(c) The election shall be by ballot and by a plurality of the votes cast, each member voting must cast his vote (or votes) for as many nominees as there are vacancies to be filled, but there shall be no cumulative voting.

(d) Except as to vacancies provided by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors until the next annual meeting at which time a Director shall be elected to fill the remaining term of any such vacancy,

except in the event of the resignation or removal of a Director appointed by Declarant, the replacement director shall be appointed by Declarant.

(e) Any Director, other than a Director appointed by Declarant, may be removed by concurrence of two thirds (2/3) of the votes of the entire membership at a special or general meeting of the members called for that purpose. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting.

(f) A Director's term of service shall extend until his successor is elected at the annual meeting of the members and thereafter until his successor is qualified and assumes office, or until he is removed in the manner elsewhere provided.

5. **Directors' Meetings.**

(a) The organizational meeting of a newly elected Board of Directors shall be held within thirty (30) days of its election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary providing a quorum shall be present.

(b) Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone, or telegraph, or upon the consent of a Director by email at the address designated by such Director, at least three (3) days prior to the day named for such meeting.

(c) Special meetings of the Directors may be called by the President, and must be called by the Secretary at the written request of any two (2) of the Directors. Notice of the meeting shall be given personally or by mail, telephone, or email at least three (3) days prior to the day named for such meeting, which notice shall state the time, place, and purpose of the meeting.

(d) Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

(e) A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number of Directors is required by the Declaration, Articles, or these By Laws. If, at any meeting of the Board of Directors, less than a quorum is present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business which might have been transacted at the meeting originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

(f) The presiding officer of Directors' meetings shall be the President. In the absence of the President, the Directors present shall designate one of their number to preside.

(g) The order of business at Directors' meeting shall be:

- (1) calling of roll;
- (2) proof of due notice of meeting;
- (3) reading and disposal of any unapproved minutes;
- (4) reports of officers and committees;
- (5) election of officers (if necessary);
- (6) unfinished business;
- (7) new business; and
- (8) adjournment.

(h) The Directors may adopt any resolution by an instrument in writing, signed by all of the then qualified and acting Directors, provided there then be at least three (3) in number, and any such resolution, when so executed, shall have the force and validity of a resolution adopted at any regular or special meeting.

(i) All minutes and records of actions of the Directors, and all records pertaining to operations of the Association, shall be kept at the Association office or

at such place as may be designated by the Secretary of the Association, and shall be available to members for inspection at all times during normal business hours.

6. **Powers and Duties of the Board of Directors.**

(a) All of the powers and duties of the Association existing under the Condominium Act, the Declaration, the Articles, and these By Laws shall be exercised exclusively by the Board of Directors, its agents, contractors, or employees, subject only to approval by Unit Owners when such is specifically required. Compensation of employees of the Association shall be fixed by the Directors. A Director may be an employee of the Association, and a contract for management of the condominium may be entered into with a Director. The Board of Directors is specifically charged with the responsibility of providing for the care and upkeep of all Common Elements and Limited Common Elements of the Condominium pursuant to the provisions of the Declaration. Specifically included in the foregoing general powers of the Board of Directors are the following powers and duties, which are listed by way of enumeration and not by limitation:

- (1) To elect and remove the officers of the Association;
- (2) To administer the affairs of the Association and the Condominium property;
- (3) To designate and/or remove, subject to the terms and conditions of the Declaration relating to the professional management of the Condominium, the services of an agent, hereinafter sometimes called the “Managing Agent”, to maintain, repair, replace, administer and operate the Condominium or any part thereof for all the Unit Owners upon such terms and for such compensation and authority as the Board of Directors may approve;
- (4) To formulate policies for the administration, management and operation of the Condominium and the Common Elements;
- (5) To adopt rules and regulations, with written notice thereof to all Unit Owners, governing the administration, management, operation and use of

the Condominium property and the Common Elements, and to amend such rules and regulations from time to time;

(6) To provide for the maintenance, repair, and replacement of the Common Elements and Limited Common Elements as required by the Declaration, to make payments therefor, and to approve payment vouchers or to delegate such approval to the officers or Managing Agent;

(7) To provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Condominium property and the Common Elements, and to delegate any such powers to the Managing Agent (or any employees of the Managing Agent);

(8) To appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board of Directors;

(9) To determine the fiscal year of the Association and to change said fiscal year from time to time as the Board of Directors deems advisable;

(10) To fix the estimated annual budgets, and to provide the manner of assessing and collecting from Unit Owners their respective shares of such estimated expenses, as hereinafter provided;

(11) To enter into leases, management agreements and other contracts in connection with the management of the Condominium, or for such other appropriate purpose, upon such terms as the Board of Directors may approve;

(12) To borrow money for the purpose of repair or restoration of Common Elements without the approval of the members of the Association;

(13) To secure insurance policies as required by the Declaration and in this regard, annually to review the amounts of coverage afforded by such policy or policies;

(14) To maintain or defend any action in any court or other proceeding on behalf of the Unit Owners which arises in connection with the Common Elements;

(15) Unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of Unit Owners as expressed in resolutions duly adopted at any annual or special meeting of Unit Owners;

(16) To approve all signs erected on the Condominium.

(17) To grant permits, licenses and easements over the Common Elements for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium.

(18) To exercise all other powers and duties of Unit Owners as a group referred to in the Condominium Act, in the Declaration or these By Laws.

(b) Specifically, whenever in these By Laws or in the Declaration the Association is given the power to take any action, it is the intention of such instruments that the Board of Directors shall act for the Association in all cases, except to the extent that it is expressly provided that action may be taken upon vote of the Unit Owners.

(c) Nothing in these By Laws shall be considered to grant to the Board of Directors, the Association, or to the officers of the Association, any powers or duties which, by law, have been delegated to the Unit Owners.

(d) Unless the Board of Directors specifically designates others to act as the “management committee”, the Board of Directors shall act as the “management committee”, as that term is used in the Condominium Act.

7. Officers.

(a) The executive officers of the Association shall be a President, who shall be a Director, a Vice President, who shall be a Director, a Treasurer and a Secretary, all of whom shall be elected annually by the Board of Directors and who may be removed by vote of the Directors at any meeting. Any person may hold two (2) or more offices except that the President shall not also be the Secretary or the Assistant Secretary. The Board of Directors may from time to time elect other officers to exercise such powers and duties as the Board shall find to be required to manage

the affairs of the Association. Compensation, if any, of officers shall be fixed by the Board of Directors. Prior to the First Annual Meeting there shall be no Vice President.

(b) The President shall be the Chief Executive Officer of the Association. He shall have all of the powers and duties which are usually vested in the office of president of an association, including, but not limited to, the power to appoint committees from among the members from time to time, as he may, in his discretion, determine appropriate, to assist in the conduct of affairs of the Association.

(c) The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

(d) The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of secretary of an association and as may be required by the Directors or the President.

(e) The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the books of the Association in accordance with good accounting practices and shall perform all other duties incident to the office of treasurer of an association.

8. Indemnification.

(a) To the extent not covered by insurance, the Association shall indemnify and hold harmless each of its directors and officers, each member of any committee appointed pursuant to the By Laws of the Association, the Board of Directors and the Declarant, against all contractual and other liabilities to others arising out of contracts made by or other acts of such directors, Board, officers, committee members or Declarant, on behalf of the Unit Owners, or arising out of their

status as directors, Board, officers, committee members or Declarant, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such director, officer, Board, committee member or Declarant may be involved by virtue of such persons being or having been such director, officer, Board, committee member, or Declarant, provided, however, that such indemnity shall not be operative with respect to:

(1) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such director, officer, Board, committee member, or Declarant, or

(2) any matter settled or compromised, unless the Board determines there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such director, officer, Board, committee member, or Declarant.

(b) To the extent that the Declarant or a member of the Board of Directors or an officer of the Association or a member of any committee appointed pursuant to the By Laws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subparagraph (a) or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith.

(c) Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the person or entity seeking such indemnification or payment in advance to repay such amount unless it shall

ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Section 8.

(d) The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Section 8, provided, however, that the liability of any Unit Owner arising out of any contract made by or other acts of the directors, Board, officers, members of such committees, or Declarant, or out of the aforesaid indemnity in favor of the directors, Board, officers, members of such committees, or Declarant shall be limited to such proportion of the total liability hereunder as said Unit Owner's percentage of interest in the Common Elements, bears to the total percentage interest of all the Unit Owners in the Common Elements. Every agreement made by the directors, Board, officers, members of such committees, Declarant or by the Managing Agent on behalf of the Unit Owners shall provide that the directors, Board, officers, members of such committees, Declarant or the Managing Agent, as the case may be, are acting only as agents for the Unit Owner and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements. The indemnification provided by this Section 8 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board of Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be Declarant or a member of the Board of Directors, officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of such person or entity.

9. **Assessments.**

(a) Assessments shall be made annually and shall be payable in monthly installments. An annual assessment shall be made every calendar year or as otherwise determined by the Board, and shall be payable in monthly installments due on the first day of each month for which the assessment is made or as otherwise determined by the Board. The Board shall provide the Unit Owners with a copy of the proposed Association budget within thirty (30) days after the adoption of such budget. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the same amount as the immediately preceding annual assessment.

(b) If a Unit Owner shall be in default in the payment of an installment upon an assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice thereof to the Unit Owner, and thereupon the unpaid balance of the assessment shall come due upon the date stated in the notice, but not less than ten (10) days after delivery thereof to the Unit Owner, or not less than twenty (20) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

(c) In the event that during the course of any year it shall appear to the Board of Directors that the annual assessment, determined as aforesaid, is insufficient or inadequate to cover the estimated Common Expenses for the remainder of such year, then the Board of Directors shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a supplemental assessment shall be made to each Unit Owner for his proportionate share of such supplemental budget, and such supplemental assessment shall be paid in a time and manner directed by the Board of Directors.

(d) The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the moneys of the Association shall be deposited. Withdrawal of moneys from such accounts shall

be only by checks signed by such persons as are authorized by the Directors. The Directors may contract with a Managing Agent to provide that the Managing Agent shall collect assessments from Unit Owners and other moneys of the Association and disburse Association funds pursuant to the terms of such contract. The Directors may require that all employees of the Managing Agent handling or responsible for Association funds must be covered by fidelity bonds as set forth below in subparagraph (f).

(e) A compilation of the accounts of the Association shall be made annually by a certified public accountant, and a copy of the report shall be furnished to each member not later than one hundred twenty (120) days following the year for which the report is made.

(f) Fidelity bonds may be required by the Board of Directors from all persons handling or responsible for Association funds. The amount of such bonds shall be determined by the Directors, but shall be at least one fourth (1/4) of the amount of the total annual assessments against members for Common Expenses plus the amount of any reserve account. The premiums on such bonds shall be paid by the Association. The Managing Agent may be required to provide satisfactory evidence that all employees handling Association funds are protected by a bond naming the Association as the insured.

(g) The Board of Directors shall cause to be kept detailed and accurate records in chronological order of its receipts and expenditures affecting the Common Elements, specifying and itemizing the Common Expenses incurred. Payment vouchers may be approved in such manner as the Board of Directors may determine.

(h) The Board shall, upon receipt of ten (10) days written notice to the Association and upon payment of a reasonable fee, furnish any Unit Owner a statement of his accounts setting forth the amount of any unpaid assessment or other charges due and owing from such Unit Owner.

(i) In formulating its annual budget, the Board shall include a reserve fund line item in an amount determined by the Board to be prudent, or any

higher amount required by the Declaration. From and after the earlier of (a) the day Declarant has conveyed Units with seventy-five percent (75%) of the ownership of the Common Elements appurtenant thereto (Units comprising seventy-five percent (75%) of the total area of Units in the Condominium) to Unit Owners other than Declarant or any affiliate of Declarant, or (b) three (3) years from the date of the closing of the sale of the first Unit conveyed by Declarant, the following shall be applicable to such reserve fund: (1) such reserve fund shall be maintained separate from other funds of the Association, (2) the Board shall cause a reserve analysis to be conducted no less frequently than every six years; and review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years, and (3) the Board shall annually provide Unit Owners a summary of the most recent reserve analysis or update and provide a copy of the complete reserve analysis or update to a Unit Owner who requests a copy.

10. **Rules and Regulations.**

The Directors are expressly empowered to adopt and promulgate, from time to time, reasonable rules and regulations governing the use of the Units and the common areas, including the imposition of penalties for violation thereof. All such rules and regulations shall be binding rules and regulations of the Association unless rejected by a resolution adopted at a meeting of the members or by a writing signed by members representing at least sixty seven percent (67%) of the votes of the Association. The Directors shall give written notice to all members of the adoption of any new rules and regulations or of the amendment of any existing rule or regulation.

11. **Amendments.**

These By Laws may be amended in the following manner:

(a) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

(b) A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the members of the Association. Directors and members not present in person or by proxy at the meetings to consider the

amendment may express their approval in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Such approvals must be by sixty-seven percent (67%) of the votes of the entire membership of the Association.

(c) No amendment shall discriminate against any Unit Owner or against any Unit or class or group of Units unless the Unit Owners so affected shall consent. No amendment shall change any Unit, nor the share in the Common Elements appurtenant to it, nor increase the Unit Owner's share of the Common Expenses, nor change the voting rights of members, unless the record owner of the Unit concerned and all record owners of liens thereon shall approve such amendment in writing.

(d) A copy of each amendment shall be certified by the President of the Association as having been duly adopted and shall be effective upon recording in the Recorder's Office for Utah County, Utah.

12. **Parliamentary Rules.**

Roberts' Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Declaration, the Articles or these By-Laws.

13. **Definition of Terms.**

The terms used in these By Laws, to the extent they are defined therein, shall have the same definition as set forth in the Declaration. The term "member" as used in these By Laws, means "Unit Owner" as defined in the Declaration.

14. **Compliance with Statute.**

These By Laws are set forth to comply with the requirements of the Condominium Act, as it may be amended from time to time. In case any of these By Laws conflict with the provisions of the Condominium Act, it is hereby agreed and accepted that the provisions of the Condominium Act apply.

EXHIBIT E TO DECLARATION

Articles of Incorporation
of
Mountain View Medical Plaza Condominium Association, Inc.

**DRAFT PREPARED; NEED TO ATTACH COMPLETED/SIGNED/FILED
COPY**

EXHIBIT F TO DECLARATION

Description of the Hospital Property

NEED

EXHIBIT G TO DECLARATION

Rules and Regulations

Subject to any rights and easements reserved in the Declaration of Covenants,

1. CONDUCT

No Unit Owner shall conduct its practice or business, or advertise such business, profession or activities of such Unit Owner conducted in the Condominium in any manner which violates local, state or federal laws or regulations.

2. HALLWAYS AND STAIRWAYS

Unit Owners shall not obstruct or use for storage, or for any purpose other than ingress and egress, the sidewalks, entrance, passages, courts, corridors, vestibules, halls, elevators and stairways of the Building.

3. NUISANCES

No Unit Owner shall make or permit any noise, odor or act that is reasonably objectionable to other Unit Owners of the Condominium to emanate from such Unit Owner's Unit, and shall not create or maintain a nuisance thereon.

4. MUSICAL INSTRUMENTS, ETC.

No Unit Owner shall install or operate any phonograph, musical instrument, radio receiver or similar device in such Unit Owner's Unit in such manner as to disturb or annoy other Unit Owners.

5. OBSTRUCTING LIGHT, DAMAGE

The windows that reflect or admit light into the Building shall not be covered or obstructed. The toilets and urinals shall not be used for any purpose other than those for which they were intended and constructed, and no rubbish, newspapers or other substance of any kind shall be thrown into them.

6. ACCESS TO BUILDING

Any person entering or leaving the Building may be questioned by Building security regarding his/her business in the Building and may be required to sign in and out. Anyone who fails to provide a satisfactory reason for being in the Building may be excluded.

7. VEHICLES, ANIMALS, REFUSE

No Unit Owner shall allow anything to be placed on the outside window ledges of such Unit Owner's Unit or to be thrown out of the windows of the Building. No bicycle or other vehicle, and no animal shall be brought into the offices, halls, corridors, elevators or any other parts of the Building by a Unit Owner or the agents, employees or invitees of a Unit Owner, and no Unit Owner shall place or permit to be placed any obstruction or refuse in any public part of the Building.

8. EQUIPMENT DEFECTS

Unit Owners shall give the Association prompt notice of any accidents to or defects in the water pipes, gas pipes, electric lights and fixtures, heating apparatus, or any other service equipment.

This instrument prepared by:
James C. Cotey, Esq.
Mountain View Hospital, Inc.
1100 Dr. Martin Luther King Jr. Blvd.
Nashville, Tennessee 37203

Parcel Identification Number: _____

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

Made By:

**MOUNTAIN VIEW HOSPITAL, INC., a Utah Corporation
as Declarant**

As of _____, 2020

15 South 1000 East, Payson, Utah County, Utah

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS (this “**Declaration**”) is entered into effective as of _____, 2020 (the “**Date of this Declaration**”), by MOUNTAIN VIEW HOSPITAL, INC., a Utah corporation (hereinafter referred to as “**Declarant**”), having an address at One Park Plaza, Real Estate Department, Nashville, Tennessee 37203, under the following circumstances:

RECITALS:

A. Declarant is the owner of certain real property located in Utah County, Utah as described on Exhibit A attached hereto and made a part hereof (the “**MOB Land**”), upon which is located a medical office building containing approximately 50,232 gross square feet (together with any additions or replacements thereto) (the “**MOB**”, together with the “MOB Land” and the “MOB Improvements”, as described and defined in Article I, are hereinafter referred to collectively as the “**MOB Property**”);

B. The MOB Land is part of a larger tract of land owned by Declarant, which larger tract of land, less and except the MOB Land, is described in Exhibit B attached hereto and made a part hereof (the “**Hospital Land**”), upon which the “Hospital” (as described and defined in Article I) is located.

C. Declarant intends to submit the MOB Property to the condominium form of ownership pursuant to the Utah Condominium Ownership Act, subject to the terms of this Declaration.

D. Declarant desires to create certain access rights and easements, on, over and across portions of the Hospital Land for the benefit of the MOB Land, and on, over, and across the MOB Land for the benefit of the Hospital Land, and, therefore, Declarant is executing and “Recording” (as hereinafter defined) this Declaration for, among other purposes, the purpose of creating such easements; and

D. Declarant desires that the use of the MOB Property complement and not conflict with the use of the “Hospital Property” (as described and defined in Article I), and that the use of the Hospital Property not conflict with the use of the MOB Property, and, therefore, Declarant is executing and Recording this Declaration for, among other purposes, the additional purpose of imposing certain easements, restrictions and obligations upon the MOB Property and the Hospital Property and other purposes as provided herein.

NOW, THEREFORE, in consideration of the premises and for the purpose of enhancing and protecting the value, desirability and attractiveness of the Hospital Property and the MOB Property, Declarant as fee simple owner of the Hospital Land and the MOB Land declares that the Hospital Property and the MOB Property shall be held, sold, conveyed, transferred, leased, encumbered and mortgaged, subject to this Declaration.

ARTICLE I DEFINITIONS

1.01 Definitions. In addition to any terms defined elsewhere in this Declaration, as used in this Declaration, the following terms shall have the following meanings:

“Affiliate” shall mean any “Person” (as hereinafter defined), which directly or indirectly, owns or “Controls” (as hereinafter defined), is owned or “Controlled” (as hereinafter defined), or is under common ownership or Control with the Person.

“Ancillary Medical Care Services” shall mean the provision of any medical or related service to or for any person that is in addition to the examination and diagnosis of patients performed directly by a “Physician” (as hereinafter defined) or by other health care professionals either independently licensed or under the direct supervision of a Physician, including but not limited to the following procedures, services and facilities: (a) any form of testing for diagnostic or therapeutic purposes; (b) provision or operation of a laboratory (including, without limitation, a pathology laboratory or a clinical laboratory); (c) diagnostic imaging services (which include, without limitation, the following testing facilities: fluoroscopy, x-ray, plane film radiography, “CT” (as hereinafter defined), ultrasound, radiation therapy, mammography and breast diagnostics, nuclear medicine testing and MRI); and (d) physical therapy services or respiratory therapy services.

“Applicable Environmental Law” shall have the meaning set forth in Section 4.07(f) hereof.

“Business Days” shall mean any days other than a Saturday, Sunday or federal holiday.

“Closure Notice” shall have the meaning set forth in Section 2.10(a) hereof.

“Condominium” means a condominium established on or within the MOB Property pursuant to the provisions of the Utah Condominium Ownership Act.

“Condominium Association” means the entity, organization or other association that is made up of Unit Owners within the Condominium and is responsible for the operation of the Condominium.

“Connector Facilities” shall mean the pedestrian walkways (together with all related facilities, improvements and equipment), including, but not limited to, enclosed structures containing or consisting of stairways, elevator systems and enclosed overhead walkways or corridors, now or hereafter connecting any two or more of the Hospital, the MOB and any other building on the Hospital Land.

“Control” (including the correlates of **“Controlled”** and **“Controlling”**) shall mean the possession, directly or indirectly (including through one or more intermediaries), of the power to direct or cause the direction of the management and policies of the specified Person, through the ownership or control of voting securities, partnership interests or other equity interests, by contract or otherwise.

“CT” shall mean computerized tomography.

“Date of this Declaration” shall have the meaning set forth in the first paragraph of this Declaration.

“Declarant” shall have the meaning set forth in the first paragraph of this Declaration.

“Declaration” shall have the meaning set forth in the first paragraph of this Declaration.

“Driveway Facilities” shall mean marked (or otherwise delineated) driving lanes and related driveway improvements, now located and from time to time located on the Hospital Land or the MOB Land, as the case may be, including without limitation, curbs, curb cuts, traffic control signs and signals, lighting equipment, and landscaping.

“Existing Declarations” shall have the meaning set forth in Section 4.17 hereof.

“First Mortgage” shall mean the Mortgage which is the most senior Mortgage in terms of lien priority which encumbers the MOB Property or any part thereof or interest therein.

“First Mortgagee” shall mean the holder of the First Mortgage.

“Hazardous Material” shall have the meaning set forth in Section 4.07(e) hereof.

“HCA” shall mean HCA Healthcare, Inc., a Delaware corporation.

“Hospital” shall mean the “Hospital Facility” (as hereinafter defined) that may now or hereafter be located on the Hospital Land, other than the MOB Improvements and other medical office buildings.

“Hospital Facility” shall mean a general acute care hospital, medical hospital, specialty hospital or other health care facility providing either inpatient or outpatient services or facilities, which services or facilities are substantially the same as the inpatient or outpatient services provided in a typical general acute care hospital, specialty hospital or medical hospital.

“Hospital Indemnified Parties” shall have the meaning set forth in Section 4.08 hereof.

“Hospital Land” shall have the meaning set forth in Recital B to this Declaration; provided, however, for purposes of Article II hereof, if the Hospital Land is ever subdivided or if a portion (but not all) of the Hospital Land is ever transferred or conveyed such that the Hospital Land is thereafter owned by more than one Person, then from and after such subdivision, transfer or conveyance, the Hospital Land shall mean that portion of the real property described on Exhibit B attached hereto, that is owned or ground leased (as described in the definition of “Hospital Land Owner” (as hereinafter defined)), as the case may be, by the Person who is the Hospital Land Owner for purposes of Article II of this Declaration as determined pursuant to the definition of Hospital Land Owner.

“Hospital Land Owner” shall mean each Person that is the owner from time to time of fee simple or leasehold (as described below) title to the Hospital Land, but only during the period of such Person’s ownership; provided, however, for purposes of Article II only, if the Hospital Land is ever subdivided or if a portion (but not all) of the Hospital Land is ever transferred or conveyed such that the Hospital Land is thereafter owned by more than one Person, then Hospital Land Owner shall mean each Person that is the owner from time to time (but only during the period of such Person’s ownership) of fee simple or leasehold (as described below) title to that portion of the Hospital Land designated as the portion of the Hospital Land entitled to the rights set forth in Article II in a written instrument executed by Declarant and Recorded in the land records of the county in which the Hospital Land is located; provided, further, in the event of any additional subdivisions, transfers or conveyances of that portion of the Hospital Land so designated, the instrument designating the portion of the Hospital Land entitled to the rights set forth in Article II shall be executed and Recorded by the Person that was the Hospital Land Owner for purposes of Article II at the time of such subdivision, transfer or conveyance; provided, further, in the event any such designation is not so Recorded, then until such designation is so Recorded, the Hospital Land Owner shall mean for purposes of Article II, each Person that is the owner from time to time (but only during the period of such Person’s ownership) of fee simple or leasehold (as described below) title to that portion of the Hospital Land upon which the Hospital, if any, is located, or if the Hospital is no longer in operation on the Hospital Land or if there is no Hospital, the largest parcel of land which is a part of the Hospital Land. If any owner of record fee simple title to the Hospital Land ground leases the Hospital Land to another Person for a term of twenty (20) years or more, including all extensions and renewal options, pursuant to a ground lease, which ground lease or a memorandum thereof is Recorded, then until the expiration or termination of such ground lease, “Hospital Land Owner” shall be the then-current tenant under such ground lease; provided, however, for purposes of Article II only, such tenant shall be the “Hospital Land Owner” only so long as the owner of record fee simple title to the portion of the Hospital Land ground leased by such tenant would be the Hospital Land Owner for purposes of Article II in the absence of such ground lease. As of the date of this Declaration, Declarant is the Hospital Land Owner.

“Hospital Parcel” shall have the meaning set forth in Section 4.06(b) hereof.

“Hospital Parcel Owner” shall have the meaning set forth in Section 4.06(b) hereof.

“Hospital Parcel Property” shall mean and include a Hospital Parcel and all buildings and improvements now or hereafter located thereon.

“Hospital Property” shall mean and include the Hospital Land, the Hospital, and all buildings and improvements now or hereafter located on the Hospital Land.

“Hospital Utility Facilities” shall mean such utility structures and improvements now or hereafter located on the MOB Land that provide Utility Services to the Hospital Property.

“Interest Rate” shall mean the prime rate of interest as announced from time to time by *The Wall Street Journal*, plus two (2) percent per annum.

“Land” shall mean the Hospital Land and the MOB Land.

“Legal Requirements” shall mean all laws, ordinances and regulations and other governmental rules, orders and determinations, now or hereafter in effect and regardless of whether or not presently contemplated, which are applicable to the Land or any buildings or other improvements thereon.

“Maintenance Cost Statement” shall have the meaning set forth in Section 4.09(c)(ii) hereof.

“Maintenance Costs” shall have the meaning set forth in Section 4.09(c)(ii) hereof.

“MOB” shall have the meaning set forth in Recital A to this Declaration.

“MOB Improvements” shall mean the MOB and all other buildings and improvements now or hereafter located on the MOB Land.

“MOB Indemnified Parties” shall have the meaning set forth in Section 4.08(b) hereof.

“MOB Land” shall have the meaning set forth in Recital A to this Declaration.

“MOB Land Owner” shall mean each Person that is the owner from time-to-time of record fee simple title to the MOB Land, but only during the period of such Person’s ownership. Notwithstanding the foregoing, in the event the MOB Property is submitted to a Condominium, each Unit Owner shall be deemed an MOB Land Owner; provided, however, that in connection with any document required to be executed by the MOB Land Owner, any consent or other action required of the MOB Land Owner, or any notice required to be provided to MOB Land Owner, in the event such pertains to the MOB Property as a whole, or pertains to all Units in the Condominium, or pertains to areas of the Condominium designated in the Condominium governing documents as Condominium common elements, the execution, consent or performance thereof by the Condominium Association, or notice thereof to the Condominium Association, shall be deemed to be the effective execution, consent or performance by, or notice to, all MOB Land Owners.

“MOB Land Owner’s Proportionate Share” shall mean a fraction, the numerator of which shall be the total gross square footage of all enclosed building area within the buildings located on the MOB Land at the time Maintenance Costs or Real Estate Tax Costs, as applicable, are paid by Hospital Land Owner, and the denominator of which shall be the total gross square footage of the enclosed building area within the buildings located on the Hospital Land and the MOB Land at such time. The calculation of such square footages shall be exclusive of any garages, basements, covered walkways, connectors, patios and covered parking areas and decks located on either the Hospital Land or the MOB Land. The MOB Land Owner’s Proportionate Share shall adjust from time to time as construction of additional buildings is completed on the Hospital Land and/or the MOB Land. Notwithstanding the foregoing, however, with respect to the Connector Facilities, the term “MOB Land Owner’s Proportionate Share” shall mean fifty percent (50%).

“MOB Owner” shall have the meaning set forth in Section 2.08 hereof.

“MOB Property” shall have the meaning set forth in Recital A to this Declaration.

“Mortgage” shall mean any mortgage, deed of trust, deed to secure debt or similar lien which is Recorded, secures the payment of any indebtedness and encumbers all or any part of the MOB Land or the Hospital Land, or any interest therein.

“Mortgagee” shall mean the holder of any Mortgage.

“Offer Property” shall have the meaning set forth in Section 2.08 hereof.

“Other Easement Holders” shall have the meaning set forth in Section 4.03 hereof.

“Parking Facilities” shall mean marked or otherwise delineated parking areas and drives and related parking improvements now located and from time to time located on the Hospital Land or the MOB Land, as the case may be, including, without limitation, parking structures, garages and parking decks.

“Pedestrian Corridor” shall mean the lobbies, foyers, vestibules, sidewalks, walkways (except, for the avoidance of doubt, Connector Facilities), elevators and corridors now or hereafter located (a) on the MOB Property, (b) on the Hospital Property, (c) within the MOB and (d) within buildings located on the Hospital Land providing pedestrian ingress and egress to, from, among or between two or more of the following: (i) the MOB Property, (ii) the Hospital Property, (iii) Connector Facilities, (iv) Driveway Facilities, and (v) Parking Facilities; provided, however, that the term “Pedestrian Corridor” shall not include any lobbies, foyers, vestibules, sidewalks, walkways, elevators, or corridors located on the Hospital Land that are closed to public access for the provision of healthcare services, protection of health information privacy, or for the safe and effective operation of the Hospital.

“Permanently Closed” shall have the meaning set forth in Section 2.10 hereof.

“Permittees” with respect to any party shall mean all tenants, visitors, invitees, patients, officers, directors, members, partners, contractors, representatives, licensees, employees, concessionaires, and the tenants, visitors, invitees, officers, directors, members, partners, contractors, representatives, licensees and employees of any of the foregoing.

“Person” or **“person”** shall mean any natural person, corporation, partnership (general or limited), limited liability company, joint venture, association, joint stock company, firm, trust, trustee, government, governmental authority, other entity, or other organization recognized at law.

“Physicians” shall mean (a) physicians and (b) other health care practitioners, so long as such other health care practitioners would qualify for membership on the staff of the Hospital in accordance with the criteria established from time to time by the Hospital Land Owner for non-physician health care practitioner-members of its medical or allied healthcare staff, provided that the foregoing definition shall not operate to require such other health care practitioners to actually be or become members of the Hospital’s staff.

“Precluded Transferee” shall mean and include (i) any Person which is engaged in the ownership, operation or management of any acute care general hospital, medical/surgical hospital, specialty hospital or other hospital facility, extended care facility, rehabilitation center or facility,

emergency center, outpatient or inpatient surgery center or facility, outpatient or inpatient birthing center or facility, diagnostic imaging center or facility, physical therapy center or facility, respiratory therapy center or facility or inhalation therapy center or facility; (ii) any Person who provides insurance to enrollees or accepts, directly or indirectly, delegated risk for the health care of individuals; and (iii) any Person that is an Affiliate of any Person described in clauses (i) and (ii) above; provided, however, Precluded Transferee shall not mean Hospital Land Owner and shall not mean any Affiliate of Hospital Land Owner.

“Real Estate Tax Costs” all real estate taxes and assessments for public improvements, general and special, which shall become a lien upon or become due and payable with respect to those areas of the Hospital Land upon which Driveway Facilities, Connector Facilities, and Parking Facilities are located.

“Recorded” (including the correlate of **“Recording”**) shall mean filed for record in the land records of the county in which the MOB Land or the Hospital Land, as the case may be, is located.

“Reinstatement Notice” shall have the meaning set forth in Section 2.11(a) hereof.

“REIT” shall mean a real estate investment trust.

“Released Hospital Tract” shall have the meaning set forth in Section 4.06 hereof.

“Required Campus Parking Number” shall mean the sum of (i) the Required MOB Parking Number plus (ii) the number of parking spaces necessary to comply with all applicable Legal Requirements regarding the total number of parking spaces required for the buildings now or hereafter located on the Hospital Land and any other land in the vicinity of the Hospital Land upon which the Hospital Land Owner has a right or easement to park (excluding, however, the MOB Land).

“Required MOB Parking Number” shall mean the greater of (i) the number of parking spaces necessary to comply with all applicable Legal Requirements regarding the total number of parking spaces required for the MOB, or (ii) 1 parking spaces per 200 square feet of rentable area of the MOB.

“Restoration Period” shall mean with respect to damage or destruction of the MOB Improvements or the Hospital Property by fire or other casualty, the two-year period following occurrence of such damage or destruction, which period shall be extended by any delay due to unforeseeable causes beyond MOB Land Owner’s or Hospital Land Owner’s control, as applicable, and without MOB Land Owner’s or Hospital Land Owner’s, as applicable, fault or negligence including, but not limited to, acts of God, acts of war, acts of terrorism, acts of Hospital Land Owner or MOB Land Owner, as applicable, not permitted under this Declaration, fires, floods, strikes, freight embargoes, unusually severe weather conditions not reasonably anticipatable, but excepting delays due to the fault of the contractors or subcontractors of MOB Land Owner or Hospital Land Owner, as applicable.

“Standard for Changes” (a) as applicable to the MOB Property shall mean, where expressly used or referred to in this Declaration, the standard which requires that any grant, change, relocation, reconfiguration, closure or removal of any Driveway Facility, Parking Facility, Connector Facilities, Pedestrian Corridor, Utility Facility or any other part of the MOB Property or the exercise of any easement or other right which is either granted or reserved in this Declaration or the release of any such easement or right (i) shall not have a material adverse effect on the use, operation or value of the MOB, and shall not materially interfere with the operation of the MOB, (ii) shall not cause the MOB or the MOB Property to be in violation of any Legal Requirements, and (iii) shall not discriminate against the MOB, in relation to other medical office buildings on the Hospital Land, in a materially adverse way. Notwithstanding anything to the contrary contained herein, a temporary, short-term obstruction or condition as a result of any foregoing grant, change, relocation, reconfiguration, closure, exercise or release, which may cause an inconvenience as a result of such grant, change, relocation, reconfiguration, closure, exercise or release, but does not unreasonably interfere with access to or operation of the MOB Property, and does not cause the MOB Property or the MOB Land Owner to be in violation of any Legal Requirement, shall not be a violation of the Standard for Changes.

(b) As applicable to the Hospital Property “Standard for Changes” shall mean, where expressly used or referred to in this Declaration, the standard which requires that any grant, change, relocation, reconfiguration, closure or removal of any Driveway Facility, Parking Facility, Connector Facility, Pedestrian Corridor, Utility Facility or to any other part of the Hospital Property or the exercise of any easement or other right which is either granted or reserved in this Declaration or the release of any such easement or right: (i) shall not have a material adverse effect on the use, operation or value of the Hospital Property and shall not materially interfere with the operation of the Hospital Property (ii) shall not cause the Hospital or the Hospital Property to be in violation of any Legal Requirements, and (iii) shall not discriminate against the Hospital, in relation to the MOB Property in a materially adverse way. However, a temporary, short-term obstruction or condition as a result of any of the foregoing repair, maintenance, construction and other work, which may cause inconvenience while such work is being performed, but does not unreasonably interfere with access to or operation of the Hospital Property, and does not cause the Hospital Property or Hospital Land Owner to be in violation of any Legal Requirement, shall not be a violation of the Standard for Changes.

“Standard for Repairs” (a) as applicable to the MOB Property shall mean, where expressly used or referred to in this Declaration, the standard which requires that repairs, maintenance, construction and other work to the MOB Property performed by Hospital Land Owner or the MOB Land Owner, as applicable, (i) shall not have a material adverse effect on the use, operation or value of the MOB and shall not materially interfere with the operation of the MOB, (ii) shall not cause the MOB or the MOB Property to be in violation of any applicable Legal Requirements, and (iii) shall be performed in a good and workmanlike manner without material defects, with a quality equal to or better than the quality of the MOB. Notwithstanding anything to the contrary contained herein, a temporary, short-term obstruction or condition as a result of any of the foregoing repair, maintenance, construction and other work, which may cause an inconvenience while such work is being performed, but does not unreasonably interfere with access to or operation of the MOB Property, and does not cause the MOB Property or the MOB

Land Owner to be in violation of any Legal Requirement, shall not be a violation of the Standard for Repairs.

(b) As applicable to the Hospital Property, “Standard for Repairs” shall mean, where expressly used or referred to in this Declaration, the standard which requires that repairs, maintenance, construction and other work to the Hospital Property performed by MOB Land Owner (i) shall not have a material adverse effect on the use, operation or value of the Hospital Property and shall not materially interfere with the operation of the Hospital, (ii) shall not cause the Hospital or the Hospital Property to be in material violation of any applicable Legal Requirements, and (iii) shall be performed in a good and workmanlike manner without material defects, with a quality equal to or better than the quality of the Hospital Property. However, a temporary, short-term obstruction or condition as a result of any of the foregoing repair, maintenance, construction and other work, which may cause inconvenience while such work is being performed but does not unreasonably interfere with access to or operation of the Hospital Property, and does not cause the Hospital Property or Hospital Land Owner to be in violation of any Legal Requirement, shall not be a violation of the Standard for Repairs.

“**Terminable Rights**” shall have the meaning set forth in Section 2.10 hereof.

“**Transferred Hospital Tract**” shall have the meaning set forth in Section 4.06 hereof.

“**Unit**” shall mean a unit within a Condominium.

“**Unit Owner**” shall mean the owner of a Unit.

“**Utility Facilities**” shall mean such utility structures and improvements as are described on Exhibit C attached hereto now or hereafter located on the Hospital Land providing Utility Services to the MOB Property or now or hereafter located on the MOB Land providing Utility Services to the Hospital Property.

“**Utility Easement Parcels**” shall mean that portion or those portions of the Hospital Land upon which the Utility Facilities which will be constructed by MOB Land Owner to provide Utility Services to the MOB Property will be located as provided in Exhibit E attached hereto and such additional portions of the Hospital Land required to maintain and repair the Utility Facilities.

“**Utility Services**” shall mean such utility services as are described on Exhibit D attached hereto.

ARTICLE II

COVENANTS AND RESTRICTIONS APPLICABLE TO MOB PROPERTY

The MOB Property shall be burdened with the following restrictions, limitations, and rights for the benefit of the Hospital Property and the Hospital Land Owner:

2.01 Covenants and Restrictions Regarding Use. (a) Except as otherwise expressly provided in this Declaration, the use of the MOB Property shall be limited to the occupancy,

management, leasing, maintenance and operation of an office building to be used and occupied only as offices for Physicians to engage in the practice of medicine for the care and treatment of human beings and other related activities incidental thereto, and for no other purpose without the prior written consent of the Hospital Land Owner, which consent may be granted or denied in Hospital Land Owner's sole and absolute discretion. The restrictions and covenants on the use of the MOB Property set forth in this Declaration are for the benefit of Hospital Land Owner and its Affiliates. Therefore, if the Hospital Land Owner or any Affiliate of Hospital Land Owner uses or occupies the MOB Property or any part thereof (either directly or through use of the MOB Land or any part thereof by a physician employed by Hospital Land Owner or by any Affiliate of Hospital Land Owner), none of the restrictions set forth in this Article II shall apply to such use.

(b) Notwithstanding anything to the contrary set forth in Section 2.01(a) above, or Section 2.02 below, in no event shall the MOB Property or any part thereof be used for the following activities without the prior written consent of the Hospital Land Owner, which consent may be granted or denied in Hospital Land Owner's sole and absolute discretion: (i) as a Hospital Facility, a rehabilitation center, an extended care facility or nursing home, an outpatient or inpatient surgery or surgical center, an oncology center, an emergency center, a birthing center or an inhalation, respiratory or physical therapy center; or (ii) for the provision of any Ancillary Medical Care Services or the operation of a facility in which any Ancillary Medical Care Services are provided; in the case of each of clause (i) and (ii), except as expressly permitted below in Section 2.01(c).

(c) Notwithstanding anything to the contrary set forth in Section 2.01(b) above, nothing in Section 2.01(b) shall prohibit or limit the provision or conduct of Ancillary Medical Care Services by a Physician or other health care professional under the supervision of a Physician to such Physician's own patients in such Physician's own office, provided that (i) such Ancillary Medical Care Services (A) are the kind and type usually and customarily provided by a Physician to such Physician's patients in its own offices and (B) are ancillary and incidental to such Physician's primary medical practice and (ii) the patients for whom such Ancillary Medical Care Services are performed are not referred to such Physician primarily for the purpose of obtaining such Ancillary Medical Care Services (except to the extent that performance of such Ancillary Medical Care Services pursuant to referrals made primarily for such purpose are no more than an insignificant portion of such Physician's medical practice on the MOB Property); and provided further that, under no circumstances whatsoever may the MOB Property or any portion thereof be used to provide or operate any of the following services, procedures or facilities: (1) any surgical procedure other than those procedures customarily performed by a Physician in an office setting; (2) any service or procedure requiring the presence of an anesthesiologist or intravenous sedation; (3) MRI; (4) CT; (5) radiation therapy; or (6) birthing center.

(d) Notwithstanding anything herein to the contrary, without the prior written consent of the Hospital Land Owner, which consent may be granted or denied in Hospital Land Owner's sole and absolute discretion:

(i) the use of the Parking Facilities located on the MOB Property or any part thereof, is limited to the parking of motor vehicles and the ingress and egress of pedestrians and motor vehicles. Without limiting the foregoing, the Parking Facilities located on the MOB

Property, or any part thereof, shall not be used for the construction, installation, erection, and/or use of any portable or temporary sheds, tents, canopies, offices, or any other portable or temporary building or structure of any kind.

(ii) the use of the Driveway Facilities located on the MOB Property or any part thereof, is limited to ingress and egress of pedestrians and motor vehicles. Without limiting the foregoing, the Driveway Facilities located on the MOB Property, or any part thereof, shall not be used for the construction, installation, erection, and/or use of any portable or temporary sheds, tents, canopies, offices, or any other portable or temporary building or structure of any kind.

(e) The provisions of Sections 2.01(a), (b), (c), and (d) above and Section 2.02 below shall not apply to any space leased or otherwise occupied by any Affiliate of HCA. Notwithstanding any provision herein to the contrary, the Hospital Land Owner may grant exceptions to the restrictions set forth in Sections 2.01(a), (b), (c), and (d) above or Section 2.02 below, provided (i) any and all such exceptions granted pursuant to this paragraph shall be in writing, (ii) any and all such exceptions shall apply only to such space in the MOB located on the MOB Land as specified in Hospital Land Owner's written grant of consent, (iii) such exceptions shall apply only for such period of time as specified in Hospital Land Owner's written grant of consent, and (iv) such exceptions shall apply only to those Persons identified in Hospital Land Owner's written grant of consent.

2.02 Physician Licensing. All leases and other agreements for the occupancy of space in the MOB with Physicians shall provide that each Physician who conducts a medical practice and related activities at the MOB Property pursuant to each such lease or other agreement shall be appropriately licensed and in good standing with the state licensing board and any applicable federal, state or local certification or licensing agency or office, without restriction, and not subject to any material sanction, exclusion order, or other disciplinary order with respect to his or her participation in any federal or state healthcare program. MOB Land Owner shall use commercially reasonable efforts to enforce the foregoing requirement; provided, however, that if MOB Land Owner uses such commercially reasonable efforts, in the case of any failure of MOB Land Owner to enforce the foregoing requirement, Hospital Land Owner's remedies shall not include any right to withhold the performance of any of its obligations under this Declaration. Furthermore, each such Physician must be and remain qualified to be a member or associate of the active medical staff of the Hospital; provided, however, that nothing in this paragraph shall require any Physician who conducts a medical practice at the MOB Property actually to be a member of the Hospital's active medical staff.

2.03 Referrals. Nothing set forth in this Declaration requires or shall require or shall be interpreted to require any Physician or any person associated with any Physician to refer any patient to or order or purchase any item of service from Declarant, Hospital Land Owner, the Hospital or any Affiliate of Declarant, Hospital Land Owner, or the Hospital. No payment or consideration of any kind under or in connection with this Declaration is or shall be made for any such referrals, orders or purchases, if any.

2.04 Maintenance and Repairs. Declarant and Hospital Land Owner have an interest in assuring that the MOB Improvements, landscaping and related improvements from time to time located on the MOB Land complement the buildings, landscaping and related improvements from time to time located on the Hospital Land and that the standards of maintenance and care exercised with respect to such building, landscaping and related improvements from time to time located on the MOB Land complement the standards of maintenance and care exercised with respect to such buildings, landscaping and related improvements from time to time located on the Hospital Land. Hospital Land Owner shall have the right to solely approve the exterior or structural design of any new construction on the MOB Land or any material exterior or structural modifications, additions, repairs or maintenance (including, without limitation, painting and landscaping) to the improvements located on the MOB Land. The MOB Land Owner shall submit any request for such approval to Hospital Land Owner in writing, which request shall include such other information as Hospital Land Owner and the MOB Land Owner shall reasonably deem necessary in order for Hospital Land Owner to evaluate such request. If Hospital Land Owner does not expressly disapprove any such request within thirty (30) Business Days after receipt thereof from the MOB Land Owner, Hospital Land Owner shall be deemed to have approved such request. Hospital Land Owner also shall have the right to designate by written notice from time to time delivered to MOB Land Owner the color of paint to be used on any future painting of the exterior of the MOB Improvements. Furthermore, except as may otherwise be expressly set forth in Article III or Article IV of this Declaration, MOB Land Owner shall keep and maintain all of the MOB Improvements now or hereafter located on the MOB Land in material compliance with all Legal Requirements and in a state of good condition and repair in accordance with the Standard for Repairs. MOB Land Owner shall maintain the grounds and any landscaped areas on the MOB Land in a good, safe, and sanitary condition.

2.05 Damage or Destruction. (a) In the event of any damage to or destruction of the MOB Improvements by fire or other casualty, MOB Land Owner shall promptly use commercially reasonable efforts to (i) place the damaged area of the MOB Land in a safe and secure condition, and (ii) prevent further damage to property on the MOB Property and injury to persons on the MOB Property. MOB Land Owner, at its sole cost and expense, shall promptly and diligently repair or rebuild the MOB Improvements to substantially their condition prior to such fire or other casualty. MOB Land Owner shall repair or rebuild the MOB Improvements in compliance with the Standard for Repairs and MOB Land Owner shall complete such work by the expiration of the Restoration Period. All repairs, rebuilding, demolition or other work done pursuant to this Section 2.05(a) shall be in compliance with the Standard for Repairs.

(b) Immediately following any material damage to the MOB that affects access to the Hospital through the MOB or across the MOB Land, MOB Land Owner, in compliance with the Standard for Repairs, shall promptly use commercially reasonable efforts to install adequate temporary access, reasonably satisfactory to Hospital Land Owner, to the Hospital through or around the MOB. If the MOB Land Owner does not make such access accommodations within forty-eight (48) hours of the occurrence of the casualty (or if such access provided by MOB Land Owner is not satisfactory to Hospital Land Owner), Hospital Land Owner shall have the right, as its sole and exclusive remedy and at its sole cost, to enter upon the MOB Property and make such access accommodations at its own expense, including without limitation, demolishing and removing the remaining MOB Improvements that are blocking access to the Hospital, clearing

debris from the Hospital's entrance and constructing temporary improvements and facilities for access to the Hospital.

(c) In the event of any damage to or destruction of the Hospital Property by fire or other casualty, Hospital Land Owner shall promptly use commercially reasonable efforts, to (i) place the damaged area of the MOB Land in a safe and secure condition, and (ii) prevent further damage to property on the MOB Property and injury to persons on the MOB Property.

(d) Immediately following any material damage to the Hospital Property that affects access to the MOB through the Hospital or across the Hospital Land, Hospital Land Owner shall promptly use commercially reasonable efforts to install adequate temporary access, reasonably satisfactory to MOB Land Owner, to the MOB through or around the Hospital. If the Hospital Land Owner does not make such access accommodations within forty-eight (48) hours of the occurrence of the casualty (or if such access provided by Hospital Land Owner is not satisfactory to MOB Land Owner), MOB Land Owner shall have the right, as its sole and exclusive remedy and at its sole cost, to enter upon the Hospital Property and to make such access accommodations at its own expense, including without limitation, demolishing and removing the remaining improvements located on the Hospital Land that are blocking access to the MOB, clearing debris from the MOB's entrance and constructing temporary improvements and facilities for access to the MOB.

2.06 Signs. The name of the MOB shall be **Mountain View Medical Plaza**. MOB Land Owner shall not change or permit the change of the name of the MOB without the written consent of the Hospital Land Owner, which consent the Hospital Land Owner shall not unreasonably withhold. MOB Land Owner shall not change or modify or permit the change or modification of any sign located on the MOB Land or on the exterior of the MOB Improvements, without the prior written consent and approval of the Hospital Land Owner, which written consent and approval may be granted or denied on the basis of the Hospital Land Owner's reasonable determination as to whether or not such sign is consistent in design, size, color and content with other signs of a similar nature on the Hospital Property. No signs may be constructed, erected, installed or modified on the MOB Land or on the exterior of the MOB Improvements or otherwise visible from the Hospital Land or any other land adjacent to the MOB Land (including interior signs visible from the exterior) without in each instance the written consent and approval of the Hospital Land Owner, which written consent and approval may be granted or denied on the basis of Hospital Land Owner's reasonable determination as to whether or not such sign is consistent in design, size, color and content with other signs of a similar nature on the Hospital Property. Unless otherwise approved in writing by Hospital Land Owner, no sign located on the MOB Land or the MOB or otherwise visible from outside of the MOB shall contain any name or other identifying mark or symbol that incorporates or connotes the name of a Precluded Transferee, except that if a Precluded Transferee is a tenant of the MOB, then such Precluded Transferee's name may be included on interior or directory signs in or on the MOB in a style and size similar to that of other tenants of the MOB.

(b) Notwithstanding the foregoing, Hospital Land Owner's consent shall not be required for any replacement of any previously approved sign so long as the new sign has substantially the same design, size, color and content as the sign being replaced.

2.07 Exterior Changes by Hospital. Provided any such changes are made to the MOB in accordance with the Standard for Repairs and the Standard for Changes, Hospital Land Owner shall have the right to change the exterior appearance of the MOB Improvements to conform to or coordinate with the appearance of improvements on the Hospital Land, at the sole cost and expense of the Hospital Land Owner. The foregoing right shall include, without limitation, the right to (a) change the exterior color of the MOB, (b) change the materials used on the exterior of the MOB, (c) change the color or design of any canopies or other exterior decorative elements of the MOB, and (d) change the design of any signs located on the MOB Land or the MOB. Hospital Land Owner is hereby given the right to enter upon the MOB Land at reasonable times to make any such changes in accordance with the Standard for Repairs and the Standard for Changes. Hospital Land Owner shall provide MOB Land Owner not less than sixty (60) days written notice prior to Hospital Land Owner's entry upon the MOB Land to make such changes.

2.08 Right of First Offer. If at any time MOB Land Owner, a Unit Owner, or any other owner of fee simple or leasehold title to the MOB Property or any portion thereof (each an "**MOB Owner**"), desires to market or offer for sale, transfer, assignment or lease (other than a lease of less than substantially all of the tenant space within the MOB) the MOB Property or any part thereof or interest therein (including without limitation a Unit) (an "**Offer Property**"), then before offering the Offer Property for sale, transfer, assignment or lease, the MOB Owner shall offer to sell, transfer, assign or lease the Offer Property to Hospital Land Owner by delivering to Hospital Land Owner, One Park Plaza, Nashville, Tennessee 37203, Attention: Real Estate Department (or such other address as Hospital Land Owner may designate by written notice to MOB Land Owner) a written offer (the "**Offer**") setting forth the terms of the proposed sale, transfer, assignment or lease, together with a current rent roll for the Offer Property (if applicable), current financial statements for the Offer Property and such marketing materials as the MOB Owner intends to provide in connection with any offer to a third party (such offer, together with the rent roll (if applicable), financials and marketing materials shall be referred to herein as the "**ROFO Offer**"). MOB Owner shall promptly provide the Hospital Land Owner with such additional information with respect to the proposed offer and the Offer Property as the Hospital Land Owner may reasonably request. Notwithstanding anything to the contrary set forth in this Section 2.08, any proposed change in the "control" (as defined in the definition of "Affiliate" in Section 1.01) of MOB Owner by merger, consolidation, stock transfers, transfers of partnership interests, transfers of membership interests or other means of transferring control of MOB Owner or its business in a single transaction or a series of related transactions to anyone other than an Affiliate of MOB Owner shall be deemed to be a transfer of all of the Offer Property and shall be subject to this Section. MOB Owner shall neither market nor offer to any Person other than Hospital Land Owner the Offer Property for sale, transfer, assignment or lease for a period of ninety (90) days after delivery of the ROFO Offer to Hospital Land Owner (the "**Negotiation Period**"); provided, however, the Hospital Land Owner may at its sole option terminate the Negotiation Period by delivering written notice thereof to the MOB Owner. During the Negotiation Period, MOB Owner shall not directly or indirectly, initiate or hold discussions with any Person other than Hospital Land Owner concerning any sale, transfer, assignment or lease of the Offer Property. If during the Negotiation Period, Hospital Land Owner elects to accept MOB Owner's ROFO Offer, with such changes and modifications thereto as are mutually acceptable to Hospital Land Owner and MOB Owner, then Hospital Land Owner and MOB Owner shall enter into definitive agreements

regarding such sale, transfer, assignment or lease, as the case may be; provided, however, if any party determines for whatever reason to terminate further negotiations with respect to the definitive agreements, then such party may unilaterally terminate such negotiations by written notice delivered to the other parties and there shall be no liability between the parties. If by the end of the Negotiation Period Hospital Land Owner and MOB Owner have not entered into definitive agreements, then MOB Owner may market or offer the Offer Property for sale, transfer, assignment or lease. If MOB Owner has not entered into a definitive agreement with a Person for the sale, transfer, assignment or lease of the Offer Property by the end of the 180th day after the end of the Negotiation Period and the MOB Owner desires to continue to market or offer for sale, transfer, assignment or lease the Offer Property or any part thereof or interest therein, then the MOB Owner must re-offer to Hospital Land Owner the Offer Property, in which event all of the terms of this Section shall apply to such re-offer except that the Negotiation Period with respect to such re-offer shall be thirty (30) days. The sale, transfer, assignment or lease of the Offer Property or any part thereof or interest therein to any Person shall not result in termination of the rights set forth in this Section with respect to the Offer Property sold, leased, transferred, or assigned but the rights set forth in this Section shall be a continuing right binding upon such MOB Owner and all future MOB Owners with respect to all subsequent proposed sales, leases, transfers, or assignments of the MOB Property or any portion thereof or interest therein.

2.09 Right of First Refusal. (a) If at any time an MOB Owner shall receive a bona fide offer from any third party for the purchase, acquisition or lease of any Offer Property, which offer MOB Owner desires to accept, or if MOB Owner desires to sell, transfer or lease or make a bona fide offer to sell, transfer, assign or lease any Offer Property to a third party, MOB Owner shall promptly deliver to Hospital Land Owner, c/o HCA, One Park Plaza, Nashville, Tennessee 37203, Attention: Real Estate Department (or such other address as Hospital Land Owner may designate by written notice to MOB Land Owner), a written notice setting forth the full terms and conditions of the proposed transaction, and if available, a copy of such offer, in the case of a purchase or other transfer, or a copy of the proposed lease agreement, in the case of a lease or an assignment of any leasehold interest of MOB Owner. The sale, assignment or transfer in one or more transactions of 25% or more of the ownership interest in MOB Owner, which is intended to transfer 25% or more of the beneficial interest of MOB Owner shall constitute a sale of the Offer Property for purposes of this Section 2.09; provided, however, that nothing in this Declaration shall be construed as prohibiting, or requiring the consent of Hospital Land Owner for, nor shall Hospital Land Owner have a right of first refusal with respect to (i) a transfer with respect to the MOB Property or any Unit as a result of a foreclosure of a First Mortgage or a deed in lieu of foreclosure of a First Mortgage or the first transfer following an acquisition on account of any such foreclosure or deed in lieu of foreclosure or (ii) any lease of space within the MOB Property provided such lease is for less than all or substantially all of the MOB Property, and so long as no such lease or transfer described in clause (i) or (ii) is to a Precluded Transferee. Hospital Land Owner may, within sixty (60) days after receipt of such notice, elect to purchase, acquire or lease the Offer Property on the same terms and conditions as those set forth in such notice. The failure of Hospital Land Owner to exercise this right of first refusal with respect to any proposed sale, lease, or other transfer by MOB Owner shall not result in termination of the right of first refusal with respect to the Offer Property sold, leased, transferred, or assigned as this right of first refusal shall be a continuing right binding upon MOB Owner and all successors to MOB Owner with respect to all subsequent proposed sales, leases, transfers, or

assignments of the MOB Property or any portion thereof or interest therein (or interest in MOB Owner). Furthermore, in the event that any proposed sale, lease, assignment or other transfer as to which Hospital Land Owner did not exercise its right of first refusal as above provided, is not completed and closed by MOB Owner within one hundred eighty (180) days after notice thereof was given to Hospital Land Owner, or if prior to the closing of such transaction the terms available to the proposed purchaser, lessee, assignee or transferee are modified and made materially more favorable, then MOB Owner must reoffer the Offer Property to Hospital Land Owner in the same manner provided above and Hospital Land Owner shall have sixty (60) days from receipt of MOB Owner's reoffer within which to exercise the right of first refusal under this Section 2.09(a).

(b) If the consideration to be paid pursuant to any acceptable third party offer to purchase the Offer Property or otherwise acquire the same from MOB Owner shall include property other than cash, Hospital Land Owner may exercise its right of first refusal with respect to such transaction and shall pay as consideration therefor the same amount of cash and the same exchange property as set forth in the proposed offer, or an all cash purchase price in an amount equal to the sum of the cash portion of the consideration, plus the fair cash value of the property which the purchaser proposed to exchange for the Offer Property. If any acceptable third party offer to MOB Owner for the Offer Property shall include other property owned by MOB Owner, Hospital Land Owner's right of first refusal shall, at Hospital Land Owner's election, be applicable to the MOB Property or the applicable portion thereof or interest therein (or interest in MOB Owner) alone, at a purchase price which shall be that part of the price offered by the third party which the value of the MOB Property or any portion thereof or interest therein (or interest in MOB Owner) bears to the value of all the property included in such third party offer.

2.10 Term of Certain Restrictions and Rights. (a) The provisions of this Article II shall remain in effect and be enforceable for a period of ninety-nine (99) years after the Date of this Declaration, and shall be extended automatically for four (4) successive twenty-five (25) year periods, unless an instrument terminating this Declaration executed by MOB Land Owner, Hospital Land Owner and all Mortgagees is Recorded. Notwithstanding anything to the contrary set forth in this Declaration, at such time as the Hospital is Permanently Closed, then the rights and restrictions set forth in Article II, except for the provisions of Sections 2.03, 2.12 and 2.15 (collectively, the "**Terminable Rights**"), shall terminate, lapse and be of no further force or effect. The Hospital shall "**Permanently Close**" or be "**Permanently Closed**" at such time as either of the following events has occurred: (i) the Hospital Land Owner determines that the Hospital shall close and no other Hospital Facility will be operated on the Hospital Land within six months after the date of such closing; or (ii) no Hospital Facility has been operated on the Hospital Land for a period of eighteen (18) consecutive months; provided, however, if the Hospital or another Hospital Facility is not being operated because of damage or destruction by fire or any other casualty, and the Hospital or such other Hospital Facility is being repaired or reconstructed, then the Hospital or such other Hospital Facility shall not be deemed to have closed, Permanently Closed or otherwise, from the date of such casualty to the date of completion of such repairs or restoration; provided, however, the Hospital or such other Hospital Facility shall be deemed Permanently Closed if the same has not been reopened for business by the expiration of the Restoration Period. As soon as possible after Hospital Land Owner determines that the Hospital will be closed and that no Hospital Facility will be operated on the Hospital Land, it shall give MOB Land Owner written notice not

less than ninety (90) days prior to the date Hospital Land Owner intends to close the Hospital (such notice is hereinafter referred to as a “**Closure Notice**”).

(b) Upon the occurrence of (i) the reduction of licensed beds at the Hospital (or at any Hospital Facility operating on the Hospital Land after the Hospital has closed that has licensed beds) to a number equal to or less than fifty percent (50%) of the number of licensed beds at the Hospital on the Date of this Declaration and (ii) the reduction of occupied rentable space in the MOB to a number less than seventy percent (70%) of such rentable space, then the restrictions set forth in Section 2.01(a) shall terminate and no longer apply to the MOB Property, subject to the provisions of Section 2.11.

(c) In the event that (i) the Terminable Rights terminate as set forth in Section 2.10(a), or (ii) the restrictions set forth in Section 2.01(a) terminate as set forth in Section 2.10(b), then in either such event, the Hospital Land Owner and MOB Land Owner shall execute and record, in the real property records of the county in which the MOB Land is located, an amendment to this Declaration evidencing termination of the Terminable Rights or the restrictions in Section 2.01(a), as applicable.

2.11 Reinstatement of Certain Restrictions and Rights. (a) If the Hospital Land Owner has given a Closure Notice pursuant to Section 2.10(a), but the Hospital Land Owner decides, after giving Closure Notice to MOB Land Owner, that it will not Permanently Close the Hospital or will operate another Hospital Facility on the Hospital Land, then the Hospital Land Owner may deliver an additional written notice to MOB Land Owner (a “**Reinstatement Notice**”) and thereby reinstate the Terminable Rights. Notwithstanding anything to the contrary contained herein, any tenants of space in the MOB under leases entered into after MOB Land Owner has received the Closure Notice but before MOB Land Owner has received the Reinstatement Notice shall not be subject to the restrictions on use of the MOB Property under Sections 2.01(a), (b), (c) and (d) of this Declaration.

(b) If the restrictions set forth in Section 2.01(a) of this Declaration have been terminated pursuant to Section 2.10(b), then such restrictions may be reinstated by the Hospital Land Owner by delivering a Reinstatement Notice to MOB Land Owner if (i) the number of licensed beds at the Hospital is increased to more than fifty percent (50%) of the number of licensed beds at the Hospital as of the Date of this Declaration and (ii) occupancy of the rentable space in the MOB increases to no less than eighty-five percent (85%) of such rentable space. Notwithstanding anything to the contrary contained herein, no restrictions set forth in Section 2.01(a) of this Declaration (including without limitation restrictions on use of the MOB Property) will apply to any leases entered into by MOB Land Owner after termination of the restrictions in Section 2.01(a) but before reinstatement of such restrictions.

(c) In the event that (i) the Terminable Rights are reinstated as set forth in Section 2.11(a) or (ii) the restrictions set forth in Section 2.01(a) are reinstated as set forth in Section 2.11(b), then in either such event the Hospital Land Owner and MOB Land Owner shall execute and record in the real property records of the county in which the MOB Land is located an amendment to this Declaration evidencing reinstatement of the Terminable Rights or the restrictions in Section 2.01(a), as applicable.

2.12 Precluded Transferees. Notwithstanding any language to the contrary set forth in this Declaration, no MOB Owner or direct or indirect owner of any membership interest, stock or other ownership interest in an MOB Owner shall sell, transfer, convey, assign, lease or sublet any portion of the MOB Property, or sell, transfer, convey or assign all or any portion of any direct or indirect membership interest, stock or other ownership interest in an MOB Owner to, or otherwise become employed by, a Precluded Transferee, or otherwise contract to do any of the foregoing (collectively, a “Precluded Transfer”), without the prior written consent of Hospital Land Owner, which consent may be denied in Hospital Land Owner’s sole and absolute discretion. Any Precluded Transfer without the prior written consent of Hospital Land Owner, which consent may be denied in Hospital Land Owner’s sole and absolute discretion, shall be void ab initio.

2.13 Covenants Running with the Land; Enforcement and Remedies. The covenants, agreements, rights, options, and restrictions set forth in this Article II shall be effective upon the Date of this Declaration and shall be covenants running with the land and shall be binding upon MOB Land Owner, its successors and assigns, and all Persons claiming by, through or under MOB Land Owner, its successors and assigns, including all Unit Owners, and shall inure to the benefit of Hospital Land Owner and its heirs, successors and assigns. The covenants, agreements, rights, options and restrictions set forth in this Declaration shall remain in full force and effect and shall be unaffected by any change in ownership of the MOB Property, the Hospital Property, or any part of either of them, or by any change of use, demolition, reconstruction, expansion or other circumstances, except as specified herein. Irreparable harm will result to Hospital Land Owner by reason of any breach of the agreements, covenants and restrictions set forth in Article II of this Declaration, and, therefore, Hospital Land Owner shall be entitled to relief by way of injunction or specific performance to enforce the provisions of this Article II, as well as any other relief available at law or equity, including the right to collect attorney fees incurred by Hospital Land Owner in the enforcement of the provisions of this Article II. The failure of Hospital Land Owner, in any one or more instances, to insist upon compliance with any of the terms and conditions of this Article II, or to exercise any right or privilege conferred in this Article II, shall not constitute or be construed as the waiver of such restriction, right, option or privilege or any similar restriction, right, option, or privilege, but the same shall continue and remain in full force and effect as if no such forbearance had occurred.

ARTICLE III EASEMENTS

3.01 Access Easement. (a) Declarant grants and declares to and for the benefit of MOB Land Owner, a perpetual non-exclusive right and easement for pedestrian and motor vehicle ingress and egress to and from the MOB Land on, over, and across the Driveway Facilities from time to time located on the Hospital Land. The Hospital Land Owner shall have the right (i) to relocate or reconfigure the layout of the Driveway Facilities (or any part thereof) to other locations on the Hospital Land, (ii) to close temporarily any portion of the Driveway Facilities, (iii) to permanently close and/or remove any Driveway Facilities, and (iv) to construct buildings, structures and other improvements on any portion or portions of the Hospital Land, including, without limitation, those portions of the Hospital Land upon which the Driveway Facilities are located; provided that, in each instance, the ingress and egress easement provided herein shall be applicable to any relocated Driveway Facilities, and MOB Land Owner shall continue to have

access to and from the MOB Land from and to a public right of way. In exercising the right to make any of the changes described in clauses (i) through (iv) above and in making such changes, Hospital Land Owner shall comply with the Standard for Changes the Standard for Repairs. The foregoing easement shall not include the right to park or otherwise allow vehicles to stand (other than momentarily) in the entrances, driveways or lanes on the Hospital Land.

(b) Declarant grants and declares to and for the benefit of Hospital Land Owner, a perpetual non-exclusive right and easement for pedestrian and motor vehicle ingress and egress to and from the MOB Land on, over, and across the Driveway Facilities from time to time located on the Hospital Land. The Hospital Land Owner shall have the right (i) to relocate or reconfigure the layout of the Driveway Facilities (or any part thereof) to other locations on the Hospital Land, (ii) to close temporarily any portion of the Driveway Facilities, (iii) to permanently close and/or remove any Driveway Facilities, and (iv) to construct buildings, structures and other improvements on any portion or portions of the Hospital Land, including, without limitation, those portions of the Hospital Land upon which the Driveway Facilities are located; provided that, in each instance, the ingress and egress easement provided herein shall be applicable to any relocated Driveway Facilities, and MOB Land Owner shall continue to have access to and from the MOB Land from and to a public right of way. In exercising the right to make any of the changes described in clauses (i) through (iv) above and in making such changes, Hospital Land Owner shall comply with the Standard for Changes and the Standard for Repairs. The foregoing easement shall not include the right to park or otherwise allow vehicles to stand (other than momentarily) in the entrances, driveways or lanes on the Hospital Land.

3.02 Parking Easement. (a) Declarant grants and declares to and for the benefit of the MOB Land Owner, a perpetual nonexclusive right and easement for pedestrian and motor vehicle ingress and egress to and from the MOB Land and for parking of motor vehicles by MOB Land Owner and its Permittees on, over and across the Parking Facilities from time to time located on the Hospital Land. The Hospital Land Owner shall have the right (i) to reconfigure the layout of any Parking Facilities (or any part thereof) located on the Hospital Land, (ii) to relocate Parking Facilities (or any part thereof) to other locations on the Hospital Land, (iii) to close temporarily any portion of the Parking Facilities, (iv) to permanently close and/or remove Parking Facilities, (v) to convey or lease any portion of the Hospital Land from which Parking Facilities have been or will be closed or removed, and (vi) to construct additional buildings, structures and other improvements on any portion or portions of the Hospital Land (subject to all other applicable provisions of this Declaration), including, without limitation, on Parking Facilities; provided, however that that the sum of the number of parking spaces remaining available for use by the MOB Land Owner on the MOB Land, the Hospital Land and any other land in the vicinity of the Hospital Land upon which the MOB Land Owner has a right or easement to park after any such reconfiguration, relocation, closure, removal, conveyance, lease or construction equals not less than the Required MOB Parking Number; and provided that the total number of parking spaces located on the MOB Land, the Hospital Land and on any other land in the vicinity of the Hospital Land upon which the Hospital Land Owner has a right or easement to park after any such reconfiguration, relocation, closure, removal, conveyance, lease or construction equals not less than the Required Campus Parking Number. In order to maintain necessary or desirable parking spaces before, during or after any such reconfiguration, relocation, closure, removal, conveyance, lease or construction, the Hospital Land Owner may construct parking decks, parking structures,

garages, parking spaces, and additional drives and/or other Parking Facilities or improvements on the Hospital Land or on other property in the vicinity of the Hospital Land. The parking easement provided herein shall be applicable to such additional Parking Facilities to the extent required to comply with the foregoing requirement if any of the parking spaces located on the Hospital Land are reconfigured, relocated, closed or removed. In exercising the right to make any of the changes described in clauses (i) through (vi) above and in making such changes, Hospital Land Owner shall comply with the Standard for Changes and the Standard for Repairs.

(b) Declarant grants and declares to and for the benefit of Hospital Land Owner, a perpetual nonexclusive right and easement for pedestrian and motor vehicle ingress and egress to and from the Hospital Land and for parking of motor vehicles by Hospital Land Owner and its Permittees on, over and across the Parking Facilities from time to time located on the MOB Land. The MOB Land Owner shall have the right (i) to reconfigure the layout of any Parking Facilities (or any part thereof) located on the MOB Land, (ii) to relocate Parking Facilities (or any part thereof) to other locations on the MOB Land, (iii) to close temporarily any portion of the Parking Facilities, (iv) to permanently close and/or remove Parking Facilities, (v) to convey or lease any portion of the MOB Land from which Parking Facilities have been or will be closed or removed, and (vi) to construct additional buildings, structures and other improvements on any portion or portions of the MOB Land (subject to all other applicable provisions of this Declaration), including, without limitation, on Parking Facilities; provided, however that that the sum of the number of parking spaces remaining available for use by the Hospital Land Owner on the Hospital Land, the MOB Land and any other land in the vicinity of the MOB Land upon which the Hospital Land Owner has a right or easement to park after any such reconfiguration, relocation, closure, removal, conveyance, lease or construction equals not less than the Required MOB Parking Number; and provided that the total number of parking spaces located on the MOB Land, the Hospital Land and on any other land in the vicinity of the MOB Land upon which the MOB Land Owner has a right or easement to park after any such reconfiguration, relocation, closure, removal, conveyance, lease or construction equals not less than the Required Campus Parking Number. In order to maintain necessary or desirable parking spaces before, during or after any such reconfiguration, relocation, closure, removal, conveyance, lease or construction, the MOB Land Owner may construct parking decks, parking structures, garages, parking spaces, and additional drives and/or other Parking Facilities or improvements on the MOB Land. The parking easement provided herein shall be applicable to such additional Parking Facilities to the extent required to comply with the foregoing requirement if any of the parking spaces located on the MOB Land are reconfigured, relocated, closed or removed. In exercising the right to make any of the changes described in clauses (i) through (vi) above and in making such changes, MOB Land Owner shall comply with the Standard for Changes and the Standard for Repairs.

3.03 Utility Easements. (a) Declarant hereby grants and declares to and for the benefit of the MOB Land Owner a perpetual nonexclusive right and easement to construct, maintain, use, operate, repair, replace and/or remove in, on, under and from the Utility Easement Parcels, Utility Facilities for the provision of Utility Services to the MOB Land as are reasonably necessary in connection with the use and enjoyment of the MOB Property; provided that the MOB Land Owner shall comply with the Standard for Changes and the Standard for Repairs in connection with exercising its rights hereunder and in performing such work on the Hospital Land. The Hospital Land Owner shall have the right to use the Utility Easement Parcels for any purpose, including

without limitation the installation, use and operation of driveways, parking areas and landscaping, provided that Hospital Land Owner's use of the Utility Easement Parcels complies with the Standard for Changes. The easement and easement rights granted pursuant to this paragraph shall not prohibit the Hospital Land Owner from constructing any buildings, structures or other improvements on the Hospital Land or from otherwise using the Hospital Land for any purpose so long as Hospital Land Owner complies with the Standard for Changes. In connection with such construction, Hospital Land Owner shall (i) not damage or impair the structural integrity of the Utility Facilities by the construction or location of such buildings, structures or other improvements and (ii) ensure that the Utility Services provided by such Utility Facilities are not and will not be interfered with or disrupted or diminished by the construction or location of such building, structures or other improvements. The Hospital Land Owner shall have the right to reconfigure the Utility Easement Parcels or relocate the Utility Easement Parcels and the Utility Facilities to other locations on the Hospital Land provided in the event of any such relocation or reconfiguration, (A) the Hospital Land Owner shall reconfigure the Utility Easement Parcels or relocate the Utility Easement Parcels and such Utility Facilities at its sole cost and expense and (B) there shall be no interference with or disruption of Utility Services provided by such Utility Facilities to the MOB Land, except to the extent reasonably necessary to accomplish such reconfiguration or relocation. The MOB Land Owner shall, at its sole cost and expense, maintain all Utility Facilities installed on, in or under the Utility Easement Parcels by the MOB Land Owner or which provide Utility Services solely to the MOB Land in material compliance with all applicable Legal Requirements and shall make all repairs, replacements and renewals necessary to maintain such material compliance. In the event that the surface of the ground or any improvements located on the Utility Easement Parcels are damaged in the course of the installation of any Utility Facilities by the MOB Land Owner, or its agents or contractors or in the course of any maintenance, repair, removal or replacement of Utility Facilities by the MOB Land Owner or its agent or contractors, the MOB Land Owner shall, at its sole cost and expense, promptly repair all damage to such surface of the ground or to such improvements to substantially the condition existing prior to such damage. The Hospital Land Owner shall, at its sole cost and expense, maintain all Utility Facilities to the extent the Utility Facilities serve both the MOB Land and the Hospital Land. In exercising its right to reconfigure the Utility Easement Parcels or relocate the Utility Easement Parcels and the Utility Facilities and in making any such reconfiguration or relocation, Hospital Land Owner shall comply with the Standard for Changes.

(b) Declarant hereby grants and declares to and for the benefit of the Hospital Land Owner a perpetual nonexclusive right and easement to construct, maintain, use, operate, repair, replace and/or remove in, on under and from the MOB Land, Utility Facilities for the provision of Utility Services to the Hospital Land as are reasonably necessary in connection with the use and enjoyment of the Hospital Property; provided that the Hospital Land Owner shall comply with the Standard for Changes and the Standard for Repairs in connection with exercising its rights hereunder and in performing such work on the MOB Land. The foregoing right and easement shall include the right to construct and install underground Utility Facilities beneath the MOB so long as the construction and installation of such Utility Facilities will not damage, weaken or impair the structural integrity of the MOB and shall be done in a manner to minimize disruption of tenants of the MOB. Hospital Land Owner will provide reasonable assurances of the foregoing to MOB Land Owner. The easements and easement rights granted pursuant to this paragraph shall not prohibit the MOB Land Owner from constructing any buildings, structures or other

improvements on the MOB Land or from otherwise using the MOB Land for the purposes permitted in this Declaration so long as MOB Land Owner complies with the Standard for Changes and the Standard for Repairs. In connection with such construction, MOB Land Owner shall (i) not damage or impair the structural integrity of the Utility Facilities benefiting the Hospital Land Owner by the construction or location of such buildings, structures or other improvements and (ii) ensure that the Utility Services provided by such Utility Facilities are not and will not be interfered with or disrupted or diminished by the construction or location of such building, structures or other improvements. The Hospital Land Owner shall, at its sole cost and expense, maintain all Utility Facilities installed on, in or under the MOB Land by the Hospital Land Owner or which provide Utility Services to the Hospital Land, in material compliance with all applicable Legal Requirements and shall make all repairs, replacements and renewals necessary to maintain such material compliance. In the event that the surface of the ground or any improvements located on MOB Land are damaged in the course of the installation of any Utility Facilities by the Hospital Land Owner, or its agents or contractors or in the course of any maintenance, repair, removal or replacement of such Utility Facilities by the Hospital Land Owner, or its agent or contractors, the Hospital Land Owner shall, at its sole cost and expense, promptly repair all damage to such surface of the ground or to such improvements to the condition existing prior to such damage.

3.04 Intentionally Omitted.

3.05 Intentionally Omitted.

3.06 Intentionally Omitted.

3.07 Connector Easements. (a) Declarant hereby g

rants and declares to and for the benefit of the Hospital Land Owner, a perpetual non-exclusive right and easement for the operation, maintenance, repair and replacement of Connector Facilities on the MOB Land, subject to the Standard for Repairs, and for pedestrian ingress and egress to and from the MOB on, over and across the Connector Facilities. Hospital Land Owner shall have a perpetual right and easement to maintain on the MOB Land any foundations, footings, columns, walls, frames, ceilings, floors, roof structures and systems, beams, joists and any other building components that are part of any Connector Facilities and to encroach upon and enter the MOB Land and the MOB Property to the extent required to maintain, repair, replace, remove or renew any foundations, footings, columns, walls, frames, ceilings, floors, roof structures and systems, beams, joists and any other building components that are part of any Connector Facilities, subject to the Standard for Repairs. In the event that any improvements located on the MOB Land are damaged during any maintenance, repair, replacement, removal or renewal of the Connector Facilities by Hospital Land Owner or its agents, employees or contractors, Hospital Land Owner shall repair all such damage with reasonable promptness in accordance with the Standard for Repairs. In the event that Hospital Land Owner desires to expand any building on the Hospital Land to which Connector Facilities are attached, Hospital Land Owner shall have the right to relocate the Connector Facilities provided that (i) Hospital Land Owner shall relocate and reconstruct the Connector Facilities, at its sole cost and expense, and (ii) Hospital Land Owner shall repair, at its sole cost and expense, any damage to the Connector Facilities, the MOB Land, the Hospital Land or the MOB Property occurring as a result of such relocation and reconstruction.

In the Hospital Land Owner's exercise of the easements and rights granted in this Section 3.07(a) and in its performance of such work, Hospital Land Owner agrees to comply with the Standard for Changes and the Standard for Repairs.

(b) Declarant hereby grants and declares to and for the benefit of the Hospital Land Owner, a perpetual non-exclusive right and easement for the construction and attachment of Connector Facilities to the MOB and to encroach upon and enter the MOB Land and the MOB Property to the extent required for such construction and attachment; provided, however, that Hospital Land Owner shall comply with the Standard for Changes and the Standard for Repairs when performing such construction and attachment. Hospital Land Owner shall not exercise the easement and easement rights pursuant to this Section 3.07(b) without the prior written consent of the MOB Land Owner, which consent may be withheld in its sole discretion.

(c) Declarant hereby grants and declares to and for the benefit of the MOB Land Owner, a perpetual non-exclusive right and easement for pedestrian ingress and egress on, over and across the Connector Facilities to and from any building located on the Hospital Land that is connected to the MOB by Connector Facilities and Pedestrian Corridors. Hospital Land Owner shall have the right to demolish and remove, at its sole cost and expense, any Connector Facilities located on the Hospital Land that are not attached directly to the MOB.

3.08 Pedestrian Corridor Easements. (a) Declarant hereby grants and declares to and for the benefit of the Hospital Land Owner and for the use of the Hospital Land Owner's Permittees, a perpetual non-exclusive right and easement for pedestrian ingress and egress to and from the Hospital Property through any Pedestrian Corridor located on the MOB Land or in any building located on the MOB Land. MOB Land Owner shall keep and maintain any Pedestrian Corridor located on the MOB Land in good repair, subject to the Standard for Repairs. The MOB Land Owner may reconfigure or relocate any Pedestrian Corridor located within the MOB to other locations, provided such relocation or reconfiguration does not unreasonably restrict, diminish or impede pedestrian traffic to and from the Hospital Property through the MOB. MOB Land Owner may use any Pedestrian Corridor located on the MOB Land for any purpose not inconsistent with the rights granted herein; provided, however, MOB Land Owner shall not obstruct the Pedestrian Corridor so as to unreasonably restrict, diminish or impede pedestrian traffic to and from the Hospital Property through the MOB. MOB Land Owner shall not close or prohibit access through or change any Pedestrian Corridor located on the MOB Land except in compliance with the Standard for Changes.

(b) Declarant hereby grants and declares to and for the benefit of the MOB Land Owner and for the use of the MOB Land Owner's Permittees, a perpetual non-exclusive right and easement for pedestrian ingress and egress to and from the MOB through any Pedestrian Corridor located on the Hospital Land or in any building located on the Hospital Land. Hospital Land Owner shall keep and maintain any Pedestrian Corridor located on the Hospital Land in good repair. In order to facilitate the operation of buildings on the Hospital Land and to provide for the proper care and privacy of patients, the Hospital Land Owner shall have the right to designate from time to time, and limit the hours of operation of, particular corridors and walkways within buildings on the Hospital Land that shall serve as the Pedestrian Corridors subject to the pedestrian easement created in this Section 3.08(b); provided, however, such limitations shall not

unreasonably affect access from the MOB to the Hospital or such other building. The Hospital Land Owner may reconfigure or relocate any Pedestrian Corridor located within the Hospital or within any other buildings located on the Hospital Land to other locations, provided such relocation or reconfiguration does not unreasonably restrict, diminish or impede pedestrian traffic to and from the MOB through the Hospital or such other buildings. Hospital Land Owner may use any Pedestrian Corridor located on the Hospital Land or within the Hospital or within any other buildings located on the Hospital Land for any purpose not inconsistent with the rights granted herein; provided, however, Hospital Land Owner shall not obstruct the Pedestrian Corridor so as to unreasonably restrict, diminish or impede pedestrian traffic to and from the MOB through the Hospital or such other building. Notwithstanding anything set forth herein to the contrary, MOB Land Owner shall not have any right or easement with respect to any Pedestrian Corridor located on the Hospital Land to which access is not available from the MOB via Connector Facilities and/or other Pedestrian Corridors or which is not otherwise reasonably necessary for the use and operation of the MOB. Notwithstanding the foregoing, the rights and easements granted in this Section 3.08(b) shall not prohibit Hospital Land Owner from demolishing any building located on the Hospital Land through which a Pedestrian Corridor is located. If the Hospital is Permanently Closed, the easements through Pedestrian Corridors granted in this Section 3.08(b) shall be terminated.

ARTICLE IV GENERAL PROVISIONS

4.01 Covenants Running With Land; Consideration. The rights and easements granted, declared, and created in Articles III and IV hereof and the various terms, conditions, restrictions and agreements set forth herein shall be (a) easements, covenants, and agreements running with the land and (b) binding upon and inure to the benefit of Hospital Land Owner, MOB Land Owner and their respective successors and assigns and all those claiming by, through or under Hospital Land Owner, MOB Land Owner or any of their successors and assigns. Declarant acknowledges and declares that the rights and easements granted to and for the benefit of the MOB Land Owner in Article III are granted in consideration of the obligations and covenants undertaken by MOB Land Owner herein in connection with the MOB Land. Except as may be specifically and expressly otherwise provided herein, MOB Land Owner may use and enjoy such rights and easements at no cost to it.

4.02 Use of Easements by Others. The rights and easements granted and declared herein for the benefit of the MOB Land Owner are intended to create a property interest or right only in the MOB Land Owner and its successors in title or assigns with respect to its interest in the MOB Land, and those tenants or subtenants of MOB Land Owner to whom MOB Land Owner has explicitly, in writing, assigned or granted any such rights or easements, but only to the extent of such assignment or grant. Notwithstanding anything to the contrary contained herein, the MOB Land Owner may permit its Permittees to use and enjoy the easements and easement rights granted and declared herein for the benefit of the MOB Land Owner, but only so long as no property interest in such easements or easement rights is transferred, leased or conveyed to any such Permittee (except pursuant to the establishment of a Condominium) and only so long as any such Permittee uses such easements and easements rights in compliance with this Declaration. The rights and easements granted and declared herein for the benefit of the Hospital Land Owner are

intended to create a property interest or right only in the Hospital Land Owner and its successors in title or assigns with respect to its interest in the Hospital Land, and those tenants or subtenants of Hospital Land Owner to whom Hospital Land Owner has explicitly, in writing, assigned or granted any such rights or easements, but only to the extent of such assignment or grant. Notwithstanding anything to the contrary contained herein, the Hospital Land Owner may permit its Permittees to use and enjoy the easements and easement rights granted and declared herein for the benefit of the Hospital Land Owner, but only so long as no property interest in such easements or easement rights is transferred to any such Permittee and only so long as any such Permittee uses such easements and easements rights in compliance with this Declaration.

4.03 Common Use of Easements. The Hospital Land Owner shall have the right to grant easements, leases and licenses to other Persons (“**Other Easement Holders**”) for the use of the Driveway Facilities, the Parking Facilities, the Utility Easement Parcels, the Connector Facilities, and the Pedestrian Corridors as shall be determined in the sole discretion of the Hospital Land Owner to be necessary, appropriate or desirable in connection with the use, operation and enjoyment of the buildings and improvements now or hereafter located on the Hospital Land or any part thereof, or other lands adjacent to or in the vicinity of the Hospital Land. Any Other Easement Holder may permit its Permittees to use and enjoy the Driveway Facilities, the Parking Facilities, the Utility Easement Parcels, the Connector Facilities and the Pedestrian Corridors in common with the MOB Land Owner and Hospital Land Owner, but only so long as no property interest in such easements or easement rights is transferred, leased or conveyed to any such Permittee.

4.04 No Dedication. Nothing contained herein shall be construed or deemed to constitute a dedication, express or implied, of any real property to or for any public use or purpose whatsoever.

4.05 Easement Reconfiguration. (a) Whenever the Hospital Land Owner relocates or reconfigures to other locations on the Hospital Land any Driveway Facilities, any Parking Facilities, any Utility Facilities providing Utility Services to the MOB Land, or any Connector Facilities as permitted pursuant to the terms hereof, then: (i) the MOB Land Owner and any Mortgagee shall, upon written request of the Hospital Land Owner, execute and deliver all releases or other documents that the Hospital Land Owner shall determine to be reasonably necessary or appropriate that are in form and substance mutually and reasonably satisfactory to all parties to record in the applicable public land records a termination, cancellation and release of the easement rights herein granted with respect to those portions of the Hospital Land which were subject to the easement(s) or portions thereof which have been relocated or reconfigured; and (ii) the Hospital Land Owner and any Mortgagee shall, upon written request of the MOB Land Owner, execute and deliver to the MOB Land Owner all agreements or other documents that the MOB Land Owner shall determine to be reasonably necessary or appropriate that are in form and substance mutually and reasonably satisfactory to all parties to record in the applicable public land records the location of such relocated or reconfigured easement. Notwithstanding anything to the contrary contained herein, neither MOB Land Owner nor Hospital Land Owner shall have any liability to the other for any failure or refusal of any Mortgagee to execute and deliver any instrument or document required under this Section 4.05(a) or do any other act or thing which it is required to do under this Section 4.05(a) if such failure or refusal is not the result of the failure of MOB Land Owner or

Hospital Land Owner, as applicable, to observe or perform any of its agreements or obligations under this Declaration. Notwithstanding anything to the contrary contained herein, any relocation, termination, cancellation or reconfiguration of the easements described in Sections 3.01(a), 3.02(a), 3.03(a), 3.07(a) and 3.07(c) hereof or of any Driveway Facilities, Parking Facilities, Utility Facilities, or any Connector Facilities as permitted pursuant to the terms of this Declaration, shall be effective and self-operative without the execution and Recording of any of the instruments referenced in this Section 4.05(a).

(b) Whenever the MOB Land Owner relocates or reconfigures to other locations on the MOB Land any Driveway Facilities, any Parking Facilities, any Utility Facilities providing Utility Services to the Hospital Land, or any Connector Facilities as permitted pursuant to the terms hereof (including without limitation, any requirement to comply with the Standard for Changes and/or the Standard for Repairs, to the extent applicable), then (i) the Hospital Land Owner and any Mortgagee shall, upon written request by the MOB Land Owner, execute and deliver all releases or other documents that the MOB Land Owner shall determine to be reasonably necessary or appropriate that are in form and substance mutually and reasonably satisfactory to all parties to record in the applicable public land records a termination, cancellation and release of the easement rights herein granted with respect to those portions of the MOB Land which were subject to the easement(s) or portions thereof which have been relocated or reconfigured; and (ii) the MOB Land Owner and any Mortgagee shall, upon written request of the Hospital Land Owner, execute and deliver to the Hospital Land Owner all agreements or other documents that the Hospital Land Owner shall determine to be reasonably necessary or appropriate that are in form and substance mutually and reasonably satisfactory to all parties to record in the applicable public land records the location of such relocated or reconfigured easement. Notwithstanding anything to the contrary contained herein, neither MOB Land Owner or Hospital Land Owner shall have any liability to the other for any failure or refusal of any Mortgagee to execute and delivery any instrument or document under this Section 4.05(b) or do any other act or thing which it is required to do under this Section 4.05(b) if such failure or refusal is not the result of the failure of MOB Land Owner or Hospital Land Owner, as applicable, to observe or perform any of its agreements or obligations under this Declaration. Notwithstanding anything to the contrary, any relocation, termination, cancellation or reconfiguration of the easements described in Sections 3.01(b), 3.02(b), 3.03(b) and 3.07(b) hereof or any Driveway Facilities, Parking Facilities, Utility Facilities, or Connector Facilities as permitted pursuant to the terms of this Declaration (including without limitation meeting any requirement for compliance with the Standard for Changes and/or the Standard for Repairs, to the extent applicable), shall be effective and self-operative without the execution and Recording of any of the instruments referenced in this Section 4.05(b).

4.06 Release From Easements. (a) Notwithstanding anything to the contrary set forth in this Declaration, if in connection with the development of any portion of the Hospital Land, the Hospital Land Owner desires to sell, lease, transfer or convey a portion of the Hospital Land to another Person (such portion of the Hospital Land being sold, leased, transferred or conveyed being hereinafter referred to as the “**Transferred Hospital Tract**”), and in connection therewith, such Person desires the release of all or a portion of the Transferred Hospital Tract from one or more of the easements granted and declared pursuant to Article III hereof (such portion of the Transferred Hospital Tract being hereinafter referred to as the “**Released Hospital Tract**”), then upon the request of Hospital Land Owner, subject to the provisions of the penultimate sentence of

this Section 4.06(a), Hospital Land Owner, MOB Land Owner and any Mortgagee shall release the Released Hospital Tract from such easement by executing and Recording an instrument releasing the Released Hospital Tract from such easement; provided, however, that (i) any such release of the parking easement set forth in Section 3.02(a) hereof does not result in either (A) the sum of the number of parking spaces remaining available for use by the MOB Land Owner on the MOB Land, the Hospital Land and on any other land in the vicinity of Hospital Land upon which the MOB Land Owner has a right or easement to park after such release equaling less than the Required MOB Parking Number; or (B) the sum of the number of parking spaces located on the MOB Land, the Hospital Land and on any other land in the vicinity of Hospital Land upon which the Hospital Land Owner has a right or easement to park after such release equaling less than the Required Campus Parking Number, (ii) in the event of any such release of the utility easement set forth in Section 3.03(a) hereof, Hospital Land Owner shall prior to such release relocate the Utility Facilities providing Utility Services to the MOB Land to other locations on the Hospital Land in accordance with the provisions regarding the relocation or reconfiguration of Utility Facilities set forth in Sections 3.03 and 4.05 above, (iii) any such release of the walkway easement set forth in Section 3.07(c) hereof does not prevent pedestrian traffic through any remaining Connector Facilities that directly or indirectly connect the MOB to the Hospital, and (iv) any such release of the pedestrian access easement set forth in Section 3.08(b) does not prevent pedestrian traffic through any remaining Pedestrian Corridor that directly or indirectly connects the MOB to the Hospital. Any such instrument shall be in form and substance mutually and reasonably satisfactory to all parties. Upon the Recording of such instrument, the Released Hospital Tract shall cease to be subject to or burdened by such Article III easement identified in such instrument or by any other provision of this Declaration regarding such released easement. Furthermore, in the event such instrument releases the Released Hospital Tract from all of the easements set forth in Article III that burden such Released Hospital Tract, then upon the Recording of such instrument, the Released Hospital Tract shall no longer be part of the Hospital Land for any purpose under this Declaration, and each Person who is the owner or lessee of the Released Hospital Tract (other than Hospital Land Owner at the time such release is Recorded), shall no longer be a Hospital Land Owner under this Declaration. Hospital Land Owner shall deliver promptly to MOB Land Owner a copy of any such release. Notwithstanding anything to the contrary contained herein, MOB Land Owner shall not have any liability to Hospital Land Owner for the failure or refusal of any Mortgagee to execute and deliver any instrument or document required under this Section 4.06(a) or do any other act or thing which it is required to do under this Section 4.06(a) if such failure or refusal is not the result of the failure of MOB Land Owner to observe or perform any of its agreements or obligations under this Declaration.

(b) Notwithstanding anything to the contrary set forth in this Declaration, if a portion of the Hospital Land is ever transferred or conveyed such that differing portions of the Hospital Land are thereafter owned or leased by different Persons and each such Person is a Hospital Land Owner with respect to the portion of the Hospital Land owned or leased by such Person (each such portion of the Hospital Land shall be referred to as a “**Hospital Parcel**” and each Person who is the Hospital Land Owner of a Hospital Parcel shall be referred to as a “**Hospital Parcel Owner**”), then during the period that differing Hospital Parcels are owned or leased by different Hospital Parcel Owners: (i) each Hospital Parcel Owner shall be responsible for complying with and performing the duties and obligations of the Hospital Land Owner under Articles III and IV of this Declaration only with respect to such Hospital Parcel Owner’s Hospital Parcel Property and no

Hospital Parcel Owner shall have any duty, obligation, liability or responsibility under Articles III and IV of this Declaration with respect to any Hospital Parcel Property owned or leased by another Hospital Parcel Owner or for any breach or violation of this Declaration by another Hospital Parcel Owner or for any action or inaction of any other Hospital Parcel Owner; (ii) any rights and privileges granted to Hospital Land Owner in Articles III and IV with respect to any construction, maintenance and/or repair on or in the MOB Property and any duties, obligations and liabilities imposed upon Hospital Land Owner in Articles III and IV with respect to any construction, maintenance and/or repair on or in the MOB Property shall be exercised by and imposed on only the Person who is the Hospital Land Owner for purposes of Article II of this Declaration unless and except to the extent each applicable Hospital Parcel Owner has allocated such rights, privileges, duties, obligations and liabilities between themselves differently in an instrument executed by each applicable Hospital Parcel Owner and Recorded; and (iii) no Hospital Parcel Owner shall be entitled to enter upon the Hospital Parcel of another Hospital Parcel Owner for the purpose of exercising any of the rights or privileges of the Hospital Land Owner under Articles III and IV of this Declaration unless and except to the extent otherwise provided in an instrument executed by each applicable Hospital Parcel Owner and Recorded.

4.07 Compliance with Laws. (a) In connection with the use and enjoyment of the easements and rights granted and declared herein for the benefit of the MOB Land Owner, the MOB Land Owner shall comply in all respects with all Legal Requirements. In connection with the use and enjoyment of the easements and rights granted and declared herein for the benefit of the Hospital Land Owner, the Hospital Land Owner shall comply with all Legal Requirements.

(b) In particular, without limiting the generality of the foregoing Section 4.07(a): (i) MOB Land Owner shall not bring, keep or use, and shall not permit any of its Permittees to bring, keep or use, any Hazardous Material in or about the Hospital Property, except to the extent that any of the foregoing is incidental to the use of the Hospital Property as permitted under this Declaration and is in compliance with all federal, state, regional, county and local laws, rules and regulations (whether now existing or hereafter enacted or promulgated), including, without limitation, Applicable Environmental Law; and (ii) Hospital Land Owner shall not bring, keep or use, and shall not permit any of its Permittees to bring, keep or use, any Hazardous Material in or about the MOB Property, except to the extent that any of the foregoing is incidental to the use of the MOB Property as permitted under this Declaration and is in compliance with all federal, state, regional, county and local laws, rules and regulations (whether now existing or hereafter enacted or promulgated), including, without limitation, Applicable Environmental Law.

(c) MOB Land Owner shall indemnify, hold harmless and defend the Hospital Land Owner and the Hospital Indemnified Parties, from and against any and all claims (including, without limitation, third party claims for personal injury or real or personal property damage), actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities, obligations, demands, defenses, judgments, suits, proceedings, interest, losses (including, without limitation, any sums paid in settlement of claims, attorneys' fees, consultant fees, expert fees and any fees and expenses incurred in enforcing this indemnity), costs, disbursements or expenses of any kind or of any nature whatsoever incurred by, sought from or asserted directly or indirectly against the Hospital Land Owner or any of the Hospital Indemnified Parties, as applicable, as a result of any breach by MOB Land Owner of its

obligations under Section 4.07(b)(i) of this Declaration. The foregoing indemnity shall include, without limitation, (A) the costs of removal of any and all Hazardous Material from the Hospital Property, (B) all additional costs reasonably required to take necessary precautions to protect against the release of Hazardous Material on, in, under or affecting the Hospital Property, as applicable, into the air above the Hospital Property, in any body of water on the Hospital Property, or on, in, under or affecting any adjoining public domain or any adjoining surrounding areas, and (C) any costs incurred to comply with all applicable laws, orders, judgments and regulations with respect to Hazardous Material. MOB Land Owner shall assume, pursuant to the foregoing indemnity, any liabilities or responsibilities which are assessed against Hospital Land Owner in any action described under this Section 4.07(c).

(d) Hospital Land Owner shall indemnify, hold harmless and defend the MOB Land Owner and the MOB Indemnified Parties, from and against any and all claims (including, without limitation, third party claims for personal injury or real or personal property damage), actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities, obligations, demands, defenses, judgments, suits, proceedings, interest, losses (including, without limitation, any sums paid in settlement of claims, attorneys' fees, consultant fees, expert fees and any fees and expenses incurred in enforcing this indemnity), costs, disbursements or expenses of any kind or of any nature whatsoever incurred by, sought from or asserted directly or indirectly against the MOB Land Owner or any of the MOB Indemnified Parties, as applicable, as a result of any breach by Hospital Land Owner of its obligations under Section 4.07(b)(ii). The foregoing indemnity shall include, without limitation, (A) the costs of removal of any and all Hazardous Material from the MOB Property, (B) all additional costs reasonably required to take necessary precautions to protect against the release of Hazardous Material on, in, under or affecting the MOB Property, as applicable, into the air above the Hospital Property, in any body of water on the Hospital Property, or on, in, under or affecting any adjoining public domain or any adjoining surrounding areas, and (C) any costs incurred to comply with all applicable laws, orders, judgments and regulations with respect to Hazardous Material. Hospital Land Owner shall assume, pursuant to the foregoing indemnity, any liabilities or responsibilities which are assessed against MOB Land Owner in any action described under this Section 4.07(d).

(e) As used in this Section 4.07(b), the term “**Hazardous Material**” will mean any hazardous or toxic substance, material, or waste which is or becomes regulated by any local governmental authority, the State in which the Hospital Land is located or the United States Government, including, without limitation, (i) any substance, chemical or waste that is or shall be listed or defined as hazardous, toxic or dangerous under Applicable Environmental Law, (ii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any federal, state or local governmental authority pursuant to any environmental, health and safety or similar law, code, ordinance, rule, regulation, order or decree and which may or could pose a hazard to the health and safety of occupants or users of the Hospital Property, the MOB Property, or any part thereof, or any adjoining property or cause damage to the environment, (iii) any petroleum products, (iv) PCBs, (v) lead paint, (vi) mold, and (vii) asbestos.

(f) As used herein, the term “**Applicable Environmental Law**” shall include the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et*

seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 *et seq.*, the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, and the Safe Drinking Water Act, 42 U.S.C. § 300f through 300j-26, as such acts have been or are hereafter amended from time to time; any so called superfund or superlien law; and any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Material as now or any time hereafter in effect.

(g) The obligations, agreements and indemnities of MOB Land Owner and Hospital Land Owner set forth in Sections 4.07(b), (c), (d), (e) and (f) shall survive the expiration or termination of this Declaration.

4.08 Indemnification. (a) To the fullest extent permitted by applicable law, MOB Land Owner shall indemnify and hold harmless Hospital Land Owner and its Affiliates or Mortgagees and its and their respective officers, directors, partners, shareholders, employees and agents (collectively, the “**Hospital Indemnified Parties**”), from and against any and all losses, damages, liabilities, demands, causes of action, costs and expenses (including reasonable attorneys’ fees and costs of litigation), directly or indirectly arising out of or resulting from injury to or death of persons, or damage to or loss of property, which occurs on or about the MOB Property or in any manner directly or indirectly grows out of or in connection with the use, occupancy or condition of the MOB Property or any part thereof, except to the extent arising out of the gross negligence or willful misconduct of Hospital Land Owner, its Affiliates, tenants and subtenants, or their respective Permittees.

(b) To the fullest extent permitted by applicable law, Hospital Land Owner shall indemnify and hold harmless MOB Land Owner and its Affiliates or Mortgagees, and its and their respective officers, directors, partners, shareholders, employees and agents (collectively, the “**MOB Indemnified Parties**”), from and against any and all losses, damages, liabilities, demands, causes of action, costs and expenses (including reasonable attorneys’ fees and costs of litigation), directly or indirectly arising out of or resulting from injury to or death of persons, or damage to or loss of property, which occurs on or about the Hospital Property or in any manner directly or indirectly grows out of or in connection with the use, occupancy or condition of the Hospital Property or any part thereof, except to the extent arising out of the gross negligence or willful misconduct of MOB Land Owner, its Affiliates, tenants or subtenants, or their respective Permittees.

4.09 Maintenance.

(a) Driveway Facilities and Parking Facilities on Hospital Land. Hospital Land Owner shall keep and maintain the Driveway Facilities and the Parking Facilities located on the Hospital Land in good condition and repair and shall make all repairs, replacements and renewals, foreseen and unforeseen, ordinary or extraordinary, in order to maintain the same in such condition and repair. In addition, the Hospital Land Owner shall keep and maintain the Driveway Facilities and the Parking Facilities located on the Hospital Land in a safe, clean and attractive condition. In the event that Hospital Land Owner fails to perform its obligations under this Section 4.09(a),

then MOB Land Owner shall have the right, but not the obligation, to give Hospital Land Owner written notice of such failure. If Hospital Land Owner does not do all work necessary to perform its obligations under this Section 4.09(a) and remedy such failure within thirty (30) days after receipt of such notice, or within a reasonable period of time if thirty (30) days is insufficient time to correct such failure so long as Hospital Land Owner commences cure within such 30-day period and diligently prosecutes such cure to completion, then MOB Land Owner shall have the right, but not the obligation, to enter upon the Hospital Property and do all such work as is reasonably necessary to remedy such failure. In such event, Hospital Land Owner shall reimburse MOB Land Owner for the reasonable out-of-pocket costs that MOB Land Owner actually incurs in direct connection with its cure of Hospital Land Owner's failure to perform its obligations under this Section. If Hospital Land Owner fails to make such reimbursement within ten (10) days after receipt of MOB Land Owner's written demand for such reimbursement, then the Hospital Land Owner shall also immediately on demand reimburse the MOB Land Owner for all out-of-pocket costs and expenses incurred by the MOB Land Owner in connection with the collection of the reimbursement amount from Hospital Land Owner (including, without limitation, reasonable attorneys' fees and expenses), plus interest on such costs and expenses of curing Hospital Land Owner's failure to perform and reimburse MOB Land Owner, at the Interest Rate from the date that is ten (10) days after the date demand for payment is made.

(b) Driveway Facilities and Parking Facilities on MOB Land. MOB Land Owner shall keep and maintain the Driveway Facilities and the Parking Facilities located on the MOB Land in good condition and repair and shall make all repairs, replacements and renewals, foreseen and unforeseen, ordinary or extraordinary, in order to maintain the same in such condition and repair, subject to the Standard for Repairs. In addition, the MOB Land Owner shall keep and maintain the Driveway Facilities and the Parking Facilities located on the MOB Land in a safe, clean and attractive condition. In the event that MOB Land Owner fails to perform its obligations under this Section 4.09(b), then Hospital Land Owner shall have the right, but not the obligation, to give MOB Land Owner written notice of such failure. If MOB Land Owner does not do all work necessary to perform its obligations under this Section 4.09(b) and remedy such failure within thirty (30) days after receipt of such notice, or within a reasonable period of time if thirty (30) days is insufficient time to correct such failure so long as MOB Land Owner commences cure within such 30-day period and diligently prosecutes such cure to completion, then Hospital Land Owner shall have the right, but not the obligation, to enter upon the MOB Property and do all such work as is reasonably necessary to remedy such failure. In such event, MOB Land Owner shall reimburse Hospital Land Owner for the out-of-pocket costs that Hospital Land Owner actually incurs in direct connection with its cure of MOB Land Owner's failure to perform its obligations under this Section. If MOB Land Owner fails to make such reimbursement within ten (10) days after receipt of MOB Land Owner's written demand for such reimbursement, then the MOB Land Owner shall also immediately on demand reimburse the Hospital Land Owner for all out-of-pocket costs and expenses incurred by the Hospital Land Owner in connection with the collection of the reimbursement amount from MOB Land Owner (including, without limitation, reasonable attorneys' fees and expenses), plus interest on such costs and expenses of curing MOB Owner's failure to perform and reimburse Hospital Land Owner, at the Interest Rate from the date that is ten (10) days after the date demand for payment is made.

(c) Connector Facilities. (i) Hospital Land Owner shall keep and maintain the Connector Facilities located on the Hospital Land and the MOB Land in good condition and repair and shall make all repairs, replacements and renewals, foreseen and unforeseen, ordinary and extraordinary, that may be necessary to maintain the Connector Facilities in such condition and repair, subject to the Standard for Repairs with respect to the Connector Facilities located on the MOB Land. In addition, Hospital Land Owner shall keep the Connector Facilities in a safe, clean and attractive condition. Notwithstanding anything to the contrary set forth in this Declaration, in the event any of the Connector Facilities are damaged or destroyed as the result of the willful misconduct or gross negligence of the MOB Land Owner, or any of its Permittees, then MOB Land Owner shall be responsible for and shall pay all costs incurred by Hospital Land Owner to repair or replace the damaged or destroyed Connector Facilities. In the event that Hospital Land Owner fails to perform its obligations under this Section 4.09(c)(i), then MOB Land Owner shall have the right, but not the obligation, to give Hospital Land Owner written notice of such failure. If Hospital Land Owner does not do all work necessary to perform its obligations under this Section 4.09(c)(i) (other than repair of damage to or destruction of any Connector Facilities caused by the willful misconduct or gross negligence of MOB Land Owner or its Permittees) and remedy such failure within thirty (30) days after receipt of such notice, or within a reasonable period of time if thirty (30) days is insufficient time to correct such failure so long as Hospital Land Owner commences cure within such 30-day period and diligently prosecutes such cure to completion, then MOB Land Owner shall have the right, but not the obligation, to enter upon the Hospital Property and do all such work as is reasonably necessary to remedy such failure. In such event, Hospital Land Owner shall reimburse MOB Land Owner for the reasonable out-of-pocket costs that MOB Land Owner actually incurs in direct connection with its cure of Hospital Land Owner's failure to perform its obligations under this Section. If Hospital Land Owner fails to make such reimbursement within ten (10) days after receipt of MOB Land Owner's written demand for such reimbursement, then the Hospital Land Owner shall also immediately on demand reimburse MOB Land Owner for all out-of-pocket costs and expenses incurred by MOB Land Owner in connection with the collection of the reimbursement amount from Hospital Land Owner (including, without limitation, reasonable attorneys' fees and expenses), plus interest on such costs and expenses of curing Hospital Land Owner's failure to perform and reimburse Hospital Land Owner, at the Interest Rate from the date that is ten (10) days after the date demand for payment is made.

(ii) Upon receipt of statements and reasonable supporting documentation (each, a "**Maintenance Cost Statement**") from Hospital Land Owner from time-to-time, the MOB Land Owner shall reimburse and pay the Hospital Land Owner the MOB Land Owner's Proportionate Share of all costs paid by Hospital Land Owner in connection with the maintenance, repair, replacement, restoration, reconstruction, or improvement of the Driveway Facilities, the Connector Facilities, and the Parking Facilities located on the Hospital Land and the MOB Land and any drainage or detention facilities serving the Hospital Land or the MOB Land (the "**Maintenance Costs**"). In the event that MOB Land Owner fails to pay Hospital Land Owner for MOB Land Owner's Proportionate Share of the Maintenance Costs within thirty (30) days of the statement date, then MOB Land Owner shall immediately on demand reimburse Hospital Land Owner for all costs and expenses incurred by Hospital Land Owner in connection with the collection of MOB Land Owner's Proportionate Share of such Maintenance Costs (including, without limitation, reasonable attorneys' fees and expenses), plus interest thereon at the Interest Rate from the date such costs and expenses are incurred until paid. Within one year after a

Maintenance Cost Statement is received, MOB Land Owner may send a written notice to Hospital Land Owner objecting to such Maintenance Cost Statement and specifying the respects in which such statement is claimed to be incorrect. If the issues raised by such notice are not amicably settled between MOB Land Owner and Hospital Land Owner within thirty (30) days after such written notice is sent, either party may refer the decision of the issues raised by such notice to a nationally recognized firm of certified public accountants selected by such party, and reasonably acceptable to the other, and the decision of such accountants shall be conclusively binding upon the parties. The fees and expenses involved in such decision shall be borne by the unsuccessful party (and if both parties are partially unsuccessful, the accountants shall apportion the fees and expenses between the parties based upon the degree of success of each party). Hospital Land Owner shall keep and make available to MOB Land Owner for a period of two (2) years after its Maintenance Cost Statement is rendered as provided in this Section, records of its expenditures for Maintenance Costs and reasonable details of the matters included in the MOB Maintenance Cost Statement for the period covered by such statement and shall permit MOB Land Owner and its accountants to examine and audit such of its records as may be reasonably required to verify such statements, at reasonable times during business hours.

(d) MOB. Except as provided herein, the MOB Land Owner shall keep and maintain the MOB and all related improvements now or hereafter located on the MOB Land and all additions thereto, in good condition and repair consistent with the Standard for Changes and the Standard for Repairs, and MOB Land Owner shall make all repairs, replacements and renewals, foreseen and unforeseen, ordinary or extraordinary in order to maintain the same in such condition. In addition, the MOB Land Owner shall keep and maintain the MOB Land and all improvements located thereon in a safe, clean and attractive condition consistent with the standards of maintenance and cleanliness in effect with respect to the Hospital Land and shall keep such parcels free from any accumulations of dirt, trash and other debris.

4.10 Intentionally Omitted.

4.11 Intentionally Omitted.

4.12 Rules and Regulations. (a) The MOB Land Owner shall comply in all material respects with and shall use commercially reasonable efforts to cause the MOB Land Owner's Permittees to comply in all material respects with all reasonable rules and regulations adopted from time to time by Hospital Land Owner relating to the direction and flow of traffic, the delineation of areas wherein parking and standing are not permitted and otherwise governing the use and operation of the Driveway Facilities, the Parking Facilities and the safety and security of pedestrians, operators and their automobiles and other property. Hospital Land Owner shall have the right to install barriers and other devices to control the use of and access to the Parking Facilities maintained by Hospital Land Owner. Hospital Land Owner shall have the right from time to time to deny and/or restrict pedestrian or vehicular access to designated areas on Hospital Land if Hospital Land Owner determines in its reasonable judgment that such denial or restriction is desirable for safety or security reasons or for the orderly operation of Hospital Property and the activities at the Hospital Property. Subject to the Standard for Changes, Hospital Land Owner may from time to time designate certain spaces within the Parking Facilities that are reserved for the use of certain persons or for the use of certain categories of users (including, without limitation,

patients, guests, visitors, physicians, and employees) as the Hospital Land Owner determines to be reasonably necessary for the operation of business on the Hospital Land.

(b) The MOB Land Owner shall comply in all material respects with and shall cause all of its Permittees to comply in all material respects with all reasonable rules and regulations adopted from time to time by Hospital Land Owner relating to the use and operation of the Connector Facilities and the Pedestrian Corridors and the safety and security of pedestrians relating to such use and operation. Furthermore, the Hospital Land Owner shall have the right to install doors and other devices to control the use of and access to the Connector Facilities and the Pedestrian Corridors. Furthermore, the Hospital Land Owner shall have the right to close the Connector Facilities and/or the Pedestrian Corridors for maintenance and repairs and may close the Connector Facilities and/or the Pedestrian Corridors during the night-time hours; provided, no such closure shall result in the inability of the MOB Land Owner and the tenants and occupants of the MOB from accessing the MOB during such periods of closure. Hospital Land Owner shall provide MOB Land Owner with prior written notice of any decision to close the Connector Facilities and/or the Pedestrian Corridors during night-time hours, the hours of such closure, and the route of alternative access during such hours if such alternative access is required.

4.13 Condemnation. In the event that all or any portions of the Hospital Land is taken by the exercise of the power of eminent domain or is transferred or conveyed in a negotiated transaction to a person vested with the power of eminent domain, then the easements granted herein with respect to that portion of the Hospital Land taken or conveyed shall terminate at the effective time of the taking or conveyance, or, if earlier, the date that the condemning authority takes possession thereof. The MOB Land Owner shall not be entitled to any portion of the award or other compensation payable with respect to any such taking or conveyance; provided, however, if Driveway Facilities, Parking Facilities, Utility Facilities or Connector Facilities are located on a portion of the Hospital Land so taken or conveyed, or if the use, operation or value of the MOB is adversely affected by such taking or conveyance or by termination of an easement to use any such facilities granted to MOB Land Owner in this Declaration, then the MOB Land Owner shall be entitled to such portion of the award or other compensation payable with respect to any such taking or conveyance as such portion of the award or compensation shall be determined by mutual agreement between the Hospital Land Owner and the MOB Land Owner, or if they are unable to agree, then the MOB Land Owner shall be entitled to such portion of the award or other compensation, as is determined by the final non-appealable order of a state court having jurisdiction over cases relating to condemnation of real property.

4.14 Defaults. (a) In addition to any other rights or remedies that Hospital Land Owner may have under this Declaration or at law or in equity, in the event that the MOB Land Owner is in breach of its obligations under this Declaration, the Hospital Land Owner may provide written notice of such breach to the MOB Land Owner. Upon the expiration of thirty (30) days following the giving of such notice, if the MOB Land Owner (i) has failed to cure such breach or (ii) in the case of a breach (other than the payment of money) which by its nature cannot be completely cured within such thirty (30) day period, the MOB Land Owner does not within such period commence to cure the breach and diligently pursue and complete the cure in a reasonable period of time, then in the event of MOB Land Owner's failure to comply with either clause (i) or (ii) above, the Hospital Land Owner may do all things reasonably necessary to remedy such breach and perform

the obligations of the MOB Land Owner that have not been fully or promptly performed. Hospital Land Owner shall have the right to enter upon the MOB Land to perform such obligations, subject to the Standard for Repairs. The MOB Land Owner shall immediately on demand reimburse the Hospital Land Owner for all reasonable costs and expenses incurred by the Hospital Land Owner in connection with the cure of any breach of the MOB Land Owner of its obligations under this Declaration, plus interest thereon at the Interest Rate from the date that is ten (10) days after the date demand for payment is made.

(b) In the event that Hospital Land Owner is in breach of its obligations under this Declaration, the MOB Land Owner may provide written notice of such breach to the Hospital Land Owner. Upon the expiration of thirty (30) days following the giving of such notice, if the Hospital Land Owner (i) has failed to cure such breach, or (ii) in the case of a breach (other than the payment of money) which by its nature cannot be completely cured within such thirty (30) day period, the Hospital Land Owner does not within such period commence to cure the breach and diligently pursue and complete the cure in a reasonable period of time, then in the event of Hospital Land Owner's failure to comply with either clause (i) or (ii) above, the MOB Land Owner may seek monetary damages from Hospital Land Owner for such failure, but shall not be entitled to seek specific performance of the obligations of Hospital Land Owner under this Declaration or other equitable relief, which remedies are hereby waived.

4.15 Real Property Taxes. Upon receipt of statements from Hospital Land Owner from time to time, MOB Land Owner shall reimburse and pay Hospital Land Owner MOB Land Owner's Proportionate Share of Real Estate Tax Costs. MOB Land Owner's liability with respect to the Real Estate Tax Costs shall equal the total amount of such Real Estate Tax Costs for those areas of the Hospital Land upon which Driveway Facilities, Connector Facilities and Parking Facilities are located, multiplied by MOB Land Owner's Proportionate Share. In the event that such areas are not assessed separately from the other portions of the Hospital Land or other lands, the amount of real estate taxes and assessments attributable to those areas of the Hospital Land upon which Driveway Facilities, the Connector Facilities and Parking Facilities are located shall be determined by Hospital Land Owner on a reasonable and rational basis taking into account the relative area of such areas and the area of the taxable parcel of which it is a part, the other improvements on such taxable parcel, and the rates at which taxes and assessments against the taxable parcel are assessed. If MOB Land Owner objects to Hospital Land Owner's determination of MOB Land Owner's Proportionate Share of the amount of Real Estate Taxes allocated to the area of the Hospital Land upon which Driveway Facilities, Connector Facilities and Parking Facilities are located, then the determination of the amount of such allocation shall be submitted to a local accounting firm reasonably acceptable to Hospital Owner and MOB Land Owner. MOB Land Owner shall pay the cost of such determination by such accounting firm unless the amount of Real Estate Tax Costs allocated to the area of the Hospital Land upon which Driveway Facilities, Connector Facilities and Parking Facilities are located, as determined by Hospital Land Owner, exceeds by more than five percent (5%) the amount determined by such firm, in which event the cost of such determination by such accounting firm shall be paid by Hospital Land Owner. In the event that MOB Land Owner fails to pay Hospital Land Owner for MOB Land Owner's Proportionate Share of the Real Estate Tax Costs within thirty (30) days of the statement date, then MOB Land Owner shall immediately on demand reimburse Hospital Land Owner for all costs and expenses incurred by Hospital Land Owner in connection with the collection of MOB Land

Owner's Proportionate Share of such Real Estate Tax Costs (including, without limitation, reasonable attorneys' fees and expenses), plus interest thereon at the Interest Rate from the date such costs and expenses are incurred until paid.

4.16 Existing Declarations. Declarant recognizes the Hospital Land and MOB Land may be subject to Recorded instruments containing easements, covenants, conditions or restrictions that affect the MOB Land, the Hospital Land or both (the "**Existing Declarations**"). To the extent that any of the Existing Declarations address the same matters as are addressed in this Declaration, then the terms of this Declaration shall supersede the terms of the Existing Declarations, but only with respect to (a) the duties, obligations (including, but not limited to, the obligations of MOB Land Owner to comply with any covenants or restrictions with respect to use or occupancy of the MOB Property) and liabilities that MOB Owner has to Hospital Land Owner with regard to such matters, and (b) the duties, obligations and liabilities Hospital Land Owner has to MOB Land Owner with regard to such matters.

4.17 Parking Spaces. MOB Land Owner shall not reduce the number of parking spaces, if any, on the MOB Land without the prior written consent of Hospital Land Owner. Furthermore, MOB Land Owner shall not construct or install any additions to the building located on the MOB Land or any new structures on the MOB Land without the prior written consent of Hospital Land Owner if such construction or installation would result in an increase in the Required MOB Parking Number or the Required Campus Parking Number.

ARTICLE V MISCELLANEOUS

5.01 Mortgages. (a) No breach of the covenants, conditions and restrictions contained herein shall defeat or render invalid the lien of any Mortgage now or hereinafter executed upon any portion of the Land subject to this Declaration; provided, however, that the rights of any Mortgagee shall be subject to all of the covenants, conditions and restrictions of this Declaration, and if any portion of such property subject to any Mortgage is sold under a foreclosure of any Mortgage or is conveyed to the Mortgagee or any other Person in lieu of foreclosure, any purchaser at such sale or any such grantee and his successors and assigns shall hold any and all property so purchased and acquired subject to all of the covenants, conditions and restrictions of this Declaration.

(b) If MOB Land Owner shall be in default under this Declaration, and the applicable grace period for cure of such default by MOB Land Owner shall have expired, Hospital Land Owner shall send a copy of the written notice of the default to any First Mortgagee whose existence and identity Hospital Land Owner has received written notice thereof, at such address as such First Mortgagee or MOB Land Owner has provided in writing to Hospital Land Owner, concurrently with the sending of such default notice to MOB Land Owner. First Mortgagee shall have thirty (30) days after the expiration of the period of time within which MOB Land Owner was permitted to cure such default to (i) cure such default if the same can be cured by the expenditure of money or commence in good faith to cure the default if the default can be cured without possession of the MOB Property by First Mortgagee, or (ii) if the default or breach is not curable pursuant to clause (i) above, commence, or cause any trustee under the First Mortgage to commence, and thereafter

pursue to completion steps and proceedings to foreclose on the interests covered by the First Mortgage, and thereafter proceed to cure the default. Hospital Land Owner will accept performance by First Mortgagee of any covenant, agreement or obligation of MOB Land Owner contained in this Declaration with the same effect as though performed by MOB Land Owner.

(c) Notwithstanding anything to the contrary contained herein, if Hospital Land Owner has given any First Mortgagee notice of MOB Land Owner's default as provided hereunder and First Mortgagee desires to cure MOB Land Owner's default but is unable to do so while MOB Land Owner is in possession of the MOB Property, then such First Mortgagee shall have the right to postpone the specified date for effecting a cure of such default for a period reasonably sufficient to enable such First Mortgagee or its designee to acquire MOB Land Owner's interest in the MOB Property by foreclosure of its First Mortgage or otherwise, as long as such First Mortgagee pays to Hospital Land Owner any sums due under this Declaration during the postponement. Any First Mortgagee shall exercise its right to extend the cure pursuant to this Declaration by giving Hospital Land Owner notice prior to the last date that such First Mortgagee would otherwise be entitled to effect a cure and by tendering to Hospital Land Owner any charges then in default.

5.02 Fees and Expenses. In the event the MOB Land Owner or the Hospital Land Owner incurs legal expenses to enforce or interpret any provision of this Declaration by mediation, arbitration or judicial means, the prevailing party will be entitled to recover such legal expenses, including attorney's fees, costs and necessary disbursements, in addition to any other relief to which such party shall be entitled.

5.03 Amendment Consents, Etc. Except as otherwise expressly set forth in this Declaration, this Declaration may not be terminated, extended, modified or amended except by a written instrument duly executed by the Hospital Land Owner, First Mortgagee and the MOB Land Owner and no such termination, extension, modification or amendment shall be effective until an appropriate instrument has been properly executed by the Hospital Land Owner, the First Mortgagee and the MOB Land Owner and Recorded. First Mortgagee shall not unreasonably withhold its consent to the execution of any such termination, extension, modification or amendment. All consents required or permitted to be given by MOB Land Owner pursuant to the terms of this Declaration shall be in writing and must be approved in writing by First Mortgagee, if any. Notwithstanding anything to the contrary set forth herein, for purposes of any amendment to Article II of this Declaration, the Hospital Land Owner shall be the Person who is the Hospital Land Owner for purposes of Article II of this Declaration as determined pursuant to the definition of "Hospital Land Owner" set forth in Section 1.01 hereof.

5.04 No Merger. The covenants and restrictions provided for herein shall remain in full force and effect and shall be unaffected by any change in ownership of the MOB Land or the Hospital Land, or any part of either the MOB Land or the Hospital Land, or by any change of use, demolition, reconstruction, expansion or other circumstances of the Land, except as specified herein. The easements and easement rights set forth herein shall not be terminated or extinguished by merger of title or otherwise unless the Hospital Land Owner, the MOB Land Owner and the First Mortgagee execute a consent to the termination of such easements and easement rights and such consent is Recorded.

5.05 Severability. If any provision of this Declaration is held to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of the Hospital Land Owner or the MOB Land Owner under this Declaration will not be materially and adversely affected thereby, (a) such provision will be fully severable, (b) this Declaration will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, (c) the remaining provisions of this Declaration will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom, and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Declaration a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

5.06 Governing Law; Legal Requirements. This Declaration shall be governed, construed and enforced in accordance with the laws of the State in which the Hospital Land and the MOB Land are located, without reference to its choice of law rules. If any covenant, condition, restriction or other provision of this Declaration shall be unlawful, void or voidable for the violation of any rule of law, including, but not limited to, the rule against perpetuities, any law regarding unreasonable restraints on alienation or any similar rule of law, then such provision shall continue only until the date twenty-one (21) years after the death of the last survivor of the now-living lineal descendants of Elizabeth II, Queen of England.

5.07 Waiver. Failure by Hospital Land Owner, MOB Land Owner or First Mortgagee to enforce any of the provisions hereof for any length of time shall not be considered a waiver by such party of its rights set forth in this Declaration. Such a waiver may be made only by an instrument in writing signed by the party waiving such right. No waiver of any condition or covenant of this Declaration shall be construed to imply or constitute a further waiver of the same or any other condition or covenant, and, except as specifically provided in this Declaration, nothing contained in this Declaration shall be construed to be a waiver on the part of Hospital Land Owner, MOB Land Owner or First Mortgagee of any right or remedy at law or in equity or otherwise.

5.08 Waiver of Subrogation. Hospital Land Owner and MOB Land Owner on behalf of themselves and all others claiming under them, including any insurer, waive all claims against each other, including all rights of subrogation, for loss or damage to their respective property (including, but not limited to, the Hospital Property, the MOB Property and all personal property and fixtures located on or in either the Hospital Property or the MOB Property) arising from fire, smoke damage, windstorm, hail, vandalism, theft, malicious mischief and any of the other perils normally insured against in an “all risk” of physical loss insurance policy, regardless of whether insurance against those perils is in effect with respect to such party’s property and regardless of the negligence of either party. To the extent of any conflict between the preceding sentence and any other provision of this Declaration, the preceding sentence shall control. Hospital Land Owner and MOB Land Owner shall each secure with respect to each insurance policy maintained by it which is applicable to the Hospital Property, the MOB Property or any fixtures or personal property located on or in either the Hospital Property or the MOB Property, an appropriate policy provision or endorsement by which each insurance company waives subrogation against the other party. If either party so requests, the other party shall deliver satisfactory evidence of such waiver of subrogation by the other party’s insurer(s).

5.09 Time of Essence. Time is of the essence with respect only to those provisions of this Declaration that explicitly provide for a period of time within which a notice must be given or that explicitly establish a specific period of time for the performance of an obligation or the occurrence of some event.

5.10 Notices. Any notice, demand or communication required, permitted, or desired to be given hereunder must be in writing and shall be deemed effectively given when personally delivered, when received by telegraphic or other electronic means (including facsimile transmission or electronic mail), so long as such telegraphic or other electronic means is accompanied by prompt notice by United States mail, or overnight courier, or five (5) days after being deposited in the United States mail, with postage prepaid thereon, certified or registered mail, return receipt requested, addressed as follows:

If to Hospital Land
Owner:

Mountain View Hospital, Inc.
c/o HCA Healthcare, Inc.
One Park Plaza
Nashville, TN 37202-0550
Attn : Vice President, Real Estate
Facsimile : (615) 344-2137
Email : Nick.Paul@hcahealthcare.com

With a simultaneous
copy (which will not
constitute notice) to:

Waller Lansden Dortch & Davis, LLP
511 Union Street, Suite 2700
Nashville, Tennessee 37219
Attn: David Wright, Esq.
Facsimile: (615) 244-6804
Email: david.wright@wallerlaw.com

If to MOB Land
Owner:

Mountain View Hospital, Inc.
1000 East 100 North
Payson, Utah 84651
Attn: Kevin Johnson, CEO
Email: Kevin.Johnson@mountainstar.com

or to such other address as either party may designate by notice to the other party hereto.

5.11 Captions. The captions and headings in this Declaration are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions of this Declaration.

5.12 Arbitration. (a) All disagreements, disputes or claims arising out of or relating to this Declaration that cannot be settled by the relevant parties, including any claims for injunctive

relief, shall be settled by arbitration in accordance with the provisions set forth below.

Forum. The forum for arbitration shall be Nashville, Tennessee.

Law. The governing law shall be the law of the State in which the Hospital Land and the MOB Land are located, without reference to its choice of law rules.

Administration. The arbitration shall be administered by the American Arbitration Association (“AAA”).

Selection; Notice. In the case of one or more claims or disputes under this Declaration for which the amount in controversy, whether for an individual claim or dispute or in the aggregate as to multiple claims or disputes, is less than \$500,000.00, the parties to such claims or disputes agree to submit such claims or disputes to a single arbitrator, to be chosen in the manner prescribed below. In the event the amount in controversy, whether for an individual claim or dispute or in the aggregate as to multiple claims or disputes between the parties to such claims or disputes, is \$500,000.00 or more, or, in the event such parties do not agree as to whether such amount in controversy is \$500,000.00 or more, such parties agree to submit such claims or disputes to a board of arbitrators consisting of three arbitrators, as set forth below (the term “Arbitrators” shall refer to the board of arbitrators or the single arbitrator, as applicable). For the avoidance of doubt, in determining the aggregate amount in controversy for purposes of the two preceding sentences, in the event that there are multiple claims or disputes such claims or disputes need not be related, including as to the same subject matter, the same provisions of this Declaration or the same set of facts.

(b) If the Hospital Land Owner or the MOB Land Owner determines to submit a dispute for arbitration pursuant to this Section, such party shall furnish the other parties to the dispute with a dated, written statement (the “Arbitration Notice”) indicating (A) such party’s intent to commence arbitration proceedings, (B) the nature, with reasonable detail, of the dispute and (C) the remedy or remedies such party will seek.

(c) Where the parties use a single arbitrator, within twenty (20) days of the Arbitration Notice, the parties shall select a single arbitrator from a list of members of the AAA’s National Panel of Commercial Arbitrators. Such arbitrator must be “neutral” and must have at least fifteen (15) years’ experience in transactions substantially similar to the development and operation of the MOB Property. If the parties do not reach agreement on the selection of a single arbitrator within the twenty (20) day period, the AAA shall have the right to make such selection upon the request of any party to the arbitration proceedings. Where the parties use a board of arbitrators, within twenty (20) days of the date of the Arbitration Notice, the party commencing the arbitration (collectively, the “Petitioner”) and the party with whom the Petitioner has its dispute (collectively, the “Respondent”) shall each select one qualifying arbitrator (and provide written notice of such selection to the Respondent and Petitioner). A “qualifying” arbitrator is a person who is not (i) an Affiliate of either the Petitioner or Respondent or (B) counsel to any such party at such time. If either the Petitioner or Respondent fails to select a qualifying arbitrator or provide such notice

within the twenty (20) day period, the AAA shall have the right to make such selection upon the request of any party to the arbitration proceedings. (Such qualifying arbitrators hereafter may be referred to, respectively, as the “**First Arbitrator**” and the “**Second Arbitrator**”). Within ten (10) days following their selection, the First Arbitrator and Second Arbitrator shall select (and provide written notice to the Respondent and the Petitioner of such selection) a third arbitrator (the “**Third Arbitrator**”) from a list of members of the AAA’s National Panel of Commercial Arbitrators. The Third Arbitrator must be “neutral” and must have at least fifteen (15) years’ experience in development transactions substantially similar to the development and operation of the MOB Property. For purposes of this Section, a “neutral” arbitrator shall be a Person who would not be subject to disqualification under rule No. 18 of the Commercial Arbitration Rules of the AAA.

(d) **Rules.** The rules of arbitration shall be the Commercial Arbitration Rules of the AAA, as modified by any other instructions that the parties may agree upon at the time, except that each party shall have the right to conduct discovery in any manner and to the extent authorized by the Federal Rules of Civil Procedure as interpreted by the United States District Court for the Middle District of Tennessee. The Arbitrators shall not modify the terms of this Declaration.

(e) **Award.** The award rendered by arbitration shall be final and binding upon the parties, and judgment upon the award may be entered in any court of competent jurisdiction of the United States. The Arbitrators shall have authority to award legal fees and associated costs to the party that substantially prevails in any arbitration proceeding.

(f) **Consolidation or Joinder.**

(i) Subject to the rules of the AAA or other applicable arbitration rules, Hospital Land Owner or the MOB Land Owner may consolidate an arbitration conducted under this Declaration with any other arbitration to which it is a party provided that (A) the arbitration agreement governing the other arbitration permits consolidation, (B) the arbitrations to be consolidated substantially involve common questions of law or fact, and (C) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

(ii) Subject to the rules of the AAA or other applicable arbitration rules, Hospital Land Owner or the MOB Land Owner may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

(iii) Hospital Land Owner and the MOB Land Owner grant to any person or entity made a party to an arbitration conducted under this **Section 5.12**, whether by joinder or consolidation, the same rights of joinder and consolidation as those of Hospital Land Owner and the MOB Land Owner under this Declaration.

5.13 Exhibits. All exhibits, which are described below, referred to herein are attached hereto and made a part hereof.

- EXHIBIT A - Description of the MOB Land
- EXHIBIT B - Description of the Hospital Land
- EXHIBIT C - Description of the Utility Facilities
- EXHIBIT D - Description of the Utility Services
- EXHIBIT E - Description of Utility Easement Parcels

[Signature on following page]

IN WITNESS WHEREOF, these presents have been executed by the duly authorized officer of Declarant effective as of the day and year first above written.

DECLARANT:

MOUNTAIN VIEW HOSPITAL, INC.,
a Utah corporation

By: _____
Name: **Nicholas L. Paul, Vice President**

[Appropriate State Acknowledgement to be Added]

**EXHIBIT A
TO
DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS**

Description of the MOB Land

NEED

**EXHIBIT B
TO
DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS**

Description of the Hospital Land

NEED

**EXHIBIT C
TO
DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS**

Description of the Utility Facilities

“Utility Facilities” shall mean and include each of the following utility facilities:

(a) underground (and aboveground to the extent underground facilities cannot be installed) conduits, wires, lines, pipes and mains and other underground electrical utility structures and improvements necessary for the transmission and/or provision of electricity and electrical services to the MOB Property or the Hospital Property, as the case may be;

(b) underground pipes and mains and other underground gas utility structures and improvements necessary for the transmission and/or provision of natural gas to the MOB Property or the Hospital Property, as the case may be;

(c) underground pipes and mains and other underground sanitary sewer structures and improvements necessary for the provision of sanitary sewer services to the MOB Property or the Hospital Property, as the case may be;

(d) underground pipes and mains and other underground structures and improvements necessary for the drainage of storm water from the MOB Property or the Hospital Property, as the case may be;

(e) underground (and aboveground to the extent underground facilities cannot be installed) conduits, wires, lines and pipes and other underground telephone and telecommunications structures and improvements necessary for the transmission and/or provision of telephone and telecommunications services to the MOB Property or the Hospital Property, as the case may be; and

(f) underground pipes and mains and other underground water utility structures and improvements necessary for the provision of water and water services to the MOB Property or the Hospital Property, as the case may be.

**EXHIBIT D
TO
DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS**

Description of the Utility Services

“Utility Services” shall mean and include each of the following listed utility services:

Electricity and electrical services.

Natural gas and natural gas services.

Sanitary sewer services.

Storm water drainage services.

Telephone and telecommunications services.

Water and water services.

**EXHIBIT E
TO
DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS**

Utility Easement Parcels

At all times prior to the completion of construction of the MOB, the MOB Land Owner will have a temporary easement to construct, maintain and use temporary Utility Facilities at such locations on or in the Hospital Land as Hospital Land Owner and MOB Land Owner mutually deem reasonably necessary in connection with the construction and installation of the MOB. The location of the permanent Utility Facilities to be installed to provide permanent Utility Services to the MOB upon completion of construction of the MOB shall be subject to the approval of the Hospital Land Owner, which shall not be unreasonably withheld. Promptly after completion of the MOB, the MOB Land Owner shall prepare or cause to be prepared a metes and bounds description and drawing describing and showing the location of the permanent Utility Facilities. Subject to the Hospital Land Owner's approval of such description and drawing, which approval shall not be unreasonably withheld, the MOB Land Owner, the Hospital Land Owner and all Mortgagees will execute and Record an amendment of this Declaration that will substitute such description and drawing for this Exhibit E and thereafter, the parcel(s) described and shown on such new Exhibit E shall be the approved Utility Easement Parcels.