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DECLARATION OF CONDOMINIUM  
FOR

SARATOGA HILLS OFFICE CONDOMINIUM

**SARATOGA TOWN CENTER**

ENT 27790:2010 PG 1 of 20  
RODNEY D. CAMPBELL  
UTAH COUNTY RECORDER  
2010 Apr 06 2:22 pm FEE 55.00 BY SW  
RECORDED FOR SARATOGA SPRINGS CITY

THIS DECLARATION is made and executed as of the 3<sup>rd</sup> day of November 2009, by SARATOGA HILLS OFFICE, LLC. ("Declarant").

RECITALS:

A. Declarant is the record owner of that certain real property (the "Land") located in the City of Saratoga Springs, Utah County, Utah more particularly described in Article II hereof.

B. The Building and other improvements have been or are being constructed on the Land as shown on the Record of Survey Map.

C. Declarant desires, by filing this Declaration and the Record of Survey Map, to submit the Land, the Building and all improvements now or hereafter constructed thereon to the provisions of the Act as a condominium project to be known as the "Saratoga Hills Office Condominiums".  
**SARATOGA Town Center**

D. Declarant intends by Recording this Declaration and the Record of Survey Map that the fee title to the individual Units contained in the Project, together with the undivided ownership interests in the Common Areas and Facilities appurtenant to such Units, shall be owned, sold and conveyed subject to the covenants, restrictions, and limitations herein set forth.

NOW, THEREFORE, for the foregoing purposes, Declarant hereby makes the following Declaration:

I. DEFINITIONS

When used in this Declaration (including the Recitals and Bylaws and other exhibits attached hereto) the following terms shall have the meaning indicated. Any term used herein which is defined by the Act shall, to the extent permitted by the context hereof, have the meaning ascribed by the Act.

1.1. Act shall mean and refer to the Utah Condominium Ownership Act (Chapter 57-8, Utah Code Annotated, 1953, as amended).

1.2. Association of Unit Owners or Association shall mean and refer to all of the Owners taken as or acting as a group in accordance with this Declaration as more fully set out in Section 5.1 of this Declaration.

1.3. Building shall mean the Building described in Section 3.1 of this Declaration.

1.4. Bylaws are not defined and do not exist in this Association. Bylaws may be incorporated into the Association's governing documents at a later date. This Declaration shall initially define the processes and procedures in governing the Association.

1.5. Common Areas and Facilities or Common Areas shall mean, refer to, and include all Common Areas and Facilities designated as such in the Survey Map and all portions of the Project not specifically included within the individual Condominium Units as more fully described in Section 3.3 of this Declaration and all Common Areas as defined in the Act, whether or not enumerated herein. Common Areas and Facilities shall also mean, refer to and include all furniture, furnishings, equipment, facilities and other personal property and interests therein at any time leased, acquired or owned by the Association for the use and benefit of the Project and/or the Owners.

1.6. Common Expenses shall mean and refer to all sums which are expended on behalf of all the Unit Owners and all sums which are required by the Management Committee to perform or exercise its functions, duties, or rights under the Act, this Declaration, the Bylaws, any management agreement for operation of the Project, and such rules and regulations as the Management Committee may from time to time make and adopt. By way of illustration, but not limitation, Common Expenses shall include: (i) expenses of administration, maintenance, operation, repair and replacement of those elements of the Common Areas and Facilities that must be maintained and/or replaced on a periodic basis and reserves as may be from time to time established by the Committee; (ii) expenses agreed upon by the Association or the Management Committee and lawfully assessed against the Unit Owners in accordance with this Declaration or the Bylaws; (iii) expenses declared to be Common Expenses by the Act or by this Declaration or the Bylaws; and (iv) any valid charge against the Project as a whole.

1.7. Condominium Unit or Unit means and refers to a separate a single Unit as described in Section 3.2 of this Declaration together with an undivided interest in the Common Areas and Facilities and the appurtenant right to the exclusive use of Limited Common Areas associated with such Unit.

1.8. Condominium Project or Project shall mean and refer to the Saratoga Hills Office Condominiums and shall consist of the Property.

1.9. Declarant shall mean and refer to Saratoga Hills Office, LLC, or any successor or assign which, either by the operation of law, or through a voluntary conveyance, transfer, or assignment, comes to stand in the same relation to the Project as Saratoga Hills Office, LLC.

1.10. Declaration shall mean and refer to this instrument as the same may hereafter be modified or amended.

1.11. Land shall mean and refer to and consist of the real property described in Article II of this Declaration submitted to the terms of the Act by Article II hereof.

1.12. Limited Common Areas shall mean and refer to those Common Areas designated herein or on the Survey Map as reserved for the use of a certain Unit or Units to the exclusion of the other Units as further described in Section 3.4 of this Declaration.

1.13. Management Committee or Committee shall mean and refer to the Management Committee of the Association of Unit Owners.

1.14. Mortgage shall mean and include both a first mortgage and a first deed of trust by which a Unit or any part thereof is encumbered.

1.15. Mortgagee shall mean and include both a mortgagee under a first mortgage on any Unit and a beneficiary under a first deed of trust on any Unit.

1.16. Owner or Unit Owner shall mean and refer to the owner in fee simple of a Unit and the percentage of undivided interest in the Common Areas and Facilities which is appurtenant thereto. Declarant shall be deemed the Owner of all unsold Units. In the event a Unit is the subject of an executory contract of sale, the contract purchaser shall, upon notice to the Committee by the purchaser, unless the seller and the purchaser have otherwise agreed and have informed the Committee in writing of such agreement, be considered the Unit Owner for purposes of voting and Association membership. The term Owner or Unit Owner shall exclude Mortgagees and other persons or entities having any interest merely as security for the performance of an obligation.

1.17. Percentage Interest shall mean and refer to an undivided percentage interest of each Unit Owner in the Common Areas and Facilities as set out in Exhibit B to this Declaration.

1.18. Property shall mean and refer to the Land and the Building, and all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

1.19. Record of Survey Map, Survey Map or Map shall mean and refer to the Record of Survey Map filed in connection herewith executed and acknowledged by Declarant, consisting of 2 pages, and prepared and certified to by Ensign Engineering, a duly registered Utah Land Surveyor, as the same may hereafter be modified or amended.

## II. SUBMISSION

2.1. Submission to Act. Declarant hereby submits to the provisions of the Act, that certain parcel of real property with the address of 76 East Commerce Drive situated in the City of Saratoga Springs, Utah County, State of Utah more particularly described in Exhibit A attached hereto and incorporated herein by this reference and the Building and all other improvements now or hereafter constructed thereon.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property.

SUBJECT TO all liens for current and future taxes, assessments and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Land or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Survey Map or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line or similar facility which traverses or partially occupies the above-described Land at such time as construction of all Project improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

2.2. Covenants to Run With Land. This Declaration and all the provisions hereof shall constitute covenants running with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. By acquiring any interest in a Unit or in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

### III. DESCRIPTION OF BUILDING, CONDOMINIUM UNITS AND COMMON AREAS

3.1. Description of the Building. The Building and other improvements constructed on the Land are described in the Survey Map. The Building has two levels of above ground offices and one underground partial basement area. The number of Units in the Building is depicted on the Survey Map. Parking and other common areas are also is depicted on the Survey Map.

3.2. Description of the Condominium Units. The boundary lines of each Condominium Unit are the undecorated and unfinished interior surfaces of its perimeter walls, bearing walls, lowermost floor, uppermost ceiling, interior surfaces of windows and doors, window frames and door frames and trim. Each Unit shall include both the portions of the Building that are not Common Areas and Facilities within such boundary lines and the space so encompassed. Without limitation, a Unit shall include any finishing material applied or affixed to the interior surfaces of the interior walls and floors, and systems, fixtures, or appliances found within the boundary lines of the Unit and servicing only that Unit. Exhibit B hereto contains the number designation of each Unit. The Units are more particularly described in the Survey Map.

3.3. Description of Common Areas and Facilities. The Common Areas and Facilities shall mean and include: the Land, all portions of the Project and all Property not contained within any Unit, including, but not by way of limitation: the basement, foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, elevators, stairs, stairways, and entrances and exits of the Building; the grounds, parking areas and the areas used for storage of janitorial supplies, maintenance equipment and materials; installations of any and all central services, including power, light, water, hallway heating and air conditioning, and garbage collection; the elevators, pumps, motors, fans, ducts, and in general all apparatus and installations existing for common use; all driveways; any utility pipes, lines or systems servicing more than a single Unit and all ducts, flues, chutes, wires, conduits and other accessories and utility installations to the outlets used therewith; all Limited Common Areas as herein described; all other parts of the Property necessary or convenient to the existence, maintenance and safety, or normally common in use, or which have been designated as Common Areas and Facilities in the Survey Map; and all repairs and replacements of any of the foregoing.

3.4. Description of Limited Common Areas. Limited Common Areas mean and include those portions of the Common Areas and Facilities reserved for the use of certain Units to the exclusion of other Units. The use and occupancy of designated Limited Common Areas shall be reserved to its associated Unit and each Unit Owner is hereby granted an irrevocable license to use and occupy said Limited Common Areas.

3.5. Percentages of Undivided Interest in Common Areas and Facilities. The percentage of undivided interest in the Common Areas and Facilities appurtenant to each Unit and its Owner for all purposes, including voting, is set forth in Exhibit B.

### IV. PURPOSE AND USE OF PROJECT AND UNITS

4.1. Purpose of Project and Units. The purpose of the Project and the respective Units thereof is to provide offices with parking and other facilities for Unit Owners, their respective employees, clients, patients, visitors and guests.

4.2. Use of Units and Common Areas. The Units shall be occupied as offices and related purposes. No Unit shall be used for residential purposes.

4.3. Leasing. An unit Owner may lease its Unit for the same purposes set forth in Section 4.2 provided that such lease transaction is in accordance with the provisions of Section 4.10 hereof. All leases of Units shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the terms of this Declaration and Bylaws and that failure of the lessee to comply with the terms of said documents shall be a default under the lease.

4.4. Improper Uses. No immoral, improper, unlawful or offensive activity shall be carried on in any Unit or upon the Common Areas and Limited Common Areas nor shall anything be done which may be or become an annoyance or a nuisance to the Unit Owners. No Owner shall do or permit anything to be done or keep or permit to be kept in its Unit or on the Common Areas and Limited Common Areas anything that will result in the cancellation of the insurance on the Project or any part thereof or will increase the rate of insurance on the Project. No Owners shall make or permit any noise or objectionable odor that will disturb or annoy the occupants of the Units or do permit anything to be done therein which would interfere with the rights, comfort, or convenience of the other Owners. Bird or animal shall be kept or harbored in the building except in each instance by the express permission of the Management Committee in writing.

4.5. Signs. No signs or other advertising devises shall be displayed which are visible from the exterior of the Unit or on the Common Areas and Limited Common Areas, including "For Sale" signs, except in conformity with Rules and Regulations promulgated by the Management Committee; provided, however, that the Owners may have signs on their windows and doors within such limitations on size and type as the Management Committee may determine, but not on the exterior walls of the improvements, and provided, further that no Owner can be excluded from any building directory unless prohibited by law or ordinance.

4.6. Cleaning and Storage in Common Areas. The Common Areas and Limited Common Areas, other than Limited Common Areas specifically designated as storage areas, are not to be used for storage of supplies, personal property or trash or refuse of any kind except common trash receptacles placed at the discretion of the Management Committee, nor shall the Common Areas and Limited Common Areas be used in any way for the drying, shaking or airing or clothing or other fabrics. Stairs, entrances, sidewalks, yards, driveways, and parking areas shall not be obstructed in any way nor shall unauthorized persons use them for other than their intended purposes. In general, no activities shall be carried on nor condition maintained by any Owner either in its Unit or upon the Common Areas and Limited Common Areas which despoils the appearance of the Project. No damage to or waste of the Common Areas or any part thereof shall be committed by any Owner, or its respective employees, clients, patients, visitors and guests, and each Owner shall indemnify and hold the Management Committee and the other Unit Owners harmless against all loss resulting from any such damage or waste caused by such Owner, or its respective lessees, employees, clients, patients, visitors and guests.

4.7. Maintenance of Units. Each Owner shall maintain its Unit in a sanitary condition as provided in Section 6.2 hereof. Each Owner shall also use due care to avoid damaging any of the Common Areas and Limited Common Areas or any other Unit, and each Owner shall be

responsible for its negligence or misuse of any of the Common Areas and Limited Common Areas or of its own facilities resulting in damage to the Common Areas and Limited Common Areas or any other Unit.

4.8. Rules and Regulations. In additions to the restrictions set forth in this Article IV, the use of the Units and the Common Areas and Facilities shall also be subject to such Rules and Regulations of general application as the Management Committee may adopt for protecting the interests of all the Owners or protecting the Units or the Common Areas.

4.9. Parking Areas. Common Areas designated for parking shall be used for the parking of vehicles of Owners and the vehicles of employees, patients, patrons and visitors, guests and invitees of Owners. All parking areas shall be maintained by the Association. The Management Committee may establish reasonable rules and regulations governing use of the driveways and parking areas in the Common Property including the restriction of certain parking areas for the sole use of employees, patients, handicapped persons, or patrons.

4.10. Division of Utility Costs. The cost of all utility or municipal services (including, without limitation, water, sewer, garbage collection, telephone, electrical, and gas) which are separately metered or otherwise separately billed directly to the Units shall be paid by the Owners of the respective Units provided that if any such services also benefit the Common Areas, the Association shall reimburse the Owner for the portion benefiting the Common Areas as Common Expenses. The cost of all such services which are not separately metered (if metering is applicable to the service in question) and not billed to any Units (but rather are billed to the Project as a whole), shall be paid by the Association as Common Expenses. Provided that if the Management Committee reasonable determines that such services are not used by or do not benefit all Units or do not benefit the Units in roughly the same proportion as the Common Expenses are assessed to the various Owners, the Management Committee may assess such services to the Owners of the benefited Units proportionate to the service or benefit to each such Unit in a fair and reasonable manner on the basis of the best information reasonably available at the time.

## V. ASSOCIATION OF UNIT OWNERS - MANAGEMENT COMMITTEE

5.1. Association of Unit Owners. The persons or entities who are, at the time of reference, the Unit Owners constitute an unincorporated association and not a legal entity, the characteristics and nature of which are determined by the Act, this Declaration and the Bylaws. The name in which contracts shall be entered into, title to property shall be acquired, held, dealt in and disposed of, bank accounts shall be opened and suits shall be brought and defended by the Management Committee or officers thereof on behalf of and as agents for the Unit Owners in the manner specified in the Act, this Declaration or the Bylaws is: "Saratoga Crossing Office Condominium Association, an association of unit owners under the Utah Condominium Act".

5.2. Voting. At any meeting of the Association of Unit Owners, each Unit Owner, including Declarant, either in person or by proxy, shall be entitled to the number of votes which is equal to the percentage of undivided interest of the Common Areas and Facilities assigned to its Unit in Exhibit B to this Declaration. If there is more than one Owner with respect to a particular Unit, any or all of such Owners may attend any meeting of the Association, but it shall be necessary for all such Owners present to act unanimously in order to cast the votes pertaining to their Unit. In those cases in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, con-

sents in writing to such transaction from Unit Owners who collectively hold at least the necessary percentage of undivided ownership interest.

5.3. Management Committee. The management and maintenance of the Project, the Property and the business and affairs of the Association of Unit Owners shall be managed by a Management Committee as provided in the Bylaws. Each Unit Owner, or its designee, shall be a member of the Management Committee. At any meeting of the Management Committee, the Unit Owner or its representative shall be entitled to the number of votes which is equal to the percentage of undivided interest of the Common Areas and Facilities assigned to its Unit in Exhibit B to this Declaration. All agreements and determinations with respect to the Project and the Property lawfully made or entered into by the Management Committee shall be binding upon all of the Unit Owners and their successors and assigns.

5.4. Powers and Duties of Management Committee. The Management Committee shall have all the powers, duties and responsibilities which are now or may hereafter be provided by the Act, this Declaration and the Bylaws, including but not limited to the following:

5.4.1. To make and enforce rules and regulations covering the operation and maintenance of the Property.

5.4.2. To engage the services of a manager or managing company, accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation for their services; provided however, that any management agreement may be terminable by the Management Committee for cause upon thirty days' written notice and that the term of any said management agreement may not exceed one year, renewable by agreement for successive one year periods.

5.4.3. To operate, maintain, repair, improve, and replace the Common Areas and Facilities, including entering into agreements for the use and maintenance of the Common Areas and Facilities for the benefit of the Association.

5.4.4. To determine and pay the Common Expenses.

5.4.5. To assess and collect the proportionate share of Common Expenses from the Unit Owners.

5.4.6. To enter into contracts, deeds, leases, and/or written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

5.4.7. To open bank accounts on behalf of the Association and to designate the signatures therefore.

5.4.8. To purchase, hold, sell, convey, mortgage or lease any one or more Units in the name of the Association or its designee.

5.4.9. To bring, prosecute and settle litigation for itself, the Association and the Project.

5.4.10. To obtain insurance for the Association with respect to the Units and Common Areas and Facilities as well as workmen's compensation insurance and such other insurance required by the Act, this Declaration or the Bylaws or determined to be necessary or

advisable by the Management Committee as provided by the Act, this Declaration or the Bylaws.

5.4.11. To repair or restore the Property following damage or destruction or a permanent taking by a power in the nature of eminent domain or by an action or deed in lieu of condemnation not resulting in the removal of the Property from the provisions of the Act.

5.4.12. To own, purchase or lease, hold and sell or otherwise dispose of on behalf of the Unit Owners, items of personal property necessary to or convenient in the management of the business and affairs of the Association and the Management Committee and in the operation of the Property.

5.4.13. To keep adequate books and records.

5.4.14. To do all other acts necessary for the operation and maintenance of the Property, including the maintenance and repair of any Unit if the same is necessary to protect or preserve the Project.

5.5. Professional Management. The Management Committee may employ professional management to manage the Project. In the event the Management Committee decides to terminate professional management and assume self-management of the Project, the prior written approval of each Mortgagee must be obtained. Rockworth Management shall be the initial property manager for the Building and the fee shall be \$650 monthly commencing January 1, 2010 through December 31, 2010.

5.6. Powers and Duties of Professional Management. The Management Committee may delegate to a professional manager or managing company all of its powers, duties and responsibilities referred to in Paragraph 5.4 above except: the final determination of Common Expenses, budgets and assessments based thereon; the promulgation rules and regulations; the power to enter into any contract involving more than \$10,000 in any one fiscal year; the power to purchase, hold, sell, convey, mortgage, or lease any Units in the name of the Association; to bring, prosecute and settle litigation; or any other power, duty or responsibility nondelegable by law.

5.7. Limitation of Liability of Management Committee and Officers. Members of the Management Committee and the officers of the Association: (i) shall not be liable to the Unit Owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to a Unit Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such; (iii) shall have no personal liability in tort to any Unit Owner or any person or entity direct or imputed by virtue of acts performed by them except for their own willful misconduct or bad faith or acts performed by them in their capacity as such; (iv) shall have no personal liability arising out of the use, misuse or condition of the Property which might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as such.

5.8. Indemnification of Management Committee and Officers. The Unit Owners shall indemnify and hold harmless any person, his or her heirs and personal representatives from and against all personal liability and all expenses, including attorney's fees, incurred or imposed or arising out of or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, instituted by any one or more Unit Owners or any other persons or entities to which he or she shall be threatened to be made a party



by reason of the fact the he or she was a member of the Management Committee or an officer of the Association, other than to the extent, if any, such liability or expense shall be attributable to his or her willful misconduct or bad faith, provided, further that in the case of any settlement that the Management Committee shall have approved, the indemnification shall apply only when the Management Committee approves the settlement as being in the best interests of the Association. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement or vote of Unit Owners or of the Management Committee or otherwise. The indemnification by the Unit Owners as contained herein shall be paid by the Management Committee on behalf of the Unit Owners and shall constitute a Common Expense and shall be assessed and collectable as such.

## VI. MAINTENANCE, ALTERATION AND IMPROVEMENT

6.1. Maintenance of Common Areas and Facilities. The cleaning, maintenance, alteration, replacement and repair of the Common Areas and Facilities shall be the responsibility of the Management Committee and the costs thereof shall be a Common Expense. The Management Committee shall also maintain, alter, replace and repair all parking areas, balconies and patios and all conduits, ducts, plumbing and wiring and other facilities for the furnishing of heat, gas, light, power, air conditioning, water and sewer that may be contained in portions of the Units, but which service part or parts of the Project other than the Unit in which they are contained. All incidental damages caused to a Unit by the maintenance, alteration, replacement and repair of the Common Areas and Facilities or utilities shall be repaired promptly by the Management Committee as a Common Expense. The Management Committee shall be responsible for cleaning and general maintenance of all parking areas.

6.2. Maintenance of Units. Each Owner shall keep the interior or its Unit, including, without limitation, interior walls, windows, ceilings, floors and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in a state of good repair. In addition, each Owner shall be responsible for the maintenance, repair or replacement of any cabinetry, plumbing fixtures, water heaters, heating equipment, air conditioner, lighting fixtures or other appliances or fixtures that may be in or are used for its Unit, even though not within its boundaries. In the event that any such Unit shall develop an unsanitary or unclean or unsafe condition or fall into a state of disrepair, and in the event that the Owner of such Unit shall fail to correct such condition or state of disrepair promptly following written notice from the Management Committee, the Management Committee on behalf of the Association shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary or unclean condition or state of disrepair; provided, however, that the Association shall in no event have the obligation to correct or eliminate any such condition or state of disrepair. The Unit Owners shall keep clean and in a sanitary condition their storage areas, balconies or patios, if any.

6.3. Interior of Units. Each Owner shall have the exclusive right to paint, repaint, tile, paper, carpet or otherwise decorate the interior surfaces of the walls, ceilings, floors and door forming the boundaries of its Unit and the surfaces of all walls, ceilings, floors and doors within such boundaries, construct and remove partition walls, fixtures and other improvements within the boundaries of its Unit; provided, however, that such improvements (i) shall not impair the structural soundness or integrity of the Building; (ii) shall not interfere with facilities necessary for the support, use or enjoyment of any other part of the Project; (iii) shall be built to construction standards comparable or better than the original construction of the Project; and (iv) shall not encroach upon the Common Areas or any part thereof, unless the Management Committee shall consent in writing to such encroachment.

6.4. Structural Changes and Prohibitions. No Owner shall make structural alterations or modifications to its Unit or to any of Common Areas and Limited Common Areas, including, but not limited to, the erection of antennas, aerials, awnings, the placement of any reflective or other material in the windows of the Unit, or other exterior attachments, without the prior written approval of the Management Committee. The Management Committee shall not approve any alterations, decorations or modifications which would jeopardize or impair the soundness, safety or appearance of the Project. The approval of structural alterations by the Management Committee shall be subject to such conditions as the Management Committee may impose, including, but not limited to, minimum size requirements, architectural plans, maintenance of liability insurance during construction, performance and payment bonds, or otherwise, the expense of which must be borne by the affected Owners.

6.5. Association Access to Unit. The Association or its agents shall have access to each Unit from time to time during reasonable working hours, upon notice to its Owner, as may be necessary for the maintenance, repair or replacement of any of the Common Areas and Limited Common Areas, or other Units. The Association or its agents shall also have access to each Unit at all times without notice as may be necessary to make emergency repairs to prevent damage to the Common Areas and Limited Common Areas or to another Unit. If requested by the Association, each Owner shall furnish to the Association a duplicate key to the entrance door to its Unit and shall furnish a new duplicate key upon any change of locks thereto. Said keys shall be kept by the Association in a safe and secure place, and are to be used only in case of emergency or upon written authorization of the Owners.

## VII. INSURANCE

7.1. Insurance Requirements. The Management Committee shall obtain and maintain at all times insurance of the types and kinds as provided herein and including insurance for all other risks, of a similar or dissimilar nature, as or shall hereafter customarily be covered with respect to other properties similar to the Project in construction, design and use. The Management Committee shall make a reasonable effort to obtain insurance with the following provisions or endorsements:

7.1.1. Exclusive authority to adjust losses shall be vested in the Management Committee as insurance trustees or any successor trustee as designated by the Management Committee.

7.1.2. The insurance coverage shall not be brought into contribution with insurance purchased by individual Unit Owners or their respective Mortgagees.

7.1.3. Each Unit Owner may obtain additional insurance covering its real property, fixtures, or personal interest at its own expense, so long as such additional or other insurance does not have the effect of decreasing the amount which may be realized under any insurance maintained by the Management Committee.

7.1.4. The insurer waives its rights of subrogation as to any and all claims against the Association, each Unit Owner, and/or their respective agents, employees or tenants, and of all defenses based upon co-insurance or upon invalidity arising from the act of the insured.

7.1.5. The insurance coverage cannot be canceled, invalidated or suspended because of the conduct of any one or more individual Unit Owners or their respective lessees, employees,

agents, contractors, and guests.

7.1.6. The insurance coverage cannot be canceled, invalidated or suspended because of the conduct of any officer or employee of the Association or Management Committee or their employees, agents, or contractors, without prior demand in writing that the Management Committee cure the defect and then only if the defect is not cured within 15 days.

7.1.7. Such policies shall provide that coverage shall not be prejudiced by any act or neglect of the Unit Owners when such act or neglect is not within the control of the Association or failure of the Association to comply with any warranty or condition with regard to any portion of the Project over which the Owners Association has no control.

7.1.8. The insurance coverage shall provide that coverage may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to any and all insureds named thereon, including all Mortgagees.

7.1.9. All policies of property insurance shall provide that, notwithstanding any provisions thereof which give the insurer the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Management Committee (or any insurance trustee) or when in conflict with the provisions of any insurance trust agreement to which the Association may be a party, or any requirement of Law.

7.2. Property Insurance. The Management Committee, for the benefit of the Project and the Unit Owners, shall maintain a "master" or "blanket" policy of property insurance in an amount equal to the full replacement value (i.e. 100% of the current "replacement cost" exclusive of land, foundations, excavations, and other items normally excluded from coverage) of the entire Condominium Project (including all Units, all Common Areas and Facilities, service equipment and any fixtures or equipment, but not contents furnished or installed by Unit Owners within the Units) with an "Agreed Amount Endorsement" or its equivalent, and, if necessary, an "increased Cost of Construction Endorsement" or "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent, payable to the insurance trustee to be disbursed in accordance with the terms of this Declaration. Such insurance will afford protection against at least the loss or damage by fire and other hazards covered by the standard extended coverage endorsement, debris removal, vandalism, malicious mischief, windstorm, and water damage. The limits and coverage of said insurance shall be reviewed at least annually by the Management Committee. Said policy or policies shall provide for a separate loss payable endorsement in favor of the Mortgagee of each Unit, if any, as their interests may appear. The costs of this policy shall be split amongst the owners proportionate to their respective ownership.

7.3. Liability Insurance. The Management Committee shall obtain a comprehensive policy or policies of public liability insurance insuring the Association, the Management Committee, the Unit Owners and their respective lessees, agents, employees, clients, patients, visitors or guests against any liability to the public or to the Unit Owners, incident to the ownership and/or use of the Property, and including the personal liability of the Unit Owners incident to the ownership and/or use of the Property. Limits of liability under such insurance shall not be less than \$2,000,000 for any one person injured in any one occurrence, and shall not be less than \$100,000 for property damage in each occurrence. The limits in coverage of said liability policy or policies shall be reviewed at least annually by the Management Committee and increased at its discretion. Said policy or policies shall be issued on a comprehensive liability basis and, if possible, shall provide cross-liability endorsements for possible claims of any one or more or group of insureds against any one or more or group of insureds, without prejudice to the

right of a named insured under the policies to maintain an action against another named insured. Such coverage will include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and such other risks as shall customarily be covered with respect to projects similar in construction, location and use.

7.4. Fidelity Coverage. The Management Committee may maintain fidelity coverage to protect against dishonest acts on the part of members of the Management Committee, officers, and employees of the Association, including professional managers and their employees. Such fidelity bonds shall meet the following requirements:

7.4.1 All such fidelity bonds shall name the Association as the insured.

7.4.2. Such fidelity bonds shall be written in an amount equal to at least 50% of the estimated annual operating expenses of the Association, including reserves.

7.4.3. Such fidelity bonds shall include as part of any definitions of "employee" or similar expression both persons who serve with and without compensation.

7.4.4. Such bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days prior written notice to the Mortgagees of the Units.

7.5. Other Insurance. The foregoing provisions of this Article VII shall not be construed to limit the power or authority of the Management Committee to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Management Committee may deem proper from time to time.

7.6. Owner's Own Insurance. Each Owner, at its own expense, may procure and maintain at all times fire and extended coverage insurance covering personal property of such Owner and additional fixtures and improvements added by such Owner against loss by fire and other casualties, including, without limitation, vandalism and malicious mischief. All policies providing such casualty insurance shall provide that they do not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this article. Notwithstanding the provisions hereof, such Owner may obtain insurance at its own expense providing such other coverage upon its Condominium, its personal property, for its personal liability and covering such other risks as it may deem appropriate, provided that each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies obtained by the Association pursuant to this article. If obtainable under industry practice without an unreasonable additional charge for such waiver, all such insurance shall contain a waiver of the insurance company's right of subrogation against the Association, the other Owners and their respective servants, agents and guests.

## VIII. ASSESSMENTS

8.1. Agreement to Pay Assessment. Declarant, for each Unit owned by it within the Project, hereby covenants, and each Owner of any Unit by the acceptance of a deed therefor, whether or not it be so expressed in the deed, or by entering into a sale and purchase contract, shall be deemed to covenant and agree with each other and with the Association to pay to the Association assessments made by the Association for the Common Expenses and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time pursuant to the Bylaws

and subject to the provisions of in this Article VIII.

8.2. Apportionment of Expenses. Each Unit Owner shall be liable for a proportionate share of the Common Expenses and shall share in the common profits, such shares being the same as the percentage of undivided interest in the Common Areas and Facilities appurtenant to the Unit owned by the Unit Owner as set forth in Exhibit B.

8.3. Commencement of Assessments. Assessments for Common Expenses on any Unit shall commence on that date which is the date of closing of a sale of the Unit, or the date of occupancy of the Unit, whichever occurs first, without regard to who is designated as the Owner thereof.

8.4. Assessments for Capital Improvements. The Management Committee may include in the monthly assessments, amounts representing contributions to the capital of the Association to be used for the replacement of or additions to capital items or improvements to the Project. Said amounts shall be set up as capital accounts for each Unit. In the event of transfer of a Unit, the capital account shall be deemed transferred to the Unit transferee.

8.5. Interest on Delinquent Assessments. Assessments and any installments thereof not paid on or before ten days after the date when due shall bear interest at the rate of 18% per annum, or at such rate of interest as may be set by the Management Committee, from the date when due until paid. All payments on account shall be first applied to interest and then to the assessment payment first due.

8.6. Lien for Assessments. Any unpaid assessments shall constitute a continuing lien on the interest of any Unit Owner, which shall also secure reasonable attorney's fees and all costs and expenses incurred by the Management Committee incident to the collection of such assessment or enforcement of such a lien. Such lien shall be superior to all other liens and encumbrances on such Unit, recorded or unrecorded, except only for: (i) valid tax and special assessments liens on the Unit in favor of any governmental assessing authority; (ii) the lien of a Mortgage; and (iii) encumbrances on the interest of the Unit Owner recorded prior to the date a notice of lien under this Section is recorded which by law would be a lien prior to subsequently recorded encumbrances. To evidence a lien for sums assessed hereunder, the Management Committee may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Unit and a description of the Unit. Such a notice shall be signed by the Committee and may be recorded. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Committee in the same manner in which mortgages on real property may be foreclosed in Utah. In any foreclosure of a lien for assessments, the Unit Owner subject to the lien shall be required to pay a reasonable rental for the Unit, and the Management Committee shall be entitled to the appointment of a receiver to collect the same. The Management Committee shall have the right and power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof. A release of notice of lien shall be executed by the Management Committee and recorded in the Office of the County Recorder of Salt Lake County, Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien. Any encumbrancer holding a lien on a Unit may pay, but shall not be required to pay, any amounts secured by the lien created hereunder, and upon such payment such encumbrancer shall be subrogated to all rights of the Management Committee with respect to such lien, including priority. If a Unit Owner shall, at any time, let its Unit and shall default for a period of one month in the payment of assessments, the Management

Committee may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due, and the payment of such rent to the Management Committee shall discharge such tenant from its obligation for rent to the Owner and the Owner from its obligation to the Association, to the extent of the amount so paid.

8.7. Personal Obligation of Owner. The amount of any assessment against any Unit shall be the personal obligation of the Unit Owner to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Committee without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of its Unit.

8.8. Statement of Account. Upon payment of a reasonable fee not to exceed \$10.00, or such other amount as may in the future be allowed by the Act, and upon written request of any Owner or any Mortgagee, prospective Mortgagee or prospective purchaser of a Unit, the Committee shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Unit; the amount of the current assessment and the date that such assessment becomes or became due; any credit for advanced payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums; and such statement shall be conclusive upon the Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within 20 days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within the 20 day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within ten days, and the purchaser subsequently acquires the Unit.

8.9. Personal Liability of Purchaser for Assessments. Subject to the provisions of Section 8.8, a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

## IX. DESTRUCTION, CONDEMNATION AND TERMINATION

9.1. Destruction or Damage. In the case of fire or other damage or destruction to all or part of the Property, the Management Committee, with the help of an independent appraiser if necessary or advisable, shall determine the percentage of the Building that was destroyed or damaged and shall proceed as follows:

9.1.1. If Less than 75 percent of the Building is destroyed or substantially damaged, the Management Committee shall arrange for the prompt repair and restoration of the Building using the proceeds of insurance on the Building for that purpose, and the Unit Owners shall be liable for assessment for the deficiency, if any, in proportion to their respective percentages of undivided interests in the Common Areas and Facilities. Reconstruction of the Building shall mean the restoring of the Building to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas and Facilities having the same vertical and horizontal boundaries as before, unless the destruction or damage is by reason of eminent domain, in which event the provisions of Section 9.2 hereof shall apply.

9.1.2. If 75 percent or more of the building is destroyed or substantially damaged, the Management Committee shall, within 100 days after such destruction or damage, call a special meeting of the Unit Owners for the purpose of deciding whether or not the Building shall be repaired and restored. If the proceeds of insurance on the Building are sufficient to reconstruct the Building, then unless the Unit Owners representing 75 percent of the undivided interests in the Common Areas affirmatively vote not to restore the Building, the Management Committee shall promptly arrange for the reconstruction of the Building, using the proceeds of insurance on the Building for that purpose. If the proceeds of insurance on the Building are not sufficient to reconstruct the Building, then if the Unit Owners representing at least 75 percent of the undivided interests in the Common Areas, in person or by proxy, vote to repair or restore the Building, the Management Committee shall promptly arrange for the reconstruction of the Building, using the proceeds of insurance on the Building for that purpose, and the Unit Owners shall be liable for assessment for any deficiency, if any, in proportion to their respective percentage of undivided interest in the Common Areas and Facilities. If the destruction or damage is by reason of eminent domain, the provisions of Section 9.2 hereof shall apply.

9.1.3. If 75 percent or more of the Building is destroyed or substantially damaged and the reconstruction of the Building is not approved as provided in Section 9.1.2, the Management Committee shall record, with the County Recorder, a notice of setting forth such facts, and upon the recording of such notice: (i) the Property shall be deemed to be owned in common by the Unit Owners; (ii) the undivided interest in the Property owned in common which shall appertain to each Unit Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas and Facilities; (iii) any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Unit Owner according to their undivided interest in the Common Areas; and (iv) the Property shall be subject to an action for partition at the suit of any Unit Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property shall be considered as one fund and shall be divided among all Unit Owners in a percentage equal to the percentage of undivided interest owned by each Unit Owner in the Common Areas and Facilities, after first paying out of the respective shares of the Unit Owners, to the extent sufficient for such purposes, all sums necessary to satisfy the Mortgage on the Unit owned by each Unit Owner.

9.1.4. For purposes of this Section 9.1, the terms "disaster," "destruction" or "substantial damage" shall mean and include a temporary or permanent taking, injury or destruction of all or part of the Common Areas and Facilities or one or more Units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation.

9.2. Eminent Domain. Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury or destruction of all or part of the Common Areas and Facilities or one or more Units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation (all of which shall be defined as "eminent domain"), the Management Committee, each Unit Owner, and every Mortgagee, shall be entitled to timely written notice thereof and the Management Committee shall and the Unit Owners, at their respective expense, may participate in the proceedings incident thereto. The provisions governing the allocation of awards by reason of eminent domain shall be determined in accordance with Section 57-8-32.5 of the Act; provided, that the priority of any Mortgage shall remain undisturbed.

9.3. Termination. All of the Unit Owners may agree that the Units are obsolete or the

Project should otherwise be abandoned or terminated and that the same should be sold. Such plan or agreement must have the written unanimous approval of every Mortgagee. In such instance, the Management Committee shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice, the entire Property shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Survey Map and the Bylaws. The sales proceeds shall be apportioned among the Owners and disbursed in the same manner as provided in Section 9.1.3 of this Declaration.

## X. MORTGAGE PROTECTION

10.1 Notice of Action. Upon written request made to the Association by a Mortgagee, which written request shall identify the name and address of such Mortgagee, and the number and address of the Condominium, any such First Mortgagee, shall be entitled to timely written notice of:

10.1.1. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Condominium on which there is Mortgage held by such Mortgagee;

10.1.2. Any delinquency in the payment of assessments or charges owed by an Owner, whose Condominium is subject to a Mortgage held by such Mortgagee, which default remains uncured for a period of 60 days;

10.1.3. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

10.1.4. Abandonment or termination the legal status of the Project after substantial destruction or condemnation occurs.

10.2. Right to Examine Books Etc. Any Mortgagee shall have the right to examine the books and records of the Association during normal business hours and, upon request shall be entitled to receive copies of annual reports, financial statements and other financial data for the preceding fiscal year, and shall be entitled to receive written notice of all meetings of the Association and may designate a representative to attend all such meetings.

10.3. Priority of Liens. A Mortgagee of any Unit who comes into possession of the Unit pursuant to the remedies provided in the Mortgage or by deed in lieu of foreclosure, shall take the property free of any claims or unpaid assessments or charges against the mortgaged Unit which accrued prior to the time such Mortgagee comes into the possession of the Unit (except for claims for a prorata share of such assessments or charges resulting from a prorata reallocation of such assessments or charges to all Units, including the mortgaged Unit). The liens created under the Act or pursuant to this Declaration or the Bylaws upon any Unit shall be subject and subordinate to any Mortgage on that Unit, and shall not affect the rights of the Mortgagee pursuant to a Mortgage upon a Unit, recorded prior to the date such liens arose and which is made in good faith and for value, provided that after the foreclosure of any such Mortgage, any assessments created pursuant to this Declaration or the Bylaws after the date of such sale shall have the same effect and be enforced in the same manner against the Purchaser at such sale as would be the case for any other Unit Owner.

10.4. Amendment of Article X. No amendment to Article X of this Declaration shall affect the rights of the Mortgagee under any Mortgage recorded prior to the recordation of any such amendment who does not join in the execution thereof.



## XI. CONVEYANCE, EASEMENTS AND ENCROACHMENTS

11.1. Conveyancing. Every deed, lease, mortgage, instrument of conveyance or sale, or other instrument affecting title to a Unit shall describe the Unit by its designation set forth in Exhibit B and in the Survey Map with appropriate reference to the Survey Map and this Declaration, as each shall appear on the records of the County Recorder of Utah County, State of Utah. Every such description shall be deemed good and sufficient for all purposes and shall be deemed to convey, transfer, encumber or otherwise affect the Unit Owner's corresponding percentage of undivided ownership in the Common Areas and Facilities, as a tenant-in-common, as set forth in Exhibit B, also incorporating all rights and limitations incident to ownership described in this Declaration and the Bylaws, even though the same are not exactly mentioned or described. A description shall be deemed sufficient if it appears in substantially the following form:

Unit \_\_\_\_\_, as shown in the Record of Survey Map for the Saratoga Crossing Office Condominiums appearing in the Records of the County Recorder of \_\_\_\_\_ County, State of Utah, in Book No. \_\_\_\_\_, Page No. \_\_\_\_\_, of Plats, and as defined and described in the Declaration for \_\_\_\_\_ Condominiums, recorded the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, as Entry No. \_\_\_\_\_, Book No \_\_\_\_\_, Page No. \_\_\_\_\_. The Declaration of \_\_\_\_\_ Condominiums includes Exhibits A, and B attached thereto.

11.2. Easements. Every deed, lease, mortgage or other similar instrument shall be deemed to:

11.2.1. Except and reserve with respect to a Unit; (i) any portion of the Common Areas and Facilities lying within said Unit; (ii) easements through said Unit, appurtenant to the Common Areas and Facilities and all other Units, for support and repair of the Common Areas and Facilities and all other Units; and (iii) easements, appurtenant to the Common Areas and Facilities, for encroachment upon the air space of said Unit by those portions of the Common Areas and Facilities located within said Unit by those portions of the Common Areas and Facilities located within said Unit.

11.2.2. Include with respect to a Unit nonexclusive easements for ingress and support of said Unit through the Common Areas and Facilities, for the repair of said Unit through all other Units and through all Common Areas and for the use of the Limited Common Areas associated with the Unit as indicated in this Declaration and the Survey Map.

11.2.3. Except and reserve, with respect to the undivided percentage interest in the Common Areas and Facilities, nonexclusive easements appurtenant to all Units for ingress, egress, support and repair and exclusive easements appurtenant to each Unit for the use of the balcony, patio, and any storage area as set forth in Exhibit B and the Survey Map.

11.2.4. Include, with respect to the undivided percentage interest in the Common Areas and Facilities, nonexclusive easements through each Unit for support and repair of the Common Areas and Facilities and nonexclusive easements for encroachments upon the air space of all of the Units by and for the portions of the Common Areas and Facilities lying within the Units.

11.3. Encroachments. None of the rights and obligations of any Unit Owner created by

this Declarations, the Bylaws or by any deed conveying a Unit shall be affected in any way by any encroachments (i) by any portion of the Common Areas and Facilities upon any Unit; (ii) by any Unit upon another Unit or upon the Common Areas due to settling or shifting of the Building or other structure, including the rebuilding of the Building or other structure after fire or other casualty or an eminent domain taking or delivery of a deed in lieu of condemnation, unless there occurs an encroachment that results from the willful or negligent act or omission of the Unit Owner of the encroaching Unit, or of the owners of the Units to which the use of the encroaching Limited Common Areas is appurtenant, or of the Management Committee in the event of an encroachment by any portion of the Common Areas and Facilities other than the Limited Common Areas. There are hereby created valid easements for the maintenance of any encroachments permitted by this Section so long as such encroachments exist.

## XII. AMENDMENT

12.1. Amendment by Unit Owners. Except as otherwise provided in this Declaration and except as prohibited by the Act, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged by Unit Owners who own 75 percent in the aggregate of the ownership interest in the Common Areas and Facilities, which amendment shall be effective upon recording, and upon approval of Mortgagees where necessary. Any material amendment to this Declaration, including, but not limited, to any such amendment which would alter the percentage interests in the Common Areas and Facilities, other than those alterations allowed in Article XIV, must be approved in writing by all Mortgagees.

## XIII. GENERAL PROVISIONS

13.1. Agent for Service of Process. Declarant has no Agent for Service Process.

13.2. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to be delivered 48 hours after a copy of the same has been deposited in the U.S. postal service, postage prepaid, return receipt requested. Notice to Unit Owners shall be addressed to each Unit Owner at the address given in writing by such Unit Owner to the Management Committee for the purpose of service of such notice or to the Unit of such Unit Owner if no such address has been given to the Management Committee. Such address may be changed from time to time by notice in writing addressed to the Management Committee.

13.3. Waiver. The failure of the Management Committee or its contractors to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration or the Bylaws, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the Management Committee or its contractor of the payment of any assessment from a Unit Owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Management Committee of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Management Committee.

13.4. Enforcement. Each Owner or occupant of a Unit shall strictly comply with, and all interests in all Units shall be subject to, the terms of the Act, the terms of this Declaration, the By-Laws, and the provisions of any rules, regulations, agreements, instruments, and

determinations contemplated by this Declaration, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee on behalf of Unit Owners, or, in a proper case by an aggrieved Unit Owner.

13.5. Accommodation of Handicapped Persons. Notwithstanding any other provision of this Declaration, the Bylaws or any rules or regulations adopted by the Management Committee, the Management Committee shall make reasonable accommodations under any restrictions therein contained as may be necessary to afford a handicapped person equal opportunity to use and enjoy the Property.

13.7. Gender. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

13.8. Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

13.9. Law Controlling - Conflicts. This Declaration, the Survey Map and the Bylaws shall be construed and controlled by and under the laws of the State of Utah. This Declaration is set forth to comply with the requirements of the Act. In the event of any conflict between this Declaration and the provisions of the Act, the provisions of the Act shall control.

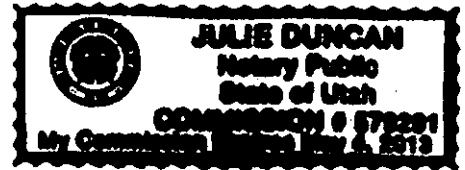
13.10. Captions. The captions in this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

13.11. Effective Date. This Declaration shall take effect upon recording in the office of the County Recorder of Utah County, Utah.

EXECUTED on the day and year first above written.

SARATOGA HILLS OFFICE, LLC

By Spencer H Hess  
Its Manager



STATE OF )

: ss.

COUNTY OF )

The foregoing instrument was acknowledged before me this 5 day of <sup>November</sup> ~~October~~ 2009, by Spencer Hess as Manager of Saratoga Hills Office, LLC.

My commission expires:

May 7, 2013

Julie Duncan  
Notary Public  
Residing at: 9980 So 300 W St 310  
Sandy, UT 84070

EXHIBIT "A"

Boundary Description

All of Lot 8B of the Saratoga Town Center Lot 8 Minor Subdivision, a Subdivision within the South Half of Section 11, and the North Half of Section 14, Township 5 South, Range 1 West, Salt Lake Base and Meridian, U.S. Survey in Utah County, Utah. Contains 63,899 Square Feet or 1.467 Acres.

EXHIBIT "B"

Percentages of Undivided Interest in Common Areas and Facilities

<u>SUITE NUMBER</u>	<u>RENTABLE SQUARE FEET</u>	<u>PERCENT OF UNDIVIDED INTEREST IN COMMONS</u>
Suite 101	2,608	14.39%
Suite 102	2,551	14.08%
Suite <del>100</del>	4,062	22.41%
Suite 201	2,320	12.80%
Suite 202	2,222	12.26%
Suite 203	2,234	12.32%
Suite 204	2,127	11.73%

SARATOGA HILLS OFFICE, LLC

By Spencer H. Heas  
 Its Manager  
 Date 11-3-2009