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**DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS**

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**DECLARATION AND ESTABLISHMENT
OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE HARRIS POINTE SHOPPING CENTER**

THIS DECLARATION AND ESTABLISHMENT OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made by Layton Pointe, L.C., a Utah limited liability company ("Declarant") as of the ____ day of _____, 20__.

RECITALS

A. Declarant is the Owner of certain real property located in the City of Layton, Davis County, Utah, more particularly described in Exhibits A ("Parcel A") and B ("Parcel B") attached hereto (collectively the "Property"), known as the Harris Pointe Shopping Center, upon which Declarant has developed and intends to continue developing an integrated retail commercial shopping center (the "Development").

B. Declarant does hereby fix and establish protective "Restrictions," as defined in Paragraph 1.17 of this Declaration, pursuant to which the Development shall be improved, held, leased, sold or conveyed. It is the intent of the Declarant that each and all of the easements, covenants, conditions and restrictions set forth in this Declaration shall apply to Parcels A and B, as specified, unless otherwise stated. Each of the easements, covenants, conditions, and restrictions shall run with the land and any part of it, and shall apply to and bind all who have or claim an interest in the Property and any part of it, except to the extent otherwise stated. Each of the easements, covenants, conditions, restriction are imposed on the Property as equitable servitudes, except to the extent otherwise stated, and constitute covenants running with the land pursuant to applicable law.

ARTICLE 1

DEFINITIONS

1.1 **Building**" means any permanently enclosed structure (excluding parking structures and parking facilities) designated for the exclusive use of an occupant or occupant(s), as the case may be, placed, constructed or located on the Property, including any appurtenant supports, service areas and other outward extensions.

1.2 **Building Area**" means the limited areas of the Development within which Buildings are constructed or may be constructed, placed or located, shown on the Site Plan attached hereto.

1.3 **Common Areas**" means all areas within the exterior boundaries of the Property available for the general use, convenience and benefit of all "**Permittees**," as defined in this Declaration. Without limitation, "Common Areas" shall include the following areas within the exterior boundaries of the Property: (i) all parking areas, parking structures, and underground parking facilities, if any; provided, however, that certain parking areas and facilities may not be available for the non-exclusive use of all Permittees; (ii) all roadways and driveways; (iii) all sidewalks and walkways; (iv) all landscaped and planted areas, including landscaped medians;

and (v) all lobby and waiting areas, including office building lobbies, if any, but excluding lobby or other areas leased exclusively to individual tenants. The improvement or use of any portion of the Building Area as Common Area shall not be construed to be a permanent inclusion within the "Common Area", and may, at any time, be improved with Buildings and appurtenances.

1.4 "Declaration" means this Declaration.

1.5 "Default Rate" means the annual rate of interest equal to the annual interest rate published by the Wall Street Journal as the prime rate, or in the event that the Wall Street Journal no longer publishes a prime rate, then the prime rate or reference rate announced by the then largest chartered bank in the State of Utah in terms of deposits, from time to time, plus two percentage (2%) points per annum, but in no event more than the maximum rate of interest permitted by law.

1.6 "Floor Area" means (i) with respect to a "Retail Building," as defined in Paragraph 1.18 of this Declaration, the total number of square feet of space contained on each floor of each separately demised space within a "Retail Building", including any mezzanine or basement space, as measured from the exterior surfaces of exterior walls, and extensions, in the case of openings, or walls that separate independently demised premises from service corridors or other space that is not intended for the exclusive use of other occupants of a Retail Building and from the center of interior demising walls which separate independently demised premises from other premises; provided, however, that the following areas shall not be included in such calculations: emergency exit areas, exit corridors and adjacent stairwells; and (ii) with respect to any other Building(s), the actual number of square feet of space contained on each floor within each separately demised space within a Building, including any mezzanine or basement space, provided that such mezzanine or basement space, as measured from the exterior surfaces of exterior walls, and extensions, in the case of openings, or walls that separate independently demised premises from service corridors or other space that is not intended for the exclusive use of other occupants of the subject Building, and from the center of interior demising walls which separate independently demised premises from other premises.

During any period of rebuilding, repairing, replacement or reconstruction of a Building (or any portion thereof), the Floor Area of that Building shall be deemed to be the same as existed immediately prior to that period. Upon completion of such rebuilding, repairing replacement or reconstruction, the Owner of the Property shall cause a new determination of Floor Area for such Building to be made in the manner described above.

1.7 "Governmental Restrictions or Regulations" means any or all laws, statutes, ordinances, codes, decrees, ruling, regulations, writs, injunctions, orders, rules, condition of approval or authorization of any governmental entity, agency or political subdivision, whether now in force or which may hereafter be in force.

1.8 "Index" means the most recent Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics (the "Bureau") "All Items" for All Urban Consumers, U. S. City Average. Should the Bureau discontinue the publication of the Index, publish the same less frequently or alter the same in some other manner, the most nearly

comparable index or procedure as determined by Owner, in Owner's discretion, shall be substituted therefor.

1.9 "Manager" means the Person or entity so designated by the Owner to perform the obligations of "Manager" under this Declaration. At any time, in Owner's discretion, Owner shall have the right to (i) assume any or all of the rights and obligations of "Manager" described in this Declaration, or (ii) appoint someone else to act in that capacity.

1.10 "Mortgage" means an indenture of mortgage or deed of trust affecting the Property.

1.11 "Mortgagee" means any mortgagee under a mortgage, or trustee or beneficiary under a deed of trust constituting a lien on all or any portion of the Property. The interest held by any mortgagee in the Property shall be subordinate to this Declaration.

1.12 "Notice of Assessment Lien" means a notice recorded in the office of the County Recorder of Davis County, Utah, and such other place as may be required by law, by any person to whom is owed any assessment or other sum of money payable by any Owner of an interest in all and any part of the Property and its improvements stating that said assessment or sum has not been paid and that the applicable grace period for such payment (if any) has expired.

1.13 "Owner" means Layton Pointe, L.C. and each person, who, at any given time, holds fee title to the Property or an interest in the Property, but shall not include tenants and sublessees. If, at any time, an interest in the Property shall be vested in more than one person, such persons may designate one of them to act on behalf of all such persons in the performance of the provisions of this Declaration. Any such designation shall be in writing, duly executed and acknowledged by each such person, and a copy of such designation shall be given to all other Owners in accordance with the notice provision of this Declaration. An original of such designation shall be recorded in the office of the County Recorder of Davis County, Utah. Owners who own more than fifty percent (50%) of the Property shall have the right, from time to time, to change the designation made by executing, acknowledging, delivering and recording a new notice of designation in the same manner set forth above.

1.14 "Permittees" means the Owner(s) of the Development and their respective successor(s), assign(s), grantee(s), tenants and subtenants and all who now hold or possess, or hereafter hold or possess, portions of real property within the Development, or any leasehold estate, or building space thereon and all respective tenants or subtenants thereof; and the officers, directors, concessionaires, agents, employees, contractors, customer, visitors and licensees and invitees of any of them.

1.15 "Person" means any natural person, partnership, trust, corporation, limited liability company or other legal entity.

1.16 "Prohibited Uses" means any use or operation which is inconsistent with the development or operation of the Development as a first class retail, commercial, and office project, as reasonably determined by Owner.

1.16.1 "Prohibited Uses - Parcel A" Included among the uses or operations which are deemed objectionable relating to Parcel A are the following uses or operations, or any uses or operations which produce, are accompanied by or involve the following characteristics, which list is not intended to be all-inclusive:

a. Any use which is unlawful or constitutes a public or private nuisance;

b. Any use which produces noise or sound which may be heard outside of any Building and is objectionable due to intermittent, beat, frequency, shrillness or loudness;

c. Any use which produces any noxious odor which may be smelled outside any Building other than such odors as are typically incidental to first class retail operations, including odors typically incidental to beauty and nail salons, restaurants, fast food restaurants, or other food service establishments;

d. Any use which produces any excessive quantity of dust, dirt or ash;

e. Any use involving explosive or other damaging or dangerous hazards, including the storage, display or sale of explosives or fireworks;

f. Any warehouse, assembly, manufacturing, distillation, refining, or smelting operation;

g. Any mobile home or trailer court, mortuary, lot for the sale of new or used vehicles, junkyard, stock yard or use involving animal raising; overnight stay pet facilities, provided, however, that first class pet stores may be permitted at the discretion of the Owner;

h. Any operation for drilling for and/or removal of subsurface substances;

i. Any operation involving dumping, disposal, incineration or reduction of garbage or refuse, other than in enclosed receptacles intended for such purposes;

j. Any commercial laundry or dry cleaning plant, laundromat, or similar use;

k. Any use involving the display or distribution of pornographic materials, adult books and magazines, adult books or adult audio/video products, or X-rated videos or similar productions; provided, however, that the sale of such adult magazines and books as are carried by a convenience, supermarket, or full-line book store, shall be permitted within the Development;

l. Any automobile body and fender repair shop operation;

- m. Any tavern or bar, except to the extent incidental to a restaurant operated primarily for on-premises consumption of alcoholic drinks;
- n. Any night club, discothèque, dance hall, billiard or pool hall;
- o. Any central laundry or dry cleaning plant or laundromat (except that this prohibition shall not be applicable to on-site service provided solely for pick-up and delivery by the ultimate consumer);
- p. Any skating rink;
- q. Any living quarters or lodging rooms;
- r. Any massage parlor;
- s. Any church, synagogue, or other place of worship;
- t. Any auditorium, meeting hall, school, or other place of public assembly;
- u. Any gambling facilities;
- v. Any operation primarily used a storage warehouse operation; and
- w. Any gymnasium.

1.16.2 "Prohibited Uses - Parcel B" Included among the uses or operations which are deemed objectionable relating to Parcel B are the following uses or operations, or any uses or operations which produce, are accompanied by or involve the following characteristics, which list is not intended to be all-inclusive:

a. The uses of Parcel B shall be subject to the terms, conditions, and limitations of that certain Third Amended Agreement for Development of Land Between Layton City and Layton Pointe, L.C., recorded in the office of the Davis County Recorder on January 30, 2009, as Entry No. 2419951, in Book 4703 at page 2207 (the "Development Agreement") and B-RP Zoning.

b. The prohibited uses relating to Parcel B shall be the same as those identified above relating to Parcel A, except to the extent they conflict with the provisions of the Development Agreement and B-RP Zoning, in which event, the provisions of the Development Agreement and B-RP Zoning shall take precedence and be controlling.

1.17 "Restrictions" means those easements, covenants, restrictions, liens and charges fixed and established upon the Property pursuant to this Declaration and those disclosed in documents duly recorded in the office of the Davis County Recorder.

1.18 "Retail Building" means any building used primarily for retail selling, commercial service, or other commercial purposes consistent with the terms and provision of this Declaration applicable to the use of Retail Buildings, as more particularly set forth in Article 2 below. A "Retail Building" may be a physical portion of a Building that includes office space, retail space and/or parking facilities.

ARTICLE 2

USE IN GENERAL

2.1 Lawful Use. Except as otherwise limited by this Declaration, the Property may be used for any lawful retail, commercial, entertainment, office, cultural purpose, or purpose not specifically prohibited by this Declaration, or by the Owner. No portion of the Development shall be used for a Prohibited Use.

2.2 Zoning. This Declaration shall be subject to all applicable zoning laws.

ARTICLE 3

CONSTRUCTION

3.1 Buildings and Improvements Only in Designated Areas. No Building or other structure of any kind, including parking facilities, shall be erected, placed or maintained on any portion of the Property, except as designated on the site plan attached as Exhibit B as Building Areas or areas for the location of parking facilities.

3.2 Building Approval. The Owner shall have the right to establish and impose construction, restructuring, or alteration guidelines for the Buildings and structures ("Construction Guidelines"), which may, as determined by the Owner, include detailed design, engineering and specification requirements, construction rules and designated staging areas. The Owner shall have the right to change the Construction Guidelines from time to time, in the Owner's discretion. Any and all construction or other work performed pursuant to this Declaration shall be subject to and performed in accordance with the Construction Guidelines.

In order to maintain the architectural and functional harmony of the Development, no Building or structure in the Development shall be constructed, altered, added to or maintained in such a fashion as to alter, in any material respect, the architectural appearance, character or motif or functional purpose of such Building or structure. No construction or alteration of the exterior of the Building or structures in the Development shall be undertaken, unless first approved in writing by the Owner or the Manager, in its discretion, and is made in accordance with Construction Guidelines of the Owner, if any. Such approval, if given, will be given in writing within thirty (30) days of its receipt. If written approval is not given within said thirty days, this shall be deemed to constitute disapproval of such proposed construction, reconstruction or alteration. All alterations or improvements shall be constructed in strict accordance with the plans and specifications approved by Owner and the Construction Guidelines as applicable. No material deviation shall be made from such plans and specifications without the Owner's or Manager's prior written approval.

3.3 Construction Procedures.

a. All construction activities within the Development shall be performed in a good and workmanlike manner, using first class materials, and in compliance with all laws, rules, regulations, orders, and ordinances of the city, county, state, and federal governments, or any department or agency thereof, having jurisdiction over the Development.

b. All construction activities with the Development shall be performed in accordance with the following provisions:

i. they shall not unreasonably interfere with any construction work being performed on any other part of the Property, or part thereof; and

ii. they shall not unreasonably interfere with the use, occupancy or enjoyment of the remainder of the Property or part thereof or the businesses conducted by any Permittees.

c. When the Owner or a Tenant is constructing, reconstructing, repairing, maintaining, remodeling, or enlarging any improvements on the Property, the Owner or the Manager shall establish a staging and storage area near the construction site prior to commencing such work. Notwithstanding anything to the contrary contained herein, such staging and storage areas (i) shall not unreasonably interfere with access between the other areas of the Property, with the use of any other part of the Property, or with the operation of any business or permitted activity by the Permittee(s), such Permittee(s) to have free and unobstructed access to the loading docks, sidewalks and entrances and exits; and (ii) shall be subject to the approval of the Owner or Manager, in its reasonable discretion or located in a permitted staging or storage area as identified by the Owner or Manager. If substantial work is to be performed, the Tenant, at the request of the Owner or Manager, or any other Tenant that would be materially and adversely affected by the staging or storage area, shall fence off the staging and storage area. Upon completion of construction work, the staging and storage area shall be restored to a condition at least equal to that existing before commencement of the work. Except in cases of emergency and except for restoration or repair necessitated by casualty or condemnation, no exterior construction or material exterior maintenance and repair work shall be conducted during the months of November and/or December, unless otherwise approved by the Owner or Manager, in their sole discretion. Correspondingly, no staging and storage areas shall be established and maintained during those restricted months.

d. Tenants shall diligently complete all construction activities as quickly as possible, shall regularly clean the roadways and driveways used by the construction vehicles of mud, dirt and construction debris, and upon completion of all construction activities shall promptly restore the affected roadways and driveways to a condition which is equal to or better than the condition that existed prior to the commencement of such work.

ARTICLE 4

EASEMENTS

4.1 Grant of Easements. The Owner reserves to itself and hereby grants to each other person who is or becomes an Owner and to each tenant who is or who becomes a tenant without further act, including all occupants of the Development, their guests, employees, invitees, permittees, licensees, patrons and customers, non-exclusive easements over, across, upon and beneath the Common Area held or owned by the Owner for the purposes set forth in Section 4.2. Notwithstanding the foregoing, the Owner or Manager shall have the right to designate certain portions of parking facilities as "reserved" parking spaces for use by certain tenants or occupants of the Retail and/or Office Buildings; provided, however, that in no event shall the Owner or Manager be responsible or in any way liable for the unauthorized use of such parking spaces.

Nothing in this Section or elsewhere in this Declaration shall be deemed to be or constitute a gift or dedication of any portion of the Development to the general public or for any public use or purpose whatsoever, and any right to use an easement by a tenant, occupant of the Development, their guests, employees, invitees, permittees, licensees, patrons and customers shall end immediately when a tenant ceases being a tenant.

4.2 Permitted Common Area Uses. The Common Areas shall be used for the purposes set forth in this Section:

a. The parking of passenger vehicles and the pedestrian and vehicular traffic of Permittees.

b. The ingress and egress of any Permittees and their vehicles to and from any portion of the Common Area and the public streets adjacent to the Common Area.

c. The installation, operation, maintenance, repair, replacement, relocation and removal of sanitary sewers, storm drains, pipes, gutters and lines, water and gas mains, electric power lines and conduits, telephone lines and conduits, television cables, vaults, manholes, meters, pipelines, valves, hydrants, sprinkler controls, power and emergency fire protection lines, and related utility and service facilities serving any part of the Development, all of which (except hydrants and transformers and other installations as may be requested by the utility company) shall be even with or below the surface of the Common Area or within Common Area walls or as otherwise directed by the Owner or Manager.

d. Pedestrian and vehicular movement by Permittees to and from adjacent streets and between businesses and occupants located or to be located within the Development.

e. The construction, replacement and reconstruction of parking sites or stalls, flag poles, sidewalks, ramps (excluding loading ramps), driveways, lanes curbs, directional and other signs, gutters, traffic control area, traffic islands, traffic and parking lighting facilities, perimeter walls, pedestrian walkways or landscaped areas, including planters, planting boxes, edgers, fountains, valves and customer conveniences, such a mail boxes, public telephones and benches for the comfort and convenience of Permittees; provided, however, that the Owner or

Manager shall first approve, in writing, all such facilities and that such facilities do not materially affect the access, visibility of parking on the property or to any Building.

f. The maintenance and repair of any of the items referred to Section 4.2(e) above.

g. The ingress and egress of delivery and service trucks and vehicles to and from the Building Areas or any portion thereof and the public streets adjacent to the Development, for the delivery of goods, wares, merchandise and the rendering of services to all persons or other entities who may lease portion of the Building Areas. Each tenant or other occupant of the Development shall use commercially reasonable efforts to have deliveries made within the areas designated for such purposes by the Owner or Manager. In the event it is necessary that deliveries be made other than in the area so designated, such deliveries shall be made so as to cause the reasonably least amount of interference with the use of adjacent portions of the Common Area.

h. Trash, refuse and garbage container storage areas, if designated by the Owner or Manager as Common Area.

i. Subject to the prior written approval of the Owner or Manager, which will not be unreasonably withheld, the temporary use (including erection of ladders, scaffolding and store front barricades) during periods of construction, remodeling or repair, and ingress and egress for vehicles transporting construction materials and equipment and use thereof by construction equipment, upon the condition, however, that all construction, remodeling or repair of buildings, other improvements and appurtenances is diligently performed and such ladders, scaffolding and barricades are promptly removed upon completion of such work.

j. The construction, maintenance, repair, replacement and reconstruction of sign pylons and/or monument signs, with appropriate underground electrical connections in locations reasonably designated by Owner; provided, however the location, construction, design and replacement of any such signage shall be subject to the prior written approval of the Owner or Manager; which approval may be given in their sole, but reasonable discretion. No changes shall be made to such signage, including the locations of same, without the prior written approval of the Owner or Manager. Notwithstanding anything to the contrary contained in this Declaration, or elsewhere, the Owner and Manager shall have the right, in their sole discretion, to install, erect and/or construct signage, including tenant, directional and informational signage, at locations reasonably designated by the Owner or Manager within and on the Parking areas. Also, notwithstanding anything to the contrary contained in this Declaration, the Owner or Manager shall have the right to establish a sign program for the Development ("Sign Program"), which may, as determined by the Owner or Manager, include, among other things, detailed design, engineering and specification requirements relating to signage. **Any and all signage installed at the Development shall be subject to and erected in accordance with any Sign Program so established.** The Owner or Manager shall have the right to change the Sign Program from time to time, in their reasonable discretion.

4.3 Common Area Construction Activities. No Tenant or other person shall undertake any construction activities affecting or altering any parking areas or other improvements located in the Common Area without the prior written consent of the Owner or Manager, which may be withheld for any reason. Notwithstanding the foregoing, the Owner or Manager shall have the right to excavate or conduct construction activities upon the Common Area, if necessary, in connection with the installation, operation, maintenance, repair, replacement, relocation and removal of any utility or service facilities, subject, however, to the provisions of Section 4.2(c), so long as such excavation or construction activities shall be prosecuted diligently to completion. The person causing such excavation or construction activities to be made shall immediately upon their completion, restore any affected portion of the Common Area to the same condition that existed before the commencement of the installation or construction activities using the same type and quality of materials as previously used. Any work performed pursuant to this subparagraph shall be performed so as to minimize the disruption of business operations conducted anywhere on the Property.

4.4 Parking. With respect to the parking area within the Common Area, the Owner or Manager shall have the right, in their sole discretion, to establish a parking program for the Development ("Parking Program"), that may, as determined by the Owner or Manager, provide for, among other things, parking rules and regulations, validation programs or systems, the Owner's or Manager's authority for the reservation or designation of particular parking spaces and other items as they, or either of them, shall determine in their sole discretion. Subject to the foregoing, Permittees shall not be prohibited or prevented from parking within the parking facilities, so long as space is available and so long as they do not violate the rules and regulations covering the use of the areas promulgated from time to time by the Owner or Manager. No Permittee shall use or permit the use of the parking area portions of the Common Area for any purpose other than parking, loading/unloading, in the areas designated for same by the Owner or Manager, and passage of pedestrians and motor vehicles, unless specifically provided otherwise in this Declaration. Tenants shall use reasonable efforts to enforce the provisions of this section. Each Tenant shall require its Permittees to park their vehicles only in the parking areas designated for that purpose, from time to time. Without limiting the generality of the foregoing, if the Owner or Manager implement any program related to parking, parking facilities or transportation facilities including, but not limited to, any program for off-site parking, parking validation, or other program to limit, control, enhance, regulate or assist parking by customers of Permittees, each Tenant shall participate in the program under rules and regulations established by the Owner or Manager, from time to time.

ARTICLE 5

REGULATION OF COMMON AREAS

5.1 Rules and Regulations. The Owner may promulgate reasonable rules and regulations of general application for the supervision, control and use of Common Areas.

ARTICLE 6

GENERAL PROVISIONS

6.1 Successors and Assigns. Each easement, restriction and covenant contained in this Declaration shall be appurtenant to and for the benefit of all parts of the Property and shall be a burden on or benefit for all portions of the Property and Development, and shall run with the land. This Declaration and the restrictions, easements, covenants, benefits and obligations created hereby shall inure to the benefit of and be binding upon the Owner, the Manager, and their successors, transferees and assigns; provided, however, that, if the Owner transfers all of its interest in the Development, the transferee thereof shall automatically be deemed to have assumed and agreed to be bound by the covenants and agreements contained in this Declaration, and the Owner shall thereupon be released and discharged from any and all obligations under this Declaration accruing after the date of sale. The Tenants, their permitted successors, transferees, and assigns shall automatically be deemed to have assumed and agreed to be bound by the covenants, restrictions, and agreements of this Declaration.

6.2 Run With the Land. The covenants, conditions and restrictions contained in this Declaration shall run with the land and be binding upon each and all of the parties to it, and upon all persons claiming under them.

6.3 Modification.

a. This Declaration may be modified in any respect with the consent of the Owner(s) and without the necessity of obtaining the consent of any other person; provided, however if such a modification directly and materially affects the access to, visibility of, or parking on the Property, then each Tenant must also consent to such modification.

6.4 No Dedication to Public. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property or Development to the general public, or the general public's use, or for any public purposes whatsoever, it being the intention of the Owner that this Declaration shall be strictly limited to and for the purposes expressed in it.

6.5 No Cancellation. No breach of this Declaration shall entitle the Owner to cancel, rescind or otherwise terminate this Declaration, but such limitation shall not affect in any manner any other rights or remedies which the Owner may have by reason of any breach of any of the terms of this Declaration.

6.6 Survival. If any clause, sentence or other portion of this Declaration shall become illegal, null or void for any reason, or shall be held by any court of competent jurisdiction to be so, the remaining portions of it shall remain in full force and effect.

6.7 No Merger. The ownership of the entire Development by the same party shall not effect the termination of this Declaration.

6.8 Mortgagee Protection. A breach of any of the covenants or restrictions contained in this Declaration shall not defeat or render invalid the lien of any Mortgage or Deed of Trust, made in good faith and for value as to the Development or any part thereof, but all of the foregoing provisions, restrictions and covenants shall be binding upon and effective against the Owner whose title is acquired by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

6.9 Remedies. The Owner, any tenant of any portion of the Property or Development, the Owner and/or the Manager may prosecute any proceedings at law or in equity against any person or entity violating or attempting to violate any of the agreements, covenants, conditions and restrictions in this Declaration, to prevent it, him or them from so doing and/or to recover damages from or on account of such violation. All costs and expenses of any such suit or proceedings, including reasonable attorneys' fees, as well as any judgment therefor, shall be assessed against the losing party and shall constitute a lien against the real property or the interest in the Project belonging to such party, which interest the prevailing party may foreclose in the manner provided by law. All remedies set forth in this Declaration or otherwise available at law or equity shall be cumulative.

6.10 No Third Party Beneficiary. Except as specifically provided in this Declaration, no rights, privileges or immunities set forth in this Declaration shall inure to the benefit of any customer, employee, guest, licensee or invitee of the Owner, any tenant or occupant of any portion of the Property, nor shall any customer, employee, guest, licensee or invitee of the Owner, tenant or occupant be deemed to be a third party beneficiary of any of the provisions contained herein.

6.11 Captions. The captions heading the various Articles of this Declaration are for convenience and identification only, and shall not be deemed to limit or define the contents of their respective sections.

6.12 Consent. Unless otherwise set forth herein, any approval or consent required or requested of the Owner or Manager may be withheld by the person to whom the request is made in the person's sole and absolute discretion.

6.13 Assignment. Except as otherwise expressly set forth in this Declaration, the Owner shall have the right to assign all or any portion of its rights, benefits, duties or obligations under this Declaration.

6.14 Notices. Any notice, demand, request or other communication required or permitted to be given by the Owner, occupant or tenant of the Property shall be in writing, signed by the party giving the notice, and shall be given by delivering the same in person, by a recognized overnight courier service which maintains delivery records (such as Federal Express) or depositing the same in the United States mail, certified, return receipt requested, first class postage prepaid. All notices to the Owner and Manager shall be sent to their respective mailing addresses as shown below, until such addresses are changed. Any notice, demand, request, or communication to a Tenant shall be sent to the address shown in the Tenant's lease or to Tenant's address last known by the Owner or Manager.

Owner: Layton Pointe, L.C.
9450 South Redwood Road
South Jordan, Utah 84095

Manager: Eagle Pointe Financial Group, Inc.
9450 South Redwood Road
South Jordan, Utah 84095

To any other Owner: At such address as such Owner shall designate in writing to the Manager, or at such Owner's last known address if such Owner shall fail to designate in writing another address to the Manager.

The Manager shall make all addresses furnished by any Owner pursuant to this Section 6.14 available to any other Owner, occupant or tenant of the Development who requests such address. Any Owner may change the Owner's mailing address at any time by giving written notice of such change to the Owner and Manager in the manner provided in this Declaration at least ten (10) days prior to the date such change is effective. Personal service and service by recognized overnight courier service shall be deemed to be complete upon receipt and service by mail shall be deemed complete upon receipt and service by mail shall be deemed complete on deposit of said notice in the United States mail.

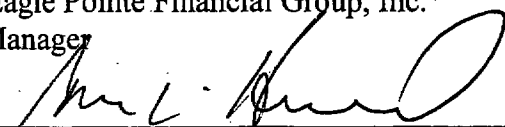
6.15 Other Agreements. Nothing contained in this Declaration shall be construed as a limitation on the Owner's right to enter into any supplemental agreement with the grantee or lessee of any part of the Property on terms and conditions more favorable to Owner or otherwise different than those contained herein; provided, however, in all events, any such agreement shall be subordinate to this Declaration.

6.16 Non-Discrimination. There shall be no discrimination against or segregation of any person, or group of persons on account of sex, marital status, race, color, religion, creed, national origin or ancestry in the sale, lease, sublease transfer, use, occupancy, tenure or enjoyment of the land of the Parcels, nor shall the transferee of any interest in the Parcels or any person claiming under or through such transferee, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land of the Parcels.

The Owner has executed this Declaration this 6th day of October, 2011.

DECLARANT AND OWNER:

LAYTON POINTE, L.C.
By Eagle Pointe Financial Group, Inc.
Its Manager

By: 
Gary L. Howland, President of Eagle
Pointe Financial Group, Inc.

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

On the 6th day of ~~September~~ ^{October}, 2011, personally appeared before me Gary L. Howland, who duly acknowledged to me that he is the President of Eagle Pointe Financial Group, Inc., the Manager of Layton Pointe, L.C., a Utah limited liability company, is duly authorized to and did execute the foregoing Declaration and Establishment of Protective Covenants, Conditions, and Restrictions for its stated purpose.

Martina Trujillo-Franco
Notary Public

My Commission Expires:

August 31, 2015

Residing at: Salt Lake City Utah

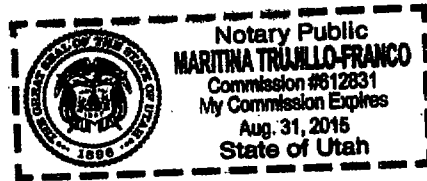


EXHIBIT A

LEGAL DESCRIPTION OF SHOPPING CENTER – PARCEL A

PARCEL 1:

ALL OF LOT 1, HARRIS POINTE SUBDIVISION, LAYTON CITY, DAVIS COUNTY, UTAH, ACCORDING TO THE OFFICIAL PLAT THEREOF.
PARCEL NO.: 09-371-0001

BEGINNING ON THE NORTH LINE OF ANTELOPE DRIVE AT A POINT THAT IS NORTH 89°55'10" EAST 1832.60 FEET AND NORTH 00°10'30" EAST 46.67 FEET FROM THE SOUTHWEST CORNER OF SECTION 8, TOWNSHIP 4 NORTH, RANGE 1 WEST SALT LAKE BASE AND MERIDIAN, THENCE NORTH 00°10'30" EAST 70.00 FEET; THENCE SOUTH 89°49'30" EAST 18.50 FEET; THENCE SOUTH 00°10'30" WEST 69.92 FEET TO THE NORTH LINE OF SAID ANTELOPE DRIVE; THENCE SOUTH 89°55'10" WEST 18.50 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING.
PARCEL NO.: 09-371-0002 (PART)

EXHIBIT A

LEGAL DESCRIPTION OF SHOPPING CENTER – PARCEL A

PARCEL B:

ALL OF LOT 2, HARRIS POINTE SUBDIVISION, LAYTON CITY, DAVIS COUNTY, UTAH, ACCORDING TO THE OFFICIAL PLAT THEREOF.

LESS AND EXCEPTING THE FOLLOWING:

BEGINNING AT A POINT ON THE NORTH LINE OF S.R. 108 (ANTELOPE DRIVE), SAID POINT BEING 46.67 FEET NORTH 0°08'00" EAST FROM THE SOUTH QUARTER CORNER OF SECTION 8, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, THE SOUTH QUARTER BEING LOCATED 179.95 FEET SOUTH 59°53'31" WEST FROM A WITNESS CORNER. THE BASIS OF BEARING BEING BETWEEN SAID WITNESS CORNER OF THE WITNESS CORNER FOR THE SOUTHWEST CORNER, SAID BASIS OF BEARING BEING SOUTH 88°14'33" EAST, AND RUNNING THENCE SOUTH 89°55'10" WEST, A DISTANCE OF 315.81 FEET ALONG SAID NORTH LINE OF S.R. 108; THENCE ALONG THE EAST LINE OF 700 WEST STREET THE FOLLOWING TWO CALLS (1) NORTH, A DISTANCE OF 130.62 FEET TO A POINT ON A 400.00 FOOT RADIUS CURVE TO THE LEFT AND A CENTRAL ANGLE OF 03°58'57", (2) NORTHERLY ALONG SAID CURVE A DISTANCE OF 27.80 FEET; THENCE EAST, A DISTANCE OF 317.14 FEET; THENCE SOUTH 00°08'00" WEST, A DISTANCE OF 157.96 FEET TO THE POINT OF BEGINNING.

PARCEL NO.: 09-371-0002 (PART)