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Register of Deeds, Douglas County, NE  
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**DECLARATION OF RESTRICTIONS**

THIS DECLARATION OF RESTRICTIONS (the "Declaration") is made this 30 day of July 2010, by West Bay, Inc., a Nebraska corporation (referred to herein as "Declarant").

**RECITALS**

WHEREAS, Declarant is the owner of the following legally described real property, to-wit:

Lot 1 Walnut Grove Plaza, an Addition to the City of Omaha, Douglas County, Nebraska; Lot 2 Walnut Grove Plaza, an Addition to the City of Omaha, Douglas County, Nebraska; and Lot 5, Walnut Grove Plaza Replat 3, an Addition to the City of Omaha, Douglas County, Nebraska; (collectively, the "Restricted Property"); and

WHEREAS, the Restricted Property is subject to the covenants, conditions and restrictions set forth in that certain Walnut Grove Plaza Declaration of Covenants, Conditions and Restrictions dated as of September 30, 1999 and recorded in the Douglas County, Nebraska Register of Deeds on October 4, 1999 in Book 1311, Page 190 (the "Covenants"); and

WHEREAS, Declarant desires to place certain additional permanent use restrictions with respect to the Restricted Property, as covenants running with the land; and

WHEREAS, by virtue of the recording of this Declaration, the Restricted Property shall be owned, held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the provisions of this Declaration and every grantee of any interest in the Restricted Property or any portion thereof, by acceptance of a deed or other conveyance of such interest or any portion thereof, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of this Declaration and shall be deemed to have consented to the terms hereof.

NOW THEREFORE, for and in consideration of the recitals set forth above and the mutual representations, warranties and covenants set forth below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, Declarant agrees as follows:

1. Restricted Property. In addition to those covenants, conditions and restrictions set forth in the Covenants which relate to the Restricted Property, the Restricted Property, or any portion thereof, may not be used for or operated as any of the following: (a) a hair-cutting salon; (b) a tanning salon; (c) a store primarily for the sale of coffee, coffee related items, or fruit smoothies; or (d) a dry-cleaning establishment or facility.

2. Architectural and Construction Approval. In order to preserve the architectural integrity of the Restricted Property and the surrounding property, Declarant reserves the right to approve the design and construction of any improvements on the Restricted Property, or any portion thereof, including the location of any buildings on the Restricted Property in order to maintain acceptable visibility corridors. Specifically, no improvement constructed on the Restricted Property shall be more than twenty-two (22) feet in height without the prior written consent of Declarant, which consent may be provided or withheld in the reasonable discretion of Declarant. For the purposes of this paragraph, it shall be considered reasonable for Declarant to base its consent or approval/disapproval on certain factors Declarant deems relevant, including, but not limited to, the following: (i) the adequacy of the building locations and dimensions on the applicable portion of the Restricted Property; (ii) conformity and harmony of external design with neighboring structures; (iii) effect of location and use of proposed improvements on neighboring lots and the types of operations and uses thereof; (iv) relation of topography, grade and finish ground elevation of the portion of the Restricted Property being improved to that of neighboring lots; (v) proper facing of main elevations with respect to nearby streets; (vi) adequacy of screening of trash facilities, storage areas, parking areas for service vehicles, mechanical and heating and air-conditioning facilities and rooftop installations; (vii) adequacy of landscaping; (viii) conformity of the application to the purpose and general plan and intent of the Covenants; and (ix) compatibility with the City's zoning regulations.

3. Covenants to Run with Land. It is intended that each of the restrictions set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein, and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives for a period of twenty (20) years after the date hereof.

4. Governing Law. This Declaration is declared to have been made under the laws of the State of Nebraska.

5. Amendment. The provisions of this Declaration may be modified or amended, in whole or in part, or terminated, only by the written consent of Declarant, evidenced by a document that has been fully executed and acknowledged by Declarant and recorded in the office of the Register of Deeds of Douglas County, Nebraska.

6. Remedies and Enforcement.

6.1 All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by the owner of any portion of the Restricted Property, or such owner's tenants or their employees, agents, contractors, customers, invitees, or licensees, of any of the terms, covenants, restrictions or conditions hereof, the Declarant shall be entitled

forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

6.2 No Termination For Breach. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any party to cancel, rescind, or otherwise terminate this Declaration. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any portion of the Restricted Property made in good faith for value. The covenants, conditions and restrictions hereof shall be binding upon and effective against any owner of any portion of the Restricted Property whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

7. No Waiver. No waiver of any default of any obligation by any party shall be implied from any omission by the other party to take any action with respect to such default.

8. Severability. Each provision of this Declaration and the application thereof are hereby declared to be independent of and severable from the remainder of this Declaration. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration.

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