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**DECLARATION OF RESTRICTIONS**

THIS DECLARATION OF RESTRICTIONS (the "Declaration") is made this 30 day of September, 1999, by WEST BAY INC., a Nebraska corporation (referred to herein as "Declarant").

**RECITALS**

WHEREAS, Declarant is the owner of the real property generally located at the northeast corner of 156th and "Q" Streets in Omaha, Nebraska and legally described as follows (the "Shopping Center"):

Lots 1 through 13, inclusive, all in Walnut Grove Plaza, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; and Lots 1 and 2, Walnut Grove Plaza Replat One, being a replat of Lots 14 through 17, inclusive, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; and

WHEREAS, West Bay Inc. and Omaha Store #028 - Q Street, L.L.C. ("Ground Lessee") have entered into a Ground Lease dated September 22, 1998 (the "Ground Lease"), as evidenced by the Memorandum of Lease dated even date therewith recorded on December 22, 1998 in the office of the Register of Deeds of Douglas County, Nebraska at Misc. Book 1275, Page 001, with respect to that portion of the Shopping Center legally described as follows ("Lot 1"):

Lot 1, Walnut Grove Plaza Replat One, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska; and

WHEREAS, pursuant to the terms of the Ground Lease, Declarant has granted certain permanent use restrictions with respect to the Shopping Center, as covenants running with the land; and

WHEREAS, Ground Lessee has entered into a Lease (the "Walgreens Lease") with Walgreen Co., an Illinois corporation ("Walgreens"), with respect to Lot 1.

PS S/S

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. Shopping Center Use Restrictions. No portion of the Shopping Center other than Lot 1 shall be used for (i) the operation of a drug store or a so-called prescription pharmacy or for any other purpose requiring a qualified pharmacist or other person authorized by law to dispense medicinal drugs, directly or indirectly, for a fee or remuneration of any kind; (ii) the sale of so-called health and/or beauty aids and/or drug sundries; (iii) the operation of a business in which photo finishing services and/or photographic film are offered for sale; (iv) the operation of a business which sells or offers greeting cards and/or gift wrap; and/or (v) the operation of a business in which food is sold for consumption off premises other than a take-out or fast food restaurant; provided, however, that the exclusive use restrictions contained in subparagraphs (ii) and (iv) shall not prohibit such uses to the extent that the sales area with respect to such use does not exceed fifty (50) square feet; and, provided further, that none of the exclusive use restrictions contained herein shall apply to one tenant occupying at least 40,000 square feet in Phase 1 the Shopping Center (as hereinafter defined), and none of the exclusive use restrictions contained in subparagraphs (ii), (iii), (iv) and (v) shall apply to one additional tenant occupying at least 40,000 square feet in Phase 2 the Shopping Center (as hereinafter defined). It is understood and agreed that the exceptions to the exclusions for the greater than 40,000 square foot users shall apply only if each such tenant is located in a different phase of the Shopping Center and so long as the primary purpose of any such user is not a drug store or prescription pharmacy. For purposes of this Section, "Phase 1" of the Shopping Center shall be defined as Lots 1 through 7, inclusive, Lot 12, and Lot 13 all in Walnut Grove Plaza, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska and Lots 1 and 2, Walnut Grove Plaza Replat One, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, and "Phase 2" of the Shopping Center shall be defined as Lots 8 through 11, inclusive, all in Walnut Grove Plaza, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

2. Lot 1 Use Restrictions. No portion of Lot 1 shall be used for (i) the operation and maintenance of a full-service or drive-through bank facility; provided, however, that such prohibition shall not prohibit the operation and maintenance of ATM machines within the building constructed on Lot 1; (ii) a convenience store with gasoline pumps; or (iii) a fast food restaurant; provided, however, that the uses described in (i) and (ii) above shall be permitted on Lot 1 if such use does not violate any then-existing exclusive use granted to a tenant in the Shopping Center at the time of the change of use for Lot 1.

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.

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

5. Time of the Essence. The parties agree that time is essential to the performance by the parties of their obligations hereunder.

6. Amendment.

6.1 The provisions of this Declaration may be modified or amended, in whole or in part, or terminated, only by the written consent of the owner of Lot 1, evidenced by a document that has been fully executed and acknowledged by such party and recorded in the office of the Register of Deeds of Douglas County, Nebraska.

6.2 Notwithstanding anything in Section 6.1 above to the contrary, during the term of the Walgreens Lease no termination of this Declaration, and no modification or amendment of this Declaration which directly or indirectly has or may reasonably have the effect of terminating, impairing, diminishing or otherwise adversely affecting the rights, benefits and/or protections accruing to Walgreens under this Declaration as originally recorded, or which has or may reasonably have an adverse effect on Walgreens business operations, if any, shall be effective as against Walgreens unless expressly consented to in writing by Walgreens.

7. Remedies and Enforcement.

7.1 All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by the owner of any portion the Shopping Center, 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 other party 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. During the term of the Lease, Walgreens shall have the right, but not the obligation, to enforce this Declaration and/or to cure a breach or default hereunder by any owner of a portion of the Shopping Center which enforcement or cure shall be accepted by the owner of Lot 1. The parties hereto covenant and agree that in the event of a breach of this Declaration, Walgreens shall suffer irreparable harm and Walgreens shall have no adequate remedy at law. In the event of a breach, Walgreens shall be entitled to injunctive or other equitable relief to enjoin the breach or threat of this Declaration. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

7.2 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 Shopping Center made in good faith for value. The covenants, conditions and restrictions hereof shall be binding upon and effective against any owner of any

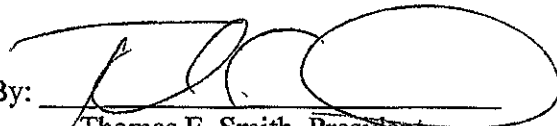
portion of the Shopping Center whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

8. 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.

9. 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.

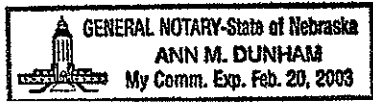
IN WITNESS WHEREOF, the undersigned have executed this Declaration on the day and year first above written.

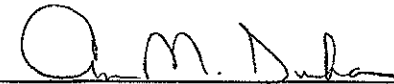
WEST BAY INC.,  
a Nebraska corporation

By:   
Thomas E. Smith, President

STATE OF NEBRASKA    )  
                                  )ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me on this 30 day of September, 1999, by Mr. Thomas E. Smith, President of West Bay Inc., a Nebraska corporation, on behalf of the corporation.



  
Notary Public