

HARMONY MARKET

Amended and Restated Declaration of Establishment of Protective Covenants, Conditions, and Restrictions and Grants of Easements

This Amended and Restated Declaration of Protective Covenants, Conditions, and Restrictions, and Grants of Easements (the "Declaration") is made as of November 30th, 1992, by Oak Farm Inc., a Colorado corporation ("Oak Farm").

RECITALS

Pursuant to that certain Declaration of Establishment of Protective Covenants, Conditions and Restrictions and Grants of Easement for Harmony Market dated June 1, 1989, and recorded in the real property records of Larimer County, Colorado, on June 1, 1989, under Reception No. 89024111 and subsequently amended by instrument recorded December 11, 1990, under Reception No. 90056719 in such records and subsequently amended by instrument recorded January 22, 1991, under Reception No. 91002702 in such records (as so amended, the "Declaration"), certain covenants, conditions, restrictions, and easements were established with respect to that certain real property in Larimer County, Colorado, more fully described in the Declaration and referred to therein as the Harmony Market Parcel. Oak Farm is the Declarant under the Declaration and Oak Farm desires to amend and restate the Declaration as hereinafter set forth, and the terms of this Amended and Restated Declaration of Establishment of Protective Covenants, Conditions, and Restrictions and Grants of Easements shall supersede and replace in its entirety the original Declaration.

Section 1. General Definitions.

In addition to the other defined terms in this Declaration, as used in this Declaration the following terms shall have the meanings specified:

1.1 Association. "Association" shall mean the non-profit corporation to be formed pursuant to Section 6.1 which shall be an association of the Owners of Sites, except for the owner of the "Pace Parcel" which is shown on Exhibit A hereto as the Pace Property, which is the same property conveyed to Pace Membership Warehouse, Inc. by deed recorded at Rec. No. 89024117 on June 1, 1989. The Pace Parcel was transferred to Charles B. Benenson Capital Company by deed recorded February 1, 1990, at Reception No. 90004724. The legal description of the Pace Parcel is Lot 1, Harmony Market

PUD, First Filing, Larimer County, Colorado. The owner of the Pace Parcel which shall not be a member of the Association, which association shall be known as the Harmony Market Owners Association or by such other name as determined by the Association. The reference to Pace includes any owner of the Pace Parcel.

1.2 Board of Directors. "Board of Directors" shall mean the Board of Directors of the Association referenced in Section 6.3 of the Declaration. Until the Association is formed and its Board of Directors established, the Declarant shall have and may exercise all of the powers and authority of the Association and the Board of Directors, and references herein to the Association or Board of Directors shall be to the Declarant.

1.3 Common Areas. "Common Areas" shall mean those portions of the Harmony Market Parcel designated on Exhibit B attached hereto as Common Areas, excluding any Common Areas owned by Pace. (The fact that Pace's own common areas are not included within the defined term "Common Areas" shall not affect Pace's obligation to comply with paragraph 3.1 hereof.) Declarant will cooperate with the Owner of any Site who wishes to contract jointly with Declarant for the maintenance of parking and landscaped areas not included in the Common Areas. Additional Common Areas may be established only by recorded instrument executed by the owner thereof designating the area as Common Area under this Declaration, provided that no Common Area shall be created without the written consent of the Declarant.

1.4 Declarant. "Declarant" shall mean Oak Farm, its successors and assigns. A Person shall be deemed a "successor and assign" of Oak Farm as Declarant if and only if it is specifically designated in a duly recorded instrument as a successor or assign of Declarant under this Declaration, and shall be deemed a successor and assign of Declarant only as to the particular rights and interest of Oak Farm under this Declaration which are specifically designated in the written instrument. Notwithstanding the foregoing, a successor to Oak Farm by consolidation or merger shall automatically be deemed a successor or assign of Oak Farm as Declarant under this Declaration.

1.5 Harmony Market Parcel. "Harmony Market Parcel" shall mean that property more particularly described on Exhibit A as well as all or any portion of the Retained Parcel subsequently annexed to this Declaration.

1.6 Improvements. "Improvements" shall mean all structures and any appurtenances thereto or components thereof of every type or kind, including but not be limited to,

