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DEED OF TRUST.

THE STATE OF TEXAS !

COUNTY OF GALVESTON !

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WHEREAS, MITCHELL & MITCHELL LAND DEVELOPMENT CO.,

PACE SETTER INC., GEORGE P. MITCHELL, NORMAN R. DOBBINS, JINX

K. DOBBINS, GEORGE J. PRAPPAS and FAYE A. PRAPPAS (hereinafter sometimes called "Owners"), comprising all of the owners of the following described property situated in Galveston County, Texas, to-wit:

Lots 1, 2 and 3, in Block 1; Lots 1, 2 and 3, in Block 2: Lots 1 to 21, both inclusive, in Block 3; Lots 1 to 18, both inclusive, in Block 4; Lots 1 to 16, both inclusive, in Block 5; Lots 1 to 14, both inclusive, in Block 6; Lots 1 to 14, both inclusive, in Block 7; Lots 4, 8 and 9, in Block 8: Lots 1, 2, 3 and 4, in Block 9; Lots 1 and 2, in Block 10; Lots 1 to 79, both inclusive, in Block 11; Lots 1 to 39, both inclusive, in Block 12; Lots 1 to 19, both inclusive, in Block 13: Lots 1, 2 and 3, in Block 15; Lots 1, 2, 3 and 4, in Block 16; and Lots 15 and 16, in Block 17; all in PIRATES BEACH, SECTION 2, a Subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Volume 1616, Page 67, of the Map. Records of Galveston County, Texas; and

Lots 1 to 14, both inclusive, in Block 17; Lots 1, 2 and 3, in Block 18; Lots 21 to 38, both inclusive, in Block 19; Lots 2 to 12, both inclusive, in Block 24; Lots 1 to 6, both inclusive, in Block 25; Lots 1 to 13, both inclusive, in Block 28; and Lots 2 to 34, both inclusive, in Block 29; all in PIRATES BEACH, SECTION 1, a Subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Volume 1616, Page 66, of the Map Records of Galveston County, Texas;

all of the hereinabove described property being hereinafter sometimes referred to as "said lots" and as "said property"; and,

WHEREAS, it is the desire of said Owners to establish a uniform plan for the development, improvement and sale of said property, and to insure the preservation of such uniform plan for the benefit of said Owners as well as future owners of said property:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That, MITCHELL & MITCHELL LAND DEVELOPMENT CO., a Texas corporation with office and principal place of business in the City of Houston, Texas, PACE SETTER INC., a Texas corporation with office and principal place of business in the City of Houston, Texas (said corporations being hereinafter sometimes referred to as "Developers"), GEORGE P. MITCHELL,

Convendence t 8-18-66

NORMAN R. DOBBINS, JINX K. DOBBINS, GEORGE J. PRAPPAS and FAYE A. PRAPPAS, all of Harris County, Texas, owners of all of said property, do hereby adopt, establish and impose the following reservations, restrictions, covenants and conditions upon said property, which shall constitute covenants running with the title to the land and shall inure to the benefit of said Owners, their respective successors and assigns, and to each and every purchaser of said property, their successors and assigns, and any one of said beneficiaries shall have the right to enforce these restrictions using whatever legal method is deemed advisable.

( RESTRICTIONS, COVENANTS AND CONDITIONS

l. <u>Land Use and Building Type</u>. Said lots shall be used for residential purposes only, and only one detached single-family dwelling shall be erected on any one lot.

- 2. Architectural Control and Construction Time. No structure of any type shall be constructed, placed or altered on any of said lots unless and until plans, specifications and location of such structure shall all have been approved by the Pirates Beach and Pirates Cove Architectural Committee (hereinafter sometimes referred to as "said committee"), as hereinafter established. The standards for approval of such structures shall be in compliance with these restrictions, quality of materials and workmanship, the external design in relation to existing structures, and the location with respect to topography of said property. The term "structures" as used herein shall be held to mean and include buildings, fences, house trailers, walls, swimming pools, playground equipment and outdoor cooking or eating facilities of a permanent nature. After the plans for construction have been approved and the pilings have been set, the lot owner or builder shall have a maximum of six (6) months to complete the exterior. Said maximum period shall include the painting and staining, and clean-up of all construction materials from the site.
- 3. <u>Dwelling Size</u>. Only one detached single-family type dwelling may be erected on any one of said lots, and each such dwelling shall contain not less than 600 square feet of living area.
  - 4. Type of Construction, Materials and Landscape.
- (a). Every structure, building, or addition thereto shall be affixed to the ground in a permanent manner.
- (b). All elevated structures shall be built on pilings or other type of elevated foundation designed so that the foundation will aesthetically conform to standards set by the Pirates Beach and Pirates Cove Architectural Committee.
- (c). No round pilings will be permitted, and no elevated structure or house may be erected on any of said lots unless the plans and specifications therefor provide for such structure or house to have a minimum of eighteen inches (18") overhang past the pilings.
- (d). No angle bracing from pilings to floor stringers will be permitted. Elevated structures may be cross-braced against the floor joists to prevent racking of structures, and floor joist stringers must be of adequate size to carry floor joists without angle bracing from the pilings to the stringers. Each piling must have a three-quarter inch (3/4") hole drilled at the top and bottom and each house must have available on the premises at all times cable and cross-bracing which can be installed with

a minimum of effort during the hurricane season starting August 15th. Such cables and cross-bracing must be removed and stored not later than February 1st of the ensuing year. Notwithstanding the foregoing, however, said cables and cross-bracing may be installed at any time at the discretion of the owner or occupant of the premises in the event weather conditions warrant such installation.

- (e). All houses and other structures must be kept in good repair, and painted when necessary to preserve the attractiveness there-of. No exposed, untreated or unstained wood, except decking, will be permitted.
- (f). The main floor of each house must be at least thirteen (13') feet above mean high tide, except in the area between the shore line and Grand Terre Drive, in which area such distance shall be at least fifteen (15') feet.
- (g). Toilet facilities of all houses shall be installed inside each such house, and shall be connected, before use, with a septic tank, provided by the lot owner. No septic tank shall be placed or installed within sixty (60') feet of any shore line, and no privy shall be erected or maintained on the premises. Nothing herein contained to the contrary or seemingly to the contrary shall prevent the installation and use of sanitary sewer facilities of any water district or other governmental authority in said subdivisions.
- (h). Developers recommend that all piling be sunk to a depth of at least ten (10') feet.
- (i). Upon completion of a house, each lot owner must plant on his lot at least two palm trees each with a minimum height of five (5') feet at the time of planting.
- 5. Location of Improvements. No building shall be located nearer to the street than the front building setback line as shown on the recorded plat, and no building may be located nearer than five (5') feet to any side lot line, except that buildings erected on lots costing \$3,000.00 or more may not be located nearer than ten (10') feet to any side lot line. Cornerlots shall be deemed to front on the street along which such lot has the least amount of frontage, except houses with a Gulf view or those houses which have been excepted by said committee by reason of outstanding or unusual design. All lots in Blocks 3, 4, 5, 6 and 7, Pirates Beach, Section 2, shall be deemed to front on the "Common Court" of each of said blocks as shown on the recorded plat. No fence shall be erected in front of the front building setback line, and no rear yard fencing shall be higher than four (4') feet.
- 6. <u>Easements</u>. Easements for the installation and maintenance of utilities, drainage facilities, roads and streets heretofore granted are reserved as shown on the recorded plat. No utility company, water district or other authorized entity or political subdivision using the easements herein referred to shall be liable for any damage done by them or their successors, assigns, agents, employees, or servants, to shrubbery, trees or flowers or other property of the owner situated on the land covered by said easements.
- 7. Annoyances or Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

- 8. Animals, Except as hereinafter provided, no animals, livestock, or poultry of any kind shall be kept, raised or bred on any of said lots. Not more than two dogs and/or two cats may be kept on the premises, provided they are kept only for the use and pleasure of the owner and are not kept, bred or maintained for any commercial purposes.
- 9. <u>Drainage Structures</u>. Drainage structures under private drive-ways shall have a net drainage opening area of sufficient size to permit the free flow of water without backwater, and shall be a minimum of 1-3/4 square feet (18-inch diameter pipe culvert).
- **\*** 10. Condition of the Surface of Said Lots. The cutting of grass and weeds, and the collection of garbage, trash and rubbish shall be the responsibility of each lot owner, and may be handled by third party or parties on an individual contract basis. The owner or occupant of each of said lots shall at all times keep the weeds and grass thereon cut in a anitary, healthful and attractive manner. No owner or occupant of any of said lots shall in any event use his lot or any part thereof for the storage of materials or equipment except such materials and equipment as may be needed for normal, immediate residential building requirements, nor shall they permit the accumulation of garbage, trash or rubbish of any kind thereon. In the event of default on the part of the owner or occupant of any lot in observing the above requirements or any of them, or in the event any garbage, trash or rubbish is allowed to remain on the premises for a longer period of time than one (1) week, the undersigned Developers, their successor and assigns, without liability to such owner or occupant, in trespass or otherwise, may enter upon said lot and cut or cause to be cut such weeds and grass and remove or cause to be removed such garbage, trash and rubbish so as to place said lot in a neat, attractive, healthful and sanitary condition, in which case said Developers may bill the owner or occupant for such work. The owner or occupant, as the case may be, agrees by purchase or occupation of any of said lots, to pay such statement immediately upon receipt thereof.
- 11. <u>Temporary Structures</u>. No structure of a temporary character, including but not limited to trailers, tents, shacks, mobile homes, boats and motor vehicles of all types, shall ever be maintained or used on any lot at any time as a residence, either temporarily or permanently. All boat trailers, boats and boat riggings must be parked under the main building. Parking of automotive vehicles on road shoulders is prohibited.
- 12. <u>Filling and Digging or Removal of Dirt</u>. The digging of dirt or the removal of any dirt from any lot is especially prohibited except where necessary in conjunction with landscaping or in conjunction with construction being done on such lot. No filling material which will have the effect of changing the grade level of any lot shall be placed on such lot without the prior approval in writing of the Pirates Beach and Pirates Cove Architectural Committee.
- 13. Signs and Billboards. No signs, advertisements, billboards or advertising structures of any kind may be erected or maintained on any lot without the prior consent in writing of the Pirates Beach and Pirates Cove Architectural Committee. The undersigned Developers or the members of said committee shall have the right to remove any such signs, advertisements, billboards or structures placed on any of said lots without such consent, and in so doing shall not be liable for trespass or other tort in connection therewith or arising from such removal.
- 14. <u>Hunting</u>. All hunting rights on said property are retained by the undersigned Developers, their successors and assigns, and without the express permission from said Developers, their successors and assigns,

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or their duly authorized agents, purchasers of said property, their heirs, successors or assigns, shall not have the right to hunt on or from said property or any part thereof.

15. Treasures and Artifacts. The undersigned Developers jointly reserve a one-half (1/2) interest in all treasures and artifacts found on any property within the above named subdivisions.

#### 16. Water Service.

- (a). A water tap fee of \$100.00 will be charged to any lot requesting water service.
- (b). Water meters will be installed and all water charges will be metered and billed to the respective lot owners.
- 17. Docking and Mooring Facilities, and Riparian Rights. In the event the premises abut or border any canal or other body of water, the land conveyed shall not include any of the land which is normally flowed or covered by said waters, and it is not intended that the deed evidencing such conveyance shall include any riparian rights in and to said waters, or to the shore line below the normal high water mark. No piers, docks or mooring facilities shall be installed, erected or maintained unless and until the plans and specifications for the same have been approved in writing by said Developers, their successors or assigns. Furthermore, all boats operated, anchored or docked in any manner in any of said canals must be approved by the Pirate's Beach and Pirate's Cove Architectural Committee as to appearance, size and amount of noise made by its motors in order that no unsightly, oversized or unsually loud boats will be allowed in any of said canals.

#### MAINTENANCE CHARGE

1. Each lot in Pirate's Beach, Sections 1 and 2, except as hereinafter provided, is hereby subject to an annual maintenance charge of a minimum of \$36.00 and a maximum of \$54.00 (unless an increase therein is approved by vote of a majority of the owners of said lots, each lot entitling its owner to one vote) for the purpose of creating a fund to be known as a "Maintenance Fund". An additional maintenance charge of \$12.00 is hereby levied against all lots in Blocks 3, 4, 5, 6 and 7, of Pirate's Beach, Section 2, to take care of additional maintenance required on such lots during the months of May to October, inclusive. Said maintenance charge shall be due and payable annually in advance on or before the first day of July of each year beginning July 1, 1966, to Pirate's Beach and Pirate's Cove Architectural Committee at its office in Houston, Texas. The maintenance charge on any lot purchased after July 1st of any year (covering the period of time from the purchase thereof to June 30th of the ensuing year) shall be prorated in the proportion that the number of months remaining prior to July 1st of such ensuing year bears to a whole year. All maintenance charges referred to herein, together with any and all liens securing payment of the same, are hereby transferred, assigned and conveyed to said committee. It is expressly agreed that all unsold lots owned by the undersigned Developers, their successors or assigns, shall be excluded from such maintenance charge, and further that the only obligation of the said Developers in connection with the purposes for which said Maintenance Fund has been created is to keep the grass and weeds mowed on all such unsold lots. Notwithstanding the foregoing, however, said Developers may, at their sole option, assume and agree to pay other expenditures for the benefit of owners or occupants of lots in the above-named subdivisions.

- 2. All sums accruing to such Maintenance Fund shall be applied, so far as sufficient, towards the payment of maintenance expenses incurred in connection with any or all of the following: lighting, sidewalks (if any), paths, public canals, parks, playgrounds, Gulf and Bay lot-owner facilities, esplanades, collecting and disposing of garbage, trash, and rubbish, and doing any other things necessary or desirable in the opinion of said com-to pupilio and mittee to keep said property neat and in good order or which it considers only of a general benefit to the owners or occupants of lots in said subdivisions. In this connection, it is understood that the judgment of said committee in the expenditure of said funds shall be final so long as such judgment is exercised in good faith.
- 3. To secure the payment of the aforesaid maintenance charge, there is to be reserved in each deed by which each lot is conveyed the vendor's lien for the benefit of said committee, said lien to be enforceable by such beneficiary through the appropriate means at law; provided, however, that each such lien shall be specifically made secondary, subordinate and inferior to all liens, presently or in the future, given, granted and created at the instance or request of the owner of any such lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the improvement of any such lot, and it shall be further provided that as a condition precedent to any proceeding to enforce such lien upon any lot against which there is an outstanding valid and subsisting first mortgage lien, such beneficiary shall give the holder of such first mortgage lien sixty (60) days' written notice of such proposed action, such notice to be sent to the nearest office of such mortgage holder by prepaid United States registered or certified mail and to contain a statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of the owner of any such mortgage, said beneficiary shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien to the owner and holder thereof,
- 4. The above maintenance charge and assessment will remain in effect for the full term (and extended term or terms, if applicable) of the within covenants.

## GENERAL PROVISIONS

1. Term. These covenants shall run with the title to the land and shall be binding upon all of said owners and all of the persons claiming under them for a period of twenty-five (25) years from the date these covenants are filed for record in the office of the County Clerk of Galveston County, Texas, at which time these covenants shall be extended for successive periods of ten (10) years each unless an instrument signed by a majority of the then owners of said lots has been recorded changing said covenants in whole or in part. Enforcement of these covenants and restrictions may be by proceedings at law or in equity against any person or persons violating or attempting to violate any of such covenants or restrictions either to restrain

such violation or proposed violation, or to recover damages. Such enforcement may be by the owner of any of said lots, by the Pirates Beach and Pirates Cove Civic Club, or otherwise as may be provided by law.

- 2. Responsibility of Developers. It is expressly understood and agreed that the undersigned Developers assume no obligation, responsibility or liability in the execution of these reservations, restrictions, covenants and conditions, and further that any or all reservations, restrictions, covenants and conditions herein of a beneficial nature may be assigned, transferred and conveyed to a Civic Club after said Developers are reasonably assured that said Civic Club is able to function for the benefit of all owners of lots in said subdivisions.
- 3. Severability. Invalidation of any one of these covenants by judgment or other court order shall in nowise affect any of the other provisions, such other provisions to remain in full force and effect.
- 4. Lienholders. The undersigned lienholders join in the execution hereof solely as lienholders for the purpose of subordinating such liens to these restrictions, covenants and conditions.
- 5. Amendment of Prior Restrictions. These restrictions, covenants and conditions supersede those certain restrictions affecting a portion of Pirates Beach, Section 2, recorded in Volume 1732, Page 117 to 122 of the Deed of Trust Records of Galveston County, Texas.
- 6. Counterparts. It is understood that this instrument may be executed in several counterparts and that each such executed counterpart may be filed for record and shall have the full force and effect of an original,

7. <u>Headings</u>. All sections and paragraph headings used herein are for convenience only and shall have no efficacy in construing any of the restrictions, covenants and conditions herein contained.

WITNESS the execution hereof on this the 13 day of 100

1966.

**OWNERS** 

& MITCHELL LAND

DEVELOPMENT CO

President

PACE SETTER INC.

President

AST-Secretary

Jinx K. Dobbins

| Stage G. Pappas | George P. Mitchell

| LIENHOLDERS | Anna G. Tellefson

Thelma Lee Ostermeyar William Ostermeyar SOUTHERN NATIONAL BANK Servetary Asst. Cashier Vice President Etta Millie Desormeaux, Individually and as Independent Executrix of the Estate of Emma Ostermeyar, Deceased Belle Kenney, Independent Executrix of the Estate of Emma Ostermeyar, Deceased James August Ostermeyar Robert R. Desormeaux Emmie Henrietta Leona Schafer Fred W. Schafer Belle Louise Kenney John Kenney Fredericka Katherine Alice Scofelia Jean Edmond Hosey E. H. Thornton

THE STATE OF TEXAS I

COUNTY OF HARRIS !

BEFORE ME, the undersigned authority, on this day personally appeared to Rget Mitchell , known to me to be the person whose name is subscribed to the foregoing instrument, as President of MITCHELL & MITCHELL LAND DEVELOPMENT CO., a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

A.D., 1966.

Notary Public in and for Harris County, Texas

THE STATE OF TEXAS I

COUNTY OF HARRIS I

BEFORE ME, the undersigned authority, on this day personally appeared N. Dr. b. M.S., known to me to be the person whose name is subscribed to the foregoing instrument, as President of PACE SETTER INC., a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN under my hand and seal of office this the day of day of 1966.

Notary Public in and for Harris County, Texas

THE STATE OF TEXAS |

COUNTY OF HARRIS I

BEFORE ME, the undersigned authority, on this day personally appeared NORMAN R. DOBBINS, and wife, JINX K. DOBBINS, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purpose and consideration therein expressed; and the said JINX K. DOBBINS, wife of said NORMAN R. DOBBINS, having been examined by me privily and apart from her husband, and having the same fully explained to her, the said JINX K. DOBBINS, acknowledged said instrument to be her act and deed and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

GIVEN under my hand and seal of office this the 13 day of June

Notary Public in and for Harris County, Texas

#### THE STATE OF TEXAS I

## COUNTY OF HARRIS I

BEFORE ME, the undersigned authority, on this day personally appeared GEORGE J. PRAPPAS, and wife, FAYE A. PRAPPAS, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purpose and consideration therein expressed; and the said FAYE A. PRAPPAS, wife of said GEORGE I. PRAPPAS, having been examined by me privily and apart from her husband, and having the same fully explained to her, the said FAYE A. PRAPPAS, acknowledged said instrument to be her act and deed and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract

GIVEN under my hand and seal of office this the 💋 day of

Notary Public in and for Harris County, Texas

THE STATE OF TEXAS |

COUNTY OF HARRIS I

BEFORE ME, the undersigned authority, on this day personally appeared GEORGE P. MITCHELL, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

CIVEN under my hand and seal of office this the /3 day of A.D., 1966.

> Notary Public in and for Harris County, Texas

THE STATE OF TEXAS

COUNTY OF GALVESTON

BEFORE ME, the undersigned authority, on this day personally appeared ANNA G. TELLEFSON, a widow, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN under my hand and seal of office this the 3 Md day of (

A.D., 1966.

Notary Public in and for

Galveston County, Texas

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# THE STATE OF TEXAS I

## COUNTY OF GALVESTON I

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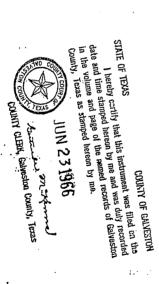
BEFORE ME, the undersigned authority, on this day personally appeared WILLIAM OSTERMEYAR, and wife, THELMA LEE OSTERMEYAR, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purpose and consideration therein ONSIDERATION CONTERMEYAR, ld

having been examined by me privily and a	ELMA LEE OSTERMEYAR, acknowledged sai clared that she had willingly signed the
GIVEN under my hand and seal of A.D., 1966.	office this the day of,
· .	Notary Public in and for Galveston County, Texas
THE STATE OF TEXAS I	
COUNTY OF HARRIS I	•
W. C. Baber, Vice President name is subscribed to the foregoing instru SOUTHERN NATIONAL BANK, a banking co he executed the same for the purposes and the capacity stated, and as the act and de	rporation, and acknowledged to me that donsideration therein expressed, in
	Notary Public in and for
The state of the s	Harris County, Texas
THE STATE OF TEXAS I	CAROLE 8. POPE  Notary Public in and for Harris County, Texas  My Commission Expires June 1, 19 42
COUNTY OF GALVESTON [	\$
ETTA MILLIE DESORMEAUX, Individually a Estate of Emma Ostermeyar, Deceased, kr is subscribed to the foregoing instrument a cuted the same for the purposes and consicapacity therein stated.	nown to me to be the person whose name and acknowledged to me that she exe-
	Notary Public in and for Galveston County, Texas
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'JUIN 23 1966
GERTRUDE: MCKENNA
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DEED OF TRUST  $\cdot$  BOOK 1798 PAGE 681