

**RESTATED AND AMENDED  
RESTRICTIVE COVENANTS FOR LAKE LIVINGSTON AIR PARK**

THE STATE OF TEXAS       \*                               KNOW ALL MEN THESE PRESENTS:  
  
COUNTY OF POLK            \*

A. RECITATIONS

WHEREAS, First Texas Equities, Inc., a Texas Corporation, (the “Original Developer”), was the developer of that certain restricted subdivision situated within Polk County, Texas, known as the “Lake Livingston Air Park”, (the “Subdivision”), pursuant to those certain plats filed of record at Vol. 10, page 1, of the Plat Records of Polk County, Texas, on or about November 12, 1985, and as may have been amended; and

WHEREAS, said Original Developer did file, and establish, uniform covenants and conditions, running with the land, upon all of the property situated within the Subdivision, pursuant to those “Restrictive Covenants of Lake Livingston Air Park” (the “Original Restrictions”), dated November 21, 1985, and filed at Vol. 526, page 495, et seq., Official Public Records of Polk County, Texas; and

WHEREAS, the Original Restrictions provided that the Original Developer specifically reserved “the right, at its sole option and discretion, to amend and/or waive, in total or in part, any of the covenants, conditions and restrictions contained herein, without prior notice to, or the prior consent of, any owner of any tract or lot in the subdivision, at any time that Declarant deems such amendment and/or waiver necessary or desirable”; and

WHEREAS, the Original Developer did file that certain document entitled “Modification of Restrictive Covenants” (the Original Restrictions and the modifications, as referenced in this document, are hereafter collectively referred to as the “Restrictions”), dated February 10, 1988,

and filed at Vol. 653, page 244, et seq., Official Public Records of Polk County, Texas, which document, and plat attached thereto and filed therewith, subdivided Tract 5 into six smaller tracts, and amended Deed Restriction 7 concerning the minimum square footage requirements of buildings situated in the Subdivision; and

WHEREAS, the Original Developer, pursuant to that certain “Assignment of Restrictive Covenants of Lake Livingston Air Park”, did grant, transfer, assign and convey to Lake Livingston Air Park, Inc., (the “First Successor Developer”), its successors and assigns, all of the Developer’s rights, title, interest and privileges related to the Restrictions, said Assignment dated April 13, 1993, and filed on April 13, 1993, at Vol. 884, page 306, et seq., Official Public Records of Polk County, Texas; and

WHEREAS, the First Successor Developer, by that certain document entitled “Architectural Committee of Lake Livingston Air Park” appointed John Johnson, Elaine Johnson, and Arthur Barkus as the three members of the Architectural Committee for the Subdivision, said document being dated May 7, 1993, and filed at Vol. 886, page 663, et seq., Official Public Records of Polk County, Texas; and

WHEREAS, the First Successor Developer, by that certain document entitled “Second Modification of Restrictive Covenants of Lake Livingston Air Park”, made certain modifications to Restriction Nos. 7 and 8, (to prohibit placement of any additional mobile homes or house trailers on residential or commercial lots), and Restriction No. 11, (which added mobile homes and house trailers to list of prohibited items which shall not be attached to any property in subdivision), which document was dated May 7, 1993, and filed at Vol. 886, page 663, et seq., Official Public Records of Polk County, Texas; and

WHEREAS, the First Successor Developer did file that certain document entitled “Modification of Restrictive Covenants”, dated September 16, 1993, and filed on same date at Vol. 901, page 244, et seq., Official Public Records of Polk County, Texas, which document subdivided Tracts 53 and 52 into six smaller tracts; and

WHEREAS, the First Successor Developer, pursuant to that certain “Assignment of Restrictive Covenants of Lake Livingston Air Park”, did grant, transfer, assign and convey to Praise Ministries, Inc., d/b/a People Ministries, Inc., (the “Second Successor Developer”), its successors and assigns, all of the First Successor Developer’s rights, title, interest and privileges related to the Original Restrictions and the Modified Restrictions, said Assignment dated November 24, 1997, and filed on November 25, 1997, at Vol. 97-1078, page 147, et seq., Official Public Records of Polk County, Texas; and

WHEREAS, the Second Successor Developer, pursuant to that certain “Assignment of Restrictive Covenants of Lake Livingston Air Park”, did grant, transfer, assign and convey to Monte Gray, (the “Third Successor Developer”), its successors and assigns, all of the Second Successor Developer’s rights, title, interest and privileges related to the Original Restrictions and the Modified Restrictions, said Assignment dated August 15, 2002, and filed on August 26, 2002, at Vol. 2002-1285, page 867, et seq., Official Public Records of Polk County, Texas; and

WHEREAS, the Third Successor Developer did file that certain document entitled “Modification of Restrictive Covenants”, dated December 13, 2005, and filed on January 5, 2006, at Vol. 2006-1487, page 272, et seq., Official Public Records of Polk County, Texas, which document amended the Restrictions to allow Tract Two “to be used for commercial, industrial or residential use, or any combination thereof”; and

WHEREAS, the Third Successor Developer, pursuant to that certain “Assignment of Restrictive Covenants of Lake Livingston Air Park”, did grant, transfer, assign and convey to Daniel E. Baker and Bobbie C. Baker, (the “Fourth Successor Developer”), its successors and assigns, all of the Third Successor Developer’s rights, title, interest and privileges related to the Original Restrictions and the Modified Restrictions, said Assignment dated August 11, 2007, and filed on September 24, 2007, at Vol. 2007-1605, page 258, et seq., Official Public Records of Polk County, Texas; and

WHEREAS, the Fourth Successor Developer, pursuant to that certain “Assignment of Restrictive Covenants of Lake Livingston Air Park”, did grant, transfer, assign and convey to DELTA BRAVO PROPERTIES, LLC, (the “Fifth Successor Developer”), its successors and assigns, all of the Third Successor Developer’s rights, title, interest and privileges related to the Original Restrictions and the Modified Restrictions, said Assignment dated January 5, 2010, and filed on February 12, 2010, at Vol. 2010-1734, page 911, et seq., Official Public Records of Polk County, Texas.

NOW THEREFORE, DELTA BRAVO PROPERTIES, LLC, hereafter referred to as the “Declarant”, pursuant to the authority contained in the Original Restrictions to “amend and/or waive, in total or in part, any of the covenants, conditions and restrictions contained herein, without prior notice to, or the prior consent of, any owner of any tract or lot in the subdivision, at any time that Declarant deems such amendment and/or waiver necessary or desirable” do hereby make and file these “Restated and Amended Restrictions for Lake Livingston Air Park”.

#### B. DEFINITIONS

1. “Tract” and/or “lot” shall refer to collectively the lots and/or tracts as set forth by the Original Plat for the Subdivision, as well as all lots and tracts established by the

subdivision of tracts previously effected by the Developers, whether original or successor, as shown by the Plats of record with the County Clerk of Polk County, Texas, and any lots and tracts established after the date of these Restated and Amended Restrictions.

2. "Subdivision" refers to the Lake Livingston Air Park established as set forth in the recitations above.
3. "Property Owners Association" and "Association" refers to the Lake Livingston Air Park Property Owners Association, Inc. established by the Certification of Formation filed with the Texas Secretary of State on April 26, 2010, and issued a Certificate of Filing, No. 801261526, issued by the Texas Secretary of State.
4. "Restrictions" shall refer collectively to the Original Restrictions, all modifications of the Restrictions set forth in the Recitation above, and these "Restated and Amended Restrictions".
5. "ACC" and/or "Architectural Committee" shall be appointed by the Board of Directors of the Association to discharge the duties and obligations set forth in these Restrictions.
6. "Hangar" shall mean any structure or building used for the maintenance, storage or protection of airplanes.
7. "Hangarhomes", as used herein, shall refer to a structure that has residential living area in the same structure as a hangar.
8. "Declarant" refers to Daniel Baker and Bobbie Baker (and/or Delta Bravo Properties, LLC).

9. The term “commercial, industrial, or residential purpose” shall in addition to the definitions contained within Deed Restriction Nos. 12 and 18, include and be restricted to the parking, storing, maintaining or taxiing of aircraft.

### C. RESERVATIONS

1. There is reserved unto Declarant, their successors and assigns, the roadways, taxiway, tie-down ramp and street easements as shown upon the plats of the subdivision. Such roadways, taxiway, tie-down ramp and/or street easements shall be reserved by Declarant for the use and benefit of Declarant, their successors and assigns and for each tract or lot owner in the subdivision, and shall be used for the purposes of the free and uninterrupted use, liberty and easement of such persons in common with one another.
2. There shall be reserved all utility easements and drainage easements as shown on the plat of said subdivision, and an easement over all streets and lot lines, for the purposes of installing, using, repairing and maintaining (1) any public utilities, water and sewer lines, electric lighting and telephone poles, lines and drainage ditches, (2) any structure and/or any equipment necessary for the performance of any public or quasi-public service and function, and (3) for all other purposes incident to the development and use of said property as community unit, with the right of access thereto for the purpose of further construction, maintenance and repairs. Such right of access to include the right, without liability on part of any one of all of the owners or operators of such utilities, to remove any or all obstructions located on said easement and right-of-way caused by the location of trees, brush, fences, shrubs or other obstructions which in their opinion may cause interference with the installation and/or operation of their facilities. Such easement shall be for the general benefit of the subdivision, and property owners

thereof, and are hereby reserved and created in favor of Declarant, its successors and assigns, and any and all utility companies entering onto and upon said property for the purposes aforesaid. There is also reserved for the use of all public utility companies an unobstructed aerial easement five feet (5') wide from a plane fifteen feet (15') above the ground upward, located adjacent to the said easements reserved hereby.

3. Declarant reserves unto itself, its successors and assigns, the exclusive right at all times to use any and all areas reserved or dedicated as a public utility easement or street, for the purpose of laying, placing, or constructing, installing, maintaining or repairing all kinds and types of water lines, mains or pipes, as well as all other equipment necessary or incidental to the operation and maintenance of any water service and/or supply system, and its appurtenances, to service, furnish or supply this subdivision with water.
4. Daniel Baker and Bobbie Baker (or Delta Bravo Properties LLC) reserve the right to assign part or all of their rights to the Property Owners Association established and recognized herein at such time, and under such conditions, as they desire.

#### RESTRICTIONS

1. Enforcement of Deed Restrictions.
  - (a) Subject to the provisions of the (d) of this paragraph, if any person or entity, as defined hereinafter, whether or not lawfully in possession of any real property hereunder, shall either (1) violate or attempt to violate any restriction or provision herein or (2) suffer to be violated (with respect to the real property in which such person or entity has rights other than the rights granted by this sentence) any restriction or provision herein, it shall be lawful for the Declarant, the POA, and/or any person or entity, as defined hereinafter, possessing rights

with respect to any real property hereunder, to prosecute any proceedings at law or in equity against any such person or entity violating, attempting to violate and/or suffering to be violated any restriction or provision herein to (1) prevent such violation, (2) recover damages of other dues for such violation, and (3) recover court costs and reasonable attorney's fees incurred in such proceedings. "Person or entity", as used in the immediately preceding sentence hereof, shall include, but shall not be limited to, all owners and purchasers of any real property hereunder, as well as all heirs, devisees, assignees, legal representatives and other persons or entities who acquire any of the rights (with respect to the real property hereunder) of the owner or purchaser of any real property hereunder.

- (b) The Property Owners Association has the right, but not the exclusive duty, to take action to enforce any violation of these deed restrictions.
- (c) Neither the Architectural Committee, nor the members of said Committee, nor the directors nor officers of the Lake Livingston Air Park Property Owners Association, shall have any liability or responsibility at law nor in equity on account of the enforcement of, or on account of the failure to enforce, these restrictions. An exercise of discretionary authority by the Property Owners Association concerning a restrictive covenant is presumed reasonable unless the court determines by a preponderance of the evidence that the exercise of discretionary authority was arbitrary, capricious, or discriminatory.
- (d) Notwithstanding any other provisions hereof, the Property Owners Association shall not be liable nor subject to any proceeding at law or in equity on account of



any violation or attempted violation of any restriction or provision herein which occurs during such time as there is in force a contract to purchase the property where such violation or attempted violation takes place.

2. The violation of any restriction or covenant herein shall not operate to invalidate any mortgage, deed or trust, or other security instruments, or any part thereof, but such liens may be enforced against any and all property covered thereby, subject nevertheless to the restrictions herein. Any violation of any one or more of these covenants shall in no way affect any other covenants, restrictions or conditions, but all such covenants, restrictions or conditions shall continue and remain in force and effect.
3. As used herein, the term “Residential Structure or Building” shall mean a newly constructed on-site Permanent Home, and the term “Commercial Building” shall mean a structure built on-site any commercial tract located in the subdivision. Such term shall not include any “out-buildings” or “storage buildings” used in connection with any business located on any commercial tract.
4. Liability of Owners to Owners’ Families and Guests. All lot owners shall be liable for any injury to themselves or any of their family or guests while in or on any of the roads, lakes or playground or property of said subdivision or Property Owners Association, and the Property Owners Association shall not be liable for any such injury.
5. All accessory buildings must be approved by the architectural committee and should be of the same architectural design as the home. There may be a limit of one (1) accessory building per lot.

6. No residential or commercial building, structure, or hangar shall be erected, placed or altered on any tract in said subdivision until the building, plans, specifications and the plot plan showing the location of such building, structure, or hangar have been approved in writing as to the conformity and harmony of external design with existing structures in said subdivision, and as to their location in respect to topography and finished ground elevation, by the Architectural committee herein provided for. Structures, as that term is used herein, shall be held to include all outside out-buildings, fences, walls, playground equipment and any and all other improvements. Under no circumstances shall any dams or other similar structures be placed across or so as to obstruct any stream, gully creek or watershed, running through the subdivision. In the event the ACC fails to approve or disapprove such plans within thirty (30) days after said plans and specifications have been submitted to the ACC then such approval will not be required and this covenant shall be deemed to have been fully complied with; provided, however, if the ACC, upon review of the plans, request additional information, the ACC may provide a time period within which such additional information is to be provided, in which event the thirty (30) days shall be extended as set forth in the ACC's request for additional information.

The members of the ACC shall be appointed by the Board of Directors of the Association. The Board of Directors shall have the authority to develop, adopt and enforce architectural guidelines, by resolution duly adopted, which architectural guidelines shall be filed of record with the County Clerk of Polk County, Texas. Neither

the members of such ACC, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this covenant.<sup>1</sup>

7. No residential structure or building shall be placed on any residential tract unless its living area has a minimum of living area exclusive of porches or garages as follows: 1500 square feet for a single story residence, and 1000 square feet for the first floor of a two story residence. Any commercial building, if allowed on a particular tract, must contain a minimum of 1000 square feet of floor space, exclusive of hangarhomes, under roof. Any hangarhome shall contain a minimum living area of 1000 square feet of floor space. Any accessory buildings must contained a minimum of 200\_ square feet.
8. Only on-site built homes shall be allowed on any tract. No Mobile Home, doublewide, pre-fabricated, non-site manufactured, previously constructed or House Trailer shall be placed on any residential tract.
9. All buildings, structures, residences or hangars shall be located no nearer than thirty feet (30') from any platted road shown on the plat of said subdivision. No building, structure, residence or hangar shall be located nearer than five feet (5') to any side or back boundary line. Set Back Lines. No building, or structure other than a fence shall be located nearer to the side street line than five (5) feet or nearer the side lot line or rear lot line than five (5) feet. "Side lot line", as used in this paragraph, in respect to any two or more contiguous whole and/or fractional lots owned by (and/or under contract to be conveyed by the Developer to) the same person or persons and used as a single building site, shall thereafter mean, respectively, each and/or either of the two outermost side lot

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<sup>1</sup>6 & 12 are combined.

lines, considering said contiguous whole and/or fractional lots as one lot. No building or structure shall be located nearer to the front lot line than thirty (30) feet.

10. The Architectural Committee, by written permission, may adjust any set-back line if the above prescribed distances are not feasible, considering the terrain and topography of the lot, or for any other reason which the Architectural Committee deems fair and reasonable under the existing circumstances.
11. No tent, shack, garage, barn or other building, outbuilding or structure of a temporary character shall at any time be attached to any property in the subdivision, or to be used as a residence, temporarily or permanently; nor shall any structure ever be moved unto, or permitted to remain on, any tract except during the construction of a permanent hangar, residence or commercial building. No trucks or equipment used for construction purposes may be parked or stored on a residential tract or the street adjoining it except during the actual construction of a residence or hangar on that tract. Motor Homes and Travel Trailers are allowed for camping on weekend, holiday and vacation periods, any of which such periods of time shall never contain more than thirty (30) consecutive days. Any motor homes or travel trailers used as provided by this Restriction No. 11, shall be removed from the tract at the end of such weekend, holiday and/or vacation period.
12. No residential or commercial building, structure or hangar consisting of wood frame construction shall be erected on any tract unless same shall at the time of its construction receive at least one coat of quality grade paint.

13. All residential and commercial buildings, residences or hangars shall be completed within six (6) months from the date of the beginning of its construction, unless such period is extended in writing by the Architectural Committee.
14. Tracts One (1), Two(2), and Fifty-Four (54), fronting on F.M. Highway 350, and Tracts Thirty-nine (39), Forty (40), Forty-One (41), Forty-two (42), Forty-three (43) and Forty-four (44), which front on the Taxiway, may be used for commercial, industrial or residential purposes.
15. No residential or commercial building, structure, or hangar shall be erected or placed on any parcel less than one-half (1/2) acre and no one-half (1/2) acre tract shall be subdivided, or a portion thereof conveyed, except as between the respective owners of full tracts contiguous thereto; and any such attempt to otherwise subdivide ownership of a tract shall be absolutely null and void.
16. All residences, whether commercial or residential, hangars and other buildings or structures must be kept in good repair and condition, and must be painted and/or otherwise maintained when necessary to preserve the attractiveness thereof.
17. No tract, other than the tracts fronting on F.M. Highway 350 or the taxiway described above, shall be used except for residential purposes. The term “residential purposes”, as used herein shall be held and construed to exclude hospitals, clinics, duplex houses, apartment houses, boarding houses, hotels and all other commercial uses, and all such uses of said property are hereby expressly prohibited, unless otherwise stated or allowed herein. No building shall be erected, altered, placed or permitted to remain on any residential tract other than a detached single family dwelling, a hangar, a hangarhome and/or a private garage for not more than three (3) cars. Rental or lease of the lot and

the residence thereon for any period of time less than 180 days shall be prohibited. Any rental or lease shall provide, in writing, that the renter or lessee has received a copy of the Deed Restrictions and agrees to be bound by same and comply with all Deed Restrictions. Rental or lease of the lot and residence shall not relieve the property owner from compliance with these Deed Restrictions.

18. Amendment Rights. Declarant, its successors, or assigns, specifically reserves the right to waive and/or amend any portion of these restrictions, or any part thereof, and Declarant, its successors or assigns, may, by written instrument filed in the Official Records of Polk County, Texas, rededicate, amend, waive or adopt new restrictive covenants, or make any other provisions for such development as Declarant, or its successors or assigns, deems appropriate and reasonable, without the requirement of notice to, or the consent of any other owner of a tract, tracts or other property located in the subdivision. Upon assignment of the Declarant's right to amend the restrictions, the members of the Association shall have the right at any time thereafter to make such reasonable changes in or waivers of any or all of the above restrictions, conditions, covenants, as the Property Owners Association in its sole discretion may deem reasonably necessary or desirable, subject to the approval of the Property Owners Association's members by a majority vote (with each property owner having one (1) vote, irregardless of the number of lot(s) owned) in favor of such change in or waivers of any or all of the restrictions, conditions, and covenants, by the members of the Property Owners Association at a special or annual meeting at which a quorum is had, and at which special or annual meeting specific notice of such reasonable changes in or waivers of any or all of the above restrictions, conditions, covenants is given.

19. In the event any owner of a tract or tracts located in the subdivision, due to construction activities carried on by such owner, or such owner's contractors, subcontractors, agent, employees or assigns, causes substantial damage to any road, street, utility lines or easements or any other portion of the subdivision, then such lot owner causing such damage shall be liable to the Declarant, its successors or assigns, and upon assignment of Developer's Rights to the Association, for the repayment of such damage. However, such liability on the part of such tract owner shall not operate to exclude any contractor, subcontractor, agent, employee or assignee from any liability for such damage.
20. No outside privies or toilets shall be permitted in this subdivision. All toilets shall be inside the houses, buildings, or hangars, and prior to its occupancy, the same shall be connected to a central sewage disposal system if there is one in existence at such time to serve the subdivision, but if no central sewage disposal system is in existence at such time, then all such toilets shall be connected to a holding tank or septic tank at the expense of the person building on the tract, and such septic tank shall have a sufficient field line, and any holding tank or septic tank and field lines shall be constructed and maintained in accordance with the requirements of the Texas Department of Health, or any other state or federal agency or governmental authority having jurisdiction of such matters, and shall be subject to the inspection and approval of such authority.
21. The drainage of sewage into a road, street, alley, ditch or any waterway, either directly or indirectly, or the seepage from or overflow of any septic tank or holding tank, onto the surface of any lot or tract covered hereby is prohibited. However, this provision shall not apply to the discharge of effluent from sewage treatment plant serving this

subdivision. Upon approval by the ACC and any governmental agency, a property owner may install an aerobic system that recycles septic system water.

22. No tract shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other wastes. Garbage and waste material shall not be kept except in sanitary containers. Incinerators or other equipment for the disposal of such waste materials shall not be permitted. The property owner is responsible for proper removal of all rubbish, trash, garbage or other waste.
23. No animals, livestock or poultry of any kind or character shall be raised, bred or kept on any tract, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes, and provided that they do not become a danger or a nuisance to other tract owners. However, aggressive dogs as defined by the Association are prohibited.
24. Lot Maintenance. (a) All lots shall be kept clean and free of any boxes, rubbish, trash or other debris and inoperative cars, vans, or buses.
  - (b) Grass and weeds may not exceed twelve inches in height. Refrigerators and other large appliances shall not be placed outdoors.
  - (c) No noxious or offensive trade or activity, shall be carried on upon this property nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood such as allowing junk automobiles or excessive garbage and trash accumulation on the property.
  - (d) The Declarant and/or the Property Owners Association shall have the right to enter the property where a violation exists under this paragraph and remove the incomplete structure or other items at the expense of the offending party.



(e) Prior to such entry and correction of the restriction violation, the property owners shall be given thirty (30) days notice of the violation and an opportunity to cure the violation. If the violation is not corrected in that period of time, or such period as may be agreed upon by the lot owner and the Property Owners Association, the Property Owners Association shall have the right to correct such deed restriction violation, and if the cost of such correction is not paid within thirty (30) days of invoice, then a contractual lien is retained against the property as security for such expense, together with any legal fees and costs incurred in enforcing this restriction, and the Property Owners Association shall have the right to judicially foreclose the lien securing such expense, legal fees and costs incurred in enforcing this restriction.

25. No interest in any oil, gas or other minerals in, on, under or that may be produced from the property will be conveyed by Declarant, all such interest in the same having been expressly reserved by Declarant's predecessors in title.
26. No sign of any kind shall be displayed to the public view on any non-commercial tract except signs used by the Declarant or its assigns or successors in the sale of the tracts in said subdivision, or signs used by builders to advertise any property during any construction and sales period. Nothing in this restriction is to prevent the use of signs as authorized by Section 202.009, Texas Property Code, concerning the display of political signs. Political signs may only be displayed as provided for by Section 202.009..
27. No building material of any kind shall be placed or stored upon any tract except during construction; and then such material shall be placed within the property lines of the tract on which the improvements are to be erected.

28. Drainage structures under private driveways shall have a net drainage opening of sufficient size to permit the free flow of water, without backwater, and the size and length of any culvert must meet with county specifications.
29. No unsightly boats, trucks, cars or other types of vehicles shall be stored or kept for the purpose of repair on any tract or street.
30. The digging of dirt, or the removal of any dirt, from any tract is expressly prohibited, except when necessary in conjunction with the landscaping or site development of such tract, or in conjunction with the construction being done on any such tract.
31. Each owner of a tract in this subdivision shall have the option to either tie into the water company, if and when same is established, or to provide their own water well within the county laws regard water wells.
32. Each owner or owners of a tract located in the subdivision, including Declarant, and his, her or their heirs, successors, assigns, guests, or invitees, any other occupier of any such tract, shall accept same expressly subject to any and all ordinances, regulations and/or statutes now in effect or hereafter promulgated by The Federal Aviation Agency, The Texas Airport Commission, the City of Livingston, or any other similar state, federal, and/or municipal authority or agency having jurisdiction over the operation and maintenance of aircraft. Furthermore, each such owner or occupier shall strictly adhere to the maximum structure height requirement set forth upon the plat of the subdivision, as well as all other structure height requirements promulgated by the Federal Aviation Agency, the Texas Airport Commission, the City of Livingston, Texas, or any other subdivision thereof, or any committee appointed by the City of Livingston, Texas and formed in connection with the management and/or regulation of the City of Livingston

Airport. Any owner of the tract in the subdivision who desires to use the adjoining city of Livingston, Texas airport must comply with all regulations and requirements promulgated by the City of Livingston, Texas prior to usage of the airport facilities.

33. Property Owners Association.

- (a) Every property owner in the Subdivision shall be a member of the Property Owners Association, and the Property Owners Association shall be a property owners association as defined by the Texas Property Code. The Board of Directors of the Property Owners Association shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations now or hereafter imposed by these restrictions, and said lawsuit to be brought in the name of the Property Owners Association, upon a vote by the majority of the Board of the Directors of the Property Owners Association at the duly called meeting of the Board at which a quorum of Directors is present, against any lot owner who is delinquent in payment of the maintenance fees, as delinquent is defined in these restrictions, and Bylaws of the Property Owners Association, as well for enforcement of any other deed restriction violation.
- (c) Any lot owner who has not paid the annual maintenance fees applicable to the lots he owns, once such maintenance fees are payable as provided by these restrictions and the Bylaws, shall be considered in default. Any lot owner delinquent in payment of any maintenance fees or other fees due on the record date of any meeting, as determined by the Bylaws of the Property Owners Association, shall not be entitled to vote at any meeting of the members, whether

annual or special, and shall not be entitled to hold any directorship or office of the Property Owners Association.

- (d) Any lot owner who brings a lawsuit against the Property Owners Association alleging a violation of any duty of the Property Owners Association to enforce the deed restriction, or alleging any claims and/or causes of action against the Property Owners Association, or any director, officer and/or agent of the Property Owners Association, shall be liable to the Property Owners Association for any legal fees and costs incurred in defending such lawsuit.
- (e) Notwithstanding any provision to the contrary, nothing herein or in the plats above referenced shall be deemed, interpreted or construed as imposing any obligation or obligations whatever upon the Property Owners Association, and the Property Owners Association shall not be liable under any provisions hereof or thereof for any charge, assessment, breach, act or omission to act.

34. Maintenance Fees.

- (a) The owners of lots purchased in said Subdivision shall pay a Maintenance Fee the sum of ONE HUNDRED TWENTY and no/100 (\$120.00) Dollars per lot, on the 1<sup>st</sup> day of January of each year, beginning on the 1<sup>st</sup> day of January, 2010, to the Property Owners Association to be used for the upkeep of the roads, parks and common facilities in said Subdivision as set out in the plat of said Subdivision. Said Maintenance Fee shall be secured by a lien against said lot in favor of the Property Owners Association, and failure to pay said assessment shall constitute a foreclosure lien against said lot. This lien is in the form of an assessment to run with the ownership of said lots. The Maintenance Fee shall be

deemed delinquent if not paid by February 1<sup>st</sup> of the year in which such maintenance fees are due.

- (b) The amount of the annual maintenance fee may be adjusted as shall be determined by a majority vote of the members, represented in person or by proxy, of the Property Owners Association at the annual meeting of the Property Owners Association, at which a quorum of the members, represented in person or by proxy, is obtained. Notice shall be given to all lot owners of said annual meeting and of the proposed annual maintenance fee to be determined for the next fiscal year. In the event the proposed maintenance fee fails to obtain the necessary votes at the annual meeting, then the maintenance fee for the next fiscal year shall remain at the same amount as then currently set, but in no event to be less than ONE HUNDRED TWENTY and no/100 (\$120.00) Dollars per year. Said assessments shall be in the form of a covenant to run with the ownership of the said lots. It is expressly provided that the Vendor's Liens established by the original restrictions shall remain in full force and effect.
- (c) The maintenance fund shall, to the extent available, be applied to the payment of maintenance expenses and/or construction costs incurred for any or all of the following purposes, as determined by the Board of said Association:
  - (1) lighting, constructing, improving, and maintaining streets, sidewalks, paths, parkways, esplanades, or swimming pools, if any;
  - (2) improvements of any area between curbs and sidewalks;

- (3) collecting and disposing of garbage, ashes, rubbish and similar material as well as the maintenance of vacant lots;
- (4) payment of legal fees and court costs of the Property Owners Association; and
- (5) doing any other thing necessary or desirable in the opinion of the Board of said Property Owners Association to keep the property neat and in good order or which considered of general benefit to the owners or occupants of the Subdivision including any expenses incurred in enforcing any provisions of the restrictions, including any amendments thereto, on file in the County Clerk's office of Polk County, Texas.

37. It is expressly agreed and understood that the lien herein mentioned which exists to secure the payment of the said annual maintenance charge against this property, shall at all times be and remain a second and subordinate lien to any mechanics and materialmans lien and/or deed of trust lien which may be hereafter created upon and against said property or any part thereof, and any consolidation, renewal or extensions thereof; only when said maintenance charge is paid up to its current date, and when said liens or other indebtedness is made for the purpose of paying for the costs of building on said property.