

SECOND AMENDED
AND RESTATED DECLARATION
OF
COVENANTS,
CONDITIONS
AND
RESTRICTIONS
FOR THE
LANDING HOMEOWNERS' ASSOCIATION

DECLARATION

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**SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
FOR THE LANDING HOMEOWNERS' ASSOCIATION, INC.**

This Second Amended and Restated Declaration of Covenants, Conditions & Restrictions for The Landing Homeowners Association, Inc. is made and executed on the date hereinafter set forth by The Landing Homeowners' Association, Inc., a Texas corporation (hereinafter called the "Association").

RECITALS

A. The *DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE LANDING* was recorded on February 1, 1977 as Doc. No.00006967, in Volume 6167, page 391, Real Property Records, Tarrant County, Texas (the "Original Declaration").

B. The Original Declaration was amended and restated by virtue of that certain *AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS* for The Landing recorded on November 20, 1978 as Instrument No. 0000582438 in Volume 6623, Page 953, Real Property Records, Tarrant County, Texas (the "Amended Declaration").

C. The Original Declaration and Amended Declaration were completely amended and restated by virtue of that certain *RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE LANDING HOMEOWNERS ASSOCIATION, INC.* recorded on July 18, 1994 as Instrument No.000165046 in Volume 1658, Page 346, Real Property Records, Tarrant County, Texas (collectively, the "First Restated Declaration").

D. All land described in the above instruments and on Exhibit "A" is included in this restatement.

PURPOSE AND INTENT

The Association desires to amend and restate the First Restated Declaration to provide future generations of homeowners with a more contemporary, comprehensive, effective, and flexible framework for financing and operating the Association.

The Association further desires to amend and restate the First Restated Declaration for the purposes of clarifying the general scheme for the ongoing operation of the Property, thereby enhancing the value of

the Lots and Common Area (as defined hereafter).

The Association believes it is in the best interest of the property owners association, and of current and future owners and buyers of homes in The Landing Homeowners' Association to amend and restate the First Restated Declaration.

RESTATEMENT

The Association hereby amends and restates the First Restated Declaration and declares that the real property described in "EXHIBIT A", is subject to this Second Amended and Restated Declaration of Covenants, Conditions & Restrictions for The Landing Homeowners' Association, Inc. (this "Declaration" and/or these "Declarations").

PREAMBLE

CREATION OF THE COMMUNITY

1.1 Purpose and Intent. The Association intends by Recording this Declaration to supplement rules and regulations to operate the planned community known as The Landing Homeowners' Association. This Declaration provides for the overall administration, maintenance, and preservation of the real property now and hereafter comprising The Landing Homeowners' Association.

This document does not and is not intended to create a condominium within the meaning of the Texas Condominium Act, Tex. Prop. Code Ann., Section 82.001, et seq. (Vernon 1984).

1.2 Binding Effect. All property described in "EXHIBIT A", and any additional property which is made a part of The Landing Homeowners' Association in the future by recording one or more supplemental declarations, shall be owned, conveyed, used, and otherwise encumbered subject to all of the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all persons having any right, title, or interest in any portion of the Landing Homeowners' Association, their heirs, successors, successors-in-title, and assigns.

Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement. If any provision of this Declaration is

determined by judgment or court order to be invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications.

1.3 Governing Documents. The Governing Documents may be supplemented by additional covenants, restrictions, and easements within the Association. Nothing in this Section shall preclude the recording of a supplemental declaration or other instrument applicable to any portion of the Association (with the consent of the Owner of such property), which contains additional restrictions or more restrictive provisions. The Association may, but shall not be required to, enforce any such covenants, restrictions, or other instruments, which are otherwise enforceable.

The Governing Documents shall apply to Owners as well as occupants of Lots and their respective tenants, guests, and invitees. Any lease of a Lot shall provide that the lessee and all occupants of the leased Lot shall be bound by the terms of the Governing Documents.

In the event of a conflict between Texas law, the Articles of Incorporation, the Declaration, and the By-Laws, the provisions of the Texas law, the Declarations, the Articles, and the By-Laws (in that order) shall prevail. In the event of a conflict between or among the Governing Documents and any additional covenants or restrictions, and/or the provisions of any other rules or policies, the Governing Documents shall control.

ARTICLE I. DEFINITIONS

Definitions. The following words and phrases, whether or not capitalized, have specified meanings when used in the Governing Documents, unless a different meaning is apparent from the context in which the word or phrase is used.

Section 1. "ACC" means that Architectural Control Committee of the Association.

Section 2. "Applicable Law" means the statutes and public laws, codes, ordinances, and regulations in effect at the time a provision of the Governing Documents is applied and pertaining to the subject matter of the Governing Provision. Statutes and ordinances specifically referenced in the Governing Documents are "Applicable Law" on the date of the Governing Document and are not intended to apply to the Property if they cease to be applicable by operation of law, or if they are replaced or superseded by one or more other

statutes or ordinances.

Section 3. "Association" means the association of Owners of all Lots in the Property, initially organized as The Landing Homeowners' Association, Inc., a Texas nonprofit corporation.

Section 4. "Board" means the Board of Directors of the Association.

Section 5. "City" means the City of Fort Worth, Tarrant County, Texas, in which the Property is located.

Section 6. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area owned by the Association is described as follows:

- a. All land denominated as "common open space" and/or "CP" contained in that certain 34,934 acres in the A.C.H. & B Survey, Abstract No. 55 of the J. N. Reed Survey, Abstract No. 1314 and of the S.M. Gann Survey, Abstract No. 575 in Tarrant County, Texas under Clerk's File No. 18242 and such other land as may be annexed or added the Association or by the declarant from time to time and as more perfectly described by metes and bounds in **Exhibit "A"** attached hereto and incorporated by reference for all purposes and SUBJECT TO all easements, building lines, private streets and driveways shown on said Plat; together with all improvements situated thereon.

Section 7. "Declaration" means this document, as it may be amended from time to time.

Section 8. "Design Guidelines" shall mean and refer to those particular standards, restrictions, guidelines, recommendations and specifications applicable to all aspects of construction, placement, location, alteration, maintenance and design of any improvements within the Property, and all amendments, modifications, supplements and interpretations thereof.

Section 9. "Governing Documents" means, singly or collectively as the case may be, this Declaration, and any supplement to the Declaration as required by state law, the Plat, the Association's Articles of Incorporation, the Bylaws, and the rules of the Association, as any of these may be amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Governing Document

is a part of that Governing Document.

Section 10. "Lot" means any numbered plot of land shown upon any recorded subdivision plat of the Properties, that is not designated as the Common Area, street, alleyways or thoroughfares.

Section 11. "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 12. "Managing Agent" means any Person or Entity who has been engaged and designated by the Board to manage the daily affairs and operations of the Association.

Section 13. "Member" means those person's entitled to membership as provided in this Declaration.

Section 14. "Owner" means the record owner, whether one or more persons or entitles, of a fee simple title to any lot which is situated on the Properties, including sellers, and including the personal representative of such a person, but excluding contract purchases and excluding those holding an interest in a lot merely as security for the performance of an obligation.

Section 15. "Plat" means all plats, singly and collectively, recorded in the Real Property Records of Tarrant County, Texas and pertaining to the Landing Homeowners' Association. Any of the specified definitions of Plat include, without limitation, any and all dedications, limitations, restrictions, easements, and reservations shown on the Plat, as it may be amended from time to time.

Section 16. "Property" means all the land (referred to as "the Land" and/or "the Property" herein) subject to this Declaration and all improvements, easements, rights, and appurtenances to the land. The name of the Property is The Landing Homeowners' Association. The Property is located on land described or referenced in "EXHIBIT A", to this Declaration, and includes every residential Lot thereon.

ARTICLE II. PROPERTY RIGHTS

Section 1. Property Rights

Every Owner of Class A and Class B Lots as defined by Article IV Section 6 hereof, shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a) the right of the Association to charge a reasonable admission and other fees for the

use of any recreational facility situated upon the Common Area and to restrict the use of the recreational facilities situated upon the Common Area to resident Owners of the homes in the subdivision;

- b) the right of the Association to suspend an Owner's right to use the recreational or other facilities owned or operated by the Association for any period during which any assessment against the Owner's Lot remains unpaid for any failure to comply with any of the Restrictions, terms and conditions of this Declaration or for violation of any Rule or Regulation established by the Association regarding use of the Common Area;
- c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by 67% of Owners. No such dedication or transfer shall be effective unless an instrument signed by Owners agreeing to such dedication or transfer has been recorded with the Tarrant County Clerk. Any conveyance of the Common Area pursuant to this subsection is expressly subject to any Owner's easement rights for ingress and egress to his Lot;
- d) the right of the Association to establish reasonable rules and regulations regarding the use of parking spaces in the Common Area or "exclusive of those located on Lots;"
- e) the right of the Association, in accordance with its Articles of Incorporation or By-laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property. The rights of any such mortgagee in said properties shall be subordinate to the rights of the Owners hereunder and are further subject to the Owners' right to ingress and egress to their Lots;
- f) the right of the Association to establish reasonable rules and regulations regarding

the use of the Common Area; and

- g) the right of the Association to establish users fees for use of certain portions of the Common Areas, for example, the boat slips.

Owners of Class C Lots, as defined by Article IV, Section 6 hereof, shall have no right nor easement of enjoyment in and to the Common Area until such time as their Lots shall meet the definition of a Class A or B Lot.

Section 2. Property Subject to Documents

Subsection 2.1. Property. The real property described in "EXHIBIT A", is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration, which run with the Property and bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and to the benefit of each Owner of the Property.

Subsection 2.2. Plat Dedications, Easements & Restrictions. In addition to the easements and restrictions contained in this Declaration, the Property is subject to the dedications, limitations, easements, restrictions, maintenance agreements, and reservations shown or cited on the Plat, which is incorporated herein by reference. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by the Plat, and further agrees to maintain any easement that crosses his Lot and for which the Association does not have express responsibility.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Voting Rights. There shall be one vote for each Lot. Members shall be entitled to cast one vote for each Lot owned. The foregoing is not intended to include persons or entities who hold an interest

merely as security for performance of an obligation. If a single Lot is owned by more than one person, the vote for such Lot shall be exercised as the Owners among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. In the event that a Lot is owned by more than one Member of the Association, the Members who own fractional interests in such Lot aggregating more than fifty percent (50%) of the whole ownership thereof shall appoint one Member, who shall be entitled to vote the vote of that Lot at any meeting of the Association. Such designation shall be made in writing to the Association and shall be revocable at any time by actual notice to the Association or upon the death of judicially declared incompetence of any Member who owns a fractional interest in such Unit. All Members of the Association may be present at any meeting of the Association and may act at such meetings either in person or by proxy.

ARTICLE IV. MAINTENANCE ASSESSMENT COVENANTS

Section 1. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the improvements and maintenance of the Common Area and the facilities, property and services devoted to the purpose and related to the use and enjoyment of homes situated upon the Properties and any other purpose reasonable, necessary or incidental to such purposes.

Section 2. Annual Assessments. The annual assessments made shall be based upon the cash requirements deemed to be such aggregate sums as the Board of Directors of the Association shall from time to time determine is necessary to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Area and all other areas which are the obligation of the Association to maintain, which sum may include, but is not limited to, insurance premiums for vandalism and malicious mischief, with endorsements attached, issued in the amount of the maximum replacement value of all of the Common Area improvements; casualty and public liability and other insurance premiums; landscaping and care of grounds; streets, lighting, repairs and renovations of Common Area and Green Areas, wages, charges for water used by the Association, grounds maintenance, any

expenses of providing security and protection for the Owners, legal and accounting fees, management fees, expenses and liabilities incurred by the Board of Directors under or by reason of this Declaration, the payment of any deficit remaining for a previous period, the creation of a reasonable contingency or other reserve or surplus funds as well as any and all other costs and expenses necessary to carry out the terms and intent of this Declaration.

The Association shall maintain an adequate reserve fund out of the annual assessments rather than by period assessment for the maintenance, repair and replacement of those elements of the Common Area that must be replaced on a periodic basis. The Board of Directors of the Association, may after consideration of the current maintenance costs and the financial requirements of the Association, fix the annual actual assessment at an amount less than the maximum. Such reserve fund shall not be used to construct or establish new capital improvements without an affirmative vote of one-half of the Members.

The omission or failure of the Board to fix the annual assessment shall not be deemed a waiver, modification, or release of the Owners from the obligation to pay.

Section 3. Maximum Amount of Annual Assessments. Until January 1 of the year immediately following the adoption and filing of this Second Amended and Restated Declaration, the maximum annual assessment shall be one thousand and one hundred dollars (\$1,100.00) per Lot.

- (a) From and after January 1 of the year immediately following the adoption and filing of this Second Amended and Restated Declaration, the annual assessment may be increased annually by a sum equal to no more than 10% of the previous year's assessment without a vote of the membership.
- (b) From and after January 1 of the year immediately following the adoption and filing of this Second Amended and Restated Declaration, the annual assessment may be increased by a sum greater than 10% of the previous year's assessment by an affirmative 67% vote or assent of Members eligible to vote, who are voting in person or by proxy, at a meeting duly called for this purpose.

- (c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments. Upon vote of the Members of the Association in the manner hereinafter set forth, the Association may levy in addition to annual assessments a special assessment in any calendar year applicable to that year only, for any purpose deemed necessary and advisable by the Board, including, but not limited to the cost of defraying in whole or in part the costs of construction or reconstruction or expected repair or replacement of a described capital improvement upon the Common Area, including necessary fixtures and personal property related thereto, provided that, any such assessment shall have an affirmative 67% vote or the assent of Members eligible to vote, who are voting in person or by proxy, at a meeting duly called for this purpose. The assessment ratio for any Lot as determined pursuant to Section 6 of this ARTICLE IV, shall be applicable to special assessment.

Section 5. Quorum For Any Action Authorized Under Section 3 and 4. If the proposed action is favored by a majority of the votes cast at such a meeting of the membership, but such vote is less than the requisite 67%, members who were not present in person or by proxy may give their affirmative vote to the action in writing provided the same is obtained by the Association not later than thirty days from the date of such meeting and such action shall become effective upon the affirmative written vote of 67% of the members eligible to vote less the number of votes cast for the assessment at the meeting.

Section 6. Rates of Assessment. The amount of both annual and special assessments to be charged per Lot shall be fixed according to the following Lot classifications. Lots shall be classified as follows:

- (a) Class A Lots: Lots with completed houses, improved Lots or vacant Lots which are being used for any purpose by the Owners. A vacant Lot shall be considered used if it is being used for any purpose, including, but not limited to, parking, storage, or ingress or egress. A vacant Lot shall be considered improved if it has been landscaped or its appearance has in anyway been altered from the date of

filing of the original Plat of its subdivision. Houses will be deemed complete upon the final plumbing permit approval by the appropriate authority or 180 days from the date of issuance of the initial plumbing permit, whichever occurs first. In the event a completed house is constructed so that it extends across the property line of two or more Lots, all Lots on which said house is constructed shall be deemed to be Lots with completed houses for the purpose of fixing their assessments. The amount of Assessments to be charged to Class A Lots shall be 100% of the assessment amount.

- (b) Class B Lots: Lots with houses under construction; Houses will be considered to be under construction on the date the initial plumbing permit is issued by the appropriate authority. In the event a house under construction is being constructed so that the house extends across two or more Lots, all Lots on which said house is being constructed shall be deemed to be Lots with houses under construction for the purpose of fixing their assessments, and the amount of Assessments to be charged to Class B Lots shall be fifty percent (50%) of the assessment amount.
- (c) Class C Lots: Unimproved and unused vacant Lots. The amount of Assessments to be charged to Class C Lots shall be twenty-five percent of the assessment amount.

Section 7. Collection of Assessments and Assessment Due Dates. The Board of Directors of the Association shall determine whether the annual assessment shall be collected annually, semiannually, quarterly or monthly and the due dates of each payment thereof. The collection schedule and due dates of any special assessment shall be fixed in the resolution authorizing such assessments. The amounts of the annual and special assessments shall be fixed at least thirty days in advance of any due date thereof. Written notice of any annual and special assessment shall be given to every Owner subject thereto. The Association shall, upon reasonable demand, and for a reasonable charge, furnish a certificate signed by an

officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent per annum. In the event an assessment is not paid within six months of the due date, the Owner shall be assessed a late charge in the amount of \$75 per month for each month thereafter until it is paid in full; all payments shall be applied to the Owner's debt in the following order of priority: (1) any delinquent assessment; (2) any current assessment; (3) any reasonable attorney's fees or reasonable third party collection costs incurred by the Association associated solely with assessments or any other charge that could provide the basis for foreclosure; (4) any reasonable attorney's fees incurred by the Association that are not subject to Subdivision (3); (5) any reasonable fines assessed by the Association; and (6) any other reasonable amount owed to the Association. However, if the Owner is in default under a payment plan entered into with the Association, all payments will be applied first to late charges, then to costs of collection and attorneys' fees, then to interest, then to assessment amount. (See Texas Property Code 209.0063)

a. Creation of Lien. Each Owner of any Lot, whether or not said Lot contains a completed dwelling, shall be deemed to covenant and agree by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, to pay the Association annual assessments or charges and special assessments, which shall be established and collected as provided by Applicable Law. All annual and special assessments unpaid by an Owner, together with interest, late charges, costs and reasonable attorney's fees for the collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made superior to all other heirs and encumbrances, except only for:

1. All taxes and special assessments levied by governmental and taxing authorities; and
2. All liens securing sums due or to become due under any duly recorded

mortgage vendor's lien or deed of trust.

Sale or transfer of any Lot shall not affect the assessment lien, save and except that a first lien mortgage foreclosure, or any procedure in lieu thereof, shall extinguish such assessment lien as to payments which became due prior to such foreclosure or proceeding. Under no circumstances is mortgagee obligated to collect assessment.

- b. Notice of lien: To evidence its lien against Lots for nonpayment of assessments the Association may, but shall not be required to, prepare written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Lot and a description of the Lot. Such notice shall be signed by one (1) of the Board of Directors or its duly appointed agent and may be recorded in the Office of the Clerk and Recorder of Tarrant County, Texas; such liens shall attach from the date of the failure of payment of the assessment.

- c. Foreclosure of lien. Such lien may be enforced by foreclosure on the defaulting Owner's Lot by the Association. Any such foreclosure sale is to be conducted in accordance with Sections 209.009, 209.010, and 209.011 of the Property Code of the State of Texas, the provisions applicable to the exercise of powers of sale in mortgages and deeds of trust, as set forth in Section 51.002 of the Property Code of the State of Texas, or in any manner permitted by law. Each Owner, by accepting a deed to his Lot, expressly grants to the Association a power of sale, as set forth in said Section 51.002, in connection with the assessment lien. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees. The Owner shall also be required to pay to the Association a reasonable rental for the Lot during the period of foreclosure, and

the Association shall be entitled to a receiver to collect same. The Association shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey same.

- d. Payment by encumbrancer. Any encumbrancer holding a lien on a Lot may pay any unpaid Regular or Special Assessment (collectively, "Assessment") payable with respect to such Lot, and upon such payment, such encumbrancer shall have a lien on such Lot for the amount paid of the same rank as the lien of his encumbrance.
- e. Personal debt. The amount of the Assessment against each Lot shall also be a personal debt of each person or entity who was an Owner of such property at the time when the Assessment fell due. Suit to recover a money judgment for unpaid Assessments shall be maintainable without foreclosing or waiving the lien securing same. The personal obligation for delinquent Assessment shall not pass to successors in title unless expressly assumed by them but the lien shall continue unless cut off by a first lien foreclosure as herein provided.
- f. No waiver of liability. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the Assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessment thereafter becoming due or from the lien thereof. Under no circumstances shall the mortgagee be obligated to collect Assessments.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority

shall be exempt from the Assessment created herein. However, no land or improvements devoted to dwelling use shall be exempt from said Assessments.

Section 11. Insurance.

(a) The Board of Directors of the Association shall obtain and continue in effect blanket property insurance to insure the buildings and structures in the Common Area and the Association against risks of loss or damage by fire, and other hazards as are covered under standard extended coverage against provisions, and said insurance may include coverage against vandalism, in an amount up to the maximum replacement value of said buildings and structures. The costs, charges and premiums for this insurance shall be a common expense of all Owners and be part of the maintenance Assessment.

(b) The Board of Directors of the Association shall obtain comprehensive public liability insurance in such limits as it shall deem desirable, insuring the Association, its Board of Directors, agents and employees, and each Owner, from and against liability inconnection with the Common Area. The costs, charges and premiums for this insurance shall be a common expense of all Owners and be part of the maintenance assessment.

(c) Each Owner is responsible, at his own expense and cost, for his personal insurance on the contents of his own residence and furnishings and personal property therein, and for his personal liability not covered by liability insurance for all Owners obtained as a part of the common expense. In addition, each Owner shall, at his own expense and cost, insure all improvements situated on his Lot against loss by reason of fire or extended coverage, for the full insurable value of the improvements, and such other reasonable insurance as the Association may, from time to time, designate.

(d) In the event that the improvements of any Owner are damaged or destroyed, each Owner consents and agrees that he will, unless otherwise agreed to by the Association, at his expense repair and replace any damaged or destroyed improvements to the same condition existing just prior to the damage or destruction for which the proceeds are received. Such repair or replacement shall be commenced and completed with a reasonable time in a good and workmanlike manner using suitable materials. If the Owner

desires not to rebuild, then such Owner shall comply with any requirements as may be imposed by the Association such as demolition and removal of the remaining improvements. If the Owner fails to take any steps to commence to repair or replace within sixty (60) days after the loss (or to otherwise comply with the requirements of the Association) and continue with due diligence to complete such repairs or replacements, the Association may do so at the cost of the Owner after notice and an open Board meeting on notice to all Owners. Any amount expended by the Association to complete such repairs or replacements in behalf of an Owner shall be due upon demand and shall be secured by a lien upon the subject Lot. By becoming an Owner of the Association, the Owner, together with his or her spouse, grants to the Association an express mechanic's and materialman's lien in the amount of the reasonable repair and/or replacement cost of the improvements, and the Owner and his or her spouse, if any, agrees to ratify and confirm the express mechanic's and materialman's lien by a separate instrument in the form and manner required by law.

ARTICLE V. ARCHITECTURAL COVENANTS AND CONTROL

Section 1. Architectural Control Committee. No building shall be erected, placed or altered on any Lot in this subdivision nor shall any exterior structure including, but not limited to, fences, screens, landscaping and storage sheds be erected or altered or until three (3) sets of building plans, plot plans and specifications showing the nature, kind, shape, height, materials, color and location of such building or exterior structures have been approved in writing as to conformity and harmony of external design with existing structures in this subdivision, by an Architectural Control Committee composed of at least three members appointed from time to time by the Board of Directors of the Association. The Architectural Committee shall be in accordance with Texas Property Code 209.00505, and all appointments thereto, removals there from and all procedural matters affecting the Committee shall be governed by the By-laws of the Association. In the event said Committee shall fail to approve or disapprove such plans, plot plans or specifications within thirty (30) days after such plans and specifications have been submitted to it, then such approval shall not be required, and this covenant will be deemed to have been complied with. The Architectural Control Committee shall have full power and authority to reject any plans and specifications

that are not in keeping with the construction requirements or architectural design or that might not be compatible with the existing designs or with the development of the property, and any and all conditions not covered herein shall be decided upon by the Architectural Control Committee, and its decisions shall be final unless appealed to the Board following Texas Property Code 209.00505 . The Architectural Control Committee, at its sole discretion, is hereby permitted to approve deviations in building area and location in instances where, in their judgment, such deviation will result in a more commonly beneficial use, however, these deviations and any replatting or other changes in the present configuration of the Lots must be submitted for approval in the same manner as building plans. Such approval may be granted in writing prior to construction and when given shall become a part of these restrictions. No plans shall be approved unless such plans comply with the building code and zoning ordinances of the city of Fort Worth. The members of the Architectural Control Committee shall not be entitled to any compensation for their services performed pursuant to the above provisions.

Section 2. ACC Guidelines. The Association may publish architectural restrictions, guidelines, and standards developed by the ACC, subject to revision from time to time. The Association may publish such documents, on its own initiative, but shall not be required to do so. Such publications are considered advisory publications for the ACC, but shall not be interpreted as final, or as the ultimate authority.

ARTICLE VI. EXTERIOR MAINTENANCE

Each Owner shall be responsible for all maintenance, both interior and exterior, on the improvements situated on his Lot and to the lawn and grounds located on each Lot. Each Owner consents and agrees that all such improvements and vacant Lots will be kept and maintained as may be set forth and prescribed by the Association in rules and regulations applicable to all Lots.

In the event an Owner shall fail to maintain the premises and the improvements situated thereon, the Association shall have the right through its agents and employees, following written notice and opportunity to cure as provided by the Bylaws, to peacefully enter upon said Lot and to repair, maintain and restore the Lot and any improvements erected thereon. The cost of such exterior maintenance shall be

added to and become a part of the Assessment to which such Lot is subject, and the Assessment shall be secured by lien as provided in Article IV. The notice provided to the Owner shall comply with Texas Property Code Section 209.006 and/or other applicable law. (See Texas Property Code 209.006)

ARTICLE VII. TOWNHOME PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of townhomes upon the Properties and placed in the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for the property damage due to negligence or willful acts or omission shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and may seek contribution for the restoration cost from the other Owners in proportion to their use. Any Owner may seek a larger contribution of the restoration cost from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole costs of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Access for Repairs. If and when reasonable access is necessary or desirable to any portion of any Lot for the purpose of making any repairs to any party wall, each Owner shall grant such reasonable access rights to any other Owner or to the Association, or to their respective agents, employees and

contractors.

ARTICLE VIII. USE RESTRICTIONS

The Lots and the Common Area shall be occupied and used as follows:

Section 1. Residential Use. No Owner shall occupy or use his Lot nor any building thereon, or permit the same or any part thereof to be occupied or used for any purpose other than a private residence of a single family.

Section 2. Oil and Mining Operations. No gas or oil drilling, gas or oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot.

Section 3. Livestock, Poultry and Pets. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets, may be kept provided that they shall not become a nuisance and are not kept, bred, or maintained for any commercial purpose.

Section 4. Sewage Treatment. No sewage treatment system shall be permitted on any Lot.

Section 5. Parking Restrictions. No boats, airplanes, buses, trailers, recreation vehicle, campers, mobile homes or motor homes, or other non-functional vehicle, truck, pickup truck or other vehicle as defined below, shall be allowed to be parked or stored anywhere on the Properties, Lots, streets, parking areas or Common Area except within enclosed garages or enclosed areas on completed residential Lots so that said vehicles are not visible from outside the Lot, or in such areas as may be designated by the Association from time to time. The term "non-functional vehicle" as used in this paragraph shall refer to a vehicle which does not have a current Texas inspection sticker and registration, or which is otherwise incapable of serving as a means of transportation due to mechanical or other difficulties, specifically including flat tires.

If any of the above-mentioned vehicles are abandoned, parked, stored, or left unattended in the Common Area, including streets, the Association shall have the right in accordance with Applicable Law, if any, and following 30 day written notice to the Owner, if known, to remove and store such vehicles, and

the cost of removal and storage, including any towing charges, shall be payable on demand and, upon nonpayment added to and become a part of the Assessment and Assessment lien for which the Owner is liable, in the same manner and to the same extent as provided in Article IV of this Declaration. Any removal and storage of vehicles pursuant to this paragraph must be accomplished in accordance with any Applicable Law requirements. Nothing in this Section 5 shall be construed as a limitation of the right of the Association to remove unauthorized vehicles from streets or parking facilities within The Landing Phase One in accordance with Applicable Law.

Section 6. Rules and Regulations. Nothing contained in these use restrictions shall be construed to be a waiver of the right of the Association to establish additional reasonable rules and regulations regarding the use of the Common Area and recreational facilities, pursuant to authority conferred in Article IV of this Declaration and not inconsistent with these use restrictions or the terms of these Declarations.

Section 7. Minimum Floor Area. Any private, single-family residence constructed after the filing of this Restated Declaration on a Lot in the subdivision shall have a minimum ground floor living area of at least 1600 square feet. This minimum living area requirement excludes open or screened porches, terraces, patios, driveways, carports or garages.

Section 8. Obstruction of Common Area. There shall be no obstruction of the Common Area. Nothing shall be stored in the Common Area without prior written consent of the Association. Following thirty days written notice and demand to cure, any item or object which is obstructing the Common Area as a result of the act of its Owner may be removed and stored by the Association at the Owner's expense. The cost of such removal and storage may be added to and become a part of the Assessment and Assessment lien for which such Owner is liable as provided in Article IV. The provisions of this Section 8 are not applicable to the parking restrictions described in Section 5.

Section 9. Insurance. Nothing shall be done or kept in or on the property, Common Area, or residences which will increase the rate of insurance, without the prior written consent of the Board of Directors. No Owner shall permit anything to be done or kept in or on the property, Common Area or residences which will result in the cancellation of insurance, or which would be in violation of any law.

Following 30 days written notice and demand to cure, the Association may take reasonable and peaceful action to cure such a condition resulting from the act of an Owner, and the cost of such corrective action may be added to and become a part of the Assessment and Assessment lien for which and Owner is liable as provided in Article IV. Any increase in insurance premiums paid by the Association and resulting from the act of any Owner or Owners, shall be added to and become a part of the Assessment and Assessment lien for which the Owner is liable as provided in Article IV.

Section 10. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, or the Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the other Owners. No repair work, dismantling or assembling of motor vehicles or any other machinery or equipment shall be permitted in any street, driveway or yard adjacent to a street, or in the Common Area. Following 30 days written notice and demand to cure any such condition resulting from the act of an Owner, the Association may take reasonable and peaceful action to remedy the nuisance, or noxious and offensive activity, and the cost of such corrective action will be added to and become a part of the Assessment and Assessment lien for which an Owner is liable as provided in Article IV.

Section 11. Temporary Structures. No structure of a temporary character, trailer, mobile home/motor home, tent, shack, barn, or any other structure or building other than a residence to be built thereon shall be used as a residence temporarily or permanently. No residence house shall be moved upon any Lot. No storage shed may be built or erected on any Lot without the written permission of the Architectural Control Committee as described in Article V.

Section 12. Signs and Exterior Lighting. (*see* Texas Property Code 202.009, 202.010 and 202.018) No sign of any kind shall be displayed to public view on any Lot or building except one sign of not more than six (6) square feet in area advertising the merits of the property for sale or rent. During the construction and sales period of the dwelling units, Owners of two or more Lots may use other signs and displays to advertise the property for sale or rent only after obtaining the written approval of the Architectural Control Committee. The Architectural Control Committee shall have the right to control all outside and/or exterior lighting of any nature located anywhere on the Properties, Lots or Common Area, including but not limited

to the wattage, color, type and style of all illumination bulbs and the model, size, type and color of the lighting fixtures. No outside or exterior lighting of any type may be added to or constructed on any property without the prior approval of the Architectural Control Committee as provided for in Article V.

Section 13. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall be kept screened by adequate planting or fencing so as to conceal them from public view. Vacant Lots will be kept free of trash and debris. Following 30 days written notice and demand to cure, the Association may take peaceful and reasonable steps to remove waste from any Lot and the cost of such removal shall be added to and be a part of the Assessment and Assessment lien for which an Owner is liable as provided in Article Section IV.

There is reserved in favor of the Association the determination of the method of garbage disposal, that is, whether it shall be through public authority or through private garbage disposal contractor(s). All incinerators or other equipment for the storage or disposal of such material shall be kept in clean and sanitary condition.

Section 14. Use of Common Area. Except in the individual courtyard area appurtenant to a townhomes and in the individual yard areas of single family residences, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association or its designated Architectural Control Committee. Except for the right of ingress or egress and the right and easement of enjoyment as defined herein, the Owners are hereby prohibited and restricted from using any of said property outside the exterior property lines of each Lot, except as may be allowed by the Association's Board of Directors. The Association may, in its sole discretion, establish rules and regulations regarding the use of the Common Areas and the Owners shall be bound thereby. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners of the Properties, and any additions hereto, and is necessary for the protection of said Owners. Maintenance, upkeep and repairs of the Common Area are the sole responsibility of the Association. The Landing Homeowners Association, Inc. shall be responsible for maintenance of emergency access easements and

the Common Area.

Section 15. Owner's Maintenance. The Owner shall in addition to the other requirements contained in this instrument, maintain and keep in repair the following equipment and lines located outside the residence: air conditioning compressor and condenser, including pipes and electrical lines connecting same to the residence, sanitary sewer line connecting the residence to the sanitary sewer collection system, electric power service conductors, utility company's junction box or transformer, electric circuit breakers, and/or telephone service lines located on the Lot but not maintained by the electric and telephone companies. If any Owner fails to maintain his Lot in accordance with this paragraph, and following reasonable notice and opportunity to cure which shall not be less than thirty days, the Association may cause the required work to be done at the Owner's expense, and the amounts so expended shall be added to and become a part of the Assessment and Assessment lien on the Owner's Lot, in the said manner and to the same extent as specified in Article IV. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another residence or the Common Areas or impair any easement or hereditament, nor do any act nor allow any conditions to exist which, in the exclusive opinion of the Board of Directors, will adversely affect the Common Areas the other residences or their Owners.

Section 16. Outside Antennae and Satellite Dishes. All outside antennas must be approved by the ACC. No exterior Antenna of any sort shall be placed, allowed or maintained more than ten (10) feet above the highest point on the improvement or structure upon which it is located. The ACC may waive the forgoing upon the written recommendation of a technician that such a waiver is necessary for reasonable television reception or amateur radio communication. No satellite dishes of any sort will be placed on any Lot or structure located upon the property.

Section 17. Enforcement and Notice. Before the Association may suspend an Owner's right to use the Common Area, file a suit against the Owner (other than a suit to collect a regular or special Assessment or foreclose under an association's lien), charge an Owner for property damage, levy a fine for a violation of the covenants or bylaws or rules of the Association, or report a delinquency to a credit reporting service, the Association must provide written notice to the Owner via certified mail. (See Texas Property Code

209.006) The notice must provide the following:

- a) Describe the violation or damage that is the basis for the suspension action or fine, and state the amount due from the Owner;
- b) Inform the Owner that;
 - i. The Owner has a reasonable number of days to cure violation and avoid the fine or suspension of activity—this provision only applies if the violation is curable in nature and does not present a threat to public health or safety;
 - ii. The Owner may request a hearing before the Board on or before the 30th day after the date the notice was mailed to the Owner; and
 - iii. May have special rights or relief related to enforcement actions under federal, including the Servicemembers Civil Relief Act, if the Owner is active military.
- c) Specify the date by which the violation must be cured if the violation is of a curable nature and does not present a threat to public health or safety.
- d) Subsections (a) and (b) herein do not apply to a violation for which the Owner was previously given notice under this section and the opportunity to exercise any right under this section in the preceding six (6) months.
- e) If the Owner cures the violation before the expiration of the period for cure set forth in subsection (c), the fine will not be enforced.
- f) For the purposes of this section, a violation is considered a threat to public health or safety if the violation could materially affect the physical health or safety of an ordinary resident.
- g) For the purposes of this section, a violation is considered incurable if the violation has occurred but is not a continuous action or a condition capable of being remedied by affirmative action. For the purposes of this subsection, the non-repetition of a one-time violation or other violation that is not ongoing is not considered an adequate remedy.
- h) The following are examples of acts considered incurable for purposes of this section:

- i. Shooting fireworks;
 - ii. An act constituting a threat to health or safety;
 - iii. A noise violation that is not ongoing;
 - iv. Property damage, including removal or alteration of another Owner's landscaping;
and
 - v. Holding an event prohibited by this Declaration or the By-Laws;
- i) The following are acts that are considered curable for purposes of this section:
- i. A parking violation;
 - ii. Maintenance violation;
 - iii. Failure to construct improvements or modifications in accordance with approved plans and specifications; and
 - iv. An ongoing noise violation such as a barking dog. (See Texas Property Code 209.006(i)(4))

TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OWNER AND HIS TENANTS, GUESTS, AGENTS AND FAMILY MEMBERS, HEREBY AGREE TO RELEASE, INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION FROM ANY LOSS, CLAIM, DAMAGE, AND/OR LAWSUIT, SPECIFICALLY INCLUDING ATTORNEYS FEES, EXPENSES AND COSTS INCURRED BY THE ASSOCIATION, RESULTING FROM THE ASSOCIATIONS EXERCISE OF ITS RIGHTS OF ENFORCEMENT IN ACCORDANCE WITH THE TERMS OF ARTICLE VIII.

Section 18. Legal Actions. Each Owner acknowledges that the Association will be irreparably damaged if the restrictions contained in this Article VIII. are not specifically enforced. Therefore, the Association shall have the right to seek a temporary restraining order, temporary injunction, and permanent injunction, restraining any Owner, their tenants, guests, agents, invitees or family member from violating these restrictions. Each Owner agrees to pay reasonable and necessary attorney's fees, costs, and expenses incident to any legal action to enforce these restrictions in the event the Association is the prevailing party, and further stipulate to venue in Tarrant County, Texas. Nothing contained herein shall be construed to be

a waiver by the Association of any other legal rights and remedies available to it, and the Association specifically reserves the right to seek monetary damages or other available relief as a result of any violation of these use restrictions or breach of the covenants contained in this Article VIII.

Section 19. Solar Energy Devices (Texas Property Code 202.010) Solar Panels for electricity generation require approval through the Architectural Control Committee. Solar energy device” has the meaning assigned by Section 171.107 of the Texas Tax Code, which defines that the term as a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar generated power”. The term includes a mechanical or chemical device that can store solar-generated energy for use in heating or cooling or in the production of power.

Section 20. Swimming Pool Enclosures (Texas Property Code 209.022). A swimming pool enclosure must surround a water feature. Plans for all personal swimming pools, spas and jacuzzies must be submitted to the Architectural Control Committee for approval. Each homeowner is responsible for following all state and local regulations.

Section 21. Standby Electric Generators (Texas Property Code 202.019). A standby electric generator is a device that converts mechanical energy to electrical energy. This is a permanent device that can be powered by natural gas, liquified petroleum gas, diesel fuel, biodiesel or hydrogen. The Architectural Control Committee must approve these types of generators.

Section 22. Security Measures (Texas Property Code 202.023). Section 202.023 to the Texas Property Code prohibits a property owners association that administers a subdivision development from adopting or enforcing any restrictive covenant that prevents a property owner from building or installing security measures, including but not limited to a security camera, motion detector, or perimeter fence. Section 202.023, however, does not prohibit a property owners association from (a.) regulating the type of fencing that a property owner may install and/or (b.) prohibiting the installation of a security camera by a property owner in a place other than the property owner’s private property.

Section 23. Regulation of Certain Roofing Materials (Texas Property Code 202.011). A property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner who is otherwise authorized to install shingles on the roof of the owners' property from installing shingles that meet the criteria of Texas Property Code 202.011 and local city ordinances. New roof colors and materials must be approved by the Architectural Control Committee.

Section 24. Certain Restrictive Covenants Prohibited (Texas Property Code 202.007). A property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from complying with Texas Property Code 202.007. Rainwater Recovery Systems may be installed with advance written approval of the Architectural Control Committee.

ARTICLE IX. PROPERTY EASEMENTS AND RIGHTS

Section 1. Construction. Each Lot and the property included in the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs, existing on the effective date of these Declarations, and as subsequently approved by the ACC as provided in Article V. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event any structure containing two or more residences is partially or totally destroyed and then rebuilt, the Owners so affected agree that minor encroachments of parts of the adjacent residential units on their Lots or on Common Area due to construction shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist.

Section 2. Utility, Emergency and Association. There is hereby created a blanket easement upon, across, over and under all of the Lots and property included in the Common Area, for ingress, egress, installation, replacement, repairing and maintaining all utilities, including but not limited to water, sewers, telephones and electricity. By virtue of this easement, it shall be expressly permissible for the providing electrical, telephone and/or cable television company to erect and maintain the necessary temporary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said residences. An easement is further granted to all police, fire protection, ambulance, garbage and trash collection pickup vehicles and

all similar person(s) to enter upon the Common Area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees and to any management company selected by the Association to enter in or to cross over the Common Area and any Lot to perform the duties of maintenance and repair of the residence or Common Area provided for herein, and for the enforcement of use restrictions as provided in Article VIII. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines or other utilities may be installed or relocated on said property except as initially programmed and approved by the Board or ACC. Should any utility furnish a service covered by separate recordable document, the Board shall have the right to grant such easement of said property without conflicting with the terms hereof. The easements provided for in this Article shall in no way affect any other recorded easement on said premises.

Section 3. Underground Utility Service

(a) Underground Electric Service. An underground electric distribution system will be installed to all Lots. The electric company will make available the underground service cable and appurtenances from the point of the company's installed transformers or energized secondary junction boxes. Such point of attachment to be made available by the electric company at a point designated by such company. The electric company shall make the necessary connections at the said point of attachment and at the meter. The Owner of each Lot shall, at his own cost, furnish, install, own and maintain a meter loop (in accordance with the standards and specifications of the City of Fort Worth and the electric company furnishing service) for the location and installation of the meter of such electric company for the residence constructed on such Owner's Lot.

(b) Telephone Service. Telephone service shall be available to each Lot and Common Area. Service between the company's main lines and an individual residence shall be installed, owned and maintained by the telephone utility.

(c) Water Service. Water service shall be provided to each Lot by way of a water distribution system. The Lot Owner shall be responsible for the water supply pipe between the pipe penetrates the

exterior wall of the residence and throughout the dwelling. Each residence shall be separately metered.

(d) Sanitary Sewer Service. Sanitary sewer shall be provided to each Lot by means of a sanitary sewer collection system, which sanitary sewer collection system shall be connected to sanitary sewer system for final treatment. That portion of the sanitary sewer service line from the point that it connects to the collection system at the lot line to and throughout the residence shall be owned and maintained by the Owner.

(e) Use of Easements. Easements for underground utility services may be crossed by driveways and walkways provided the Association or Builder makes prior arrangements for the utility furnishing service. Such easements for underground services shall be kept clear of all other improvements, including buildings, patios or other pavings, and the Association, shall not be liable for any damage done by the furnishing utility company or their assigns, their agents, employees or servants to shrubbery, trees, flowers or other improvements of the Owner located on land by said easements.

ARTICLE X. GENERAL PROVISIONS

Section 1. Management Agreements. Each Owner of a Lot hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A copy of all such agreements shall be available to the Lot Owners. Any management agreement entered into by the Association shall provide that said management agreement may be canceled upon the sixty percent (60%) affirmative vote of the votes of members entitled to vote. All management agreements shall be made with responsible parties having experience adequate for the management of a project of this type. However, the Board shall not be obligated to enter into a management agreement.

Section 2. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The remedies afforded by this section are cumulative of and not in lieu of any other enforcement

rights available to the Association under these Declarations and under the law. Venue of any legal proceeding brought pursuant to the rights granted by these Declarations shall be in Tarrant County, Texas. The prevailing party in any litigation brought pursuant to this Section shall be entitled to recover his reasonable and necessary attorney's fees, court costs and litigation expenses.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 4. Amendment. The covenants and restrictions by this Declaration shall run with and bind the land, for a term of ten (10) years from the date this Second Amended and Restated Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless canceled or amended as provided herein, it being understood that the covenants and restrictions may be canceled or amended within the primary term as set forth hereinafter. These Second Amended and Restated Declarations may be terminated, waived or amended by an instrument signed by not less than sixty-seven percent (67%) of the Owners. (See Texas Property Code 209.0041) Any amendment must be recorded.

Section 5. Annexation. Additional residential property and common area may be annexed to the Properties upon the consent of seventy-five percent (75%) of the Owners.

Section 6. Information Brochure. It shall be the responsibility of anyone who builds a home in the subdivision and any Owner who offers property for sale subsequent to the date of these Declarations, to distribute an informational brochure prepared by the Board of the Association, to the purchasers at the time of closing. The brochure should inform the purchasers about the Homeowners Association and the rights and obligations of Lot Owners. Specifically, the informational brochure shall contain the following information:

- (a) Organizational structure of the Association;
- (b) Membership and voting rights of the homeowners and developer;
- (c) Requirements for annexation, and dissolution, and an explanation that the total membership of the Homeowners Association may be increased;

- (d) The maximum amount and initial amount of Assessments, the Assessment lien, and the method of enforcement;
- (e) The method of changing the maximum Assessment;
- (f) A definition of user fees, if any;
- (g) A complete description of all elements of the Common Area, including improvements;
- (h) The services to be provided by the Association;
- (i) Exterior maintenance and dwellings, if any; and
- (j) Architectural control.

IN WITNESS WHEREOF, for the purpose of amending and restating the Restated Declaration of Covenants, Conditions and Restrictions of The Landing Homeowners Association, Inc., under the laws of the State of Texas, the undersigned, being not less than sixty-seven percent (67%) of the Owners, have executed these this Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Landing Homeowners' Association, Inc.