

**FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS
AND RESTRICTIONS
FOR
FALMOUTH AIRPARK I AND FALMOUTH AIRPARK II**

This FIRST AMENDED AND RESTATED DECLARATION of Covenants, Easements and Restrictions (“Amended and Restated Declaration”) made as of this ____ day of _____, 2007 by Falmouth Airpark Homeowners Association Inc., a Massachusetts Corporation (hereinafter referred to as “the Association”), with a mailing address of Post Office Box 2011, 67 Airpark Drive, East Falmouth MA. 02536, the current owner of the property described in Article 1, Section 1, hereof. This Amended and Restated Declaration amends and restates the Declaration of Covenants and Restrictions for Falmouth Airpark I and Falmouth Airpark II dated April 20, 1988 by Airport Development Park Investment Corp. and Airport Development Park Realty Corp. (together, the “Declarant”) recorded with Barnstable Registry of Deeds in Book 6273, Page 45, as previously amended of record.

WITNESSETH:

The Declarant was the owner of certain real estate known as Falmouth Airpark I and Falmouth Airpark II, as described in Article I, Section 1, hereof and created on said real estate a Residential “Fly-In” Community of particular interest to small plane owners. Said community has runway Lot 67 Airport, taxiways, private streets and common areas, to serve and benefit the landowners and residents. In order to protect said owners and to preserve the natural beauty of said real estate and to ensure that the improvements on said real estate shall be of high quality, the Declarant subjected the real estate described in Article I, Section I, hereof, together with such other lots and properties as may hereafter be made subject to this Amended and Restated Declaration, to certain covenants, restrictions, easements, agreements, charges and liens hereinafter set forth. Each of these covenants, restrictions, easements, agreements, charges and liens, inures to the benefit of, and runs with each parcel of real estate in Falmouth Airpark I and Falmouth Airpark II.

The Declarant caused the Association to be incorporated under the laws of the Commonwealth of Massachusetts as a nonprofit corporation which has the power and responsibility to maintain and administer certain properties and facilities, and which, as a beneficiary of this Amended and Restated Declaration, and as agent of the owners of lots or other properties now or hereafter made subject to this Amended and Restated Declaration, has the power and responsibility to administer and enforce the provisions of this Amended and Restated Declaration and to collect and disburse the assessments and charges hereinafter created, and has the other powers and responsibilities set forth in the Association's Certificate of Incorporation and By-Laws, as amended from time to time.

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

The Declarant has conveyed all residential lots, has completed all obligations to the Association, and has conveyed all other properties and transferred all responsibilities to the Association. This Amended and Restated Declaration incorporates these actions, eliminates all further references to the Developer, and incorporates all revisions as of this date.

NOW, THEREFORE, the lots described in Article I, Section I, hereof, are hereby subjected to this Amended and Restated Declaration and shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered, subject to this Amended and Restated Declaration and to the covenants, restrictions, easements, agreements, charges and liens (sometimes referred to as the "covenants and restrictions") hereinafter set forth; and such other property as may later be subjected to this Amended and Restated Declaration, pursuant to the provisions of Article I, Section 2 hereof, shall, from and after the filing of a supplementary declaration as described in Article I, Section 2 hereof be held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered, subject to this Amended and Restated Declaration and to the covenants, restrictions, easements, agreements, charges and liens hereinafter set forth. Every grantee of any interest in any parcel of real estate now or hereinafter made subject to this Amended and Restated Declaration, by acceptance of a deed or other conveyance of such interest, whether or not it shall be expressed in any such deed or other conveyance, whether or not such deed or other conveyance shall be signed by such person and whether or not such person shall otherwise consent in writing, shall take subject to this Declaration, and to all the terms and conditions hereof, and shall be deemed to have assented to all of said terms and conditions.

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

ARTICLE I THE PROPERTY

Section 1. Property Hereby Subjected to this Declaration

The real estate which is, by the recording of this Amended and Restated Declaration, subjected to the matters set forth herein, shall be held, transferred, sold, conveyed, used, occupied, mortgaged or otherwise encumbered, are the lots shown on Subdivision Plan of Land prepared for Harold Guidotti, Sr. and Carl E. Petrillo, East Falmouth, MA, Scale: 1" = 200', Date: March 5, 1986 as recorded in Barnstable County Registry of Deeds in Plan Book 419, Page 49-58 in the Commonwealth of Massachusetts. Said lots, parcels and roadways are hereinafter referred to as the "Property". Lots 1 through 66 are single-family residential lots. Lots 68 through 78 are multi-family residential lots. Parcels I, II, III, IV, V, VI, X, Y and Z constitute taxiways and open space relating to said Subdivision. Lot 67, as shown on said plan, constitutes the Airport.

Also subjected to this Amended and Restated Declaration are the following described parcels: Lots 68A, 68B, 69A, 69B, 69C, 70A, 70B, 71A, 71B, 72A, 72B, 74A, 74B, 75A, 75B, 75C, 76A, 76B, 77A, 78A, 78B, all of which are and shall be single-family home lots, Lot 73A which shall remain a multi-family lot, and Open Space Parcel X, Open Space Parcel Z and Open Space Parcel Y, all as shown on a plan of land in Falmouth, Mass. prepared for J.F.C. Realty Enterprises, Inc. by Holmes and McGrath, Inc., dated February 25, 1998 scale 1"= 50' as recorded in Barnstable County Registry of Deeds in Plan Book 546, Page 64 in the Commonwealth of Massachusetts.

Section 2. Additions to the Property

Lands other than the Property may be made subject to this Amended and Restated Declaration as follows:

(a) Additions by the Declarant as a Matter of Right. The Declarant shall have the right without compliance with sub-paragraph (b) hereof (exercisable from time to time by filing for record a supplementary declaration or declarations of covenants and restrictions as described in sub-paragraph (c) of this Section) to bring within the scheme of this Amended and Restated Declaration any of the real estate abutting to said property just described or abutting to other property previously brought within this Amended and Restated Declaration; provided, however, that neither the Declarant nor any party comprising the Declarant shall be obligated to bring within the scheme of this Amended and Restated Declaration any of the real estate owned by it, and provided further that, if the Declarant or either such party comprising the Declarant elects not to bring said real estate within the scheme of this Amended and Restated Declaration, in improving and developing said real estate, the Declarant or such other party shall not be obligated to impose covenants and restrictions on said real estate the same as or similar to the covenants and restrictions of this Amended and Restated Declaration. Notwithstanding anything contained herein which might be interpreted to produce a contrary result, this Amended and Restated Declaration does not create any charge, lien, or any other encumbrance or restriction on said real estate or affect in any way

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

the title to said real estate other than the Property. Said real estate may be subjected to this Amended and Restated Declaration only by the filing of a supplementary declaration as described in sub-paragraph (c) of this Section.

(b) Additions Pursuant to Association Approval. Except as provided in sub-paragraph (a) above, the Declarant or its successors or assigns who desires to bring property which they may own within the schemes of this Amended and Restated Declaration and to subject said property to the jurisdiction of the Association, may submit to the Association a supplementary declaration of covenants and restrictions, as described in sub-paragraph (c). Upon approval in writing by the Association pursuant to a majority vote of its members, as provided in its Certificate of Incorporation, as amended from time to time, such supplemental declaration may be filed for record.

(c) Supplementary Declarations. The additions authorized under sub-paragraphs (a) and (b) of this Section shall be made by filing for record a supplementary declaration of covenants and restrictions with respect to the property to be brought within the scheme of this Amended and Restated Declaration, which supplementary declaration shall extend the scheme of the covenants and restrictions of this Amended and Restated Declaration to such property and shall subject the owners of such property to the covenants and restrictions contained therein. Such supplementary declaration may contain such complementary modifications of the covenants and restrictions of this Amended and Restated Declaration and such other complementary additional provisions as may be necessary to reflect the different character, if any, of such property. In no event, however, shall such supplementary declaration revoke, modify, or add to the covenants and restrictions hereby made applicable to the Property, except that the submission of additional property will involve changes in voting rights and assessments.

(d) Additional Owners to Become Members. Upon filing such supplementary declaration, the owner or owners of such property shall become members of the Association; and such owners, and their successors in title, shall thereby acquire the rights and privileges granted herein to members of the Association, and such property shall be subjected to and protected by the terms, provisions and obligations of this Amended and Restated Declaration.

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

ARTICLE II THE MEMBERSHIP

Section 1. Membership in the Association

The following persons shall be members of the Association: Members shall include every person who is a record owner of a fee-simple estate, or a life estate, in any lot, whether developed or undeveloped, which is subject, by this Amended and Restated Declaration, or by any supplementary declaration, as contemplated by Article I, Section 2 hereof, to assessment by the Association. Membership shall terminate immediately upon the divestment of such member's ownership interest regardless of the means by which ownership may be divested. No person or entity holding a lien, mortgage or encumbrance upon any lot shall be entitled by virtue of such lien, mortgage or encumbrance to membership in the Association or to any other rights or privileges of such membership.

Section 2. Voting Rights

Members shall be all those persons holding any interest required for membership as specified in Section 1 of this Article. Members shall be entitled to full voting privileges. There shall be one vote for each paid lot or condominium unit assessment for Falmouth Airpark I and Falmouth Airpark II.

When a lot is owned by more than one individual, all of such owners shall designate by a written certificate filed with the Secretary of the Association one of their number to cast the vote for such lot. Such certificate shall be valid until revoked by a subsequent certificate signed by a majority of the owners. The vote as to any lot or unit owned by a corporation or partnership shall be cast by a representative designated in a certificate signed by a corporate officer or in the case of a partnership, a certificate signed by all the partners, which certificate must be filed with the Secretary of the Association. Such certificate shall be valid until revoked by a certificate signed by a corporate officer in the case of a corporation, or in the case of a partnership, by a certificate signed by all the partners.

Section 3. Suspension of Membership Rights

The membership rights of any member, including the right to vote, may be suspended by the Association's Board of Directors, pursuant to the authority granted in the Association's Certificate of Incorporation or the By-Laws of the Association as amended from time to time. Any such suspension shall not affect such member's obligation to pay assessments coming due during the period of suspension, and shall not affect the permanent charge and lien on the member's property in favor of the Association.

Section 4. Meetings of the Membership

All matters concerning meetings of the members of the Association, including the time within which and the manner in which notice of any of said meetings shall be given to said members and the quorum required for the transaction of business at any of said meetings, shall be as specified in the Certificate of Incorporation or the By-Laws of the Association, as amended from time to time.

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

ARTICLE III PROPERTY RIGHTS IN THE ASSOCIATION PROPERTIES

Section 1. Member Easements

Subject to the provisions of this Amended and Restated Declaration, the rules and regulations of the Association, and any fees or charges established by the Association, every Member, and every tenant and guest of each such Member shall have an easement over the streets, taxiways, airstrip (Lot 67, Airport) and open space as shown on the plan described in Article 1, Section 1 hereof. The streets shown on said plan, which include Quimby Lane, Smilin Jack Lane, Wiley Post Lane, Glory Lane, Rickenbacker Road, Airpark Drive and Ben Davis Lane, shall be used for foot and vehicle traffic only, except that the owners of Lots 24 through 26 and Lots 38 through 44 shall be entitled to tow airplanes across Rickenbacker Road in order to use a taxiway easement, and the owners of Lots 52 through 57 shall be entitled to tow airplanes across Quimby Lane in order to use a taxiway easement. Taxiway easements shall be for foot traffic and airplanes to provide access from individual lots to the Runway, Lot 67 Airport. Members shall have the right to use Lot 67 together with all others entitled thereto.

Section 2. Title to Association Properties

Association Properties shall consist of all roads, taxiway, easements and open space including the tennis court located thereon in Falmouth Airpark I and Falmouth Airpark II and Airport, Lot 67. Such properties have been conveyed and accepted by the Association.

Section 3. Extent of Member's Easements

The rights and easements created hereby shall be subject to the following:

(a) The right of the Association, as provided in its By-Laws, to suspend the rights of any member for any period during which any assessment remains unpaid, and for such period as it considers appropriate for any infraction of its published rules and regulations or violation of these covenants; and

(b) The right of the Association to charge reasonable admission and other fees for the use of the Association Properties; and

(c) The right of the Association to grant such easements and rights of ways to others as it deems necessary and to such utility companies or public agencies or authorities as it shall deem necessary for the proper servicing and maintenance of the Association Properties.

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

ARTICLE IV ASSESSMENTS, LIABILITY, LIEN AND ENFORCEMENT

The Association, pursuant to the Articles of Incorporation and the By-Laws, shall administer, manage and operate the Association Properties, and will incur costs and expenses for the mutual benefit of all its owners. To provide the funds necessary for the proper operation and management of the Association Properties, the Association is hereby granted the right to make, levy and collect assessments against all lots subject to this Amended and Restated Declaration or any supplementary Declaration and against the owners of such lots. In furtherance of said grant of authority, the following provisions shall be binding upon the owners of all lots subject to this Amended and Restated Declaration or to any supplemental Declarations, to-wit:

Section 1. Assessments

Assessments shall be determined in the following manner: The Board of Directors shall establish a budget in advance for the calendar year, and such budget shall project all expenses for the coming year which may be required for the proper operation, management and maintenance of the Association Property, including allowances for such contingencies and reserves as the Board of Directors deems necessary. Based on such budget, the Board of Directors shall establish the assessment for each lot for the succeeding calendar year. The Board of Directors shall determine how the assessments shall be allocated among the single-family Lots, and multi-family Lots. Notice of any change in the assessment from that of the previous year shall, be sent to each lot owner, at such owner's last known address, but the delivery of a copy of said budget shall not affect the liability of any owner for such assessment. A copy of the proposed budget shall be available for inspection by any lot owner or his designated agent at the Association office. Should the Board of Directors at any time determine, in its sole discretion, that the assessments levied are, or may prove to be, insufficient to pay the cost of operation and management of the Association Property, the Board of Directors shall have authority to levy such additional assessment or assessments as it shall deem to be necessary.

Section 2. Separate Property

All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied to the payment of any expense of operating and managing the Association Properties, or to the proper undertaking of any acts and duties imposed upon the Association by virtue of this Amended and Restated Declaration of Restrictions, or the Articles of Incorporation or By-Laws of said Association. As the monies for any assessment are paid to the Association by any lot owner, the same may be commingled with monies paid to the Association by the owners of other lots. Although all funds and other assets of the Association, and any increments thereto or profits derived therefrom, or from the leasing or use of common property, shall be held for the benefit of the members of the Association, no member shall have the right to assign, hypothecate, pledge, or in any manner transfer his membership interest therein except as an appurtenance to his lot. When the owner of a lot or unit shall cease to be a member of the Association by reason

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

of the divestment of his ownership of such lot, by whatever means, the Association shall not be required to account to such owner for any share of the funds or assets of the Association, or for any funds which may have been paid to the Association by such owner, as all monies which any owner has paid to the Association shall be and constitute an asset of the Association for use in the continuing operation and management of the Association Properties.

Section 3. Late Fees

Members shall be assessed a late fee of \$25.00 on any assessment not received by the Association within fifteen (15) days after the due date. If any assessment remains unpaid after thirty (30) days beyond the due date, an additional late fee equal to another \$25.00 shall be charged. Additional \$25.00 late fees shall be charged every thirty (30) days until the initial assessment plus all late fees are paid in full. All such late fees, together with all costs of collection thereof (including attorneys' fees and expenses) shall be secured by the lien provided for by this Article IV.

Section 4. Joint and Several Liability

The owner or owners of any parcel in FALMOUTH AIRPARK I and FALMOUTH AIRPARK II shall be personally liable, jointly and severally, to the Association for the payment of;

- (a) All assessments, regular or special, which may be levied by the Association against the lot or lots and portions thereof comprising such parcel;
- (b) For fees on such delinquent assessments or installments; and
- (c) For all costs of collecting such assessment or installment thereof, including a reasonable attorney's fee, whether suit be brought or not.

Section 5. No Exemption

No owner of a lot may exempt himself from liability for any assessment levied against such owner and his lot by waiver of the use or enjoyment of any of the common property, by abandonment of the lot, or in any other manner, or by non use of the Airport.

Section 6. Enforcement

Recognizing that the necessity for providing proper operation and management of the Association Property entails the continuing payment of costs and expenses therefore, which results in benefit to all of the owners of lots, and that the payment of such common expenses by means of the assessment levied and collected by the Association is necessary in order to preserve and protect the investment of the owner of each lot, the Association is hereby granted a lien upon each lot, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the owner of each lot, and which lien shall also secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing the lien. The lien granted to the Association may be foreclosed in the same manner as real estate mortgages may be foreclosed in The Commonwealth of Massachusetts. The lien granted to the Association shall further secure such advances for taxes and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

and protect its lien, and the Association shall further be entitled to interest at the rate of 10% per annum on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any lot, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien granted to the Association and shall acquire such interest in any lot expressly subject to such lien, except as specifically otherwise provided herein.

Section 7. Lien

The lien herein granted unto the Association shall be effective from and after the time of recording at the Barnstable County Registry of Deeds, a claim of lien stating the description of the lot or portions thereof encumbered thereby, the name of the record owner, the amount due and the date when due. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus fees, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon payment of all sums secured by such claim of lien, the same shall be satisfied or record at the expense of the lot owner. The claim of lien filed by the Association shall be subordinate to the lien of any mortgage or any other lien recorded prior to the time of recording of the Association's claim of lien.

Section 8. Statement of Lien Status

Whenever any lot may be leased, sold or mortgaged by the owner thereof, upon written request by the owner of such lot, the Association shall furnish a statement verifying the status of payment of any assessment due and payable. Such statement may be executed by any officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction and the Association shall be bound by such statement.

Section 9. Delinquent Assessment

In the event that any lot is to be leased or sold at a time when payment of any assessment against the owner of said lot due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association) then the rent, proceeds of such purchase or lease shall be applied by the lessee or purchase first to payment of any then delinquent assessment or installation thereof due to the Association before the payment of any such proceeds to the owner of any lot who is responsible for payment of such delinquent assets.

Section 10. Grantee Liability

In any voluntary conveyance of a lot, except a voluntary conveyance in lieu of foreclosure, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor such amounts as grantees may be required to pay.

Section 11. Exemptions of Mortgagee from Past Due Installments

Any person, firm or corporation acquiring title to any lot by virtue of any foreclosure or

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

judicial sale, shall be liable and obligated only for such assessments as shall accrue and become due and payable for said lot subsequent to the date of the acquisition of such title, and such person, firm or corporation shall acquire such title free and clear of the lien of any delinquent assessment. Nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

Section 12. Election of Remedies

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which will prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure nor shall proceeding by foreclosure to attempt to affect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing the Association.

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

ARTICLE V PROTECTIVE COVENANTS - RESIDENTIAL RESTRICTIONS

INTRODUCTION

The protective covenants assure the protection of Falmouth Airpark I and Falmouth Airpark II's concept, neighborhood lifestyle, and individual property values through establishment of standards for design review and approval.

SCOPE

The Architectural Review Committee established by the Association (hereinafter, the "ARC") shall have the authority to approve or disapprove all proposed improvements in writing prior to the start of construction. Such improvements shall include, but not be limited to, tree clearing plans, building plans, plot plans and landscape plans as required by these Protective Covenants and by ARC Policy. A review must be conducted to ensure the conformity and harmony of external design, quality of construction materials, location of the building with respect to lot lines and finished ground elevation in Falmouth Airpark I and Falmouth Airpark II.

AUTHORITY

Authority is granted to the ARC to ensure that the provisions of these protective covenants are complied with. The judgment of the ARC shall be binding and final.

No work of any kind may proceed without a signed ARC approval. This includes cutting of trees, digging for a foundation or site work of any kind. Commencement without ARC approval will immediately be subject to fines beginning on the day work begins.

Section 1. Use Limitation - Falmouth Airpark I and Falmouth Airpark II

No lot shall be used for any purpose other than single dwelling unit residential purposes. No buildings shall be erected, placed, altered, remodeled or permitted to remain on any lot other than one single dwelling unit with attached hangar and garage in Falmouth Airpark I and Falmouth Airpark II. Homes must contain an attached garage of a minimum one-car capacity. No garage shall exceed three-car capacity. No carports shall be permitted. The Association has the power to limit or prohibit the use of taxiways by any vehicles other than aircraft. Lots 24, 25, 26, 38, 39, 40, 41, 42, 43, 44, 52, 53, 54, 55, 56 and 57 are hereby excepted from the above restrictions only to the extent that inclusion or construction of an attached hangar on the subject lot shall be optional.

No two-family dwelling unit and no multiple single dwelling / multi dwelling unit housing, as defined by the Massachusetts State Building Code 780 CMR 3102, is allowed except for the existing four condominium units comprising the Falmouth Airpark Condominium I. The roof pitch shall be a minimum 8/12 or as approved by the ARC. Buildings shall have architectural style roof shingles. Siding shall be Cape Cod style such as clapboards, shingles or as approved by the ARC. All tie-down pads for planes shall be located adjacent to the aircraft hangar door so as to be as unobtrusive as possible. Tools, lawn, automotive, aircraft

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

and other such equipment shall be kept enclosed in storage areas within or attached to the structure.

Section 2. Architectural Standards

Section 2A. Building Size

No single-family dwelling unit shall be erected, altered, placed or permitted to remain on any lot which does not have a living area in the main structure, exclusive of open porches, garages and hangars, of at least 1,800 square feet. A minimum ground floor living area of at least 1,000 square feet shall be required for a dwelling of more than one story. The total area of any hangar associated with a single dwelling unit shall not exceed eighty percent (80%) of the total area of the house.

Section 2B. Construction Completion

Recognizing that it is detrimental to the Falmouth Airpark I and Falmouth Airpark II community for buildings once started to remain incomplete for an extended period of time, each owner of a lot or parcel designated for use as a single dwelling unit hereby covenants for himself, his successors and assigns to complete the construction of any structure undertaken on said lot within one year from the commencement thereof. For the purpose of this Section, 'Commencement of Construction' shall mean the clearing of trees from the site in preparation for construction. Construction shall be deemed to be completed upon the issuance of a Certificate of Compliance by the Association's Board of Directors on recommendation of the ARC. Anything hereinabove to the contrary withstanding, the one year limitation as to completion shall not apply to any Bank, Savings and Loan Association, or Life Insurance Company which acquires title by foreclosure of a mortgage or deed in lieu of foreclosure; and any purchaser of a lot from such a mortgagee shall have one year from the date of the transfer of title from such mortgagee within which to complete any construction commenced prior to transfer but incomplete at the time of transfer.

Section 2C. Bedroom Limitation

No single-family home constructed on Lots 68A, 68B, 69A, 69B, 69C, 70A, 70B, 71A, 71B, 72A, 72B, 74A, 74B, 75A, 75B, 75C, 76A, 76B, 77A, 78A or 78B shall contain more than four (4) bedrooms. The purpose of this limitation is to minimize nutrient-loading emanating from the use and occupancy of these single dwelling units in observance of the Town of Falmouth nutrient-loading by-law.

Section 2D. Building Site and Adjacent Taxiway

It shall be the responsibility of each lot owner to provide for the drainage of all surface water on his own property so as to prevent water flow onto adjacent lots or taxiways. All building and landscaping plans shall show gutter, downspouts and drywells to catch rainwater from the roof. Areas around tie-down pads shall provide for drainage of surface water runoff into self contained drainage areas.

Section 2E. Damage Responsibility

Each lot owner shall be responsible for repairing damage to adjacent land, roads, berms, grassed areas or taxiways caused by him, his agents, employees, or their equipment during

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

the construction process. If any damage is done, repair shall proceed only after repair plans have been submitted to the ARC and after written approval is given by the Association to the lot owner. The same procedure will govern if the lot owner changes the grade of Association property during construction or changes original plans approved by the Association. All lot owners shall carry a builder's risk insurance policy which covers "street damage" and names the Association as a named insured. Only rubber-tire equipment shall be allowed on roadways.

Section 2F. Exterior Finish

Unless otherwise permitted by the ARC, each house, hangar or shed shall be constructed with approved identical finished materials on the roof and all exterior sides of the structure.

Section 3. Architectural Review

Section 3A. Review Process

The architectural review process is a multi-stage review which consists of a minimum of the following stages prior to, during and post construction.

Pre-Construction

3A.1. Prior to the start of construction an Initial Meeting shall be held with the lot owner for the purpose of exchanging information and reviewing building guidelines and construction policies with which the lot owner must comply.

3A.2. The Design Review Meeting shall consist of a review of the following documents:

- 1) Application completed by lot owner
- 2) Application fee per schedule Falmouth Airpark Schedule of Fees
- 3) Two copies of architectural drawings and specifications scaled at 1/4 " = 1 foot.
- 4) Two copies of a certified plot plan
- 5) Two copies of a landscape design plan
- 6) Certificate of insurance

At the Design review meeting, the owner or owners shall pay a security deposit ("Security Deposit") per the Falmouth Airpark Schedule of Fees which will be held by the Association in an interest bearing account to insure compliance with this Article V.

In-Process

3A.3. In-Process Reviews may be held during construction, at the discretion of the ARC, to address construction issues.

Post Construction

3A.4. The ARC will conduct a Final Site Inspection to insure construction in accordance with plans and to insure no damage has occurred to Association property.

The judgment of the ARC shall be binding and final.

Section 3B. Construction Compliance

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

The Security Deposit (with interest) shall be returned to the owner after the issuance of a Certificate of Compliance by the Association's Board of Directors, which shall be issued only on a recommendation by the ARC following a final site inspection. If the owner has failed to comply with any of the construction requirements of this Article V, or has caused any damage to the Association property, the Board of Directors may use all or any portion of the Security Deposit to pay for the cost of remedying any such non-compliance, to repair any such damage, and/or to enforce compliance by the owner by any legal means available to the Board. All legal fees and expenses incurred by the Board related to any such enforcement shall be paid from the Security Deposit. If the Security Deposit is insufficient to pay all of said costs and expenses, the owner shall be personally liable for the payment of any excess costs and expenses, and all of such costs and expenses, together with any legal fees and expenses incurred by the Board in the collection thereof, shall constitute a lien on the lot of the owner until paid.

Section 3C. Site Clearing

Site clearing or construction shall not be allowed prior to written formal approval by the ARC. Violators of said policy will be subject to fines and legal proceedings as defined in "Article V Section 23 Enforcement".

Section 4. Structural Limitations

No structure of a temporary nature, trailer, tent or shack, other than a construction trailer in use during the course of construction, shall be erected or maintained on any lot or other property covered by these restrictions at any time. Modular homes meeting all requirements of these RESIDENTIAL RESTRICTIONS shall be permitted to be placed and constructed on these lots.

Section 5. Garage and Hangars

No garage or hangar shall be erected on any lot prior to the start of construction of a dwelling. The concrete foundation for the dwelling, hangar and garage must be completed prior to the start of any framing. All hangars must be completely enclosed on all four sides. No hangar shall be permitted without a door having a minimum width of 40 feet and designed for the entry and exit of aircraft.

Section 6. Lawns, Trees and Driveways

Each lot owner shall file two copies of an accurate and complete scaled landscape plan showing the location of trees to remain and/or be added and other plantings. The judgment of the ARC as to the acceptability of such plan shall be binding. Construction may not begin on any home prior to approval by ARC of the landscape plan. The Board of Directors shall not issue a Certificate of Compliance until all landscaping shown on the approved plan has been completed, unless weather prohibits the completion of such landscaping, in which case the Board may issue a temporary Certificate of Compliance providing for subsequent completion of landscaping. All lawns in front of each residence and on the street sides of any corner lot shall extend and be maintained to the pavement by the lot owner. All driveways shall be of crushed stone or blacktop. Each crushed stone driveway shall have a blacktop or ARC approved hard surface apron of at least ten feet between the paved road and the stones

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

to prevent the stones from going onto the paved road. Lawn areas on each developed lot shall be immediately seeded or sodded and kept neat and attractive. No living tree larger than four inches in diameter as measured 1 foot above ground level shall be removed from any lot or parcel without the prior written approval of the ARC or its designated representative. Owner shall be responsible for the upkeep and maintenance of his own property including lawn care. Failure to maintain said property following written notification to the lot owner shall result in Association remedies at the lot owner's expense.

Section 7. Walls and Fences

No wall, fence, or other enclosure of any kind shall be constructed or maintained which is over a height of three feet where such wall, fence, or other enclosure is located along the side lot line, or within ten feet thereof.

Anything in this Section 7 to the contrary notwithstanding, the height and setback restrictions contained in this Section 7 may be waived by the ARC for lots adjoining open space or common areas or where such waiver would create or enhance the architectural integrity between several contiguous lots. The foregoing restriction shall not preclude fencing a tennis court or swimming pool, if the location of the fence, or pool and court and the materials and design thereof are specifically approved in writing by the ARC in advance.

Prior to occupancy a post and rail fence as designated by the Association shall be constructed on any lot line which abuts an aircraft operating area in order to meet Falmouth Planning Board requirements. Said fence shall run from the hangar door out to the rear lot line on both sides of hangar pad, then turn and run along the rear lot line toward each corner. The fence shall then turn in a perpendicular direction back into the lot along the abutters' lot lines for a minimum of ten (10) feet unless connection can be made to an existing abutters' fence which extends to the lot corner, closing the yard from the aircraft operating area.

Section 8. Antennas, Weather Instruments and Clotheslines

No exposed radio antennas, masts, towers, weather measuring instruments, or "dishes" of any type shall be permitted on any lot without prior ARC written approval.

The above restriction on exposed antennas shall not apply to Direct Broadcast Satellite (DBS), Multi-channel Multipoint Distribution Service (MMDS) and Television Broadcast Antennas (TVBS) as defined in the Telecommunications Act of 1996. Sub-meter sized antennas shall be placed in the rear of the property provided such placement does not impair signal reception. Where such antennas would be otherwise visible from the street, painting the antenna to blend into the background or screening the antenna with landscaping is required.

No clotheslines shall be installed or maintained so as to be visible from any lot other than that on which they are located.

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

Section 9. Storage Sheds

Except as to Lot 67, under no circumstances may any other items, including cars, aircraft equipment, tools, or lawn equipment be stored unless enclosed within an architecturally conforming storage area within said structure or within an architecturally conforming storage shed. The square footage of such storage shed shall not exceed one hundred (100) square feet. Such storage shed must be enclosed on all four sides with a roof and have roofing and siding consistent with that of the approved single dwelling unit. The storage shed must be located at the rear of the dwelling. Prior to the start of construction, the design and location of the shed must be approved in writing by the ARC and in consultation with the abutting lot owners. The ARC and/or the Board of Directors shall have the right to require any lot owner to remove or repair any previously approved storage shed within ten (10) days after written notice thereof if such shed is not kept in a clean and neat manner.

Section 10. Offensive Uses Prohibited

Keeping in mind that this is a fly-in community and that certain conditions associated with the use and maintenance of airplanes are expected, no obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which shall be, or become, an annoyance or a nuisance to the neighborhood. No commercial activity of any nature shall be permitted within the residential area at any time except as pertains to the construction and sale of single dwelling units within Falmouth Airpark I and II. However provided that there is no violation of the Falmouth Town By-Laws, a person residing in either Falmouth Airpark I or Falmouth Airpark II, may maintain therein an office or workspace for his or her personal professional use. No employees or persons other than a resident of Falmouth Airpark I or Falmouth Airpark II shall engage in any personal professional activities therein and no such office or workspace shall be advertised, held out, or used as a place for service to customers, clients or patients.

Section 11. Animals

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that household pets may be kept thereon in reasonable number. No pets are permitted to run loose outside the lot nor may pets be kept, bred, or maintained for any commercial purpose.

Section 12. Signs

No sign of any kind except a small nameplate on a lamppost or affixed to the front of a house shall be displayed to the public view on any lot. During construction, a builder may place one sign of not more than three square feet denoting the name of the builder and/or owner of the home. All signs must be professionally lettered and no sign may be affixed to any tree or structure. Signs may not exceed a height of four feet from the ground and no sign may contain the price of the lot or home. No sign of any type may be displayed from the window of any home. The Association retains final control over all signs and may remove any signs at its sole discretion at any time if found to be in violation of the provisions contained herein.

Section 13. Exposed Vehicles

Unless the Board has given its prior written consent, no house trailer, motor home or other similar vehicle shall be parked or placed on any lot at any time for any period greater than

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

one day. Parking of non-commercial, licensed and insured vehicles is allowed only on driveway surfaces previously defined in Section 6. No disassembled aircraft or other vehicle shall be kept, parked, or stored on any lot except inside a fully enclosed hangar or garage. No worn-out or discarded automobiles, trucks, commercial vehicles, trailers, house trailers, machinery, or other vehicles or parts thereof, shall be stored on any lot.

Airplane parking will be subject to policies adopted by the Board of Directors. Aircraft shall not block any taxiway.

Section 14. Trash and Trash Containers

No unused building materials, junk or rubbish shall be left exposed on said property except during actual building operations. No portion of any lot shall be used for the storage of junk or waste material. All garbage or trash containers on all residence lots must be placed in walled-in areas, and must be hidden from view by a structural wall or fence so they shall not be visible from the adjoining properties, or the street. Garbage must be placed in hard-sided containers with secure lids when placed at the curb for pickup.

Section 15. Firearms

There shall be no discharging of firearms on the premises.

Section 16. Fuel Storage

No fuel (other than home heating fuel or fuel in vehicles) in excess of twenty five (25) gallons shall be kept or stored either above or below ground on any lot without a Falmouth Fire Department permit.

Section 17. Use of Taxiways

Taxiways as shown on the plan referred to herein or as described by the Association shall not be used by any vehicle other than aircraft or Association service vehicles. Lot owners and their employees must comply with published Construction Policy and Taxiway/Runway Access Guidelines.

Section 18. Aircraft Traffic

The Association, its successors, assigns, or designated representative, reserves the right to establish special traffic and safety rules for the handling of aircraft traffic on the ground, the utilization of taxiways by aircraft and other vehicles, the parking of aircraft, engine run-up, and other activities related to the community's aviation needs. Such rules and regulations shall be posted in the Airport Office.

Section 19. Light Post

All houses must include a freestanding light to be installed on a post adjacent to the junction of the driveway and access road which must be kept in continuous operation. The light post shall not exceed a nine inch maximum width. Said light shall be equipped with a non-switched photocell device so as to automatically turn the said light on at dusk and off at dawn.

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

Section 20. Breach

No waiver of any breach of any of the covenants, agreements, or restrictions and conditions herein contained shall be construed as a waiver of any other breach of the same, or either covenants, agreements, restrictions, and conditions, nor shall failure to enforce anyone of such covenants or restrictions be construed as a waiver of any other restriction or condition.

Section 22. Covenants Run with the Land

These covenants (as amended from time to time) are to run with the land in perpetuity and shall be binding on all parties hereto, and all parties claiming under them.

Section 23. Enforcement

If anyone shall violate or attempt to violate any of the covenants, restrictions, agreements or conditions contained herein, any other person or persons owning any lot situated in the subdivision or the Board of Directors, after giving ten (10) days written notice to such person or persons violating or attempting to violate such covenants, restrictions, agreements or conditions without discontinuance thereof, may commence proceedings at law or in equity to prevent the violating party from so doing and/or to recover damages for such violation or violations. All costs of such proceeding, including reasonable attorney's fees, shall be borne by the person violating or attempting to violate these restrictions.

In addition to the foregoing remedy, the Association, by majority vote of its Board of Directors, may levy a fine per the Falmouth Airpark Schedule of Fees against any member who violates, or whose tenants, guests or invitees violate, any provision of this Amended and Restated Declaration. Each day a violation continues after notice thereof shall constitute a separate violation thereby incurring an additional fine per the Falmouth Airpark Schedule of Fees. All fines assessed hereunder, together with all costs of collection thereof (including attorneys' fees and expenses) shall be secured by the lien provided for by Article IV.

Section 24. Amendments

The Association shall have the right and authority to modify and amend these Covenants and Restrictions without liability or notice to or joinder of any other party provided such modification and amendments do not establish covenants and restrictions which are less restrictive than those contained above. No house, hangar, garage, shed, tennis court, pool or other structure which is complete or substantially complete at the time of the adoption of an amendment and which conforms to the Covenants and Restrictions prior to such amendment shall be rendered nonconforming by the adoption of an amendment. Any amendment so adopted shall become effective when a certificate thereof executed with the formality of a deed is recorded at the Barnstable County Registry of Deeds, Barnstable County, Massachusetts. Amendments to this Amended and Restated Declaration may also be adopted by the membership of Falmouth Airpark Homeowners Association in the same manner and upon the same vote as required for amendments to the By-Laws of Falmouth Airpark Homeowners Association.

**FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS
AND RESTRICTIONS**

Section 25. Severability and Limitation of Paragraph Headings

Invalidity of anyone of these covenants by judgment or by court order shall in no way affect any of the other provisions of these covenants, which shall remain in full force and effect.

The paragraph headings shown herein are for reference purposes only and are not intended to limit the paragraph in any manner.

FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

ARTICLE VI AIRPORT USE

Section 1. Aviation Activities Waiver

All Members and their tenants and guests acknowledge that they are aware that Falmouth Airpark I and Falmouth Airpark II (together hereinafter referred to as the "Community") is a fly-in Community, with a private airport contained within the Community. All Members and their tenants and guests hereby waive any and all objections to aviation activities carried out in, or connected with, the airport.

Section 2. Assurance of Continued Operation and Maintenance as a Private Airport

Inasmuch as the Community was developed for individuals involved in the sport and hobby of aviation, every purchaser, lessee or grantee of any interest in any property now or hereafter subject to this Amended and Restated Declaration, by acceptance of a deed, lease, or other conveyance thereof, thereby agrees that, so long as any individual with any interest in any property within this community desires to pursue the sport and hobby of aviation and notifies the Falmouth Airpark Homeowners Association, Inc. in writing of such intent, the runway and taxiways shall remain and be maintained as such. Every purchaser, lessee or grantee of any interest in any property now or hereafter subject to this Amended and Restated Declaration further agrees, by acceptance of a deed, lease, or other conveyance thereof, to relinquish any right to complain, object, or take any legal remedies to stop aviation-related activities in the community. Aircraft owners will have a perpetual right to operate their aircraft within the rights of this Amended and Restated Declaration.

**FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS
AND RESTRICTIONS**

Executed under seal as of the date first set forth above.

BOARD OF DIRECTORS
OF FALMOUTH
AIRPARK HOMEOWNERS'
ASSOCIATION, INC.

(_____
(_____
(_____
(_____
(_____
(_____
(_____
(_____
(_____
(_____

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

On this _____ day of _____, 2007, before me, the undersigned notary public,
personally appeared the above-named _____
_____, known to me to be the person(s) whose
names(s) is/are signed to the foregoing document, and acknowledged to me that he/she/they
signed it voluntarily for its intended purpose.

Notary Public
My commission expires: _____