

DECLARATION OF COVENANTS AND RESTRICTIONS

OF ISLAND MOORINGS Unit II

THE STATE OF TEXAS §

COUNTY OF NUECES §

This Declaration, made on the date hereinafter set forth by Latitude 27, Ltd., a Texas limited partnership, acting herein by and through Latitude 27, Inc., a Texas Corporation with its offices and principal place of business being located in Port Aransas, Nueces County, Texas, its General Partner, hereinafter referred to as "Declarant".

W I T N E S S E T H :

WHEREAS, Declarant is the owner of the property situated in Nueces County, Texas, described on Exhibit "A" attached hereto and incorporated herein as if set forth in full; and has subdivided such property into lots and blocks with intervening streets, avenues, drives and easements for drainage and utility facilities, and has dedicated such streets, avenues, drives and easements as set forth on the map or plat of such subdivision recorded in Volume ____, Page ____, of the Map Records of Nueces County, Texas, reference to which is hereby made and which property is hereinafter referred to as the "Subdivision"; and,

WHEREAS, it is the desire of the Declarant to place certain restrictions, covenants, conditions, stipulations and reservations, upon and against such property in order to establish a uniform plan for the development, improvements and sale of such property and to insure the preservation of such uniform plan for the benefit of both the present and future owners of lots within such parcel of land;

NOW, THEREFORE, Declarant hereby adopts, establishes and imposes upon the tract and parcel of land known as Island Moorings Unit 1 and declares the following reservations, easements, restrictions, covenants and conditions applicable thereto, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the land, which reservations, easements, covenants, restrictions and conditions shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE ONE

Scope of Restrictions

For the purposes of creating and carrying out the uniform plan for the improvement and sale of said addition and the lots and blocks therein contained, as a high quality, restricted residential subdivision, the following restrictions, conditions and use limitations are hereby established, adopted and imposed upon each lot or parcel of land in said addition as shown by said map. Such restrictions, conditions and use limitations shall constitute covenants running with the land, shall be binding upon and inure to the benefit of Declarant, its successors and assigns, and upon all persons acquiring property in said addition whether by purchase, descent, devise, gift or otherwise, and each person, by the acceptance of title to any lot of said subdivision, shall agree and covenant to abide by and

perform the terms, conditions, restrictions and covenants as set forth herein. Such restrictions, conditions and use limitations shall be made a part of each contract and/or deed executed by or on behalf of Declarant, conveying a lot or lots within said addition by reference to the place of record of this instrument. By acceptance thereof, the grantee and all persons claiming under him shall be subject to and bound thereby, and each such contract and/or deed shall be conclusively held to have been executed, delivered and accepted subject to all the terms, conditions and restrictions set out in this instrument. In the event, however, of the failure of any contract and/or deed to any lot or lots in said addition to refer to this instrument, this instrument shall nevertheless be considered a part thereof, and any conveyance of such lot or lots shall be construed to be subject to the terms of this instrument.

ARTICLE TWO

Architectural Control

1.1 There is hereby created an Architectural Control Committee, hereinafter sometimes referred to as the "Committee", which shall be composed of four (4) members. Each member shall serve until his successor is named, as provided herein, and shall be:

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| I. B. Magee, Jr. | 418 South Alister Street
Port Aransas, Texas 78373 |
| Alvino Valenzuela | 1101 West Fern
Rockport, Texas 78382 |
| Bill Gaskins | 418 South Alister Street
Port Aransas, Texas 78373 |
| Jim Pair | P. O. Box 1637
Port Aransas, Texas 78373 |

A majority of the Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee, the remaining members shall have full authority to designate and appoint a successor. No member of the Committee, or his designated representative, shall be entitled to any compensation for services performed hereunder other than the compensation set forth in Paragraph 2.6 to offset the cost of reviewing the plans and specifications provided for herein. At such time as seventy-five (75%) percent of the lots in the subdivision have been sold and transferred by the Declarant, record owners of a majority of the lots in such addition shall have the power to file a duly recorded written instrument to change the membership of the Committee, to withdraw powers and duties from the Committee, or to restore the powers and duties of the Committee. Such action shall be effective upon recordation of a written document property reflecting the same.

2.2 It shall be the general purpose of the Committee to provide for maintenance of high standards of architecture and construction in such a manner as to enhance the aesthetic properties and structural soundness of the developed subdivision. The Committee shall be guided by and, except when in their sole discretion good planning would dictate to the contrary, controlled by this Declaration. The judgment of the Committee shall be final, conclusive and binding.

2.3 No building, fence, wall or other structure or improvement, shall be commenced, erected, or maintained upon the

subdivision; nor shall any exterior addition to, or change or alteration therein be made; nor shall any landscaping on any lot or lots that would affect drainage or utility easements be undertaken until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by, the Committee as to harmony of external design and location in relation to surrounding structures and topography and finished grade elevation. The Committee may refuse to accept or may require changes, deletions or revisions in such plans and specifications in order to insure that the architectural and general appearance of all buildings and grounds be in conformity with this Declaration and the general appearance of the subdivision, and that such plans and specifications are not detrimental to the public health, safety, and general welfare of the community. Refusal of approval of plans and specifications or required changes, deletions or revisions in same may be based upon any reasonable grounds, including purely aesthetic grounds, which in the sole discretion of the Committee shall be deemed conclusive and controlling.

2.4 Final plans and specifications shall be submitted in duplicate to the Committee for approval or disapproval. At such time as the plans and specifications meet the approval of the Committee, one complete set of such plans and specifications will be retained by the Committee and the other complete set will be marked "APPROVED", and returned to the lot owner. Any modification or change to the approved set of plans and specifications must again be submitted to the Committee for its inspection and approval.

2.5 The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove such plans and specifications within thirty (30) days after they have been submitted to it, and if no suit to enjoin the construction is commenced prior to the completion of such construction, then approval is presumed.

2.6 A fee in the amount of One Hundred and No/100 (\$100.00) Dollars shall be submitted to the Committee at the time plans and specifications are submitted to the Committee, which fee is to be used to offset the costs of reviewing the plans and specifications. The fee set forth herein shall be subject to change by the Committee upon recordation of a written document properly reflecting the same.

2.7 The Committee shall determine whether the provisions contained in the Declaration are being complied with; however, no act or failure or refusal of the Committee to initiate action to challenge a real or threatened violation of this Declaration or otherwise to act on its own initiative, shall be deemed to constitute waiver of any right or duty of the Committee at any time or from time to time thereafter to initiate such action and/or enforce compliance with this Declaration. The Committee may act or refuse to act in any real or threatened violation of this Declaration, all in the exercise of its sole discretion.

2.8 Declarant shall have the right, at its election, to transfer the power of appointment of the Committee to the Property Owner's Association, when formed. In such event, all rights and obligations of Declarant to appointment of the Committee shall thereupon terminate and shall thereafter be vested in the assignee of such power; provided that, in the event such assignee should fail or refuse to exercise the power,

Declarant shall have the right but not the duty to exercise the power of appointment of the Committee.

2.9 Notwithstanding any other provisions herein, it shall remain the prerogative and in the jurisdiction of the Committee to review applications and grant approvals for exceptions to the provisions herein. Variations from these requirements and, in general, other forms of deviations from these restrictions imposed hereby, may be made when and only when such exceptions, variances and deviations do not in any way detract from the appearance of the premises, and are not in any way detrimental to the public welfare or to the property of other persons located in the vicinity hereof, all in the sole opinion of the Committee.

2.10 The Committee may from time to time adopt certain reasonable building and construction standards which will govern the standards by which all improvements in the subdivision will be constructed. The Committee shall adopt such standards and shall make copies of same available to the owners of Lots in the subdivision upon request. The Committee may modify or amend such building standards from time to time as in their sole discretion they shall deem appropriate.

ARTICLE THREE

Improvement Standards

3.1 Residential. No lot in the subdivision shall be used other than for single family residential purposes and no building shall be designed for, or erected, placed occupied, altered, or permitted to remain on any lot or portion thereof other than a single family residence and attached or separate garage. No trailer, mobile home, motor home, modular home, geodesic dome, tent, shack, lean-to or other outbuilding may be placed, moved, erected or permitted to remain on any lot in the subdivision, temporarily or permanently, by either an owner of any lot in this subdivision or any guest of any such owner. No structure or any part of the property shall be occupied or used as a residence, temporarily or permanently, until the exterior thereof is completely finished and all plumbing, electrical and sewage facilities have been fully installed and connected as required hereinafter.

3.2 Building Location. On Lots 1-33 inclusive, Island Moorings Unit II no building shall be located on any lot nearer than thirty-five (35') feet from the rear property line, nor nearer than five (5') feet from the side of any interior line of any such lot, and shall not be nearer than twenty (20') feet from the front property line. On Lots 34-69 inclusive, Island Moorings Unit II, no building shall be located on any lot nearer than forty-five (45') feet from the rear property line, nor nearer than five (5') feet from the side of any interior line of any such lot, and shall not be nearer than twenty (20') feet from the front property line. Notwithstanding the provisions contained herein, Declarant or the owners or purchasers of two or more lots may locate one building on said two or more lots such that the interior line of such lot shall be the lot line between the lots owned by the owner or purchaser constructing one house on two or more lots and the contiguous lots not owned by said owner or purchaser. In other words, if an owner constructs one house on two contiguous lots in the subdivision, the side yard set back provided for herein shall only be applicable to the two exterior lot lines and not the lot line common between the two lots. Notwithstanding the provisions contained herein, the building lines for Lot 33 shall be ten (10') feet from the front

property line and thirty (30') feet from the rear property line and the building lines for Lot 34 shall be ten (10') feet from the front property line and forty (40') feet from the rear property line. In case of any discrepancy between the recorded plat and the recorded restrictions, the recorded plat shall prevail.

3.3 Fences or Walls. No fence or wall shall be erected, placed, altered or maintained on any building site nearer to the front lot line than the minimum building setback line shown on the recorded plat of the subdivision or in any event, forward of the front wall line of the main building. No fence or wall shall be erected, placed, altered or maintained on any lot in such a manner that it will affect or impair the drainage areas designated by the Architectural Control Committee.

3.4 Minimum Floor Area. Any single family dwelling constructed on a lot in the subdivision must have a main floor living area of not less than one thousand six hundred (1,600') square feet, exclusive of open or screened porches, terraces, patios, driveways, carports and garages, unless adjusted or waived by the Committee.

3.5 Minimum Grade Elevation and Foundation. The minimum grade elevation for any lot within the subdivision shall be eight (8') feet above mean sea level. On all main buildings and all out buildings, either attached or detached, all foundations must be of concrete and must be fully enclosed at the perimeter. The finished floor elevation for the first floor of any dwelling shall be not less than eight (8.0') feet nor more than nine (9.0') feet above mean sea level. The finished floor elevation for the second floor of any dwelling shall be not less than seventeen (17.0') feet nor more than eighteen (18.0') feet above mean sea level. No dwelling, garage or appurtenant building shall exceed two (2) stories in height.

3.6 Exterior Walls. The exterior walls of each main dwelling shall be of natural stone, brick or wood or any combination thereof. Materials used on the main building or any outbuilding must be in harmony with the general architectural design of the main building, as determined by the Committee. No asbestos siding may be used for walls or trim.

3.7 Roof. The pitch of the roof of each main building and all out buildings, either attached or detached, is subject to approval of the Committee. Such roof may be constructed out of the following materials which shall be the minimum as to quality and type:

- (a) 280 pound weight self-sealing composition roof;
- (b) Fire retardant wood shingle roof;
- (c) Such other materials as may be approved by the Committee.

3.8 Topographic Alterations. Under no circumstances shall any lot owner be permitted to deliberately alter the topographic conditions of any lot in any way which would alter the natural drainage patterns without first obtaining the prior approval of the Committee.

3.9 Completion Time. Any house, structure, or improvement commenced on any lot in the subdivision, shall be completed within six (6) months after the beginning of such construction, or within such additional time as may be approved

in writing by the Committee and no partially completed house, structure or improvement of any type shall be permitted to remain on said property beyond said period of time.

3.10 Full Lot Required. No structure or improvement of any type shall be erected, placed upon, or maintained on any building area less than one full lot as designated on the recorded plat of the subdivision.

3.11 Plumbing and Sanitary Facilities. All structures shall have plumbing installations completed and approved by the Committee prior to occupancy. Such plumbing shall comply with all laws, rules and regulations of governmental authorities having and asserting jurisdiction. No outside toilet shall be installed or maintained on any lot in this subdivision and all plumbing shall be connected to the sanitary sewer system.

3.12 Electrical. No source of electrical energy shall be brought to any lot or used upon a lot until the Committee has approved plans and specifications for the erection of approved improvements on such lot.

3.13 Water. Each residential dwelling constructed on any lot shall be connected to the water system installed in the subdivision. As each residence is completed and occupied in the subdivision, each owner shall be required to purchase water from the owner of the water system within the subdivision, and shall pay a reasonable amount for the use of such water as the owner of such water system shall from time to time charge. No individual water wells shall be allowed on any lot.

3.14 Hunting, Fishing and Livestock. No hunting shall be allowed in the subdivision and any discharge of firearms is strictly prohibited. No fixed net or fixed line fishing shall be permitted in any of the channels which could in any way interfere with the free navigability of such channels. No livestock other than household pets may be kept or raised on any lot in the subdivision and no household pets shall be bred or maintained on any lot for commercial purposes or for sale.

3.15 Channels and Slips. The owner of each lot shall be responsible for maintaining that portion of any channel contiguous to his lot and any boat slip on his lot free of all debris, trash, rubbish, garbage, or any other unsightly or unsanitary material or any hazard to navigation, provided however, that improvement, maintenance, repair and other care for the canals, channels and bulkheads within the subdivision shall be the responsibility of the Committee or the Association as hereinafter defined, when formed. The channels in the subdivision shall not be used for dumping any foreign matter of any type and nothing shall at any time be deposited or left in any channel other than properly tended or moored boats. No owner of any lot, or any guest of such owner, shall moor his boat in any area of any channel, except in that portion of the channel contiguous to such owner's lot. The owners of all lots in the subdivision shall strictly observe a five mile per hour (5 M.P.H.) speed limit in all channels and shall endeavor to enforce all others using such channels to observe such speed limit. No boats used for commercial fishing purposes shall be moored in any slip or channel within the subdivision.

3.16 Docks and Piers. Except as provided herein, boat docks, piers and walkways of any type shall not be allowed to protrude more than five (5') feet beyond the water side of the bulkhead into the channel, and their manner of construction shall be approved by the Committee prior to their construction,

provided however, that no boat docks, mooring areas, piers or walkways shall be constructed on the northernmost side (the side contiguous to the main channel) of Lots 33 and 34 of Island Moorings Unit II. On Lots 34 through 69 inclusive of Island Moorings Unit II, docks, piers and walkways constructed perpendicular to and contiguous with the bulkhead may be allowed to protrude beyond the water side of the bulkhead into the channel, but not more than thirty (30') feet from the bulkhead. Any docks, piers and walkways for Lots 34 through 69 inclusive of Island Moorings Unit II constructed perpendicular to the bulkhead and protruding up to thirty (30') feet beyond the water side of the bulkhead shall not exceed five (5') feet in width. No opening may be made through a bulkhead. On Lots 1-33 inclusive of Island Moorings Unit II tie-off pilings may be placed no more than twenty (20') feet (inclusive of docks, piers and walkways) beyond the wall side of the bulkhead into the channel and their manner of construction and location shall be approved by the Committee prior to their construction. On Lots 34-69 inclusive, Island Moorings Unit II, tie-off pilings may be placed no more than thirty (30') feet (inclusive of docks, piers and walkways) beyond the wall side of the bulkhead into the channel and their manner of construction and location shall be approved by the Committee prior to their construction.

3.17 Nuisances. No noxious nor offensive, unlawful or immoral activity shall be carried on upon any lot in the subdivision, nor shall anything be done thereon which shall become an annoyance or nuisance to any part of the subdivision.

3.18 Appearance of Lots. No lot shall be used or maintained as a dumping ground for rubbish or any other material. Trash, garbage or other waste or materials shall not be kept except in sanitary containers, which containers shall be kept in wooden storage boxes attached to the main structure on the lot. No incinerators shall be kept on the subject property or on any lot. Equipment for the storage or disposal of waste material shall be kept in a clean and sanitary condition and all such items shall be maintained in a neat and attractive manner. No boats, trailers, campers, recreational vehicles, or vehicles in a non-operating condition shall be permitted to remain on any lot or on the street adjacent to any lot for more than thirty (30) days except that, however, such vehicle or vehicles may remain longer if they are housed in enclosed storage.

3.19 Signs. No sign of any kind shall be kept or displayed to the public view (except by the Declarant or its assigns) other than name and street number signs or other than one (1) professional sign five (5') feet square advertising the property for sale.

3.20 Drilling and Excavations. No oil well drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted on a lot; nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any lot. No derrick or other structure designed for use in boring for oil, natural gas or other minerals shall be erected, maintained or permitted on any lot in the subdivision.

3.21 Grass and Weeds. Each lot owner and each purchaser of lots under Contract for Deed, shall keep grass, weeds and vegetation trimmed or cut so that the same shall remain in a neat, orderly and attractive condition. In the event an owner or purchaser of any lot shall fail to maintain the premises in a neat and orderly manner, the Committee shall have the right, through its agents and employees, to enter upon said lot and to repair, maintain and restore the lot, all at the expense of owner

or purchaser, which expense shall become a lien against the lot and which lien may be enforced in the same manner as a mortgage lien pursuant to Article 3810, V.A.T.S.

3.22 Fences, Walls, Hedges or Utility Meters. No fence, wall, hedge or utility meter shall be placed or permitted on any lot without first obtaining the approval of the Committee; provided that no fence or wall (other than a decorative fence or wall) may be placed nearer to any front or side street than is permitted for the house or building on such lot; nor shall any fence or wall exceed six (6') feet in height.

3.23 Shrubs and Trees. No shrub or tree planting which obstructs sight lines at elevations between two (2') feet and six (6') feet above the roadway shall be planted or permitted to remain on any corner lot within the triangular area formed by the curblines of such intersecting streets and a line connecting such curbline at points twenty-five (25') feet from their intersection or, in the case of rounded corner, from the intersection of the curblines as extended. The same sight line limitations shall apply on any lot within ten (10') feet of the intersection of a street curbline and the edge of a driveway or alley. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a height of more than six (6') feet above ground level.

3.24 Swimming Pools and Tennis Courts. Swimming pools and tennis courts shall be permitted, provided: (i) that approval of the location of same is first obtained from the Committee; (ii) that the construction and maintenance of same is in compliance with all applicable laws, rules, regulations and ordinances of state, county and/or municipal authorities asserting jurisdiction; (iii) that all such pools are completely enclosed with a suitable fence of a minimum height of five (5') feet; and (iv) that any lighted tennis courts shall be so constructed so as not to offend any of the other owners of lots in the subdivision.

ARTICLE FOUR

Easements and Utilities

Declarant hereby reserves a right-of-way and easement for the purpose of maintaining and repairing the canals, channels and bulkheads located within the subdivision twenty (20') feet wide along either side of the bulkhead line. Declarant further reserves a right-of-way and easement for utilities and drainage, including without limitation, electric, water, telephone, sewage, television and/or communication cables, as are shown on the applicable Plat or as are designated by the Architectural Control Committee by appropriate instrument filed for record in Nueces County, Texas. Declarant further reserves an easement under, on and above all channels, bulkheads, road and streets in the subdivision for the purpose of installing, operating and maintaining any and all improvements in connection with the utility and drainage easements. Declarant reserves the right to assign and/or dedicate, assign and/or convey said utility and/or drainage easements and any rights and interests therein at any time and from time to time in Declarant's sole discretion. This Declaration shall never be deemed to obligate Declarant to furnish, construct or maintain or cause to be furnished, constructed or maintained any road, street, utility and/or drainage easement and/or any improvements on any of the foregoing. Within these easements, no structure, fences, planting or other material shall be placed or permitted to remain

which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels. The easements include, without limitation, the right of ingress and egress thereon at reasonable times to such easements for construction, maintenance, repair and replacement purposes, without consent or approval of the owner or purchaser of the applicable lot and without compensation or redress to the owner or purchaser of said lot by reason of such construction, maintenance, repair or replacement. Any improvements placed in the easement area by the owner or purchaser of any lot may be removed and replaced by the Declarant and/or any person or entity having any right, title or interest in the easement, including without limitation any public authority or utility company, all without liability to go and at the expense of the owner or purchaser of said lot. The easement area of each lot and all improvements thereon shall be maintained continuously by the owner of the lot covered by said easement, except for those improvements which are owned by the owner of the easement, such as the applicable public authority or utility company. Owners and purchasers shall have no cause or action against Declarant, its successors, assigns, employees and/or agents, or utility companies, water districts or other authorized entity using such easements, either at law or in equity, for any damage or otherwise caused by the installing, operating, maintaining, repairing and/or replacing the above utility and/or drainage easements and/or any improvement thereon. All utility connections including but not limited to telephone and electric power service shall be underground and no owner of any lot shall erect any poles on any lot for aerial erection of power or telephone lines.

ARTICLE FIVE

Resubdivision

No lot or parcel of land shall be divided by the owners or purchasers thereof, their heirs or assigns, into smaller lots, whether for lease, sale or rental purposes, except as may be designated or permitted on any applicable Plat, provided however, that the owners or purchasers thereof, their heirs or assigns may divide three (3) or more lots for the purpose of reclassifying or resubdividing said lots into a larger lot or lots. Declarant, or the owner or purchaser of two or more contiguous lots may reclassify said lots into one larger lot. Any reclassification or resubdivision of lots as provided herein shall not affect or be deemed to reduce the maintenance assessments provided for in Article Seven herein. Declarant reserves the right at any time and from time to time to resubdivide and/or reclassify any or all lots which are then owned by Declarant if and to the extent Declarant deems such action desirable, in the sole discretion of Declarant. In such event, lots shall be deemed to be resubdivided and reclassified when Declarant files an amended Plat reflecting such resubdivision and/or redesignation in Nueces County and any other county in which the applicable lots are located. Declarant may exercise the right to resubdivide and/or reclassify lots which are then owned by Declarant even though Declarant shall have previously sold and/or contracted to sell other lots in the subdivision.

ARTICLE SIX

Property Owners' Association

All lot owners, including the Declarant in the subdivision shall be members of the Island Moorings Community Improvement Association, and shall be entitled to one (1) vote for each lot owned in fee provided however, that the lot owners including the Declarant in the Subdivision shall not become members of the Association until such time as 50% of the Lots in Island Moorings Unit II have been conveyed by Declarant to the purchasers of said lots other than Declarant. When more than one (1) person holds an interest in any lot, all such persons shall be members, but there shall be only one (1) vote permitted for each lot owned. The Association is a corporation organized under the Texas Non-Profit Corporation Act. The association shall have a Board of Directors and shall act by vote of a majority in interest of the owners of the subdivision lots, voting in accordance with its procedures established herein and in accordance with its By-Laws. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to this Declaration. By acceptance of a deed to any lot or lots within the subdivision, the owner of such lots shall thereby expressly become bound by the terms, provisions and covenants herein contained, and shall be a member of the Association. The Declarant shall be a member of the Association for so long as Declarant owns any lot or lots in fee simple in the subdivision, including any lots which are subject to option contracts or Contracts for Deeds, and shall be entitled to one (1) vote for each lot so owned.

ARTICLE SEVEN

Covenant for Maintenance Assessments

7.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned by it within the subdivision, hereby covenants, and each owner of any lot in the subdivision covenants and agrees and is deemed to covenant and agreed to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall, to the full extent permitted by law, be a charge on the lot subject to this Declaration and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of each lot in the subdivision at the time when the assessment fell due. The Association shall have the duty and obligation to establish, collect and administer such assessments. All annual assessments or charges shall be due and payable in advance unless otherwise provided by the Committee. The obligation to pay annual assessments or charges as provided for herein shall commence at such time as a lot or lots in Island Moorings Unit II have been conveyed in fee simple to the owners or purchasers other than Declarant of said lots. Such obligation to pay assessments on said lots shall be pro-rated to the date of closing.

7.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the subdivision and for the improvement and maintenance of the canals, channels and bulkheads located within the subdivision; and any other property dedicated to the public within the subdivision which is not being maintained by a public entity.

7.3 Annual Assessment. Each lot in the subdivision shall be subject to an annual maintenance charge of One Hundred and No/100 (\$100.00) Dollars per lot, to be paid by the record owner of each lot on January 1 of the year for which such maintenance charge is due. The Board of Directors of the Association, may increase the amount of such annual assessment by ten (10%) percent above the previous year's annual assessment. By vote of fifty-one (51%) percent of the members who are voting in person or by proxy, at a meeting called for the purpose of increasing the annual assessment, such annual assessment may be increased by more than ten (10%) percent per annum over the previous year's annual assessment. The Board of Directors of the Association, shall fix the amount of the annual assessment against each lot at least thirty (30) days before each January 1st. Written notice of the annual assessment shall be sent to every owner subject thereto. The due date shall be March 1 of each calendar year. The Association, shall upon 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.

7.4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association, may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, maintenance, repair or replacement of the canals, channels and bulkheads within the subdivision and for any other purposes as may be deemed necessary or desirable by the Board of Directors of the Association, to maintain or improve the subdivision in the manner which it considers to be of the greatest general benefit to the owners and occupants of the subdivision; provided that any such assessment must have the assent of fifty-one (51%) percent of the members who are voting in person or by proxy at a meeting duly called for this purpose.

7.5 Notice and Quorum for Any Action Authorized Under 7.3 and 7.4. Written notice of any meeting called for the purpose of taking any action authorized under 7.3 and 7.4 shall be sent to all members not less than fifteen (15) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty (50%) percent of all of the members entitled to vote shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

7.6 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots.

7.7 Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all lots on the first day of January, 1984, and shall continue each year thereafter for the duration of this Declaration.

7.8 Effect of Nonpayment of Assessments: Remedies. Any assessment not paid on the date when due, shall be immediately delinquent and shall, together with such interest and cost of collection as is hereinafter provided, immediately become a continuing lien on the property which shall, to the full extent permitted by law, bind such property in the hands of the then owner, his heirs, devisees, personal representatives, successors and assigns. If the assessment is not paid within thirty (30)

days after the due date, the assessment shall bear interest from the due date at the highest rate allowed by law and the Association, may either (1) bring an action at law against the owner personally obligated to pay the same, or (2) foreclose the lien against the property, or (3) both, and, in either event, there shall be added to the amount of such assessment interest as provided and all costs of collection, including reasonable attorney's fees. The lien for assessments herein provided may be foreclosed, without prejudice and subject to all liens for taxes or special assessments levied by the city, county and state governments or any political subdivision or special district thereof, and liens securing amounts due or to become due under any mortgage, vendor's lien or deed of trust filed for record prior to the date payment of such assessment becomes due; by the holder thereof in the same manner as either a vendor's lien, or as is provided for foreclosure of a contractual deed of trust lien on real property under Vernon's Annotated Civil Statutes of Texas, Article 3810, or by judicial foreclosure. In the event of foreclosure under Article 3810, the Association, shall be entitled to designate a trustee by instrument recorded in the Office of the County Clerk of Nueces County, Texas, and upon such recording, such trustee shall, at the request of the Association, give notice of sale as required by Article 3810 and sell such lot, or interest therein, to the highest bidder for cash at the Courthouse door of Nueces County, Texas, at public vendue and at the time provided in said statute, it being understood that the recitations contained in the Trustee's deed shall be conclusively presumed true and correct. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the canals, channels, bulkheads or any other property dedicated to the public within the subdivision which is not maintained by a public entity or by abandonment of his lot.

7.9 Subordination of the Lien to Mortgagees. The lien of the assessments 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. No sale or transfer shall relieve such lot owner from liability for any assessments thereafter becoming due or from the lien thereof. No extinguishment of the lien shall relieve the delinquent lot owner from his personal obligation and liability therefor.

7.10 Non-Abatement of Assessments. No diminution or abatement of assessments shall be allowed or claimed for inconveniences or discomfort arising from the making of repairs or improvements to the canals, channels, bulkheads, or any other property dedicated to the public within the subdivision which is not being maintained by a public entity, or from any action taken to comply with any law, ordinance or order of a governmental authority.

7.11 Right to Waive Collection. The Association, shall have the right to waive the collection of the annual fee in the event the County of Nueces elects to undertake the maintenance, improvement and repair of the canals, channels, bulkheads or any other property dedicated to the public within the subdivision which is not being maintained by a public entity.

ARTICLE EIGHT

Maintenance

8.1 Canals, Channels and Bulkheads. The Association, shall improve, maintain, repair and otherwise care for the canals, channels and bulkheads within the subdivision, and any

other property dedicated to the public within the subdivision which is not being maintained by a public entity.

8.2 Willful or Negligent Acts. In the event that the need for maintenance or repair is caused through the willful or negligent act of any owner, his family, guests or invitees, the Association, shall add the cost of such maintenance, as a Special Assessment, to the normal assessment of such owner.

ARTICLE NINE

Right to Annex Additional Properties

9.1 Adding and Removing Property Owned by Declarant. Declarant reserves, and shall at all times have the right, without the consent or approval of any other person, to make additional real property located adjacent to the above subdivision now or hereafter owned by the Declarant subject to this Declaration. However, the Declarant makes no representation or warranty that any such adjacent properties will be annexed to this Declaration or that the development of such adjacent properties will be developed in accordance with the scheme of this Declaration.

9.2 Procedure for Adding Property Owned by Declarant. The additions authorized pursuant to Article 8.1 above shall be effectuated by the recordation in the Deed Records of Nueces County, Texas, of a Supplementary Declaration of Covenants and Restrictions (the "Supplementary Declaration").

9.3 Contents of Supplementary Declaration. The Supplementary Declaration shall describe the properties to be annexed to the scheme of this Declaration and shall state that it is being made pursuant to the terms of the Declaration for the purpose of annexing the property described in the Supplementary Declaration to the scheme of the Declaration and extending the jurisdiction of the Association to cover the property so described in such Supplementary Declaration. The Supplementary Declaration may contain such complementary additions and modifications to the Declaration as may be necessary to reflect the different character, if any, of the real property being annexed and as are not inconsistent with the general scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify or add to the covenants and agreements established by this Declaration with regard to any real property subject to the Declaration prior to the recordation of such Supplementary Declaration; provided, however, that owners of lots within the existing subdivision shall, upon recordation of any Supplementary Declaration, have a right and non-exclusive easement of enjoyment in and to the canals and channels described in the plat of the property being annexed. Any Supplementary Declaration recorded in accordance with the terms hereof shall be conclusive in favor of all persons who rely thereon in good faith. From and after recordation of any Supplementary Declaration in accordance with the provisions hereof, the real property described therein shall be subject to the provisions of this Declaration, and the jurisdiction of the Association pursuant to the terms of this Declaration, the By-Laws and the Articles of such Association.

ARTICLE TEN

General Provisions

10.1 Term. Covenants and Conditions of this Declaration shall run with the lots in the subdivision subject

hereto and shall be binding upon all owners of such lots and all persons claiming under them for a period of twenty (20) years from the date this Declaration is filed of record in the Deed Records of Nueces County, Texas; after which time these Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument of termination in writing, executed and acknowledged by seventy-five (75%) percent of the owners of fee title to the lots in the subdivision subject hereto, is filed of record in the Deed Records of Nueces County, Texas. The instrument of termination shall be effective to terminate this Declaration at the expiration date of the initial twenty (20) year term if said instrument is filed of record as set forth above during the initial twenty (20) year term, or if such instrument is filed of record as set forth above during any ten (10) year period of extension, this Declaration shall terminate at the end of said ten (10) year period of extension.

10.2 Amendments. This Declaration and any or all of the conditions set out herein may be amended by an instrument of amendment meeting the following requirements: The instrument of amendment shall be in writing and shall be executed and acknowledged by seventy-five (75%) percent of the owners of fee title of the lots in the subdivision subject hereto, and must be filed of record in the Deed Records of Nueces County, Texas; provided, however, the Declarant hereby reserves and shall at all times have the right to amend this Declaration without the consent of any other person for the purpose of correcting any typographical or other error in this Declaration. Without limitation, the instrument of amendment may amend Sections 9.1 and 9.2 hereof. The instrument of amendment shall be deemed to be effective on the date the instrument is filed of record in Nueces County, Texas. Any amendment to this Declaration shall be binding on all lots in the subdivision subject hereto and the owners thereof, after the effective thereof.

10.3 Notices. Any notice required to be sent to any owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed postpaid, certified mail, return receipt requested, to the last known address of the person who appears as owner on the records of Declarant or the Association, at the time of such mailing. This Section shall never be deemed to obligate Declarant and/or the Association, to maintain records of addresses or to give notices. It shall be the duty of each owner to keep Declarant and/or the Association, currently advised as to the addresses of owners.

10.4 Declarant. The term "Declarant" shall mean the above named Declarant, his heirs and assigns, and shall include any person or entity to which Declarant may assign and/or delegate its rights and privileges, duties and obligations hereunder, which rights and privileges, duties and obligations are and shall be assignable. In this connection, Declarant shall have the right but not the obligation to assign his rights and privileges, duties and obligations, in whole or in part, to any persons, civic group and/or the Committee, or the Association, when formed. Declarant shall be relieved of any and all responsibility under this Declaration if and to the extent Declarant shall make such assignments.

10.5 Severability. In the event that any of the provisions of this Declaration conflict with any other provisions hereof and/or with the applicable Plat, the more restrictive provisions shall govern. If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining

paragraphs, sections, sentences, clauses or phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that said remaining paragraphs, sections, sentences, clauses and phrases would have been imposed and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses and phrases shall become or be illegal, null or void.

10.6 Enforcement. If any owner of any lot shall violate or attempt to violate this Declaration or any of the conditions or covenants herein, it shall be lawful for Declarant, the Association, or any owner of any lot in the subdivision to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate this Declaration or any such conditions or covenants and to prevent such violation or threat of violation and/or to recover damages for such violation of threat of violation, including reasonable attorney's fees and in general to pursue and seek such other remedies and/or relief as may be permitted at law and/or in equity, including, without limitation, specific performance. Without limitation, in order to enhance and protect the value of the lots described herein, the right to prosecute any proceeding at law or in equity against any person or persons violating or attempting to violate any conditions either to prevent such violations or to recover damages or other dues for each violation is also expressly reserved to Declarant; however, this Section shall never be deemed to obligate Declarant to threaten or prosecute any proceeding in law or equity or otherwise enforce this Declaration or the conditions.

10.7 Subordination. The present owners and holders of certain Vendor's Liens and liens of Deed of Trust covering the property comprising the subdivision, do by the execution of this instrument join in the above reservations, restrictions, easements and covenants on each and every lot therein, and agree that the dedication by the Plat of said property on record in the office of the County Clerk of Nueces County, Texas, shall continue in full force and effect and be binding upon the undersigned; and the undersigned do by the execution of these covenants, agreements, reservations and easements subordinate their respective Deeds of Trust and Vendor's Liens covering the said subdivision to the restrictions contained herein and on the dedicated Plat of said subdivision.

EXECUTED this the 4th day of January, 1984.

LATITUDE 27, LTD.

By Jim Pair
Jim Pair, President of
Latitude 27, Inc., Its
General Partner

ATTEST:

Patrice Wheeler
Patrice Wheeler, Assistant Secretary

INTERFIRST BANK OF VICTORIA

By Michael Parker
Michael Parker,
Senior Vice President

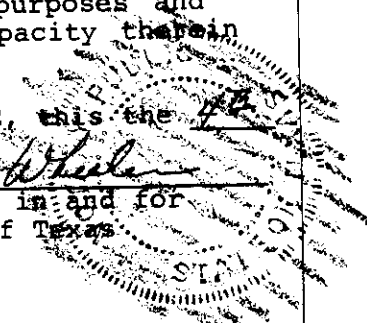
THE STATE OF TEXAS §

COUNTY OF NUECES §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Jim Pair, President of Latitude 27, Inc., General Partner of Latitude 27, Ltd., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Latitude 27, Inc. and that he executed the same as the act of said corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 4th day of January, 1984.

Patrice D. Wheeler
Notary Public in and for
the State of Texas



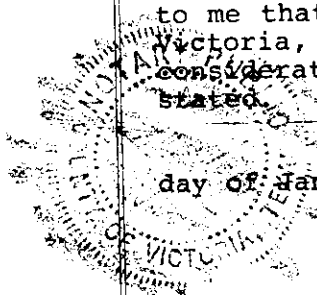
THE STATE OF TEXAS §

COUNTY OF VICTORIA §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Michael Parker, Senior Vice President of InterFirst Bank of Victoria, a Texas banking corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said InterFirst Bank of Victoria, and that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 4th day of January, 1984.

Shirley Dietzel
Notary Public in and for
the State of Texas



Typed Name: Shirley Dietzel
My commission expires: 8-31-84

STATE OF TEXAS }
COUNTY OF NUECES }
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me, and was duly RECORDED, in the Volume and Page of the named RECORDS of Nueces County, Texas, as stamped hereon by me, on

JAN 5 1984

RECORDER'S MEMORANDUM
ALL NAMES NOT TYPED
UNDER SIGNATURES



Merion Delbridge
COUNTY CLERK
NUECES COUNTY, TEXAS

FILED FOR RECORD
JAN 5 3 00 PM 1984
Merion Delbridge
COUNTY CLERK NUECES COUNTY TEXAS

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DEED RECORDS
VOL 1901 PAGE 47

LATITUDE 27, Ltd.
TO
THE PUBLIC

K.P.A.

LAWYERS TITLE SERVICES, INC.

GF# 3324-GBS
355321
DECLARATION OF RESTRICTIONS
AND COVENANTS

CORRECTION TO DECLARATIONS OF COVENANTS
AND RESTRICTIONS OF
ISLAND MOORINGS UNITS I AND II

DEED RECORDS

STATE OF TEXAS §

COUNTY OF NUECES §

This Correction To Declarations of Covenants and Restrictions of Island Moorings Units I and II is made by Latitude 27, Ltd., a Texas limited partnership ("Declarant") acting herein by and through Latitude 27, Inc., a Texas corporation, with its offices and principal place of business being located in Port Aransas, Nueces County, Texas, its General Partner.

W I T N E S S E T H

Recitals

WHEREAS, Declarant as the owner of certain properties situated on Mustang Island, Nueces County, Texas, caused the same to be subdivided into lots and blocks in connection with the development of five separate units, each as a separate subdivision (each being defined in the Declaration of Covenants and Restrictions for such units as a "Subdivision" and referred to respectively as "Unit").

WHEREAS, Declarant caused the following maps describing each Unit to be filed of record and subjected each Unit to the restrictions applicable to such Unit by separate Declarations of Covenants and Restrictions (collectively the "Declarations"), which maps and Declarations are referred to as follows:

Subdivisions of Island Moorings

<u>Unit</u>	<u>Nueces County Map Records Volume/Page</u>	<u>Restrictions Deed Records Volume/Page</u>	<u>Date of Restrictions</u>
I	48/142-143	1872/973 1984/949	6/3/83
II	49/72-73	1901/32	1/4/84
III	50/118	1947/781	12/31/84
IV	50/116-117	1947/797 1947/1813	12/31/84 12/31/84
V	51/69 52/28	1977/928	7/9/85
V, Block 3	51/69-70	2233/343	12/21/90
VI	50/120-121	1947/829	12/31/84.

WHEREAS, Declarant caused to be formed the Island Moorings Community Improvement Association ("Community Association"), a Texas non-profit corporation and the Airport and Channel Corporation, a Texas non-profit corporation (herein the "Airport Corporation"). The Community Association and the Airport Corporation are referred to collectively as the "Associations". The Articles and Bylaws of each of the Associations provide that each person or entity who is an owner of a fee, undivided fee interest, or a

purchaser there of under a contract of sale of property in any of the Subdivisions (an "Owner"), is a member of each of the Associations and that such membership is an appurtenance to and may not be separated from ownership of such property.

WHEREAS, the Declarations for Subdivisions Units I and II in error omit to refer to the Airport Corporation or to incorporate the Airport Corporation into the provisions of Article Seven - Covenant for Maintenance Assessments or Article Eight - Maintenance; while the Declarations for Units III through VI refer to the Airport Corporation and incorporate the Airport Corporation into Articles Seven and Eight.

WHEREAS, each of the Owners of property in Subdivision Units I and II are members of the Airport Corporation and have contributed assessments to the Airport Corporation in accordance with the governing documents of the Airport Corporation.

WHEREAS, it is the desire of the Declarant to correct the Declarations for Subdivisions Units I and II by correcting the omission of the reference to the Airport Corporation and to set forth the following provisions as to Airport Corporation as if such provisions were included in the Declarations for Subdivisions Units I and II as of the original filing for record of each Declaration.

NOW, THEREFORE, in order to carry out the uniform plan for the development, improvement, and sale of property in the Subdivisions of Island Moorings and for the preservation of such uniform plan for the benefit of Owners of property within such Subdivisions, the Declarations of Subdivisions Units I and II are hereby corrected as follows:

1. Correction of Declarations and Incorporation. The Declarations of Subdivision Units I and II of Island Moorings are corrected, amended and supplemented as follows:

(a) Airport Corporation. The Declarations for Subdivisions Units I and II are hereby corrected, amended and supplemented to add thereto as Article Eleven the following:

ARTICLE ELEVEN

Airport and Channel Corporation

Each Lot Owner (including Declarant with respect to Lots owned by Declarant, but excluding any homeowners' or community association) shall be a member of the Airport Corporation and shall be entitled to one (1) vote for each Lot owned, provided however, that the Lot Owners including the Declarant in the Subdivision shall not become members of the Airport Corporation as to Lots in this Unit of Island Moorings until such time as 50% of the Lots in this Unit of Island Moorings have been conveyed by Declarant to the Purchasers of said Lots other than Declarant. When one or more persons hold an interest in any Lot, all such persons shall be members of the Airport Corporation, but there shall be only one (1) vote permitted for each Lot owned. The Airport Corporation is a corporation organized under the Texas Non-Profit Corporation Act, and has been formed and organized for the purposes set forth in its Articles of Incorporation filed with the Secretary of State of the State of Texas (which Articles are

incorporated herein by reference and made a part hereof for all purposes), which purposes serve not only the Subdivision but also other portions of the Development. It has a Board of Directors and shall act by vote of majority in interest of its members, voting in accordance with its procedures established herein and in accordance with its bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. By acceptance of a deed to a Lot, the Owner of such Lot shall thereby expressly become bound by the terms, provisions and covenants herein contained, and shall be a member of the Airport Corporation as set forth above. Declarant shall be a member of the Airport Corporation for so long as Declarant owns any Lot or Lots in fee simple in the Subdivision, including any Lots which are subject to option contracts or contracts for deed, and shall be entitled to the same number of votes with respect to such Lot or Lots as would a third party Owner.

(b) Assessments. Article Seven of the Declarations for Subdivisions Units I and II are corrected, amended and supplemented as follows:

(1) Annual Assessment. The Declarations for Subdivisions Units I and II are corrected, amended and supplemented to include the following Section as Section 7.12:

7.12 Annual Assessment Airport Corporation. Each Lot in the Subdivision shall be subject to an annual maintenance charge to be paid to the Airport Corporation of Two Hundred Forty and No/100 Dollars (\$240.00) per lot, which amount shall be paid by the record owner of each Lot or Unit on January 1 of the year for which such maintenance charge is due. The Board of Directors of the Airport Corporation may increase the amount of such annual assessment up to ten percent (10%) above the previous year's annual assessment. By vote of fifty-one percent (51%) of the members who are voting in person or by proxy, at a meeting called for the purpose of increasing the annual assessment, such annual assessment may be increased by more than ten percent (10%) per annum over the previous year's annual assessment. The Board of Directors of the Airport Corporation shall fix the amount of the annual assessment against each Lot at least thirty (30) days before each January 1st. Written notice of the annual assessment shall be sent to every Lot Owner subject thereto. The due date shall be March 1 of each calendar year. The Airport Corporation shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Airport Corporation setting forth whether the assessments on a specified Lot have been paid.

(2) Associations. All references to the "Association" in Sections 7.1, 7.2, and 7.4 through 7.11 are corrected to read the "Associations".

(3) Airport Facilities. Section 7.2 - Purpose of Assessments and Section 7.4 - Special Assessments for Capital Improvements are hereby corrected and amended to provide that the purpose of the assessments and special assessments for capital improvements include the airport facilities in addition to the canals, channels, and bulkheads referenced in such Sections of the Declarations.

(c) Maintenance. Article Eight of the Declarations for Subdivisions Units I and II are hereby corrected, amended and supplemented to include the following as Section 8.3:

8.3 Channel and Airport. The Airport Corporation shall improve, maintain, repair and otherwise care for the main channel to the Subdivision and the airport facility adjacent to the Development which is not being maintained by a public entity.

2. Covenants Running with the Land. Such restrictions, conditions and limitations constitute covenants running with the land, are binding upon and inure to the benefit of Declarant, its successors and assigns, and upon all persons acquiring all or any portion of the Subdivisions, whether by purchase, descent, devise, gift or otherwise, and each such person, by the acceptance of title to any lot or property in the Subdivisions, shall agree and covenant to abide by and perform the terms, conditions, restrictions and covenants as set forth in the Declarations as hereby corrected.

3. Effective Date. The provisions of this Supplemental Declaration are incorporated into the original Declarations as of and from and after the date of execution of each of the original Declarations as to Subdivisions Units I and II.

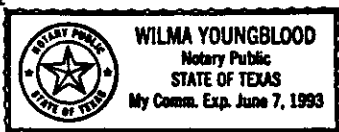
EXECUTED the 18th day of January, 1991.

LATITUDE 27, LTD.

By: Jim Pair
Jim Pair, President of
Latitude 27, Inc.,
Its General Partner

STATE OF TEXAS §
COUNTY OF NUECES §

This instrument was acknowledged before me on the 18th day of January, 1991, by Jim Pair, President of Latitude 27, Inc., the General Partner of Latitude 27, Ltd., on behalf of said Corporation.



Wilma Youngblood
Notary Public, State of Texas

Typed or Printed Name of Notary
My Commission Expires: _____

DEED RECORDS

AFTER RECORDING RETURN TO:

Mr. Jim Pair
6701 Everhart, Apt. 1103
Corpus Christi, Texas 78413

STATE OF TEXAS
COUNTY OF NUECES

I hereby certify that this instrument was FILED on the
date and at the time stamped hereon by me, and was duly
RECORDED, in the Volume and Page of the named RECORDS of
Nueces County, Texas as stamped hereon by me, on

JAN 18 1991



Ernest M. Briones
COUNTY CLERK
NUECES COUNTY, TEXAS

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ERNEST M. BRIONES
Clerk, County Court, Nueces County, Texas
By *[Signature]*
MAYNIE MCANNIN Deputy

JAN 18 1991

FILED FOR RECORD
AT 12:10 P M

742475 /

**NOTICE OF AMENDMENT OF
COVENANTS AND RESTRICTIONS OF
ISLAND MOORINGS SUBDIVISION**

Property: Island Moorings Subdivision, Port Aransas, Nueces County, Texas

Association: Island Moorings Community Improvement Association
P. O. Box 1637, Port Aransas, Nueces County, Texas 78373

Notice

The undersigned, being President of the Island Moorings Community Improvement Association, hereby certifies that the following Amendments to the Covenants and Restrictions of the Units of Island Moorings Subdivision were duly approved by a vote of the property owners of Island Moorings Subdivision:

1. **Minimum Floor Area:**

The provisions covering minimum floor area for single-family dwellings are amended to provide as follows:

Any single-family dwelling constructed on a lot must have a floor living area of not less than 2,000 square feet, exclusive of open or screened porches, terraces, patios, driveways, carports and garages, and in the case of two-story single-family dwellings, the ground floor must have a floor living area of at least 1,200 square feet with a second floor containing a floor living area of at least 800 square feet. Houses constructed prior to the effective date of this amendment are exempt from its provisions unless or until they are rebuilt or remodeled, except as provided hereafter:

1. Any current home would be "grandfathered." In case of a loss of an existing home due to fire, hurricane or other disaster, the property owned would be able to reconstruct on the same footprint as the previous home.

2. Existing lot owners would have a 6-month grace period from the date the amended restriction is recorded to submit preliminary plans for approval using the current restrictions. A preliminary plan is defined as a footprint of the proposed house showing its location on the lot with regard to all required setbacks. Driveways and walkways will be shown and the plan must be certified by a registered engineer or architect. Construction of these exempted houses must commence within 18 months of the approval of the preliminary plans. Final plans and specifications are subject to the normal review and approval process. Once approved, any significant changes to this preliminary plat will require adherence to the 2,000 square foot restriction.

Explanation: Presently, the different units of Island Moorings require different minimum floor area. Unit one requires 1,400 square feet, Unit Two requires 1,600 square feet, and Units Three and Five require 1,800 square feet.

Unit IV is multi-family, marina and commercial with no express minimums. The Board feels that a uniform minimum of 2,000 square feet for single-family dwellings would benefit the look and property values of all of Island Moorings. This provision does not apply to multi-family construction.

2. Docks, Walkways, Piers, Skiff Ramps and Pilings:

The provisions covering docks are amended as follows:

Boat docks, piers, skiff ramps, boat lifts and walkways of any type shall not be allowed to protrude beyond the lot's private mooring area into any channel. Mooring or protruding of any boats, jet skis, or similar vehicles (herewith referred to as boats) shall not be allowed outside the lot's private mooring area, whether moored in the water, on a ramp, or on a boat lift. No stern mooring of boats to the bulkhead will be allowed except for docks in Unit III that are designed and constructed for stern mooring. All boats shall be moored to comply herewith. Improperly moored boats shall be in violation of these restrictions. Tie-off pilings shall not be placed beyond the lot's private mooring area. The private mooring area of a lot is that submerged portion of the lot, owned by the owner as shown on the applicable plat. Each lot owner shall have the right to construct non-covered boat docks, piers, boat lifts and walkways within the private mooring area portion of the lot. No covered boat docks are allowed.

The design and manner of construction of boat docks, piers and walkways of any type shall be approved by the Architectural Control Committee prior to their construction. Each lot owner shall maintain such docks, piers and walkways in a good condition and shall make needed repairs promptly. No portion of the docks or piers shall be used for fuel operations. No business shall be carried on within the subdivision which would charter or make available for hire boats or any type of transportation mechanism. Fish cleaning stands may be constructed subject to the approval of the Committee, and the IMCIA may from time to time promulgate regulations relating to the use of such fish cleaning stands, which regulations shall be observed by all lot owners.

No docks, walkways, piers or pilings shall be located on any lot nearer than 5 feet from the side of any interior property line of any such lot except as noted below and shall not go beyond the rear property line. Unit III lots are excluded because stern mooring is the generally accepted practice in their 60-foot mooring area. If two lots are replatted into one, then the 5-foot side setback shall not apply to the old interior line. Covered boat/watercraft docks of any type are not allowed. In no event will docks, walkways or piers be significantly higher (6") than the top of the bulkhead. Fish cleaning tables/stands must be located within 5 feet of the bulkhead.

Docks, walkways and piers constructed parallel to and contiguous with (physically attached to) the bulkhead will not protrude more than 5 feet into the channel and can be built up to the side of the interior property line (7 feet in Unit V, 15 feet Lots 34 through 69 inclusive Unit II...this difference will maintain uniformity with current standards and prevent offsets with previous construction).

In no event will the total square footage of docks, walkways and piers outside of the dock contiguous with the bulkhead exceed limits set forth below. U- and/or L-shaped docks may present a hazard to navigation within the channel, especially if boats/watercraft are docked at any time and for any period of time outside of the lot lines and along the channel side. The Committee may at request an owner to remove a U- or L-shaped dock if the owner poses a danger to navigation by docking a boat outside of his property lines.

All boats/watercraft must be moored/tied up completely within the confines of the property boundary. Failure to comply in a prompt manner will result in removal of the boat/watercraft by IMCIA, the cost of which will be borne solely by the owner of such lot.

The total square footage of the surface area of docks, walkways, skiff ramps and piers, including the allowable dock contiguous with the bulkhead, shall not exceed a total of 50 percent of coverage of the subsurface area of the lot as shown on the applicable plat.

Skiff ramps must not be closer than 2 feet from the rear property line.

These changes do not change the additional restrictions on the lots adjacent to the main marina access channel in Units I, II and IV or lots fronting the Bahia Channel.

All docks, piers, walkways, skiff ramps and boat lifts existing at the time this amendment is recorded are "grandfathered" and are considered in compliance.

All plans for docks, walkways, piers and pilings must be submitted to the Architectural Control Committee for approval before the commencement of construction. Construction may not commence before written approval is obtained from the Architectural Control Committee.

Explanation: In the past, the Architectural Control Committee has granted some variances allowing property owners to build docks that do not comply with the existing requirements. On other occasions the Committee has refused to grant variances. The Committee has received some complaints from property owners concerning the approval or disapproval of variances. The Committee feels that the dock requirements should be amended to clarify the requirements and to make the requirements uniform, fair and reasonable for all property owners.

3. Easements:

The provisions concerning the bulkhead maintenance easements are amended as follows:

The easement and right-of-way retained by Declarant and now held by the Island Moorings Community Improvement Association for the purpose of maintaining and repairing the canals, channels, and bulkheads located within the Island Moorings Subdivision is reduced on the land side only of the bulkhead to 15 feet wide from the bulkhead. The easement on the water side of the bulkhead shall be 25 feet from the bulkhead. This provision does not change the

required building line setbacks provided by the recorded Covenants and Restrictions and plats.

Explanation: The bulkhead maintenance easement on the land side running along the bulkheads is different in the various units. This has caused a problem with mortgage lenders in Unit III where some houses are built over the easement. The Board feels that the easement should be uniform throughout the subdivision and would like to clear up the problem with Unit III. This provision does not change the established building lines.

4. Completion Time:

The provisions covering the completion time of a single-family dwelling are amended to provide as follows:

Any single-family dwelling shall be completed within 12 months after construction is commenced. The Architectural Control Committee shall have authority to grant a variance to allow a longer completion time in its sole discretion. This provision shall not apply to multi-family, commercial or construction other than single-family.

Explanation: The completion time varies from 6 months to 12 months among the various units. The Board feels that a uniform completion time of 12 months is in the best interests of the subdivision.

5. No Detached Garages:

The provisions concerning garages are amended as follows:

No detached garages shall be built on any lot. A garage joined at the roof line and by a breezeway, patio or walkway or the like to the main house, such that there is one continuous slab/foundation, shall not be considered a detached garage.

Explanation: The prohibition of detached garages is not uniform through the subdivision.

6. Appearance of Lots:

The provisions concerning and entitled "Appearance of Lots" are amended to read as follows:

No Lot shall be used or maintained as a dumping ground for rubbish or any other material. Trash, garbage or other waste or materials shall not be kept except in sanitary containers and all such items shall be maintained in a neat and attractive manner. In no event shall such containers or compost piles be maintained so as to be visible from neighboring property, streets or canals except to make the same available for collection and, then, only the shortest time reasonably necessary to effect such collection. No incinerators shall be kept on any lot. Without limiting the generality of the foregoing, non-operational trailers, recreational vehicles, trucks, boats, jet skis, tractors,

campers, buses, motorcycles, motor scooters, other vehicles and/or watercraft shall not be permitted to remain on any lot zoned by the City of Port Aransas as residential or tourist-recreation or on any street adjacent to any lot unless housed in enclosed storage. Trailers, boats/watercraft on trailers, campers and recreational vehicles may be parked for no more than 3 consecutive days on lots or streets as designated above and not more than a total of 10 days per month except for areas designated as trailer parking by the Architectural Control Committee. However, operational trailers, boats/watercraft on trailers, campers and recreational vehicles may be parked for longer periods of time so long as they are not visible from the adjoining property, streets or canals. Also, watercraft in operational condition may be on boat lifts, moored, tied up, or parked on the canal side of lots so long as they are totally within the lot's private mooring area or on the dock.

Explanation: The Board feels that having non-operating vehicles in the subdivision for long periods of time is unsightly and degrading of the property values.

7. Dispute Resolution and Limitation on Litigation:

Agreement to Avoid Litigation:

The Association (Island Moorings Community Improvement Association "IMCIA" and Airport and Channel Corporation ("A&C"), its officers, directors, and committee members, all persons subject to this declaration, and any person not otherwise subject to the declaration who agrees to submit to this Article (collectively, "bound parties") agree to encourage the amicable resolution of disputes involving the properties, without the emotional and financial costs of litigation. Accordingly, each bound party covenants and agrees that those claims, grievances or disputes described below ("claims") shall be resolved using the procedures set forth below in lieu of filing suit in any court.

Claims:

Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the governing documents or the Association's use restrictions, or the rights, obligations and duties of any bound party under the governing documents or relating to the design or construction of improvements on the properties shall be subject to the procedures set forth below.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be claims and shall not be subject to the procedures set forth below:

(a) Any suit by the IMCIA or A&C against any bound party to enforce the provisions for assessments;

(b) Any suit by the IMCIA or the Architectural Control Committee to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions for review of plans and control of construction;

(c) Any suit by an owner to challenge the actions of the Declarant, the IMCIA, the Architectural Control Committee, any covenants committee, or other committee with respect to approval, disapproval, application or enforcement of the provisions by the Architectural Control Committee and the provisions restricting use of property;

(d) Any suit between owners, which does not include Declarant or the IMCIA or A&C as a party, if such suit asserts a claim which would constitute a cause of action independent of the Covenants and Restrictions;

(e) Any suit in which any indispensable party is not a bound party; and

(f) Any suit which otherwise would be barred by any applicable statute of limitations.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth below.

Mandatory Procedures:

(a) Notice. Any bound party having a claim ("claimant") against any other bound party ("respondent") (collectively, the "parties") shall notify each respondent in writing (the "notice"), stating plainly and concisely:

1. The nature of the claim, including the persons involved and respondent's role in the claim;
2. The legal basis of the claim (i.e, the specific authority out of which the claim arises);
3. Claimant's proposed remedy; and
4. That claimant will meet with respondent to discuss in good faith ways to resolve the claim.

(b) Negotiation and Mediation.

1. The parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the claim by good faith negotiation. If requested in writing by any party, accompanied by a copy of the notice, the Board may appoint a designee to assist the parties in resolving the dispute by negotiation.

2. If the parties do not resolve the claim within 30 days of the date of the notice (or within such other period as may be agreed upon by the parties) ("termination of negotiations"), claimant shall have 30 additional days to submit the claim to mediation either to the IMCIA if it has adopted a mediation procedure, or to an independent agency providing dispute resolution services in the Nueces County, Texas area.

3. If claimant does not submit the claim to mediation within 30 days after termination of negotiations, or does not appear for the mediation, claimant shall be deemed to have waived the claim, and respondent shall be released and discharged from any and all liability to claimant on account of

such claim; provided, nothing herein shall release or discharge respondent from any liability to any person other than the claimant.

4. Any settlement of the claim through mediation shall be documented in writing by the mediator. If the parties do not settle the claim within 30 days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("termination of mediation"). The termination of mediation notice shall set forth that the parties are at an impasse and the date the mediation was terminated.

5. Within 5 days of the termination of mediation, the claimant shall make a final written settlement demand ("settlement demand") to the respondent and the respondent shall make a final written settlement offer ("settlement offer") to the claimant. If the claimant fails to make a settlement demand, claimant's original notice shall constitute the settlement demand. If the respondent fails to make a settlement offer, respondent shall be deemed to have made a "zero" or "take nothing" settlement offer.

(c) Final and Binding Arbitration.

1. If the parties do not agree in writing to a settlement of the claim within 15 days of the termination of mediation, the claimant shall have 15 additional days to submit the claim to arbitration in accordance with the Rules of Arbitration established by the American Arbitration Association or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the claimant fails to appear for the arbitration proceeding, the claim shall be deemed abandoned, and respondent shall be released and discharged from any and all liability to claimant arising out of such claim; provided, nothing herein shall release or discharge respondent from any liability to persons other than claimant.

2. This subsection (c) is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of Texas. The arbitration award ("award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Texas.

Allocation of Costs of Resolving Claims:

(a) Subject to subsection (b) below, each party shall bear its own costs, including any attorney's fees incurred, and each party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("post mediation costs").

(b) Any award which is equal to or more favorable to claimant than claimant's settlement demand shall add claimant's post mediation costs to the award, such costs to be borne equally by all respondents. Any award which is equal to or less favorable to claimant than any respondent's settlement offer shall award to such respondent its post mediation costs.

Enforcement of Resolution. After resolution of any claim, if any party fails to abide by the terms of any agreement or award, then any other party may file suit or initiate administrative proceedings to enforce such agreement or

