

**FIRST AMENDMENT  
TO  
SUBDIVISION RESTRICTIONS  
SECTION B  
HOLIDAY VILLAGES OF LIVINGSTON SUBDIVISION**

STATE OF TEXAS                    §  
   §            **KNOW ALL MEN BY THESE PRESENTS:**  
COUNTY OF SAN JACINTO       §

**THIS FIRST AMENDMENT TO SUBDIVISION RESTRICTIONS SECTION B HOLIDAY VILLAGES OF LIVINGSTON SUBDIVISION** (this "**First Amendment**") is made this 16<sup>th</sup> day of January, 2019, by **LIVINGSTON HOLIDAY VILLAGES, L.P.**, a Texas limited partnership (the "**Developer**").

**WITNESSETH:**

**WHEREAS**, Developer prepared and recorded that certain instrument entitled "Subdivision Restrictions Section B Holiday Villages of Livingston Subdivision, on March 10, 1999, in Volume 304, Page 7 *et seq.* of the Deed Records of San Jacinto County, Texas (the "**Subdivision Restrictions**")"; and

**WHEREAS**, Paragraph 15 of the Subdivision Restrictions provides for amendment of that instrument at any time before December 31, 2020, by the Developer if the Developer holds at least one-half of the total ownership interest (as shown by the Records of San Jacinto County, Texas) in Section B including any subsequent additions or annexations thereto without notice to the Section B Owners or without a vote of such Section B Owners; and

**WHEREAS**, as of the date of this First Amendment, the Developer holds at least one-half of the ownership interests in Section B as shown by the records of San Jacinto County, Texas; and

**NOW, THEREFORE**, the Developer hereby amends the Subdivision Restrictions as follows:

1. Paragraph 1 of the Subdivision Restrictions is hereby amended by adding the following provisions at the end of this Paragraph:

The Developer's right to appoint the members of the ACC shall not expire until the Developer has conveyed 100% of the Section B Interests to owners other than the Developer, its successors and/or assigns. The Developer may surrender this right prior to such time by recording a written instrument executed by Declarant and recorded in the San Jacinto County Deed Records. Upon the expiration of such right, the Board shall appoint the members of the ACC, who shall serve and may be removed at the sole discretion of the Board, or, alternatively, the Board may elect to act as the ACC, in which case all references in the Governing Documents to the ACC shall be construed to mean the Board.

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2. Paragraph 2 of the Subdivision Restrictions is hereby amended by changing the definition of the Association from "HV of Livingston Owners Association" to "Lodges at Livingston Owners Association, Inc".

3. Paragraph 4 of the Subdivision Restrictions is hereby amended by adding the following sentence at the end of this Paragraph as follows:

Notwithstanding anything to the contrary contained herein, the Association shall obtain and maintain and keep in full force and effect insurance upon and relating to Section B with such insurers, in such amounts and covering such risks as required by Section 221.072 of the Act.

4. Paragraph 6 of the Restated Restrictions is hereby amended by adding the following sentence at the beginning of this Paragraph:

The Association shall be responsible for the operation, management, maintenance, repair and control of Section B, including, without limitation, the Accommodations, and all improvements thereon (including, without limitation, furnishings, equipment and common landscaped areas), and shall keep them in good, clean, attractive and sanitary condition, order and repair, pursuant to the terms and conditions hereof and consistent with the standard of maintenance generally prevailing throughout the Holiday Villages of Livingston Subdivision.

5. Paragraph 9 of the Subdivision Restrictions is hereby amended by deleting this Paragraph in its entirety and replacing it with the following:

Each Section B Owner shall be a member of the Association. No Member (other than Developer) may resign from membership in the Association.

There is hereby made and impressed upon each Section B Owner (other than the Developer) for each Section B Interest so owned an Annual Assessment in an amount to be determined each year based upon a budget adopted by the Board. The Annual Assessments shall be due and payable in equal monthly installments on the first day of each calendar month unless the Board determines that the Annual Assessment is to be paid quarterly, semi-annually or annually, either in arrears or in advance (except never more than 12 months in advance). The initial monthly installment of the Annual Assessment shall be \$26.37 with respect to each 1/500 undivided interest in Section B; provided, however, that if a Timeshare Interest Owner is also the owner or purchaser of one or more lots in Holiday Villages of Livingston Subdivision that is subject to an assessment payable to the HV of Livingston Owners Association, such Timeshare Interest Owner shall be obligated to pay fifty percent (50%) of the then current Annual Assessment rate. In the event that the Board fails to adopt a budget for a particular year, the budget and Annual Assessment most recently in effect shall apply. The Annual Assessment against a Section B Owner shall accrue from the earlier of (i) the date of the earliest agreement for deed or contract between the Developer as seller and a purchaser of such Section B Interest, or (ii) the date of the earliest conveyance of such Section B Interest by the Developer as grantor.

The Developer or the Association may levy in any Assessment year or years a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described improvement including the necessary fixtures and personal property related thereto, to cover unbudgeted expenses or expenses in excess of the amount budgeted or for carrying out other purposes of the Association as stated in these Subdivision Restrictions. Any such Special Assessment shall be levied equally against all of the Owners (other than Developer) in the Association if such Special Assessment is for expenses incurred for the benefit of all of the Members, or against the Owners (other than Developer) within either Section B or Section C, if such Special Assessment is for the benefit of only those Owners within that particular Section of the Association. Except as otherwise provided in this Declaration, during the Developer Control Period, the Developer may levy a Special Assessment without notice to or the approval of the Owners. Thereafter, any Special Assessment shall require the affirmative vote or written consent, or any combination thereof, of all Owners in the Association (if an expense benefitting all Owners) or of only those Owners within the affected Section (if an expense benefitting only a particular Section) representing at least fifty percent (50%) of the total number of votes cast with respect to such Special Assessment, and the affirmative vote or written consent of the Developer for so long as Developer still owns an Undivided Interest. Special Assessments may be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Special Assessments shall be due and payable on or before the thirtieth (30th) day following the date of the invoice for such assessment. All amounts collected as a Special Assessment shall be deposited in a separate bank account to be used for the purpose for which it was levied. Any excess funds after satisfaction of the purpose for which the Special Assessment was levied, may be transferred to the Developer or to the Association's operating account, as applicable.

All Annual Assessments and Special Assessments, together with late charges, interest and costs of collection, including attorney's fees and court costs (collectively, the "**Assessments**"), shall continue to be secured by a lien on each Section B Interest. In the event that such Assessments is made payable in advance and except as otherwise required by law, repossession of a purchase contract or any transfer of a Section B Interest.

If any Assessment is not paid in full by the 30<sup>th</sup> day following the due date thereof, the unpaid amount of such Assessment shall incur a late charge and bear interest from such 30<sup>th</sup> day at a rate equal to the lesser of (i) eighteen percent (18%) per annum, or (ii) the maximum legal rate under Texas law until paid (the "**Default Rate**"). In addition, **ALL ASSESSMENTS WITH INTEREST AT THE DEFAULT RATE, LATE CHARGES AND THE COSTS OF COLLECTION, INCLUDING REASONABLE ATTORNEYS FEES AND COURT COSTS, HAVE BEEN AND WILL CONTINUE TO BE SECURED BY A CONTINUING CONTRACTUAL LIEN AND CHARGE ON EACH SECTION B INTEREST COVERED BY SUCH ASSESSMENT, WHICH**

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**SHALL BIND SUCH SECTION B INTEREST AND THE SECTION B OWNER AND ITS HEIRS, SUCCESSORS, DEVISEES, PERSONAL REPRESENTATIVES AND ASSIGNEES.** The contractual lien shall be a continuing charge and lien upon each such Section B Interest as a covenant running with the land, and any such Assessments, interest, late charges, costs and other charges assessed or charged and remaining unpaid with respect to any Section B Interest shall constitute a lien and encumbrance on such Section B Interest until the same is paid in full. Developer hereby reserves such a lien upon each Section B Interest in the name of and for the benefit of the Association, and each Section B Owner, by acquisition of such Section B Interest, grants to the Association a power of sale in connection with the Association's lien. The Association shall have the power to subordinate the aforesaid Assessment lien to any other lien. To evidence any unpaid Assessment, the Association may prepare a written notice of unpaid Assessment (the "**Notice of Unpaid Assessment**") setting forth the amount of the unpaid Assessment and the name of the Section B Owner. Such notice shall be recorded in the real property records of San Jacinto County, Texas. The Association shall record an appropriate release of any recorded Notice of Unpaid Assessment when the amounts referenced therein have been paid. **THE LIEN FOR PAYMENT OF ASSESSMENTS MAY BE ENFORCED BY FORECLOSURE OF THE LIEN UPON THE DEFAULTING SECTION B OWNER'S SECTION B INTEREST BY THE ASSOCIATION SUBSEQUENT TO THE RECORDING OF THE NOTICE OF UNPAID ASSESSMENT AS PROVIDED ABOVE EITHER BY JUDICIAL FORECLOSURE OR BY NON-JUDICIAL FORECLOSURE THROUGH A PUBLIC SALE IN LIKE MANNER AS A DEED OF TRUST ON REAL PROPERTY IN ACCORDANCE WITH SECTION 51.002 OF THE TEXAS PROPERTY CODE, AS SUCH MAY BE AMENDED, REVISED, SUPPLEMENTED OR REPLACED FROM TIME TO TIME.** In addition, the Association may institute suit against the Section B Owner personally to obtain judgment for unpaid Assessments. In any foreclosure proceeding, whether judicial or non-judicial, or in any other suit against the Section B Owner, the Section B Owner shall be required to pay the costs, expenses and reasonable attorneys' fees incurred by the Association, except as may be limited by law. Nothing contained herein shall prohibit the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgement for sums that may be secured by a lien. No Member (other than the Developer) shall be entitled to vote or exercise any other right or privilege of membership if such Member is delinquent with respect to any Assessment, or any portion thereof, due hereunder.

6. Paragraph 10 of the Restated Restrictions is hereby amended by deleting the first sentence of this Paragraph and replacing it with the following:

The Assessments described in numbered Paragraph 12 hereof shall be used for the common benefit and enjoyment of the Section B Owners, including, without limitation, the construction, reconstruction, improvements, maintenance of all common areas and Accommodations located in Section B (collectively, the "**Section B Improvements**"), the purchase and rental of land and other property and facilities by the Association, the hiring of safety patrols, the keeping of central

garbage disposal containers, the procurement of insurance and/or bond coverage related to Section B, the payment of property taxes, the payment of utility costs and maintenance expenses on Section B, the repayment of any advances or loans made by the Developer or its affiliates to cover the cost and expense of any of such purposes and uses, and for other uses approved by the Board of the Association. In addition, the Association shall pay the HV of Livingston Owners Association ("**HVLPOA**") on or before January 30<sup>th</sup> of each year the lesser of: (i) twenty-five percent (25%) of the Annual Assessments collected from the Section B Owners for the previous year after payment of any reasonable and necessary charges related to the collection of such Annual Assessments; or (ii) \$25,000 (adjusted upward each year by 2% beginning for the payment due January 30, 2020), such payment to be made for the Section B Owner's and their guests' right to use and enjoy the HVLPOA's recreational facilities (the "**HVLPOA Facilities**").

7. The Subdivision Restrictions is hereby amended by changing the defined term "Amenities" in the first sentence of this Paragraph to "Section B Improvements" and to substitute the defined term "Section B Improvements" for the defined term "Amenities" wherever the defined term "Amenities" appears in the Subdivision Restrictions.

8. Paragraph 10 of the Restated Restrictions is hereby amended by adding the following to the end of this Paragraph:

Notwithstanding anything to the contrary contained herein, the HVLPOA Facilities shall not constitute any portion of Section B. By accepting a deed to an interest in Section B, each Section B Owner is deemed (i) to accept Section B in its then-existing "as is" condition; (ii) to acknowledge the authority of the Developer and the Association, acting through its board of directors and management, for all decisions pertaining to Section B; and (iii) to acknowledge the continuity of maintenance of Section b, regardless of changes in the Association's board of directors or management.

9. The Subdivision Restrictions are amended by adding a new Paragraph 18 as follows:

The Developer shall be entitled to appoint, remove and replace a majority of the members of the Board of Directors of the Association and its officers until the first to occur of the following (the "**Developer Control Period**"):

(a) 120 days after the date that at least ninety-five percent (95%) of the total Undivided Interests in Sections B and C of the Holiday Villages of Livingston Subdivision are conveyed to owners other than the Developer, its successors and/or assigns; or

(b) December 31, 2035; or

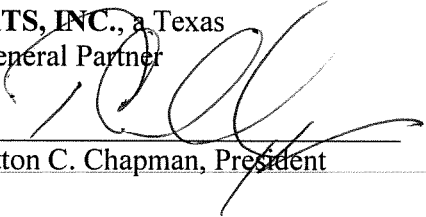
(c) When, in its discretion, the Developer so determines and executes a written instrument stating that the Developer's rights are surrendered and providing a copy of that instrument to the owners.

10. Except as modified herein, the Subdivision Restrictions shall remain in full force and effect.

IN WITNESS WHEREOF, a duly authorized agent of the Developer has executed this First Amendment as of the date first written above.

LIVINGSTON HOLIDAY VILLAGES, L.P.,  
a Texas limited partnership

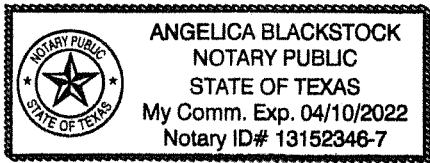
By: **TECON RESORTS, INC.**, a Texas  
corporation, its General Partner

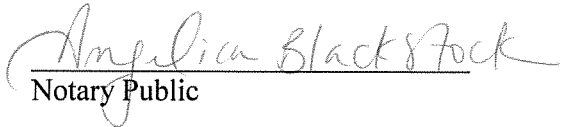
By:   
Patton C. Chapman, President

**ACKNOWLEDGEMENT**

STATE OF TEXAS §  
  §  
COUNTY OF DALLAS §

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of January, 2019, by Patton C. Chapman, President of TECON RESORTS, INC., a Texas Corporation, General Partner of LIVINGSTON HOLIDAY VILLAGES, L.P., a Texas limited partnership, on behalf of said limited partnership.



  
Notary Public

My Commission Expires: 4-10-22

**AFTER RECORDING, RETURN TO:**  
Riddle & Williams, P.C.  
3710 Rawlins Street, Suite 1400  
Dallas, Texas 75219

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Filed for Record in:  
San Jacinto County

On: Feb 08, 2019 at 01:43P

As a  
Recording

Document Number: 20190791

Amount 41.00

Receipt Number - 30076

By  
Marna Gearhart

STATE OF TEXAS

COUNTY OF SAN JACINTO

I, Dawn Wright hereby certify that this instrument was filed in number sequence on the date and time hereon by me, and was duly recorded in the OFFICIAL PUBLIC RECORDS of San Jacinto County, Texas as stamped hereon by me on

Feb 08, 2019

Dawn Wright, County Clerk  
San Jacinto County, Texas