

DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS ²⁰
 (Tier 3 - Winsford At Hollytree)

STATE OF TEXAS §
 §
 COUNTY OF SMITH §

Filed for Record in:
 SMITH COUNTY, TEXAS
 MARY MORRIS - COUNTY CLERK

On Feb 21 1996
 At 12:56pm

Deputy - Jennette Steveson

This Declaration made this 1st day of September, 1995, by Hollytree, Ltd. a Texas limited partnership.

WITNESSETH:

WHEREAS, Developer desires to establish the Project as a planned unit development consisting of Lots which are individually owned in fee simple and of Common Areas which are owned by the Association; and

WHEREAS, Developer desires to establish certain covenants, easements and restrictions for the good of the Project and the mutual benefit and protection of the Owners;

NOW THEREFORE, Developer does hereby publish and declare that the following terms, provisions, covenants, conditions, easements, restrictions, reservations, uses, limitations and obligations shall be deemed to run with the Land, and shall be a burden and benefit to the Developer, the Association, the Owners and their respective heirs, legal representatives, successors and assigns:

ARTICLE I

DEFINITIONS

Section 1.01 As used in this Declaration, the following terms shall have the meaning set forth below:

- (A) "Association" shall mean WINSFORD AT HOLLYTREE HOME OWNERS ASSOCIATION, INC., a Texas non-profit corporation created for the purposes and possessing the rights, powers and authority set forth herein and in the Charter.
- (B) "Board of Directors" shall mean the Board of Directors of the Association named in the Charter and their successors as duly elected and qualified from time to time.
- (C) "Building" shall mean any vertical structure located on the Land.

*Return to:
 Hollytree
 1400 Royal Oak
 Tyler, Tx 75703*

- (D) "By-laws" shall mean the By-laws of the Association initially adopted by the Board of Directors, as duly amended from time to time.
- (E) "Charter" shall mean the articles of incorporation of the association filed with the Secretary of State of Texas as duly amended from time to time.
- (F) "Common Areas" shall mean those portions of the Land (and any improvements located thereon) which are not located within the boundaries of any Lot.
- (G) "Common Expenses" shall mean all costs and expenses payable by the Association pursuant to the provisions of this Declaration, the By-Laws or a resolution duly adopted by, the Board of Directors or the Owners.
- (H) "Covenants" shall mean the covenants, conditions, easements, charges, servitudes, liens, reservations and assessments set forth herein.
- (I) "Deed" shall mean a deed or other instrument conveying the fee simple title to a Lot.
- (J) "Developer" shall mean Hollytree, Ltd., a Texas limited partnership, and any party to whom it shall expressly assign in writing its rights, powers, privileges or prerogatives hereunder.
- (K) "Dwelling Unit" shall mean any portion of a Building and all Common Elements appurtenant thereto actually constructed on a Lot.
- (L) "First Lien Indebtedness" shall mean any indebtedness secured by a first and prior lien or encumbrance upon a Lot.
- (M) "First Mortgagee" shall mean any bank, insurance company, savings and loan association mortgage company, agency or instrumentality of the United States Government or other institutional holder of First Lien Indebtedness.
- (N) "Land" shall mean collectively, Lots 1 through 52 of Block 1538-Y and Lots 1 through 9, Block 1538-X as recorded in Cabnet C, Slide 146-D of the Map and Plat Records of Smith County, Texas, together with all and singular the rights and appurtenances pertaining thereto.
- (O) "Lot" or "Lots" shall mean, individually or collectively, those certain lots designated as Lots 1 through 9, of Block 1538-X and Lots 2 through 51 of Block 1538-Y of the Winsford At Hollytree Addition to the City of Tyler, Smith County, Texas as recorded in Volume C, Page 146-D of the Map and Plat records of Smith County, Texas.

- (P) "Owner" shall mean and refer to the person or persons, entity or entities, who either own of record fee simple title to a Lot, or who have entered as an original party, successor or assignee into a Contract for a Deed with Developer; the term "Owner" to exclude any person or persons, entity or entities, having an interest in a Lot merely as security for the performance of an obligation; the term "Owner" to include Developer if Developer is a record owner of fee simple title to a Lot, but only if, with respect to such Lot, Developer has not entered into any Contract for Deed. For purposes hereof, the term "Contract for Deed" shall be any contract executed by Developer with another person containing as its title or as part of its title, the term "Contract for Deed" and pursuant to which such person is acquiring a Lot on an installment basis whereby Developer does not transfer fee simple title to the Lot until such person has satisfied all the terms and conditions of such contract.
- (Q) "Plat" shall mean the subdivision plat of any portion of the Land presently on file in the Map and Plat Records of Smith County, Texas, and any other plat or plats of all or any portion of the Land now or hereafter filed for record in the Map and Plat Records of Smith County, Texas (as such plat or plats may be amended from time to time).

ARTICLE II

GENERAL PROVISIONS

Section 2.01 From and after the date of recordation of this Declaration, the Land shall be subject to the Covenants and said Covenants shall run with, be for the benefit of, and bind and burden the Land.

Section 2.02 From and after the date of recordation of this Declaration, the Covenants shall be binding upon and for the benefit of each Owner and his heirs, executors, administrators, trustees, personal representatives, successors and assigns, whether or not so provided or otherwise mentioned in the Deed.

ARTICLE III

USE RESTRICTIONS

Section 3.01 All Lots within the Land are hereby restricted as follows:

- (a) No exterior television, radio or other antenna of any type shall be placed, allowed or maintained upon any Lot or Dwelling Unit without prior written approval and authorization of Board of Directors.

- (b) On-street parking, except in striped and designated areas is restricted to approved deliveries, pick-up or short-time guests and invitees and shall be subject to such reasonable rules and regulations as shall be adopted by the Board of Directors.
- (c) No exterior storage of any items of any kind shall be permitted except with prior written approval and authorization of the Board of Directors. Any such storage as it, approved and authorized shall be in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view from neighboring property, pathways and streets. This provision shall apply without limitation, to wood piles, camping trailers, boat trailers, travel trailers, boats, mobile homes and unmounted pickup camper units. Also without limitation, no automobile, truck or other vehicle, regardless of ownership, age, condition or appearance shall remain on any Lot in any manner which could be construed as being stored, neglected, abandoned or otherwise not in frequent use except pursuant to written approval and authorization of the Board of Directors.
- (d) No garbage or trash will be placed about the exterior of any Building, except in containers meeting the specifications of the City of Tyler, Texas, and the Board of Directors, and the placement, maintenance and appearance of all such containers shall be subject to reasonable rules and regulations of the Board of Directors. All rubbish, trash and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon.
- (e) No radio, stereo, broadcast or loud speaker units and no amplifiers of any kind shall be placed upon the outside, or be directed to the outside of any Building without prior written approval and authorization of the Board of Directors.
- (f) No outside lighting (other than porch lighting, patio lighting and indirect lighting) shall be placed, allowed or maintained on any Lot without prior written approval and authorization of the Board of Directors.
- (g) No animals, reptiles, fish or birds of any kind shall be raised, bred or kept on any Lot except pursuant to prior written approval of and in accordance with the rules and regulations propagated by the Board of Directors, provided, however, that dogs, cats, birds or fish may be kept therein as household pets so long as, in the discretion of the Board of Directors, such pet is not, or does not become, a nuisance, threat, or otherwise objectionable to other Owners.
- (h) No Lot shall be further subdivided and no portion less than all of any such Lot, or any easement or any other interest therein, shall be conveyed by any Owner.
- (i) No Owner shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor plant disease or noxious insects.

- (j) No tree, shrub, or plant of any kind on any Lot shall be allowed to overhang or otherwise encroach upon any sidewalk or any other pedestrian way from ground level to a height of seven (7) feet without the prior written approval and authorization of the Board of Directors.
- (k) No machinery, fixtures or equipment of any type, including without limitation, heating, air conditioning or refrigeration equipment and clotheslines, shall be placed, allowed or maintained upon the ground on any Lot, except with the prior written approval and authorization of the Board of Directors and then only in areas attractively screened or concealed (subject to all required approvals as to architectural control) from the view of neighboring property, pathways and streets; and no such machinery, fixtures, or equipment shall be placed, allowed or maintained anywhere other than on the ground (such as on the roof) except if screened or concealed (subject to all required approvals as to architectural control) in such manner that the screening or concealment thereof appears to be part of the integrated architectural design of the Building and does not have the appearance of a separate piece or pieces of machinery, fixtures, or equipment.
- (l) No gas, electric power, telephone, water, sewer, cable television, or other utility or service lines of any nature or kind shall be placed, allowed or maintained upon or above the ground on any Lot, except to the extent, if any, underground placement thereof may be prohibited by law or would prevent the subject line from being functional. The foregoing shall not prohibit service pedestals and above-ground switch cabinets and transformers where required.
- (m) No open fires or burning shall be permitted on any Lot at any time and no incinerators or like equipment shall be placed, allowed, or maintained upon any Lot. The foregoing shall not be deemed to preclude the use, in customary fashion of outdoor residential barbecues or grills.
- (n) No exterior signs or advertisements of any type may be placed, allowed or maintained on any Lot without prior written approval and authorization of the Board of Directors, except that mailboxes, residential nameplates and "for sale" and "for rent" signs may be placed and maintained in conformity with such common specifications, including without limitation, reasonable restrictions as to size, as may be adopted by the Board of Directors.
- (o) No repairs of any detached machinery, equipment or fixtures, including without limitation motor vehicles, shall be made upon any portion of any Lot within view of neighboring property, pathways and streets, without prior written approval and authorization of the Board of Directors.

- (p) No oil exploration, drilling, development or refining operation and no quarrying or mining operations of any kind, including oil wells, service tanks, tunnels, or mineral excavations or shafts shall be permitted upon or under any Lot; and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.
- (q) No portion of the Land may be developed or redeveloped otherwise than in accordance with its original intended use, without the prior written authorization and approval of the Board of Directors.
- (r) No Lot shall be maintained or utilized in such a manner as in the discretion of the Board of Directors to present an unsightly appearance (including but not limited to clothes drying within public view), or as to unreasonably offend the morale of or as to constitute a nuisance or unreasonable annoyance to, or as to endanger the health of, other Owners or residents of the Land; and no noxious or, otherwise offensive condition or activity shall, be allowed to exist or be conducted thereon.
- (s) No Lot shall be maintained or utilized in such manner as to violate any applicable statute, ordinance, or regulation of the United States of America, the State of Texas, the County of Smith, the City of Tyler, or any other governmental agency or subdivision having jurisdiction in the premises.
- (t) No Lot shall be maintained or utilized in violation the Covenants.
- (u) Motor vehicles owned or in the custody of any Owner can be parked only in the driveway located upon or pertaining to such Owner's Lot, or in parking areas designated by the Board of Directors, unless otherwise authorized by the Board of Directors. No buses, vans or trucks having a carrying capacity in excess of $\frac{3}{4}$ tons or designed for commercial purposes shall be placed, allowed, or maintained on any Lot except with the prior written approval and authorization of the Board of Directors in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view of neighboring property, pathways and streets.
- (v) No Dwelling Unit shall be permitted to fall into disrepair and any such Dwelling Unit shall at all times be kept in good condition and repair, adequately painted or otherwise finished.
- (w) All utility lines from each Dwelling Unit to the common utility lines i.e. (water, gas, sewer, power, etc., utility lines which carry any utility to or sewage from such Dwelling Unit) shall be maintained by the Owner of such Dwelling Unit at his own cost and expense.

- (y) All lease agreements between an Owner and his tenant shall be in writing and shall provide that the terms of such lease are subject and subordinate to the terms of this Declaration. Such lease agreements shall further provide that a default under any of the Covenants contained herein shall constitute a default under such lease.

ARTICLE IV

ASSOCIATION, ORGANIZATION AND MANAGEMENT

Section 4.01 The Board of Directors of the Association shall consist of not less than three (3) nor more than nine (9) members, the exact number to be fixed in accordance with the provisions of the Bylaws.

Section 4.02 The Association shall have two classes of voting membership:

Class A: Class A members shall be all Owners with the exception of the Developer. Class A members shall be entitled to one (1) vote for each Lot which they own. When more than one person holds record title to a Lot, all such persons shall be members of the Association, however, the vote for such Lot shall be exercised as they, among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

Class B: The Class B member shall be the Developer. The Class B member shall have a total number of votes equal to one (1) more than the total number of votes of the Class A members combined. However, at the time that the total number of Lots owned by the Class A members first equals or exceeds three (3) times the total number of Lots owned by the Class B member, the Class B member shall at all times thereafter be entitled to only one (1) vote for every Lot owned by it. Notwithstanding anything to the contrary contained herein, on that date which is seven (7) years from the date of the filing hereof, and thereafter, the Class B member shall be entitled to only one (1) vote for each Lot which it then or thereafter owns.

Section 4.03 Each Owner of a Lot shall be a member of the Association, and such membership shall continue so long as such person continues to be an Owner. The membership of an Owner in the Association shall be appurtenant to and may not be separated from record ownership of any Lot, and the transfer of any membership in the Association which is not made as a part of a transfer of a Lot shall be null and void. Ownership of a Lot shall be the sole qualification of being a member of the Association. Each Owner shall comply with all rules and regulations established by the Association from time to time.

Section 4.04 The Association shall have the right, power, and authority to do any act which is consistent with or required by the provisions of this Declaration or the By-Laws whether the same be expressed or implied, including but not limited to the following;

- (a) the power to levy and collect Assessments (of whatever nature) for the maintenance, repair or replacement of the Association's landscape easements, Common Areas (including the dedicated roadways existing thereon) and for Associated Yard Maintenance as described in Section 4.06;
- (b) the power to keep accounting records with respect to all activities and operation of the Association;
- (c) the power to contract with and employ others to perform Associated Yard Maintenance and for the maintenance, management and repair of the Common Areas and the Association's landscape easements;
- (d) the power to adopt rules and regulations concerning the use of the Common Areas;
- (e) the power to grant easements for utilities, streets or other public or quasi-public purposes on and across the Common Areas;
- (f) the power to purchase and maintain such insurance with respect to the Common Areas as the Board of Directors deems reasonable and prudent provided however that the Association shall maintain, at all times, fire and extended coverage insurance covering all insurable improvements on the Common Areas in an amount not less than one hundred percent (100%) of their insurable value based on then current replacement costs; and
- (g) the power to engage professional, experienced management for the operation of the Association, provided that any contract for such management must provide that it will be terminable for cause upon thirty (30) days written notice and without cause upon ninety (90) days written notice and without payment of any penalty or fee. Once established, any decision to terminate such professional, experienced management shall only be effective once it has received the written approval of one hundred percent (100%) of the First Mortgagees. The term of any such management contract shall not exceed a period of one (1) year and may provide that it is renewable for successive one (1) year terms.

Section 4.05 The Board of Directors as representative of the Association shall have the right to enforce the provisions of this Declaration. If the Board of Directors shall fail or refuse to enforce this Declaration for an unreasonable period of time, after written request to do so, then any aggrieved Owner may enforce this Declaration on his own behalf by appropriate action, whether in law or in equity.

Section 4.06. The Association shall hire, by competitive bid, a contractor to mow, fertilize and edge the lawns (Associated Yard Maintenance) of participating lot owners. All of the owners of Lots 21 through 43, Block 1538-Y as recorded in Cabinet C, Slide 146-D of the plat records of Smith County are required to participate. Participation by all other lot owners is optional. Those whose participation is optional must elect to participate before February twenty-eighth (28th) of each year in order to participate for that year. After February twenty-eighth (28th) of each year the officers of the Association will hire a qualified contractor to mow, fertilize and edge the grass on all participating owners lots. The total Associated Yard Maintenance cost will be allocated pro-rata to all participants based on the estimated net grassed area per lot on Schedule "A" attached hereto. Schedule "A" estimates the net grassed area by subtracting the projected square footage of the house from the sum of the total square footage in the lot and the parkway in front of each lot. Schedule "A" will be adjusted as necessary if lots are replatted. As of November 30, 2000 and every fifth (5th) year thereafter, the projected square footage of each house on Schedule "A" shall be adjusted to actual square footage of the house (under roof). The net grassed area shall be recalculated accordingly. The adjusted Schedule "A" shall be used for billing the Associated Yard Maintenance cost until Schedule "A" is readjusted at each five (5) year interval. Notwithstanding anything contained herein to the contrary, this Section 4.06 may be amended by seventy-five percent (75 %) of the votes cast at a duly called meeting of the Association's members. Except as otherwise set out in this Section 4.06, all other decisions with respect to Associated Yard Maintenance shall be made by the President of the Association or such other officers to whom the President may delegate said decisions.

ARTICLE V

ASSESSMENTS, MAINTENANCE FUND AND ASSESSMENT LIENS

Section 5.01 The Association shall possess the right, power, authority and obligation to establish a monthly assessment sufficient in the judgment of the Board of Directors to pay when due all charges and expenses related to Associated Yard Maintenance, the operation of the Association, the operation and maintenance of the Common Areas and the Association's landscape easements. Such monthly assessments so established shall be payable by the Owners on the first day of each calendar month. They shall be applied to the payment of charges for which the Association is responsible, including, without limitation, charges relating to Associated Yard Maintenance, the maintenance and repair of the Common Areas, above mentioned landscape easements and casualty, public liability and other insurance coverage which is required or permitted to be maintained by the Association, taxes, assessments and other governmental impositions not separately levied and assessed, utilities relating to the Common Areas and the above mentioned landscape easements, professional services (such as management, accounting and legal), and such other costs and expenses as may reasonably relate to Associated Yard Maintenance, the proper maintenance, care, operation and management of the Common Areas, above mentioned landscape easements and the administration of the Association. No consent or approval of the Owners shall be required for the establishment of the monthly assessments contemplated by this Section;

provided, however, notwithstanding the foregoing, the Board of Directors shall not without the affirmative vote of two-thirds (2/3) of the Owners present at a duly called meeting for such purpose, establish the monthly assessments in an amount in excess of (I) the average monthly assessment during the preceding year plus (ii) five percent (5%) of such average monthly assessment during the preceding year.

Section 5.02 Subject to the terms of Section 5.01 hereof, prior to the commencement of each calendar year, the Association, through the Board of Directors and taking into consideration then current maintenance costs and anticipated future needs of the Association, shall prepare and deliver to each of the Owners a budget setting forth the anticipated expenses for the ensuing year. Such budget shall be in sufficient detail so as to inform each Owner of the nature and extent of the expenses anticipated to be incurred, and shall be accompanied by a statement setting forth each Owner's monthly pro rata share thereof and the date on which such monthly assessment first commences to be payable. No further communication shall be necessary to establish the amount of each Owner's obligation regarding the assessment payable hereunder, and the failure of the Board of Directors to timely deliver the budget provided for herein shall in no event excuse or relieve an Owner from the payment of the monthly assessments contemplated hereby. Any budget prepared and delivered to the Owners as hereby contemplated may be amended as and to the extent reasonably necessary and, subject to the provisions of Section 5.01 hereof, the amount of an Owner's monthly assessment changes to correspond therewith.

Section 5.03 In addition to the monthly assessments contemplated hereunder, the Association shall possess the right, power and authority to establish special assessments from time to time as may be necessary or appropriate in the judgment of the Board of Directors to pay (i) non-recurring expenses relating to the proper maintenance, care, alteration, improvement, operation and management of the Common Areas, landscape easements belonging to the Association and the administration of the Association, and (ii) non-recurring expenses relating to the proper maintenance, care, alteration, improvement or reconstruction of specific Lots (including the Buildings thereon) in the manner hereinafter specified. Notwithstanding anything to the contrary contained in this Declaration, any special assessment established hereunder must be approved by the affirmative vote of sixty-seven percent (67%) of a quorum of the total votes of each class of Owners present at a duly called meeting for such purpose.

Section 5.04 Each Owner shall be personally obligated to pay his pro rata share of all assessments established pursuant to this Declaration. With the exception of Associated Yard Maintenance, each Owner's pro rata share shall be determined by Schedule "B" attached hereto. Any unpaid assessments due as of the date of the conveyance or transfer of a Lot shall be and constitute the joint and several obligation of both the new Owner and the former Owner; provided, however, that any new Owner acquiring any such Lot as a result of or in lieu of a foreclosure by a First Mortgagee shall not be liable for any such unpaid assessments. No Owner shall be entitled to exempt himself from the liability of his obligation to pay such assessments by waiver of the use and enjoyment of the Common Areas, by an abandonment of his Lot or by any other action whatsoever. Any such assessment not paid within fifteen (15) days of the date due shall bear

interest at the maximum rate of interest which may be charged under applicable law (including the laws of the United States of America) or at such lesser rate as may be determined by the Board of Directors in its sole discretion on a case by case basis from time to time, and shall be recoverable by the Association, together with interest as aforesaid and all costs and expenses of collection of suit, including reasonable attorney's fees, in a court of competent jurisdiction sitting in Smith County, Texas.

Section 5.05 An Owner's pro rata share of all assessments established pursuant to this Declaration shall be secured by a lien upon such Owner's Lot and the improvements located thereon in favor of the Association, which lien shall be prior and superior to all of the liens and encumbrances upon such Lot and improvements, regardless of how created, evidenced or perfected, other than the liens securing the payment of First Lien Indebtedness and the lien for unpaid taxes, assessments and other governmental impositions. Such lien and encumbrance may be enforced by any means available at law or in equity, including, without limitation, a non-judicial foreclosure sale of the Lot of a defaulting Owner conducted in accordance with the provisions of Article 3810 of the Revised Civil Statutes of the State of Texas. The Association or any other Owner may be the purchaser at such foreclosure sale.

Section 5.06 Upon payment of a fee of \$25.00, the Association shall promptly deliver to an Owner, his First Mortgagee, or any other interested party requesting such information, a statement setting forth the amount of any delinquent assessments payable by an Owner, as well as the amount of the monthly assessment payable at the time by such Owner pursuant to this Article V.

Section 5.07 Written notice of any meeting called for the purpose of taking any action authorized pursuant to Section 5.01 or Section 5.03 shall be sent to all Owners not less than thirty (30) days nor more than fifty (50) days prior to the date on which such meeting is to be held. At such called meeting, the presence of Owners (or of proxies of Owners) entitled to cast sixty percent (60%) of all of the votes of each class of the Association entitled to be cast by the Owners shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice and quorum requirements. In lieu of a meeting, a door-to-door canvass may be used to obtain the written consent of sixty-seven percent (67%) of the Class A Owners and sixty-seven percent (67%) of the Class B Owners and such written consent shall be deemed to meet the requirements of the requisite affirmative vote required by any provision of this Declaration.

ARTICLE VI

IMPROPER MAINTENANCE BY OWNER

Section 6.01 In the event any Lot (including the improvements located thereon) is in the judgment of the Board of Directors so maintained by its owner (i) as to not comply with these Covenants, (ii) as to present a public or private nuisance or (iii) so as to detract (including but not limited to detractions caused by debris and/or weeds) from the appearance or quality of the

neighboring Lots or other areas of the Land which are substantially affected thereby or related thereto, the Board of Directors may by resolution make a finding to this effect specifying the particular condition or conditions which exist, and pursuant thereunto deliver notice thereof to the offending Owner that unless corrective action is taken within ten (10) days, the Board of Directors will cause such action (including entering upon the Lot without liability for any damage that may be caused in the absence of gross negligence or willful misconduct) to be taken at such Owner's cost. If at the expiration of said ten (10) day period of time the requisite corrective action has not been taken, the Board of Directors shall be authorized and empowered to cause such action to be taken and the cost (the "Maintenance Cost") thereof shall be assessed against the Lot of the offending Owner and shall be secured by the Maintenance Lien as hereinafter provided. Written notice of such assessment shall be delivered to the offending Owner which notice shall specify the amount of such Maintenance Cost and shall demand payment thereof within thirty (30) days after the date of said notice.

Section 6.02 The Board of Directors shall have the right at any time there are unpaid Maintenance Costs outstanding with respect to a Lot to file with the County Clerk of Smith County, Texas, a statement describing such Lot and declaring the amount of unpaid Maintenance Costs relating thereto in which event, upon such filing, there shall automatically be imposed upon such Lot a Lien (the "Maintenance Lien") in favor of the Association for the amount of such unpaid Maintenance Costs relating to any such Lot. Upon payment of the Maintenance Costs secured by such Maintenance Lien, the Board of Directors shall file of record with the County Clerk of Smith County, Texas an appropriate release of such Maintenance Lien previously filed against the Lot thereof for such Maintenance Costs. The Maintenance Lien shall be for the sole benefit of the Association.

Section 6.03 Each Owner, for himself, his heirs, executors, administrators, trustees, personal representatives, successors and assigns, covenants and agrees:

- (a) That he will pay to the Association within thirty (30) days after the date of written notice thereof any Maintenance Costs assessed by the Board of Directors against his Lot; and
- (b) That by accepting any Deed to his Lot, he shall be and remain personally liable for any and all Maintenance Costs assessed against his Lot while he is (or was) the Owner thereof, regardless of whether such Covenants or agreements are expressed in such Deed and regardless of whether he signed the Deed.

Section 6.04 If the Owner of any Lot fails to pay the Maintenance Cost when due, the Board of Directors may enforce the payment of the Maintenance Cost and/or the Maintenance Lien by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies hereinafter set forth the Board of Directors does not preclude or waive its rights to exercise the other remedy):

- (a) Bring an action at law and recover judgment against the Owner personally obligated to pay Maintenance Cost;
- (b) Foreclose the Maintenance Lien against the Lot in accordance with the prevailing Texas law relating to the foreclosure of realty mortgages and liens (including the power of conducting a non-judicial sale in accordance with the provisions of Article 3910 of the Revised Civil Statutes of the State of Texas and the right to recover a deficiency).

The sale or transfer of any Lot shall not affect the Maintenance Lien, provided, however, that if the sale or transfer is pursuant to the foreclosure of First Lien Indebtedness, or pursuant to any sale or proceeding in lieu thereof, the First Mortgagee or any purchaser at the foreclosure sale or any First Mortgagee taking by deed in lieu of foreclosure, shall take the Lot free of the Maintenance Lien for all Maintenance Costs that have accrued up to the date of such sale or conveyance in lieu of foreclosure.

Section 6.05 In any action taken pursuant to Section 6.04 of this Article, the Owner shall be personally liable for, and the Maintenance Lien shall be deemed to secure the amount of, the Maintenance Cost together with interest thereon at the rate specified in Section 5.04 hereof, and reasonable attorney's fees.

ARTICLE VII

CONDEMNATION

Section 7.01 In the event of a condemnation of all of the Common Areas, the proceeds of such condemnation shall be distributed to the Owners and their First Mortgagees, as their interest may appear, pro rata in the same proportions as the assessments by the Association are levied.

Section 7.02 In the event of a condemnation of a part, but not all, of the Common Areas, the proceeds of such partial condemnation shall be used by the Association to rebuild, refurbish or rehabilitate the remaining Common Areas, to the extent possible so as to restore the Common Areas to the aesthetic and recreational levels which existed prior to such condemnation. Any proceeds which remain following such restoration shall be retained by the Association and used by it to offset future operating expenses.

ARTICLE VIII

EASEMENTS

Section 8.01 Each Owner and such Owner's duly authorized guests and invitees shall have

the non-exclusive right and easement of enjoyment and use of the Common Areas and such easement shall be appurtenant to and shall pass with the title to every Lot. Such right and easement shall be subject to the following provisions:

- (a) The right of the Board of Directors to make such reasonable rules and regulations regarding the use of the Common Areas and facilities located thereon by the Owners and other persons entitled to such use, including but not limited to, restrictions as to the number and age of guests who may use the Common Areas, the parts of the Common Areas that such guests may use, restrictions concerning walking or airing pets thereon, and rules governing parking of automobiles;
- (b) The right of the Association in accordance with its Articles of Incorporation and Bylaws (and subject to the limitations herein), to borrow money for the purpose of Improving the Common Areas and facilities and constructing new facilities thereon and in connection therewith to mortgage the Common Areas or portions thereof.
- (c) The right of the Association to suspend a member's voting rights and right to use the Common Areas and facilities thereon for any period during which any assessment against his Lot remains unpaid.

Section 8.02 If any Dwelling Unit sold to an Owner shall encroachment on the Lot of an adjoining Owner, or the Common Areas, then such adjoining Owner or the Association, as the case may be, specifically grants such Owner an easement permitting the persistence of such encroachment. In addition, an easement is granted to any Owner whose eaves, gutters or similar items overhang on to an adjoining Lot, or the Common Areas.

Section 8.03 If any portion of any improvement constructed on the Common Areas shall encroach on to a Lot then the Owner of such Lot, specifically grants to the Association an easement permitting the persistence of such encroachment.

Section 8.04 Developer hereby grants and conveys an easement to the Association effective upon execution and recording of this Declaration (i) on Lots 35 through 38, 46 through 51, and 2 through 11 Block 1538-Y, three (3) feet in width and identified as a "3' WIDE LANDSCAPE EASEMENT", (ii) on Lots 11 through 13 Block 1538-Y, three feet in width and identified as a "3' WIDE LANDSCAPE EASEMENT ALONG SOUTH BOUNDARY LINE", (iii) on Lots 36 through 38, 45, 46 and 7 through 10, in the shape of a triangle and identified as INSET "A" and (iv) on Lot 6, Block 1538-Y being in the shape of a triangle and identified as a "LANDSCAPE EASEMENT", each as shown on the Plat Recorded in Cabinet C, Slide 146-D, of the Map and Plat Records of Smith County, Texas, permitting permanent or recurring installation and maintenance of landscaping beside, along, on and or attached to a brick wall or a brick and wrought iron fence, said wall or fence having been built by Developer within the landscape easement along the rear of said Lots. Developer reserves an easement on Lots 29 through 35 Block 1538-Y, three (3) feet in width, identified as a "3' WIDE LANDSCAPE EASEMENT

ALONG NORTH BOUNDARY LINE" as shown on the plat described in this Section 8.04, herein, permitting permanent or recurring installation and maintenance of landscaping besides, along, on and or attached to a brick wall or a brick and wrought iron fence, said wall or fence having been built by Developer within the easement along the rear of said Lots. Said landscaping as used in this Section 8.04 shall include but not be limited to plants, bedding, edging, fountains, lights, light fixtures, signage or decorations and all appurtenances relating to any such landscaping. Except in the case of gross negligence the Association and Developer shall not be responsible for damage to said walls or fences caused by their use of said easements. Nothing in this Section 8.04 shall require the Association or Developer to install or maintain landscaping within any easement granted by this Section 8.04.

Section 8.05 The owner of Lot 52 Block 1538-Y, specifically grants to Developer an easement designated as a "CART PATH EASEMENT TO HOLLYTREE LIMITED" on the plat described in Section 8.04 herein, permitting ingress and egress over, and construction, maintenance and repairs of a cart path for benefit of Developer, its guests and invitees.

ARTICLE IX

MORTGAGES

Section 9.01 Any Owner who mortgages his interest in a Lot with First Lien Indebtedness shall within ten (10) days after the execution of such First Mortgage give notice to the Association, in writing, of the name and address of his First Mortgagee and the amount secured by such First Mortgage. The Association shall maintain such information in a book entitled "Mortgages of Lots". Said written notice shall be separately maintained by the Association or by a person designated by the Association. Such Owner shall, in the same manner, notify the Association as to the release or discharge of, any First Mortgage.

Section 9.02 The Association shall, at the request of any First Mortgagee of any Lot, report to such First Mortgagee any unpaid assessments due from the Owner of such Lot.

Section 9.03 Any First Mortgagee whose name and address are contained in the book entitled "Mortgages of lots" shall be entitled upon reasonable prior written request and at reasonable hours to inspect the books and records of the Association.

Section 9.04 Notwithstanding anything to the contrary contained in this Declaration except for the right of the Association to grant easements for utilities or other similar or related purposes, no portion of the Common Areas may be alienated, released, transferred, hypothecated or otherwise encumbered without the prior approval of one hundred percent (100%) of the First Mortgagees.

Section 9.05 Any First Mortgagee shall be entitled, upon request, to receive any financial statements prepared by or on behalf of the Association, and shall further, upon request be entitled to receive notice of Association meetings and may designate a representative to attend such meetings.

Section 9.06 The Association shall give First Mortgagees written notice to any substantial damage, destruction or pending condemnation to or of the Common Areas or any Lot in which any such First Mortgagee has an interest.

ARTICLE X

MISCELLANEOUS

Section 10.01 This Declaration may be amended pursuant to a vote or seventy-five percent (75%) of the Owners of the Lots provided, however, that no such amendment shall be effective unless it has also received the written approval of one hundred percent (100%) of the First Mortgagees.

Section 10.02 This Declaration shall be effective upon the date of recordation hereof, and as amended from time to time, shall continue in full force and effect to and including June 30, 2042. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years, unless there is an affirmative vote to terminate this Declaration by the then Owners of seventy-five percent (75%) of the Lots, provided however that no such vote to terminate shall be effective until it has received the approval of one hundred percent (100%) of the then First Mortgagees. The Covenants contained herein may be terminated at any time upon the vote of one hundred percent (100%) of the Owners of the Lots provided, however, that no such termination shall be effective unless it has also received the written approval of one hundred percent (100%) of the First Mortgagees.

Section 10.03 If any provisions of this Declaration shall be, held invalid or unenforceable the same shall not affect the validity or enforceability of any of the other provisions of this Declaration.

Section 10.04 Whenever notices are required to be sent hereunder, the same shall be sent to the Owner who is the intended recipient, by certified or registered mail, return receipt requested and postage prepaid at the address of such Owner's Lot and further provided that any such notice may be delivered in person. Notices shall be deemed received when actually received and whether or not received when deposited in a regularly maintained receptacle of the United States Postal Service in accordance with the provisions hereof. Notices sent to the Association shall be sent by

certified or registered mail, return receipt requested and postage prepaid, only at such address as has previously been specified by the Board of Directors to the Owners. The Association may, from time to time, change such specified address by giving the Owners notice of such change in the manner herein provided.

Section 10.05 Whenever the context so requires, the use of any gender shall be deemed to include all genders, the use of the plural shall include the singular and the singular shall include the plural.

Section 10.06 All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only, and are not to be deemed to limit, modify or otherwise affect any other provisions hereof, or be used in determining the intent or context hereof.

Section 10.07 If any interest purported to be created by this Declaration is challenged under the Rule Against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be those which would be used in determining the validity of the challenged interest.

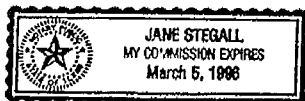
EFFECTIVE as of the date first above written.

DEVELOPER:
HOLLYTREE, LTD., a Texas limited partnership
BY HOLLYTREE MANAGEMENT, INC.
A Texas corporation and General Partner

By: 
THOMAS E. BARBER,
President

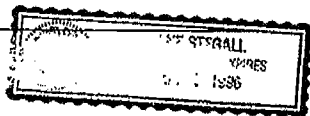
STATE OF TEXAS §
 §
COUNTY OF SMITH §

This instrument was acknowledged before me on the 20th day of Feb, 1996
by THOMAS E. BARBER, President of HOLLYTREE MANAGEMENT, INC., a Texas
corporation and General Partner of and on behalf of Hollytree, Ltd., a Texas limited partnership.



Jane Stegall
Notary Public

My Commission Expires:



SCHEDULE "A"
ASSOCIATED YARD MAINTENANCE

LOT*	BLOCK*	STREET	FACTOR
21	1538-Y	WALDEN DRIVE	0.00669764
22	1538-Y	WALDEN DRIVE	0.00783071
23	1538-Y	WALDEN DRIVE	0.01124171
24	1538-Y	WALDEN DRIVE	0.01236737
25	1538-Y	WALDEN DRIVE	0.01017171
26	1538-Y	WALDEN DRIVE	0.00888192
27	1538-Y	WALDEN DRIVE	0.00970369
28	1538-Y	WALDEN DRIVE	0.00966349
29	1538-Y	WALDEN DRIVE	0.01112587
30	1538-Y	WALDEN DRIVE	0.01154503
31	1538-Y	WALDEN DRIVE	0.01058309
32	1538-Y	WALDEN DRIVE	0.00779849
33	1538-Y	WALDEN DRIVE	0.00612264
34	1538-Y	WALDEN DRIVE	0.00705904
35	1538-Y	WALDEN DRIVE	0.01017969
36	1538-Y	WALDEN DRIVE	0.00746538
37	1538-Y	WALDEN DRIVE	0.01107869
38	1538-Y	WALDEN DRIVE	0.01563579
39	1538-Y	WALDEN DRIVE	0.00612101
40	1538-Y	WALDEN DRIVE	0.01029864
41	1538-Y	WALDEN DRIVE	0.00841294
42	1538-Y	WALDEN DRIVE	0.00938256
43	1538-Y	WALDEN DRIVE	0.01151699
44	1538-Y	BELLHAVEN COURT	0.02186027
45	1538-Y	BELLHAVEN COURT	0.01420482
46	1538-Y	BELLHAVEN COURT	0.01493289
47	1538-Y	BELLHAVEN COURT	0.01638344
48	1538-Y	BELLHAVEN COURT	0.01166544
49	1538-Y	BELLHAVEN COURT	0.01377555
50	1538-Y	BELLHAVEN COURT	0.01555141
51	1538-Y	BELLHAVEN COURT	0.01544454
1	1538-X	TURNBERRY CIRCLE	0.02030856
2	1538-X	TURNBERRY CIRCLE	0.02310435
3	1538-X	TURNBERRY CIRCLE	0.02203411
4	1538-X	TURNBERRY CIRCLE	0.02551076
5	1538-X	TURNBERRY CIRCLE	0.02493382
6	1538-X	WALDEN DRIVE	0.01916278
7	1538-X	WALDEN DRIVE	0.02539527
8	1538-X	WALDEN DRIVE	0.02166665
9	1538-X	TURNBERRY CIRCLE	0.01921319
2	1538-Y	TURNBERRY CIRCLE	0.01540039
3	1538-Y	TURNBERRY CIRCLE	0.01569875
4	1538-Y	TURNBERRY CIRCLE	0.01851465
5	1538-Y	TURNBERRY CIRCLE	0.02846424
6	1538-Y	TURNBERRY CIRCLE	0.01638814
7	1538-Y	TURNBERRY CIRCLE	0.01658827
8	1538-Y	TURNBERRY CIRCLE	0.01658436
9	1538-Y	TURNBERRY CIRCLE	0.01658431
10	1538-Y	TURNBERRY CIRCLE	0.02123102
11	1538-Y	TURNBERRY CIRCLE	0.04032973
12	1538-Y	TURNBERRY CIRCLE	0.03814004
13	1538-Y	WALDEN DRIVE	0.02912825
14	1538-Y	WALDEN DRIVE	0.02421023
15	1538-Y	WALDEN DRIVE	0.02363948
16	1538-Y	WALDEN DRIVE	0.03263696
17	1538-Y	WALDEN DRIVE	0.03046625
18	1538-Y	WALDEN DRIVE	0.02311912
19	1538-Y	WALDEN DRIVE	0.02499492
20	1538-Y	WALDEN DRIVE	0.01954892
TOTAL			1

*As Recorded in Cab. C, Slide 146-D, of Map and Plat Records of Smith County, Texas.

SCHEDULE "B"
COMMON AREA ASSESSMENT

LOT*	BLOCK*	STREET	FACTOR
21	1538-Y	WALDEN DRIVE	0.021436579
22	1538-Y	WALDEN DRIVE	0.021327512
23	1538-Y	WALDEN DRIVE	0.022833734
24	1538-Y	WALDEN DRIVE	0.023447784
25	1538-Y	WALDEN DRIVE	0.022185873
26	1538-Y	WALDEN DRIVE	0.021621994
27	1538-Y	WALDEN DRIVE	0.022188055
28	1538-Y	WALDEN DRIVE	0.016724332
29	1538-Y	WALDEN DRIVE	0.011416322
30	1538-Y	WALDEN DRIVE	0.011496486
31	1538-Y	WALDEN DRIVE	0.011223272
32	1538-Y	WALDEN DRIVE	0.010455982
33	1538-Y	WALDEN DRIVE	0.010025166
34	1538-Y	WALDEN DRIVE	0.010274385
35	1538-Y	WALDEN DRIVE	0.011241268
36	1538-Y	WALDEN DRIVE	0.010437441
37	1538-Y	WALDEN DRIVE	0.011492659
38	1538-Y	WALDEN DRIVE	0.012831473
39	1538-Y	WALDEN DRIVE	0.009965724
40	1538-Y	WALDEN DRIVE	0.011101663
41	1538-Y	WALDEN DRIVE	0.010566141
42	1538-Y	WALDEN DRIVE	0.010857896
43	1538-Y	WALDEN DRIVE	0.011387964
44	1538-Y	BELLHAVEN COURT	0.012854921
45	1538-Y	BELLHAVEN COURT	0.012900185
46	1538-Y	BELLHAVEN COURT	0.012310675
47	1538-Y	BELLHAVEN COURT	0.011881495
48	1538-Y	BELLHAVEN COURT	0.013383354
49	1538-Y	BELLHAVEN COURT	0.012831473
50	1538-Y	BELLHAVEN COURT	0.012624244
51	1538-Y	BELLHAVEN COURT	0.014819228
1	1538-X	TURNBERRY CIRCLE	0.014414042
2	1538-X	TURNBERRY CIRCLE	0.015621965
3	1538-X	TURNBERRY CIRCLE	0.015308941
4	1538-X	TURNBERRY CIRCLE	0.015895724
5	1538-X	TURNBERRY CIRCLE	0.015713036
6	1538-X	WALDEN DRIVE	0.014432584
7	1538-X	WALDEN DRIVE	0.016280733
8	1538-X	WALDEN DRIVE	0.014860674
9	1538-X	TURNBERRY CIRCLE	0.014467485
2	1538-Y	TURNBERRY CIRCLE	0.013417711
3	1538-Y	TURNBERRY CIRCLE	0.013472244
4	1538-Y	TURNBERRY CIRCLE	0.014394955
5	1538-Y	TURNBERRY CIRCLE	0.017368681
6	1538-Y	TURNBERRY CIRCLE	0.013804355
7	1538-Y	TURNBERRY CIRCLE	0.013732711
8	1538-Y	TURNBERRY CIRCLE	0.013731281
9	1538-Y	TURNBERRY CIRCLE	0.013731281
10	1538-Y	TURNBERRY CIRCLE	0.014983375
11	1538-Y	TURNBERRY CIRCLE	0.020744322
12	1538-Y	TURNBERRY CIRCLE	0.019869054
13	1538-Y	WALDEN DRIVE	0.025110322
14	1538-Y	WALDEN DRIVE	0.031895063
15	1538-Y	WALDEN DRIVE	0.031558044
16	1538-Y	WALDEN DRIVE	0.036674093
17	1538-Y	WALDEN DRIVE	0.035625171
18	1538-Y	WALDEN DRIVE	0.031223207
19	1538-Y	WALDEN DRIVE	0.032293159
20	1538-Y	WALDEN DRIVE	0.029164013

TOTAL

1

*As Recorded in Cab. C, Slide 146-D, of Map and Plat Records of Smith County, Texas.

STATE OF TEXAS COUNTY OF SMITH
 I hereby certify that this instrument was filed
 on the date and time stamped hereon by me and
 was duly recorded in the Official Public Records
 of Smith County, Texas.



FEB 21 1996

MARY MORRIS
 COUNTY CLERK, Smith County, Texas

[Signature]
 Deputy

