

HOLLYTREE SUBDIVISION

UNIT 6

12.4502 Acres

THOMAS PRICE SURVEY, A-794

RESTRICTIONS: 3502/811; 3553/554, 589; 3574/857; 3721/785; 5712/106

PLATS:	C/64-D	Final Plat	(HTU6)
	C/122-D	Resub Lots 41 & 42, NCB 1538P	(HT56)

EASEMENTS:

Public Dedication 3553/547

City of Tyler 3233/803

TU Electric 3546/397

EXAMINER NOTES:

Check all conveyances where Hollytree, LTD is seller to see if subject property
has been partially released from DT 2709/573

LOTS MUST SHOW #107 (Delete approval part)

HTU6

H:/PUBLIC DOCUMENTS/SUBSHEETS/HOLLYTREE SUBD U-6.doc
03/20/00; 12/07/00 BY JW; 09/03/02; 05/29/03 by TW; 07/17/03 SMW; 11/10/04 TDS

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RESERVATION OF ARCHITECTURAL CONTROL

HOLLYTREE, LTD., a Texas limited partnership (herein called "Declarant"), being the owner of the real property (the "Property") which is more fully described on Exhibit "A" attached hereto and made a part hereof for all purposes, the Property being located in Smith County, Texas, and desiring to provide for the preservation of the values and amenities in and upon the Property and to subject the Property to the reservation of architectural control herein-after expressed for the purpose of implementing a general plan of development for the Property to insure the creation of a high quality, architecturally harmonious subdivision, which plan and reservation is for the benefit of the Property and each owner thereof, as well as for the benefit of Declarant as developer thereof.

HEREBY RESERVES the right to approve or disapprove as to (i) compliance with any specific restrictions imposed by Declarant with respect to the Property, and/or any part thereof; and (ii) harmony of external design and location in relation to surrounding structures and topography which are now or hereafter may be existing or proposed, including, but not by way of limitation, architectural designs, setbacks, landscaping, color schemes and construction materials; any and all subdivisions, resubdivisions, exterior additions to, changes in, construction, alteration or excavation of the Property or any part thereof (including, but not limited to the trees located thereon which exceed four inches in diameter) and any and all structures or improvements located thereon, either permanent or temporary, including without limitation; additions to or of, changes in, or alterations of grade, landscaping, roadways, walkways, signs, exterior lights, walls, fences, buildings, or other structures or improvements located thereon which any person or entity, including without limitation, governmental subdivisions or agencies, seeks to commence, erect, place or maintain upon the Property.

Any request for such approval shall be submitted in writing to Declarant at 1400 Royal Oak Drive, Tyler, Texas 75701, or at such other address as may from time to time be designated of record in the Real Property Records of Smith County, Texas, with a copy to such representatives as may from time to time be designated of record in the aforesaid Real Property Records, and shall be accompanied by plans and specifications showing the nature, kind, shape, height, materials, color, location and other material attributes of the structure, improvement, addition, change, alteration or excavation. Any such request for approval shall also be accompanied by a certified check or money order payable to the order of Declarant or the committee described below, as applicable, in an amount equal to \$125.00 or such other amount as may be established by Declarant or such committee from time to time. If Declarant fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been received by it, approval will not be required. Declarant shall have the option (but in no manner an obligation), exercisable within ten (10) days following submission of the aforesaid request for approval, to remove and take title to any and all trees which would otherwise be removed if said request were approved by Declarant. Declarant shall have no duty to exercise the power of approval or disapproval hereby reserved. Non-exercise of the power in one or more instances shall not be deemed to constitute a waiver of the right to exercise the power in other or different instances. Likewise, approval of any one set of plans and specifications shall not be deemed to constitute approval of any other or different plans and specifications.

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DECLARATION OF COVENANTS, CONDITIONS,
ASSESSMENTS, CHARGES, SERVITUDES, LIENS,
RESERVATIONS AND EASEMENTS (SINGLE FAMILY)

THIS DECLARATION OF COVENANTS, CONDITIONS, ASSESSMENTS, CHARGES, SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS (herein called the "Declaration") is made as of the 15 day of March, 1994, by HOLLYTREE, LTD., a Texas limited partnership (herein called "Declarant").

WITNESSETH:

WHEREAS, Declarant owns approximately 20.60 acres of land in Smith County, Texas, and may acquire additional lands in the same area; and

WHEREAS, in order to enable Declarant to implement a general plan of development and accomplish the development of such lands as a first-class residential development of high quality and standards in a consistent manner with continuity, and to insure the creation of an architecturally harmonious subdivision, Declarant desires to subject the Property, as hereinafter defined, to the covenants, conditions, assessments, charges, servitudes, liens, reservations, and easements hereinafter set forth (herein collectively called the "Covenants").

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold, and conveyed subject to the Covenants.

ARTICLE I

DEFINITIONS

The following words, phrases, or terms used in this Declaration shall have the following meanings:

A. "Additional Properties" shall mean properties added in accordance with Article XIX hereof.

B. "Amenities" shall mean the parts of the Reserved Area which are designed for recreational or social activities, including without limitation the golf course, clubhouse, tennis courts, and swimming pool.

C. "Annual Assessment" shall mean the charge levied and assessed each year against each Lot.

D. "Architectural Control Committee" shall mean the Declarant or, if and when applicable, a committee, corporation or association appointed by Declarant for the purposes of exercising architectural control, all as set forth in the Reservation of Architectural Control.

E. "Assessable Property" shall mean each of the Lots and the remaining portions of the Property, except such part or parts thereof as may from time to time constitute Exempt Property.

F. "Assessment Lien" shall mean the lien created and imposed by Article VIII.

G. "Covenants" shall mean the covenants, conditions, assessments, charges, servitudes, liens, reservations, and easements set forth herein.

REORDER'S MEMORANDUM
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RECORDER'S MEMORANDUM
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H. "Declarant" shall mean Hollytree, Ltd., a Texas limited Partnership, and any successor and assign of Declarant's rights and powers hereunder, but with respect to any such successor or assign (i) such successor or assign shall not be deemed to be a "Declarant" unless such successor or assign is designated as such pursuant to a written instrument signed by Declarant (which written instrument shall be filed of record in the Real Estate Records of Smith County, Texas, designating that part of the Property to which it relates) and (ii) such successor or assign shall only have those rights and powers of Declarant that are specifically assigned to such successor or assign pursuant to such written instrument.

I. "Declarant Land" shall mean such part or parts of the Sub-division including but not limited to the Amenities, the Reserved Area and the Lots owned by Declarant, together with the buildings, structures and improvements thereon, if any, as may be owned now or at any time hereafter by the Declarant, for as long as the Declarant is the owner thereof.

J. "Declaration" shall mean this Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements, as amended or supplemented from time to time.

K. "Deed" shall mean a deed or other instrument conveying the fee simple title to all or any portion of the Property, including but not limited to a Lot.

L. "Dwelling Unit" shall mean any portion of a building situated on a Lot designed and intended for use and occupancy as a residence by a single family.

M. "Exempt Property" shall mean the following parts of the Property:

(1) All land and Permanent Improvements owned by or dedicated to and accepted by the United States, the State of Texas, the County of Smith, the City of Tyler, or any political subdivision thereof, for as long as such entity or political subdivision is the Owner thereof, or for as long as said dedication remains effective.

(2) All Declarant Land as defined in Paragraph I above.

N. "Lot" shall mean any lot included within the list of lots set forth on Exhibit "A" attached hereto and made a part hereof for all purposes, together with any lots which may, from time to time, result from the re-subdivision, combination or division of any of such lots as listed on Exhibit "A", as may be shown upon a plat or plats of the Property or any part thereof 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). The term "Lot" shall also include any other portion of the Property which may, from time to time, be shown upon the aforementioned plat or plats (as same may be amended from time to time) and which is designated on such plat or plats to be a Lot, or which is designated or declared to be a Lot by a separate written instrument executed by Declarant, or its successors or assigns, filed of record in the Real Estate Records of Smith County, Texas.

O. "Maintenance Charges" shall mean any and all costs assessed pursuant to Article VI or Section 15.02.

P. "Owner" shall mean the person or persons, entity or entities, who either own record fee simple title to a Lot, or have entered as an original party as purchaser thereunder, or as a

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successor or assignee thereof, into a Contract for Deed with Declarant covering a Lot or any other portion or parcel of the Property; the term "Owner" to exclude any person or persons, entity or entities, having an interest in a Lot or any such parcel merely as security for the performance of an obligation; the term "Owner" to include Declarant if Declarant is a record owner of fee simple title to a Lot or any such parcel, but only if with respect to such Lot or any such parcel, Declarant has not entered into a Contract for Deed. For the purposes hereof, the term "Contract for Deed" shall be any contract executed by Declarant with another person containing as its title or a part of its title the term "Contract for Deed" pursuant to which such person is acquiring a Lot or any such parcel on an installment basis whereby Declarant does not transfer fee simple title to the Lot or any such parcel until such person has satisfied all of the terms and conditions of such contract.

Q. "Permanent Improvements" shall mean with respect to any Lot or any other portion or parcel of the Property, any and all improvements, structures, and other materials and things (including, but without limitation, trees, berms, shrubs, hedges and fences) which, at the time of the assessment of each Annual Assessment, are located thereon.

R. "Plat" shall mean the subdivision plat of any portion of the Property 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 Property 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). The streets shown on the Plat, unless otherwise stated on the Plat, have been dedicated to the public.

S. "Property" shall mean:

(1) At the time of recordation of this Declaration, the land described on Exhibit "B" attached hereto and made a part hereof for all purposes; and

(2) From and after the addition of each parcel of land subjected to this Declaration pursuant to Article XIX hereof, each such new parcel of land.

T. "Reservation of Architectural Control" shall mean that certain Reservation of Architectural Control executed by Declarant, recorded under County Clerk's File No. 12953 in the Real Property Records of Smith County, Texas, and providing, among other things, for the reservation unto Declarant, or its delegate, or, if and when applicable the Architectural Control Committee, the rights set forth in Section 14.01 hereof.

U. "Reserved Areas" shall mean those areas, if any, of the subdivision (including without limitation streets, water plants, lift stations, drill sites, a golf course, a clubhouse, tennis courts and a swimming pool), which are not now or hereafter designated on the Plat and intended by Declarant's execution of the Plat as single family residential Lots, the ownership of such areas being reserved to Declarant and its successors and assigns. The term "Reserved Areas" shall specifically include the Amenities.

V. "Subdivision" shall mean the residential subdivision located in Smith County, Texas, known as "Hollytree Subdivision Unit I, Parts I and II," "Hollytree Subdivision Unit II, Parts I and II," "Hollytree Subdivision Unit III," "Hollytree Subdivision Unit IV", "Hollytree Subdivision Unit V" and Hollytree Subdivision Unit VI according to the plats of said subdivision recorded in Volume 10, Pages 154, 155, 166 and 167 of the Map and Plat records of Smith, Texas, and in Cabinet B, Slide 262A, Cabinet C, Slide 24B, Cabinet C, Slide 63-B and Cabinet C, Slide 64-D of the Map Records of Smith County, Texas, as the same may be amended or supplemented from time to time.

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W. "Subsidiary Declaration" shall mean any declaration of covenants, conditions, assessments, charges, servitudes, liens, reservations, easements, or restrictions applicable to any portion of the Property which is recorded after the effective date hereof or which is otherwise subject hereto.

X. "Supplemental Declaration" shall mean a supplement to this Declaration recorded as provided in Article XIX.

ARTICLE II

COVENANTS BINDING ON PROPERTY AND OWNERS

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

2.02 Owners Bound. From and after the date of recordation of this Declaration, the Covenants shall be binding upon and inure to the benefit of each Owner and his heirs, executors, administrators, personal representatives, successors, and assigns, whether or not so provided or otherwise mentioned in the Deed. Except with respect to the Exempt Property, each Owner, for himself, his heirs, executors, administrators, personal representatives, successors, and assigns, expressly agrees to pay, and to be personally liable for, the assessments provided for hereunder, and to be bound by all of the Covenants herein set forth. Except with respect to Exempt Property, each Owner shall be and remain personally liable, regardless of whether he has transferred title to his Lot, for the amount of assessments (together with interest, costs, and attorneys' fees as provided in Section 7.01) which fall due while he was an Owner. No Owner shall escape personal liability for the assessments herein provided by non-use of the Declarant Land, the Reserved Area or the Amenities, or by transfer or abandonment of his Lot.

ARTICLE III

DESIGNATION OF TYPES OF LOTS

3.01 Golf Course Lots. All Lots in the Property having a common boundary with the golf course as shown on the Plat are hereby designated as "Golf Course Lots". All Lots not being designated as "Golf Course Lots" are hereinafter referred to as "Non-Golf Course Lots".

3.02 Determination of Designation. The Architectural Control Committee shall have the exclusive and final right and authority to classify or designate any Lot as being a Golf Course Lot or a Non-Golf Course Lot in the event of any reasonable doubt as to the classification of such Lot.

ARTICLE IV

GENERAL RESTRICTIONS

4.01 Single-Family Residential Purposes. All Lots in the Property shall be used only for single-family residential purposes. No noxious or offensive activity of any sort shall be permitted, nor shall anything be done on any Lot which may be or become an annoyance or nuisance to the neighborhood. No Lot in the Property shall be used for any commercial, business or professional purposes. The renting or leasing of any improvements thereon or portion thereof without the prior written consent of the Declarant, is prohibited.

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coated periodically so as to assure resistance to fire. In no event shall any used building be moved onto any Lot.

4.09 Prosecution of Construction. With reasonable diligence, and in all events within nine (9) months from the commencement of construction, unless completion is prevented by war, labor strike or an act of God, any Dwelling Unit or other structure commenced upon any Lot shall be completed as to its exterior, and all temporary structures shall be removed.

4.10 Water Wells. At no time shall the drilling, usage or operation of any water well be permitted on any Lot.

4.11 Air Conditioners and Heaters. No window or wall type air conditioner or heater shall be permitted to be used, erected, placed or maintained on or in any Dwelling Unit.

4.12 Utilities. Each and every Dwelling Unit shall be required to be connected to the water distribution system and sanitary sewer collection system in the Subdivision as soon as such utilities are available in the easements adjacent to or within the respective Lot upon which the Dwelling Unit is located. Individual underground electrical service drops must be installed to each Dwelling Unit. Each Owner shall comply with the requirements of the applicable utility company regarding such underground service installations, including without limitation the payment of any lawful charges which might be incurred for the installation of the underground service as set forth in applicable utility company rules, regulations and terms and conditions of service, as the same may be amended from time to time without notice.

4.13 Drying Yard. The drying of clothes in public view is prohibited, and each Owner of a Lot at the intersection of streets or adjacent to parks, playgrounds, golf course or other facilities where the rear yard or portion of such Lot is visible to the public, shall construct and maintain a drying yard or other suitable enclosure to screen drying clothes from public view.

4.14 Wiring of Dwelling Unit. The electrical wiring of each Dwelling Unit, at the time of the construction thereof, shall include full compliance with certain wiring instructions to be furnished by the Architectural Control Committee to the Owner, which instructions will include the wiring of the Dwelling Unit in such a manner so as to condition it for the installation of an electrical security system. Although Declarant makes no, and hereby expressly disclaims any, representation regarding the installation of an electrical security system within the Subdivision, it is Declarant's intent that each Dwelling Unit be pre-wired for such a system in the event such an electrical security system is installed within the Subdivision.

4.15 Garages. Without the express, prior written consent of the Architectural Control Committee, no garage shall be constructed which opens in the direction of the front of the Lot upon which such garage is located (i.e., no garage shall be constructed on any Lot in a manner which causes the garage doors to face the street upon which the Lot abuts) or in the case of any corner Lot, no garage shall be constructed which opens in the direction of either of the streets which abut such corner Lot.

4.16 Approval of Builder. Owner shall not permit any builder to commence construction or construct a dwelling unit on owner's Lot or Lots until and unless such builder (a) appears on Declarant's approved builders list, or (b) obtains the written consent of Declarant's Architectural Control Committee.

ARTICLE V

SPECIAL RESTRICTIONS

5.01 Golf Course Lots. In addition to the General Restrictions set forth in Article IV, the following restrictions shall apply to Golf Course Lots:

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(a) No wall, fence, planter, hedge or other screening device shall be constructed or permitted without the prior written consent of the Architectural Control Committee.

(b) Without the prior written approval of the Architectural Control Committee, any garage or other structure must be attached to the main residence and must not be nearer than fifteen (15) feet to the common boundary separating such Golf Course Lot from the golf course.

(c) No Owner of any Golf Course Lot shall grow or permit the growth of any variety of grass or other vegetation which is inimical or damaging to standard golf course grasses or vegetation.

ARTICLE VI

IMPROPER MAINTENANCE BY OWNER

In the event any portion of the Property (other than Declarant Land) or any Dwelling Unit thereon is, in the judgment of the Declarant, so maintained by the Owner thereof (i) as to present a public or private nuisance, (ii) as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Property or any adjacent land owned by Declarant, or its successors or assigns, not presently included in the Property but which is substantially affected thereby or related thereto, or (iii) as to not comply with these Covenants, the Declarant may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto deliver notice thereof to the offending Owner that unless corrective action is taken within ten (10) days, the Declarant will cause such action to be taken at such Owner's cost. If after the expiration of said ten (10) day period of time the requisite corrective action has not been taken, the Declarant shall be authorized and empowered to cause such action to be taken and the costs thereof, including but not limited to the costs of collection, court costs and attorneys' fees (such costs being herein collectively called the "Maintenance Charge"), together with interest accruing thereon from the expiration of such ten (10) day period at the rate specified in Section 7.01 hereof, shall be assessed against the Lot and the Dwelling Unit of the offending Owner. The Maintenance Charge, together with all interest accruing thereon, shall be secured by the Assessment Lien as provided in Article VIII hereof. Written notice of such assessment shall be delivered to the offending Owner which notice shall specify the amount of such Maintenance Charges and shall demand payment thereof within thirty (30) days after the date of said notice.

ARTICLE VII

ASSESSMENTS

7.01 Annual Assessments. In order to provide funds for the purposes and uses specified in Article X hereof, the Declarant in each year, commencing with the year in which these Declarations are recorded, shall assess against the Assessable Property an Annual Assessment, which commencing in 1994 shall be \$0.0254 per square foot of land comprising each Golf Course Lot and \$0.0220 per square foot of land comprising each Non-Golf Course Lot. Such amount to be prorated by the Declarant if the first Assessment Period (hereinafter defined) is less than twelve (12) months. The Annual Assessments may be increased by the Declarant following January 1 of each calendar year subsequent to the first Assessment Period by an amount not to exceed the lesser of (i) five percent (5%), (ii) the percentage change in the National Consumer's Price Index for the United States, all Urban Consumers, all Components, or its equivalent index as published by the

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Bureau of Labor Statistics or such other governmental body as may issue such official index or (iii) such lesser amount as Declarant may permit. The Declarant shall make the calculations required by this section, and shall prepare and forward to each Owner a statement setting forth the amount of the Annual Assessment assessed against each Lot, stated in terms of the total sum due and owing, and the amounts payable if paid in installments; provided that the dates of any installment payments shall be set forth, and no installment shall be due less than thirty (30) days from the date of the mailing of such statement. All delinquent payments of Annual Assessments 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) from such due date until paid (or at such a lesser rate as may be determined by Declarant in its sole discretion on a case by case basis from time to time), and the Owner shall be deemed to have agreed in writing to the payment of such interest and all costs, including court costs and attorneys' fees which may be incurred by the Declarant in collecting same.

7.02 Assessment Period. The Declarant shall establish either a calendar or fiscal year (herein called the "Assessment Period") for which the Annual Assessment is to be levied. The Declarant in its sole discretion may from time to time change the Assessment Period.

7.03 Rules Regarding Billing and Collection Procedures. The Declarant shall have the right to adopt rules and requirements setting forth procedures for the purpose of making the assessments provided herein and for the billing and collection of the Annual Assessments and the Maintenance Charges, provided that said procedures are not inconsistent with the provisions hereof.

ARTICLE VIII

IMPOSITION OF LIEN; EXEMPTIONS; OWNERS' AGREEMENT

8.01 Imposition of Assessment Lien and Priority of the Lien. Except with respect to Exempt Property, each Lot shall be charged with and subject to a continuing servitude and lien from the date of recordation of this Declaration for the amount of the Annual Assessments assessed and levied against each such Lot, for Maintenance Charges, for any interest accrued on any Annual Assessments or Maintenance Charges provided for herein and for any and all costs, including court costs and attorneys' fees incurred by Declarant in collecting same. Except as provided in Section 9.03 hereof, the lien therein called the "Assessment Lien") against each such Lot shall be superior to any and all other charges, liens, or encumbrances which hereafter in any manner may arise or be imposed upon each such Lot, except that such Assessment Lien shall be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior.

8.02 Owners' Promises. Each Owner, owning a portion of the Assessable Property, for himself, his heirs, executors, administrators, personal representatives, successors, and assigns, covenants and agrees:

(i) That he will pay to the Declarant when due the Annual Assessments assessed by the Declarant in each year against his Lot, together with any Maintenance Charges imposed;

(ii) That he acquires his Lot subject to the Annual Assessments and Maintenance Charges and the Assessment Lien, as they may exist from time to time; and

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(iii) That by accepting a Deed to his Lot, he shall be, and remain, personally liable for any and all Annual Assessments and Maintenance Charges 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.

ARTICLE IX

ENFORCEMENT OF PAYMENT OF ANNUAL ASSESSMENTS
AND MAINTENANCE CHARGES AND OF ASSESSMENT LIEN

9.01 Declarant as Enforcing Body. The Declarant shall have the exclusive right to enforce the provisions of this Declaration. However, if the Declarant shall fail or refuse to enforce this Declaration for an unreasonable period of time, after written request from an Owner to do so, then any Owner may enforce this Declaration at his sole cost and expense by any appropriate action, whether at law or in equity.

9.02 Declarant's Enforcement Remedies. If the Owner of any Lot constituting a portion of the Assessable Property fails to pay any of the Annual Assessments or installments when due, or to pay Maintenance Charges assessed, or to pay any interest accrued or any Annual Assessments or Maintenance Charges, and any and all costs (including court costs and attorneys' fees) incurred by Declarant in collecting same; the Declarant may enforce the payment of the Annual Assessments, Maintenance Charges, and all interest accrued thereon and costs incurred by Declarant in collecting same, and/or enforce the Assessment Lien by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies hereinafter set forth, the Declarant does not prejudice its exercise of any other remedy):

(a) Bring an action at law and recover judgment against the Owner personally obligated to pay the Annual Assessments or the Maintenance Charges;

(b) Enforce the Assessment Lien against the Lot by any means available at law or in equity, including without limitation a non-judicial foreclosure sale of the Lot, such sale to be conducted in the manner set forth in Article 3610 of the Revised Civil Statutes of Texas, as the same may be amended or supplemented from time to time. The Declarant or any other Owner may be the purchaser at any such foreclosure sale.

9.03 Subordination of the Lien to First Mortgage or Deed of Trust. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien held by, or deed of trust of which the beneficiary is, an institutional lender which is chartered (or licensed) by the United States or any state within the United States. Sale or transfer of any Lot shall not affect the Assessment Lien, provided, however, that if the sale or transfer is pursuant to foreclosure of such a mortgage or deed of trust, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage foreclosure or deed of trust sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot free of the Assessment Lien for all Annual Assessments and Maintenance Charges that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; but upon the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure, the Assessment Lien immediately shall become and remain superior to any and all other charges, liens, or encumbrances (except liens for taxes or other public charges which by applicable law are expressly made superior and except to the extent stated herein with respect to any subsequent first lien

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financing), and such mortgage or deed of trust foreclosure sale purchaser or grantee shall (i) take subject to all Annual Assessments, Maintenance Charges, and the Assessment Lien therefor accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure and (ii) be and remain personally liable for all assessments (together with interest, costs and attorneys' fees as provided in Section 7.01 hereof) which fall due while he is an Owner.

9.04 Costs to be Borne by Owner in connection with Enforcement. In any action taken pursuant to Section 9.02 of this Article, the Owner shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Annual Assessments and Maintenance Charges together with interest and the Declarant's costs and attorneys' fees.

ARTICLE X

USE OF FUNDS

10.01 Purposes For Which Declarant's Funds May Be Used. Declarant shall apply all funds collected and received by it through its imposition of the Annual Assessments for the benefit of the subdivision (including the Amenities and Reserved Areas), the Owners, and residents of the Subdivision by devoting said funds, among other things, to the acquisition, construction, alteration, maintenance, provision, and operation of the Amenities (including, without limitation, the golf course, clubhouse, tennis courts and swimming pool) and the landscaping and maintenance of the Reserved Areas. The use and application of all funds collected and received by Declarant through its imposition of the Annual Assessments shall in no manner be limited or restricted by reason of other sources of funds available to Declarant, including those available through initiation, admission and other fees, dues or assessments charged by Declarant in connection with the use of any or all of the Declarant land including specifically but not by way of limitation the Amenities and Reserved Areas. Declarant shall have no duty to utilize any other funds otherwise available to Declarant from other sources prior to applying funds collected and received by it through its imposition of the Annual Assessments for the purposes herein stated. The Declarant shall not have the obligation to account to any Owner for the collection or use of any funds collected and received by Declarant through its imposition of the Annual Assessments.

10.02 Declarant's Rights in Spending Funds from Year to Year. The Declarant shall not be obligated to spend in any year all the

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sums received by it in such year, and may carry forward as surplus any balance remaining. Nor shall the Declarant be obligated to apply any such surpluses to the reduction of the amount of the Annual Assessment in the succeeding year, but may carry forward from year to year such surplus as the Declarant in its discretion may determine to be desirable for the effectuation of the purposes set forth in this Article.

ARTICLE XI

RIGHTS AND POWERS

11.01 Enforcement. The Declarant shall have the right to enforce the Covenants set forth in this Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens, or easements provided for in any contract, deed, declaration, or other instrument affecting all or any part or parts of the Property. Any such instrument shall have been executed pursuant to, or subject to, the provisions of this Declaration, or otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Declarant; provided, however, that any such instrument that is recorded subsequent to recordation of this Declaration shall at all times be subordinate and inferior to this Declaration whether or not so provided in such instrument.

11.02 Right to Inspect. The Declarant shall have the right to enter all Lots for the purpose of inspecting whether or not the Owner thereof is in compliance with the Covenants. If during the course of construction of a Dwelling Unit upon a Lot, Declarant determines that there is a violation of the Covenants, the Declarant may order a discontinuance of the construction of the Dwelling Unit until such time as corrective measures have been taken to assure full compliance with the Covenants, and an Owner's failure to immediately discontinue or cause the discontinuance of construction of the Dwelling Unit, upon demand by Declarant, shall constitute a further violation of this Declaration by that Owner.

ARTICLE XII

EASEMENTS AND RIGHTS OF ENJOYMENT IN
RESERVED AREAS, RESERVATIONS OF DECLARANT

12.01 Rights of Enjoyment in Reserved Areas. No Owner, by reason of ownership of any interest in the Property, shall have a right or easement of enjoyment in and to any Reserved Areas, including the Amenities.

12.02 Rules Regulating Use of Reserved Areas. All rights, easements, and privileges, if any, to enter upon or use any part of the Reserved Areas, including the Amenities, granted from time to time by Declarant, shall be subject to the exclusive right of the Declarant to adopt from time to time reasonable rules and regulations pertaining to the use thereof, the use of which may include persons or entities other than Owners.

12.03 Fees Chargeable to Users of Reserved Areas. All rights, easements, and privileges to enter upon or use any part of the Reserved Areas, including the Amenities, which may be granted and conferred by the Declarant shall be subject to the exclusive right of the Declarant to charge Owners and others initiation, admission, and other fees, dues or assessments in connection with the use of any or all of the Reserved Areas.

12.04 Reservations of Declarant. The following reservations are hereby made by Declarant:

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(a) The utility easements shown on any Plat are dedicated with the reservation that such utility easements are for the use and benefit of any public utility operating in Smith County, Texas, as well as for the benefit of Declarant to allow for the construction, repair, maintenance and operation of a system or systems of electric light and power, telephone lines, television cable lines, security, gas, water, sanitary sewer, storm sewers and any other utility or service which Declarant may find necessary or proper.

(b) Declarant reserves the right from time to time to make changes in the location, shape, and size of, and additions to, the easements described in Section 12.04(a) for the purpose of more efficiently or desirably installing utilities therein and thereon.

(c) The title conveyed to any part of the Property shall not be held or construed to include the title to the water, gas, electricity, telephone, storm sewer or sanitary sewer lines, poles, pipes, conduits, cable television lines or other appurtenances or facilities constructed by Declarant or public utility companies upon, under, along, across or through such utility easements; and the right (but no obligation) to construct, maintain, repair and operate such systems, utilities, appurtenances and facilities is reserved to Declarant, its successors and assigns.

(d) The right to sell or lease the lines, utilities, appurtenances and other facilities described in Section 12.04(c) to any municipality, governmental agency (including any water control or utility district created under Article XVI, Section 59 of the Texas Constitution covering the Property as well as other land), public service corporation or other party is hereby expressly reserved to Declarant.

(e) Neither Declarant nor its successors or assigns shall be liable for any damage done by any of such parties or any of their agents or employees to shrubbery, trees, flowers or other property of an Owner situated on the Lots covered by the above described utility easements.

(f) The right to enter upon any Lot or Lots during installation of streets for the purpose of performing street excavation, construction, and paving is hereby reserved to Declarant, its successors and assigns, and neither Declarant, nor its successors or assigns shall be liable for any damage done by any such parties or any of their agents or employees to shrubbery, trees, flowers or other property of the Owner which is necessitated by such street construction.

ARTICLE XIII

FURTHER CONVEYANCES OF AND MODIFICATIONS TO DECLARANT LAND

The Declarant shall have the absolute, exclusive and unrestricted right, exercisable in its sole discretion, without consent from any Owner, to (1) sell, transfer, convey, lease, dedicate, encumber or in any manner alienate to any public or private entity the Declarant Land or any part thereof or otherwise deal with the Declarant Land, or any part thereof, including the Amenities, the Reserved Areas and any Permanent Improvements situated thereon, on such terms and in such manner as Declarant in its sole discretion may determine, or (2) modify the nature, scope, location, configuration, construction, design or other characteristics of the Declarant Land, or any part thereof, including the Amenities, Reserved Areas and any Permanent Improvements situated thereon.

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ARTICLE XIV

ARCHITECTURAL CONTROL

14.01 Prior Approval. No building, fence, wall, sign, exterior light, or other structure or apparatus, either permanent or temporary, shall be commenced, erected, placed, or maintained upon any Lot constituting a portion of the Property, nor shall any exterior addition thereto, change therein or alteration, excavation, subdivision, or resubdivision thereof, including without limitation changes in or alteration of grade, landscaping, roadways, and walkways, be made until the plans and specifications showing the nature, kind, shape, height, materials, color, location, and other material attributes of the same shall have been submitted to and approved in writing by Declarant or by an architectural committee composed of three (3) or more representatives appointed by Declarant as to (i) compliance with the Covenants herein contained, and (ii) harmony of external design and location in relation to surrounding structures and topography which are now or hereafter existing or proposed, including, but not by way of limitation, as to architectural designs, setbacks, landscaping, color schemes and construction materials. In the event Declarant, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required, and this Article XIV will be deemed to have been fully complied with. Non-exercise of the powers hereby reserved by Declarant in one or more instances shall not be deemed to constitute a waiver of the right to exercise such power in other or different instances. Likewise, approval of any one set of plans and specifications shall not be deemed to constitute approval of any other or different plans and specifications. In the absence of gross negligence or willful misconduct attributable to Declarant or an architectural committee appointed by Declarant, neither Declarant nor such architectural committee shall be liable for the improper enforcement or failure to exercise any of the powers reserved unto Declarant pursuant to this Article. In no event shall any approval obtained from Declarant or such architectural committee pursuant to the terms of this Article, be deemed to be a representation of any nature regarding the structural safety or engineering soundness of the structure or other item for which such approval was obtained, nor shall such approval represent in any manner compliance with any building or safety codes, ordinances or regulations; nor shall such approval be construed as a representation or warranty as to any matter which is the subject of such approval.

14.02 Reservation of Architectural Control. Nothing contained in Section 14.01 above shall in any manner restrict or limit the rights and powers reserved unto Declarant as set forth in the Reservation of Architectural Control, including the right to delegate the powers hereby and thereby reserved to (i) a committee appointed, empowered and constituted by Declarant, whose members shall serve and be replaced at the pleasure of Declarant, or (ii) a corporation or association, profit or non-profit, whose directors and officers may be elected and designated by Declarant, all as more fully set forth in the Reservation of Architectural Control.

ARTICLE XV

MAINTENANCE

15.01 Declarant Land. The Declarant or its duly delegated representative, shall maintain and otherwise manage all Declarant Land, including, but not limited to, the landscaping, walkways, riding paths, parking areas, drives, streets, and recreational facilities, roofs, interiors and exteriors of the buildings and

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structures located upon said properties. The Declarant shall use a reasonable standard of care in providing for the repair, management, and maintenance of the Declarant Land.

15.02 Assessment of Costs of Maintenance and Repair of Declarant Land: In the event that the need for maintenance or repair of Declarant Land is caused through the willful or negligent act of any Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the Maintenance Charge to which such Owner's Lot is subject, payable and subject to interest as set forth in Article VI hereof, and shall be secured by the Assessment Lien.

ARTICLE XVI

USE RESTRICTIONS

16.01 All Properties: Except with respect to Exempt Property, including the Declarant Land, all Lots within the Property are hereby restricted as follows:

(a) Antennas: No exterior television, radio, or other antenna of any type shall be placed, allowed, or maintained upon any Lot without prior written approval and authorization of the Declarant.

(b) On Street Parking: On street parking 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 Declarant.

(c) Storage: No exterior storage of any items of any kind shall be permitted, except with prior written approval and authorization of the Declarant. Any such storage as is 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, dwelling units, pathways, and streets. This provision shall apply, without limitation, to woodpiles, camping trailers, boat trailers, travel trailers, boats, mobile homes, and unmounted pick-up 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 Declarant.

(d) Garbage: No garbage or trash shall be placed at the exterior of any building, except in containers meeting the specifications of the Declarant and the placement, maintenance, and appearance of all such containers shall be subject to reasonable rules and regulations of the Declarant. All rubbish, trash, and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon.

(e) Outside Lighting: No outside lighting, other than indirect lighting, shall be placed, allowed, or maintained on any Lot without prior written approval and authorization of the Declarant.

(f) Animals: 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 rules and regulations promulgated by the Declarant, provided, however, that dogs, cats, birds, or fish may be kept thereon as household pets so long as, in the discretion of the Declarant, such pet is not, or does not become, a nuisance, threat, or otherwise objectionable to other Owners.

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(o) Oil, Gas, and Mineral Activity. With respect only to the Property as defined herein (and excluding any additional land added pursuant to Article XIX), it is expressly provided that no oil or gas exploration, drilling, development, or refining operations and no quarrying or mining operations of any kind, including oil wells, surface tanks, tunnels, or mineral excavations or shafts shall be permitted or pursued by any Owner other than Declarant 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, provided, however, that with respect to any outstanding mineral interest owned by any person or entity as of the date hereof other than Declarant, Declarant shall cause such restrictions on exploration, drilling, development, refining, mining and quarrying to be placed on such part of the Property as Declarant in good faith can negotiate (with no monetary obligation required on the part of Declarant to be paid for such purpose). With respect to additional land which may be added pursuant to Article XIX, such land shall be subject to the restrictions set forth in this Section 16.01(o) unless Declarant at the time of such addition does not own all of the mineral rights therein. If Declarant does not own all of the mineral rights, Declarant shall cause such restrictions on exploration, drilling, development, refining, mining, and quarrying to be placed on such part of said additional land as Declarant in good faith can negotiate (with no monetary obligation required on the part of Declarant to be paid for such purpose), and such land shall be subject to the foregoing provisions of this Section 16.01(o) except to the extent of any conflict herein with the rights of the owners of such mineral rights. Notwithstanding anything to the contrary stated herein however, as to any mineral interest which Declarant owns with respect to the Property or any such additional land which may be added pursuant to Article XIX, Declarant reserves the right to explore, drill, develop, refine, mine and quarry any minerals in, on or under the Property or such additional land provided however any such activities shall be subject to (i) Declarant's obtaining whatever permits or licenses are required from the City of Tyler, Texas, and (ii) Declarant's pursuing such activities in such a manner so as to not disrupt the surface rights of any Owner and the Lot(s) owned by such Owner.

(p) Septic Tanks and Sewage Disposal. No septic tank or other means of sewage disposal may be installed unless previously approved in writing by all governmental authorities having jurisdiction with respect thereto, and by the Declarant. No outside toilets of any kind are permitted, except during the period of construction of a Dwelling Unit during which time chemically treated outside toilets shall be maintained in a manner subject to Declarant's approval; and no installation of any type of device for disposal of sewage shall be allowed which would result in raw or untreated or unsanitary sewage being carried into any body of water or water source.

(q) Water Wells. At no time shall the drilling, usage or operation of any water well be permitted on any Lot.

(r) Firearms and Weapons. No Lot or any other portion of the Property shall be used or permitted for hunting or for the discharge of any pistol, rifle, shotgun, or any other firearm, or any bow and arrow or any other device capable of killing or injuring.

(s) Motor Vehicles. The operation of any and all motorized vehicles within the Property shall be subject to such rules and regulations as shall from time to time be established by Declarant.

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(t) Change in Intended Use. No portion of the Property may be developed or redeveloped otherwise than in accordance with its original intended use, without the prior written authorization of the Declarant.

(u) Misuse and Mismanagement. No Lot shall be maintained or utilized in such manner as 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 Property; and no noxious or otherwise offensive condition or activity shall be allowed to exist or be conducted thereon.

(v) Violation of Statutes, Ordinances, and Regulations. 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 over the Property.

(w) Violation of Rules or of Covenants, Conditions, or Restrictions. No Lot shall be maintained or utilized in violation of this Declaration or of the rules and regulations of the Declarant or of any covenants, conditions, or restrictions applicable to and binding upon said Lot.

ARTICLE XVII

TERM; AMENDMENTS; TERMINATIONS

17.01 Term; Method of Termination. 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 April 30, 2022. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Owners casting seventy-five percent (75%) of the total votes (each Owner other than Declarant having one vote per Lot owned with Declarant having three votes per Lot owned), present at a meeting held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension.

17.02 Amendments. This Declaration may be amended or changed in whole or in part at any time by (i) the affirmative vote of fifty-one percent (51%) of the total votes (each Owner other than Declarant having one vote per Lot owned with Declarant having three votes per Lot owned), present at a special meeting called pursuant to Section 17.03, and (ii) the written approval of the Declarant.

17.03 Election Procedures for Amendments and Termination. The affirmative votes required under Section 17.01 or 17.02 shall be obtained and evidenced by the requisite vote by the Owners (including Declarant) present at a meeting of Owners duly called by at least ten (10) Owners or by the Declarant pursuant to notice to all of the Owners on or prior to ten (10) days before the date of the meeting at which meeting the requisite percentage of Owners, in person or by proxy, vote to so amend or terminate this Declaration (and the Covenants herein). The notice of the meeting must set forth the proposal so to amend or terminate this Declaration (and/or the Covenants contained herein) and such affirmative vote of the requisite percentage of Owners must be evidenced by minutes of the meeting duly certified by the Owners who called the meeting or the

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Declarant. In any event, a copy of the minutes must be delivered to the Declarant. There shall be no quorum requirements for any meetings held pursuant to this Section.

17.04 Recording of Amendments. Upon the requisite percentage of Owners duly voting to amend this Declaration (and/or the Covenants contained herein) and upon the other conditions set forth in Section 17.01 or 17.02 (as the case may be) and Section 17.03 of this Article being satisfied, then each amendment shall be executed by the Declarant, placed in recordable form, and filed of record in the Real Property Records of Smith County, Texas, accompanied by a statement that the requisite percentage of Owners have voted to make such amendment to this Declaration.

17.05 Effect. Upon the filing of an amendment in accordance with Section 17.04, this Declaration and the Covenants, as amended, shall remain in full force and effect.

17.06 Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institution. Anything in this Article to the contrary notwithstanding, Declarant reserves the right to amend all or any part of this Declaration to such an extent and with such language as may be requested by any federal, state, or local agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of the Property or any portion thereof. Any such amendment shall be effected by the recording, by Declarant, of a Certificate of Amendment signed by a duly authorized agent of Declarant, with his signature acknowledged, specifying the federal, state, or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recording of such a Certificate shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Certificate, when recorded, shall be binding upon the Property and all persons having an interest in the Property. Except as provided in this Section 17.06, Declarant shall not have any right to amend this Declaration otherwise than in accordance with and pursuant to the provisions of Section 17.02 hereof.

ARTICLE XVIII

RESERVATION OF RIGHT TO RESUBDIVIDE AND REPLAT RESERVED AREA AND LOTS

Subject to the approval of any and all appropriate governmental agencies having jurisdiction, Declarant hereby reserves the right at any time while it is the owner thereof to subdivide or resubdivide, as the case may be, and/or plat or replat, as the case may be, all or any portion of the Reserved Area and any Lot or Lots without the consent of any Owner.

ARTICLE XIX

SUBJECTING ADDITIONAL LANDS TO THE DECLARATION

From time to time the size of the Property may be increased, in the manner provided in this Article, by recording in the Real Property Records of Smith County, Texas, a supplement to this Declaration (hereinafter called "Supplemental Declaration"). The Supplemental Declaration shall be signed and acknowledged by or on behalf of the Declarant and by the Owner of record of the additional land to be included within the Property and subjected to the Covenants set forth in this Declaration. Each such Supplemental Declaration shall.

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(a) describe the land to be included as a part of the Property; and

(b) state that such land and the Permanent Improvements thereon are expressly subjected to all of the Covenants set forth in this Declaration.

ARTICLE XX

OWNERSHIP OF UTILITIES, AMENITIES AND RESERVED AREAS

All of the Amenities and all Reserved Areas and the Permanent Improvements located thereon and all utilities, if any, constructed by Declarant (including without limitation all such water, gas, electricity, telephone, television, storm sewer or sanitary sewer lines, security systems, poles, pipes, conduits or other appurtenances or facilities) shall be owned by Declarant and, as to all or any part thereof, may be sold, transferred, conveyed, leased, dedicated, encumbered or in any manner alienated by Declarant at any time to any private or public entity on such terms and in such manner as Declarant in its sole discretion may determine. Declarant shall have the absolute right to charge fees, dues, assessments or other charges of any nature whatsoever for the use of any and all of the Amenities, Reserved Areas and/or the Permanent Improvements located thereon and any and all of such utilities, it being understood that no Owner shall have any right to the use of same merely by reason of his or its ownership of any portion of the Property.

ARTICLE XXI

MISCELLANEOUS

21.01 Interpretation of the Covenants. Except for judicial construction, the Declarant shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Declarant's construction or interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefited or bound by the Covenants and provisions hereof.

21.02 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

21.03 Rule Against Perpetuities. 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 (a) those which would be used in determining the validity of the challenged interest, plus (b) if applicable, those of the issue of the Declarant who are living at the time the period of perpetuities starts to run on the challenged interest.

21.04 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate, or modify any of the provisions of this Declaration.

21.05 Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Declarant shall have the right to adopt rules and regulations with respect to all other aspects

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of the Declarant's rights, activities, and duties, provided said rules and regulations are not inconsistent with the provisions of this Declaration.

21.06 Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the Real Property Records of Smith County, Texas, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property can or will be carried out, or that any land now owned or hereafter acquired by it is or will be subjected to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

21.07 Limitation of Liability. In the absence of gross negligence or willful misconduct attributable to Declarant or its successors or assigns, neither Declarant nor its successors or assigns shall have any liability arising out of the performance or nonperformance of any of the rights and powers reserved unto Declarant, its successors or assigns pursuant to this Declaration.

21.08 Successors and Assigns of Declarant. Any reference in this Declaration to Declarant shall include any successors or assigns of any of Declarant's rights and powers hereunder.

21.09 Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

21.10 Captions and Titles. 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 of the provisions hereof, or to be used in determining the intent or context thereof.

21.11 Notices. Any notice required or permitted to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, delivery shall be deemed to have been made twenty-four (24) hours after a copy of the notice has been deposited in the United States mail, postage prepaid, registered or certified mail, addressed to each such person at the address given by such person to the party sending the notice or to the address of the Dwelling Unit of such person if no address has been given. Such address may be changed from time to time by notice in writing.

21.12 Prior Recorded Instruments. This Declaration and all of the provisions hereof are expressly subject to all prior recorded documents affecting the Property, including without limitation, the Reservation of Architectural Control as defined in Article I hereof.

21.13 Enforcement of the Covenants. Notwithstanding anything to the contrary herein, in the event of any violation or attempted violation of any of the provisions hereof, including any of the Covenants, enforcement shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy

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FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS, ASSESSMENTS, CHARGES, SERVIDUTES, LIENS,
RESERVATIONS AND EASEMENTS (SINGLE FAMILY)

This First Amendment to Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements (Single Family) (herein called "FIRST AMENDED DECLARATION") is made as of September 27, 1994, by HOLLYTREE, LTD., a Texas Limited Partnership (herein called "DECLARANT").

W I T N E S S E T H:

WHEREAS, DECLARANT executed and filed for record Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements ("DECLARATION") as to a certain 20.60 acre tract of land, such DECLARATION being dated March 15, 1994 and being filed for record in Volume 3553, Page 589 of the Land Records of Smith County, Texas; and

WHEREAS, "Exhibit A" of said DECLARATION improperly referred to Block 1538-"Q". Lots 1-9 of Hollytree Subdivision, Unit V recorded in Cabinet C, Slide 63-B of Plat Records of Smith County, Texas, when in fact the proper Block number should have referenced Block 1538-"R"; and

WHEREAS, DECLARANT desires to execute this FIRST AMENDED DECLARATION for the sole purpose of correcting such erroneous description.

NOW, THEREFORE, DECLARANT hereby declares that the referenced DECLARATION be amended by this FIRST AMENDED DECLARATION as follows:

FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, ASSESSMENTS, CHARGES, SERVIDUTES, LIENS,
RESERVATIONS AND EASEMENTS (SINGLE FAMILY) - PAGE 1 OF 2

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The initial portion of Lots described on Exhibit "A" to the DECLARATION being amended herein refers to "Block 1538-Q, Lots 1-9, inclusive" when in fact such description should read "Block 1538-R, Lots 1-9, inclusive".

This FIRST AMENDED DECLARATION is executed by DECLARANT to accomplish such correction. For clarification purposes, a revised "Exhibit A" is attached to this FIRST AMENDED DECLARATION which said Exhibit now covers the exact property to be covered by the DECLARATION. Said DECLARATION shall remain in full force and effect except as amended herein.

IN WITNESS WHEREOF, HOLLYTREE, LTD., a Texas Limited Partnership, has hereunto caused its name to be signed by the signature of its duly authorized official as of the day and year set forth above.

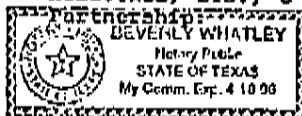
HOLLYTREE, LTD, a Texas Limited Partnership

By: HOLLYTREE MANAGEMENT, INC., a Texas Corporation, its General Partner

By: [Signature]
JAMES C. PHILLIPS, Vice President
HOLLYTREE MANAGEMENT, INC.

THE STATE OF TEXAS
COUNTY OF SMITH

This instrument was acknowledged before me on this 27th day of September, 1994, by JAMES C. PHILLIPS, Vice President of HOLLYTREE MANAGEMENT, INC., a Texas Corporation and General partner of HOLLYTREE, LTD., a Texas Limited Partnership, on behalf of said



[Signature]
NOTARY PUBLIC, STATE OF TEXAS

CLOSED/NOLESTATE/RESTRICTIONS.NNN

FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, ASSIGNMENTS, CHARGES, SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS (SINGLE FAMILY - PAGE 2 OF 2)

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EXHIBIT "A"

LIST OF LOTS

The following described lots as shown on the Plat of Hollytree Subdivision, Unit V as recorded in Cabinet C, Slide 63-B of the Plat Records of Smith County, Texas:

- Block 1538-R, Lots 1-9, inclusive
- Block 1538-P, Lot 41;
- Block 1538-I, Lots 31-33, inclusive;

The following described lots as shown on the Map or Plat of Hollytree Subdivision, Unit VI as recorded in Cabinet C, Slide 64-D of the Plat Records of Smith County, Texas:

- Block 1538-R, Lots 10-19, inclusive
- Block 1538-I, Lots 34-36, inclusive
- Block 1538-S, Lots 1 - 9, inclusive
- Block 1538-P, Lots 42-45, inclusive

Handwritten notes:
 10/27/94
 10/27/94
 10/27/94
 10/27/94

FILED
 MARY MORRIS
 COUNTY CLERK
 94 SEP 27 PM 4:35
 SMITH COUNTY, TEXAS
Diana J. Miller
 DEPUTY

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



SEP 30 1994

MARY MORRIS
 COUNTY CLERK, Smith County, Texas
 By *Jessie M. Williams* Deputy

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34367

FIRST AMENDED RESERVATION AND DECLARATION OF EASEMENTS

This First Amended Reservation and Declaration of Easements (herein called "FIRST AMENDED DECLARATION" is made as of the 27th day of September, 1994, by HOLLYTREE, LTD., a Texas Limited Partnership (herein called "DECLARANT").

WHEREAS, DECLARANT filed of record a certain Reservation and Declaration of Easements, referenced herein as "DECLARATION", recorded in Volume 3553, Page 547 of the Land Records of Smith County, Texas, and DECLARANT hereby desires to execute this FIRST AMENDED DECLARATION for purposes of clarifying and correcting certain property descriptions which were erroneous and/or incomplete in said DECLARATION.

NOW, THEREFORE, DECLARANT by and through these presents does hereby execute this FIRST AMENDED DECLARATION for the purposes set forth as follows:

"Exhibit B" to the referenced DECLARATION erroneously refers to Block 1538-Q, Lots 1-9, inclusive of Hollytree Subdivision, Unit V as recorded in Cabinet C, Slide 63-B of the Plat Records of Smith County, Texas, when in fact said Block reference should have been "Block 1538-R". DECLARANT hereby executes this FIRST AMENDED DECLARATION for the purpose of correcting this error and hereby substitutes a new and revised "Exhibit B" which shall serve as "Exhibit B" to the referenced DECLARATION for all intent and purposes.

Further, DECLARANT executes an amended "Exhibit D" herein which shall serve as the amended "Exhibit D" to the referenced

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DECLARATION for all purposes wherein DECLARANT is clarifying the exact real estate to be covered by the said "Exhibit D".

This FIRST AMENDED DECLARATION is executed by DECLARANT to accomplish such corrections. For clarification purposes, revised "Exhibit B" and "Exhibit D" are attached to this FIRST AMENDED DECLARATION. Said DECLARATION shall remain in full force and effect except as amended herein.

IN WITNESS WHEREOF, HOLLYTREE, LTD., a Texas Limited Partnership, has hereto caused its name to be signed by the signature of its duly authorized official as of the day and year set forth above.

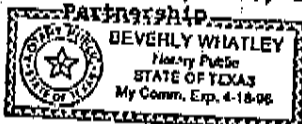
HOLLYTREE, LTD, a Texas Limited Partnership

By: HOLLYTREE MANAGEMENT, INC., a Texas Corporation, its General Partner

By: *[Signature]*
JAMES C. PHILLIPS, Vice President
HOLLYTREE MANAGEMENT, INC.

THE STATE OF TEXAS
COUNTY OF SMITH

This instrument was acknowledged before me on this 27th day of September, 1994, by JAMES C. PHILLIPS, Vice President of HOLLYTREE MANAGEMENT, INC., a Texas Corporation and General partner of HOLLYTREE, LTD., a Texas Limited Partnership, on behalf of said Partnership.



Beverly Whitley
NOTARY PUBLIC, STATE OF TEXAS

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EXHIBIT "B"**LIST OF LOTS**

The following described lots as shown on the Plat of Hollytree Subdivision, Unit V as recorded in Cabinet C, Slide 63-B of the Plat Records of Smith County, Texas:

Block 1538-R, Lots 1-9, inclusive

The following described lots as shown on the Map or Plat of Hollytree Subdivision, Unit VI as recorded in Cabinet C, Slide 64-D of the Plat Records of Smith County, Texas:

Block 1538-R, Lots 10-19, inclusive

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EXHIBIT "D"

TRACT I:

Being a centerline description of a 30 ft. wide centerline easement across the following lots: Lot 41, Block 1538-P, Hollytree Subdivision, Unit V as recorded in Cabinet C, Slide 63-B of the Plat Records of Smith County, Texas, and Lot 42, Block 1538-P, Hollytree Subdivision, Unit VI as recorded in Cabinet C, Slide 64-D of the Plat Records of Smith County, Texas;

BEGINNING at the Southwestern Corner of the above mentioned Lot 41, said point of beginning being in the North Right of Way Line of Woodlands Drive;

THENCE North 100 ft. to a point at the end of this easement said point being in the 50 ft. floodway easement which encumbers the above mentioned Lot 42.

TRACT II:

That portion of Lot 42, Block 1538-P of Hollytree Subdivision Unit VI, an Addition to the City of Tyler, Smith County, Texas, according to the Plat thereof recorded in Cabinet C, Slide 64D of the Plat Records of Smith County, Texas, which is shown as being encumbered by a fifty (50) foot floodway easement on said Plat.

[Faint, illegible handwritten notes]

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



SEP 30 1994

MARY MORRIS
 COUNTY CLERK Smith County, Texas
[Signature] Deputy

FILED
 MARY MORRIS
 COUNTY CLERK
 SMITH COUNTY, TEXAS
 94 SEP 27 PM 4:35
[Signature]
 DEPUTY

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95-R0035535

DESIGNATION OF ARCHITECTURAL CONTROL COMMITTEE

STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF SMITH

HOLLYTREE, LTD., a Texas limited partnership in its capacity as owner of certain real property, has previously filed Reservations of Architectural Control, said Reservations being filed by HOLLYTREE, LTD. designated as "Declarant" in each of said documents recorded as follows:

<u>FILING DATE</u>	<u>FILING INFORMATION</u>
July 28, 1982	Volume 2008, Page 425, Land Records of Smith County, Texas
April 30, 1992	Volume 3226, Page 171, Land Records of Smith County, Texas
April 13, 1994	Volume 3502, Page 811, Land Records of Smith County, Texas

In each of said Reservations of Architectural Control, HOLLYTREE, LTD. as Declarant reserved the right to delegate the powers reserved therein to a committee appointed, empowered and constituted by Declarant, such committee to be designated by Declarant.

HOLLYTREE, LTD. in its capacity as Declarant under the above referenced Reservations of Architectural Control, does hereby designate the following committee to serve as the Architectural Control Committee under each of the Reservations of Architectural Control referenced above, to serve until such time as such designation is rescinded by further filing in the Land Records of

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Smith County, Texas, such Committee members to serve being the following:

- TOM BARBER
 - JOAN BLAIR
 - JOHN HARDY
 - DON HILL
 - JAMES PHILLIPS
 - JACK CALLOWAY
- (Mr. Calloway to serve as alternate member of the Committee in the event one of the above five cannot attend)

DATED this 6th day of July 1995.

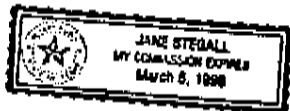
HOLLYTREE LTD.,
A Texas Limited Partnership

BY: HOLLYTREE MANAGEMENT, INC.,
A Texas Corporation and
General Partner

By: *[Signature]*
JAMES C. PHILLIPS, Vice President

THE STATE OF TEXAS
COUNTY OF SMITH

This instrument was acknowledged before me on this the 6th day of July 1995 by JAMES C. PHILLIPS, Vice President of HOLLYTREE MANAGEMENT, INC., a Texas Corporation and General Partner of and on behalf of HOLLYTREE LTD., a Texas Limited Partnership.



[Signature]
NOTARY PUBLIC, STATE OF TEXAS

FORM DESIGNATION, HOLLYTREE
5/16/95

Return to: Hollytree Ltd
1400 Royal Oak
Lufkin TX 75703

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 Land Records of Smith County, Texas.



OCT 30 1995

MARY MORRIS
COUNTY CLERK, Smith County, Texas
[Signature] Deputy

Filed for Recording in
Smith County, Texas
on Oct 30 1995
at 1:14pm
Registry - Janis F. Arrell

DESIGNATION OF ARCHITECTURAL CONTROL COMMITTEE

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2001-R0014899

FIRST AMENDMENT TO SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, ASSESSMENTS, CHARGES, SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS (SINGLE FAMILY LAKE LOTS)

STATE OF TEXAS
COUNTY OF SMITH

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, HOLLYTREE, LTD. (herein called the "Declarant") was the sole owner of that certain property described on Exhibit "A", attached hereto and made a part hereof for all purposes, referenced therein as the "Property" and generally being single family lake lots within HOLLYTREE SUBDIVISION, UNIT V and UNIT VI; and

WHEREAS, Declarant by that certain instrument entitled Supplemental Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements (Single Family Lake Lots) (herein called the "Declaration"), filed of record in Volume 3553, Page 554, Land Records of Smith County, Texas, imposed on the Property those certain covenants and restrictions therein set forth; and

WHEREAS, Section 11.19 of the Declaration provides the manner in which the Declaration may be amended and Section 11.21 of the Declaration provides for the recording of such amendment; and

WHEREAS, the undersigned, being 100% of the owners of the lots in the Property, wish to amend the Declaration as set forth below:

NOW, THEREFORE, the undersigned owners of the Property subject to the Declaration hereby amend the Declaration as follows:

Section 8.04 is hereby amended and shall be superseded by the following section:

"8.04 Fencing. Should any Owner desire to construct a fence on the rear portion of said Owner's Lot, such fence must (unless the Architectural Control Committee allows otherwise) (i) run the entire width of each Lot, (ii) connect the points where the landward boundary of the Access Easement Area on such Lot intersects the side lot lines for such

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Lot, (iii) be no closer to the Lake Area at any point than the landward boundary of the Access Easement Area at such point, and (iv) be approved by Declarant and the Architectural Control Committee. Unless otherwise approved by the Architectural Control Committee, any such fence must be constructed of brick and wrought iron, or wrought iron only, be six feet (6') in height, and be acceptable to the Architectural Control Committee in its sole discretion. Notwithstanding the foregoing, no fence shall be permitted to unduly interfere with the view of the Lakes and/or the Lake Area from any other Lot, as determined by the Architectural Control Committee in its sole discretion. As such, the fences from the Dwelling Unit set back to the Lake Area will be constructed of wrought iron or wrought iron with brick columns no closer than six feet (6') apart. Each Owner shall be responsible for maintaining any such fence on its Lot in good condition and repair and in accordance with standards established by the Declarant, from time to time. In the event that Owner fails in this duty, then Declarant, following thirty (30) days prior written notice to the failing Owner, is entitled to take such action as is necessary to bring the fence into compliance with this Section 8.04 and the costs thereof shall be reimbursed to Declarant on demand, as an additional assessment pursuant to Section 6.01 hereof and will be secured by the lien created in Section 6.04 hereof. All gates constructed on any fence constructed on any Lot must be self-closing gates.

Furthermore, the Owner of each Lot who constructs the Dwelling Unit on such Lot and desires to construct a fence thereon shall be responsible for constructing a wingwall fence constructed of all brick, brick and wrought iron or brick and wood, said wingwall fence being six (6) feet in height from each side of the said Dwelling Unit to the Fence Connecting Points (as defined herein) for such Lot. For each Lot, the "Fence Connecting Points" shall mean two locations, one on each side lot line of such Lot, being the point where the side lot line intersects with the existing edge of the wingwall fence constructed by the Owner of the adjacent Lots, if, at the time the Owner of any Lot constructs its

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Dwelling Unit, Dwelling Units have been constructed by the Owners of the adjacent Lots, or if no Dwelling Units have been constructed on the adjacent Lots, being a point on each of the side lot lines of such Lot no nearer to the street on which said Lot fronts than the front corner, on each respective side, of the Dwelling Unit being constructed thereon and no nearer to the rear of the Lot than the rear corner of said Dwelling Unit on each said side. Each Owner must maintain the wingwall fences constructed on its Lot in good condition and repair.

The design, dimensions and materials used in the construction of all fences are subject to the approval of the Architectural Control Committee. Once any fence has been constructed, it is up to the Owner of the Lot upon which the fence has been constructed to cause said fence to be maintained in good condition and repair. All gates will be required to be self-closing gates in addition to any other requirements established by the Architectural Control Committee. In the event of any damage to or destruction of the initial Dwelling Unit constructed on any Lot, the Owner of such Lot at the time of said damage or destruction shall cause temporary fencing to be constructed so as to eliminate access to the Lake Area from the front of such Lot, and, upon repair of the existing Dwelling Unit, or construction of a new Dwelling Unit on such Lot, the then Owner of the Lot will cause a fence to be constructed which complies with the terms and provisions of this section."

The amendment of the Declaration set forth above shall be deemed to be part of and shall be interpreted in accordance with the Declaration. All provisions of the Declaration not amended herein are hereby ratified and confirmed in each and every particular, and shall continue in force and effect pursuant to the terms of the Declaration.

IN WITNESS WHEREOF, the undersigned, representing all of the owners of the Lots in the subdivision subject to the terms of the Declaration, for the purpose of acknowledging their consent and approval to the amendment of the Declaration have