

Return to: (enclose self-addressed stamped envelope)

Name: Steven Wherry, Esq.

Address:

Greenspoon Marder  
100 West Cypress Creek Road  
Suite 700  
Fort Lauderdale, FL 33309

This Instrument Prepared by:

Steven Wherry, Esq.  
Greenspoon Marder  
100 West Cypress Creek Road  
Suite 700  
Fort Lauderdale, FL 33309

**DRAFT**

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### DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration"), made this \_\_\_\_ day of \_\_\_\_\_, 2013, by HOLMAN AUTOMOTIVE, INC., a Florida Corporation, with a post office address of 911 NE 2nd Avenue, Fort Lauderdale, FL 33304 (the "Declarant"), shall be for the benefit of the City of Fort Lauderdale, a Florida municipal corporation, its successors and assigns, with a post office address at 100 N. Andrews Avenue, Fort Lauderdale, FL 33301 (the "City").

#### RECITALS:

A. Declarant owns and intends to develop approximately 1.38 acres of land, generally located east of South Federal Highway and south of Southeast 14th Court, in the City (the "Overall Site"), including a portion of the of the Overall Site more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Property").

B. Declarant has submitted an application to the City to rezone the Property from RMM-25 (Residential Multifamily Mid Rise/Medium High Density District) to B-1 (Boulevard Business) (the "Application").

C. In connection with the ultimate development of the Overall Site, the Declarant may construct an automobile dealership on the Overall Site.

D. The Declarant has voluntarily agreed to record this Declaration to limit the allowable uses on the Property as described in Exhibit "B" attached hereto and made a part hereof (the "Allowable Uses").

E. The City agrees to accept this Declaration pursuant to the provisions herein.

NOW, THEREFORE, the Declarant hereby declares that the Property shall be owned, held, used, transferred, sold, conveyed, demised, and occupied subject to the covenants, restrictions, and regulations hereinafter set forth, all of which shall run with such Property and any part thereof and which shall be binding upon all parties having any right, title, or interest in such Property or any part thereof, including, if applicable, their heirs, successors, and assigns.

Section 1. Recitations. The above recitals are true, complete and correct and are hereby incorporated herein by this reference.

Section 2. Use of Property. The Property may be used in accordance with those uses described in Exhibit "B" and in accordance with all other applicable land development code requirements. The Property is intended to be used primarily for an automobile dealership and other related ancillary purposes.

Section 3. Amendments. This Declaration shall not be modified, amended, or released, except by written instrument, executed by the then owner or owners of the Property and the City. Said document must be recorded in the Public Records of Broward County, Florida.

Section 4. Recordation and Effective Date. This instrument shall not become effective and shall not be recorded in the Public Records of Broward County, Florida until after approval by the City of the Application, and the expiration of all appeal periods applicable to such approval, or if an appeal is filed, at the denial of such appeal with the Application, as approved, remaining in full force and effect. Once recorded, this Declaration shall run with the Property for the sole benefit of the City and shall bind all successors in interest to the title of the Property.

Section 5. Severability. The covenants contained herein are hereby declared to be severable and independent. If any Court of competent jurisdiction shall declare any section, paragraph or part thereof invalid or unenforceable, then such judgment or decree shall have no effect on the enforcement or validity of any other section, paragraph or part hereof, and the same shall remain in full force and effect.

Section 6. Notices. If a party desires to give notice hereunder to the other, such notice shall be in writing and addressed to the party for whom it is intended at the addresses set forth below.

If to Owner:                   HOLMAN AUTOMOTIVE, INC.  
911 N.E. 2<sup>nd</sup> Avenue  
Fort Lauderdale, FL 33304

Attention: Robert J. Bamonte

With a copy to: GREENSPOON MARDER, P.A.  
100 W. Cypress Creek Road, Suite 700  
Fort Lauderdale, FL 33309  
Attention: Steven S. Wherry, Esquire

If to Town: CITY OF FORT LAUDERDALE, FLORIDA  
100 N. Andrews Avenue  
Fort Lauderdale, FL 333016591 Orange Drive  
Attention: \_\_\_\_\_

Section 7. Choice of law and venue. Any controversies or legal problems arising out of this Declaration and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs, and shall be governed by the laws of the State of Florida.

IN WITNESS WHEREOF, the Declarant and City have executed this Declaration of Restrictive Covenants on the day first above written.

Signed, sealed and delivered  
in the presence of:

HOLMAN AUTOMOTIVE, INC., a  
Florida Corporation

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name

By: \_\_\_\_\_

\_\_\_\_\_  
Title

STATE OF FLORIDA        )  
                                  ) SS:  
COUNTY OF DADE        )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by \_\_\_\_\_, the \_\_\_\_\_ of HOLMAN AUTOMOTIVE, INC., a Florida Corporation, freely and voluntarily under authority duly vested in him. He is personally known to me or has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed, printed or stamped name of Notary Public

My Commission Expires:

Signed, sealed and delivered  
in the presence of:

CITY OF FORT LAUDERDALE,  
FLORIDA, a municipal corporation under  
the laws of the State of Florida

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
City Manager

ATTEST:

(CORPORATE SEAL)

\_\_\_\_\_  
City Clerk

Approve as to form:

\_\_\_\_\_  
Assistant City Attorney

**EXHIBIT "A"**

**PROPERTY**

LOTS 4, 5, 6, AND 7 BLOCK 51-L, CROISSANT PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 28, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. TOGETHER WITH: THE VACATED ALLEY LYING EAST OF SAID LOT 4, SAID ALLEY PER A RESUBDIVISION OF BLOCK 51-L IN CROISSANT PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, PAGE 50, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. SAID LANDS SITUATE IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

**EXHIBIT "B"**

**ALLOWABLE USES**

A. PERMITTED USES	B. CONDITIONAL USES: See Section 47-24.3
1. <i>Automotive</i>	
a. Automotive Sales, Rental, New vehicles, see Section 47-18.3	
b. Automotive Parts & Supplies Store.	
c. Automotive Repair Shop, including minor repair, see Section 47-18.4	
d. Automotive Service Station, see Section 47-18.5	
e. Car Wash, automatic, see Section 47-18.7	
f. Motorcycle/moped sales.	
g. Tire Sales, including Retreading and Service.	
2. <i>Boats, Watercraft and Marinas</i>	
a. Marine Parts and Supplies Store. b. Sailmaking. c. Watercraft Repair, minor repair, see Section 47-18.37 d. Watercraft Sales and Rental, new or used, see Section 47-18.36.	a. Charter and Sightseeing Boat, see Section 47-23.8 b. Hotel Marina, see Section 47-23.8 c. Marina, see Section 47-23.8 d. Marine Service Station see Section 47-18.20 e. Watercraft Sales and Rental, new or used, on a waterway, see Section 47-23.8.
3. <i>Commercial Recreation</i>	
a. Billiard Parlor. b. Bingo Hall. c. Bowling Alley. d. Indoor Motion Picture Theater. e. Performing Arts Theater.	a. Golf Course, Golf Range. b. Indoor Firearms Range, Section 47-18.18 c. Miniature Golf.
4. <i>Food and Beverage Service</i>	
a. Bakery Store.	
b. Bar, Cocktail Lounge, Nightclub.	
c. Cafeteria.	

d.	Candy, Nuts Store.
e.	Delicatessen.
f.	Food and Beverage Drive-Thru.
g.	Fruit and Produce Store.
h.	Grocery/Food Store.
i.	Ice Cream/Yogurt Store.
j.	Liquor Store.
k.	Meat and Poultry Store.
l.	Restaurant.
m.	Seafood Store.
n.	Supermarket.
5.	<i>Lodging</i>
a.	Bed and Breakfast Dwelling, see <u>Section 47-18.6</u>
b.	Hotel, see <u>Section 47-18.16</u>
6.	<i>Mixed Use Developments</i>
	a. Mixed Use Development, see <u>Section 47-18.21</u>
7.	<i>Public Purpose Facilities</i>
a.	Civic and Private Club Facility.
b.	Government Administration.
c.	Hospital.
d.	House of Worship.
e.	Library.
f.	Museum.
g.	Public/Private Recreation.
h.	Police and Fire Substation.
i.	Post Office Substation.
j.	School.
a.	Social Service Residential Facility, see <u>Section 47-18.32</u>
8.	<i>Retail Sales</i>
a.	Antiques Store.
b.	Apparel/Accessories Store.
c.	Arts & Crafts Supplies Store.



d.	Art Galleries, Art Studio.
e.	Bait and Tackle Store.
f.	Bicycle Shop.
g.	Book Store.
h.	Camera, Photographic Supplies Store.
i.	Card & Stationery Store.
j.	Cigar, Tobacco Store.
k.	Computer/Software Store.
l.	Consignment, Thrift Store.
m.	Cosmetic, Sundries Store.
n.	Department Store.
o.	[Reserved.]
p.	Fabric, Needlework, Yarn Shop.
q.	Flooring Store.
r.	Florist Shop.
s.	Furniture Store.
t.	Gifts, Novelties, Souvenirs Store.
u.	Glassware, China, Pottery Store.
v.	Hardware Store.
w.	Hobby Items, Toys, Games Store.
x.	Holiday-Related Merchandise, Outdoor Sales, see <u>Section 47-18.15</u>
y.	Home Improvement Center.
z.	Household Appliances Store.
aa.	Jewelry Store.
bb.	Lawn & Garden Center, outdoor display permitted.
cc.	Linen, Bath, Bedding Store.
dd.	Luggage, Handbags, Leather Goods Store.
ee.	Medical Supplies Sales.
ff.	Music, Musical Instruments Store.
gg.	Newspapers, Magazines Store.
hh.	Office Supplies, Equipment Store.
ii.	Optical Store.
jj.	Paint, Wallpaper Store.
kk.	Party Supply Store.
ll.	Pet Store.

ll-1.	Pharmacy.	
mm.	Shoe Store.	
nn.	Sporting Goods Store.	
oo.	Tapes, Videos, Music CD's Stores.	
9.	<i>Services/Office Facilities</i>	
a.	Auction House.	a- Adult Gaming Center, see <u>Section 47-18.42</u>
b.	Copy Center.	b. Child Day Care Facilities, see <u>Section 47-18.8</u>
c.	Check Cashing Store.	c. Helistop, see <u>Section 47-18.14</u> .
d.	Dry Cleaner, see <u>Section 47-18.12</u>	
e.	Financial Institution, including Drive-Thru Banks.	
f.	Film Processing Store.	
g.	Formal Wear, Rental.	
h.	Funeral Home.	
i.	Hair Salon.	
j.	Health and Fitness Center.	
k.	Instruction: Fine Arts, Sports Recreation, Dance, Music, Theater.	
l.	Interior Decorator.	
m.	Laundromat, see <u>Section 47-18.19</u>	
n.	Mail, Postage, Fax Service.	
o.	Massage Therapist.	
p.	Medical Clinic.	
q.	Medical/Dental Office.	
r.	Nail Salon.	
s.	Nursing Home.	
t.	Parking Facility, see <u>Section 47-20</u>	
u.	Personnel Services.	
v.	Pet Boarding Domestic Animals only.	
w.		

<p>Photographic Studio.  x. Professional Office.  y. Security Systems.  z. Senior Citizen Center, see <u>Section 47-18.30</u>  aa. Shoe Repair, Shoe Shine.  bb. Swimming Pool Supplies and Service.  cc. Tailor, Dressmaking Store, Direct to the Customer.  dd. Tanning Salon.  ee. Tattoo Artist.  ff. Trade/Business School.  gg. Travel Agency.  hh. Veterinary Clinic, see <u>Section 47-18.35</u>  ii. Watch and Jewelry Repair.</p>	
10.	<i>Accessory Uses, Buildings and Structures (See also <u>Section 47-19.</u>)</i>
a.	Accessory Uses to Hotels, see <u>Section 47-19.8</u>
b.	Automotive Sales, Used Vehicles, when accessory to a new automotive sales dealer.
c.	Catering Services.
d.	Child Day Care—Corporate/Employee Sponsors, when accessory to Professional Office, see <u>Section 47-18.8</u>
e.	Electronic Installation, when accessory to electronic sales, only in wholly enclosed building.
f.	Film Processing, when accessory to a permitted use.
g.	Outdoor Dining and Sidewalk Café, see <u>Section 47-19.9</u>
h.	Video Games Arcade, when accessory to a shopping center.
11.	<i>Urban Agriculture See <u>Section 47-18.41</u></i>