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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
OAKWELL FARMS UNIT 9B - PHASE II
AND ANNEXATION TO
OAKWELL FARMS HOMEOWNERS ASSOCIATION

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OAKWELL FARMS UNIT 9B - PHASE II

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DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR
OAKWELL FARMS UNIT 9B - PHASE II,
PLANNED UNIT DEVELOPMENT
AND ANNEXATION TO
OAKWELL FARMS HOMEOWNERS ASSOCIATION

(Superseding and Replacing All Prior Covenants)

STATE OF TEXAS

COUNTY OF BEXAR

THIS DECLARATION, made on the date hereinafter set forth by OAKWELL UNIT - 6H, LTD., hereinafter referred to as "Declarant", and joined in by ROBERT BATTS TOBIN, individually, AND J. BRUCE BUGG, JR., LEROY G. DENMAN, JR., and TEXAS COMMERCE BANK, N. A., CO-TRUSTEES FOR ROBERT BATTS TOBIN TRUST, as prescribed by instrument filed of record in the Real Property Records of Real Property, Bexar County, Texas.

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property in San Antonio, Bexar County, Texas, which is more particularly described as follows:

Lots 29-73, inclusive, Block 4, New City Block 17183, OAKWELL FARMS UNIT 9B - PHASE II, PLANNED UNIT DEVELOPMENT, San Antonio, Bexar County, Texas, according to plat thereof recorded at Volume 9539, Page 71, Deed and Plat Records, Bexar County, Texas

WHEREAS, the above-described real property has been previously impressed with certain covenants, conditions, and restrictions filed of record in the Official Public Records of Real Property, Bexar County, which said covenants, conditions, and restrictions contemplate the subdivision and development of the above-described real property and provide for the creation of Oakwell Farms Homeowners Association for the purposes herein set forth; and

WHEREAS, Declarant desires to develop the subdivision as a residential community with designated "Lots" and "Common Facilities" (as those terms are defined herein) for the benefit of the present and future owners of said Lots; and

WHEREAS, Declarant has subdivided the above-described real property as shown by the map and plat of such subdivision, which map and plat has heretofore been filed as the true and correct survey, map, and plat thereof, and which subdivision shall be effectively known as OAKWELL FARMS UNIT 9B - PHASE II, PLANNED UNIT DEVELOPMENT; and

WHEREAS, Declarant desires to ensure the preservation of the values and amenities in said community and for the maintenance of said Common Facilities, and to this end desires to further subject the above-described real property, together with such additions as may hereafter be made thereto as herein provided, to the covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each of the owners thereof; and

WHEREAS, Oakwell Farms Homeowners Association, a Texas non-profit corporation, has been formed to maintain and administer the Common Facilities of the various common areas lying within the master plan of Oakwell Farms Planned Unit Development Subdivision, including the Properties, with the power to administer and enforce the covenants and restrictions thereon and to collect, administer and disburse assessments and charges thereon;

NOW, THEREFORE, Declarant declares that the real property above-described and known as OAKWELL FARMS UNIT 9B - PHASE II, PLANNED UNIT DEVELOPMENT is and shall be held, transferred, sold, conveyed, occupied, and enjoyed subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth which covenants, restrictions, easements, charges, and liens shall supersede and replace all prior filed restrictive covenants as to the above described property only.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to the OAKWELL FARMS HOMEOWNERS ASSOCIATION, a Texas non-profit corporation, its successors and assigns as provided for herein.

(b) "Properties" shall mean and refer to the above-described properties and additions thereto, as are subject to this Declaration or any Amended or Supplemental Declaration under the provisions of Article III, Section 2 hereof.

(c) "Common Facilities" shall mean and refer to all property leased, owned, or maintained by the Association for the use and benefit of the Members of the Association. By way of illustration, Common Facilities may include, but not necessarily be limited to, the following: private streets, signs, fountains, statuary, swimming pool, and adjacent buildings, tennis courts, landscaping, walls, dike, bridges, safety lanes, trails, greenbelts, and other similar or appurtenant improvements. Common Facilities located within the Subdivision to be conveyed to the Association will include Lot 73, Block 4 (street) and Lots 29, 32, 66, and 72, Block 4 (greenbelts). All conveyances of Common Facilities will be subject to utility and access easements and may be subject to other rights reserved to Declarant.

(d) "Lot" shall mean and refer to any of the plots of land numbered Lots 29-73, inclusive, Block 4, New City Block 17183 on the Subdivision Plat.

(e) "Subdivision Plat" shall mean and refer to the map or plat of OAKWELL FARMS UNIT 9B - PHASE II, PLANNED UNIT DEVELOPMENT filed for record in Volume 9539, Page 71, Deed and Plat Records of Bexar County, Texas.

(f) "Living Unit" shall mean and refer to a single family residence and its attached or detached garage situated upon a Lot.

(g) "Single family" shall mean and refer to a group related by blood, adoption, or marriage or a number of unrelated house mates equal to the number of bedrooms in a Living Unit.

(h) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or portion of a Lot, within the Properties, including contract sellers but excluding those having interest merely as security for the performance of an obligation.

(i) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article IV, Section 1, hereof.

(j) "Builder Members" shall mean and refer to those members approved by Declarant, its successors and assigns, for construction of residences within the Properties and owning one or more Lots for the purpose of such construction and sale to others.

(k) "Declarant" shall mean and refer to OAKWELL UNIT - 6H, LTD., and its successors and assigns.

(l) "Tobin" shall mean and refer to ROBERT BATTS TOBIN, individually, AND J. BRUCE BUGG, JR., LEROY G. DENMAN, JR., and TEXAS COMMERCE BANK, N. A., successor in interest by merger to Ameritrust Texas, N.A., CO-TRUSTEES FOR ROBERT BATTS TOBIN TRUST, and their respective successors, assigns, executors, administrators, and personal representatives. In the event of the death or incapacity of Robert Batts Tobin and with regard to any right or duty hereunder requiring or allowing any action by Robert Batts Tobin, his duly qualified and appointed executor, administrator, guardian, or personal representative, as applicable, shall have all rights and powers hereunder reserved to Robert Batts Tobin.

(m) "Architectural Control Committee" and "ACC" shall mean and refer to the committee appointed by Declarant and Tobin in the manner and for the purposes set forth in Article VII hereof.

(n) "Board of Directors" shall mean and refer to the governing body of the Association, the election and procedures of which shall be as set forth in the Articles of Incorporation and By-Laws of the Association.

(o) "Zero Lot Line" shall mean that side of a Lot on which the residence is permitted to be constructed on the Lot line. The Zero Lot Lines are designated on Exhibit "A" attached hereto.

ARTICLE II

RESERVATIONS, EXCEPTIONS, DEDICATIONS, SIDEWALKS, ZONING CHANGES

Section 1. Subdivision Plat. The Subdivision Plat dedicates for use as such, subject to the limitations set forth herein, certain easements shown thereon, and such Subdivision Plat further establishes certain dedications, limitations, reservations and restrictions applicable to the Properties. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof.

Section 2. Damages. Neither Declarant nor the Architectural Control Committee nor any member of the Architectural Control Committee shall be liable for any damages done by any utility company or their assigns, agents, employees or servants, using any easements, whether now or hereafter in existence, (located on, in, under or through the Properties) to fences, shrubbery, trees or flowers or other property now or hereinafter situated on, in, under, or through the Properties.

Section 3. Certain Easements. Each Lot shall be subject to an easement two and one-half feet (2.5') wide for encroachments created by construction, settling and overhang of structures constructed by third parties. Additionally, each Lot shall be subject to an easement of necessity five feet (5') wide for the purposes of maintaining, repairing, and/or improving Lots and all structures and other improvements on Lots, and by acceptance of a deed to one or more Lots, the Owner thereof shall be deemed to have granted such easement to the Owners of all adjoining Lots and to such Owners agents and contractors. Additionally, there is hereby created and reserved a right of ingress and egress across, over and under all Lots for the purposes of installing, replacing, repairing, and maintaining all facilities for utilities, including, but not limited to water, sewer, telephone, electricity, gas, and appurtenances thereto.

Section 4. Fence, Wall, Landscaping, Maintenance, and Access Easement. Declarant hereby reserves unto itself a fence, wall, landscaping and access easement, ten feet (10') in width along the Oakwell Farms Parkway boundary lines of Lots 29, 30 and 69-71, inclusive. Within said ten foot easement, Declarant shall have the right to install and maintain such landscaping and plants as it may determine and shall have the right to erect install and maintain such project perimeter wall or fence and monument, irrigation system, features and signage as it may determine. All such items so installed shall become part of the Common Facilities when said Lots are conveyed to the Association and shall thereafter be maintained in new condition by the Association. Declarant shall have a general right of access upon said Lots prior to and after conveyance thereof to the Association, for the purpose of such initial construction and planting and thereafter to exercise the other powers reserved to itself under the easement hereby established. Any fence or wall, monument, features, signage, or irrigation system constructed or installed by Declarant pursuant to the rights herein retained shall be maintained by the Association at all times in its original condition, with materials matching the original construction, and the Association shall ensure that the exterior thereof is kept clean and free of all defacing, blemishes, marks, and markings thereon. The Association shall maintain the landscaping in good and neat condition and shall promptly remove and replace any dead or dying vegetation. In the event the Association shall ever fail to

promptly make any needed repair, maintenance or cleaning to such fence or other items, or shall fail to properly and neatly maintain the vegetation within the easement area, including between the fence and Oakwell Farms Parkway right of way, Declarant, its successors and assigns, shall have the right of entry onto said Lots and right to perform such functions at the expense of the Association.

Section 5. Sidewalks. The Owner of any individual Lot or Lots shall construct or cause to be constructed, at his or their own expense, a sidewalk, in conformity with the plan for sidewalks (which plan shall include the design thereof) which shall be approved by the Architectural Control Committee and with any subdivision plan which may be filed of record in the Real Property Records of Bexar County, Texas. The Owner or Owners of each Lot shall also be the Owner or Owners of the portion of a sidewalk which traverses his Lot, and shall, by acceptance of a deed to his Lot or Lots, covenant to keep such portion in good repair. Each Owner hereby grants an easement for the use of any sidewalk now or hereafter located on his Lot.

Section 6. Zoning Changes. No change in the zoning of the Properties will be applied for nor in any way be effective with respect to the Properties without the prior written approval of Declarant.

ARTICLE III

PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS OR MODIFICATIONS THERETO

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is that certain Lots 29-73, inclusive, Block 4, New City Block 17183, OAKWELL FARMS UNIT 9B - PHASE II, PLANNED UNIT DEVELOPMENT, San Antonio, Bexar County, Texas, according to plat thereof recorded at Volume 9539, Page 71, Deed and Plat Records, Bexar County, Texas, which has heretofore been platted under that certain residential subdivision known as OAKWELL FARMS UNIT 9B - PHASE II, PLANNED UNIT DEVELOPMENT, according to the Subdivision Plat, or any subsequently recorded replat of said subdivision, all of which real property is sometimes hereinafter referred to as the "Existing Property."

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manners:

(a) Additions by Declarant. The Declarant, its successors and assigns, shall have the right to bring within the scheme of this Declaration and without the consent of Members additional properties in future stages of the development, and within ten (10) years from the date of this instrument; provided that such additions are in accord with the General Plan of Development known as Oakwell Farms Master Plan. Unless otherwise stated therein, such General Plan shall not bind the Declarant, its successors and assigns, to make any additions proposed, or to adhere to the Plan in any subsequent development of a tract of land once proposed as an addition to the Existing Property but not so added. Any additions authorized under this and the succeeding subsections shall be made by filing of record an Amended or Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration to such property, and the execution thereof by the Declarant and Tobin shall constitute all requisite evidence of the required approval thereof. Such Amended or Supplementary Declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be applicable to the additional lands and are consistent with the approved General Plan. In no event, however, shall any such Amended or Supplementary Declaration revoke, modify or add to the covenants established by this Declaration as they are applicable to the Existing Property.

(b) Other Additions. Upon the approval of the Association by a two-thirds (2/3) vote of each class of its Members, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Supplementary Declaration of Covenants and Restrictions upon the written submission by the proponent thereof of the following:

- (1) The proposed property shall be described by size, location, proposed land use, and general nature of proposed private improvements;
- (2) the proponent shall describe the nature and extent of Common Facilities within the proposed property;

(3) the proponent shall state that the proposed additions if made will be subject to all Association assessments.

(c) Mergers. Upon a merger or consolidation of the Association with another association, the Association's properties, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions applicable to the properties of the association as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration.

(d) Amendment. This Declaration may be amended until January 1, 2010, by written instrument executed by ninety percent (90%) or more, of the Lot Owners, and thereafter, by written instrument executed by seventy-five percent (75%), or more, of the Lot Owners. No Amendment shall be effective until approved and executed by Tobin and filed of record in the Official Public Records of Real Property, Bexar County, Texas. Notwithstanding the foregoing, Declarant and Tobin shall have the right to file an amendment to this Declaration, without the necessity of joinder by any other Owner of Lots, or any interest therein, for the limited purposes of correcting a clerical error, clarifying an ambiguity, removing any contradiction in the terms hereof, or for the purpose of making such additions or amendments hereto as may be required by FHA, HUD or VA to qualify the Properties for mortgage guaranties issued by FHA and/or VA.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided interest in any Lot which is subject to the jurisdiction of and to assessment by the Association shall be a Member of the Association, provided, however, that any person or entity holding an interest in any such Lot or Lots merely as security for the performance of an obligation, shall not be a Member.

Section 2. Voting Rights. The Association has a single class of Voting membership, that being as follows:

Class A. Class A Members shall be all those Owners as defined in Section 1. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership for Section 1 of this Article. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

ARTICLE V

PROPERTY RIGHTS IN THE COMMON FACILITIES

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of this Article V, every Member shall have a common right and easement of enjoyment in and to the Common Facilities and such right and easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Title to Common Facilities. The Declarant may retain the legal title to the Common Facilities until such time as it has completed improvements thereon and until such time as, in the opinion of the Declarant, the Association is able to maintain the same, but notwithstanding any provision herein, the Declarant hereby covenants, for itself, its successors and assigns that it shall convey the Common Facilities to the Association, not later than March 1, 1998.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The rights and easements existing or hereafter created in favor of others as provided for in the Subdivision Plat and/or in Article II hereof.

(b) The rights of the Association, once it has obtained legal title to the Common Facilities, as provided in Section 2, above, to do the following:

- (1) to borrow money for the purpose of constructing or improving the Common Facilities and, in aid thereof, to mortgage said properties and facilities, in accordance with the Articles of Incorporation and Bylaws of the Association;
- (2) to take such steps as are reasonably necessary to protect the above-described properties and facilities against foreclosure; and
- (3) to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of the published rules and regulations; and
- (4) to assess and collect the assessments provided for herein or elsewhere and to charge reasonable admission and other fees for the use of the Common Facilities; and
- (5) to dedicate or transfer all or any part of the Common Facilities to any public agency, authority, or utility for such purposes and subject to such conditions as may be approved by a two-thirds (2/3) vote of the Members.

ARTICLE VI

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time the obligation accrued.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the Members, and in particular, for the improvement, maintenance and operation of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Properties by the Members.

Section 3. Basis and Maximum of Annual Assessments. The annual assessment for both improved and unimproved Lots shall be determined by the Board of Directors in the manner provided for herein after determination of current maintenance costs and anticipated needs of the Association during the year for which the assessment is made. The maximum annual assessment for improved Lots and maximum annual assessment for unimproved Lots may be increased by vote of the Members as provided in Article VI, Section 5, hereof. A Lot shall be deemed to be an "improved Lot" when construction of a Living Unit thereon is completed, and closing of a sale thereof has taken place, or when the Living Unit is occupied as a residence, whichever first occurs. The annual assessments for unimproved Lots shall be one-fourth (1/4) the annual assessment for improved Lots.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments provided for in Section 3, the Association may levy, in any assessment year, a Special Assessment on improved Lots only, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement on or which is a part of the Common Facilities, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each improved Lot Owners who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all improved Lot Owners at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5. Change in Basis and Maximum of Annual Assessments. For all annual assessments accruing on or after January 1, 1999, the maximum annual assessment may be adjusted by majority vote of the Board of Directors but shall not be increased by more than ten percent (10%) above that of the previous year without a vote of the membership. Any increase in the maximum annual assessment of more than ten percent (10%) above that of the previous year

shall require approval of two-thirds (2/3) vote of each class of Members voting at a meeting duly called for that purpose.

Section 6. Quorum for Any Action Authorized Under Sections 4 and 5. The quorum required for any action by Members authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty (60) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth in Section 4 and 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that such reduced quorum requirement shall not be applicable to any such subsequent meeting held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence upon the conveyance of the first Lot by Declarant or March 1, 1998, whichever shall occur earlier. The first annual assessments shall be made for the balance of the year in which assessments commence. The assessments for each calendar year shall become due and payable and shall be collected as the Board of Directors of the Association shall determine. The amount of the annual assessment which may be levied on a Lot for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in that year bear to twelve. When a Lot becomes an improved Lot after the annual assessment for it as an unimproved Lot has been paid, there shall be payable as of the first day of the month following the month when it becomes an improved Lot, a sum equal to the difference between the annual assessment for unimproved Lots and the annual assessment for improved Lots prorated over the balance of the year then remaining. The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8. Duties of the Board of Directors. In January of each year, the Board of Directors of the Association shall fix the amount of the annual assessment against each Lot for such year and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessments; The Lien; Remedies of the Association. If the assessments are not paid on the date when due (being the dates specified in Section 7 hereof) then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment all reasonable expenses of collection including the costs of preparing and filing the complaint, reasonable attorney's fees and costs of suit.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereinafter placed upon the Lots subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 11. Exempt Property. The charges and liens created herein shall apply only to the Lots, and the remainder of the Properties shall not be subject thereto.

ARTICLE VII

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Approval of Plans. No building, structure, fence, wall, landscaping, recreational facilities of any kind, or other improvement shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made, until the detailed plans and specifications therefor shall have been submitted to and approved in writing as to harmony of external design, color and location and as to compliance with minimum standards in relation to property lines, easements, grades, surrounding structures, walks, topography and all other matters related thereto by the Architectural Control Committee, (sometimes hereinafter referred to as the "Committee"), which Committee shall be comprised of two members only, the first of whom shall be Lloyd A. Denton, Jr. and the second of whom shall be J. Bruce Bugg, Jr. The Board of Directors of the Homeowners Association may fill vacancies on the Committee by appointment to the Committee providing it shall first give thirty (30) days written notification to Declarant of its intent to do so and further providing the vacancy or vacancies in Committee membership are not cured by designation of Declarant within such thirty (30) day period. With respect to any matter coming before the Committee, to constitute an approval of the Committee, the approval of both of said members of same shall be required. However, in the event of a tie vote on any matter coming before the Architectural Control Committee, a third party, mutually acceptable to both of said members, shall serve on an ad-hoc basis as an additional member ("Additional Member") of the Committee on the matter resulting in such tie vote. The submitted plans and specifications shall specify, in such form as the Architectural Control Committee may reasonably require, materials, structural detail, elevations, landscaping detail, and the nature, kind, shape, heights, exterior color scheme, and location of the proposed improvements or alterations thereto. In the event said Architectural Control Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required and the provisions of this Section will be deemed to have been fully complied with. The Architectural Control Committee shall be the sole authority for determining whether proposed structures and modifications of proposed structures comply with applicable covenants, conditions, and restrictions and are in harmony of external design with existing structures and the overall plan of development of the Properties. Among other matters, the Committee shall consider the proposed topography, finished grade elevation, and the general appearance of the proposed improvements as may be determined from the front, rear, and side elevations on submitted plans. The Committee's objective is to prevent unusual, radical, uncommon, curious, odd, extraordinary, bizarre, peculiar, or irregular designs or appearances from being built on, in and/or within the Properties and, to the extent possible, ensure the harmonious development of the Properties in conformity with the common plan and design. The Committee is not required to police or enforce compliance with such considerations as minimum size, setbacks, or other specific, objective construction requirements. There shall be no review of any action of the Architectural Control Committee except by procedures for injunctive relief when such action is patently arbitrary and capricious; and under no circumstances shall such Committee, or any of its members, be subject to suit by anyone for damages.

The Committee shall have the right to reject plans for proposed construction which it may, in its sole discretion, determine to be identical or so similar in appearance to other approved plans or completed construction within the Subdivision, or a portion of the Subdivision, as to cause the appearance of "tract housing" or duplication of construction. Alternatively, the Committee may, in its sole discretion, approve similar or identical plans conditioned on changes to the exterior elevations or appearance of the proposed structure.

The Architectural Control Committee shall have the right, but not the obligation, to grant variances and waivers relative to deviations and infractions of the Declaration or to correct or avoid hardships to Owners. Upon submission of a written request for same, the ACC may, from time to time, in its sole discretion, permit an owner to construct, erect or install a dwelling which is in variance from the covenants, restrictions or architectural standards which are provided in this Declaration. In any case, however, the dwelling with such variances must, in the Committee's sole discretion, blend effectively with the general architectural style and design of the neighborhood and must not detrimentally affect the integrity of the subdivision or be incompatible with the natural surroundings. All requests for variances shall be in writing, shall be specifically indicated to be a request for variance, and shall indicate with specificity the particular standard sought to be varied and the nature of the variance requested. All requests for variances shall be deemed to be disapproved if the Committee has not expressly and in writing approved such request within thirty (30) days of the submission of such request. No member of the Committee shall be liable to any owner for any claims, causes of action or damages arising out of the grant of any variance to an owner. No individual member of the ACC shall have any personal liability to any Owner or any other person for the acts or omissions of the ACC if such acts or omissions were committed in good faith and without malice. Each request for a variance submitted hereunder shall be reviewed independently of similar and the grant of a variance to any one Owner shall not constitute a waiver

of the Committee's right to deny a variance to another Owner. The decisions of the Architectural Control Committee with respect to variances shall be final and binding upon the applicant.

Section 2. Approved Contractors. No construction of any building, fence, wall, recreational facilities, landscaping or other structure or improvements shall be commenced on, in, or within the Properties until the primary contractor to perform such construction shall have been approved in writing by the Architectural Control Committee. In the event that the Committee fails to approve or disapprove a written request for the approval of a primary contractor to perform such construction within thirty (30) days after such request is submitted to it, such approval will not be required, and the provisions of this Section will be deemed to have been fully complied with.

Section 3. Other Matters. All matters requiring approval of the Architectural Control Committee whether or not specifically addressed hereinabove or hereinbelow shall require that such approval be in writing, and, with respect to all such matters requiring such approval, in the event the Committee fails to approve or disapprove any of such matters within thirty (30) days after written submission thereof to the Committee, approval will not be required, and the requirement that such approval be obtained shall be deemed to have been fully complied with.

ARTICLE VIII

USE RESTRICTIONS

Section 1. Residential Only Use. All Lots shall be used only for single-family residential purposes or as part of the Common Facilities serving the Owners of Lots within the Subdivision. The term "residential purposes" as used herein shall be held and construed to exclude any business, commercial, industrial, apartment house, hospital, clinic and/or professional uses, and such excluded uses are hereby expressly prohibited. This restriction shall not, however, prevent the inclusion of permanent living quarters for domestic servants or to prohibit domestic servants to be domiciled with an Owner or resident.

Except as approved by the Architectural Control Committee for buildings of historical merit, any and all buildings, structures, fences, walls, recreational facilities or other improvements erected, altered or placed on any portion of the Properties shall be of new construction and shall be built in place. No prefabricated dwelling or building previously constructed elsewhere may be placed or maintained on any Lot.

Notwithstanding the foregoing, as provided in Section 11 of this Article, Declarant and Builder Members are authorized during the construction and sales period to utilize such structures as are customary in connection with such construction and sales, including but not limited to a business office, storage areas, sign, model units, and sales office, construction trailer on the terms set forth herein.

Except as provided in Section 11 of this Article, no structure of a temporary character, including, but not limited to, trailers, mobile homes, tents, shacks, garages, barns, storage sheds, or other out buildings shall be used anywhere on, in, or within the Properties at any time.

Section 2. Minimum Area. The main residence building of each residence constructed on a Lot shall contain a minimum of eighteen hundred (1,800) square feet of contiguous living space, such size requirement being exclusive of open or screened porches, terraces, patios, driveways, carports, garages and living quarters for domestic servants separated or detached from the primary living area.

Section 3. Maximum Height. No building or structure erected, altered or placed on, within or in the Properties shall exceed forty feet (40') in height (measured from the top of the foundation to the topmost part of the roof) nor be more than two and one half (2- 1/2) stories in height; provided, however, that all applicable ordinances, regulations, and statutes with respect to the maximum height of building and structures shall, at all times, be complied with.

Section 4. Masonry and Siding. The exterior walls of all Living Units built on Lots shall be constructed 75% of masonry and shall be limited to brick of a traditional color approved by the ACC or rock or stucco approved by the ACC, but shall exclude any product, regardless of composition, which is manufactured to have a wood or non-masonry appearance. In determining the required masonry percentages, window and door openings shall be considered as masonry except on the zero Lot line side, on which there shall be no windows or doors.

Chimneys shall be 100% masonry.

The Architectural Control Committee is empowered to waive or vary the foregoing masonry requirement if, in its sole discretion, such waiver is advisable in order to accommodate a unique or advanced building concept, dimensional design, or material, and the resulting structure will not detract from the general appearance of the neighborhood.

No more than twelve inches (12") of the foundation shall be exposed and the exposed portion shall be parged and fully screened from the street with landscaping approved by the Committee.

Subject to the foregoing masonry requirements, wood siding may be used. All other siding materials, and all siding colors, must be approved by the Architectural Control Committee.

Section 5. Windows and Glass. All windows on all Lots will be white or beige and will be divided light windows along the front of a residence. All windows shall be wood or factory or job-finished painted metal windows and all windows that are not white or beige shall be stained or painted in a color compatible with the exterior color of the residence and approved by the Architectural Control Committee. Anodized and bronze frames are specifically prohibited. The design of windows may be double or single hung, casements or projecting, except that, as necessary, in areas such as bathrooms and kitchens, sliding windows may be used. All glass in exterior windows shall be of a color and type approved by the Architectural Control Committee. No bronze colored, reflective, or mirror type glass is permitted, nor shall block glass be used except in locations where not visible from the street fronting the Lot.

Section 6. Garages. A garage (with automatic garage door openers) able to accommodate at least two (2) full-sized automobiles must be constructed and maintained for each Living Unit. Each driveway must accommodate two (2) vehicles in front of the garage for off-street parking requirements. Rear detached garages shall be permitted provided they are constructed in compliance with the requirements of these covenants.

Section 7. Building Setbacks. All Living Units and other improvements shall be located in accordance with the following setback requirements:

Garden Lots 37-71, Block 4:

Front setback: The front setback shall be twenty feet (20') from the front property line for houses with front loading garages and ten feet (10') from the front property line for houses with side loading garages. Notwithstanding the foregoing, a residence may be within ten feet (10') of the front property line if the garage of such residence is no nearer than twenty feet (20') to the front property line.

Side setbacks. Side setbacks shall be zero feet (0') on the Zero Lot Line side and ten feet (10') on the non-Zero Lot Line side. The combined sideyards for each Lot shall be not less than ten feet (10'). No structure shall be built on a Lot nearer than ten feet (10') to an existing structure on an adjacent Lot, nor nearer than ten feet (10') to the Zero Lot Line of an adjacent Lot.

Rear setbacks. Rear setbacks shall be a minimum of five feet (5') from the rear property line of each Lot for all structures, including swimming pools.

The aggregate distance between structures on adjacent Lots, and aggregate adjacent side yards, shall be not less than ten feet (10').

Estate Lots 30, 31, 33-35, Block 4:

The front setback shall be twenty feet (20') from the front property line for houses with front loading garages and ten feet (10') from the front property line for houses with side loading garages. Notwithstanding the foregoing, a residence may be within ten feet (10') of the front property line if the garage of such residence is no nearer than twenty feet (20') to the front property line. Except as herein specifically provided, no building or other structure shall be located on any Lot nearer than five feet (5') from an interior Lot line nor nearer than ten feet (10') from a side street line. The two (2) side yards of each Lot shall total a minimum of ten feet (10') except that a detached garage or out-building, provided same is specifically allowed by this Article VIII, may be erected no nearer than three feet (3') to the inside Lot line. No building or other structure shall be located on any Lot nearer than fifteen feet (15') to the rear Lot line without specific waiver permission of the ACC.

For the purpose of these covenants, eaves, steps and open porches shall not be considered as part of a building; provided, however, that the foregoing shall not be construed to permit any portion of a building to encroach upon another Lot.

Any proposed improvements or encroachments into the Building Setbacks as set forth above must first be approved in writing as a variance by the Architectural Control Committee.

Section 8. No Nuisances. No nuisance shall ever be erected, caused or suffered to remain upon any portion of the Properties nor shall an Owner's, resident's or other party's use of the Properties, or any portion thereof, whether same be a Lot, part of the Common Facilities or otherwise, endanger the health or disturb the reasonable enjoyment of any other Owner or resident or visitor of or to the Properties.

Section 9. Signage. No advertising signs or billboards of any kind, shall be placed or permitted to remain on, in or within the Properties. No signs of any kind shall be displayed to the public view on any Lot including, but not limited to, the displaying of any signs which advertise the Lot or improvements for sale or lease, except as expressly permitted by the Architectural Control Committee. Each model home may be advertised by one front yard sign not larger than four feet by eight feet (4' x 8'), which shall have been approved in advance by the Committee as to color and design. The Committee shall establish standardized sign criteria which permits the displaying of one sign per lot uniform in size, color and permitted location on the Lot, which such sign can be used to identify that an Improved Lot is for sale or lease. The Committee specifically reserves the right to establish a separate set of sign standards and criteria for unimproved Lots and to modify both such standards and criteria from time to time. Signs used by Declarant to advertise the Properties during the development, construction and sales period shall be permitted, irrespective of the foregoing, but subject to size, design, and other requirements of the Committee.

In addition to the foregoing, political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs shall not be erected more than 90 days in advance of the election to which they pertain and are removed within 15 days after the election, and that the ACC shall have the right to regulate the size and type of political signs on Lots.

Section 10. Outbuildings. Every outbuilding, inclusive of such structures as a detached garage, storage building, gazebo, spa, greenhouse or children's playhouse, shall be compatible with the dwelling to which it is appurtenant in terms of its design and material composition. All such outbuildings shall be subject to approval of the ACC as to materials, size, placement and screening from greenbelts, common areas, adjacent Lots and streets. In no instance shall an outbuilding exceed one (1) story in height other than a detached garage, nor shall the total floor area of outbuildings other than a detached garage exceed ten percent (10%), individually or in the aggregate, of the floor area of the main dwelling. The Architectural Control Committee shall have the power to waive one or more of the foregoing requirements with respect to outbuildings but shall have no duty to do so and advises all Owners that no such waiver or variance may be presumed, even if granted to another Owner in a similar instance.

Section 11. Temporary Facilities, Construction and Storage of Materials. Notwithstanding the other provisions of this Article VIII, Declarant reserves unto itself and Builder Members authorized by it in writing, the exclusive right to erect, place, and maintain such facilities in or upon any portions of the Properties as it may determine, in its sole discretion, necessary or convenient while selling Lots, selling or constructing residences, and constructing other improvements upon the Properties. In addition, each Owner shall have the right to erect, place, and maintain on his Lot such temporary facilities as may be necessary or convenient for construction of a residence thereon (subject to the provisions of Article VIII, Section 1, above) and each such Owner shall have the responsibility to provide certain temporary facilities as above provided in Article VIII, Section 1. Each Owner engaged in the construction of residences within the Properties for sale shall have the right to erect, place, and maintain temporary facilities for offices, storage, and accumulation of reasonable amounts of construction debris while so engaged in the construction of a residence within the Properties. The size, design, appearance, and location of all such authorized temporary facilities shall still be subject to ACC approval and direction.

During the construction of each residence, each builder shall have on the job site a sanitary, portable toilet, which shall be placed no nearer than thirty-five (35) feet to Oakwell Farms Parkway. These toilets shall be serviced regularly and removed promptly once plumbing in the home becomes operational. Additionally, during construction of each residence, each builder shall maintain on one of his Lots under construction, a metal trash bin of not less than twenty (20) cubic yard capacity, and all refuse or waste material generated from such builder's construction shall be placed therein and picked up for disposal on a regular basis. It shall be the duty of all Owners and their builders to prevent trash from their activities from finding a resting place on the property of others, and any trash for any reason placed, moved, dumped or blown by wind onto neighboring Lots, greenbelts, open areas or streets shall be promptly retrieved and placed in the collection facility herein required.

No building material of any kind shall be placed or stored upon any Lot until the Owner thereof is ready to commence improvements, and then the material shall be placed within the property lines of the Lot upon which the improvements are erected and shall not be placed on the street. No lumber, gravel, bricks, sand, dirt or other material of any nature shall be placed or stored on any street, safety lanes, greenbelts, open areas or adjoining property, nor shall tractors, graders, ditching machines or other machinery be parked or placed on said areas without express written permission from the owner thereof received in advance.

Section 12. Animals. No sheep, goats, horses, cattle, swine, poultry, snakes, livestock, or other animals of any kind shall ever be raised, kept, bred, or harbored on any portion of the Properties, except that dogs, cats, or other common household pets (not to exceed a total of three (3) adult animals [one (1) year old or older]) may be kept, provided that they are not kept, bred, or maintained for any commercial purposes and provided further that such common household pets shall at all times, except when they are confined within the boundaries of a private single-family residence or Lot upon which same is located, be restrained or controlled by a leash, rope, or similar restraint or a basket, cage, or other container.

Section 13. Disposal of Garbage and Refuse. Except as provided in Section 11 of this Article, no trash, rubbish, garbage, manure, putrescible matter or debris of any kind shall be dumped or permitted to accumulate on any portion of the Properties. All rubbish, trash, or garbage shall be kept in sanitary refuse containers with tightly fitting lids, and, except as necessary for purposes of effecting garbage pickup, said containers shall be kept in an area of the Lot adequately screened by planting or fencing.

Section 14. Radio and Television Antennae and Apparatus. No television or radio aerial wires or antennae, or other radio or television apparatus or equipment shall be placed, allowed or maintained on any Lot except with the prior written approval of the ACC, which shall have the authority to disapprove of the installation of same. No satellite disc or dish may be placed on a Lot without being fully screened so as to not be visible from adjacent Lots or any streets or common areas.

Section 15. Solar Panels and Systems. No solar panels, solar roof tiles, or solar heating or electrical system or similar apparatus shall be placed in or upon any Lot without the prior approval of the Committee which shall have the authority to disapprove the installation of same or to limit the installation of same so that no portion thereof is visible from any street.

Section 16. Outside Parking. No boat, trailer, camping unit, or self propelled or towable equipment or machinery of any sort shall be parked for storage on any Lot except in a closed garage, in an area in which such item cannot be viewed from any street, or in an area adequately screened by planting or fencing, nor shall any truck, camper, boat, trailer, equipment, or machinery be parked in front of any residence for a period in excess of twenty-four (24) consecutive hours. The Board of Directors is empowered to establish such additional rules and regulations relating to the parking and storage of vehicles, equipment, and other property, both on Lots and the Common Facilities, as it may from time-to-time deem necessary to ensure the preservation and appearance of the Subdivision as a first class residential neighborhood and such rules and regulations shall, when promulgated, be in all respects binding on and enforceable against all Lot Owners, provided, however, no such additional rules or regulations shall in any manner revoke or relax any of the restrictions in use set forth in this section.

During the construction of improvements on a Lot, necessary construction vehicles may be parked thereon for and during the time of such necessity.

Section 17. Landscaping, Etc. All front yard, back yard, and side yard areas, including landscaped areas, must be graded for positive drainage at a minimum slope of two percent (2.0%). All non-landscaped yards areas must be sodded. Decorative ground cover rock in the front and side yard may not exceed ten (10) percent of the total area of the front and side yard.

Each Lot Owner must comply with the following, as applicable:

Garden Lots 37-71, Block 4:

Shall have a minimum of one (1) oak, cedar-elm, bald cypress, pecan, or mountain laurel, which must be at least three (3) inches in diameter and at least ten (10) feet in height, between the front set back line and the front sidewalk.

Estate Lots 30, 31, 33-35, Block 4:

Shall have a minimum of two (2) oak, cedar-elm, bald cypress, pecan, or mountain laurel, each of which must be at least four (4) inches in diameter and at least ten (10) feet in height, between the front set back line and the front sidewalk.

If the foregoing front yard minimum tree requirement is not met naturally on the Lot, the Owner must plant the same within sixty (60) days of occupancy of the Living Unit.

All landscaping, foundations, statuary, mailboxes, house numbers, sidewalks, driveways, lighting or other improvements on any Lot which are not within view of another Lot, other portions of the Properties, or any street, must be harmonious and in keeping with the overall character and aesthetics of the Properties. To this end, the plans therefor shall be submitted to the Architectural Control Committee for approval, or disapproval, prior to the construction, alteration and/or placement of such items. No railroad ties, exposed aggregate or pebble-finish surfaces, decorative white marble chips, topiary or "poodle" shrubbery, or plastic, vinyl, silk, metal, rubber or painted plaster flowers shall be used on any Lot, including on any house, where visible from another Lot.

Section 18. Intersection Sight Lines. No fence, wall or hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area as formed by the extension of curb lines and a line connecting them at points twenty-five feet (25') from the intersection of the curb lines into the street, or in the case of a rounded property corner, from the intersection of the street line extended. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 19. No Oil Development. No oil or natural gas drilling, oil or natural gas development or oil refining or quarrying, or mining operations of any kind shall be permitted upon any portion of the Properties, nor shall oil, natural gas, or water wells, tanks, tunnels, mineral excavations or shafts be permitted upon, in or within any portion of the Properties. No derricks or other structures for use in the boring or drilling for oil, natural gas, minerals or water shall be erected, maintained or permitted upon, in or within any portion of the Properties.

Section 20. No Cesspools. No privy, cesspool, or septic tank shall be placed or maintained upon any portion of the Properties.

Section 21. Lot Consolidation. Any Owner owning two or more adjoining Lots or portions of two or more such Lots may, with the prior approval of the Architectural Control Committee, consolidate such Lots or portions thereof into a single building site for the purpose of constructing one residence and such other improvements as are permitted herein, provided, however, that no such building site shall contain less than four thousand (4,000) square feet of land and that the building site resulting from such consolidation shall meet all lawful requirements of any applicable statute, ordinance or regulation. Provided, however, that the Lot resulting from such consolidation shall bear, and the Owner thereof shall be responsible for, all assessments theretofore applicable to the Lots which are consolidated.

Section 22. Maintenance of Yards, Etc. The Owners of all Lots shall at all times keep weeds, grass, shrubbery and trees thereon cut in a sanitary, healthful, and attractive manner; provided, however, that no tree measuring four inches (4") or more in diameter, measured twelve inches (12") above the ground, or, for multi-trunk trees, a total of six inches (6") in diameter, measured twelve inches (12") above the ground, shall be removed or cut without the written approval of the Architectural Control Committee. Lot Owners shall also be required to provide and allow safe and adequate drainage within their Lot including, but not limited to, with respect to building, maintaining or constructing fences, walks, landscaping, or any other obstruction which may divert, impede, or cause to back up run-off water coming not only from their respective Lot but also from other Lots.

New residential lawns shall be seeded, sodded, sprigged, or otherwise treated within thirty (30) days after occupancy. Lot owners or occupants shall also be required to provide and allow safe and adequate drainage within their lot. This includes the building or construction of any fence, walk, landscaping material, or other construction which may divert, impede, or cause to back up run-off water coming not only from their respective lot but from other lots.

Until a home or residence is built on a Lot, Declarant may, at its option, have the grass, weeds and vegetation cut when and as often as the same is necessary in its judgment, and have dead trees, shrubs and plants removed therefrom. Declarant may also, at its option, remove any excess building materials or building refuse situated on a Lot in violation of this covenant. The

Owner of any Lot shall be obligated to reimburse Declarant for the cost of such maintenance or removal upon demand.

All Owners are advised to secure from the Texas Forest Service, local county agent, Texas Extension Forester at Texas A&M University, or elsewhere, information on oak wilt and other diseases which may affect their trees and may spread to trees on other Lots. Each Owner is responsible for taking such action as may be necessary on his property to ensure that oak wilt and other diseases are not spread to the trees of other Owners. Because there is no known cure for oak wilt and oak wilt almost always will spread from a diseased tree to its neighboring oaks, at a minimum, each Owner should:

- A. Destroy all infected oaks.
- B. Avoid unneeded pruning of trees, especially during the period February 1 - June 1, and immediately apply dressing to all wounds on oaks.
- C. Where oak wilt is detected, trench three feet deep in advance of infection front (100 feet is recommended) to stop the spread through connecting roots.
- D. Avoid infected oak firewood. As a precaution, do not keep any oak firewood for more than one heating season and cut firewood only in the summer.
- E. Use fungicide propiconazole to treat uninfected oaks when you become aware of oak wilt nearby.

The foregoing information regarding oak wilt is provided to alert Owners and neither Declarant or the Association shall be liable to any Owner in connection with the existence or spread of oak wilt on any Lot.

Section 23. Yards and Concrete. No more than ten percent (10%) in area of the front yard area of any Lot, excluding driveways and sidewalks, may be covered by rock or material other than dirt or vegetation except for such driveways and sidewalks as have been approved by the Architectural Control Committee. The "front yard area" shall be defined as that area of a Lot situated between the front Lot line and a line extending from the front of a residence to the side Lot lines. All sidewalks and all driveway approaches shall be broom finished concrete and not a pebble finish. All driveways shall be broom finished concrete unless otherwise approved by the Architectural Control Committee but shall not be a pebble finish. All the concrete surfaces shall be of a finish approved by the Architectural Control Committee.

Section 24. Fences. No fence or wall shall be built or maintained forward of the front wall line, nor any hedge planted or maintained forward of the front wall line, of the main structure, not including decorative walls or fences which are part of the architectural design of the main structure, and which are not to be built or maintained nearer than the building setback line of any Lot unless otherwise approved in writing by the Architectural Control Committee.

Each builder and contractor for construction of a residence within the Subdivision is required to construct the following, prior to completion or conveyance of such residence:

- A. Rear Fences on Lots 30 and 31 and 50-58, Block 4: A one inch (1") by four inch (4"), six foot (6') tall cedar privacy fence with a top rail which is double sided (smooth finish on both sides of fence);
- B. Rear Fences on Lots 58-68, Block 4: A one inch (1") by four inch (4"), six foot (6') tall cedar privacy fence is required for the rear Lot lines of all of these Lots (and on Lot 58 such requirement shall also apply to that portion of the rear Lot line which abounds the unplatted greenbelt to the west and southwest of the Subdivision);
- C. Rear Fence on Lot 45, Block 4: A one inch (1") by four inch (4"), six foot (6') tall cedar privacy fence with the smooth side facing away from the interior of the Lot is required;
- D. Rear Fences on all other Lots: A one inch (1") by four inch (4"), six foot (6') tall cedar privacy fence is required for the rear Lot lines of all other Lots with the exception of Lots 69 - 71 which have a masonry, project fence along their rear Lot lines;
- E. Side yard fences: A one inch (1") by four inch (4"), six foot (6') tall cedar privacy fence is required for the side Lot lines of all Lots; and
- F. Fences and gates separating front yards from back yards: These fences are required on all Lots, shall not be built forward of the front line of the residence, and will be one inch (1") by four inch (4"), six foot (6') tall cedar privacy fence with the smooth side facing the front street. All gates will be wrought iron, of a dark green color approved by the ACC, and shall be designed in accordance with Exhibit "B" attached hereto.

G. Rear Fences on Lots 68 and 69, Block 4: A one inch (1") by four inch (4"), six foot (6') tall cedar privacy fence with a top rail is required along the rear line (37.00 feet) of Lot 69, Block 4 and along the rear line (101.74 feet) of lot 68, Block 4, smooth side facing away from the lot.

Side yard fences shall screen all garbage receptacles, HVAC equipment, storage bins, etc., from view from each adjacent street and greenbelt.

Notwithstanding the foregoing, the Architectural Control Committee is empowered to waive the aforesaid composition requirements for fences and the aforesaid height or setback limitation in connection with retaining walls and decorative walls if, in its sole discretion, such waiver is advisable in order to accommodate a unique, attractive or advanced building concept, design or material, and the resulting fence, decorative wall and/or retaining wall (whichever is applicable) will not detract from the general appearance of the neighborhood. Unless otherwise specified herein or permitted by variance, all fences must be six feet (6') in height. Chain link fences will only be allowed inside back yards, where they are not visible above the six foot privacy perimeter fence or from an adjoining street or greenbelt.

The Association shall at all times maintain the masonry wall constructed along Oakwell Farms Parkway and the landscaping between such wall and Oakwell Farms Parkway.

No gates or other openings shall be permitted along a fence or wall along any Lot that directly abuts or adjoins unplatted property, greenbelts or Common Areas unless specifically approved in writing in advance by the ACC.

Section 25. Roof Pitch. All roofs shall have a slope of 3:12 or greater, except for patio covers or other conditions which may be approved by the Architectural Control Committee. Unless otherwise approved in writing by the Architectural Control Committee, roof overhangs shall be measured perpendicular to the outside face of the exterior stud wall and shall be as follows:

- (1) Roofs with a pitch equal to or less than 9:12 shall have a two foot (2') minimum overhang.
- (2) Roofs with a pitch greater than 9:12 shall have an eighteen inch (18") minimum overhang.

Section 26. Roofing. Unless otherwise approved by the ACC, all roofing shall be as follows:

Garden Lots 37-71, Block 4:

Standing seam left natural. Only one type of roof material and seam may be used on any structure.

The Sub-Roof shall be constructed with a minimum of seven-sixteens inch (7/16") OSB with a normal felt and rosin paper underlayments below the roof.

Estate Lots 30, 31, 33-35, Block 4:

All roof materials and seams shall be (i) metal, left natural or painted a color approved by the Architectural Control Committee, using standing or battened seams, or (ii) ceramic or concrete tile of a color approved by the ACC. Only one type of roof material and seam may be used on any structure. Barrel-style tile is not permitted.

The Sub-Roof shall be constructed with a minimum of one-half inch (1/2") plywood sheets with a normal felt and rosin paper underlayments below the roof.

Section 27. Roof Forms and Gutters. All roof forms must be approved by the Architectural Control Committee. Gutters and downspouts must be provided on roofs which drain water onto the yard of an adjacent lot or any improvements located thereon.

Section 28. Insulation. All ceilings, except garages, shall have no less than R-19 rated batt insulation or comparably rated insulation material. All exterior walls, except garages, shall be no less than R-11 batt insulation or comparably rated insulation.

Section 29. Paint and Stain. All exterior colors shall be light, natural-weathered wood hue or earth tone and shall be harmonious with the masonry color of the living unit.

Section 30. Exterior Lighting. Exterior light fixtures shall be provided at the front door of each residence; provided, however, that no light fixture or lantern of any type shall be placed in the front yard, or in the back yard if same is visible from any other portion of the Properties or any streets, of any Lot until same has been approved by the Committee.

Section 31. Drainage and Grading Plan. Easements for drainage throughout the subdivision are reserved as shown on the Subdivision Plat, such easements being depicted thereon as "drainage easements". No Owner of any Lot in the subdivision may perform or cause to be performed any act which would alter or change the course of such drainage easements in a manner that would divert, increase, accelerate or impede the natural flow of water over and across such easements. More specifically and without limitation, no Owner or resident of a Living Unit may:

(1) alter, change or modify the existing natural vegetation of the drainage easements in a manner that changes the character of the original environment of such easements;

(2) alter, change or modify the existing configuration of the drainage easements, or fill, excavate or terrace such easements, or remove trees or other vegetation therefrom without the prior written approval of the ACC and the City of San Antonio's City Engineer;

(3) construct, erect or install a fence or other structure of any type or nature within or upon such drainage easements;

(4) permit storage, either temporary or permanent, of any type upon or within such drainage easements; or

(5) place, store or permit to accumulate trash, garbage, leaves, limbs or other debris within or upon the drainage easements, either on a temporary or permanent basis.

A copy of the grading plan for the Properties is attached hereto as Exhibit "A". The original grading plan is maintained by Declarant at its offices. By acceptance of a deed to any Lot, each Owner covenants and agrees to ensure such Lot is graded and maintained in accordance with the grading plan and that the drainage of such Lot is maintained in accordance with the grading plan.

The failure of any Owner to comply with the provisions of this Article shall in no event be deemed or construed to impose liability of any nature on the ACC and/or Declarant, and such Committee and/or Declarant shall not be charged with any affirmative duty to police, control or enforce such provisions. The drainage easements and grading plan provided for in this Article shall in no way affect any other recorded easement in the subdivision.

ARTICLE IX

GOVERNMENTAL REQUIREMENTS

Section 1. Owner's Acknowledgment. Each Owner is responsible for ascertaining all governmental rules and regulations pertaining to the use of their Lots, especially during the construction period, and ensuring their compliance and the compliance of all contractors and subcontractors working thereon.

Section 2. Additional Obligations of Owners (inclusive of Builders and Contractors). By acceptance of a deed to a Lot from Declarant, or by initiating construction of a Living Unit or any other improvements on a Lot, each Owner (inclusive of a Builder Member or any other builders or contractors) assumes the full and complete duty, obligation and responsibility of causing compliance with all applicable certifications, permitting, reporting, construction, rulings, determinations and procedures required under all applicable governmental rules, regulations, and permits governing the improvement of the Lot, including, but not limited to those promulgated or issued by the Environmental Protection Agency and related to Storm Water Discharges from Construction Sites (see Federal Register, Volume 57, No. 175, Pages 41176 et seq.), and those promulgated or issued by the Texas Natural Resources Conservation Commission (TNRCC), related to each Lot, including, without limitation, the provisions of chapters 325 and 331, Texas Administrative Code, and any specific rulings made pursuant to the terms thereof. The foregoing references are made for the sole purpose of expressly advising and disclosing to each Owner (inclusive of all builders and contractors) the need to follow such directives and do not in any way diminish or limit the requirements of this covenant that all Owners (inclusive of all builders and contractors) comply with all governmental regulations and any plan resulting from or required by such regulations (such as a Storm Water Pollution Plan) directly affecting each Lot. Each Owner (inclusive of all builder and contractors), by acceptance of a deed from Declarant to a Lot or by undertaking any improvements to a Lot, shall be deemed to have agreed to hold Declarant harmless and indemnify Declarant from and against

any and all cost, loss, or damage occasioned by the failure by such Owner (inclusive of all builders and contractors) to abide by any applicable governmental statute, rule, regulation or permit related to the Lot.

Section 3. Remedies of Declarant and the Association. By acceptance of a deed to a Lot, each Builder Member and Owner agrees that Declarant and the Association shall have the right to enter upon any Lot on which one or more conditions or activities prohibited by appropriate governmental authority is maintained, or on which there has been a failure to perform any act required by appropriate governmental authority, for the purpose of curing any such violation, provided that the Owner or Builder Member has been given five days prior written notice and has failed to remedy the complained of violation within such time, and each such Owner and Builder Member indemnifies and holds harmless Declarant and the Association from all cost and expense of such curative action and any cost or expense of penalty or fine levied by any governmental authority as a result of the act or failure to act of the Owner or Builder Member with respect to his Lot or the Properties. The foregoing remedy shall be cumulative of all other remedies for violations of provisions of these covenants.

EXECUTED EFFECTIVE the 29th day of April, 1998.

OAKWELL UNIT - 6H, LTD.

By Bitterblue, Inc., General Partner

By: Lloyd A. Denton, Jr., President

STATE OF TEXAS

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COUNTY OF BEXAR §

This instrument was acknowledged before me on the 29th day of April, 1998, by Lloyd A. Denton, Jr., President of Bitterblue, Inc., a Texas corporation, General Partner of OAKWELL UNIT - 6H, LTD., a Texas limited partnership, on behalf of said corporation and partnership.



Sarah E. Carrington
Notary Public, State of Texas

TOBIN'S CONSENT

The undersigned, ROBERT BATTS TOBIN, individually, and J. BRUCE BUGG, JR., LEROY G. DENMAN, JR., and CHASE BANK OF TEXAS, N. A., CO-TRUSTEES FOR ROBERT BATTS TOBIN TRUST ("Grantor"), for and in consideration of the sum of TEN AND NO/100---(\$10.00)--- ("Tobin"), being the assignees and successors in interest to THE FROST NATIONAL BANK OF SAN ANTONIO, Trustee for the Margaret Batts Tobin Trust, MARGARET BATTS TOBIN, ARNOLD SWARTZ and MBANK ALAMO, N.A. (successor to San Antonio Bank & Trust), Trustees for Robert Batts Tobin Trust, and ROBERT BATTS TOBIN, at the specific request of the Declarant above named, hereby consent to and join in this Declaration for the limited purposes herein stated as prescribed by any and all instruments filed of record in the Real Property Records of Bexar County, Texas.

The Undersigned hereby join in the execution of this instrument for the sole purpose of evidencing their consent to the filing of the foregoing Declaration of Restrictive Covenants and Conditions for Oakwell Farms Unit 9B - PHASE II, Planned Unit Development ("the Declaration") and their consent that the Declaration supersede and replace all prior filed restrictive covenants as to the above described property and Lots. Any Owner who accepts title to any Lot subject to this Declaration specifically acknowledges that the Undersigned are not parties to this Declaration except for the sole purpose of providing their consent as herein stated and each Owner who accepts title to any of the Lots hereby specifically and unconditionally releases and discharges the undersigned from any claims or liability with respect to, or arising out of, this instrument.