

DECLARATION OF  
COVENANTS, CONDITIONS & RESTRICTIONS  
FOR OAK CREST ESTATES

THIS DECLARATION is made on the date hereinafter set forth by DEANCO, INC., a Texas corporation, having its principal place of business in Pinehurst, Montgomery County, Texas, hereinafter referred to as "Developer".

W I T N E S S E T H :

WHEREAS, Developer is the owner of the real property described in Article I, Section 1.0. hereof.

NOW, THEREFORE, Developer hereby adopts, establishes and imposes upon the real property described in Article I, Section 1.0. the following reservations, easements, restrictions, covenants and conditions and declares same applicable thereto, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the land, which reservations, easements, covenants, restrictions and conditions shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

GENERAL

Section 1. Definition. The following words, when used in this Declaration, unless the context shall prohibit, shall have the following meanings:

- a. "Association" shall mean and refer to the Oak Crest Estates Property Owners' Association, its successors and assigns, provided for in Article II hereof.
- b. "Board" shall mean and refer to the Board of Directors of the Association.

- c. "Committee" shall mean and refer to the Architectural Control Committee established in accordance with Article IV. Section 1. hereof.
- d. "Common Properties" shall mean and refer to all those areas of land, if any, within The Properties as shown on the Subdivision Plat, together with such other lands, properties or facilities, including all Improvements thereon, as the Association may at any time, or from time to time, acquire by purchase or otherwise, subject, however, to the easements, limitations, restrictions, dedications, and reservation applicable thereto by virtue hereof and/or by virtue of the Subdivision Plat, and/or by virtue of prior grants or dedications by Declarant. References herein to the "Common Properties" (any Common Property) in the Subdivision shall mean and refer to the Common Properties as defined respectively in the Declaration and all Supplemental Declarations.
- e. "Conversion Date" shall mean and refer to that date selected by Declarant, at its discretion, after 60% of all Lots covered by this Declaration are sold to third parties; or such earlier date as may be established by Declarant in a Supplemental Declaration to be recorded by Declarant.
- f. "Declarant" shall mean and refer to Developer and its successors and assigns and shall include any person or entity to which Declarant may assign its rights and privileges, duties, and obligations hereunder, which are and shall be assignable.
- g. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Oak Crest Estates.
- h. "Lot" and/or "Lots" shall mean and refer to each of the lots shown on the Subdivision Plat. References herein to "the Lots" (each Lot) in the Subdivision shall mean and refer to Lots as defined respectively in the Declaration and all Supplemental Declarations. "Lot" shall also refer to any lot created by consolidation or subdivision when the consolidation or subdivision was done by Developer or was approved by Developer or the Committee in accordance with this Declaration.
- i. "Member" and/or "Members" shall mean and refer to every person or entity who holds membership in the Association, as set forth in Article II hereof, together with all the Owners in the Subdivision who are Members of the Association as provided for in all Supplemental Declarations.
- j. "Owner" shall mean and refer to the holder of record title to the fee interest to any Lot whether or not such

- holder actually resides on any part of The Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- k. "Special Assessments" shall mean and refer to those assessments made by the Association from time to time as provided under Section 4 of Article III hereof.
  - l. "Subdivision" shall mean Oak Crest Estates and all subsequent sections of the Oak Crest Estates Subdivision brought within the scheme of the Declaration and any additional properties which may hereinafter be brought within the scheme of the Declaration pursuant to the provisions set forth herein.
  - m. "Subdivision Plat" shall mean and refer to the map or plat of Oak Crest Estates, recorded in Cabinet G1, Sheet 50A, of the Plat Records of Montgomery County, Texas, and any subsequently recorded replat thereof.
  - n. "Supplemental Declaration" shall mean and refer to any Supplemental Declaration of Covenants, Conditions and Restrictions bringing additional property within the scheme of the Declaration under the authority provided herein and as contemplated in the Declaration. References herein (whether specific or general) to the provisions set forth in "any (all) Supplemental Declaration(s)" shall be deemed to relate to the respective properties covered by such Supplemental Declarations.
  - o. "The Properties" shall mean and refer to the real property constituting Oak Crest Estates, being 57.03517 acres in Montgomery County, Texas, according to the Subdivision Plat.

## ARTICLE II

### THE ASSOCIATION

Section 1. Organization. The Declarant shall cause the Association to be organized and formed as a non-profit corporation under the laws of the State of Texas.

Section 2. Purpose. The purpose of the Association in general is to provide for and promote the health, safety, and welfare of the Members, to collect, and administer, the annual maintenance assessments, to provide for the maintenance, repair, preservation, upkeep, and protection of the Common Properties in the Subdivision and such other purposes as are stated in the Articles of Incorporation consistent with the provisions of the Declaration and all Supplemental Declarations.

Section 3. Membership. Each and every person, persons, or legal entity who shall own any Lot in the Subdivision shall

automatically be a Member of the Association, PROVIDED that any person or entity who holds such an interest merely as security for the performance of any obligation shall not be a Member.

Section 4. Classes of Voting Members. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all those Members described in Section 1 hereof with the exception of Declarant. Class A Members shall be entitled to one vote for each Lot in which they hold the ownership interest required for membership by the Declaration or any Supplemental Declaration. 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.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to ten (10) votes for each Lot in which it holds the interest required for membership by the Declaration or any Supplemental Declaration; provided, that after the Conversion Date, the Class B or membership shall cease and become converted to Class A membership. Thereafter, the Class B Member shall be deemed to be a Class "A" Member entitled to one (1) vote for each Lot in which it holds the interest required for membership by the Declaration or any Supplemental Declaration.

### ARTICLE III

#### ASSESSMENTS

Section 1. Covenants for Assessments. The Declarant for each Lot owned by it within The Properties, hereby covenants and for each purchaser of any such 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 to pay to the Association: (1) annual assessments or charge (as specified in Section 3 hereof), and (2) special assessments for capital improvements (as specified in Section 4 hereof), all of such assessments to be fixed, established and collected from time to time as hereinafter provided. Notwithstanding anything contained herein to the contrary, Declarant shall not pay any assessments for the years 1994 and 1995.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the comfort, health, safety, and welfare of the Owners of The Subdivision, or any part thereof, and for carrying out the purposes of the Association as stated in its Articles of Incorporation. The uses and benefits to be provided by the Association shall include, but not be limited to, at its sole option, any and all of the following: maintaining rights-of-way, easements and esplanades; furnishing and maintaining landscaping, lighting and

beautification of The Subdivision; maintaining and replacing fencing and electronic gate system; payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges, assessments, covenants, restrictions and conditions affecting The Subdivision to which the maintenance assessment applies, payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment; employing a security patrol; and doing such other things and taking such other actions as are necessary or desirable in the opinion of the Association to keep The Subdivision neat and in good order, or which is considered of general benefit to the owners or occupants of the Lots, it being understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

Section 3. Maximum Annual Assessment. Each Lot Owner shall pay to the Association an annual assessment of five hundred dollars (\$500.00) payable annually, in advance, on the 1st day of January of each year during the term hereof. Forty percent (40%) of all annual assessments collected shall be held in a sinking fund and used solely for the maintenance of the roads in the Subdivision. In the event of any conveyance or transfer of any Lot, the proration of any prepaid assessment shall be the responsibility of the transferor and transferee, and under no circumstances shall the Association be liable for the refund of any assessment. The annual assessment may be increased from time to time by the Board of the Association in an annual amount as follows: The maximum annual assessment for fiscal years 1995 through 1997, both inclusive, may be increased by 10% over the maximum annual assessment imposed for the immediately preceding fiscal year by action of the Board, without approval of the Members. The maximum annual assessment for fiscal year 1998 and subsequent years may be increased over the maximum annual assessment imposed for the immediately preceding year by action of the Board, without approval of the Members, by an amount up to, but not more than, that percent of the annual assessment for the immediately preceding year which is equal to the percent of increase, if any, in the "Annual Average" of the Consumer Price Index - All Items, 1967 equals 100, as determined by the U. S. Department of Labor, Bureau of Labor Statistics during the immediately preceding year. If the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the Consumer Price Index - All Items, 1967 equals 100, the Board shall select such other indexes which in its judgment reflects the then broad range of economic factors represented in said Consumer Price Index - All Items, 1967 equals 100. The Board may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount. Any Lots which are permitted to be consolidated pursuant to the terms of Section 5 of Article V. hereof, shall be deemed to be one Lot effective as of January 1 of the year following the year in which such Lots are consolidated, for purposes of determining the annual assessment with respect to such consolidated Lot.

Section 4. Special Assessments. In addition to the annual assessments authorized by Section 3 hereof, the Association may, by vote of its Members as set out in Section 5 hereof, levy in any assessment year or years a special assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described improvement including the necessary fixtures and personal property related thereto, and/or the cost of installation, maintenance and operation of a roadway lighting system, electronic gate system, control building or fencing as provided under Section 7 of Article V. hereof, and/or for carrying out other purposes of the Association as stated in its Articles of Incorporation.

Section 5. Vote Required for Special Assessment. Special Assessments authorized by Section 4 hereof must be approved by a majority of the total eligible votes of the membership of the Association as defined in Article II hereof, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 6. Commencement Date of Annual Assessment. The first annual assessment provided for herein shall commence with the year 1994 and shall continue thereafter from year to year.

Section 7. Due Date of Assessments. The first annual assessment shall become due and payable on January 1, 1994, and shall be considered delinquent if not paid by January 31, 1994. The assessments for any year after 1994 shall become due and payable on January 1 of such year and shall be considered delinquent if not paid by January 31 of such year. The due date and delinquent date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment. Special assessments may be assessed annually, quarterly, monthly or at other times as fixed in the resolution authorizing such assessment.

Section 8. Owner's Personal Obligation for Payment of Assessments. The annual and special assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such assessments. No Owner may exempt himself from liability for such assessments. In the event of default in the payment of any such assessment, the Owner of the Lot shall be obligated to pay interest at the rate of eighteen percent (18%) per annum on the amount of the assessment from the due date thereof, together with all costs and expenses of collection, including attorneys' fees.

Section 9. Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but unpaid shall, together with interest as provided in Section 8 hereof and the cost of collection, including attorney's fees as herein provided, thereupon become a continuing lien and charge on the Lot covered by such assessment, which shall bind such Lot in the hands of the Owner, and his heirs, devisees, personal representatives and