

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR

Brushwood Crossing

WITNESSETH

WHEREAS Apostolo & Associates Inc., its successors and/or assigns, is the fee simple owner of certain real property located in Grimes County, Texas, which is described on map recorded in Map Book _____ at Page _____ in the Grimes County Public Registry, and desires to establish a community consisting of residential dwellings to be known as Brushwood Crossing, Lots 1 thru 63, and further desires that said property be used, developed, maintained and managed for the benefit and welfare of Owners of property in Brushwood Crossing; and

WHEREAS Declarant desires to ensure the attractiveness of Brushwood Crossing and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within Brushwood Crossing. To this end, Declarant desires to subject the real property described herein, together with such additions as may hereinafter be made thereto, to the covenants, conditions, restrictions, and easements hereinafter set forth, each and all of which is and are for the benefit of said property and each future Owner thereof.

NOW, THEREFORE, in consideration of the premises, the Declarant hereby declares that all of the property shown on said Map described herein be made subject to this Declaration of Covenants, Conditions and Restrictions is and shall be held, transferred, sold, conveyed, occupied and used subject to the restrictions and matters hereinafter set forth, the Declaration and matters to be construed as covenants running with the land which shall be binding on all parties having or acquiring any right, title or interest in the described property, or any part thereof, and which shall inure to the benefit of each Owner thereof, for and during the time hereinafter specified.

ARTICLE 1
DEFINITIONS

1.01 "Common Area" may include (a) one or more signs identifying Brushwood Crossing, and columns, retaining walls or fences at entrance locations (b) the subdivision entrance area(s), and (c) any other land, improvement, facility, or amenity which Declarant may construct on the property subject to these restrictions and designated as Common Area on the Map as defined herein.

1.02 "Declarant" means Apostolo & Associates Inc., a Texas corporation, or any successor and/or assigns to whom Apostolo & Associates Inc. assigns its interest as Declarant hereunder in whole or in part by instrument recorded in the official records of the County, or any mortgagee of Declarant which takes control of the Property by foreclosure or trustee's deed.

1.03 "Declaration of Covenants, Conditions and Restrictions" means this Declaration and all amendments or supplements hereto.

1.04 "Lot" means any numbered Tract, lot, or plot of land, together with any improvements thereon, as shown on the Map which is not a dedicated street or Common Area.

1.05 "Map" means the map of Brushwood Crossing recorded in Map Book ___ at Page ___ in the Grimes County Public Registry, and any re-recordings thereof.

1.06 "Mobile or Manufactured Home" means any dwelling unit that: (i) is designed for use as a dwelling with or without a permanent foundation; (ii) is built in accordance with the standards set forth in the HUD Code; and (iii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis.

1.07 "Modular Home" means any dwelling unit constructed in accordance with the standards set forth in the Texas State Building Code for 1 and 2 family dwellings and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly, whether on its own chassis or otherwise. The use of roof trusses or floor trusses on an otherwise conventionally constructed dwelling will not render such dwelling a modular home.

1.08 "Owner" means the record owner, whether one or more persons or entities of a fee simple title to any Lot and shall include Declarant as to any Lot owned by Declarant. "Owner" shall not include any person or entity holding an interest in a Lot merely as security for the performance of an obligation or as a tenant.

1.09 "Person" means an individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

1.10 "Property/Project" means the property shown on the Map exclusive of the public rights of way shown on the Map, which Property includes the Lots and the Common Area.

1.11 "Public Roads" means all roads and cul-de-sacs in the Property and shown on the Map, all to be maintained by the Declarant until accepted for dedication and public maintenance by the State of Texas or other governmental entity.

1.12 "Restrictions" means this Declaration and all amendments or supplements hereto.

1.13 "Structure" means (a) any thing or object the placement or construction of which upon any Lot may affect the appearance of such Lot, including but not limited to, any building, garage, porch, shed, gazebo, patio cover, pool, statuary, fence, paving, driveway, wall, all forms of landscaping, signs, temporary or permanent living quarters and tents, antennae and satellite dishes; (b) any excavation, grading, fill, ditch, berm, or other thing or device which affects or alters the flow of surface waters from, upon or across any Lot as originally graded by Declarant, or which affects or alters the flow of any water in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot.

1.14 "Tract" means any numbered Lot, tract, or plot of land, together with any improvements thereon, as shown on the Map which is not a dedicated street or Common Area.

ARTICLE 2 RESTRICTIONS AND REQUIREMENTS

2.01 Dwelling Use. No tract shall be occupied or used except for single-family residential purposes. Only one residence is permitted on any tract. No tract shall be used for the purpose of ingress or egress to or through any other property contiguous to Brushwood Crossing except for tracts owned by Declarant.

2.02 Dwelling Size/Garage. Each residential unit constructed or placed upon a lot shall be new and shall contain a minimum of 1,400 square feet of heated, enclosed living area, exclusive of patios, porches, and garages. Each two-story dwelling shall contain a minimum of 1,400 square feet of enclosed, heated living area on the first (main entry level) floor. Single-wide Mobile or Manufactured Homes shall not be permitted.

2.03 Property Setbacks. No building shall be constructed nearer than ten (10) feet to any side property line, or any nearer than twenty-five (25) feet to the front property line nor any nearer than ten (10) feet to the rear property line.

2.04 Structures/Amenities Permitted. No single-wide Modular, Mobile or Manufactured Home, house trailer, camper (including all forms of recreational vehicles) or garage of a contemplated permanent dwelling shall be occupied as a residence either on a permanent or temporary basis. All Structures constructed or placed on any Tract shall be built of substantially new materials and no used Structures shall be placed on any Tract, except a doghouse, swing set or a children's playhouse. No Structure, building, modular or site-built amenity, however permanent or temporary in function, shall be permitted within the rear property setback.

2.05 Exterior Façade. One hundred percent (100%) of the exterior construction material for a residence, excluding roofing materials, doors, and windows (and their trim), eaves, soffits, vents, and posts shall be a fiber composite (Smart Panel or Hardi-Board), brick, stone, or stucco. Shutters, eaves, soffits, vents, and posts may be comprised of vinyl composite materials.

2.06 Auxiliary building. Every auxiliary building shall be constructed onsite, and the architectural design and exterior construction materials shall be the same as the residence. This may include a detached garage, utility building or other structure used for purposes related to the storage of household, vehicular and/or maintenance items.

2.07 Plumbing. All plumbing fixtures, dishwashers, toilets, or sewage disposal systems shall be connected to a septic tank sewage system constructed by the Declarant or Owner and approved by the appropriate governmental authority unless public sewage becomes available to the Tract.

2.08 Fireplaces. Prefabricated fireplaces on an outside wall with chimneys that do not extend beyond the roofline must be located at a hip designated roof. An interior chimney may be veneered with any permitted building material, except metal. Flashing, caps, and similar chimney parts may be metal.

2.09 Roof. Architectural shingles only shall be permitted on the dwelling, screened porches, sunrooms, and similar ancillary rooms and auxiliary buildings.

2.10 Foundation/Underpinning. All dwellings must be secured onto concrete runners or a concrete slab, must have all tires, axles, and tongues (if applicable) removed, and must be concealed from view using the same or similar exterior materials as set forth in Article 2.05 herein.

2.11 Driveway. All driveways must have a concrete or asphalt surface a minimum of fifteen (15') feet long extending from the road into the property and may include brick or stone pavers or decorative stamped concrete. All improvements (fences, landscaping, etc.) constructed in the road right of way (road right of way typically extends beyond rear slope of roadside ditch) must meet applicable governmental standards. No other driveway piping is permitted without an encroachment permit issued by the Texas Department of Transportation.

2.12 Fencing. No walls or fences shall be permitted between the front wall of a dwelling and the street it faces. Streetscapes and retaining walls are permitted. Except as expressly provided herein, all fences

shall be built of stone, masonry, wood, or decorative powder-coated metal and shall be architecturally compatible to the Owner's house. No fence more than 6 feet in height shall be permitted on any lot.

2.13 Mailboxes. All mailboxes shall be uniform in size and color. Each Owner shall be responsible for all costs associated with the purchase and installation of the mailbox and its support.

2.14 Animals. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot except that dogs, cats, or other household pets may be kept, so long as they are not kept, bred, or maintained for any commercial purpose. Household pets kept by an Owner shall not be permitted to run free or to roam at large at any time. All animals or pets, when permitted outside the residence or fenced area, must be under the direct control of the Owner or responsible person through use of a leash or similar restraint.

2.15 Prohibited activities. No noxious, offensive, or illegal activities shall be conducted on any tract, nor shall anything be done on any tract that shall be or become an unreasonable annoyance, inconvenience, or nuisance to the residents of the Property or unreasonably interferes with the quiet enjoyment of occupants of Lots or guests. No Owner shall permit anything to be done or kept on his Lot which would result in the cancellation of insurance on any other residence or any part of the Common Area or which would be in violation of any law. No doorways, walkways or streets shall be obstructed in any manner, which would interfere with their use for ingress or egress in the event of fire, earthquake, or other emergency. No oil or natural gas drilling, refining, quarrying, mining, or timbering operations of any kind shall be permitted upon or in any tract and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted on any tract.

2.16 Laundry. No laundry or wash shall be dried or hung upon the exterior of any Lot or any place visible within the Property from outside such Lot.

2.17 Beautification. Each Owner covenants to preserve and maintain the exterior of all improvements to the real estate together with lawn, trees, and shrubbery care in a good and reasonable manner. No Owner shall permit his or her lot or the improvements thereon to become unsightly. Undeveloped lots are not exempt from this provision. Except in naturally wooded areas, Owners of such Lots shall cut vegetation and grass in a timely manner by usual methods for maintaining the appearance of such lots. All tracts, whether improved or unimproved, shall be kept free of dead trees or limbs, which are a danger to abutting property or roads. Trash, construction debris and rubbish shall be disposed of in such a manner as to prevent the same from becoming unsightly, unsanitary or a hazard to health or safety of other residences.

2.18 Waste Disposal. All rubbish, trash, garbage, or other waste material shall be kept in sanitary containers out of sight. All equipment for the storage or disposal of such materials shall be kept in a clean sanitary condition. No Lot or portion thereof shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste materials except that composting is permitted with appropriate sanitary and aesthetic measures maintained. Yard incinerators for the disposal or burning of trash or yard waste are not permitted.

2.19 Sewage Disposal. All sewage disposal and gray water systems shall be connected to fully approved individual septic systems.

2.20 Media/Communication devices. No satellite reception disk or device larger than 24" in diameter shall be permitted. Conforming satellite reception disks or devices shall be located on the rear side of the roof or in the rear or side yards. Antennas for amateur radios or other uses are prohibited.

2.21 Swimming pools. All swimming pools shall be screened from view by adjoining tracts and the streets by means of landscaping and/or attractive screening material. It shall be the affirmative obligation of the

Owner as required by law to enclose any swimming pool with fencing and restrict the access thereof with the appropriate gates, locks, and latches.

2.22 Vehicles. No tractor-trailer rigs (as a unit or the individual components thereof), buses or heavy equipment shall be parked or stored on any tract, except in the normal course of making deliveries or providing services to the tract. Any recreational vehicle, boat, trailer, or camper trailer must be stored out of view of the street. No inoperable, stripped, partially wrecked, or junk motor vehicle, or part thereof, shall be permitted to be parked or kept on any street or tract.

2.23 Lot boundaries. No lot may be subdivided by any owner after the Declarant. Declarant may amend or modify any existing plat and thereby relocate the property lines of any tract, which is owned by Declarant.

2.24 Rights of Way. The Declarant reserves for itself, its successors and assigns, for purposes incident to its development of the real property subject to these Restrictions, a sixteen (16') foot strip along the margin of each road right of way for the purpose of constructing, installing, maintaining, repairing, and operating utility systems, mains and facilities, and water drainage.

2.25 Easement for Access. There is reserved an easement for access, ingress, and egress in favor of owners of tracts in Brushwood Crossing and in favor of their invitees, over and across the streets shown on the Plat. Any damage (including tracking mud, pouring concrete or depositing debris) to a street shown on the Plat or to the ditches or shoulders of the street, or to the flow of drainage water along the said street, caused by driveway connections or traffic to and from the property owner's tract, shall be repaired at the expense of the owner connecting such driveway. Each property owner is held fully responsible for the acts of his agents, contractors, and subcontractors.

2.26 Violation of Restrictions. If any person shall violate or attempt to violate any of the covenants herein set forth, it shall be lawful for any other person or persons owning or having an interest in any portion of said subdivision to institute and prosecute any proceeding in law or equity against such person or persons to restrain such violation or to recover damages or other compensation for such violations.

2.27 County Ordinances. Zoning ordinances, restrictions and regulations of Grimes County and its various agencies applicable to the subject property shall be observed. In the event of any conflict between any provision of these restrictions and such ordinances, or regulations, the more restrictive shall apply. The invalidation or unenforceability of any provision of these covenants by judgments or other order of any court shall in no way affect any of the other provisions, and such other provisions and covenants shall remain in full force and effect.

2.28 Development Standards. The purpose of the Development Standards set forth herein is to protect the value of all real property subject to this Declaration and to promote the interest, welfare, and rights of all lot owners. By acceptance of a deed to any Lot, each Owner thereof and his successors and assigns agree to be bound by all provisions of the Declaration, Covenants and Conditions set forth herein.

ARTICLE 3 CONSTRUCTION ACTIVITY

3.01 Construction area upkeep and environmental protections. All construction areas shall be kept in good order and properly maintained so that they do not become unsightly or a nuisance to the neighborhood. All debris shall be placed in dumpsters, which shall be emptied as necessary during

construction to prevent spillage of debris on the ground. Porta-Jons shall be required upon each Lot during any construction activity and shall be located within the building setbacks as set forth herein. Reasonable efforts shall be made to screen locations of construction material storage areas, chemical toilets, dumpsters, and other unsightly items from the line of the roadway. Silt fencing will be required where needed to keep eroded soils contained on a lot. Gravel will be required to be always kept on temporary construction driveways. Construction projects shall minimize disturbance of tree concentrations to the maximum extent reasonable and all development proposals and permit applications shall require an erosion and drainage control plan.

3.02 Non-Liability for Subsurface Soil Conditions. Declarant is not responsible for any sub-surface soil conditions on any Lot.

LIMITATIONS

Nothing herein shall be construed as imposing any restrictions upon any other property owned by Declarant. Declarant while developing adjoining property may, but shall not be obligated to, extend these restrictions to such property by means of a supplemental declaration (which may include modifications applicable to such additional property) or impose such other restrictions or no restrictions as Declarant chooses.

These restrictions, rights, reservations, limitations, covenants, and conditions shall be deemed to be real covenants and shall run with the land and shall be binding upon the owners of all tracts described herein or hereinafter made subject hereto until December 31, 2031, and shall continue for successive periods of ten (10) years thereafter unless amended or terminated as provided below.

These restrictions may at any time and from time to time be modified or amended by Declarant without prior written notification or approval by any Owner of a Tract subject to these restrictions.