

STATE OF SOUTH CAROLINA)
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COUNTY OF ANDERSON)

**GENERAL DECLARATIONS, COVENANTS
 CONDITIONS, RESTRICTIONS AND
 EASEMENTS FOR TUSCANY SUBDIVISION
 PHASES ONE AND TWO**

This General Declaration of Covenants, Conditions, Restrictions and Easements for Tuscanay Subdivision (hereinafter Tuscanay) is made this ____ day of March, 2007, by Tuscanay, LLC (hereinafter referred to as “Declarant”).

WITNESSETH

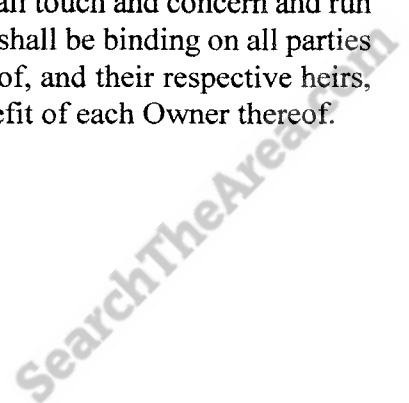
WHEREAS, Declarant is the Owner of certain real property located in Anderson County, South Carolina; and

WHEREAS, Declarant intends to develop the property herein described on EXHIBIT “A” attached hereto and incorporated herein by this reference and submit the same to the provisions of this Declaration (hereinafter the “Property”); and

WHEREAS, the Declarant may add other Lots and phases to the Tuscanay Subdivision and subsequent Lots and phases may be submitted to the provisions of this Declaration and incorporated within the Property upon future amendments of this Declaration by amendment in accordance with the provisions herein; and

WHEREAS, Declarant intends by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all Owners of the Property in Tuscanay Subdivision, and to provide a flexible and reasonable procedure for the development of the Property and the administration, maintenance, preservation, use and enjoyment of the Common Areas within Tuscanay Subdivision;

NOW, THEREFORE, Declarant hereby declares that the Property which is described on EXHIBIT “A” shall be held, transferred, sold, conveyed, leased, occupied and used subject to the following easements, restrictions, covenants, charges, liens and conditions which are for the purpose of protecting the value and desirability of the Property, and which shall touch and concern and run with title to the Property. This Declaration and all provisions hereof shall be binding on all parties having any right, title or interest in the Property or any portion thereof, and their respective heirs, successors, successors in title and assigns, and shall inure to the benefit of each Owner thereof.



ARTICLE 1
IMPOSITION OF COVENANTS AND STATEMENTS OF PURPOSE

“Section 1.01” Imposition of Covenants. Declarant hereby makes, declares and establishes the following covenants, conditions, restrictions and easements (collectively referred to as the “Covenants”) which shall affect the Property. From this day forward, the Property shall be held, sold and conveyed subject to the Covenants. The Covenants shall run with the land and shall be binding upon all persons or entities having any right, title or interest in all or any part of the Property, including Declarant, and their heirs, successors and assigns, and their tenants, employees, guests and invitees, and the Covenants shall inure to the benefit of each Owner of the Property.

“Section 1.02” Statement of Purposes. These Covenants are imposed for the benefit of all Owners of the parcels of land located with the Property. These Covenants create specific rights and privileges which may be shared and enjoyed by all Owners and occupants of any part of the Property.

“Section 1.03” Declarant’s Intent. Declarant desires to ensure the attractiveness of the individual Lots and parcels and Common Areas; to prevent any future impairment of the Property; and to preserve, protect and enhance the values and amenities of the Property.

ARTICLE 2
DEFINITIONS

The following terms as used in this Declaration, are defined as follows:

“Section 2.01”. **Adjoining Land** shall mean and refer to land contiguous with the Property, whether or not owned by Declarant, which is or may be made subject to this Declaration as provided herein.

“Section 2.02”. **Annexation** shall mean and refer to the process by which portions of the Expansion Property or Adjoining Land are made subject to this Declaration as provided herein.

“Section 2.03”. **Architectural Guidelines** shall mean and refer to the guidelines and rules established and supplemented from time to time by the Architectural Review Board (ARB).

“Section 2.04”. **Architectural Review Board (ARB)** shall mean and refer to the Committee formed pursuant to Article 6 below to maintain the quality and architectural harmony of improvements in the Property.

“Section 2.05”. **Articles or Articles of Incorporation** shall mean and refer to the Articles of Incorporation of the Association which will have been filed with the Secretary of State to create the Association.

“Section 2.06”. **Assessments** shall mean and refer to annual, special and default assessments levied pursuant to Article 4 below to meet the estimated cash requirements of the Association.

“Section 2.07”. **Association** shall mean and refer to the Tuscany Homeowners Association, Inc., a non-profit Membership corporation, or any successor of the Association by whatever name, charged with the duties and obligations set forth in this Declaration.

“Section 2.08”. **Board of Directors** shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

“Section 2.09”. **Building** shall mean and refer to a building or buildings constructed on a Lot or tract.

“Section 2.10”. **Building site** shall mean the building envelope or area within a Lot where a building or other improvement shall be located, always subject to prior written approval of the ARB.

“Section 2.11”. **Bylaws** shall mean and refer to the Bylaws of the Association which establish the methods and procedures of its operation.

“Section 2.12”. **Common Area** shall mean and refer to the real property, if any, in which the Association owns an interest for the common use and enjoyment of all of the Members. Such interest may include without limitation, estates in fee and easements.

“Section 2.13”. **Declarant** shall mean and refer to Tuscany, LLC.

“Section 2.14”. **Definition of Annexation** shall mean and refer to a declaration prepared and recorded as provided herein to incorporate the Expansion Property or Adjoining Land within the Property governed by this Declaration.

“Section 2.15”. **Expansion Property** shall mean and refer to such additional real property owned by Declarant or in the future shall be owned by Declarant and which Declarant shall make subject to the provisions of this Declaration, by duly recorded Declarations of Annexation and Amendment.

“Section 2.16”. **Improvements** shall mean and refer to all buildings and structures, parking areas, fences, walls, hedges, plantings, poles, driveways, ponds, lakes, recreational facilities, signs, changes in any exterior color or shape, excavation and all other site work including without limitation, grading, road construction, utility improvements, removal of trees or plantings, and any new exterior construction or exterior improvement which may not be included in the foregoing. “Improvements” does not include turf, shrub or tree repair or replacement of a magnitude which does not change exterior colors or exterior appearance. “Improvements” does include both original improvements and all later changes and improvements.

“Section 2.17”. **Lot** shall mean and refer to a parcel of land designated as a Lot on any plat of Tuscany Subdivision and reserved for any purpose other than recreational facilities.

“Section 2.18”. **Maintenance Fund** shall mean and refer to the fund created by assessments and fees levied pursuant to Article 4 below to provide the Association with the funds required to carry out its duties under this Declaration.

“Section 2.19”. **Member** shall mean and refer to any person or entity holding Membership in the Association.

“Section 2.20”. **Mortgage** shall mean and refer to any Mortgage, Deed of Trust, or other document pledging any portion of the Property or interest therein as security for the payment of a debt or obligation. “First Mortgage” shall mean and refer to any Mortgage which is not subject to any prior lien or encumbrance except liens for taxes or other liens which are given by Statute.

“Section 2.21”. **Owner** shall mean and refer to the Record Owner, whether one or more persons or entities, of fee simple title to any Lot, but shall not mean or refer to any person or entity who holds such interest merely as security for the performance of a debt or other obligation, including a Mortgagee, unless and until such person or entity has acquired fee simple title pursuant to foreclosure or other proceeding.

“Section 2.22”. **Plat** shall mean and refer to any plat (or as-built survey) depicting the Property filed in the Register of Deeds Office for Anderson County, South Carolina, as such Plat may be amended from time to time.

“Section 2.23”. **Property** shall mean and refer to the Property initially subject to this Declaration and any additional Real Property from time to time subject to these Covenants pursuant to the provisions of this Declaration.

“Section 2.24”. **Recreational Facilities** shall mean and refer to the recreational facilities or amenities owned by Declarant and located within the Property from time to time.

“Section 2.25”. **Tuscany** shall mean and refer to the planned community created by this Declaration, consisting of the property and of all improvements located on the property.

“Section 2.26”. **Tuscany Documents** shall mean and refer to the basic documents creating and governing Tuscany including but not limited to this Declaration, the Articles of Incorporation and Bylaws of the Association, the Architectural Guidelines and any Procedures, Rules, Regulations or Policies adopted under such documents by the Association or the Architectural Review Board (ARB).

“Section 2.27”. **Tuscany Rules** shall mean and refer to the rules adopted by the Association as provided in Section 3.06 below.

“Section 2.28”. **Supplemental Covenants** shall mean and refer to additional or further Restrictive Covenants imposed upon a portion or portions of the Property from time to time.

“Section 2.29”. **Tract** shall mean and refer to a parcel of land designated as a tract and on a Plat of Tuscany subdivision.

“Section 2.30”. **Voting Unit** shall mean and refer to any one of the interests in the Property designated in Section 3.04 below to which a right to vote in Association matters is allocated.

“Section 2.31”. **Project** shall mean any Phase of the Tuscany subdivision as shown on any Plat of Tuscany subdivision whether it be as originally drawn or as added and annexed.

ARTICLE 3 THE ASSOCIATION

“Section 3.01” Dedication of Common Area. Declarant may hereafter convey to the Association certain parts of the property as Common Area intended for common use by the Owners in Tuscany. Such designated areas shall, upon conveyance, be dedicated to the common use and enjoyment of Owners, and their families, guests, tenants, employees, and invitees.

“Section 3.02” Association’s Responsibility for Common Area. Subject to the rights of the Owners set forth in this Declaration, the Association shall be responsible for the management and control of the Common Area dedicated under Section 3.01 above and all improvements in the Common Area (including equipment related thereto), and shall keep it in good, clean and attractive condition and repair consistent with the requirements of a first class residential and recreational community, pursuant to the terms and conditions of this Declaration.

“Section 3.03” Membership. Every Owner, by virtue of being an Owner and for as long as he is an Owner, shall be a Member of the Association. Membership shall be appurtenant to and may not be separate from Ownership of any Lot. No Owner, whether one or more persons, shall have more than one Membership per Lot owned, but all of the persons owning each Lot shall be entitled to rights of Membership and of use and enjoyment appurtenant to such Ownership. The Articles of Incorporation and Bylaws of the Association may set forth additional classifications of Membership, which Members may or may not be Owners.

“Section 3.04” Classes of Membership and Voting Rights.

“Section 3.04.1.” Class A Membership. Each Lot Owner, other than the Declarant shall be a Class A Member. Each Member shall be entitled to one vote for each Lot, according to the plat. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as the Owners among themselves determine, and the Secretary of the Association shall be notified of such designation prior to any meeting. In the absence of such notification,

the vote allocated to the Lot shall be suspended in the event more than one person or entity seeks to exercise the right to vote.

“Section 3.04.2.” Class B Membership. The Declarant shall be the Class B Member. The Class B Member shall be entitled to 25 votes for each Lot it owns. The Class B Membership shall cease and be converted to Class A Membership upon the happening of the following events, whichever occurs first:

- a. The date at which the total votes outstanding in the Class A Membership equals the total votes outstanding for the Class B Membership; or
- b. December 31, 2015; or
- c. When the Declarant elects by written notice to the Association to terminate its Class B Membership.

“Section 3.05” Compliance with the Document. Each Owner shall abide by and benefit from the Provisions, Covenants, Conditions, and Restrictions contained in the Tuscany Covenants and Restrictions and Bylaws.

“Section 3.06” Rules and Regulations. The Association from time to time and subject to the provisions of the Tuscany Documents, may adopt, amend and repeal rules and regulations, to be known as “Association Rules,” governing, among other things and without limitation:

“Section 3.06.1” Collection and Disposal of Garbage and Trash and maintenance of yards;

“Section 3.06.2” The Burning of Open Fires;

“Section 3.06.3” The Control of Animals;

“Section 3.06.4” Parking Restrictions and Limitations;

“Section 3.06.5” A Schedule of Fines for Infractions of the Association Rules or the Project Documents;

A copy of the Association Rules in effect shall be distributed to each Member of the Association, and any change in the Association rules shall be distributed to each Member within a reasonable time following the effective date of the change.

“Section 3.07” Assistance to Architectural Review. The Association shall in all respects cooperate with and assist the ARB in the complete attainment of the ARB’s functions, and the enforcement of its architectural guidelines, rules, regulations and decisions.

“Section 3.08” Manager. The Association may employ or contract for the services of a Manager, provided that no such employment shall be by a contract having a term of more than one year and such contract shall be subject to cancellation by the Association upon 30 days or less prior notice without cause and without payment of a termination fee. The Manager shall not have authority to make expenditures for additions or improvements chargeable against the maintenance fund except upon specific prior approval and direction by the Board. The Board shall not be liable for any omission or improper exercise by a Manager of any such duty, power or function so delegated by written instrument executed by or on behalf of the Board.

“Section 3.09” Ownership of Personal and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold or other property interest within Tuscany conveyed to the Association by Declarant.

“Section 3.10” Books and Records. The Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners and Mortgagees current copies of the Association document and the books, records and financial statements of the Association prepared pursuant to the Bylaws. The Association may charge a reasonable fee for copying such materials.

“Section 3.11” Successor of Declarant. The Association shall succeed to all of the rights, duties and responsibilities of Declarant under this Declaration upon termination of the Class B Membership in accordance with Section 3.04 above. The Association shall not succeed to any rights of Declarant regarding any portion of the Expansion Property which has not then been annexed to the Property. The Association may delegate any of such rights, duties or responsibilities to the ARB or to any other committee or entity which it may choose to form.

“Section 3.12” Implied Rights and Obligations. The Association may exercise any other right or privilege given to it expressly by the Tuscany Documents, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association under this Declaration or reasonably necessary to effectuate any such right or privilege. The Association shall perform all of the duties and obligations imposed upon it expressly by the Tuscany Documents, together with every other duty or obligation reasonably to be implied from the express provisions of the Tuscany Documents where reasonably necessary to satisfy any such duty or obligation.

ARTICLE 4 COVENANT FOR MAINTENANCE ASSESSMENTS

“Section 4.01” Creation of the Lien and Personal Obligations for Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed is deemed to covenant and agree to pay to the Association:

- a. Annual assessments or charges as provided in this Declaration for the purpose of funding the maintenance fund;
- b. Special assessment for capital improvements and other purposes as stated in this Declaration; such annual and special assessments to be fixed, established and collected from time to time as provided herein; and
- c. Default assessments which may be assessed against an Owner's Lot pursuant to the Tuscany Documents for the failure to perform an obligation under the Tuscany Documents or because the Association has incurred an expense on behalf of the Owner under the Tuscany Documents. The annual, special and default assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due.
- d. The Class B Member shall be exempt from assessments for five (5) years from the date hereof and thereafter shall pay one-third (1/3) of the annual and special assessments for each Lot owned by the Declarant.

"Section 4.02" Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and occupants of Tuscany Subdivision and for the improvement and maintenance of the Common Area, including but not limited to the payment of taxes and insurance on the common area and repair, replacement and additions to any improvements on the Common Area, reserve accounts, the cost of labor, equipment, materials, management and supervision, and for the salary or fee of the Manager.

"Section 4.03" Computation of Annual Assessments. The Board shall prepare a budget covering the estimated costs of operating the Association during the coming year, which may include a capital contribution or reserve. The Board shall cause the budget and the assessments to be mailed or delivered to each member at least thirty (30) days prior to the end of the current fiscal year. The budget and the assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote. In the event the membership disapproves the proposed budget, or the Board fails to establish a budget for the succeeding year, the budget in effect for the then current year shall continue for the succeeding year until changed by the Board. In the event the Board's budget is disallowed, the Board shall have the right to make a new budget retroactive to the start of the fiscal year.

"Section 4.04" Special Assessments. In addition to the annual assessments authorized in Section 4.01 above, the Board of Directors, with the consent of the Class B Member, may levy in any fiscal year one or more special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement on the open space or Common Area, including the necessary fixtures

and personal property related thereto, or to make up any shortfall in the current year's budget. Notice of the amount and due dates for each special assessment must be sent to each Owner at least thirty (30) days prior to the due date.

"Section 4.05" Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for each rate of Lot classified by use or by project, but the basis and rate of assessments for each project or each type of use may be varied as provided below.

"Section 4.05.1." Residential Property. Residential Lots shall be assessed on the basis as determined by the Board of Directors. The rate of assessment levied against Lots within the various areas may be varied based upon the Board's sole and exclusive determination that any specific item in the Association's budget may more directly benefit a certain area, or that the Association has provided services to such area in excess of those to other areas within Tuscany; provided, however, that such rate of assessment shall be uniform within each area.

The rates of assessments for each area shall be established from time to time by resolution of the Board. The classification of a Lot as to use and assessment type shall be made by the Board in its sole discretion, and its discretion shall be final. The recreational facilities developed by Declarant are conceived to enhance the Tuscany Subdivision community in general and, accordingly, will not be assessed under this Declaration unless Declarant in its sole discretion subjects such facilities to an obligation for assessments.

"Section 4.06" Date of Commencement of Annual Assessment: Due Date. Upon the sale of a Lot by Declarant to a new Owner, the annual assessments shall commence as to the Lot on the first day of the month following the conveyance of the Lot to the new Owner. In that case, the first annual assessments shall be prorated according to the number of months remaining in the calendar year.

"Section 4.07" Default Assessments. All monetary fines assessed against an Owner pursuant to the Association documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association documents, shall be a default assessment and shall become a lien against such Owner's Lot which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and the due date of such default assessment shall be mailed or delivered by process server to the Owner's last known address at least thirty (30) days prior to the due date.

"Section 4.08" Effect of Non-Payment of Assessments; Lien; Remedies of Association. Any Association installment, whether pertaining to an annual, special or default assessment, which is not paid within thirty (30) days of its due date shall be delinquent. In the event that an assessment installment becomes delinquent, the Association, in its sole discretion may take any or all of the following action:

"Section 4.08.1". Assess a late charge of at least 15% delinquency;

“Section 4.08.2”. Assess an interest charge from the date of delinquency at the rate per annum of two (2) points above the prime rate charged by the Association’s bank or such other rate as shall have been established by the Board of Directors;

“Section 4.08.3”. Suspend the voting rights of the Owner during any period of delinquency;

“Section 4.08.4”. Accelerate all remaining assessment installments for the fiscal year in questions so that unpaid assessments for the remainder of the year shall be due and payable at once;

“Section 4.08.5”. Bring an action at law against the Owner(s) obligated to pay the delinquent installments; or

“Section 4.08.6”. File a statement of lien with respect to the Lot, and foreclose.

The Association may file a statement of lien by recording with the Register of Deeds and/or the Clerk of Court’s Office in Anderson County, South Carolina, a written statement with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Association, and amount of the delinquent assessments then owing, which statement shall be duly signed and acknowledged by the President or Vice President of the Association or by the Manager, and notice shall be served upon the Owner of the Lot by mail or process server to the address of the Lot or at such other address as the Association may have in its records for the Owner.

Thirty (30) days following the mailing of such notice, the Association may proceed to foreclose the lien in the same manner as provided for foreclosure of mortgages under the statutes of the State of South Carolina. Such lien shall be in favor of the Association and shall be for the benefit of all other Owners. In either a personal or foreclosure action, the Association shall be entitled to recover as a part of the action the interest, costs and reasonable attorney’s fees with respect to the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, Recreational Facilities, or abandonment of his Lot. The remedies herein provided shall not be exclusive and the Association may enforce any other remedies to collect delinquent assessments as may be provided by law.

“Section 4.09” Successor’s Liability for Assessments. In addition to the personal obligation of each Owner to pay all assessments thereon and the Association’s perpetual lien for such assessments, all successors to the fee simple title of a Lot, except as provided in Section 4.10 below, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid assessments, interest, late charges, costs, expenses and attorney’s fees against such Lot without prejudice to any successor’s right to recover from any prior Owner any amounts paid by such successor. In addition, such successor shall be entitled to rely on the statement of the status of the assessments issued by or on behalf of the Association under Section 4.11 below.

“Section 4.10” Subordination of the Lien. The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any first mortgage. The lien of the assessments shall

be superior to and prior to any homestead exemption provided now or in the future by laws of the State of South Carolina. No sale or transfer of any Lot pursuant to a decree of foreclosure or by a Public Trustee's foreclosure or any other proceeding or deed in lieu of foreclosure for the purpose of enforcing a first mortgage shall extinguish the lien of such assessments as to installments which become due prior to such sale or transfer, and the amount of extinguished lien may be reallocated and assessed to all Lots as a common expense at the direction of the Board of Directors. No sale or transfer shall relieve the purchaser or transferee of a Lot from liability for, nor the Lot from the lien of any assessments made after the sale or transfer.

"Section 4.11" Notice of Action. Any first mortgagee which makes a prior written request to the Secretary of the Association and furnishes its name and address in the legal description of the Lot in which it has an interest to the Secretary shall be entitled to timely written notice of any delinquency in payment of an annual, special or default assessment levied against the Lot encumbered by its first mortgage. In addition, any such First Mortgagee shall be entitled to cure such delinquency and obtain a release from the lien imposed or perfected by reason of such delinquency.

"Section 4.12" Exempt Property. The following portions of the property shall be exempt from the assessments, charges, and liens created under this Declaration:

"Section 4.12.1" All properties and other interests therein dedicated and accepted by Anderson County and devoted to public use;

"Section 4.12.2" All utility easements;

"Section 4.12.3" The Common Area; and

"Section 4.12.4" The Recreational Facilities.

"Section 4.13" Statement of Status of Assessments. Upon ten (10) days written notice to the Treasurer of the Association or to the Manager and payment of a reasonable fee set by the Association from time to time, any Owner, prospective purchaser or mortgagee of a Lot shall be furnished a statement of the account for such Lot setting forth:

"Section 4.13.1" The amount of any unpaid assessments (whether annual, special or default assessments), interest, late charges, costs, expenses and attorney's fees then existing against a particular Lot;

"Section 4.13.2" The amount of the current periodic installments of the annual assessments and the date through which they are paid; and

"Section 4.13.3" Any other information deemed proper by the Association. The information contained in such statement which signed by the Treasurer or Manager, shall be conclusive upon the Association as to the person or persons to whom such statement is issued and who rely upon it in good faith.

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“Section 4.14” Failure to Assess. The omission or failure of the Board to fix the assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification or release of any Owner from the obligation to pay assessments. In such event, the Owner shall continue to pay annual assessments on the same basis as for the last year for which an assessment was made until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

ARTICLE 5 PROPERTY RIGHTS OF OWNERS

“Section 5.01” Owners; Easements of Enjoyment. Every Owner shall have a non-exclusive easement for the use and enjoyment of the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the easements set forth in this Article V.

“Section 5.02” Delegation of Use. In accordance with the Tuscan Documents, an Owner may delegate his right of enjoyment in the Common Area and Recreational Facilities to his tenants and guests or invitees when accompanied by said Owner or Owner’s tenant.

“Section 5.03” Recorded Easements. The Property and all portions thereof shall be subject to easements shown on any recorded plat of the property or any portion thereof and to any other easements of records as of the date of the recordation of this Declaration.

“Section 5.04” Utility Easements. There is hereby created a general easement upon, across, over, in and under the Property for ingress and egress and for installation, replacement, repair and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electricity and cable television. By virtue of this easement, it shall be expressly permissible and proper for the companies providing electricity, telephone, cable television and other communication services to install and maintain necessary equipment on the Property and to affix and maintain electricity, communications, cable television and telephone wires, conduits and circuits under the Property. No water, sewer, telephone, electricity, cable television or communications lines, systems or facilities may be installed or relocated on the surface of the property unless approved by Declarant and by the Architectural Review Board (ARB). Such utilities temporarily may be installed above ground during construction, if approved by Declarant or the ARB as stated above. Any utility company using this general easement shall use its best efforts to install and maintain the utilities provided for without disturbing the uses of the Owners, the Association and Declarant; shall perform its installation and maintenance activities as promptly and expeditiously as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the general easement request a specific easement by separate recordable document either Declarant or the Association shall have and are hereby given, the right and authority to grant such easement upon, across, over or under any part or all of the Property without conflicting with the terms of this Declaration. This general easement shall in no way affect, avoid, extinguish or modify any other recorded easement on the Property.

“Section 5.05” Reservation for Expansion. Declarant hereby reserves to itself and its successors and assigns, a perpetual easement and rights of way for, over, upon and across the Property for construction, utilities, drainage, ingress and egress and for the use of the Common Areas. The location of these easements and rights of way must be approved by Declarant or the Association and may be documented by Declarant or the Association by recorded instruments.

“Section 5.06” Reservation of Easement, Exceptions and Exclusions. Declarant reserves to itself and hereby grants to the Association the concurrent right to establish from time to time, by Declaration or otherwise, utility and other easements, permits or licenses over the Common Areas for purposes including but not limited to streets, paths, walkways, drainage, irrigation, recreation areas, parking areas, ducts, shafts, flues, and conduit installation areas, and to create other reservations, exceptions and exclusions for the best interest of all the Owners and the Association in order to serve all the Owners within Tuscany. Declarant reserves the right to establish from time to time by Declaration or otherwise, utility and other easements and to create other reservations, exceptions and exclusions convenient or necessary for the use and operation of any other property of Declarant, as long as such action does not hamper the enjoyment of Tuscany by the Owners.

“Section 5.07” Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons to enter upon all streets and upon the property in the proper performance of their duties.

“Section 5.08” Maintenance Easement. An easement is hereby reserved to Declarant and granted to the Association and any Member of the Board of Directors or the Manager and their respective officers, agents, employees and assigns, upon, across, over, in and under the Lots and tracts and a right to make sure use of the Lots and tracts as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Association is obligated or permitted to perform pursuant to the Tuscany Documents, including the right to enter upon any Lot or building site for the purpose of maintenance or the exterior of improvements on such Lot as required by the Tuscany Documents.

“Section 5.09” Drainage Easement. An easement is hereby reserved to Declarant and granted to the Association, its officers, agents, employees, successors and assigns to enter upon, across, over, in and under any portion of the property for the purpose of changing, correcting or otherwise modifying the grade or drainage channels on the property so as to improve the drainage of water. Best efforts shall be made to use this easement so as not to disturb the uses of the Owners, the Association and the Declarant, as applicable to the extent possible to prosecute such drainage work promptly and expeditiously, and to restore any areas affected by such work to a slightly and useable condition as soon as reasonably possible following such work. Declarant, its officers, agents, employees, successors and assigns must inform and obtain the approval of the Board of Directors prior to undertaking such drainage work, which approval shall not be unreasonably withheld.

“Section 5.10” Irrigation. Irrigation ditches, systems and pipelines may be constructed by the Association throughout the property for the maintenance of such spaces and areas as Declarant and the Association may from time to time decide. The Association is hereby granted the right to

maintain these ditches, systems and pipelines and to enter upon Lots as necessary to perform such maintenance.

“Section 5.11” Declarant’s Rights Incident to Construction. Declarant, for itself and its successors and assigns hereby retains a right and easement of ingress and egress over, in upon, under and across the Common Areas and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of Improvements on the Property or other real property owned by Declarant; provided however, that no such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment and access to an Owner’s Lot by that Owner or his family, tenants, employees, guests or invitees.

“Section 5.12” Easements Deemed Created. All conveyances of Lots made after the date of recordation of this Declaration whether by Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article 5, even though no specific reference to such easements or to this Article 5 appears in the instrument for such conveyance.

“Section 5.13” Partition or Combination of Lots. No part of a Lot may be partitioned or separated from any other part thereof, and no Lots may be partitioned or separated from any other part thereof, and no Lots may be combined, except as provided in this section. A Lot may not be subdivided, however, two or more Lots may be combined into one with the written consent of Declarant or the Association and full compliance with all applicable state and county zoning and subdivision regulations. Declarant’s consent shall be conditioned upon payment by the Owner or Owners concerned of all expenses incident to giving the consent, including legal and accounting fees. Every agreement and recorded instrument for combination of Lots shall make adequate provisions for the adjustment of voting rights and liability for payment of assessments appurtenant to or imposed upon such Lots. In the event that Lots are combined, then the combined Lots shall be treated as one for purposes of voting and assessments and they shall not be re-subdivided thereafter.

“Section 5.14” No Partition of Common Area. The Common Area shall be owned by the Association and no Owner shall bring any action for partition or division of the Common Area by acceptance of a deed or other instrument of conveyance or assignment, each Owner shall be deemed to have specifically waived such Owner’s right to institute or maintain a partition action or any other action designed to cause a division of the Common Area, and this section may be plead as a bar to any such action. Any Owner who shall institute or maintain any such action shall be liable to the Association, and hereby agrees to reimburse the Association for its costs, expenses and reasonable attorney’s fees in defending any such action.

**ARTICLE 6
ARCHITECTURAL REVIEW BOARD**

“Section 6.01” Membership. There is hereby established an ARB which shall be responsible for the establishment and administration of the Architectural Guidelines to carry out the purposes and intent of this Declaration. The ARB shall be composed of at least two (2) persons appointed,

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removed and replaced by Declarant in its sole discretion until such time as Declarant may assign the right and responsibility for same to the Association, and at that time, the Board of Directors shall succeed to Declarant's right to appoint, remove or replace the Members of the ARB.

"Section 6.02" Purpose. The ARB shall review, study and either approve or reject proposed improvements on the Property, all in compliance with this Declaration and as further set out in the rules and regulations of the ARB and the Architectural Guidelines adopted and established from time to time by the ARB.

"Section 6.02.1". The ARB shall exercise its best judgment to see that all improvements conform and harmonize with any existing structures as to external design, quality and type of construction, materials, color, tree removal, location on the building site, height, grade and finished ground elevation, and all aesthetic considerations set forth in this Declaration or in the Architectural Guidelines.

"Section 6.02.2". No improvements on the Property shall be erected, placed or altered on any Lot or building site, nor shall any construction be commenced until plans for such improvements shall have been approved by the ARB; provided, however, that improvements and alterations which are completely within an existing building may be undertaken without such approval.

"Section 6.02.3". The actions of the ARB in the exercise of its discretion by its approval or disapproval of plans or other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

"Section 6.03" Organization and Operation of the ARB.

"Section 6.03.1" Term. The term of office for each Member of the ARB, subject to Section 6.01, shall be one (1) year commencing on January 1 of each year and continuing until his successor shall have been appointed. Should an ARB Member die, retire or become incapacitated, or in the event of a temporary absence of a Member, a successor may be appointed as provided in Section 6.01.

"Section 6.03.2" Chairman. The ARB shall appoint the Chairman of the ARB.

"Section 6.03.3" Operations. The Chairman shall preside over and conduct all meetings and shall provide for reasonable notice to each Member of the ARB prior to any meeting. The notice shall set forth the time and place of the meeting and notice may be waived by any Member. In the absence of the Chairman, the ARB may appoint or elect a successor Chairman, or if the absence is temporary, a temporary successor.

"Section 6.03.4" Voting. The affirmative vote of a majority of the Members of the ARB shall govern its actions and be the act of the ARB. A quorum shall be consist of a majority of the Members.

“Section 6.03.5” Expert Consultation. The ARB may avail itself of technical and professional advice as it deems appropriate.

“Section 6.04” Expenses. The ARB shall charge a fee for each application submitted to it for review in an amount which may be established by the ARB from time to time. The filing fee shall not be less than \$100.00 per dwelling unit, and will be subject to increase as determined by the the ARB. At the time the Lot Owner pays the application fee to the ARB, the Lot Owner shall also pay a fee of \$1,000.00 for the privilege of being allowed to access the sewer system (all costs for sewer “hook-up” shall be an additional expense paid by the Owner) and the Lot Owner shall pay a “roll-back” tax fee as established in the sole discretion of the ARB.

“Section 6.05” Architectural Guidelines and Rules. The ARB shall adopt, establish and publish from time to time Architectural Guidelines, which shall be a Tuscany Document. The Architectural Guidelines shall not be inconsistent with the Declaration, but shall more specifically define and describe the design standards for the Tuscany Subdivision and various uses within Tuscany. The Architectural Guidelines may be modified or amended from time to time by the ARB. Further, the ARB, in its sole discretion, may excuse compliance in specific situations and may permit compliance with different or alternative requirements. Compliance with the Tuscany design review process is not a substitute for compliance with the Anderson County building, zoning, and subdivision regulations, and each Owner is responsible for obtaining all approvals, insurances, licenses and permits as may be required prior to commencing construction.

“Section 6.06” Procedures. As part of the Architectural Guidelines and Rules, the ARB shall make and publish such rules and regulations as it may deem appropriate to govern its proceedings. All decisions of the ARB are final and there shall be no appeals of any decision.

“Section 6.07” Limitation of Liability. Neither the ARB nor any individual ARB Member shall be liable to any person for any act of the ARB in connection with submitted plans and specifications. Approval by the ARB does not necessarily assure approval by the governmental authorities. Notwithstanding that the ARB has approved plans and specifications, neither the ARB nor any of its Members shall be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, claim or expense which may arise by reason of the decisions of the ARB. Neither the Board, the ARB nor any agent thereof, nor Declarant or any of its partners, employees, agents or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Tuscany Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events, the ARB shall be defended and indemnified by the Association in any such suit or proceeding which may arise by reason of the ARB’s decisions.

“Section 6.08” Penalties for Violations or Non-compliance. The ARB or the Association may seek any and all legal or equitable remedies available to it in the event of a violation of the decisions of the ARB or non-compliance with the Architectural Guidelines by an Owner. The ARB may assess a penalty of \$100.00 per day against an Owner for each event of non-compliance or

violation; and collection of such shall be subject to enforcement under all provisions contained herein; such penalty, and any attorney fees and costs, become a lien on the Lot.

ARTICLE 7 CONSTRUCTION AND ALTERATION OF IMPROVEMENTS

“Section 7.01” General. The Architectural Guidelines and the general instructions set forth in these Covenants shall govern the right of an Owner, developer or other entity to construct, reconstruct, refinish, alter or maintain any improvement upon, under or above any of the Property (except as provided in Section 6.02.2 above), and to make or create any excavation or fill on the property or make any change in the natural or existing surface contour, elevation, or drainage, or install any utility line or conduit on or over the property.

“Section 7.02” Approval Required. Except to the extent permitted in Section 6.02.2 above, any construction, reconstruction, refinishing or alteration of any part of the exterior of any buildings or other improvement on the property is absolutely prohibited until and unless the Owner or developer first obtains approval from the ARB and otherwise complies with the provisions of these Covenants. All improvements shall be constructed only in accordance with approved plans.

“Section 7.03” Deemed Nuisances. Every violation of these Covenants is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or equity against an Owner/Member shall be applicable. These Covenants may be enforced as provided herein.

“Section 7.04” Removal of Nonconforming Improvements. The Association, upon request of the ARB, and after reasonable notice to the offender and to the Owner, shall remove any improvement constructed, reconstructed, refinished, altered or maintained in violation of these Covenants, and the Owner of the improvement shall immediately reimburse the Association for all expenses incurred in connection with such removal, and collection of such shall be subject to enforcement under all provisions contained herein; such reimbursement, and attorney fees and costs, shall become a lien on the Lot.

“Section 7.05” Construction Methods. Specific rules regarding construction methods, including but not limited to elevation, excavation, drainage, utility lines, loading areas, waste storage, trash removal, materials storage and transformers and meter shall be set forth in the Architectural Guidelines, and all Owners shall comply with those rules.

ARTICLE 8 GENERAL COVENANTS AND RESTRICTIONS

The Property shall be used only for residential, recreational and related purposes as may more particularly be set forth in this Declaration, Supplemental Covenants hereto, or subsequently recorded Declarations. The Association, acting through the Board of Directors, shall have standing

and the power to enforce use restrictions contained in this Declaration, Supplemental Covenants and any related rules and regulations which the Association may promulgate.

The Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of Lots, Common Areas, Recreational Facilities and Property, in addition to those contained herein, and to impose reasonable user fees for facilities, including but not limited to, pathways systems, swimming pools, tennis courts, and parking facilities if any. Such regulations and use restrictions shall be binding upon all Owners, tenants, guests and invitees.

These Declarations, Covenants, and Restrictions as set forth herein may be amended with the prior written consent of two-thirds (2/3) of the Members/Owners as set forth herein.

Land use standards constituting the initial Declarations and regulations and use restrictions are established by Declarant. Unless otherwise indicated, all such Declarations and regulations and use restrictions apply to all Owners/Lots/Members/Property.

The Declarant or Association, acting through its Board of Directors, shall have the authority, standing and the power to enforce all provisions set forth herein or provided for by this document.

"Section 8.01" Square Footage. The main building constructed on each Lot, shall have an area of not less than 2000 square feet of heated/air conditioned space for single story dwellings and 2700 square feet for 2-story dwellings, exclusive of porches, garages, or basements.

"Section 8.02" Building Setbacks. The building setback lines shall be as follows, unless specifically approved by the ARB:

- Twenty-five (25') feet from the front Lot line;
- Ten (10') feet from the side Lot lines;
- Twenty (20') feet from the rear Lot line.

"Section 8.03" Parking and Garages. Owners shall park only in their garages or in their driveways serving their Lots or appropriate spaces or designated areas in which parking may or may not be assigned and then subject to such reasonable rules and regulations as the Board of Directors may adopt. All commercial vehicles (i.e., those having lettering or logos), tractors, mobile homes, trailers (either with or without wheels), campers, camper trailers, boats or other watercraft, and boat trailers must be parked entirely within a garage unless otherwise permitted by the Board. No garage may be altered in such a manner that the number of automobiles that could have reasonably been parked in the garage after the alteration is less than the number of automobiles that could have been reasonably parked in the garage as originally constructed. Any such vehicle or recreational equipment parked in violation of these or other regulations contained herein or in the rules and regulations now or hereafter adopted by the Association may be towed by the Association at the sole expense of the Owner of such vehicle or recreational equipment if it remains in violation for a period of twenty-four (24) hours. The Association shall not be liable for the Owner of such vehicle or recreational equipment for trespass, conversion or otherwise, nor guilty of any criminal act by reason

of such towing and neither its removal or failure of the Owner to receive any notice of said violation shall be grounds for relief of any kind.

“Section 8.04” Driveway. All driveways shall be paved with concrete unless otherwise approved by the ARB.

“Section 8.05” Vehicle Maintenance and Repair. No maintenance or repairs shall be performed on any vehicles upon any portion of the Property, unless performed in a garage, except in an emergency situation. Notwithstanding the foregoing, all repairs to disabled vehicles within the Property must be completed within four (4) hours from its immobilization or the vehicle must be towed.

“Section 8.06” Garages. All houses built in Tuscany shall include an enclosed two (2) car garage which shall not face the street unless specifically approved by the ARB because of the size, shape or topography of the Lot. In the event that a garage facing the street is constructed, after obtaining approval from the ARB, then the garage doors shall be kept closed at all times except for the entry and exit of vehicles from the garage.

“Section 8.07” Signs. No sign or other advertising device of any nature shall be placed upon any part of the Property except as provided herein. The ARB may, in its discretion, adopt and promulgate rules and regulations relating to signs which may be employed. Signs and other advertising devices may be erected and maintained upon any portion of the Property if approved by the ARB as to color, location, nature, size and other characteristics of such signs or devices. Notwithstanding the foregoing, Declarant specifically reserves the right to itself, its successors, nominees, assigns and the Association to place and maintain signs in connection with construction, marketing, sales and rentals of Lots and identifying or informational signs anywhere on the Property.

“Section 8.08” Mining. No boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, or gases shall be conducted on the Property.

“Section 8.09” Maintenance of Hedges and Plants. Each Owner shall be responsible for and shall maintain all landscaping, grass, driveways, parking areas, structures and grounds located on each Lot in good condition and repair and in a neat and attractive manner. No vegetation may be removed or planted without the prior approval of the ARB; specifically, no trees larger than four (4) inches in diameter shall be cut without prior approval of the ARB. The Association shall have the right to enter upon any part of a Lot in order to cut, trim, prune or replace, at the expense of the Owner, any grassed area, hedge or other planting which, in the opinion of the Association or the ARB, by reason of its location upon the Lot or the height at which it is permitted to grow, is in the opinion of the Association or ARB detrimental to the adjoining Lot or Property Owner or obscures the view of the street traffic or is unattractive in appearance; provided, however, that the Owner shall be mailed notice fifteen (15) days prior to of such action. Grass shall be mowed on no less than a weekly basis and on unimproved Lots grass may be kept at no higher than 15 inches.

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“Section 8.10” Landscaping. All landscaping plans must be submitted to the ARB prior to construction as part of the total design of the dwelling. Time limits for implementation may be set by the ARB. The landscape requirements shall be as follows:

1. All downspouts must be plumbed below grade and exit via drain pop-ups. No downspouts may run onto concrete driveways, walkways, or patios.
2. Driveways, walkways, and patios must be poured in a free form style with no 90-degree angles or straight lines. Twenty-five percent (25%) of flatwork must use decorative concrete, brick, or exposed aggregate in final concrete layout.
3. Underground automatic irrigation required in front landscaping.
4. Sod required in landscape installation. No seed, hydro seeding, or straw allowed. Fescue grass is not permitted.
5. No gravel allowed in planter beds or driveways. All beds must have mulch or pine straw.
6. At least three – 3” caliper trees, fifteen – 3 gallon shrubs, twenty – 1 gallon plants required for the initial landscape installation.
7. Drainage from landscape must be drained to the street or designated drainage areas between Lots. Drainage from your landscaping must not interfere or damage adjacent Lots or Property.
8. All Lots must be well maintained.
 - a. Lawns mowed and edged weekly.
 - b. Shrubs and trees pruned, beds kept weed free.
 - c. Driveways, walkways, and sidewalks cleaned off after lawns are maintained. Blowing lawn clippings into street is not permitted. Dumping of lawn clippings on empty Lots is not permitted.
9. A plan of landscaping and concrete layout must be approved by the ARB before installation.

“Section 8.11” Fences. No fence or wall shall be constructed without the prior approval of the ARB. Chain link fences are not permitted - only brick, stone, iron or faux iron.

"Section 8.12" Approved Builders List. All improvements constructed on any Lot located within the Tuscany Subdivision shall be made either by a builder, contractor or specialty contractor approved by the ARB.

"Section 8.13" Occupants Bound. All provisions of this Declaration and of any rules regulations or use restrictions promulgated pursuant hereto which govern the conduct of the Owners and which provide for sanctions against Owners shall also apply to all occupants of any Lot.

"Section 8.14" Animals and Pets. No animals, livestock or poultry of any kind may be raised, bred, kept or permitted on any Lot, with the exception of dogs, cats or other usual and common household pets; provided, however, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise or constitute a nuisance or inconvenience to the Owners of other Lots or the Owner of any property adjacent to the Property may be recovered by the Board. No pets shall be kept, bred or maintained for any commercial purpose in residential Lots. Dogs which are household pets shall, at all times whenever they are outside a Lot, be confined on a leash held by a responsible person. Dogs walked will be the responsibility of the Owner and any excrements shall be cleaned up by the Owner when outside of Owner's Lot.

"Section 8.15" Nuisance. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on his or her Lot. No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will obnoxious to the eye; nor shall any substance, thing or material be kept upon any Lot that will emit fowl or noxious odors or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any person using any property adjacent to the Lot. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of nature as may diminish or destroy the enjoyment of the Property.

"Section 8.16" Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken on any party of the Property.

"Section 8.17" Antennas. No exterior television or radio antennas or satellite dishes greater than eighteen (18") inches of any kind shall be placed, allowed or maintained upon any portion of the Property, including any Lot, without the prior written consent of the Board or its designee, Declarant and/or the Association may erect aerial or other apparatus for a master antenna or cable system, should any such master system or systems be utilized by the Association and require any such exterior apparatus. The ARB shall approve the location of the dish.

"Section 8.18" Clothes Lines, Garbage Cans, Tanks, etc. All garbage cans, above-ground tanks and other similar items shall be located or screened so as to be concealed from view of

neighboring Lots, streets and property located adjacent to the Lot. All rubbish, trash and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate thereon. Clothes lines shall not be used within the Development.

"Section 8.19" Private Recreational Equipment. The location of any private recreational and/or playground equipment must be approved by the ARB.

"Section 8.20" Subdivision of Lots. No Lot shall be subdivided or its boundary lines changed except with prior written approval of the Board of Directors. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots.

"Section 8.21" Guns. The use of firearms within the Tuscany Subdivision are strictly prohibited.

"Section 8.22" Pools and Tennis Courts. No above-ground pools shall be erected, constructed or installed on any Lot. The site location and design of in-ground pools must be approved by the ARB. No private tennis courts are allowed.

"Section 8.23" Irrigation. No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, lakes, ponds, canals or other waterways within the Property shall be installed, constructed or operated within the Tuscany Subdivision, unless approved by the ARB.

"Section 8.24" Tents, Trailers and Temporary Structures. Owners or occupants shall not place upon a Lot or any part of the Property any tent or trailer or any structure of a temporary nature, such as a tent, shack or utility shed.

"Section 8.25" Drainage. No Owner shall do or permit any work, construct any Improvements, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern of the Property, except to the extent such alteration and drainage pattern is approved in writing by the ARB or Board of Directors, and except for rights reserved to Declarant to alter or change the drainage patterns.

"Section 8.26" House Number and Mailboxes. Each dwelling shall have a house number, mail box, paper box with a design and location established by the ARB. The mail box shall be purchased from Declarant. Builders will install mailboxes at the conclusion of construction. All exterior lighting must be approved by the ARB.

"Section 8.27" Continuity of Construction. All Improvements commenced on the Property shall be prosecuted diligently to completion and shall be completed within twelve (12) months of commencement, unless an exception is granted in writing by the ARB. If an Improvement is commenced and construction is then abandoned for more than ninety (90) days, or if construction is not completed within the required 12 month period, then after notice and hearing as provided in the Bylaws, the Association may impose a fine of not less than One Hundred (\$100.00) Dollars per day on the Owner of the Lot until construction is resumed or the Improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the Board of Directors that such

abandonment is for circumstances beyond the Owner's control. Such charges will be a default Assessment and lien as provided in Section 4.07 above. Landscaping shall be completed within ninety (90) days after the completion of an improvement on Lot or a fine of One Hundred (\$100.00) Dollars per day shall be levied against the Lot Owner.

"Section 8.28" Use. It shall be expressly permissible and proper for Declarant and any other Owner and their employees, agents, independent contractors, successors and assigns involved in the construction of Improvements on, or the providing of utility service to, the Property or other real property owned by Declarant, to perform such activities and to maintain upon portions of the Property as they deem necessary, and facilities as may be reasonably required, convenient, necessary or incidental to such construction and development of the Property. This permission specifically includes without limiting the generality of the foregoing maintaining business offices, storage areas, construction yards and equipment, signs and sales offices.

"Section 8.29" Recreation Facilities: Covenants Applicable. The provisions of this Declaration shall apply to the Recreational Facilities. Declarant and any other Owner of a Recreational Facility may adopt rules and regulations governing the use and conduct of those facilities.

"Section 8.30" Leasing. The Owner of a Lot shall have the right to lease such Lot, subject to the following conditions:

"Section 8.30.1". All leases shall be in writing and for a minimum term of ninety (90) days.

"Section 8.30.2". The lease shall be specifically subject to the Tuscany Documents, and any failure of tenant to comply with the Tuscany Documents shall be in default under the lease.

"Section 8.30.3". The Owners shall be liable for any violation of the Tuscany Documents committed by the Owner's tenant.

"Section 8.31" Timeshare Prohibitions. There shall be no timesharing or interval Ownership of a Lot. Timeshare or interval Ownership shall mean and refer to the definitions of such Ownership under the South Carolina Vacation Time Sharing Plan Act and any amendments thereto.

"Section 8.32" Well Limitations; Water Supply. The central water supply system operated by the utility company having a franchise for providing water to the Property, its successors or assigns shall be used as the sole source of water for all purposes on each Lot and each Owner, at his expense, shall connect his water lines to the water distribution main provided to serve the Owner's Lot and shall pay the connection (if any) and water meter charges established by the utility company. After such connection, each Owner shall pay when due the periodic charges or rates for the furnishing of water made by the supplier thereof.

“Section 8.33” Sewage Disposal. Sewage disposal from each Lot shall be a public sanitary sewer system provided by Anderson County or the successor governmental entity. Septic tank systems are prohibited. Each Owner of a Lot, at his expense, shall be responsible for connecting to such public sewage system.

“Section 8.34” No Overhead Wires. All telephone, electric and other utility lines and connections between the main utility lines and residence or other building located on each Lot shall be concealed and located underground. Each Lot Owner requiring an original or additional electric service shall be responsible to complete at his expense the secondary electric service, conduits, wires, conductors and other electric facilities from the point of the applicable transformer to the Owner’s Lot improvements, and all of the same shall be underground and remain the property of the Owner of each such Lot.

“Section 8.35” Common Areas. There shall be no alcoholic beverages consumed on any Common Area or Recreational Facilities, except for express written permission granted by the Association at its sole discretion and subject to the Association’s conditions.

ARTICLE 9 MAINTENANCE

“Section 9.01” Association’s Responsibility. The Association shall maintain and keep the Common Area and Recreational Facilities in good repair, such maintenance to be funded as provided herein. This maintenance shall include, but not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures and improvements situated in the Common Area or related to the Recreational Facilities.

“Section 9.02” Owner’s Responsibility. Except as provided otherwise in the applicable Tuscany Documents or by written agreement with the Association, all maintenance of the Lots and all structures, landscaping, parking areas and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain said Lot in accordance with the community-wide standards of Tuscany. The Association shall, in the discretion of the Board, assume the maintenance responsibilities of any Lot(s) and the structures thereon if, in the opinion of the Board, the level and quality of maintenance of such Lot(s) and structures do not satisfy such standards as set forth in the Tuscany Documents. Before assuming the maintenance responsibilities, the Board shall notify the Owner in writing, and if such Owner has not commenced and diligently pursued remedial action within thirty (30) days after mailing of such written notice, then the Association may proceed. The expenses of such maintenance by the Association shall be reimbursed to the Association by the Owner, together with interest at five (5%) percent per annum above the prime rate charged by the Association’s bank, or such other rate set by the Board, from the date of expenditure. Such charges shall be a default Assessment and a lien on the Lot/Owner as provided in Section 4.07.

ARTICLE 10 INSURANCE AND FIDELITY BONDS

“Section 10.01” Hazard Insurance. The Association shall obtain hazard insurance for all insurable improvements, if any, on the Common Area and the Recreational Facilities in an amount equal to the full replacement value (i.e., 100% of the current “replacement cost” exclusive of land, foundation, excavation, depreciation of personal property and other items normally excluded from coverage), which shall include all building, personal property and supplies, and any fixtures or equipment.

“Section 10.02” Liability Insurance. The Association shall obtain a comprehensive policy of public liability insurance insuring the Association and its Members for all liability for property damage, bodily injury or death in connection with the operation, maintenance, use of the Common Area, Recreational Facilities or streets and roads within Tuscany Subdivision, and legal liability arising out of lawsuits related to employment contracts of the Association.

“Section 10.03” Other Insurance. The Association may obtain insurance against other risks of similar or dissimilar nature as it shall deem appropriate with respect to the Association’s responsibilities and duties, to include, but not limited to, fidelity bonds, officers’ and directors’ personal liability insurance or workers’ compensation insurance.

“Section 10.04” Insurance Obtained by Owners. It shall be the responsibility of the individual Owners and at their expense to make arrangements in regard to title insurance on their Lots upon any resale, for hazard insurance on the improvements, personal property and furnishings located on their Lots, and for public liability insurance covering their Lots. In addition, each Owner may obtain such other and additional insurance coverage on and in relation to his Lot as such Owner concludes to be desirable; provided, however, that none of such insurance coverages obtained by an Owner shall affect any insurance coverages obtained by the Association or cause the diminution or termination of the coverage obtained by the Association. Any such insurance obtained by an Owner shall include a waiver of the particular insurance company’s right of subrogation against the Association and other Owners.

ARTICLE 11 DAMAGE OR DESTRUCTION

“Section 11.01” Association as Attorney-in-Fact. Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner’s true and lawful attorney-in-fact in such Owner’s name, place and stead for the purpose of dealing with the improvements on the Common Area and Recreational Facilities upon damage or destruction as provided in this Article or a complete or partial taking as provided in Article 12. Acceptance by any grantee of a deed or other instrument of conveyance from Declarant or from any Owner shall constitute appointment of the attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, assignment, deed, waiver or other

instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact.

“Section 11.02” Estimate of Damages or Destruction. As soon as practical after an event causing damage to or destruction of any part of the Common Area or the Recreational Facilities in Tuscany Subdivision the Association shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Common Area or the Recreational Facilities damaged or destroyed. “Repair and reconstruction” shall mean and refer to restoring the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction.

“Section 11.03” Repair and Reconstruction. As soon as practical after obtaining estimates, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed improvements. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

“Section 11.04” Funds for Repair and Reconstruction. The proceeds received by the Association from any hazard insurance shall be used for purpose of repair, replacement and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to Section 4.04 above, levy, assess and collect in advance from all Owners, without the necessity of a special vote of the Owners, except as provided in Section 4.04, a special Assessment sufficient to provide funds to pay such estimated or actual costs or repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete repair and reconstruction.

“Section 11.05” Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from a special Assessments for repair and reconstruction will constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction may be made from insurance proceeds, and the balance from the special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance may be distributed to the Owners in proportion to the contributions each Owner made as a special Assessment to the Association, or, if no special Assessments were made, then in equal shares per Lot.

“Section 11.06” Decision Not to Rebuild. If Owners representing at least sixty-five(65%) percent of the total allocated votes in the Association agree in writing not to repair and reconstruct and no alternative improvements are authorized, then and in that event the Property shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition, and any remaining insurance proceeds shall be distributed in equal shares per Lot, to the Owners as their interests may appear.

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“Section 11.07” Damage or Destruction Affecting Lots. In the event of damage or destruction to the improvements located on any Lot, the Owner thereof shall promptly repair and restore the damaged Improvements to their condition prior to such damage or destruction. If such repair or restoration is not commenced within one hundred eighty (180) days from the date of such damage and destruction, or if repair and reconstruction is commenced but then abandoned for a period of more than ninety (90) days, the Association may, after mailing of notice to the last known address of the Owner, impose a fine of not less than One Hundred(\$100.00) Dollars per day on the Owner of the Lot until repair and reconstruction is commenced, unless the Owner can prove to the satisfaction of the Association that such failure is due to circumstances beyond the Owner’s control. Such fine shall be a default Assessment and a lien against the Lot as provided in Section 4.07 above.

ARTICLE 12 CONDEMNATION

“Section 12.01” Rights of Owners. Whenever all or any part of the Common Area or the Recreational Facilities shall be taken or conveyed in lieu of condemnation by any authority having the power of condemnation or eminent domain, the Association shall act as attorney-in-fact for all Owners in the process incident to the condemnation proceeding, unless otherwise prohibited by law.

“Section 12.02” Partial Condemnation: Distribution of Award; Reconstruction. The award made for condemnation taking shall be payable to the Association as attorney-in-fact for all Owners to be disbursed as follows: If taking involves a portion of the Common Area or the Recreational Facilities on which improvements have been constructed, then, unless within sixty (60) days after such taking, Declarant and Owners representing at least sixty-five(65%) percent of the Class “A” votes in the Association shall otherwise agree, the Association shall restore or replace such improvements on the remaining land included in the Common Area or Recreational Facilities to the extent lands are available therefore, in accordance with the plans approved by the Board of Directors and the ARB. If such improvements are to be repaired or restored, the provisions in Article 11 above regarding the disbursements of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area or Recreational Facilities, or if there are net funds remaining after such restoration or replacement is completed, then such award or net fund shall be distributed in equal shares per Lot.

“Section 12.03” Complete Condemnation. If all Tuscany Subdivision is taken, condemned, sold or otherwise disposed of in lieu of or in avoidance of condemnation, then the Association created by this Declaration shall terminate, and the portion of the condemnation award attributable to the Common Area shall be distributed as provided in Section 12.02 above.

ARTICLE 13 EXPANSION

“Section 13.01” Reservation of Right to Expand. Declarant may expand the effect of this Declaration to include all of the Expansion Property which comes into the possession and control of

Declarant. Declarant shall have the unilateral right to transfer to any other person this right to expand by an instrument duly recorded.

"Section 13.02" Declaration of Annexation. Such expansion may be accomplished by recording a Declaration of Annexation in the Office of the Register of Deeds for Anderson County, South Carolina, describing the real property to be annexed to the Property, submitting it to the covenants conditions and restrictions contained in this Declaration, and providing for voting rights and Assessment allocations as provided in this Declaration. Such Declaration of Annexation shall not require the consent of the Owners. Any such expansion shall be effective upon the filing of record such Declaration of Annexation, unless otherwise provided therein. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion. Upon the recordation of any such Declaration of Annexation, the definitions used in this Declaration shall be expanded automatically to encompass and refer to Tuscany Subdivision as expanded. Such Declaration of Annexation may add, delete or modify provisions of this Declaration as it applies to the Expansion Property.

ARTICLE 14 ENFORCEMENT OF COVENANTS

"Section 14.01" Violations Deemed a Nuisance. Every violation of this Declaration or any of the other Tuscany Documents is deemed to be a nuisance and is subject to all the remedies provided herein for the abatement of the violation. In addition, all public and private remedies allowed at law and in equity against anyone in violation of these Covenants shall be available.

"Section 14.02" Compliance. Each Owner or other occupant of any part of any Lot or Property shall comply with the provisions of the Tuscany Documents as the same may be amended from time to time

"Section 14.03" Failure to Comply. Failure to comply with the Tuscany Documents shall be grounds for an action to recover damages or for injunctive relief, or both.

"Section 14.04" Who May Enforce. Any action to enforce the Tuscany Documents may be brought by Declarant or in the name of the Association on behalf of the Owners. If, after a written request from an aggrieved Owner, none of the foregoing persons or entities commences an action within ninety (90) days to enforce the Tuscany Documents, then the aggrieved Owner may bring such action.

"Section 14.05" Remedies. In addition to the remedies set forth herein, any violation of the Tuscany Documents shall give the Declarant, or the Association, on behalf of the Owners, the right to enter upon the offending Lot or premises or take appropriate peaceful action to abate, remove, modify or replace, at the expense of the offending Owner, any structure, thing or condition that may exist thereon contrary to the interest and meaning of the Tuscany Documents. If the offense occurs on any easement, walkway, Common Area, or Recreational Facilities, or the like, the cure shall be at

the expense of the Owner or other person responsible for the offending condition. Also, in addition to the remedies set forth herein, any violation of the Tuscany Documents shall give the Declarant, the Association, the Board of Directors, or ARB, the right to levy fines, in its sole discretion, against the offending Owner and the fines levied shall become a lien against the offending Owner's Lot or Lots.

"Section 14.06" Non-Exclusive Remedies. All the remedies set forth herein are cumulative and not exclusive.

"Section 14.07" No Waiver. The failure of the, Declarant, the Association, the ARB or any aggrieved Owner to enforce the Tuscany Documents shall not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of the Tuscany Documents at any future time.

"Section 14.08" No Liability. No Member of the Board of Directors, Declarant, the Association, the ARB or any Owner shall be liable to any other Owner for the failure to enforce any of the Tuscany Documents.

"Section 14.09" Recovery of Costs. If legal assistance is obtained to enforce any of the provisions of the Tuscany Documents, or if any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Tuscany Documents or the restraint of violations of the Tuscany Documents, the prevailing party shall be entitled to recover all costs incurred by it in such action, including attorney's fees.

ARTICLE 15 DURATION OF THE COVENANTS AND AMENDMENTS

"SECTION 15.01" Term. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall insure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginnings of each successive period of (10) years, agreeing to change the covenants and restrictions in whole or in part, or to terminate the same.

"Section 15.02" Amendments.

- (a) subject to the requirements of (b) below, this Declaration may be amended only by the affirmative vote or written consent of the Voting Members representing seventy-five (75%) percent of the total outstanding votes of the Association. No amendment may remove, revoke or modify any right or privilege of Declarant as specifically provided for in this Declaration or amendments hereto without the written consent of Declarant or the assignee

- (b) Declarant shall have the right at any time within five (5) years from the date hereof to amend this Declaration to correct scrivener's errors and to clarify any ambiguities determined to exist herein, or to change or add provisions of this Declaration for the purpose of meeting the requirements of governmental agencies, including but not limited to the Federal Housing Administration and the Veterans Administration. Such amendment needs to be executed and acknowledged by Declarant only, and need not be approved by the Association, the Owners, the Members, lien holders and mortgagees of Lots, whether or not elsewhere required for amendments.

"Section 15.03" Effect on Recording. Any modification or amendment shall be immediately effective upon recording in the Office of the Register of Deeds for Anderson County, South Carolina, a copy of such amendment or modification, executed and acknowledged by the necessary number of Owners (and/or by Declarant, as required), together with a duly authenticated Certificate of the Secretary of the Board stating that the required number of consents/votes of Owners were obtained and are on file in the office of the Association.

"Section 15.04" Revocation. This Declaration shall not be revoked, except as provided in Article 12 regarding total condemnation, without the consent of all of the Owners in a written instrument duly recorded.

ARTICLE 16 PRINCIPLES OF INTERPRETATION

"Section 16.01" Severability. This Declaration, to the extent possible, shall be construed or reformed so as to give validity to all of its provisions. Any provision of the Declaration found to be prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating any other part hereof.

"Section 16.02" Construction. In interpreting words in the Declaration, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

"Section 16.03" Headings. The headings are included for purposes of convenient reference, and they shall not affect the meaning or interpretation of the Declaration.

"Section 16.04" Registration of Mailing Address. Each Member shall register his mailing address with the Secretary of the Association from time to time, and notices or demands intended to be served upon or given to a Member shall be personally delivered or sent by mail, postage prepaid, addressed in the name of the Member at such registered mailing address.

“Section 16.05” Notice. All notice or requests required shall be in writing. Notice to any Member shall be considered delivered and effective upon personal delivery or three (3) days after posting, when sent by certified mail, return receipt requested, to the address of such Member on file in the records of the Association at the time of such mailing. Notice to the Board, the Association, the ARB or Manager shall be considered delivered and effective upon receipt by the Association, the Board, the ARB or the Manager at such address as shall be established by the Association from time to time by notice to the Members. General notices to all Members or any classification thereof need not be certified, but may be sent regular first class mail.

“Section 16.06” Waiver. No failure on the part of the Association, the Board or the ARB to give notice of default or to delay in exercising any right or remedy shall operate as a waiver.

“Section 16.07” Limitation of Liability or Indemnification. The Association shall indemnify every officer, director and committee Member against any and all expenses, including, but not limited to, attorney’s fees and costs reasonable incurred by or imposed upon any officer or director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a common expense, maintain adequate general liability insurance and officers’ and directors’ liability insurance to fund this obligation, if such insurance is reasonably available.

“Section 16.08” Conflicts Between Documents. In case of conflict between this Declaration (“protective covenants”) and the Articles of Incorporation or the Bylaws, this Declaration shall control. In case of conflict between the Articles of Incorporation or this Declaration and the Architectural Guidelines, the Architectural Guidelines shall control.

“Section 16.09” Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by seventy-five (75%) percent of the total Members of the Association. This Section shall not apply, however, to: (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of Assessments provided herein, (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims or cross claims brought by the Association in proceedings instituted against it.

“Section 16.10” Indemnity for Damages. Each and every Owner and future Owner, in accepting a deed or contract for any Lot subject to these restrictions, agrees to indemnify Declarant and/or the Association for any damage caused by such Owner, or the contractor, agent or employees

of such Owner, to roads, streets, gutters, walkways or other aspects of public ways, including all surfacing thereon, or to water, drainage or storm sewer lines, or sanitary sewer lines, or other utilities such as telephone, cable television, electricity or gas lines.

"Section 16.11" Assignment. Declarant may assign all or any part of its rights and reservations hereunder to any successor who takes title to all or part of the Property.

IN WITNESS WHEREOF, Declarant has caused this General Declaration of Covenants, Conditions, Restrictions and Easements for Tuscany to be executed the ____ day of March, 2007.

Tuscany, LLC

Witness # 1 _____

By: Brian K. Wilson
Its: President

Witness # 2 _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Tuscany, LLC, by and through it's President, Brian K. Wilson, sign, seal, and as his act and deed, deliver the within written instrument, and that (s)he with the notary public witnessed the execution thereof.

Witness

SWORN to before me, this _____
day of _____, 2007.

Notary Public for South Carolina
My Commission Expires: _____

