

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR TUSCANY

[Adopted by the Board of Directors, 15 February, 2016]

[And as amended, 24 January 2022]

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and entered into this 14th day of September 1990, by Clayton & Clayton Development, Inc., a Florida Corporation hereinafter referred to as the "Developer".

WITNESSETH:

WHEREAS, CLAYTON & CLAYTON DEVELOPMENT, INC., a Florida Corporation, is the owner of certain real property known as TUSCANY, according to the Plat thereof as recorded in Plat Book 26, Page 107, Public Records of Orange County, Florida; and

WHEREAS, the above described real Property shall hereinafter be referred to as the "Property"; and

WHEREAS, it is contemplated that the Property is to be developed into single residential dwellings; and

WHEREAS, Developer desires to create a residential community of single family residences with certain roads, open space green belt areas, retention pond and such other common facilities as may be specifically designated on the Plat of TUSCANY for the benefit of said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of open space green belt areas and other common facilities as may be specifically designated on the Plat of the Property and to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an Association to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities; administering and enforcing the covenants and restrictions; collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated the Association referred to in Article I (as a not-for-profit corporation) under the laws of the State of Florida for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Developer declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") herein set forth.

ARTICLE I
DEFINITIONS:

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

(a) "Association" shall mean and refer to **TUSCANY HOMEOWNERS ASSOCIATION, INC.**, a Florida corporation not for profit.

(b) "Property" shall mean and refer to the Plat of Tuscany as recorded in Plat Book 26, Page 107, and Plat Book 36, Page 66, Public Records of Orange County, Florida.

(c) "Common Property" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The common area to be conveyed to the Association shall be those areas as are shown in the Plat of TUSCANY provided same have not been dedicated to the City of Winter Garden heretofore or hereafter.

(d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Property with the exception of Common Properties, as heretofore defined.

(e) "Living Unit" or "Building" shall mean and refer to any portion of a building situated upon the Property designed and intended for use and occupancy as a residence by a single family.

(f) "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any Lot and Living Unit which is situated upon the Property, however, notwithstanding any applicable theory of the law of mortgages, Owner shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any procedure in lieu of foreclosure. Owner shall include any Builder who acquires fee simple title ownership to a lot.

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

(h) "Developer" or "Declarant" shall mean CLAYTON & CLAYTON DEVELOPMENT, INC. The term Developer shall also include any Successor Developer. A Successor Developer shall be a purchaser of undeveloped lot in the subdivision and shall be expressly so designated a Successor Developer in the Deed of Conveyance from Developer.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION:
ADDITIONS THERETO

SECTION 1. **Property.** The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in the City of Winter Garden, Orange County, Florida, and is more particularly described as follows, to-wit:

Lots 1 to 74, Inclusive, and Tract "A", according to the Plat thereof, as

recorded in Plat Book 26, Page 107, Public Records of Orange County, Florida and Lots 1 to 26, inclusive, Tuscan Phase 2, according to the Plat thereof, as recorded in Plat Book 36, Page 66, Public Records of Orange County, Florida.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS OF THE ASSOCIATION

SECTION 1. Membership. Every person or entity who is an Owner of a fee simple or undivided fee simple interest in any Lot subject to assessment, shall be a Member of the Association, provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment. Upon becoming an Owner, every such person or entity shall notify the Association of said ownership and shall send written evidence thereof in the form of the instrument of transfer or conveyance and shall notify the Association of said Owner's mailing address. The Association may rely upon the most current written records in its possession of the nature stated herein as to the name and address of the Owner of a Lot for purposes of determining the rights and obligations of those persons and entities constituting its Members.

SECTION 2. Voting Rights. Members shall be every person or entity who is an Owner of a fee simple or undivided fee simple interest in any Lot. Members shall be entitled to one vote for each Lot but in no event shall more than one vote be cast with respect to any such Lot. For the purpose of determining the votes allowed under this Section, when a Living Unit is counted, the Lot upon which such Living Unit is situated shall not be counted.

ARTICLE IV
PROPERTY RIGHTS IN THE COMMON PROPERTY

SECTION 1. Members' Easements of Enjoyment. Recreational Property and Parks. Every Member shall have a right and easement of enjoyment in and to the Common Property and such easement shall be appurtenant to and shall pass with the title to every Lot and Living Unit.

SECTION 2. Extent of Members' Easement. The easement and right of enjoyment created hereby shall be subject to the following:

- (a) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and
- (b) The right of the Association, as provided in its Articles and Bylaws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to extend thirty (30) days for any infraction of its promulgated rules and regulations; and
- (c) The right of the Association to transfer all or any part of its interest in the Common Property as may be hereafter acquired to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members,

provided that no such dedication, transfer, or determination as the purposes or condition thereof, shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes (as defined in Article III, Section 2) has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member so identified on the records of the Association at least sixty (60) days in advance of any action taken.

ARTICLE V **COVENANT FOR MAINTENANCE ASSESSMENTS**

SECTION 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot and Living Unit by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association (1) Annual Assessments or charges and (2) Special Assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment, together with such interest thereon and the cost of collection thereof as hereinafter provided, is owing and shall also be the personal obligation of the person or entity who was the Owner of such Lot at the time when the assessment came due.

SECTION 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents and Owners of Lots as shown on the Plats of TUSCANY, including but not limited to:

- (a) Payment of operating expenses of the Association;
- (b) Maintenance, landscaping, improvement and operation of Common Property, Tract "A" as shown on the Plat of TUSCANY, the well and pump, easement areas and greenbelt areas;
- (c) Maintenance, landscaping, and improvement of entrance areas to the community, including signage and landscaping;
- (d) Maintenance, landscaping and improvement of Lands dedicated to the public which are located within or adjacent to the Property such as landscape berms along dedicated rights-of-way;
- (e) Maintenance, landscaping and improvement of screening walls located within or adjacent to the Property, including the subdivision wall along Fuller's Cross Road;
- (f) Payment of taxes, insurance premiums, labor and equipment;
- (g) Repayment of funds and interest thereon that have been or may be borrowed by the Association for any of the aforesaid purposes, including repayment of any sums borrowed from or advanced by the Developer on behalf of the Association;

- (h) Establishment of any necessary reserves to replace or repair any portion of the Common Property; and
- (i) Doing any other thing necessary or desirable in the judgment of the Association (acting through its Board of Directors), to keep the subdivision neat and attractive or to preserve or enhance the value of the properties therein, or to eliminate fire, health or safety hazards.

SECTION 3. Uniform Rate of Assessment. Both Annual and Special Assessments must be fixed at a uniform rate for all Lots (regardless of size or location).

SECTION 4. Basis and Maximum of Annual Assessments. Until the year beginning January 1 following the conveyance of the first Lot to an Owner, the Annual Assessment shall be One Hundred and no/100 DOLLARS (\$100.00) per Lot. From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the annual assessment may be increased each year by the Board of Directors of the Association to an adjusted maximum amount not more than fifteen percent (15%) above the maximum assessment for the previous year without a vote of the membership. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount. The Board of Directors of the Association may fix the Annual Assessment without notice or meeting of Members provided such assessment does not exceed the maximum increase set forth above. Notwithstanding the foregoing, if new Annual Assessment has not been adopted as of January 1 of any year by the Board of Directors of the Association or by the Members, the Annual Assessment for the prior year shall remain in effect until and subject to the adoption of an Annual Assessment for that current year.

SECTION 5. Special Assessments for Capital Improvements. In addition to the Annual Assessments authorized by Section 4 hereof, the Association may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that such Special Assessment shall have the assent of two-thirds (2/3) of the votes (as defined in Article III, Section 2) of Members who are present in person or by proxy at a meeting duly called for that purpose, at which a quorum is present, advance written notice of which meeting shall be sent to all Members at least thirty (30) days, but not more than sixty (60) days, prior thereto and shall set forth the purpose of the meeting.

SECTION 6. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 4 hereof, and the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section 4 hereof prospectively for any such period provided that any such change shall have the assent of two-thirds (2/3) of the votes (as defined in Article III, Section 2) of the Members who are present in person or by proxy, at a meeting duly called for that purpose, at which a quorum is present, advance written notice of which meeting shall be sent to all Members at least thirty (30) days, but not more than sixty (60) days, and shall set forth the purpose of the meeting.

SECTION 7. Quorum for any Action Authorized Under Sections 5 and 6. The Quorum required for any action authorized by Section 5 and 6 hereof shall be as follows:

At the first meeting called, as provided in Sections 5 and 6 hereof, the presence at the meeting of Members, in person or by proxy, entitled to cast sixty percent (60%) of all the votes (as defined in Article III, Section 2) of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth in Section 5 and 6, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than thirty (30) days following the preceding meeting. Such subsequent meeting shall not be subject to the notice requirements set forth in Sections 5 and 6 of this Article but rather shall only be subject to such notice requirements as shall be established by the Board of Directors in their reasonable discretion.

SECTION 8. Date of Commencement of Annual Assessments: Due Date. The Annual Assessments provided for herein shall commence on that date (which shall be the first day of the month) fixed by the Board of Directors of the Association to be the date of commencement. The Annual Assessment for any year shall become due and payable on the first day of January of said year. The due date of any Special Assessment under Section 5 hereof shall be fixed in the resolution authorizing such Special Assessment.

SECTION 9. Duties of the Board of Directors. In addition to such other duties vested in the Board of Directors of the Association in the Articles of Incorporation and the Bylaws of the Association, the Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot and Living Unit for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection during normal business hours by any Owner upon written request from said Owner. Written notice of the assessment shall thereupon be sent to every Owner, using names and addresses of each Owner as shown on the records of the Association as provided elsewhere herein. The Association, shall, upon demand at any time, furnish to any Owner liable for said assessment, a Certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such Certificate shall be conclusive evidence of payment having been made of any assessment therein stated.

SECTION 10. Effect of Nonpayment of Assessment: The Personal Obligation of the Owner; The Lien: Remedies of Association.

If an assessment is not paid by January 31 or thirty (30) days after the date of postmark of the mailing of such assessment whichever occurs later, then such assessment shall become delinquent and shall be subject to a late fee of twenty-five dollars (\$25.00). It shall be the personal obligation of each party to pay such assessments as come due while said party is the record Owner of a Lot which personal obligation shall be cumulative to the obligations created by the lien against the Lot. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or may foreclose the lien against the Lot to which such assessment relates, and there shall be added to the amount of such assessment the cost of collecting same, including the costs and attorney's fees incurred by the Association in the preparation and filing of the Lien and in prosecuting the litigation. The lien of the assessment provided for herein shall relate back to the date of the first recording of this Declaration for purposes of determining priority. However, as to first mortgages of record, the lien shall be effective from and after the date of recording a claim of lien in the public records. The lien for assessments provided for herein

shall be subordinate to the lien of any institutional first mortgage or mortgages upon the Lot which mortgage is recorded prior to the Association's lien; provided, however, that such subordination shall apply only to the assessments which have come due and payable prior to the sale or transfer of such Lot pursuant to a decree of foreclosure, or any other transfer procedure in lieu of foreclosure. Such sale or transfer shall not relieve the Owner of such Lot from liability for any assessments thereafter coming due, nor shall the Lot be relieved from the lien of any such subsequent assessment.

SECTION 11. **Exempt Property.** Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

SECTION 12. **Governmental Remedies.** In the event that it becomes necessary for any reason for the City of Winter Garden to maintain any common areas within TUSCANY subdivision, the individual Lot owners shall be personally liable to the City of Winter Garden for their pro-rata share of the costs incurred by the City of Winter Garden, including a reasonable administrative fee. It shall not be a defense to a claim for payment by the City of Winter Garden that a lot owner has already paid the assessments to the ASSOCIATION. The City of Winter Garden shall have all rights granted herein to the ASSOCIATION to enforce its lien for work performed on the Common Areas, including the remedy of foreclosure.

ARTICLE VI

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ARTICLE VII **ARCHITECTURAL REVIEW BOARD AND** **REQUIREMENTS OF CONSTRUCTION**

SECTION 1. **Review by Committee.** No landscaping, grading, removal of trees, clearing, building, fence, driveway, patio, paved area, wall, swimming pool or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change (including painting) or alteration therein be made, until the plans and specifications showing the nature, kind, shape, height, materials, square footage, location and landscaping of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Review Board, said board appointed by the Board of Directors of the Association; and to the extent required by the Architectural Review Board ("ARB"), all structures shall reasonably blend with the natural surroundings. In the event the ARB fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been received by it, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with. Notwithstanding the foregoing, no addition, alteration or change will be deemed to be approved if such is in violation of another covenant, condition or restriction set forth, or provided for, elsewhere in this Declaration. Two (2) copies of all plans and relocated data shall be furnished to the Association.

SECTION 2. **Set Back Lines.** Since the establishment of standard inflexible building set back lines of location of houses on Lots tend to force construction of houses both directly behind

and directly to the side of other homes with detrimental effects on privacy, preservation of important trees, et cetera, no specific set back lines are established by these covenants except that set back lines shall be no less than the minimum requirements established from time to time by Orange County, Florida, or the City of Winter Garden.

SECTION 3. Completion of Construction and Use. The exterior of all houses and other structures must be completed within eight (8) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner due to strikes, fires, national emergency or natural calamities.

SECTION 4. Duties and Powers. The Architectural Review Board shall have the following duties and powers:

- (a) To amend from time to time the Building Criteria. Any amendments shall be set forth in writing and be made known to all Builders. Any amendments shall include any and all matters considered appropriate by the ARB not inconsistent with the provisions of this Declaration;
- (b) To approve all buildings, fences, walls, swimming pools, mailboxes, or other structures which shall be commenced, erected or maintained upon the Subdivision and to approve any exterior additions thereto or changes or alterations therein. For any of the above, the ARB shall be furnished plans and specifications showing the nature, type, shape, height, materials, color, and location of the same, and shall approve in writing as to the harmony of the external design and location in relation to surrounding structures and topography;
- (c) To approve any such building plans and specifications and Lot grading and landscaping plans, and the conclusion and opinion of the ARB shall be binding if, in its opinion, for any reason, including purely aesthetic reasons, the ARB should determine that said improvement, alteration, or contemplated improvement is not consistent with the planned development of the Subdivision of TUSCANY;
- (d) To require to be submitted to it for approval any samples of exterior building materials or paint colors proposed or any other data or information necessary to reach its decision;
- (e) To require each homeowner to submit a set of plans and specifications to the ARB prior to obtaining a building permit, which set of plans and specifications shall become the property of the ARB. The work contemplated must be performed substantially in accordance with the plans or specifications as approved. All approvals of plans or specifications must be evidenced in writing by specifications furnished; and
- (f) To charge a reasonable fee for review of plans and specifications.

SECTION 5. Review Independent of Governmental Review and Permitting. The ARB review process is independent of, and does not replace, normal governmental building plan review and building permit process. Approval of plans by the ARB shall not be deemed to be an

approval of a building's structural integrity, safety, or compliance with applicable building codes. Refusal of approval of plans or specifications or location of improvements by the ARB may be based upon any ground, including purely aesthetic grounds, which are deemed sufficient in the sole and uncontrolled discretion of the ARB.

SECTION 6. Enforcement of Building Criteria. The ARB shall have the right, but not the obligation to enforce the provisions hereof relating to the Building Criteria, as amended from time to time by the ARB. The ARB shall also have the right to waive any restrictions declared herein which the ARB may determine in a certain situation to be of minor or insubstantial nature. Should any Owner or Builder fail to comply with the requirements hereof or of the Building Criteria after thirty (30) days written notice, the ARB shall have the right to enter upon the Lot, make such corrections or modifications as are necessary, or remove anything in violation of the provisions hereof or the Building Criteria, and charge the cost thereof to the Owner. Should the ARB be required to enforce the provisions hereof by legal action, the costs of such action and any appeals thereof, including reasonable attorneys' fees incurred before or during litigation and on appeal of any lower court judgment, shall be collectable from the Owner. The ARB shall have the right and power to transfer and assign the right to enforce said restrictions to another person or legal entity, even though such person or legal entity may own no interest in the land to be benefited by such restrictions. The ARB or its agents or employees, shall not be liable to any Builder or Owner for any damages or injury to the property or person of the Owner.

SECTION 7. Landscaping Requirements. Any major change in the original landscaping of a lot requires that a landscaping plan be submitted to the ARB for its prior approval. The landscaping plan submitted pursuant to this section shall reflect any new landscaping elements as well as any existing landscaping elements to be retained. In addition, the Owner shall be responsible for sodding and maintaining that portion of the Property situated between the Owner's Lot and the curb of the existing pavement for the right-of-way.

ARTICLE VIII **GENERAL RESTRICTIONS**

SECTION 1. Lot Use.

- (a) No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not exceeding thirty five (35) feet in height or two (2) stories with a private attached garage. Notwithstanding the foregoing, the ARB shall have the discretion and authority to approve an application for the construction of a shed provided that a) the Lot is privacy fenced; b) the proposed structure is not visible from the street, does not exceed 120 sq. ft. in size, and has a roof peak that does not rise more than 12" above the fence line; c) the proposed structure does not have a metal roof or siding and is painted and roofed to match the Living Unit on the Lot; and d) the owner or owner's agent obtains all necessary permits from the City of Winter Garden and any other applicable governmental entities. No open carports or detached garages shall be permitted. The minimum acceptable garage shall be a double car garage of suitable size to house two (2) standard size American automobiles. All garage doors must be maintained in a reasonable condition. No garage shall be converted into living quarters. No resident shall park any vehicle in any driveway, except a private passenger automobile, private

pickup truck or private passenger van. No resident shall park any commercial pickup truck, commercial van or other commercial vehicle in any driveway or on any part of a Lot. Boats, boat trailers, and recreational vehicles, including but not limited to motor homes and campers, may be parked in driveways for the purpose of loading, unloading and/or cleaning for not more than 24 hours and not to exceed one (1) time per week, except as specifically permitted in writing by the Board of Directors which permission may be granted by the board in its sole and absolute discretion. No vehicle shall be parked other than on paved surfaces. No non-operating or non-functioning vehicle of any kind shall be permitted to be parked in the yard or in the driveway of any Lot in the Property.

- (b) An attached addition to the dwelling may be erected, but only on condition that it shall not project beyond the front wall of the dwelling or structure as originally erected, and upon further condition that it and any breezeway or other structure connecting it with the dwelling shall conform in architecture, material and color to the dwelling. Notwithstanding the foregoing, a permanent all season room may be attached to the rear of a dwelling with prior written approval of the ARB.
- (c) Private swimming pools may be constructed or erected on any lot provided that no portion of any such pool or its appurtenances, including its fence, shall be closer to the rear lot or side lot lines than the minimum distances respectively permitted by local ordinances, and provided further that such pools may be situated in the rear yard only. No above-ground pools shall be permitted.
- (d) No fence shall be constructed or maintained on any Lot without prior written approval of the ARB. Chain link fences are expressly prohibited. No fence of any kind shall be constructed or maintained in front of the rear line of the dwelling on any Lot (as such rear line is extended to each Lot line) except with the written approval of ARB. No permitted fence shall exceed (6) feet in height. Wood fences may be painted provided all colors must be approved by the ARB. Wood fences shall be of the shadowbox or board on batten type with posts on inside of fence; wood stockade fences shall not be permitted.
- (e) No Living Unit or any part thereof shall be used for any purpose except as a private dwelling for one family, nor shall any business of any kind, including rentals, or noxious or offensive activity be carried on upon any Lot within or without the dwelling, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Notwithstanding the foregoing, an Owner may maintain a home office in a Living Unit provided that such office is not open to members of the public and no increase in vehicular traffic or noise results from maintaining such office. No trailer, tent, shack or other such structure shall be located, erected or used on any Lot, except as approved in writing by the ARB as authorized by Article VIII, Section 1(a) hereof. No dwelling nor any part thereof shall be leased or rented, whether or not for monetary compensation. All dwellings must be Owner occupied. If any party occupies a dwelling for more than thirty (30) days (which days need not be contiguous) in any six (6) month period in the absence of the Owner, he or she shall be deemed to be a lessee, and the Owner of the dwelling shall be in violation of this provision and the occupant subject to removal by the Association. The Association is hereby appointed as each Owner's agent for purposes of terminating any lease agreement entered into in violation of this restriction and for the purposes of pursuing ejectment and/or eviction of any party occupying a dwelling in violation of this restriction, and the Owner of such dwelling

shall be liable for paying any reasonable attorney's fees and costs incurred by the Association in pursuing the removal of any such party. Any tenant(s) occupying a dwelling under a bona fide lease agreement as of the effective date of this amendment shall be permitted to occupy the dwelling until the expiration of the lease term but shall not be permitted to renew the lease agreement nor extend the lease term, and in no event shall any tenant be permitted to occupy any dwelling after one (1) year following the effective date of this agreement. The Owner of any dwelling occupied under a lease agreement as of the effective date of this amendment shall provide a copy of the lease agreement to the Association's Board of Directors within thirty (30) days after the effective date of this amendment. The effective date of this amendment shall be the date this document is recorded in the public records of Orange County, Florida.

- (f) All Lots shall be maintained to a standard suitable for this type of development. Each Lot must be sodded in its entirety exclusive of the building site and landscaped areas. No trees are to be planted between the curb and the sidewalk. If the Owner of any individual Lot fails to properly maintain or landscape his Lot, then Association may, after ten (10) days' written notice, at its option, maintain and landscape the Lot and the Owner shall reimburse Association for any costs and expenses incurred by the Association. All construction commenced on any Lot in TUSCANY shall be completed within eight (8) months after commencement of construction. Each Lot shall be landscaped in accordance with a landscape plan approved by the ARB. Owner must sod and maintain that portion of the Property lying between the Owner's Lot and the curb of the existing pavement for the right-of-way.
- (g) The Owner of any individual lot is responsible for:
- Keeping the Lot's driveway and all sidewalks free of mold and mildew;
 - Keeping landscape free of weeds and edging grass adjacent to sidewalks.

SECTION 2. Minimum Square Feet. All dwellings erected on any Lot in the development shall be a quality of workmanship and materials suitable for a development of this type. No dwelling shall be erected on any Lot having less than one thousand five hundred (1,500) square feet of heated and air conditioned living space, exclusive of open porches, garages and appurtenant structures. Each dwelling shall have at least two (2) outdoor spotlights, conforming with the Planning Criteria.

SECTION 3. Drilling. No oil drilling, oil development, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, water wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

SECTION 4. Animals. No reptiles, animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except for dogs, birds, or other usual and customary household pets, provided that the same are not kept, raised or maintained for business or commercial purposes or in numbers deemed unreasonable by the Association in the exercise of its reasonable discretion. Numbers in excess of two (2) of each such type of household pet (excluding aquarium-kept tropical fish) shall prima facie be considered unreasonable. All domestic pets shall either be kept on a leash or be within the control of the pet's owner or be kept within an enclosed area on the respective Owner's

Lot.

SECTION 5. Garbage. Garbage or rubbish shall not be dumped or allowed to remain on any Lot. Garbage, rubbish or other debris, properly contained in metal or plastic receptacles, shall be placed outside the dwelling for collection on the day, or after sunset on the day before, scheduled collection, in accordance with the regulations of the collecting agency. At all other times, such receptacles shall be placed on the Lot so as not to be visible from the road.

SECTION 6. Easements. Perpetual easements for the installation, construction, reconstruction, maintenance, repair, operation and inspection of sewer, water and drainage facilities, for the benefit of the adjoining land owners and/or Developers, authority, commission, municipality or other agency, supplying sewer, water and/or drainage facilities, are reserved as shown on the aforesaid subdivision plat; also, easements in general in, over and across each Lot for the installation of electrical, gas, cable television and telephone facilities. No building or structure shall be erected nor any paving laid nor any filling or excavation done within the easement areas occupied by or reserved for such facilities except for driveways. The easements described herein shall be shown on the recorded Plat as described above.

SECTION 7. Trees. No large trees measuring six (6) inches or more in diameter at ground level may be removed without the written approval of the Association.

SECTION 8. Billboards. No sign boards or advertising devices shall be maintained on any Lot except that this clause shall not prohibit Contractors from using sign boards or advertising devices in conjunction with construction on residences during such construction period. Further, nothing herein contained shall limit the right of individual homeowners from placing on their own Lot one "For Sale" sign not larger than four (4) square feet.

SECTION 9. No Offensive Activity. No noxious or offensive activity shall occur on any Lot.

SECTION 10. Insurance. No Owner shall do or keep on a Lot anything which would increase the rate of insurance relating thereto without the prior written consent of the ARB, and no Owner shall permit anything to be done or kept on his Lot which would result in the cancellation of insurance of any residence or which would be in violation of any law.

SECTION 11. Garbage and Trash Disposal. No Lot shall be used or maintained as a dumping grounds for rubbish, trash or other waste. All trash, garbage, and other waste shall be kept in sanitary container and, except when required to be placed at the curb for pickup, all containers shall be kept within an enclosure, which enclosure shall be located out of sight from the front or side streets. There shall be no burning of trash or any other waste material.

SECTION 12. Window Air-Conditioning Units. No window or wall air-conditioning units shall be permitted.

SECTION 13. Concrete Block. All concrete block construction shall be stuccoed with there being no exposed concrete block; provided, however, this restriction shall not preclude using struck block construction on the interior walls of garages.

SECTION 14. Driveways. All driveways shall be constructed of concrete or other materials to be approved by the ARB. No gravel or blacktop driveways shall be permitted.

SECTION 15. Recreational Equipment. Unless approved by the ARB, all basketball and other recreational equipment shall be placed so that same shall be located behind the front wall of the dwelling or structure as originally constructed.

SECTION 16. Solar System. No solar panels shall be installed on a roof or otherwise except pursuant to s. 163.04, Florida Statutes.

SECTION 17. Burning. No burning of leaves, trash, rubbish, garbage or other waste materials of any type shall be permitted or conducted on Residential Property. Nothing herein contained, however, shall be deemed to prohibit the burning of wood, logs or charcoal in properly constructed or installed fireplaces, barbeque cookers, or the like, whether inside or outside of any building or other structure located on a Lot.

SECTION 18. Storage Tanks. No storage tanks including, but not limited to, tanks for water, oil, propane gas, or other liquids, fuels or chemicals, including those used for swimming pools or the like, shall be permitted outside of a Building on a Lot unless the same shall be underground or placed inside of walls, fences, landscaping screens or similar type enclosures. In no event shall any of the same be visible from any adjacent or neighboring Lots or the platted roads.

SECTION 19. Changes Affecting Drainage. No Lot Owner, without the express prior written consent of the ARB, shall construct any improvements or make any changes to a Lot which shall have the result of changing, altering or affecting the natural or artificial water courses, canals, ditches, swales, ponds or drainage of the Property, and all construction, grading and landscaping shall conform to the drainage swale requirements set forth on the Plat of the Property.

SECTION 20. Construction Material. No Lot Owner may store construction materials on a Lot for a period exceeding thirty (30) days without commencing construction, and if construction does not timely commence, the ARB may remove such stored materials. Costs incurred in such removal will become a lien on said Lot, accruing interest at the highest rate permitted by law and enforceable in the same manner as an Association assessment lien. Construction, once commenced, shall be diligently pursued to completion.

SECTION 21. Casualty. No building or improvement which has been partially or totally destroyed by fire or other casualty shall be allowed to remain in such condition for more than six (6) months from the time of destruction. If reconstruction or repair of any such Living Unit is not commenced within six (6) months, the Owner thereof shall raze or remove the same promptly from the Owner's Lot.

SECTION 22. Rules and Regulations. In addition to the foregoing restrictions on the use of Lots, the Association shall have the right, power and authority, to promulgate and impose reasonable rules and regulations governing and/or restricting the use of a Lot and to thereafter change, modify, alter, amend, rescind and augment any of the same; provided, however, that no rules or regulations so promulgated shall be in conflict with the provisions of this Declaration. The Association shall also have the authority to adopt and levy fines for violation of the aforementioned rules and regulations. Any such rules and regulation so promulgated by the Association shall be deemed

promulgated when adopted by the Board of Directors of the Association and shall be applicable to and binding upon all Lots and Owners thereof and their successors and assigns, as well as all guests or invitees of and all parties claiming by, through or under such Owners.

SECTION 23. Rear Lot Swales. Each Owner shall be responsible for the maintenance of rear lot swales, if any, located upon the Owner's Lot.

ARTICLE IX
SPECIAL RESTRICTIONS AFFECTING OPEN SPACE AREAS AND COMMON PROPERTIES, INCLUDING GREEN BELT AREAS AND RETENTION PONDS

SECTION 1. General Intent. It shall be the intent and purpose of these restrictions and covenants to maintain and enhance certain areas designated and shown on plats hereafter filed for record in the Office of the Clerk of the Court of Orange County, Florida with respect to the Property as open space areas, retention ponds, parkway areas (even if within the right of way for Fullers Cross Road) or Common Properties.

SECTION 2. Rights of Members. To insure that land, if any, designated as open space areas, green belt areas and Common Properties will remain undeveloped and natural, a license for open space is hereby granted to the Members of the Association and no Owner of a Lot and Living Unit shall fence any portion of the open space areas, green belt areas or Common Properties or place a hedge thereon or cause the same to become obstructed in any manner whatsoever.

SECTION 3. Buildings. It is expressly understood and agreed that no building, tent, trailer or other structure, either temporary or permanent, except as noted elsewhere herein and except as may be approved by the Board of Directors of the Association, shall be erected or caused to be placed on any lands shown and set aside on a recorded subdivision plat as a green belt area, open area, park or Common Property on plats hereafter filed for record in the Office of the Clerk of the Court of Orange County, Florida with respect to the Property.

SECTION 4. Trash. No dumping of trash, garbage, sewage, sawdust or any unsightly or offensive material shall be placed upon the open space areas, green belt areas, parks or Common Properties except as is temporary and incidental to the bona fide improvement of the area in a manner consistent with its classification as open space area.

ARTICLE X
GENERAL PROVISIONS

SECTION 1. - Duration. The covenants and restrictions of this declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable, the Association, the Owner of any Lot subject to this Declaration, their representatives, legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

SECTION 2. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, post paid,

to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

SECTION 3. Enforcement.

(a) In the event of a violation of, or failure to comply with, the provisions of the Declaration of Covenants, Conditions and Restrictions, and the failure of the Owner of the affected Lot, within fourteen (14) days following written notice by the Association of such violation or non-compliance and the nature thereof, to cure or remedy such violation, then the Association (acting through its Board of Directors) or its duly appointed employees, agents or contractors, shall have and are specifically granted the right and privilege of an easement and license to enter upon thereon, without being guilty of any trespass therefore, for the purpose of undertaking such acts or actions as may be reasonably necessary to cure or eliminate such violation, including injunctive relief; all at the sole cost and expense of the Owner of the affected Lot. Such costs and expenses, together with an overhead expense to the Association of fifteen (15%) of the total amount thereof shall be assessed by the Association as an Individual Lot Assessment as provided in this Declaration to the affected Lot and Owner thereof. Any such individual Lot Assessment shall be payable by the Owner of the affected Lot to the Association within ten (10) days after written notice of the amount thereof. Any such Individual Lot Assessment not paid within said ten (10) day period shall become a lien on the affected Lot in accordance with the provisions of this Declaration enforceable and collectable in the same manner as other assessment liens.

(b) The Association, acting through its Board of Directors, shall have the right to enforce, by a proceeding at Law or in equity, all restrictions, conditions, covenants, reservations, liens, and other changes now or hereinafter imposed by the provisions of this Declaration. Failure by the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. If the Association shall fail to enforce any covenant or restriction herein contained, then, after giving sixty (60) days written notice to the Association, any Lot Owner may so proceed if the Association has not done so within said sixty (60) day period.

(c) The Board may levy reasonable fines, not to exceed the maximum amounts permitted by Section 720.305(2), Florida Statutes (2021), as amended from time to time, against an Owner, Lessee, guest, or invitee for failure to comply with any provision of this Declaration.

(1) A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing. Fines in the aggregate are not capped to any amount.

(2) A fine or suspension may not be imposed without delivery of a notice of at least fourteen (14) days to the person sought to be fined and an opportunity for a hearing before a committee of at least three (3) persons (the "Violations Committee") appointed by the Board who are not officers, directors or employees of the Association, or the spouse, parent, child, brother, sister of an officer, director or employee. If the Violations Committee does not by a majority vote approve a fine, the same may not be imposed. The written notice of violation shall be in writing delivered to the Owner, Lessee, guest, or invitee and shall detail the infraction or infractions. Included in the notice shall be the date and time of the hearing of the Violations Committee. If the Association imposes a fine, the Association must provide written notice of such fine by mail or hand delivery to the Owner or Lessee.

(3) The non-compliance shall be presented to the Violations Committee acting as a tribunal, after which the Violations Committee shall hear reasons why a fine should not be imposed.

The hearing shall be conducted in accordance with the procedures adopted by the Violations Committee from time to time. A written decision of the Violations Committee shall be submitted to the Owner, Lessee, guest, or invitee, as applicable, by not later than twenty-one (21) days after the meeting of the Violations Committee. The Owner, Lessee, guest, or invitee shall have a right to be represented by counsel and to cross-examine witnesses. The existence of a similar violation or violations on one or more other Lots shall not constitute a valid defense against a proposed fine, and the Violations Committee may not consider the existence of other similar violations when determining whether to impose a fine. The role of the Violations Committee is limited to approving or disapproving the fine.

(4) The Violations Committee may approve a fine imposed by the Board against the Owner in an amount up to One Hundred and No/100 Dollars (\$100.00) (or any greater amount permitted by law from time to time) for each violation. Each day of non-compliance shall be treated as a separate violation, and there is no cap on the aggregate amount the Violations Committee may fine an Owner, Lessee, guest, or invitee. Fines shall be paid not later than five (5) days after receipt of notice of the imposition of the fine. All monies received from fines shall be allocated as directed by the Board. Any fine in excess of One Thousand and No/100 Dollars (\$1,000.00) shall constitute a lien against the applicable Lot, and a fine shall further be lienable to the extent otherwise permitted under Florida law. *{§3(c) added by amendment, 24 Jan 2022}*

SECTION 4. Severability. Invalidation of any one of these covenants or restrictions by Judgment or Court Order shall in no way affect any other provisions which shall remain in full force and effect.

SECTION 5. Subdivision of Lots. No Lot shall be subdivided, or boundaries changed except with the written consent of the Association.

SECTION 6. Amendments by Association. This Declaration of Covenants and Restrictions may be amended by a two-thirds (2/3) vote of the Board of Directors of the Association, and any such amendment shall thereafter be recorded in the Public Records of Orange County, Florida, and shall thereupon become a part of this Declaration of Covenants and Restrictions as though the same were first set out herein. Article V, Section 3 cannot be amended without the consent of the City of Winter Garden.

SECTION 7. Retention Area. The Retention Area is designated and shown on the Plat as Tract "A". These common facilities shall be maintained by the Association; provided however, if the Association shall not legally exist hereafter, the City of Winter Garden shall have the right, but not the obligation, to assume the responsibilities for maintenance, landscaping, improvement and operation of water retention areas. In the event the City of Winter Garden shall assume such responsibility, each Owner may be charged for the costs and expenses incurred in performing such services, which could involve all Lots within the subdivision being included as part of Municipal Service Taxing Unit (MSTU).

ARTICLE XI
SURFACE WATER AND STORM WATER MANAGEMENT SYSTEMS

SECTION 1. Definitions. "Surface Water or Storm Water Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

SECTION 2. Covenant For Maintenance Assessments For Association. In addition to the purposes for assessments set forth in Article V, Section 2 of the Declaration, assessments shall also be used for the maintenance and repair of the Surface Water or Storm Water Management System, including, but not limited to, work within retention areas, drainage structures and drainage easements.

SECTION 3. Duties of Association. The Association shall be responsible for the maintenance, operation and repair of the Surface Water or Storm Water Management System. Maintenance of the Surface Water or Storm Water Management System shall mean the exercise of practices which allow the System to provide drainage, water storage, conveyance or other storm water management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the Surface Water or Storm Water Management System shall be as permitted or, if modified, as approved by the St. Johns River Water Management District.

SECTION 4. Easement For Access And Drainage. The Association shall have a perpetual non- exclusive easement over all areas of the Surface Water or Storm Water Management System for access to operate, maintain or repair the System. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of the Surface Water or Storm Water Management System, in a reasonable time and in a reasonable manner, to operate, maintain or repair the Surface Water or Storm Water Management System as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire Surface Water or Storm Water Management System. No person shall alter the drainage flow of the Surface Water or Storm Water Management System, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.

SECTION 5. Lot Swales. The Developer has constructed drainage swales upon Lots for the purpose of managing and containing the flow of excess surface water, if any, found upon such Lot from time to time. Each Lot Owner, including builders, shall be responsible for the maintenance, operation and repair of the swales on their Lot. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other storm water management capabilities as permitted by the St. Johns River Water Management District. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the drainage swale shall be authorized and any damage to any drainage swale, whether caused by natural or human-induced phenomena, shall be repaired and the drainage swale shall be returned to its former condition as soon as possible by the Owner of the Lot upon which the drainage swale is located.

SECTION 6. Enforcement. The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the Declaration related to the maintenance, operation and repair of the Surface Water or Storm Water Management System.

SECTION 7. **Amendment.** Any Amendment to the Declaration which alters any provision relating to the Surface Water or Storm Water Management System, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District.

[END OF DOCUMENT]