



**AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF TUSCANY ESTATES, A PLANNED
COMMUNITY**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF TUSCANY ESTATES, A PLANNED COMMUNITY (the "Amended and Restated Declaration") is made and adopted by Tuscany Estates Association, Inc., a Pennsylvania non-profit corporation and the Association of Unit Owners of a planned community located in Union Township, Washington County.

WITNESSETH:

WHEREAS, by a Declaration of Covenants, Conditions and Restrictions for Tuscany Estates, a Planned Residential Community, as recorded in the Recorder of Deeds Office of Washington County, Pennsylvania, on September 14, 2005 at Instrument Number 200530543 ("the Declaration"), as the same has been amended from time to time, Quaker Engineering Co., a Pennsylvania corporation, as Declarant, established a planned community known as Tuscany Estates Association, Inc. ("the Association") pursuant to the Uniform Planned Community Act of Pennsylvania, 68 Pa. C.S. 5101, et seq. ("the Act"); and

WHEREAS, the period of Declarant control has terminated pursuant to the provisions of the Act; and

WHEREAS, in the management of the affairs of the Association, the Board of Directors feels that it is in the best interest of the Association to amend and restate the Declaration of the Association; and

WHEREAS, upon an affirmative vote of at least sixty-seven (67%) percent of the Unit Owners of the Association, the Declaration is hereby amended and restated, and such amendments and restatement are as provided in the following Amended and Restated Declaration, to be effective upon the recordation hereof in the Recorder of Deeds Office of Washington County, Pennsylvania.

NOW, THEREFORE, the Declaration is hereby amended and restated in its entirety as follows:

Article I
Definitions

Terms Defined. All capitalized terms used herein and hereinafter shall have the following meanings ascribed to them, unless otherwise defined in this document. The definitions shall conform to requirements of the Pennsylvania Uniform Planned Community Act, and any item not defined shall have the meaning designated in the Act.

SECTION 1.01 "Act" means the Pennsylvania Uniform Planned Community Act, 68 Pa. C.S.A. §5101 et seq.

SECTION 1.02 “Assessments,” namely “Common Facility Assessments” and “Controlled Facility Assessments,” means the pro rata distribution and collection of funds among Unit Owners to pay for the shared cost of maintaining, repairing and operating the Common Elements, Common Facilities and/or Controlled Facilities, in the Planned Community.

SECTION 1.03 “Association” means Tuscan Estates Association, Inc., a Pennsylvania non-profit corporation and the Association of Unit Owners.

SECTION 1.04 “Board of Directors” and “Board” means the duly elected or appointed members of the Tuscan Estates Association Board of Directors.

SECTION 1.05 “Builder” means any qualified home builder or contractor designated by contract to construct a permitted Units, in compliance with this Declaration and/or the By-Laws, in the Planned Community.

SECTION 1.06 “Building(s)” means any structure or dwelling erected on the Property.

SECTION 1.07 “By-Laws” mean the approved By-Laws of the Tuscan Estates Association, Inc. as amended from time to time.

SECTION 1.08 “Cluster” means a group of attached residences built with party walls, where such common-wall Units are erected in a defined area or sector of the Planned Community.

SECTION 1.09 “Common Elements” mean the real estate and improvements in the Planned Community, other than a Unit, and also known as Common Facilities and Controlled Facilities, which are owned by the Association.

SECTION 1.10 “Common Facilities” means the real estate and improvements within the Planned Community, other than the Units, which are owned and maintained by the Association for the benefit of all Unit Owners and residents. Common Facilities include, but are not limited to non-public storm water detention systems and ponds, open spaces, private street(s) and roadways, entrance monuments, a swimming pool and a clubhouse.

SECTION 1.11 “Common Facility Expenses” means the expense to operate and maintain the Common Facilities, which includes, but is not limited to, costs for maintenance repairs and replacement of the Common Facilities, cost of insurance, management, legal, accounting and other professional services. Common Facility Expenses shall mean those expenses shared by and assessed against all Units including the Townhouses, Patio Homes and Single Family Homes.

SECTION 1.12 “Controlled Facilities” means the real estate and improvements designated and constructed solely for the benefit and use of residents of the Patio Homes and Townhouses which are not owned by the Association but maintained, repaired and/or replaced by the Association pursuant to this Declaration. Controlled Facilities include, but are not limited to, the exterior walls, roofs, gutters, downspouts, soffit, fascia, siding, decorative stone and/or brick on front of Units.

SECTION 1.13 “Controlled Facility Expense” means the cost of operating and maintaining the Controlled Facilities. These expenses are assessed on pro rata basis against only the Patio Homes and Townhouses as these Units benefit from the Controlled Facilities.

SECTION 1.14 “Declarant” means Quaker Engineering Co. and its successors, heirs and assigns.

SECTION 1.15 “Declaration” means this document, as it may be amended from time to time, which describes the covenants, conditions, reservations and restrictions designated for and assigned to the Tuscany Estates Planned Community.

SECTION 1.16 “Developed Lot” means a parcel prepared for construction of a Unit and improved with installed gas lines, water lines, sewer lines, electric lines, telephone and/or cable lines. A Developed Lot does not include improvements normally made by a Builder during construction, such as a foundation and footings.

SECTION 1.17 “Lot” means a plot of real estate in the Planned Community designed for the construction of a residential Unit, and excludes the Common Elements as shown on the recorded Plats and Plans.

SECTION 1.18 “Lot Owner” or “Member” or “Unit Owner” shall all mean any person or entity holding title to one or more Units or Lots in the Planned Community.

SECTION 1.19 “Patio Homes” and “Townhouses” shall both mean and include the common-wall Units created for separate ownership, which may be part of a Cluster and are constructed with at least one-party wall, and may share a yard, soffit or fascia connected to or contiguous with another Unit.

SECTION 1.20 “Percentage Interest” means the undivided ownership share of each Unit Owner in the Common Elements of the Planned Community.

SECTION 1.21 “Planned Community” has the meaning defined by the Pennsylvania Uniform Planned Community Act, 68 Pa. C.S.A. §5101 et. seq.

SECTION 1.22 “Plats and Plans” means the recorded plans, as amended from time to time.

SECTION 1.23 “Property” means the real property declared pursuant to the Act as more fully described at Exhibit “A” hereto.

SECTION 1.24 “Real Estate” means the real property described in Exhibit “A” hereto.

SECTION 1.25 “Resale Certificate” is the certificate required by the Association upon the resale of a Unit pursuant to the Act.

SECTION 1.26 “Resident” means any person or persons occupying, renting or leasing a Unit in the Planned Community. All Residents, whether they are Unit Owners or Tenants, are subject to the rules and regulations of the Association. The terms “Resident” and “Tenant” may be used interchangeably in this document.

SECTION 1.27 “Single Family Homes” or “Single Family Unit” shall mean the single family residence Units constructed on a Lot and not attached to any other dwelling.

SECTION 1.28 “Unit” means a residential dwelling, permitted by this Declaration and identified in the recorded Plats and Plans, constructed on a Developed Lot in the Planned Community. The term “Unit” shall include all Patio Homes, Townhouses and Single Family Units.

Article II Association, Membership and Voting Rights

SECTION 2.01 Purpose. Tuscany Estates Association, Inc. is a non-profit corporation organized under the laws of the Commonwealth of Pennsylvania and the Association of Unit Owners of the Planned Community known as Tuscany Estates, with powers to maintain, administer and enforce the covenants, conditions and restrictions provided herein or in the By-Laws.

SECTION 2.02 Membership. Each Unit Owner and Lot Owner, by acceptance of a deed to any Unit within the Planned Community, whether set forth in said deed or otherwise, shall be a Member of the Association and said membership cannot be separated from the ownership of a Unit. All Unit Owners and Lot Owners, and their tenants, guests, invitees, agents, employees, contractors and/or builders are subject to and bound by this Declaration, the By-Laws and Rules and Regulations of Tuscany Estates Association, Inc.

SECTION 2.03 Voting Rights. By virtue of membership in the Association, each Unit Owner shall have one (1) vote per Unit.

Article III
Unit Boundaries

SECTION 3.01 Unit Boundaries of Patio Homes and Townhouses. Title lines and boundaries of the Patio Homes and Townhouse Units are generally described as follows:

- A. Horizontal (Upper and Lower) Boundaries. There are no upper and lower horizontal boundaries for Patio Homes and Townhouses.
- B. Vertical Boundaries. The vertical boundaries of the Patio Homes and Townhouses shall be the vertical plane of intersections with each other, and, for the exterior walls which are not common walls, with the lot lines of the Unit, and for Common Walls, with the center line of the party walls to the lot lines.
- C. Contiguous Boundaries. The Unit boundaries of the Patio Homes and Townhouses shall include but is not limited to all sidewalks, yards, driveways, and soffit and fascia that is attached, connected or contiguous to that Unit and designated for separate ownership along all spaces, interior portions, structures, fixtures and improvements within the boundaries as described in the Act or which service only such Unit.

SECTION 3.02 Unit Boundaries of Single Family Homes. The boundaries of the Single Family Homes shall be the Lot lines as described on the Plats and Plans including but not limited to all sidewalks and driveways within all Lot lines.

Article IV
Easements and Encroachment

SECTION 4.01 General Utility Easements. The Common Elements and the Units are subject to general easements in favor of utility and service providers and public agencies or authorities to install, service or repair utility lines and other facilities necessary for Unit construction in the Planned Community. The easements created by this section shall include without limitation, the right to install, lay, connect, maintain, repair, relocate and replace gas lines, pipes and conduit, water mains and pipes, sewer and drain lines, telecommunication lines and equipment (cable and other) for telephone, television, and other electronic services, electrical wiring, conduits, and equipment, and ducts and vents under, through, along and, on the Lots, street right-of-way and common spaces.

SECTION 4.02 Easement to Connect Drainage. The Association shall have an easement on, over and under those portions of the drainage easement as shown on the Plats and Plans for the purpose of maintaining and connecting drainage of surface water in order to maintain reasonable standards of health, safety and appearance. The easement created by this section expressly includes the right to cut down any trees, bushes, shrubs, to grade the soil or to take any other action reasonably necessary to achieve this purpose, following which actions, the Association shall restore the affected property as closed to its original condition as reasonably possible.

SECTION 4.03 Utility Service Lines. Each Unit shall be subject to a blanket easement over, across and under each Unit to install, repair, replace and maintain all utilities including, without limitation, water, sewer, gas, electricity, telephone, television and other telecommunications such as cable television and internet access. The Patio Homes and Townhouses shall be subject to additional easements in favor of the Association to maintain, repair, replace or reconstitute common utility service lines, fixtures, equipment and facilities service these Units.

SECTION 4.04 Easements and Encroachments. To the extent necessary, each Unit will have an easement for structural support over every other Unit or Lot or the Common Areas. To the extent that any Unit, Common Facility or Controlled Facility encroaches on any other Unit, Common Facility or Controlled Facility, a valid easement for that encroachment exists. To the extent that storm water of a Unit is directed or collected into a receptor in another Unit, Common Facility or Controlled Facility, including gutters and downspouts, a valid easement for the storm water encroachment that exists.

SECTION 4.05 Easement for Common Walls. The owners of adjoining common-wall Units shall have continued use of the party walls between the Units for the benefit and support of and common-wall Units, provided that such use shall not injure any adjoining Unit or the premises of the other common-wall Unit Owner, and shall not impair the party wall benefits and support to which such adjoining Units are entitled.

SECTION 4.06 Maintenance Easement. The Units, to the extent necessary, shall be subject to a non-exclusive right and easement to the Association, including its agents, employees, contractors and subcontractors, as may be necessary or appropriate for the performance of the duties and functions which the Association is permitted or obligated to perform, such maintenance, repair and replacement. This shall include but is not limited to an easement to the Association for inspection of the Units and Lots in order to verify the performance of all items of maintenance, repair and replacement which is the responsibility of the Unit Owners, for correction of emergency conditions thereon and/or any other purpose defined by this Declaration.

SECTION 4.07 Easement for Public Health, Water, Sewage, Sanitation and Emergency Services. A non-exclusive easement is hereby granted to the appropriate governmental and public authorities, and to the appropriate private organizations entities supplying health, sanitation, police and emergency services such as fire, ambulance and rescue, for the purpose of ingress and egress over the Common Elements.

SECTION 4.08 Additional Easements. The Planned Community shall be subject to all easements and licenses of record.

SECTION 4.09 Builders Easements. All easements for the benefit of any builder will terminate automatically upon the completion of the Planned Community.

SECTION 4.10 Sidewalk Easements. Each Unit Owner is granted an access easement for ingress, egress and regress over and across all sidewalks located on the Property, whether located on Common Elements or a Unit or Lot.

SECTION 4.11 Miscellaneous Easements. Easements are shown on the recorded Plats and Plans, and reserved for sewer drainage, and utility installations, maintenance, and such purposes and use as may be shown on the recorded Plans. All Lots and Units are subject to such easements. No structure, planting or other material shall be place or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the flow of drainage in the easements. The Owner of each Lot covered by these covenants shall have an easement over all Lots adjoining his property to discharge over those Lots surface water that naturally rises, flows and falls upon his property. All Lots are subject to such easement in favor of the Owners of adjoining Lots, and these easements shall be a covenant running with the property.

Article V Property Rights

SECTION 5.01 Owners' Easements of Enjoyment. Every Unit Owner shall have a right shared in common with all other Unit Owners to use the Common Elements, including the Common Facilities and open space, in the Planned Community, and this right shall be appurtenant to and pass with the title to each Unit, subject to the following provisions:

- A. The right of the Association to limit the number of guests of Unit Owners or Residents to use the Common Facilities or to charge reasonable fees for the use of Common Facilities situated in the Planned Community.
- B. The right of the Association to suspend the voting rights and privileges of a Unit Owner or its Tenants and guests to use the Common Facilities for any period where the assessments for the Unit are unpaid or in arrears, or for a period not to exceed sixty (60) days from an infraction of the Rules and Regulations of the Association, or so long as the infraction endures, whichever is longer.
- C. The right of the Association to dedicate or transfer all or any part of the Common Elements to a public entity, agency, authority or utility for such purposes.

SECTION 5.02 Delegation of Use. Any Unit Owner may delegate his/her right of enjoyment and use of the Common Elements to Members of his/her immediate family or tenants residing in his/her Unit, subject to the Rules and Regulations for such delegated use established by the Association or the Board of Directors from time to time.

SECTION 5.03 Title to Common Property. Title to the Common Elements shall be conveyed to the Association, subject to prior grants and reservations of coal, oil, gas, mining rights, right of way, building line, building and use restrictions, all exceptions, easements and conditions as may be and appear in proper instruments of record, including those set forth in the Declaration, except for any real property taxes, which shall be prorated to the date of conveyance.

Article VI
Maintenance

SECTION 6.01 Maintenance Responsibilities. Notwithstanding ownership of various portions of the Common Elements by virtue of the boundary descriptions, except as otherwise set forth herein, Units shall be maintained, repaired and replaced by the Unit Owner(s) and the Common Elements shall be maintained, repaired and replaced by the Association in accordance with provisions of the Act, this Declaration, the By-Laws and Rules and Regulations of the Association as the same may be amended from time to time.

SECTION 6.02 Maintenance of Common Elements. The Association shall be obligated to maintain the Common Elements, including but not limited to, maintenance, repair, reconstruction and replacement of any Common Facilities in the Planned Community. The Association shall be responsible for the cost of obtaining and maintaining liability insurance coverage on the Common Facilities.

SECTION 6.03 Maintenance of Controlled Facilities. The Association shall be responsible for maintaining, repairing and replacing Controlled Facilities in the Planned Community.

SECTION 6.04 Maintenance of Patio Homes and Townhouses. Owners of Patio Homes and Townhouse Units shall be responsible for all maintenance and repairs to those portions of their Unit which are not defined as Controlled Facilities, and for all interior maintenance, repair and replacement thereof within the standards of the community and pursuant to this Declaration and any guidelines adopted by the Board. Patio Homes and Townhouse Units shall also be responsible for maintenance, repair and replacement of all walkways and sidewalks located in their respective Clusters and for removal of snow and ice on their individual walkways, sidewalks and driveways including but not limited to the sidewalks which abut the street.

SECTION 6.05 Party Walls. Each wall which is a part of original construction placed on the dividing line between Patio Homes and/or Townhouses shall constitute a party wall. To the extent not provided in this Article, Pennsylvania law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. The following shall apply to all party walls:

- (A) Sharing of Ordinary Repair and Maintenance. The cost of reason-able repair and maintenance of a party wall shall be shared by the adjoining Owners who make use of the wall in proportion to such use.
- (B) Repair Due to Owner Fault. An Owner who, by his negligent or willful act, permits or causes the interior parts and surfaces of a party wall, and parts of the structure connected to it, to be destroyed or damaged whatsoever, shall bear the whole cost of necessary repairs and replacements, and for all consequential damage. If he fails to make prompt restoration, the case shall be treated as provided herein.
- (C) Owner Responsible for Others. Each Owner shall be responsible for his own conduct and for the willful or negligent acts of all others on his premises with his consent, including offensive noise transmittal. No provisions in this Article alter this liability.
- (D) Partial Damage: Immediate Repair. Every effort has been made to soundproof and fireproof the party walls according to standards of appropriate regulatory bodies. When damage from fire or other casualty is partial and requires immediate repair, temporary or permanent, and there is no agreement for immediate repair, any affected Owner may undertake such repair, partial or total, as he finds to be reasonably appropriate. If the repair is temporary, then the damage shall be deemed to be substantial.
- (E) Substantial Partial Damage. Subject to provisions above governing temporary repair, substantial damage shall be treated as total damage as to repair and restoration, the right to make it, and the resulting responsibilities
- (F) Total Damage. In the event the co-users of a party wall cannot agree on repair procedures within thirty (30) days of the damage, any affected Owner, after ten (10) days' written notice to the other such Owner(s), shall have the right to restore the party wall, partially or totally, in substantially the same design and construction.