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Prepared by and Return To:

Steven M. Helfman, Esquire  
Atlantic Commons Associates, LLLP  
1600 Sawgrass Corporate Parkway, Suite 400  
Sunrise, Florida 33323

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**SECOND AMENDMENT TO  
AMENDED AND RESTATED DECLARATION OF COVENANTS, RESTRICTIONS  
AND EASEMENTS FOR TUSCANY**

**THIS SECOND AMENDMENT TO AMENDED AND RESTATED  
DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR  
TUSCANY** (this "Amendment") is made this 21<sup>st</sup> day of February, 2017 by **ATLANTIC  
COMMONS ASSOCIATES, LLLP**, a Florida limited liability limited partnership (the  
"Declarant"), and joined by **TUSCANY PROPERTY OWNERS ASSOCIATION, INC.**, a  
Florida not-for-profit corporation (the "Association"), as follows:

**RECITALS**

**WHEREAS**, Declarant executed and recorded that certain Amended and Restated  
Declaration of Covenants, Restrictions and Easements for Tuscany on July 18, 2014, in Official  
Records Book 26923, at Page 148 of the Official Records of Palm Beach County, Florida, as  
amended and supplemented from time to time (the "Declaration"); and

**WHEREAS**, Article XIV, Section 8 of the Declaration provides that prior to the "Turnover  
Date" (as such term is defined in the Declaration), Declarant may amend the Declaration without  
the requirement of consent of the Association or the "Owners" (as such term is defined in the  
Declaration), so long as such amendment does not materially impair the common plan of  
development of "Tuscany" (as such term is defined in the Declaration); and

**WHEREAS**, Article XIV, Section 8 of the Declaration also provides that the Association  
shall, upon the request of the Declarant, join in any such amendment; and

**WHEREAS**, the Turnover Date has not occurred as of the date of this Amendment, and  
this Amendment does not materially impair the common plan of development of Tuscany; and

**WHEREAS**, the Declarant, together with the joinder and consent of the Association,  
desires to amend the Declaration, as further set forth herein.

**NOW, THEREFORE**, the Declarant, joined by the Association, hereby amends the  
Declaration as follows:

**Preface.** The foregoing recitals are true and correct and are hereby incorporated as if fully set forth herein. All initially capitalized terms shall have such meaning as set forth in the Declaration unless an alternative meaning is set forth herein.

**Amendment.** Article X, Section 1 of the Declaration is hereby amended and restated as follows:

(\* \* \* shows unaffected language)

**ARTICLE X  
USE RESTRICTIONS**

\* \* \*

Section 1. ENFORCEMENT. Failure of an Owner to comply with any limitations or restrictions in this Declaration or any of the Tuscan Documents or with any other rules and regulations promulgated by the Association shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. Without limiting the generality of the foregoing, an Owner shall also be responsible for the payment of any and all Legal Fees incurred by the Association in connection with the enforcement of this Declaration, any of the Tuscan Documents and/or with any rules or regulations promulgated by the Association, whether or not an action is actually begun. Any such Legal Fees shall be paid not later than thirty (30) days after written notice thereof and if not paid within such thirty (30) day period, shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses.

Notwithstanding the rights of the Association hereunder to enforce the terms and provisions of the Tuscan Documents, the Water Management District shall also have the right to take enforcement action, including a civil action for an injunction and penalties, against the Association to compel the Association to correct any failure by the Association to operate, maintain and repair the Drainage System in accordance with the Water Management District Permit.

In addition to all other remedies, the Association may: (i) suspend, for a reasonable period of time: the voting rights of an Owner and/or any or all of the rights of an Owner and the Owner's tenants, guests or invitees, to use the Association Property and facilities (including, without limitation, cable television and other services provided by Community Systems) for failure to comply

with any of the Tuscany Documents; and/or (ii) levy reasonable fines against any Owner for failure of such Owner, and/or such Owner's family, guests, invitees, tenants or employees to comply with any of the Tuscany Documents; provided, in either (i) or (ii) above, the following procedures are adhered to:

A. Notice and Hearing. The Association shall notify the Owner in writing of the noncompliance and set forth the corrective action to be taken. The rights of an Owner, the Owner's family, guests, invitees, tenants and/or employees to use the Association Property and facilities (including, without limitation, cable television and other services provided by Community Systems) may be suspended and/or a fine may be levied against such Owner by the Board at a properly noticed meeting of the Board. However, a fine or suspension of use rights for a violation of the Tuscany Documents may not be imposed without notice of at least fourteen (14) days to the Owner sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director, or employee of the Association. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. The fine is effective upon mailing or hand delivering written notice to the Owner of the fine or such earlier date as set out in the written notice; provided, however, such fine shall not commence earlier than the date of the Board's levy of the fine. The use rights suspension is effective upon mailing or hand delivering written notice to the Owner of the use rights suspension. A fine may be levied by the Board on a daily basis in the event of a continuing violation without the necessity of a new notice or hearing. A fine may exceed One Hundred Dollars (\$100.00) per violation and may exceed One Thousand Dollars (\$1,000.00) in the aggregate. If the Association desires to impose a fine or suspend the use rights of an Owner, the Association shall comply with the procedural requirements of Section 720.305 of the Florida Statutes, as it may be amended from time to time, to the extent the procedural requirements in such statute are inconsistent with this subparagraph A. In such event, the procedural requirements set forth in Section 720.305 of the Florida Statutes, as it may be amended from time to time, shall take priority over the fining and use right suspension procedures set forth herein to the extent of any inconsistency therewith.

B. Payment. A fine shall be paid not later than thirty (30) days after notice of the imposition of the fine.

C. Fines. A fine shall be treated as an Assessment subject to the provisions of the collection of Assessments as otherwise set forth herein. All monies received from fines shall be allocated as directed by the Board, subject always to the provisions of this Declaration.

D. Failure to Pay Assessments. Notwithstanding anything to the contrary contained in the Tuscany Documents, unless contrary to applicable law, Notice and Hearing as provided in Subparagraph A above or elsewhere in the Tuscany Documents shall not be required and shall not apply with respect to the imposition of suspension of use or voting rights upon any Owner because of such Owner's failure to pay Assessments or other charges, or any other monetary obligation due to the Association when due, if such non-payment exceeds more than ninety (90) days.

E. Access. Suspension of use rights to Association Property shall not impair the right of an Owner or tenant of a Lot and/or Home to have vehicular and pedestrian ingress to and egress from such Lot and/or Home, including, but not limited to, the right to park. Restricting access to use of visitor or guest lanes of Tuscany shall not be deemed an impairment of rights under this subparagraph E.

2. This Amendment shall become effective upon recording amongst the Official Records of Palm Beach County, Florida.

3. Except as modified by this Amendment, the Declaration shall remain in full force and effect in accordance with the terms thereof. In the event any of the provisions of this Amendment shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof or of the Declaration, which shall remain in full force and effect, and any provisions of this Amendment deemed invalid by a court of competent jurisdiction by virtue of the term or scope thereof shall be deemed limited to the maximum term and scope permitted by law.

[Signatures and Joinder Appear on Following Pages]

IN WITNESS WHEREOF, this Amendment has been signed by Declarant and joined in by the Association on the respective dates set forth below.

**DECLARANT:**

**ATLANTIC COMMONS ASSOCIATES, LLLP**, a Florida limited liability limited partnership

By: **Atlantic Commons Corporation**, a Florida corporation, its general partner

**WITNESSES AS TO DECLARANT:**

Shavolyn Webb  
Signature  
Print Name SHAVOLYN WEBB

Vanessa Serrano  
Signature  
Print Name Vanessa Serrano

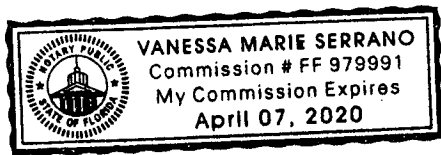
By: [Signature]  
Name: Richard M. Norwalk  
Title: Vice President

STATE OF FLORIDA

COUNTY OF BROWARD )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Richard M. Norwalk, a Vice President of Atlantic Commons Corporation, a Florida corporation, the general partner of Atlantic Commons Associates, LLLP, a Florida limited liability limited partnership, freely and voluntarily under authority duly vested in him by said corporation and partnership, and that the seal affixed thereto is the true corporate seal of said corporation. He is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 27<sup>th</sup> day of February, 2017.



Vanessa Serrano  
Notary Public, State of Florida at Large

Typed, Printed or Stamped Name of Notary Public

My Commission Expires:

**JOINDER AND CONSENT OF THE ASSOCIATION**

The undersigned, **TUSCANY PROPERTY OWNERS ASSOCIATION, INC.**, a Florida not-for-profit corporation, does hereby join in and consent to the amendments to the Amended and Restated Declaration of Covenants, Restrictions and Easements for Tuscanly as set forth in the Second Amendment to Amended and Restated Declaration of Covenants, Restrictions and Easements for Tuscanly, to which this joinder and consent is attached. In that regard, the undersigned further consent to the execution and recording of the Second Amendment to Amended and Restated Declaration of Covenants, Restrictions and Easements for Tuscanly.

**WITNESSES AS TO ASSOCIATION:**

Sharolyn Webb  
Signature  
Print Name SHAROLYN WEBB

Vanessa Serrano  
Signature  
Print Name Vanessa Serrano

**ASSOCIATION:**

**TUSCANY PROPERTY OWNERS ASSOCIATION, INC.**, a Florida not-for-profit corporation

By: Theresa Fowler Webb  
Name: Theresa Fowler Webb  
Title: President

[CORPORATE SEAL]

**STATE OF FLORIDA**

**COUNTY OF PALM BEACH**

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Theresa Fowler Webb, as President of Tuscanly Property Owners Association, Inc., a Florida not-for-profit corporation, freely and voluntarily under authority duly vested in her by said corporation, and that the seal affixed thereto is the true corporate seal of said corporation. She is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 4<sup>th</sup> day of February, 2017.  
March

Vanessa Serrano  
Notary Public, State of Florida at Large

\_\_\_\_\_  
Typed, Printed or Stamped Name of Notary Public

My Commission Expires:

