



CFN 20170263936

This Instrument Prepared by and after recording return to:

Mark F. Grant, Esq.
Greenspoon Marder, P.A.
200 E. Broward Blvd., Suite 1800
Fort Lauderdale, FL 33301

OR BK 29237 PG 0263
RECORDED 07/25/2017 08:11:22
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
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**THIRD AMENDMENT TO
AMENDED AND RESTATED DECLARATION OF COVENANTS, RESTRICTIONS
AND EASEMENTS FOR TUSCANY**

THIS THIRD AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR TUSCANY ("Third Amendment") is made this 24th day of July, 2017, by **ATLANTIC COMMONS ASSOCIATES, LLLP**, a Florida limited liability limited partnership ("Declarant") and joined in by **TUSCANY PROPERTY OWNERS ASSOCIATION, INC.**, a Florida not-for-profit corporation ("Association"), as follows:

RECITALS

WHEREAS, Declarant, with the joinder of the Association, 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, which was amended by that certain First Amendment to Amended and Restated Declaration of Covenants, Restrictions and Easements for Tuscany dated August 24, 2015 and recorded September 10, 2015 in Official Records Book 27792, at Page 435, as supplemented and further amended by that First Supplemental Declaration and Second Amendment to Amended and Restated Declaration of Covenants, Restrictions and Easements for Tuscany dated August 4, 2016 and recorded August 12, 2016 in Official Records Book 28501, at Page 683, and further amended by that certain Amendment to Amended and Restated Declaration of Covenants, Restrictions and Easements for Tuscany dated February 27, 2017 and recorded March 10, 2017 in Official Records Book 28941, at Page 708, all of the Public Records of Palm Beach County, Florida, as same has been or may hereafter be amended and/or supplemented from time to time (collectively, 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 or 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 request of Declarant, join in any such amendment; and

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

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

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

1. The above recitals are true and correct and are hereby incorporated herein by this reference as if repeated at length. All initial capitalized terms used in this Third Amendment shall have the meanings given to such terms as set forth in the Declaration unless an alternative meaning is set forth herein.

2. Article VII, Section 9 of the Declaration is hereby deleted and replaced in its entirety as follows:

Section 9. ALLOCATION OF ASSESSMENTS FOR POD A AND C-2.

Notwithstanding anything herein to the contrary, the Owners of Lots in Pod C-2 (a/k/a Tuscany North) as shown on the Project Conceptual Plan, on the one hand, and the Owners of Lots in Pod A (a/k/a Tuscany South) as shown on the Project Conceptual Plan on the other hand, shall be separately responsible for the expenses of, and shall be separately assessed for, the maintenance, repair and replacement of Recreation Tracts, Streets, Drives, Roads, Roadways, Landscaped Areas, Grassed Areas, entranceways, gates, gatehouses, Lakes and other Association Property located entirely within and/or exclusively serving, such Pod. The Budget and related Assessments shall reflect the separate allocation of the Operating Expenses of maintaining, repairing and replacing the Association Property within and/or exclusively serving each respective Pod in conformance herewith (the "Pod Specific Operating Expenses").

In order to determine and establish the Pod Specific Operating Expenses for Pod A and Pod C-2, there is hereby established a "Tuscany South Budget Committee" and a "Tuscany North Budget Committee," respectively. The Tuscany South Budget Committee shall consist of not less than three (3) members comprising: (a) the two (2) Directors elected by the Class A-1 Members at the Annual Members Meeting (as set forth in the Articles), and (b) one (1) or more other Class A-1 Member(s) appointed by said two (2) elected Class A-1 Directors, who will serve (and/or be removed or replaced) at the pleasure of those Directors. The Tuscany North Budget Committee shall consist of three (3) members comprising: (a) the two (2) Directors elected by the Class A-2 Members at the Annual Members Meeting (as set forth in the Articles), and (b) one (1) or more other Class A-2 Member(s) appointed by said two (2) elected Class A-2 Directors, who will serve (and/or be removed or replaced) at the pleasure of those Directors.

Notwithstanding anything to the contrary, the Tuscany South Budget Committee and the Tuscany North Budget Committee shall not be effective until after the Turnover Date. Prior to the Turnover Date, the Board shall prepare the entire Budget including, without limitation, the portion of the Budget to include the Pod Specific Operating Expenses for each of Pod A and Pod C-2.

On or before October 15 of each calendar year following the Turnover Date: (a) the Tuscany South Budget Committee shall deliver to the Board an estimated budget (the "Tuscany South Budget") of the Pod Specific Operating Expenses for Pod A, and (b) the Tuscany North Budget Committee shall deliver to the Board an estimated budget (the "Tuscany North Budget") of the Pod Specific Operating Expenses for Pod C-2. In the event that the Tuscany South Budget Committee and/or Tuscany North Budget Committee fail to timely deliver their respective budgets to the Board, then the Board shall be free to adopt the Tuscany South Budget and/or Tuscany North Budget, as applicable, for the applicable Budget year.

In connection with each annual Budget to be adopted by the Board pursuant to the Declaration and Section 9.2 of the Bylaws of the Association, such Budget shall include the Tuscany South Budget as the Operating Expenses for Pod A and the Tuscany North Budget as the Operating Expenses for Pod C-2. Notwithstanding the foregoing, in the event the Board reasonably believes that there is an error, mathematical or otherwise, in the Tuscany South Budget or Tuscany North Budget, as applicable, the Board shall notify the applicable committee within seven (7) days following receipt of the budget specifying the error found and request that the Tuscany South Budget Committee or Tuscany North Budget Committee, as applicable, correct such error and deliver a revised budget to the Board on or before October 31 of such calendar year. Alternatively, if the applicable budget committee disagrees that there is any such error, the budget committee can provide the Board with the backup to explain the lack of error such as, but not limited to, bids, proposals or other documentation to justify the applicable expense(s) on or before October 31 of such calendar year.

In the event the Pod A Budget Committee and/or Pod C-2 Budget Committee cannot agree with the Board on any particular line item(s) as a result of such error, mathematical or otherwise, then the decision concerning the amount to be used in the Budget for such line item(s) shall be determined by a neutral third party. The neutral third party can be either the Association's counsel, the auditor for the Association, a Florida certified mediator, or an arbitrator recognized as such by the State of Florida, whose decision shall be final and binding. If the parties cannot agree on the neutral third party to determine the dispute, then the neutral third party shall be the Association's auditor. The expenses for the neutral third party shall be an Operating Expense of the Association payable by the Owners. Until the disagreement is resolved by the neutral third party, the amount to be used in the Budget for such line item(s) shall be the amount for such line items(s) from the prior year's Budget until the disagreement is resolved. If the disagreement involves line item(s) that did not exist in the prior year's Budget, then the amount to be used in the Budget shall be an amount equal to 110% of the estimated budget proposed by the Tuscany South Budget or Tuscany North Budget, as applicable.

Notwithstanding anything to the contrary in the Declaration (including, without limitation, Section 8 of Article XIV thereof), this Section 9 may only be amended by: (i) the consent of the Owners owning eighty percent (80%) of ALL Lots; together

with: (ii) the approval or ratification of seventy-five percent (75%) of all the Directors.

3. A new Section 24 is hereby added to Article X of the Declaration as follows:

Section 24. RULES COMMITTEES FOR POD A AND POD C-2.

Notwithstanding anything to the contrary contained in this Declaration, the Articles and/or the Bylaws, there is hereby established a Pod A Rules Committee and a Pod C-2 Rules Committee (each, a "Rules Committee"). The Pod A Rules Committee shall consist of not less than three (3) Class A-1 Members appointed by the two (2) Directors elected by the Class A-1 Members who will serve (and/or be removed or replaced) at the pleasure of said Class A-1 Directors. The Pod C-2 Rules Committee shall consist of not less than three (3) Class A-2 Members appointed by the two (2) Directors elected by the Class A-2 Members, who will serve (and/or be removed or replaced) at the pleasure of said Class A-2 Directors.

The powers of the Board to adopt, modify and/or repeal the Rules and Regulations of the Association in accordance with the Association Documents (including, without limitation, Section 10 of the Bylaws) are hereby perpetually and irrevocably delegated to: (a) the Pod A Rules Committee with respect only to the Rules and Regulations that apply to the Association Property located entirely within and exclusively serving the Class A-1 Members (such as, but not limited to, the Recreation Tract, entrance gates and roads in Pod A), and (b) the Pod C-2 Rules Committee with respect only to the Rules and Regulations that apply to the Association Property located entirely within and exclusively serving the Class A-2 Members (such as, but not limited to, the Recreation Tract, gatehouse, entry gates and roads in Pod C-2).

In connection with such delegation, upon written direction from a Rules Committee specifying the adoption, modification and/or repeal of a rule or regulation within such Rules Committee's authority as provided herein, the Board shall adopt, modify and/or repeal the Rules and Regulations of the Association in a manner consistent with such written direction unless such change would: (i) violate any applicable governmental law, rule and/or or regulation, or (ii) cause the Association to be in violation of any contractual obligation to which the Association is a party. Notwithstanding the delegation of the rights to adopt, modify and/or repeal Rules and Regulations as provide above, all enforcement of the Regulations and Regulations (including, without limitation, all rights to fine and/or suspend Members) shall remain with the Board who shall enforce the Rules and Regulations in accordance with the Association Documents.

Notwithstanding anything to the contrary in the Declaration (including, without limitation, Section 8 of Article XIV thereof), this Section 24 may only be amended by: (i) the consent of the Owners owning eighty percent (80%) of ALL Lots; together with: (ii) the approval or ratification of seventy-five percent (75%) of ALL Directors.

4. Except as modified hereby, the Declaration shall remain in full force and effect in accordance with the terms thereof. In the event any of the provisions of this Third 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 Third 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.

5. This Third Amendment shall become effective upon recording amongst the Public Records of Palm Beach County, Florida.

IN WITNESS WHEREOF, Declarant has executed this Third Amendment as of the day and year first above written.

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

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

WITNESSES AS TO DECLARANT:

Print Name: Skian Helman

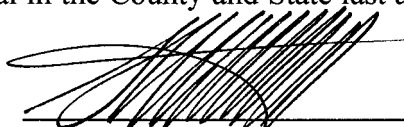
Print Name: Kathleen M. Goldstein

By: N. Maria Menendez
Print Name: N. MARIA MENENDEZ
Title: Vice President

STATE OF FLORIDA)
) ss
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 N. Maria Menendez, as 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/her by said corporation and partnership, 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 24th day of July, 2017



Notary Public, State of Florida at Large

Steven Helfman

Typed, Printed or Stamped Name of Notary Public

My Commission Expires:




JOINDER AND CONSENT OF THE ASSOCIATION

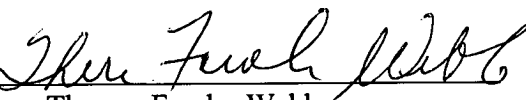
The undersigned, **TUSCANY PROPERTY OWNERS ASSOCIATION, INC.**, a Florida not-for-profit corporation, does hereby join in and consent to the amendments to the Amended and Restated Declaration of Covenants, Restrictions and Easements for Tuscany as set forth in the Third Amendment to Amended and Restated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

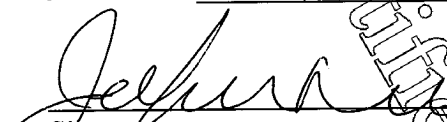
WITNESSES AS TO ASSOCIATION:

ASSOCIATION:

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


Signature
Print Name: SETH SHAPRIO

By: 
Name: Theresa Fowler Webb
Title: President

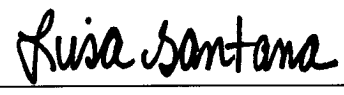


Signature
Print Name: Jennifer

[CORPORATE SEAL]

STATE OF FLORIDA)
) SS
COUNTY OF BROWARD) 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 Tuscany 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 20th day of July, 2017.


Notary Public, State of Florida, at Large

MY COMMISSION # FF 076990
EXPIRES: December 16, 2017
Bonded Thru Budget Notary Services
Typed, Printed or Stamped Name of Notary Public

My Commission Expires: