

RECORD AND RETURN TO:

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AMENDED BY:

Name: JEFFREY D. KNEEN, ESQ.
LEVY KNEEN, PL
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West Palm Beach, FL 33401

**AMENDED DECLARATION OF COVENANTS AND
RESTRICTIONS FOR K. HOVNANIAN'S FOUR SEASONS AT DELRAY BEACH
(FORMERLY TIVOLI ISLES)**

THIS DECLARATION ("Declaration") was originally made as of November 1, 2006 by Home Devco/Tivoli Isles, L.L.C., a Florida limited liability company ("Original Developer") which was recorded in Official Records Book 21048 at Page 416, of the Public Records of Palm Beach County, Florida, wherein the Original Developer declared that the real estate described therein is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as the "Covenants and Restrictions" set forth therein. By virtue of mesne assignments recorded in the Public Records ("Assignment of Developer Rights"), AG/HOV Delray, L.L.C., a Delaware limited liability company, is the successor developer and shall hereinafter be referred to as the "Developer" in this document as well as the Articles of Incorporation and By-Laws of the condominium association having jurisdiction hereover; provided, however, AG/HOV Delray, L.L.C. has not assumed, nor shall be deemed to have assumed the obligations and liabilities of previous developers as set forth in such Assignment of Developer Rights.

WITNESSETH:

WHEREAS, Developer does hereby subject the Property described in Article II hereof to these Covenants and Restrictions, as hereby amended, each and all of which is and are for the benefit of said property and of each present and future owner thereof or of any part thereof, and shall inure to the benefit of and pass with said property and each and every part thereof, and shall apply and to bind every present and future owner of said property, or any part thereof, and their and each of their heirs, successors, legal representatives and assigns.

**ARTICLE I.
DEFINITIONS**

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

1. "Association" shall mean and refer to K. HOVNANIAN'S FOUR SEASONS AT DELRAY BEACH HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit.

2. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of the Association, a copy of which is attached hereto as Exhibit "B", as same may be amended from time to time.
3. "By-Laws" shall mean and refer to the By-Laws of the Association, a copy of which is attached hereto as Exhibit "C", as same may be amended from time to time.
4. "K. Hovnanian's Four Seasons at Delray Beach" or "Property" or "Properties" shall mean and refer to all properties which may, from time to time, be subject to the Covenants and Restrictions of this Declaration, and any amendments thereto, and shall include the parcels of real property described hereafter in Article II.
5. "Common Area" or "Common Areas" shall mean and refer to all areas of land which may be designated as Common Area on any recorded subdivision plat of the Property or on any recorded subdivision plat of any property described within any Supplement to this Declaration and shall include, without limitation, any private roads, drainage areas, buffer areas, easements for roads, rights-of-ways, walkways, parking areas, utility easements, medians and paths, and all improvements now or hereafter constructed thereon including, without limitation, buildings, streets, lighting systems, all utility rights-of-way, entrance features, gatehouses, irrigation systems, signage, structures, ponds and landscaping thereon, all of which are to be maintained by the Association. The Developer shall, no later than the Majority Election Meeting, transfer and assign legal ownership of the Common Area to the Association, subject to the use rights granted herein to the Owners, which use rights shall not be construed to create in any Owner a legal interest in and to such Common Area.
6. "Developer" shall mean and refer to: (i) AG/HOV DELRAY, L.L.C., a Delaware limited liability company, and its successors or assigns, if any such successor or assign acquires the undeveloped portion of the Property from the Developer for the purposes of development and is designated, in writing, as such by the Developer; or (ii) any institutional first mortgagee or its successors or assigns, which acquires title to any portion of the Properties by reason of the acceptance of a deed in lieu of foreclosure from the Developer or by reason of being the successful bidder at a public sale held pursuant to foreclosure proceedings instituted as a result of a default on the part of the Developer under a first mortgage executed by the Developer in favor of such institutional first mortgagee or its successors or assigns.
7. "Lot" shall mean and refer to any lot or other parcel within the Property, together with any and all improvements thereof, as shown on the Plat of TIVOLI ISLES P.U.D., recorded in Plat Book 107, at Page 92, of the Public Records of Palm Beach County, Florida, on which a residential structure could be constructed, whether or not one has been constructed. The term "Lot" shall also include the Residence constructed thereon, when a Residence has been constructed on the "Lot". The term "Lot" shall also mean and refer to any Lot designated as such by the Developer within any Supplement to this Declaration executed and recorded by the Developer pursuant to the provisions contained within Article II of this Declaration.
8. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the title to any Lot.
9. "Member" shall mean and refer to those persons entitled to Membership as provided for in the Articles of Incorporation and the Declaration and "Membership" shall mean all of the Members.
10. "Residence" shall mean and refer to any building or portion of a building situate upon a Lot designed and intended to be used and occupied as a single family residence.
11. "Rules and Regulations" shall mean and refer to all rules and regulations promulgated by the Association under this Declaration, the Articles of Incorporation and/or the By-Laws.

12. "SFWMD" shall mean the SOUTH FLORIDA WATER MANAGEMENT DISTRICT.

ARTICLE II.
PROPERTY SUBJECT TO THIS DECLARATION

1. Legal Description: The real property which is and shall be held, transferred, sold, conveyed, used and occupied subject to the covenants and restrictions with respect to the various portions thereof set forth in the various Articles and Paragraphs of this Declaration, is located in the County of Palm Beach, State of Florida, and is described within Exhibit "A" attached hereto.

ARTICLE III.
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

1. Membership: Every person or entity who is a record Owner of a Lot (including the Developer during such time as the Developer owns all or any part of the Property subject to this Declaration), 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 of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment.
2. Suspension of Voting Rights: Notwithstanding the provisions hereof, the Association shall have the right to suspend any Member's voting right (other than the right of the Developer) for failure to pay regular annual assessments as set forth in the Bylaws.
3. Powers of the Association: The Association shall have all of the powers, duties and obligations as set forth in this Declaration, the Articles and the By-Laws.

ARTICLE IV.
PROPERTY IN THE COMMON AREAS

1. Ownership: Pursuant to Chapter 720, Florida Statutes, the Developer shall, within 90 days after the Majority Election Meeting convey all of the Common Areas to the Association. The Association shall accept such conveyance(s), subject to taxes for the year of conveyance and to restrictions, limitations, conditions, reservations, and easements of record. Commencing with the date this Declaration is recorded, the Association shall be responsible for the maintenance and administration of the Common Areas in a continuous and satisfactory manner and for the payment of taxes assessed against the Common Areas and against any improvements and personal property situate thereon accruing from and after the date of such recordation and for the payment of all utility charges incurred in the operation and maintenance of the Common Areas. Such taxes shall be prorated between the Developer and the Association as of the date of such recordation. Developer shall have the right from time to time to enter upon the Common Areas during periods of construction upon adjacent properties and for the purpose of construction of any facilities on the Common Areas that Developer elects to build.
2. Members' Easements: Each Member of the Association and each tenant, guest, and invitee of such Member shall have a permanent and perpetual easement for ingress, egress, access and use for pedestrian and vehicular traffic over and across all buildings, walkways, private streets, sidewalks and driveways from time to time laid out on the Common Areas for use in common with all other Members, their tenants, guests and invitees. The portion of the Common Areas not used, from time to time, for walkways, private streets, sidewalks or driveways shall be for the common use and enjoyment of the Members of the Association and each Member shall have a

permanent and perpetual easement for the use of such portion of such lands as common open space in such manner as may be regulated by the Association. The foregoing easements shall be subject to the following:

- A. The rights of any tenant(s) occupying portions of the Common Areas pursuant to lease agreements entered into with the Developer and/or with the Association.
 - B. The right and duty of the Association to levy assessments against each Lot for the purpose of maintaining the Common Areas and the Lots in compliance with the provisions of this Declaration and with any restrictions on the plat or plats of the Properties from time to time recorded.
 - C. The right of the Association to levy fines against any Owner for any infraction of the Covenants and Restrictions or its lawfully adopted and published rules and regulations in accordance with the procedures set forth in the By-Laws.
 - D. The right of the Association to suspend any Owner's right to utilize the recreational facilities constructed upon the Common Areas, if such Owner is delinquent in the payment of regular annual assessments due to the Association in accordance with the procedures set forth in the By-Laws.
 - E. The right of the Association to adopt and enforce rules and regulations governing the use of the Common Areas and all facilities at any time situated thereon.
 - F. The right of the Association to dedicate or transfer all or any portion of the Common Areas to any public agency, authority or utility for such purposes and upon such conditions as may be agreed to by the Members, provided, however, that no such dedication or transfer by the Association shall be effective unless approved by the Developer, so long as the Developer owns at least one Lot within the Property.
 - G. The right of an Owner to the use and enjoyment of the Common Areas and the facilities situate thereon shall extend to the members of such Owner's immediate family who reside with such Owner, subject to the regulations from time to time adopted by the Association in its lawfully adopted and published rules and regulations. The easements provided in this Paragraph 2 shall be appurtenant to and shall pass with the title to each Lot.
- 3. Utility Easements: Public utilities may be installed underground in the Common Areas when necessary for the service of the Property. All use of utility easements shall be in accordance with the applicable provisions of this Declaration.
 - 4. Public Easements: Fire, police, health, sanitation and other public service personnel and vehicles shall have a perpetual, non-exclusive easement for ingress and egress over and across the Common Areas.
 - 5. Easement for Unintentional and Non-Negligent Encroachments: If any other building or improvement shall encroach upon any portion of the Common Areas or upon an easement by reason of original construction or by reason of the non-purposeful or non-negligent act of the Developer or of any other owner of such building or improvement, then an easement for such encroachment shall exist so long as the encroachment exists. Such easement shall include the right of ingress and egress during reasonable times of day for the purpose of maintaining and repairing the encroachment. Any exercise of the right of ingress and egress for maintenance and repair shall not be deemed a trespass.

6. Additional Easements: The Developer (during any period in which the Developer has any ownership interest in the Property) and the Association (during such period as the Developer no longer has any interest in the Property) shall each have the right to grant such additional electric, telephone, gas, sprinkler, irrigation, cable television, or other utility easements, and to relocate any existing utility easement in any portion of the Property and to grant access easements and to relocate any existing access easements in any portion of the Property, or any portion thereof, for the general health or welfare of the Owners or for the purpose of carrying out any provisions of this Declaration; provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the use of the Lots for dwelling purposes.
7. Gatehouse: The Developer has constructed a gatehouse at the entrance to the Property, which may be staffed by a guard or which may contain an unmanned security system. If the gatehouse is staffed by a guard, the Association shall have the right to determine, in its sole discretion, whether, and during what hours the gatehouse will be staffed. In any event, the Association shall not have any liability for any injury, damage or loss, of any kind or nature whatsoever due to the fact that the gatehouse is not staffed by a guard or due to the failure of any guard or mechanical or electrical security system to prevent or detect a theft, burglary or other unauthorized entry into the Property.
8. Water Management and Drainage: It is acknowledged that the surface water management and drainage system for the Properties is one integrated system and accordingly shall be deemed a portion of the Common Areas and an easement is hereby created over the Properties for water drainage and for the installation and maintenance of the surface water management and drainage system for the Properties, provided however that such easement shall be subject to all improvements as may be constructed within the Properties, as permitted by controlling governmental authorities from time to time. The surface water management and drainage system of the Properties shall be developed, operated, and maintained by the Association in conformance with the requirements of the SFWMD or any controlling governmental authority. A copy of SFWMD Permit No. 50-06763-P issued May 15, 2005, (the "Permit") is attached hereto and made a part of this Declaration as Exhibit "D", and copies of the Permit and any future SFWMD actions shall be maintained by the Association's registered agent for the benefit of the Association. The Association shall be responsible for assessing and collecting fees for the operation, maintenance and, if necessary, replacement of the surface water management and drainage system for the Properties. The Association shall maintain as a common expense of the Properties, the entire surface water management and drainage system for the Properties, which may include but not be limited to all lakes, canals, swale areas, retention areas, culverts, pipes, pumps, catch basins, and related appurtenances, regardless of whether or not same are within the Properties or are owned by the Association. Such maintenance shall be performed in conformance with the requirements of controlling governmental authority, and an easement for such maintenance is hereby created. Such maintenance responsibility on the part of the Association shall be deemed to include the maintenance of the banks of any lake or canal, and the maintenance of all landscaping within the Properties which is a portion of the Common Areas. The Association has the obligation to maintain any portion of the surface water management and drainage system for the Properties which is owned and/or maintained by any controlling governmental authority, or which is outside of the Properties. The Properties shall be required to accept surface water drainage from any other property pursuant to the requirements of any controlling governmental authority, and in connection therewith the Association has the right, but not the obligation, to maintain any portion of the surface water management system for such other property reasonably required in connection with the maintenance or operation of the surface water management system for the Properties. The SFWMD has the right to take enforcement action, including a civil action for an injunction and penalties against the

Association to compel it to correct any outstanding problems with the surface water management system facilities or in mitigation or conservation areas under the responsibility or control of the Association. Any proposed amendment to this Declaration which would affect the surface water management system, conservation areas or water management portions of the Common Areas must be submitted to the SFWMD for a determination as to whether the proposed amendment necessitates a modification of the Permit. If a modification is deemed necessary, the SFWMD will advise the permittee. In the event the Association is dissolved, then the surface water management and drainage system for the Properties shall be conveyed to an appropriate agency of local government. If such conveyance is not accepted by an appropriate agency of local government, then the surface water management and drainage system for the Properties shall be conveyed to a non-profit corporation similar to the Association.

The owners of property outside of the Properties who are entitled to use the drainage system shall not be obligated to pay to or reimburse the Association for any of the costs and expenses associated with the drainage system within the Properties.

9. Maintenance of Common Areas: Commencing with the date this Declaration is recorded among the Public Records of Palm Beach County, Florida, the Association shall at all times maintain in good repair, and shall replace as often as necessary, any and all improvements situated on the Common Areas (upon completion of construction by Developer) including, but not limited to, landscaping, sprinkler pipes and systems, irrigation pipes, pumps and systems, paving, drainage structures, walkways, common parking facilities, street lighting fixtures and appurtenances, entrance features, perimeter walls, gates and planters, and other structures, except public utilities, all such work to be done as ordered by the Board of Directors. Maintenance of the street lighting fixtures shall include the fixtures within the Common Areas and shall further extend to payment for electricity consumed in the illumination of such lights. The Association may repair, change, replace or restore the walls and fences that are on any of the Lots or Common Areas within the Properties as the same are designated on the Plat of Tivoli Isles. In addition, the Association shall be responsible for the maintenance (in accordance with the requirements of Palm Beach County) of the Civic Site located upon the following described parcel of real property:

Tract C-1, TIVOLI ISLES P.U.D., According to the Plat thereof, as recorded in Plat Book 107, at Pages 92 through 100, inclusive, of the Public Records of Palm Beach County, Florida.

All work pursuant to this Section and all expenses hereunder shall be paid for by the Association through assessments imposed in accordance with Article V hereof. Such assessments shall be against all Lots equally; provided, however, that the cost of any maintenance, repair or replacement caused by the negligent conduct of a Member or by the failure of a Member to comply with lawfully adopted rules and regulations shall be levied as a special assessment against such Member. Any such special assessment, and the lien rights, if any, arising from such assessment, shall be governed by the provisions of Article V herein. No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use of the Common Areas or by abandonment of the Owner's right to use the Common Areas.

10. Developer's Right to Utilize Common Areas: As long as the Developer owns at least one (1) Lot, the Developer (or its duly authorized agents or assigns) may make such use of the Common Areas (including use of any buildings constructed thereon) as may facilitate the Developer's administrative activities (which administrative activities may include, but shall not be limited to, administration of the Association, bookkeeping, post closing repair work and Developer sales, leasing and closing functions) and sales (with respect to Lots within the Property and/or with respect to the sale and/or lease of lots in other developments owned by the Developer and/or by

entities affiliated with the Developer) including, but not limited to, the maintenance of administrative offices and the maintenance of sales and/or leasing offices, for the showing of the Lots and for the display of signs, billboards, placards and visual promotional materials. Any administrative offices and/or sales and leasing offices and/or model units and all personal property, furnishing and signs contained therein and/or appurtenant thereto shall not be considered portions of the Common Areas, but shall remain the separate property of the Developer.

ARTICLE V.

COVENANTS FOR MAINTENANCE ASSESSMENTS

1. Creation of the Lien and Personal Obligation of Assessments: The Developer, for each Lot owned by it within the Properties, subject to Paragraph 4 of this Article VI, hereby covenants, and each Owner of any Lot by acceptance of a deed for such Lot, whether or not it shall be so expressed in any such deed or other conveyance, including any purchaser at a judicial sale, shall hereafter be deemed to covenant and agree to pay to the Association all annual assessments or charges for the maintenance of the Common Areas and the Lots, for such reasonable reserves as the Board of Directors of the Association may deem necessary; and each Owner of a Lot, by acceptance of a deed for such Lot, shall hereafter be deemed to covenant and agree to pay to the Association any special assessments for capital improvements or major repair; such assessments to be fixed, established and collected from time to time as hereinafter provided. All such assessments, together with interest thereon from the due date at the rate of eighteen percent (18.00%) per annum and costs of collection thereof (including reasonable attorneys' fees), shall be a charge on the land and shall be a continuing lien upon the Lot(s) against which each assessment is made, and shall also be the personal obligation of the Owner. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or by abandonment. By acceptance of the deed of conveyance to a Lot, each Owner shall be deemed to have acknowledged the creation of a contractual lien for the assessments prior to the establishment of any homestead exemption from foreclosure and forced sale in the event of nonpayment of the assessments.
2. Purpose of Assessments: The annual and special assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Properties and in particular for the improvement and maintenance of the Lots and the Common Area described above and any easement in favor of the Association, as well as for the operation and administration of the Association including, but not limited to, the cost of taxes, insurance, labor, equipment, materials, management, maintenance, and other supervision thereof, as well as for all other purposes which are permissible activities of, and undertaken by, the Association.
3. Uniform Rate of Assessment: All regular and special assessments shall be at a uniform rate for each Lot contained within the Properties. Notwithstanding the foregoing, in the event the Board of Directors reasonably determines in good faith that the cause of a special assessment shall not be borne equally by all of the Lots, the Board of Directors of the Association may assess a special assessment upon certain but not all of the Lots, or may assess unequal shares of a special assessment upon the Lots.
4. Special Assessments for Capital Improvements and Major Repairs: In addition to any annual assessments, the Board of Directors of the Association may levy in any assessment year a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of a capital improvement as may be approved by the Board of Directors of the Association, including the necessary fixtures and personal

property related thereto, provided that written notice of the proposed assessment shall be provided to all Members at least twenty (20) days in advance of the meeting of the Board of Directors at which the proposed assessment will be considered. The due date of any special assessment shall be fixed in the resolution of the Board of Directors of the Association authorizing such assessment.

Notwithstanding the foregoing, whenever in the judgment of the Board of Directors, the Common Elements, the Association property, or any part of either, shall require capital additions, alterations or Improvements (as distinguished from the construction, reconstruction, unexpected repair or replacement of existing improvements, or items for which reserves may be used) costing in excess of \$50,000.00, the Association may proceed with such additions, alterations or improvements only if the making of such additions, alterations or improvements shall have been approved by a majority of the voting interests, excluding those whose vote has been suspended, represented at a meeting at which a quorum is attained. Any such additions, alterations or improvements to such Common Elements, the Association Property, or any part of either, costing \$50,000 or less may be made by the Association without approval of the Members. However, for any such project costing between \$10,000 and \$50,000 members shall be provided with a description and the cost of the project, not less than 14 days prior to commencement of the project by email or other means. The cost and expense of any such additions, alterations or improvements to such Common Elements or Association Property shall constitute a part of the Common Expenses and shall be assessed to the Lot Owners as Common Expenses.

In addition, the dollar amount set forth above may be increased or decreased if approved by two thirds of the voting interests, excluding those whose vote has been suspended, represented at the annual meeting at which a quorum is attained.

5. Date of Commencement of Annual Assessments Due Date: The assessments for which provision is herein made shall commence on the date or dates (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement. The due date of any assessment shall be fixed in the resolution authorizing such assessments, and any such assessment shall be payable in advance in monthly, quarterly, semi-annual or annual installments, as may be determined by the Board of Directors.
6. Duties of the Board of Directors: The Board of Directors of the Association shall fix the date of commencement of the assessment period, and the amount of assessments, at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and the assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by each Owner. Written notice of the assessment shall be sent to every Owner subject thereto not later than fifteen (15) days after fixing the date of commencement thereof. 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 as to the Lot owned by the Owner making request therefor. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

The Association, through the action of its Board of Directors, shall have the power to enter into an agreement or agreements from time to time with one or more persons, firms or corporations for management services. The Association shall have all other powers as may be provided in the Articles and the By-Laws. The Board of Directors may also purchase officers' and directors' liability insurance and cause all officers and directors having fiscal responsibilities to be bonded, as the Board of Directors may deem necessary.

7. Effect of Non-Payment of Assessment: The Lien, the Personal Obligation, Remedies of Association: If any assessment is not paid on the date when due, such assessment shall then become delinquent and shall, together with interest thereon and the cost of collection thereof, become a continuing lien on the Lot(s) against which such assessment is made and shall bind such Lot(s) in the hands of the Owner(s), his heirs, devisees, personal representatives, successors and assigns, against whom the assessment is levied. Pursuant to Chapter 720, Florida Statutes,, the lien is effective from and shall relate back to the date on which the original Declaration was recorded, November 6, 2006. However, as to first mortgages of record, the lien is effective from and after recording a Claim of Lien in the Public Records of Palm Beach County. To be valid, a Claim of Lien must comply with the requirements of Chapter 720, Florida Statutes and enforcement must also comply with the requirements of such statute. Any individual who acquires title to a Lot upon the death of an Owner or by operation of law shall be personally liable for unpaid assessments with respect of such Lot. In any voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefore. If the assessment is not paid within ten (10) days after the due date, the assessment shall bear interest from the date when due at the rate of eighteen percent (18.00%) per annum. Additionally, the failure to pay any assessment within ten (10) days from the date due shall entitle the Association to levy an administrative late fee, in addition to interest upon the delinquent assessment, in an amount equal to \$25.00 or 5% of the amount of each installment that is paid past the due date. Upon compliance with Chapter 720, Florida Statutes, the Association may bring an action at law against the Owner personally obligated to pay the same or may record a claim of lien against the Lot(s) on which the assessment is unpaid and may foreclose the lien against the Lot(s) on which the assessment is unpaid, in like manner as a foreclosure of a mortgage on real property, or may pursue one or more of such remedies at the same time or successively, and there shall be added to the amount of such assessment, attorneys' fees and costs of preparing and filing the claim of lien and the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action, and the Association shall be entitled to recover attorneys' fees in connection with any appeal of such action. It shall be the legal duty and responsibility of the Association to enforce payment of the assessments hereunder.
8. Rental Pending Foreclosure: In any foreclosure of a lien for assessments if the Lot subject to the lien is being rented, the Association shall be entitled to apply to a court of competent jurisdiction for the appointment of a receiver to receive the rental income and apply such rental income to the amount owed to the Association.
9. Subordination of Lien to First Mortgages: The lien of the assessments for which provision is herein made shall be subordinate to the lien of any first mortgage recorded prior to the recordation of a claim of lien for unpaid assessments. No sale or transfer shall relieve any Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. The written opinion of either the Developer or the Association that the lien is subordinate to a mortgage shall be dispositive of any questions of subordination.
10. Liability of First Mortgagees: The liability of an first mortgagee or its successors or assignees which acquires title to a Lot by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due prior to the first mortgagee's acquisition of title to the Lot is limited to the lesser of:

- A. The Lot's unpaid assessments which accrued or came due during the twelve (12) months immediately preceding the date of acquisition of title to the Lot and for which payment in full has not yet been received by the Association; or
- B. One percent (1.00%) of the original mortgage debt.

The provisions of this Paragraph 10 shall not be applicable unless the first mortgagee has joined the Association as a defendant in the foreclosure proceeding. The provisions of this Paragraph 10 conform to the provisions of Florida Statutes and are subject to change in accordance with prevailing law from time to time.

11. Developer Guaranty of Assessments: Pursuant to the provisions of Chapter 720, Florida Statutes, while the Developer is in control of the Association, the Developer may be excused from payment of its share of the operating expenses and assessments related to its Lots for a period of time for which the Developer has, in this Declaration, obligated itself to pay any operating expenses incurred that exceed the assessments receivable from other members and other income of the Association. The Developer does hereby guaranty assessments of all of the members of the Association as follows and agrees during this guaranty to be obligated to pay any operating expenses incurred that exceed the assessments receivable from other Members and other income of the Association. If at any time during the Guaranty Period the funds collected from Member assessments at the guaranteed level and other revenues collected by the Association are not sufficient to provide payment, on a timely basis, of all assessments including the full funding of the reserves unless properly waived, the Developer shall advance sufficient cash to the Association at the time such payments are due.
- A. The Guaranty Period shall commence ("Commencement Date") on the 1st day of January, 2010, and end thirty six (36) months thereafter unless terminated earlier pursuant to the Developer Guaranty Termination Event as hereinafter set forth below.
 - B. During the first twelve (12) months of this Guaranty ("First Twelve Month Period"), the monthly assessments for operating expenses charged to Members other than Developer shall not exceed \$400.00 per month.
 - C. For the next twelve (12) months ("Second Twelve Month Period"), the monthly assessments for operating expenses charged to Members other than Developer shall not exceed 115% of each Member's monthly assessment during the First Twelve Month Period.
 - D. For the next twelve (12) months ("Third Twelve Month Period"), the monthly assessments for operating expenses charged to Members other than Developer shall not exceed 115% of each Member's monthly assessment during the Second Twelve Month Period.
 - E. At any time during the Guaranty Period as hereinabove set forth, the Developer, by written notice provided to all members, may terminate this Guaranty ("Developer's Guaranty Termination Event"), and following such termination, the Developer shall pay on its Lots the same amount of assessments as Lots owned by other members.
12. Exempt Property: The Board of Directors shall have the right to exempt any of the Property subject to this Declaration from the assessments, charges and liens created herein provided that such part of the Property exempted is used (and as long as it is used) for any of the following purposes:

- A. Any easement or other interest therein dedicated and accepted by a local public authority and devoted to public use;
 - B. All Common Area as defined in Article II hereof;
 - C. Any of the Property exempted from ad valorem taxation by the laws of the State of Florida, to the extent agreed to by the Association. Notwithstanding any provisions of this Paragraph 12, no Lot (or any part thereof), land or improvements devoted to dwelling or related use shall be exempt from said assessments, charges or liens, except as provided in Paragraph 10 above.
13. Annual Budget: By a majority vote of the Board of Directors, the Board of Directors shall adopt an annual budget for the subsequent fiscal year of the Association which shall provide for allocation of expenses in such a manner that the obligations imposed by this Declaration must be met.
14. Trust Funds: The portion of all regular assessments collected by the Association as reserved for future expenses, and the entire amount of all special assessments, shall be held by the Association in trust for the Owners of all Lots, as their interests may appear.
15. Association Savings Account: The Association shall establish a restricted interest bearing savings account for the benefit of the Association ("Account") which shall be funded and restricted as hereinafter set forth. The funds in the Account shall remain intact (including any interest accrual thereon) through "Turnover" which term shall mean the date that transition of Association control is made pursuant to Chapter 720, Florida Statutes. The funds held in the Account shall not be used by the Developer. Funds held in the Account shall not be used by the Association until after Turnover. It is the expressed intent and desire of the Developer and the Association that the Account shall not be designated or treated as a capital reserve account or reserve account pursuant to this Declaration or under Chapter 720, Florida Statutes and that the Account not be subject to the provisions of Chapter 720, Florida Statutes. The Account shall be funded as follows:
- A. In settlement of certain deficit obligations of the Original Developer, the Association and the Developer have agreed that the Developer will contribute to the Account the sum of Eighty Eight Thousand Two Hundred fifty Dollars (\$88,250) which shall be funded within ten (10) days of the consummation of the sale of each Lot owned by the Developer by the contribution of a sum equal to one-fourth (1/4th) of the then annual assessment for such Lot until such time as, by making the individual Lot payments, the entire sum has been paid. Notwithstanding anything to the contrary contained herein, the entire contribution shall be paid no later than the date of Turnover.
 - B. In addition to the foregoing and in addition to all other amounts required to be paid to the Association under this Declaration by the purchaser of a Lot owned by Developer, the purchaser of any Lot from the Developer and any and all subsequent purchasers of re-sales within the Association, shall pay to the Association a one time payment ("Payment"), which Payment shall be in the amount of one-quarter (1/4) of the then annual assessment for such Lot, which Payment shall be a contractual requirement for closing on the sale of such Lot, and which Payment shall be deposited into the Account.

ARTICLE VI.
EXTERIOR MAINTENANCE AND ASSESSMENT

1. By the Owner: Each Owner shall maintain and repair all areas of the Owner's Lot, Residence and all other structures thereon which are not required to be maintained or otherwise cared for by the Association as set forth herein including but not limited to the trees on the Lot; provided, however, that the Association reserves the right to maintain such areas if, in its sole discretion, the Association deems it desirable. Each Owner shall maintain, repair and replace all Owner installed improvements and all Owner-installed landscaping. If any Owner fails to maintain any area required to be maintained by the Owner under this section, the Association may, at its option, provide such maintenance service.
2. By the Association: The Association shall maintain all areas of each Lot including landscaping, but excluding all trees, the Residence, all other structures on the Lot and any Owner installed landscaping or Owner installed improvements; provided, however, that the Association reserves the right to maintain the trees and the extent to which it shall do so if, in its sole discretion, the Association deems it desirable.
3. Assessment of Costs: The cost of such maintenance may be assessed against the Lot or Lots upon which such maintenance is performed or, in the opinion of the Board of Directors of the Association, benefitting from same. The assessment shall be apportioned among the Lots involved in the manner determined to be appropriate by the Board of Directors of the Association. If no allocation is made, the assessment shall be uniformly assessed against all of the Lots in the affected area.
4. Access at Reasonable Hours: For the purpose of performing the maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or the exterior of any improvements thereon at reasonable hours on any day except Sunday.

ARTICLE VII.

ARCHITECTURAL CONTROL

1. Architectural Control: No building, wall, fence, or other structure or improvement of any nature including, without limitation, swimming pool, glass enclosure, screened enclosure, permanent barbecue pit, mailbox, front entry screen door, large satellite dish, lamppost, landscaping, or landscaping device, shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the proposed location of the structure and landscaping as may be required by the Architectural Review Board (ARB) have been approved in writing by the ARB named below and ratified by the Board of Directors of the Association. Each building, wall, fence, or other structure or improvement of any nature, together with the landscaping, shall be erected, placed, or altered upon each Lot only in accordance with the plans and specifications so approved and shall be erected, placed or altered (as may be applicable) only by licensed professionals, pursuant to appropriate building permits first having been obtained. If required by the ARB, copies of professional licenses and evidence that workers' compensation insurance and liability insurance coverages have been obtained and are in full force and effect, with respect to each contractor performing the construction, modification and/or alteration, which insurance certificates shall name the Association as an additional insured thereunder, shall be furnished to the ARB. Refusal of approval of plans, specifications, and plot plan, or any of them, may be based on any ground, including purely aesthetic grounds. Any change in the exterior appearance of any building, wall, fence, or other structure or improvements, and any change in the appearance of the landscaping, shall be deemed an alteration requiring approval. The ARB shall consist of five (5) members appointed by the Board of Directors of the Association. The Board of Directors of the Association shall have the power to promulgate such rules and regulations as

it deems necessary to carry out the provisions and intent of this paragraph The address of the ARB shall be that of the Association.

2. Architectural Review Board: A majority of the ARB may take any action the ARB is empowered to take, may designate a representative to act for it, and with the approval of the Board of Directors of the Association employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the ARB, the Board of Directors of the Association shall designate a successor. The members of the ARB shall not be entitled to any compensation for services performed pursuant to this Article VII.
3. ARB Reports: The ARB's approval of plans and specifications shall be delivered in writing to the Board of Directors of the Association and, after ratification by the Board of Directors of the Association, to the Owner submitting same within sixty (60) days from the date of a complete submission of the plans and specifications to the ARB. Should the ARB disapprove plans submitted by the Owner, the ARB's disapproval shall be returned to the Owner submitting same within sixty (60) days from the date of last submission of the plans and specifications to the ARB.
4. Powers and Duties of the ARB: Any applicant aggrieved by a decision of the ARB shall have the right to make a written request to the Board of Directors of the Association, within ten (10) days of such decision, for a review thereof. The determination of the Board of Directors upon reviewing any such decision shall in all events be dispositive.
5. Fees and Compliance Deposit: The ARB may, in its sole discretion, require an Owner to pay the Association, with each submittal, a fee to reimburse the Association for its costs, including administrative costs, professional fees, credit checks and the like. The ARB, in its sole discretion, may require an Owner to deliver a deposit in an amount as determined by the ARB which shall be held in escrow by the Association to ensure Owner's compliance and completion of the proposed improvements. In the event an Owner fails to comply with the provisions and criteria as set forth in this Declaration, after five (5) days' notice from the ARB, the ARB, in its sole and absolute discretion, may apply the deposit monies towards expenses and costs required by the Association to bring the improvements in compliance or for repair of damages to other improvements or common areas caused by Owner's activities or Owner's contractor's vendors and other parties related to the performance of the activities of Owner. In the event the deposit is insufficient to cover the costs of the corrective action, Owner shall pay the Association any balance to cover the full costs of the corrective action. Upon completion of the improvements and approval by the ARB, the balance of the deposit shall be returned to Owner.

ARTICLE VIII.

ADULT RESIDENCY REQUIREMENTS

Each residence shall be occupied by only one (1) family, its servants, if any, and guests, as a residence and for no other purpose. Two (2) or more unrelated adults who are also joint owners or joint lessees of a residence shall be considered a family for the purpose of this Article.

The Property is an adult community designed to provide housing for persons 55 years of age or older. All residences within the Property must be occupied by at least one (1) person who is at least 55 years of age. No person under 20 years of age may be a permanent resident of a residence upon a Lot, except that persons below the age of 20 years may be permitted to visit and temporarily reside in a residence upon a Lot for periods not exceeding sixty (60) days in total during any calendar year

period. The Association, in its sole discretion, shall have the right to establish hardship exceptions to permit individuals between the ages of 20 years and 55 years to permanently reside in a residence upon a Lot, even though there is not a permanent resident in the residence who is 55 years of age or over; provided that said exceptions shall not be permitted in situations where the granting of a hardship exception would result in less than eighty percent (80.00%) of the residences within the Property having at least one resident being 55 years of age or older, it being the intent that at least eighty percent (80.00%) of the residences within the Property shall, at all times, have at least one (1) resident of 55 years of age or older.

The Association shall establish rules, regulations, policies and procedures for the purpose of assuring that the foregoing required percentages of adult occupancy of the residences within the Property are maintained at all times. The Association shall have the sole and absolute authority to deny occupancy of a residence by any person(s) who would thereby create a violation of the aforesaid percentages of adult occupancy of the residences. Permanent occupancy or residency may be further defined in such rules and regulations as may be promulgated by the Association from time to time. All residents shall certify, from time to time as may be requested by the Association, the names and dates of birth of all occupants of the residence.

ARTICLE IX. **RESTRICTIONS**

1. Land Use: The Property subject to this Declaration may be used for residential living and for accessory uses as defined by the Code of Ordinances of Palm Beach County, Florida and for no other purposes. No business or commercial building may be erected on any Lot and no business may be conducted on any part thereof, provided that this is not intended to preclude the Developer from the construction and use of sales models. The manufacture of goods for sale of any type or quantity is strictly prohibited. The foregoing shall not prohibit the use of a part of the home to be used as a home office so long as clients/customers do not come to the home to receive goods and or services and no extraordinary delivery services are provided to the home and no individuals other than the residents work in the home. The Board shall have the authority to promulgate rules and regulation concerning this matter. No Lot shall be divided, subdivided or reduced in size. No dwelling or other structure or improvement shall be erected, altered, placed or permitted to remain on any site not including at least one (1) fully platted Lot according to the recorded Plat of Tivoli Reserve or the plat of any portion of the Property.
2. Leases: All leases of a Residence shall be in writing and shall specifically provide that the rights of the Lessee(s) thereunder are subject to the terms and provisions of this Declaration and any rules and regulations promulgated hereunder and shall specifically require at all times that the Residence be occupied by at least one (1) person who is at least 55 years of age and shall prohibit any person under 20 years of age to be a permanent resident. Copies of all leases of Residences shall be provided to the Board of Directors of the Association. No lease of a Residence shall be for a term of less than seven (7) months or more than one (1) year. No lease, extension or renewal thereof shall be effective unless approved by the Board in writing, which approval may be withheld as the Board in its discretion may determine. The Board of Directors may establish an application process for all proposed leases, including a fee to reimburse the Association for administrative costs, credit checks and background investigations. In addition, leases are to contain an assignment statement that, should the Owner (Lessor) be delinquent in payment of fees and assessments due the Association, the Association is entitled to collect all rents and apply the proceeds to outstanding delinquent balance, attorney fees and costs and remit any residual balance to the Owner. In the event that leases do not specifically provide for the language as hereinabove set forth, it is hereby deemed to be included therein, and, further, the Association may declare the lease void and take such further action as the Association deems applicable,

including a “removal action” against the tenant and the Owner. All costs and expenses of the foregoing including court costs and attorney’s fees at all levels of proceedings, whether or not suit is filed, shall be the cost and expense of the Lot Owner. The Lot Owner shall be liable and fully responsible for all acts of their lessee and responsible for their compliance of the lessee with all provisions of this Declaration.

3. Master Plan: All setbacks (including, but not limited to, building, swimming pool and screen roof enclosure setbacks) shall be in accordance with the Palm Beach County approved Master Plan (the “Master Plan”) for the Property, as amended from time to time. All other improvements on the Property, not identified on the Master Plan, shall be in full compliance with the regulations of the Palm Beach County Code of Ordinances.
4. Utility Connections: Building connections for all utilities including, but not limited to, water, electricity, telephone and television shall be run underground from the proper connecting points to the building structure in such a manner to be acceptable to the governing utility authority.
5. Exterior Appearances and Landscaping: The paint, coating, stain and other exterior finishing colors on all buildings shall be maintained as originally installed by the Developer without the necessity for obtaining the prior approval of the Architectural Review Board, but prior approval by the Architectural Review Board shall be necessary before any such exterior finishing color is changed. The landscaping including, without limitation, the trees, shrubs, lawns, flower beds, walkways and ground elevations, shall be maintained as originally installed by the Developer, unless the prior approval for any change, modification and/or addition to the landscaping is obtained from the Architectural Review Board. No identical homes (i.e. same elevation with same exterior color scheme) shall be constructed on adjacent Lots and, in addition, a side loaded garage model residence shall be placed, at a maximum, upon every fourth lot.

ARTICLE X.

GENERAL RESTRICTIVE COVENANTS

1. Hurricane Preparations: Each Owner shall be responsible for installing hurricane shutters onto the Owner’s Residence utilizing the hurricane shutters provided by the Developer to the initial purchaser of the Owner’s Residence or such replacement hurricane shutters, or such other protective devices or equipment as shall have been approved by the ARB. Each Owner who plans to be absent from the Properties during the hurricane season must designate a responsible firm or individual to care for the Residence during the Owner’s absence in the event that the Residence should suffer hurricane damage.
2. Boats and Motor Vehicles: Automobiles (passenger cars), SUVs, vans constructed as private passenger vehicles with permanent rear seats and side windows are allowed. No trucks, commercial vehicles, campers, mobile homes, motor homes, boats, house trailers, boat trailers, or trailers of every other description shall be permitted to be parked or to be stored at any place on any Lot, or any part of the Common Areas, except only during the periods of approved construction on said Lot. Notwithstanding the foregoing, a pickup truck that was owned by an Owner on the effective date of this amendment may be parked within the confines of the Owner’s garage or the Owner’s driveway until that vehicle is disposed of. The term commercial vehicle, for the purpose of this paragraph 2, shall include all vehicles which have commercial writing affixed to the vehicle while parked in the community and those of more than eight (8') feet in height or twenty-five (25') feet in length. No maintenance or repairs shall be performed upon any boat or motor vehicle upon any lot except within the confines of the garage. . Furthermore and notwithstanding anything contained herein to the contrary, so long as the current owner of Lot 153 (as of the effective date of this amendment) owns four (4) vehicles, said

owner may park one vehicle in one of the parking spaces immediately adjacent to his Lot in the Common Area without limitation as to hours of use. Upon the conveyance of Lot 153 by the current owner, or if the current owner shall own less than four vehicles, this right shall terminate.

3. Garbage and Trash Containers: Except in conjunction with the construction activities of the Developer, no Lot shall be used or maintained as a dumping ground for rubbish, trash or other waste. Trash containers within a Residence shall not be visible from adjoining Lots or public areas. The Board may make regulations concerning the placement of trash, garbage and other refuse for pickup by the waste removal service.
4. Temporary Structures: No structure of a temporary character, whether a trailer, mobile home, recreational vehicle, tent, shack, garage, barn, or other such building, shall be placed on any Lot at any time, provided, however, a temporary storage or out-building for materials and supplies may be used in connection with and during the construction of or within a dwelling and shall be removed immediately upon the completion of such construction; and further provided that any Lot may be used by Developer as a sales office and/or storage area for materials and equipment during the development of the Properties.
5. Artificial Vegetation: No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, unless approved by the ARB.
6. Clothes Drying Area: Except as permitted by law, no portion of any Lot shall be used as a drying or hanging area for laundry of any kind.
7. Pets: No pets or animals other than common domestic animals (such as dogs or cats) and no type of exotic pet or exotic animal shall be kept or harbored within the Properties or within the confines of a Residence, without the prior written consent of the Board of Directors of the Association having been first obtained. No more than two (2) such pets shall be kept or harbored with a Residence. Such consent may be given upon such conditions as the Board of Directors of the Association may direct, shall be only for the particular pet specified in the consent and shall be deemed provisional and subject to revocation at any time. Pets must be hand carried or leashed at all times when not within the Residence of the pet's owner. No pet or animal shall be maintained or harbored within a Residence that would create a nuisance to any other Owner. A determination by the Board of Directors of the Association, in its sole discretion, that a pet or animal maintained or harbored within a Residence creates a nuisance, is a threat to the health and/or safety to any persons who may come onto the Properties from time to time, including Owners, their guests, tenants, licensees and invitees, or is exotic shall be binding and conclusive on all parties, and the Board of Directors may require the immediate removal of such pet from the Properties. In addition, no pets shall be permitted to roam unattended away from the Residence on which the pet is kept and the Owner of the pet shall be responsible for cleaning up after the pet when the pet is outside of the Residence of the Owner.
8. Outside Transmitters and Receivers: Radio, television, and other types of electronic antennas, aerials or satellite dishes (other than small satellite dishes) used for the transmission or receiving of electronic signals shall not be erected or maintained on the Properties, provided, however, the Developer, its successors and assigns, including, but not limited to, the Association, reserves the right to erect and maintain such antennae, aerial, and/or satellite dishes upon the Properties or the Common Areas for the common use and enjoyment of the Owners.
9. Nuisances: Nothing shall be done or maintained on any Lot which may be or become an annoyance or nuisance to the neighborhood or to any other Owner. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to

the Board of Directors, which shall render a decision in writing, which decision shall be dispositive of such dispute or question.

10. Oil and Mining Operations: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the Properties, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in the Properties. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the Properties.
11. Signs: Except in connection with development or sale of Lots by Developer, its agents or assigns, no signs, advertisement or notices of any kind shall be displayed to the public view on any Lot including, but not limited to, For Sale/For Rent signs. This shall not preclude the placement of decorative signs, with the approval of the ARB, on the exterior of the house.
12. Ordinances: No immoral, improper, offensive or unlawful use shall be made of any Lot, dwelling house, or other improvements and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be strictly observed.

ARTICLE XI.

GENERAL PROVISIONS

1. Duration and Remedies for Violation: The Covenants and Restrictions contained within this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Developer, the Association, or the Owner of any Property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said Covenants and Restrictions shall automatically be extended for successive periods of ten (10) years each, unless an instrument signed by the then Owners of two-thirds (2/3) of the Lots has been recorded, agreeing to change or terminate said Covenants and Restrictions in whole or in part. Violation or breach of any condition, covenant or restriction herein contained shall give the Developer and/or the Association and/or the Owner(s), in addition to all other remedies, the right to proceed at law or in equity to compel compliance with the terms of said conditions, covenants or restrictions, and to prevent the violation or breach of any of them, and the expense of such litigation shall be borne by the then Owner or Owners of the subject Lot, provided such proceeding results in a finding that such Owner was in violation of these Covenants or Restrictions. Expenses of litigation shall include reasonable attorneys' fees incurred by Developer and/or the Association in seeking such enforcement.
2. Notices: Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed to the last known address of the person who appears as Member or Owner on the records of the Association.
3. Severability: Invalidation of any one of these Covenants and Restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.
4. Amendment: This Declaration may be amended as follows: The Board of Directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to the Members for approval. The proposed amendment submitted to the Members shall be approved by the affirmative vote of two-thirds (2/3) of the Members entitled to cast a vote at a meeting of the Membership where a quorum is attained, either in person or by proxy. Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each Member within the time and in the manner provided in the By-Laws for the giving of

notice of meetings of Members. Any amendment made by the Association shall be executed by the President and Secretary. Notwithstanding the foregoing, the Developer may amend or modify this Declaration without the consent of the Owners, prior to the Majority Election Meeting. No amendment to this Declaration that withdraws any portion of the Properties from the lien and operation of this Declaration or which is inconsistent with the provisions contained within Article VIII of this Declaration shall be effective without the receipt of written approval from the Palm Beach County Attorneys' Office. In addition, and notwithstanding the foregoing, any amendment to this Declaration which would adversely affect the surface water management system, including the water management portions of the Common Areas must have the prior approval of the SFWMD.

5. Enforcement: Every Owner, every lessee and all invitees shall comply with the provisions of this Declaration, with the provisions of the Articles of Incorporation, with the provisions of the By-Laws and with the provisions of any and all rules and regulations (the "Rules and Regulations") which may be promulgated by the Board of Directors of the Association from time to time, as any of the foregoing may be amended or modified. Failure of an Owner, lessee or invitee to so comply shall be grounds for action which may include, without limitation, an action to recover sums for damages, injunctive relief or any combination thereof. In any action or proceeding to enforce this Declaration, the Articles of Incorporation, the Bylaws or the Rules and Regulations, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the other party. In addition to all of the foregoing remedies, a fine or fines may be imposed upon an Owner, lessee or invitee for failure of an Owner, lessee or invitee, or their family members, guests, invitees or employees, to comply with any covenant, restriction, rule or regulation set forth in this Declaration, or in the Articles of Incorporation, or in the By-Laws or in the Rules and Regulations.
6. Release of Liability: The Developer, provided: (i) the Developer constructs the residential structures upon the Lots substantially in accordance with the plans and specifications for such Residences on file with the appropriate building department and receives certificates of occupancy with respect thereto; and (ii) the Developer constructs the recreational facilities and all other planned improvements upon the Common Areas substantially in accordance with the plans and specifications for such recreational facilities and all other planned improvements on file with the appropriate building department (as the plans and specifications for such recreational facilities and all other planned improvements may be modified by the Developer in the Developer's sole discretion), and receives a certificate of completion (or its equivalent) with respect thereto, shall have no liability, whatsoever, to the Association or to any Owner. In such event, upon receipt of written demand from the Developer, the Association shall execute and deliver to the Developer a General Release (prepared by counsel for the Developer), thereby releasing the Developer (and its members and employees) from and against any and all claims, liabilities, damages, etc. which the Association might have asserted against the Developer arising from the development, marketing, sale and construction of the Residences and the Properties.
7. Provisions for Institutional Mortgagees:
 - A. Unless all Institutional Mortgagees have given their prior written approval, the Association shall not be entitled to change the pro rata interest or obligations of any Lot for purposes of levying assessments and charges.
 - B. Upon written request, Institutional Mortgagees shall have the right to examine the books and records of the Association. In addition, upon written request, Institutional Mortgagees shall be entitled to receive written notification from the Association of:

- (1) Any condemnation loss or any casualty loss which affects a material portion of the Properties or any Lot encumbered by an Institutional Mortgage;
 - (2) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot encumbered by an Institutional Mortgage, which remains uncured for a period of sixty (60) days;
 - (3) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- C. Institutional Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Area and Institutional Mortgagees may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area and Institutional Mortgagee(s) making such payment shall be entitled to receive immediate reimbursement therefor from the Association, and to the extent of the monies so advanced, said Institutional Mortgagee(s) shall be subrogated to the assessment and lien rights of the Association against the individual Lot for the payment of such item of expense.
- D. No provision of this Declaration shall be deemed to give any Owner, or any other party, priority over any rights of any Institutional Mortgagee under its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of any portion of the Properties.
- E. Upon written request from the Department of Housing and Urban Development or from the Federal National Mortgage Administration or from the Federal Home Loan Mortgage Corporation or from the Veterans Administration, the Association shall prepare and furnish within a reasonable period of time, an audited financial statement of the Association for the immediately preceding fiscal year of the Association.
8. Indemnification: The Association covenants and agrees that it will indemnify and hold harmless the Developer from and against any and all claims, suits, actions, causes of action and/or damages arising from any personal injury, loss of life, and/or damage to property sustained on or about the Common Areas and from and against all costs, expenses, counsel fees, expenses and liabilities incurred by the Developer arising from any such claim, the investigation thereof, or the defense of any action or proceeding brought thereon, and from any and against any orders, judgments and/or decrees which may be entered thereon. The Association shall also indemnify the Developer for any expense the Developer may incur in bringing any suit or action for the purpose of enforcing the rights of the Developer under this Declaration or of compelling the specific enforcement of the terms, conditions and covenants contained herein to be kept or performed by the Association or the Owners. The costs and expenses of fulfilling the covenant of indemnification set forth in this Paragraph 8 shall be an expense of the Association.
9. Captions: Articles and paragraph captions inserted throughout this Declaration are intended only as a matter of convenience and for reference only and in no way shall such captions or heading define, limit or in any way affect any of the terms or provisions of this Declaration.
10. Agricultural Uses in the Vicinity of the Properties: Each Owner, by the acceptance of a deed to the Lot and Residence acquired by such Owner, acknowledges having been advised of the existence of agricultural production related uses in the vicinity of the Properties.

11. Sales and Administrative Activities: As long as the Developer owns any portion of the Properties, the Developer may utilize such portions of the Common Areas as may facilitate Developer's administrative activities (which administrative activities may include, but shall not be limited to, administration of the Association, bookkeeping, post closing repair work and Developer sales, leasing and closing functions) and sales (with respect to property subject to the terms and provisions of this Declaration and/or with respect to the sale and/or lease of properties in other developments owned by the Developer and/or by entities affiliated with the Developer) including, but not limited to, the maintenance of administrative offices and the maintenance of sales and/or leasing offices, for the showing of property by the Developer and for the display of signs, billboards, placards and visual promotional materials. Any administrative offices and/or sales and leasing offices and/or models and all personal property, furnishings and signs contained thereon and/or appurtenant thereto shall not be considered a portion of the Common Areas, but shall remain the separate property of the Developer.
12. Usage: Whenever used, the singular shall include the plural and the singular, and the use of any gender shall include all genders.
13. Effective Date: This Declaration shall become effective upon its recordation in the Public Records of Palm Beach County, Florida.

Amended Declaration of Covenants and Restrictions 2013 09 23
EXHIBIT "A"

All of TIVOLI ISLES P.U.D., less Tract C-1 thereof, according to the Plat thereof as recorded in Plat Book 107 at Pages 92-100, inclusive, of the Public Records of Palm Beach County, Florida.