

Prepared by and Return To:
Steven D. Rubin, Esquire
200 West Palmetto Park Road Suite 301
Boca Raton, FL 33432

AMENDMENT TO RESTRICTIVE COVENANT AGREEMENT

THIS AMENDMENT TO RESTRICTIVE COVENANT AGREEMENT (this "**Amendment**"), made this ____ day of _____, 2018 (the "**Effective Date**"), by and between Lennar Homes, LLC, a limited liability company (f/k/a Lennar Homes, Inc., a Florida corporation) ("**Lennar**"), whose address is 8895 N. Military Trail, Suite 101-B, Palm Beach Gardens, Florida 33410, and the City of Delray Beach ("**City**") whose address is 100 N.W. 1st Avenue, Delray Beach, Florida 33444, and joined in by Village at Swinton Square Condominium Association, Inc., a Florida not-for-profit corporation ("**Association**") whose address is 1 East Broward Boulevard Suite 1800, Fort Lauderdale, FL 33301.

WITNESSETH:

WHEREAS, Lennar was the developer of a condominium known as Village at Swinton Square Condominium ("**Condominium**"), which lies in the City of Delray Beach, County of Palm Beach, and the State of Florida; and

WHEREAS, the Condominium encompasses the property described on **Exhibit "A"** attached hereto (the "**Property**"); and

WHEREAS, in order to carry out certain principles, policies and objectives of the Comprehensive Plan and the Workforce Housing Ordinances of the City, as set forth in Article 4.7 of the Land Development Regulations of the City the parties entered into a Restrictive Covenant Agreement that is recorded in Official Records Book 21098, Page 1205, of the Public Records of Palm Beach County, Florida ("**Restrictive Covenant**"), which, among other things, constituted a restrictive covenant as to the sale and purchase of twenty (20) percent of the total units in the Condominium (each a "**Restricted Unit**"); and

WHEREAS, when the Restrictive Covenant was recorded, the legal descriptions of the Restricted Units set forth on Exhibit "B" thereto, inadvertently did not match the precise form of legal description utilized in the Declaration of Condominium for Village of Swinton Square, which was recorded in Official Records Book 21092, Page 1542, *et. seq.*, of the Public Records

of Palm Beach County, Florida, as amended ("**Declaration**"); and

WHEREAS, the Restricted Units are also identified as such within the initial deeds from Lennar conveying such Restricted Units and the Declaration; and

WHEREAS, this Amendment is executed to clarify the legal descriptions set forth in the Restrictive Covenant, and does not impose any additional restrictions on the Restricted Units.

NOW, THEREFORE, in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration, including but not limited to the mutual promises set forth herein, Lennar and the City hereby agree as follows:

1. **Recitals**. The recitations set forth above are true and correct and incorporated in this Amendment as if fully set forth herein.

2. **Legal Description**. Exhibit "B" to the Restrictive Covenant is replaced in its entirety with **Exhibit "B"** attached hereto.

3. **Notices**. All notices and demands herein required shall be in writing and shall be deemed properly given if sent by overnight, registered or certified mail, return receipt requested, to the addressees below:

As to Lennar:

Lennar Homes, LLC
8895 N. Military Trail, Suite 101-B
Palm Beach Gardens, Florida 33410
Telephone No.: (561) 718-7516
Attn: Attn: Dan Grosswald
E-Mail: dan.grosswald@lennar.com

Copy to:

Lennar Corporation
700 NW 107th Avenue - 4th Floor
Miami, Florida 33172
Attn: General Counsel
E-Mail: mark.sustana@lennar.com

As to the City:

City Manager
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444

and

Community Improvement Director
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444

- c. As to Village at Swinton Square Condominium Association, Inc.:

C/O Donna Berger, Esq.
Registered Agent
Becker & Poliakoff
1 East Broward Boulevard, Suite 1800
Ft. Lauderdale, FL 33301

Any party may change the address to which notices to it are to be sent by giving written notice to the others. Every notice and demand shall be deemed to have been given, made or communicated, as the case may be, at the time that the same shall have been deposited by overnight mail, registered or certified mail, properly addressed as aforesaid, postage prepaid, in the United States mail.

4. **Valid and Binding Agreement.** The parties represent and warrant to the other that the execution and delivery of this Amendment has been duly and validly authorized by all necessary actions, and that when executed and delivered, this Amendment shall constitute a legal and binding obligation of such party.

5. **Governmental Functions:**

a. The parties agree that this Amendment shall not constitute a waiver of any portion of the City's Code of Ordinances, Land Development Regulations, or any other applicable law, code, or regulation.

b. To the extent approval or permission must be obtained from City, such approval or permissions shall be granted or denied in accordance with the applicable governmental regulations, rules, laws, and ordinances, and no person shall have any vested rights.

c. City has not waived its sovereign immunity and the limits of tort liability set forth F.S. Section 768.28(5) as may be amended from time to time. Nothing contained in this Amendment is in any way intended to be a waiver of the limitation placed upon City's liability as set forth in Florida Statutes, Section 768.28.

d. Any action by City shall be without prejudice to and shall not constitute a limit or impairment or waiver of, or otherwise affect City's right to exercise its discretion in connection

with its governmental or quasi-governmental functions.

IN WITNESS WHEREOF, the parties hereto have executed these presents and affixed their seals hereto as of the day and year first above written.

CITY OF DELRAY BEACH, FLORIDA

By: _____
SHELLY PETROLIA, Mayor

Attest:

City Clerk

Approved as to form and
Legal sufficiency:

By: _____
City Attorney

The foregoing instrument was acknowledged before me this _____ day of _____, 20 ____, by Shelly Petrolia, as Mayor of the City of Delray Beach, Florida, who is personally known to me or who has produced _____ as identification and did (did not) take an oath.

Notary Public - State of Florida

WITNESSES:

Karen Kahr
Print Name: Karen Kahr

Thomas Riegel
Print Name: THOMAS RIEGEL

LENNAR HOMES, LLC

By: [Signature]
Name: Jason Whiteman
Title: Vice President

(SEAL)

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 20th day of August, 2018 by Jason Whiteman as Vice President of LENNAR HOMES, LLC, a limited liability company, who is personally known to me or has produced as identification and did (did not) take an oath.

[Signature]
NOTARY PUBLIC
My commission expires;



JAYMI L. KATZ
MY COMMISSION # GG 051160
EXPIRES: November 29, 2020
Bonded Thru Budget Notary Services

JOINDER

**VILLAGE AT SWINTON SQUARE
CONDOMINIUM ASSOCIATION, INC.**

WITNESSES:

Heather Peaty
Print Name: H Peaty

[Signature]
Print Name: Gray Grant

By: [Signature]
ROBERT KURIMSKI, President

STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 26 day of July, 2018 by ROBERT KURIMSKI as President of Village at Swinton Square Condominium Association, Inc., a Florida corporation, who is personally known to me or has produced _____ as identification and did (did not) take an oath.

[Signature]
NOTARY PUBLIC
My commission expires:



EXHIBIT "A"

Legal Description of the Property

TRACTS "A" AND "P", "VILLAGE AT SWINTON SQUARE", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 107, AT PAGES 23 THROUGH 30 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA

SAID LANDS SITUATE IN THE CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA, AND CONTAIN 8.466 ACRES, MORE OR LESS

This is not a certified copy

Exhibit "B"

Restricted Units

Unit 4-A1, Building 4 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 4-A2, Building 4 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 4-D1, Building 4 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 4-D2, Building 4 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 6-A1, Building 6 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 6-A2, Building 6 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 6-F1, Building 6 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 6-F2, Building 6 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 7-A1, Building 7 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 7-A2, Building 7 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 7-F1, Building 7 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 7-F2, Building 7 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 8-A1, Building 8 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 8-A2, Building 8 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 8-D1, Building 8 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 8-D2, Building 8 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 10-A1, Building 10 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 10-A2, Building 10 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 10-F1, Building 10 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.

Unit 10-F2, Building 10 of the Village at Swinton Square Condominium according to the Declaration of Condominium for Village at Swinton Square Condominium recorded in Official Records Book 21092, Page 1542 in the Public Records of Palm Beach County, Florida, as amended.