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

THIS ELEVENTH AMENDMENT TO SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR TESORO (this "Amendment") is and entered into this 4th day of February 2021 (the "Effective Date") by RM Tesoro, LLC, a Florida limited liability company ("Declarant") with offices at 100 Clearbrook Road, 2<sup>nd</sup> Floor, Elmsford, New York 10523.

**RECITALS**

WHEREAS, Declarant, by virtue of that certain Assignment and Assumption of Declarant's Rights dated October 16, 2020 and recorded in Official Records Book 4496, Page 1647 of the Public Records of St. Lucie County, Florida, became the "Declarant" under that certain Declaration of Covenants, Restrictions and Easements for Tesoro, recorded in Official Records Book 1512, Page 2802, and Supplemental Declaration recorded in Official Records Book 1662, Page 2666; as amended and restated in Official Records Book 1759, Page 364; and amended and restated in Official Records Book 1803, Page 898; and amended and supplemented in Official Records Book 1849, Page 1691, Official Records Book 2075, Page 1983, Official Records Book 2178, Page 354, Official Records Book 2374, Page 2508, Official Records Book 2402, Page 1717, Official Records Book 2520, Page 729, Official Records Book 2520, Page 733, Official Records Book 2535, Page 2913, Official Records Book 3159, Page 28, Official Records Book 3187, Page 621, Official Records Book 3257, Page 1519, Official Records Book 4295, Page 2424; as affected by that Release from Declaration recorded in Official Records Book 2114, Page 2115 (collectively, the "Master Declaration").

NOW, THEREFORE, Declarant hereby amends the Master Declaration as follows:

1. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Master Declaration.

2. The ROFO. If at any time any Unimproved Lot Owner wishes to sell or transfer fee simple title an Unimproved Lot (a "Sale" or "to Sell"), then prior to any Unimproved Lot Owner advertising the Unimproved Lot for Sale, whether directly or indirectly through any person or entity and through any form of media, including the placing of for sale signs on the Unimproved Lot, or authorizing a broker to list or find buyers for the Unimproved Lot (collectively, "Offering for Sale" or "Offer for Sale"), Declarant (upon its receipt of a ROFO Notice) shall have the right to purchase the Unimproved Lot from the Unimproved Lot Owner (the "ROFO") at the price the Unimproved Lot Owner intends to Sell the Unimproved Lot (the "Purchase Price") and on the

terms set forth in Section 4 below. Prior to Offering for Sale any Unimproved Lot, the Unimproved Lot Owner, in its sole discretion, shall have the option to deliver a written notice to Declarant setting forth the following: (i) the address of the Unimproved Lot; (y) the Purchase Price; and (z) the name, address and email address of the Unimproved Lot Owner (the "ROFO Notice"). Declarant shall have ten (10) days after its receipt of the ROFO Notice to elect to exercise the ROFO. If Declarant does not timely exercise the ROFO or elects not to exercise the ROFO, (i) the Unimproved Lot Owner can Offer for Sale the Unimproved Lot and Sell the Unimproved Lot at whatever purchase price the Unimproved Lot Owner chooses so long as (a) such purchase price is equal to or greater than the Purchase Price contained in the ROFO Notice, and (b) the Sale is completed no later than one (1) year after Declarant either fails to respond to or rejects the ROFO Notice, and (ii) Declarant hereby agrees to keep the Purchase Price confidential and not disclose same to any person other than Declarant's lender, investors and professionals. If Declarant does not timely exercise the ROFO or elects not to exercise the ROFO, and if the Unimproved Lot Owner thereafter intends to accept an offer to purchase the Unimproved Lot for less than the Purchase Price contained in the ROFO Notice, then Declarant shall have the ROFR (as defined below) and the provisions of Section 3 shall apply.

3. The ROFR. Unless an Unimproved Lot is sold as permitted pursuant to Section 2 above, Declarant shall have a right of first refusal (the "ROFR") to match any and all written offers of any kind received by an Unimproved Lot Owner and which the Unimproved Lot Owner intends to accept. In order to give Declarant the full benefit of the ROFR, once an offer has been reduced to a formal written contract signed by the would be purchaser that the Unimproved Lot Owner intends to accept (a "Acceptable Offer"), the Unimproved Lot Owner shall deliver the Acceptable Offer to Declarant who shall have three (3) business days from the date it receives the Acceptable Offer to exercise the ROFR by accepting in writing all terms of the Acceptable Offer as the buyer thereunder and without modification. If Declarant does not timely exercise the ROFR or elects not to exercise the ROFR, the Unimproved Lot Owner shall be free to accept the Acceptable Offer without modification, so long such Acceptable Offer is accepted and becomes a binding contract no later than ninety (90) days after Declarant either rejects or fails to timely respond to the ROFR. However, any material modification, including any change in economic terms, shall be deemed a new Acceptable Offer and will once again require the Unimproved Lot Owner to following the procedures set forth in this Section 3.

4. Declarant's Acceptance of the ROFO. The date on which Declarant accepts the ROFO is the "Acceptance Date." Declarant's timely exercise of the ROFO shall create a binding contract between Declarant and the Unimproved Lot Owner for Declarant to purchase the Unimproved Lot for the Purchase Price and on the terms set forth in this Section 4, which agreement shall be binding upon and inure to the benefit of the respective legal representatives, successors, assigns, heirs and devisees of the Unimproved Lot Owner and the Declarant. If Declarant timely exercises the ROFO, (i) the closing on Declarant's purchase of the Unimproved Lot shall take place thirty (30) days after the Acceptance Date (the "Closing Date") and (ii) Declarant shall deposit via electronic wire transfer of immediately available federal funds the sum of five percent (5%) of the Purchase Price (the "Deposit") in the trust account of an attorney chosen by Declarant ("Escrow Agent"), which shall be applied to the Purchase Price at closing and be non-refundable subject only to Sections 4(a) and 4(d) below. Escrow Agent shall act as the title and closing agent on the transaction.

- (a) At its expense, Declarant shall have ten (10) days from the Acceptance Date to obtain a commitment for issuance of an owner's title insurance policy and municipal lien search (collectively, the "Commitment") on the Unimproved Lot and to notify the Unimproved Lot Owner in writing of any title defects or objections it has as evidenced by the Commitment (the "Title Objections"). The Unimproved Lot Owner shall use commercially reasonable efforts (exclusive of litigation) to cure all Title Objections on or prior to the Closing Date. If Seller is unable to cure a Title Objection after using commercially reasonable efforts (exclusive of litigation), Seller shall immediately advise Declarant of same in writing and, within three (3) days of Declarant's receipt of such notice, Declarant shall have the option to either (i) terminate the purchase agreement, in which event the Deposit shall be returned to Declarant, or (ii) waive its objection to the Title Objections the Unimproved Lot Owner could not remove after using commercially reasonable efforts (exclusive of litigation), and proceed to close without any adjustment to the Purchase Price. If Declarant terminates the agreement pursuant to subsection (i) above, the Unimproved Lot Owner must still comply with the provisions of Section 3 above before accepting any Acceptable Offer.
- (b) At closing, the Unimproved Lot Owner shall convey the Unimproved Lot to Declarant via warranty deed in a form provided for under the laws of the State of Florida and shall deliver on the Closing Date the following to the Escrow Agent: (i) a FIRPTA Non-Foreign Transferor Certificate; (ii) an affidavit from the Unimproved Lot Owner attesting that (x) no individual or entity has any claim against the Unimproved Lot under the applicable contractor's lien law, (y) except for the Unimproved Lot Owner, no individual or entity is in possession of or has a possessory interest or claim in the Unimproved Lot, and (z) contain language sufficient to enable the title company to insure the "gap," *i.e.*, delete as an exception to the Commitment any matters appearing between the effective date of the Commitment and the date the warranty deed from the Unimproved Lot owner to Declarant is recorded; (iii) a closing statement setting forth the Purchase Price, the Deposit, prorations and respective closing costs of Declarant and the Unimproved Lot Owner; and (iv) corrective instruments or other instrument necessary to clear title.
- (c) The Unimproved Lot Owner shall pay the following: (i) the cost of documentary stamp taxes on the deed of conveyance, as well as the cost of recording any corrective instruments as to the fee title; (ii) all real estate taxes, whether past due or currently due (but subject to prorations for the current years taxes if not yet due and payable); (iii) all past due associations fees and assessments (but subject to prorations for any associations fees which are not past due); (iv) the cost of paying off any mortgages on the Unimproved Lot and other liens which can be satisfied through the payment of money; (v) the cost any commissions due to any real estate or listing agent engaged by the Unimproved Lot Owner; and (vi) the cost of its own attorneys and other professionals. Declarant will select and pay for Escrow Agent, the cost of the Commitment and the premium for the owner's policy of title insurance, and the cost of its own attorney's and other professionals. In no event

shall Declarant be required to pay for any capital contribution requirement that may be imposed upon purchasers of Unimproved Lots.

- (d) If the transaction fails to close due to a default by Declarant, then the Unimproved Lot Owner's sole remedy in such event shall be to terminate the agreement and to retain the Deposit as liquidated damages, with the Unimproved Lot Owner waiving all other rights or remedies in the event of such default by Declarant, and, in such event, the Unimproved Lot Owner may thereafter sell the Unimproved Lot without resort to complying with the ROFO or the ROFR. If the transaction fails to close due to a default by the Unimproved Lot Owner, Declarant shall have the right to either (i) terminate the agreement and receive a return of the Deposit, or (ii) pursue all remedies available to it under applicable law, including the remedy of specific performance. If Declarant terminates the agreement pursuant to subsection (d)(i) above, the Unimproved Lot Owner must comply with ROFO and the ROFR on any subsequent sale, regardless of the Purchase Price.

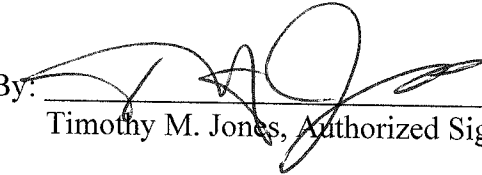
5. Miscellaneous. The ROFO and the ROFR apply only to an Unimproved Lot Owner's Sale of an Unimproved Lot. The ROFO and the ROFR do not apply to any of the following: (i) any Improved Lot Owner's sale or conveyance of an Improved Lot; (ii) a foreclosure sale or tax deed sale of any Lot; (iii) any conveyance or transfer of a Lot by will, intestacy, levy and execution or other involuntary judicial process; (iv) Declarant's sale of any Lot; (v) the Sale of any Lot by an Institutional Mortgagee or Institutional Lender after taking title from its borrower (although after such Sale by the Institutional Mortgagee or Institutional Lender, the grantee on such Sale shall be bound by all provisions of this Amendment); (vi) the Sale of an Unimproved Lot by an Unimproved Lot Owner to a then existing unaffiliated mortgagee in satisfaction of the then existing mortgagee's mortgage for no additional monetary consideration; or (vii) conveyance of the Unimproved Lot for no or nominal consideration to a trust of which the conveying Unimproved Lot Owner is the settlor or trustee or to an entity that is majority owned and controlled by the conveying Unimproved Lot Owner (or any such owner if the fee simple title is held by more than one Unimproved Lot Owner immediately prior to the conveyance). Time is of the essence with respect to all matters addressed in this Amendment. Any attempt by an Unimproved Lot Owner to sell an Unimproved Lot without first complying with the ROFO or the ROFR, as applicable, shall (i) be deemed a breach of the Master Declaration, (ii) be wholly null and void, and shall confer no title or interest whatsoever upon the purchaser of the Unimproved Lot, and (iii) result in irreparable harm to Declarant and, therefore, Declarant shall be entitled to enforcement of the provisions of this Amendment by way of preliminary injunction (without the necessity of posting a bond) and by permanent injunction or specific performance, which remedies are in addition to all other remedies available under applicable law.

*[remainder of page intentionally blank]*

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

**DECLARANT:**

**RM Tesoro, LLC**  
a Florida limited liability company

By:   
\_\_\_\_\_  
Timothy M. Jones, Authorized Signatory

STATE OF FLORIDA                    )  
  SS.:  
COUNTY OF Palm Beach        )

I HEREBY ACKNOWLEDGE that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, the foregoing instrument was sworn to and acknowledged before me [X] in my physical presence or [ ] by online notarization by Timothy M. Jones, an Authorized Signatory of RM Tesoro, LLC, a Florida limited liability company, on behalf of said company, who is personally known to me.

WITNESS my hand official seal in the County and State last aforesaid this 4th day of February 2021.



**Mandy Martinez**  
Commission # GG 168404  
Expires: April 02, 2022  
Bonded thru Aeron Notary

  
\_\_\_\_\_  
Notary

Mandy Martinez  
\_\_\_\_\_  
Typed, printed or stamped name Notary Public  
My Commission Expires: 4.2.22