

UNIT MANAGEMENT AGREEMENT

This UNIT MANAGEMENT AGREEMENT (this **Agreement**) is made and entered into this 8 day of April, 2022 (the **Effective Date**) by and between Q Club Hotel, LLC, a Delaware limited liability company (**Hotel Unit Owner or Hotel Owner**), and the owner(s) identified below (individually or collectively and jointly and severally **Unit Owner**).

Hotel/Resort Name: Hilton Fort Lauderdale Beach Resort ("Hotel")

Owner Unit Number: #1114

Name of Unit Owner: NXT-LVL FLORIDA PROPERTIES LLC.

Mailing Address of Unit Owner:

NXT-LVL FLORIDA PROPERTIES LLC. ATT: ARMANDO DASILVA

232 HALSTED ROAD

ELIZABETH , NJ 07028

If there are multiple Unit Owners, a list of the names and contact information for all Unit Owners must be attached to this Agreement.

Primary Telephone Number: 908-764-3600

Alternate Telephone Number: 908-477-1906

E-mail Address: ARMANDOADS@MSN.COM

SS#/EIN: 88-1268505

Unit Owner's Designate: BRANDON DASILVA

If there is more than one Unit Owner or Unit Owner desires to designate another person who is authorized to act on Unit Owner's behalf

BACKGROUND

A. Unit Owner is the owner of, or will acquire ownership of, the condominium unit identified above (the **Owner Unit**) in the condominium project known as "Q-Club Resort and Residences Condominium" (the **Condominium**) located in Fort Lauderdale, Florida. The Condominium has been established pursuant to one or more declarations of condominium and declarations of covenants, conditions and restrictions (together with all bylaws, rules and regulations issued thereunder, the **Declarations**) which have been or will be recorded in the county records of the county in which the Hotel is located.

B. The Condominium has been established and created in a building, a portion of which is comprised of a hotel owned by Hotel Owner known as the Hilton Fort Lauderdale Beach Resort (the **Hotel**).

C. Hotel Owner or its delegates will manage the Hotel and a voluntary rental program for some of the units in the Condominium and other hotel rooms (collectively, the **Hotel Units**) for purposes of making the Hotel Units available to third parties for transient lodging as part of the Hotel operation.

D. Unit Owner desires to make the Owner Unit available for participation in the Rental Program and to engage the services of Hotel Owner or its designate as the exclusive rental agent to offer the Owner Unit for rental under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions and the mutual covenants herein set forth, the parties agree as follows:

1. **DEFINITIONS.** Capitalized terms will have the meanings set forth below or as defined elsewhere in this Agreement.

a. **Hotel Guest** means any person or persons who rent the Owner Unit, including complimentary guests, but excluding Unit Owner, Unit Owner's immediate family, and Personal Guests.

b. **Personal Guest** means a personal guest of Unit Owner occupying the Owner Unit on the written authorization of both Unit Owner and Hotel, without payment or other consideration to Unit Owner or Hotel.

c. **Unit Owner** means the legal owner of the Owner Unit, as reflected in a deed to the Owner Unit which has been recorded in the Public Records of Broward County, Florida.

2. **RENTAL AGENT.**

a. **Exclusive Agency.** Unit Owner hereby engages Hotel Owner as its sole and exclusive agent to rent, manage, and control the Owner Unit during the Term (as defined in Section 3 below), subject to the terms and conditions set forth in this Agreement. Hotel Owner agrees to act as Unit Owner's exclusive rental agent for the Owner Unit, subject to the terms and conditions of this Agreement. Unit Owner shall not rent the Owner Unit except through the Hotel Owner and agrees to refer all rental inquiries regarding the Owner Unit to the Hotel Owner. Nothing in this Agreement is intended to or does constitute a partnership or joint undertaking between Unit Owner and Hotel Owner, and the relationship established in this Agreement is solely that of an owner of real property and an agent.

b. **Delegation or Assignment by Hotel Owner.** Unit Owner acknowledges and agrees that Hotel Owner may assign or delegate its rights and obligations under this Agreement, in whole or in part, and in Hotel Owner's sole discretion, without notice to or consent from Unit Owner, to (i) the operator of the Hotel from time to time, if any (the **Hotel Operator**), (ii) an affiliate of Hotel Owner, (iii) any third party designated by Hotel Owner, or (iv) a successor Hotel Owner. If the agreement by which this Agreement is assigned by Hotel Owner, or pursuant to which the responsibilities of Hotel Owner are delegated, expires or otherwise terminates so that the assignee or delegate is no longer associated with the Hotel then, at Hotel Owner's election (a) Hotel Owner may terminate this Agreement upon delivery of notice to Unit Owner, or (b) this Agreement may be assigned to Hotel Owner, another Hotel Operator engaged for the Hotel, or other person or entity designated by Hotel Owner, in which event the Hotel Owner or such other Hotel Operator, person or entity will perform the functions of the Hotel Owner hereunder.

Unit Owner acknowledges that **there is no guarantee that:**

- Any agreement for management of the Hotel will remain in place for the stated duration of this Agreement
- The Hotel, this Agreement, or the Rental Program (as defined in Section 4 below) will be managed by any particular Hotel Operator or any other operator for the duration of the Term
- Any person or entity to which Hotel Owner assigns or delegates its rights and obligations under this Agreement may, but shall not be required to, be experienced in the operation of hotels of the same class as the Hotel
- Any Hotel Operator may impose standards for the operation of the Hotel which shall become the "Hotel Standards" as discussed in Section 8 below

3. **TERM.** The **Term** of this Agreement shall be the Initial Term together with all Renewal Terms, determined as follows:

a. Initial Term. The initial term of this Agreement shall commence as of the Effective Date and shall end one hundred eighty (180) months thereafter, unless terminated earlier as provided in this Agreement (the **Initial Term**).

b. Renewal Term. Upon the expiration of the Initial Term, this Agreement shall be automatically renewed for additional terms of one hundred eighty (180) months each, (each a **Renewal Term**), unless Unit Owner or Hotel Owner, between twenty-four (24) and eighteen (18) months prior to the next ensuing expiration date of the Initial Term or then current Renewal Term (as applicable), gives written notice to the other party of its desire not to renew this Agreement.

c. Special Termination Right. Notwithstanding the other provisions of this Section 3, Hotel Owner shall have the right to terminate this Agreement, in its sole and absolute discretion and whether with or without cause, upon sixty (60) days' prior written notice to Unit Owner.

4. **RENTAL PROCEDURES**. Hotel Owner shall use commercially reasonable efforts to rent the Owner Unit to Hotel Guests in accordance with the following provisions (Rental Program):

a. Setting Rates. Hotel Owner has the right to establish and adjust, from time to time the rental rates for the Owner Unit without notice to or consent of Unit Owner, and to rent the Owner Unit for the rates that Hotel Owner considers appropriate, in its discretion, based upon occupancy levels, seasonal demand, changes in operating costs, rates of competitive properties, prevailing market conditions and other conditions and matters considered relevant by Hotel Owner.

b. Rental Rotation. Hotel Owner agrees to rent the Owner Unit in accordance with a fair and equitable process to be established by Hotel Owner from time to time to ensure that all of the Hotel Units in the Rental Program are fairly and equitably offered for rental. In renting out Hotel Units participating in the Rental Program, Hotel Owner may take into account (i) requests of Hotel Guests, (ii) factors which differentiate Hotel Units within the Rental Program, such as size, location, view, type of unit, and other relevant factors, and (iii) a priority rental preference with respect to Hotel Units owned by Hotel Owner and Hotel Units complying with access and use requirements imposed by the Americans with Disabilities Act (**ADA Compliant Units**). Rental of ADA Compliant Units may be undertaken without regard to whether or not the Hotel Guest using such ADA Compliant Unit has a condition which necessitates occupancy of an ADA Compliant Unit.

c. All Reservations to be Made Through Hotel Owner. All reservations, including Unit Owner referrals, must be made through Hotel Owner. Unit Owner shall schedule use of the Owner Unit by Unit Owner or its Personal Guest with Hotel Owner in accordance with the requirements of this Agreement. Hotel Owner shall not be required to notify Unit Owner of existing reservations except by specific request. Neither Unit Owner nor any Personal Guest of Unit Owner will be able to occupy, use or enter the Owner Unit for any period of time without a confirmed reservation or during periods of time when the Owner Unit has been rented to Hotel Guests.

d. No Assurances of Rental. **UNIT OWNER ACKNOWLEDGES THAT DESPITE THE EFFORTS OF HOTEL OWNER, THE OWNER UNIT MAY NOT BE RENTED FOR THE SAME OR SUBSTANTIALLY THE SAME NUMBER OF NIGHTS AS OTHER HOTEL UNITS IN THE RENTAL PROGRAM FOR ANY TIME PERIOD. BOTH THE ABILITY OF THE HOTEL OWNER TO RENT HOTEL UNITS AND THE SELECTION OF A PARTICULAR UNIT WITHIN THE RENTAL PROGRAM FOR RENTAL WILL BE SUBJECT TO, AMONG OTHER THINGS, THE PREFERENCES OF HOTEL GUESTS.**

e. Complimentary and Promotional Use. Hotel Owner shall have the right to use the Owner Unit for promotional and other complimentary purposes in Hotel Owner's sole and absolute discretion. Hotel Owner shall endeavor to equitably allocate such use among all Hotel Units in the Rental Program. Hotel Owner shall not charge a rental rate for the complimentary use of the Owner Unit and no rental income shall be paid to Unit Owner with respect to such use. In addition, Hotel Owner shall have the right to rent the Unit using rental packages which include other amenities and/or services (e.g., spa packages), and, in any such event, only that portion of the rental package attributable

to rental for the Unit, as determined by the Hotel Owner based on its standard pricing practices, shall be included in the determination of Gross Unit Revenues (as defined in Section 5.b. below).

f. Hotel Guest Satisfaction. Hotel Owner shall have the right, in its sole and absolute discretion, to grant Hotel Guests a discount of up to 100% of the gross rent in the event any repairs of the Owner Unit are required during the period of occupancy or as may otherwise be necessary to resolve Hotel Guest satisfaction issues. The Hotel Owner shall also have the right, in its sole discretion, to transfer the Hotel Guest to another Hotel Unit in the event the rebate is unacceptable to the Hotel Guest; provided that Unit Owner shall be paid a pro rata portion of the rent for the period in which Hotel Guest occupied the Owner Unit.

5. PAYMENTS TO THE UNIT OWNER AND THE HOTEL OWNER

a. Split of Net Rental Income. Net Rental Income will be split between Unit Owner and Hotel Owner as follows:

Unit Owner 55% (the ***Unit Owner's Rental Proceeds***)

Hotel Owner 45% (as a fee for its services rendered under this Agreement)

b. Calculation of Net Rental Income. Net Rental Income shall mean gross rental revenues collected from the rental of the Owner Unit, net of any discounts, rebates, resort fees, gratuities, credits and occupancy costs including tourism development taxes, sales taxes, city taxes, convention taxes, and any other taxes imposed on revenues collected by Hotel Owner, less fifteen percent (15%) of such revenues for fees and commissions.

c. Enrollment Fee. Upon the execution of this Agreement, Unit Owner shall pay to Hotel Owner a one-time, non-refundable fee in the amount of \$850.00, to be applied to the purchase of disposable operating supplies and amenities customary to an upscale property required by the Hotel Owner in order for the Owner Unit to meet the standards for rental to the transient public. Upon the sale of the Owner Unit, the new Unit Owner will be responsible for replacement of missing or worn items, to be determined by inspection of a Hotel Owner representative after closing of the sale of the Owner Unit.

d. Reports/Distributions. Within thirty (30) days after the end of each calendar quarter, Hotel Owner will deliver to Unit Owner a statement (the ***Unit Owner Statement***) for the Owner Unit that reflects, among other things, the Gross Unit Revenues, an itemization by general category of all deductions from Gross Unit Revenues used or applied in determining Net Rental Income, and Unit Owner's share of Net Rental Income for the applicable Unit Owner Statement Period. If the Unit Owner Statement indicates that a distribution is due to Unit Owner, Hotel Owner will remit to Unit Owner such distribution within ten (10) business days after the date of such Unit Owner statement. If the Unit Owner Statement indicates that payment is due to Hotel Owner, Unit Owner must remit to Hotel Owner the payment reflected in such Unit Owner Statement within ten (10) business days after the date of such Unit Owner Statement. If Unit Owner fails to make any such payment as and when such payment is due and payable, Unit Owner shall be obligated to pay to Hotel applicable late fees, finance and interest charges and other costs imposed from time to time by Hotel Owner.

e. Deduction from Payments. The payments due under Section 5, 6, 7, and 8 may, at the election of Hotel Owner, be deducted from Unit Owner's Rental Proceeds and applied by Hotel Owner for the purpose for which such payment is required pursuant to this Agreement. Hotel Owner may also deduct from Unit Owner's Rental Proceeds (to the extent available) all items and Assessments pursuant to this Agreement and to pay such items to the applicable payee from Unit Owner's Rental Proceeds or amounts held in any Reserves on account of the Owner Unit. The Hotel Owner's decision to apply all or any portion of Unit Owner's Rental Proceeds to the payment of any costs, expenses, fees and/or assessments pursuant to Section 6, 7 or 8 shall be made in Hotel Owner's sole and absolute discretion. In no event whatsoever shall Hotel Owner be obligated to apply any Unit Owner's Rental Proceeds to the payment of any expenses, fees and/or Assessments or to advance any of its own funds

for such purposes. In the event that any expenses, fees and/or Assessments due pursuant to Section 6, 7 or 8 are not paid promptly when due, then Hotel Owner may, in its sole and absolute discretion and without notice or demand upon Unit Owner, but shall not be obligated to, either: (i) withhold Unit Owner's Rental Proceeds until such funds are sufficient to bring the unpaid accounts current, and if and when sufficient funds are available, offset and apply Unit Owner's Rental Proceeds in the possession of Hotel Owner to the payment of any one or more of such unpaid accounts in such order as Hotel Owner in its sole and absolute discretion may elect; or (ii) terminate this Agreement upon five (5) days prior written notice to Unit Owner. Any costs and expenses incurred by Hotel Owner in connection with the rental, maintenance, cleaning, operation and management of the Owner Unit will be deducted from the Net Rental Income due to the Unit Owner.

f. No Pooling. Unit Owner acknowledges that no pooling of revenues or income shall occur under the Rental Program. Unit Owner also acknowledges that payment will only be made to the Unit Owner for the rental of the Owner Unit, and that Unit Owner will not receive any portion of monies received (i) for rentals of other Hotel Units, (ii) on account of any other charges incurred by Hotel Guests, or (iii) any other revenues or income received in connection with the operation of the Hotel. Gross Unit Revenue will include deposits made and subsequently forfeited by prospective Hotel Guests in connection with the anticipated occupancy of the Owner Unit, but will not include any portion of any deposits collected and retained by any Hotel Operator unless the Owner Unit was specifically reserved for the prospective Hotel Guest's stay.

g. **NO MINIMUM PAYMENT. UNIT OWNER ACKNOWLEDGES THAT THERE ARE NO RENTAL INCOME GUARANTEES OF ANY NATURE, AND NO REPRESENTATIONS OTHER THAN WHAT IS CONTAINED IN THIS AGREEMENT. HOTEL OWNER DOES NOT GUARANTEE THAT UNIT OWNER WILL RECEIVE ANY MINIMUM PAYMENTS UNDER THIS AGREEMENT OR THAT UNIT OWNER WILL RECEIVE RENTAL INCOME EQUIVALENT TO THAT GENERATED BY ANY OTHER HOTEL UNIT IN THE HOTEL. FURTHERMORE, UNIT OWNER UNDERSTANDS AND ACKNOWLEDGES THAT NONE OF HOTEL OPERATOR, ITS SUBSIDIARIES, OR THEIR RESPECTIVE PARENT COMPANIES HAS ANY AFFILIATION WITH, OR UNIT OWNERSHIP INTEREST IN, HOTEL OWNER OR THE CONDOMINIUM. HOTEL OWNER IS ACTING UNDER THIS AGREEMENT SOLELY AS AGENT FOR UNIT OWNER.**

h. **UNIT OWNER'S ACKNOWLEDGEMENT. UNIT OWNER UNDERSTANDS AND ACKNOWLEDGES THAT EXECUTION OF THIS AGREEMENT AND PARTICIPATION IN THE RENTAL PROGRAM IS OPTIONAL AND IS NOT A REQUIREMENT OF OWNERSHIP OF THE OWNER'S UNIT. UNIT OWNER FURTHER ACKNOWLEDGES THAT NONE OF HOTEL OWNER, HOTEL OPERATOR, OR ANY OF THEIR RESPECTIVE OFFICERS, REPRESENTATIVES, EMPLOYEES, AGENTS, SUBSIDIARIES, PARENT COMPANY AND AFFILIATES HAS (I) MADE ANY STATEMENTS OR REPRESENTATIONS WITH RESPECT TO THE ECONOMIC OR TAX BENEFITS OF OWNERSHIP OF THE OWNER'S UNIT; (II) EMPHASIZED THE ECONOMIC BENEFITS TO BE DERIVED FROM THE MANAGERIAL EFFORTS OF HOTEL OWNER OR HOTEL OPERATOR OR FROM PARTICIPATION IN THIS RENTAL PROGRAM; OR (III) MADE ANY SUGGESTION, IMPLICATION, STATEMENT OR REPRESENTATION, THAT ANY POOLING ARRANGEMENT WILL EXIST WITH PARTICIPANTS IN RENTAL PROGRAM OR THAT UNIT OWNER WILL SHARE IN ANY WAY IN THE RENTAL PROCEEDS OF OWNERS OF OTHER HOTEL UNITS.**

6. OWNER UNIT EXPENSES

a. Fixed Expenses. Unit Owner agrees to timely pay the following obligations with respect to Owner Unit directly to the applicable payee: (i) all assessments and other amounts due pursuant to the Declarations or any reciprocal easement agreement affecting the Owner Unit (**Assessments**); (ii) the Shared Costs attributable to the Owner Unit and any other Reserve assessments on account of the Owner Unit and all other amounts, fees and charges due to Hotel Owner pursuant to Section 8 and the Declarations; (iii) all utilities with respect to Owner Unit to the extent not otherwise included in the Assessments (including, as applicable, high speed internet, cable (or its equivalent) television services, but excluding telephone service and long distance charges of Hotel Guests; (iv) real estate and

personal property taxes with respect to the Owner Unit; (v) debt service with respect to any mortgage or other financing, or both, of the Owner Unit and its contents; (vi) all insurance costs with respect to the insurance required to be maintained and obtained pursuant to Section 7, (vii) cable/satellite television charges including pay-per-view charges. Unit Owner shall not allow title to the Owner Unit to be encumbered by a lien for non-payment of fees and assessments due pursuant to the Declarations or any reciprocal easement agreement affecting the Owner Unit. Unit Owner shall provide Hotel Owner with written evidence of payment of all such fees, costs and assessments due and owing as to the Owner Unit within ten (10) days of a written request therefor.

b. Charges of Unit Owner. Unit Owner agrees to timely pay the following amounts to Hotel Owner: (i) all amounts required to be paid by Unit Owner in this Agreement, or any amounts otherwise advanced or funded on Unit Owner's behalf; (ii) all fees and charges for Hotel Services (as defined in Section 9(e)) used during a period of use by Unit Owner or its Personal Guests but which are not otherwise collected at check-out; (iii) a Departure Cleaning Charge after each Period of Personal Use.

c. Tax Withholding. Unit Owner shall be responsible for all federal, state or local income or other tax imposed on Unit Owner or with respect to the income or receipts from an Owner Unit. Upon execution of this Agreement, Owner shall provide to Hotel Owner a properly completed and executed IRS Form W-9 or W-8 or, if Unit Owner is not a U.S. Person (as defined under applicable law), a certification of foreign status on IRS Form W-8BEN, W-8ECI or other applicable IRS Form. Hotel Owner is authorized to withhold all such amounts from payments to be made to Unit Owner as required by law. If Hotel Owner is required to withhold any amounts for taxes payable, it shall provide Unit Owner with documentation identifying the amount of taxes withheld and such other information as is required by applicable law.

d. Proof of Payment. Upon request of Hotel Owner, Unit Owner shall deliver to Hotel Owner appropriate evidence of payment of any expenses of the type referred to in this Section 6 herein to the extent such payments are not made by Hotel Owner on Unit Owner's behalf.

7. INSURANCE.

a. Unit Owner to Maintain Insurance. Unit Owner shall maintain in effect at all times during the Term, at Unit Owner's expense, such general public liability insurance, property insurance or other insurance as is required by Hotel Owner or Hotel Operator from time to time, or as is otherwise required by applicable law. Such insurance shall include liability coverage with limits of not less than \$5,000,000 per occurrence and in the annual aggregate and property insurance covering its personal contents and fixtures with the Owner Unit for which Unit Owner is responsible. The property insurance shall include deductibles that are usual and customary and shall be maintained with a financially sound and reputable insurance companies deemed acceptable by Hotel Owner in its sole discretion. All policies shall include Hotel Owner and any Hotel Operator and such affiliates of Hotel Operator as Hotel Operator may designate from time to time ("Hotel Operator's Affiliates") as additional insureds with a copy of the endorsement attached to the certificate of insurance. This insurance shall apply as primary with respect to any other insurance or self-insurance available to Hotel Owner, Hotel Operator and Hotel Operator's Affiliates. Unit Owner waives on behalf of itself and its insurers all rights against Hotel Owner, Hotel Operator and Hotel Operator's Affiliates and its agents, officers, directors, and employers for recovery of damages to the extent these damages are covered by its insurance regardless of deductibles, if any. The requirements contained herein shall not be construed in any manner to relieve or limit Unit Owner's indemnification obligations for any loss or claim arising out of this Agreement. Unit Owner shall further provide certified copies of all insurance policies required above within ten (10) days of Hotel Owner, Hotel Operator and Hotel Operator's Affiliates written request for said copies.

b. Evidence of Insurance. Unit Owner shall deliver to Hotel Owner certificates of insurance evidencing (i) that the required insurance is in full force and effect, and (ii) that Hotel Owner shall receive thirty (30) days written notification from each and every insurance company before an insurance policy is canceled for any reason, including, but not limited to, failure by Unit Owner to pay any premium or to renew any insurance policy provided for by this Agreement. Unit Owner shall deliver

the above-mentioned certificate(s) of insurance to Hotel Owner on or before the date this Agreement goes into effect and from time to time thereafter upon written request by Hotel Owner and/or the Hotel Operator. Failure to so deliver such certificates of insurance promptly shall be considered a material breach of this Agreement and Hotel Owner may, at its option, either terminate this Agreement effective immediately or obtain (but Hotel Owner shall not be obligated to obtain) the required insurance for Unit Owner. If Hotel Owner obtains the required insurance on behalf of Unit Owner, Unit Owner shall reimburse Hotel Owner upon demand for all costs incurred. Hotel Owner shall have the right to retain Unit Owner's Rental Proceeds until such funds are sufficient to reimburse Unit Owner for all costs incurred, together with interest at the rate specified herein per month from the date the expenditure was incurred until Hotel Owner is reimbursed in full for all costs incurred, without waiving the right to pursue such other remedies against Unit Owner as may be permitted by law.

8. **CONDITION OF OWNER UNIT**

a. **Maintenance of Hotel Standards.** The Owner Unit must at the commencement of the Term and at all times thereafter during the Term be maintained, furnished, finished, supplied and equipped in compliance with the standards of the Hotel in effect from time to time as established and determined by Hotel Owner in its sole discretion (the **Hotel Standards**). Unit Owner shall be solely responsible for payment of the costs of maintaining the Owner Unit to the Hotel Standards. The Hotel Owner shall at all times maintain all keys to the Owner Unit and shall have the right of reasonable inspection of the interior of the Owner Unit to confirm that the Owner Unit meets the Hotel Standards.

b. **Furnishing And Equipping Of Unit.** Unit Owner acknowledges and agrees that, as a condition to participating in the Rental Program, it must furnish and equip the Owner Unit with the standard furniture, accessories and appliances package selected by Hotel Owner and otherwise consistent with the Hotel Standards (including, without limitation, furnishings, furniture, accessories, appliances, curtains, carpeting, wall coverings, kitchen, bath and bedding items, dishes, silverware, glassware, cookware, linens, bedding and bath accessories). Unit Owner agrees, at Unit Owner's sole cost, to maintain in place and in good repair and to upgrade and replace as and when required by Hotel Owner, the standard furniture, accessories and appliances necessary to meet the Hotel Standards as in effect from time to time. Unit Owner agrees that if the Owner Unit or its furnishings or contents require repair or replacement, or if any items are missing, then Hotel Owner shall have the right, but not the obligation, to repair or replace the items and deduct the costs thereof from Unit Owner's Rental Proceeds or to bill Unit Owner directly. If the cost to repair or replace items for any one month exceeds \$300.00, Hotel Owner at its option can collect the money from the Unit Owner, or it can pay it out of any Reserve on account of the Owner Unit.

c. **Replacement Reserve.** Unit Owner agrees that an amount equal to five percent (5%) of Gross Room Revenues for the prior month (the **Reserve for Replacement** or **Reserve**) shall be withheld from Unit Owner's share of Net Rental Income each month and deposited into a bank account controlled and set up for this purpose by Hotel Owner. The amounts in the Reserve shall be used for the repair or replacement of the furnishings and contents in the Owner Unit. Hotel Owner may, but shall not be obligated to, use the Reserve for normal day-to-day operating repairs or replacement of any one item with a value of less than \$300.00. Replacements of \$300.00 or more for any one item may, at Hotel Owner's option, based on need, be paid from the Reserve. The funds in the Reserve may also be used to meet obligations under Section 6. Upon sale of the Owner Unit, Unit Owner agrees that the funds being held in Unit Owner's Reserve for Replacement account shall be transferred to the account of the purchaser to pay for future renovations. Hotel Owner will provide Unit Owner with a final statement for documentation for credit to Unit Owner at closing of the sale of the Owner Unit. Any deficiencies in any Reserve account representing sums due and owing by the Unit Owner to the Hotel Owner shall be paid prior to the consummation of the sale of the Owner Unit.

d. **Refurbishing And Upgrades.** Unit Owner may be required at Unit Owner's cost, to refurbish or redecorate the Owner Unit, including replacing, upgrading and/or augmenting furniture, accessories, appliances, curtains, carpeting, wall coverings and other items in a manner and as often as Hotel Owner deems, in its sole judgment, necessary in order to maintain a quality sufficient to meet the Hotel Standards. The costs of such refurbishment, redecoration and replacement shall be paid for

from the Reserve. Any such costs in excess of the then balance of the Reserve shall be invoiced to and paid by Unit Owner. If sums in the Reserve are not adequate to meet the anticipated costs of such refurbishment, redecoration, or replacement, Hotel Owner may require that Unit Owner deposit in the Reserve the amount of the anticipated deficiency before commencing such work and may suspend the Owner's Unit participation in the Rental Program until such deposit is made.

e. Emergency Repairs. Unit Owner authorizes Hotel Owner to make, and to deduct from Unit Owner's Rental Proceeds, emergency repairs at cost if, in Hotel Owner's discretion, such emergency repairs are necessary to protect from damage the interior of the Owner Unit, the interior of the Hotel Units, or the facilities at the Hotel.

f. Deep Cleanings. During the Term, Hotel Owner shall cause the Owner Unit to be deep cleaned periodically. The Owner Unit shall be deep cleaned no less than two (2) times per calendar year and no more than four (4) times a calendar year as determined by Hotel Owner and based on the amount of usage the Owner Unit has experienced; provided that additional deep cleanings may be required in Hotel Owner's discretion if smoking or pets are permitted in the Owner Unit or extraordinary circumstances are present. .

g. Pest Control. Unless already provided by any condominium association established under the Declarations, Unit Owner shall provide pest control services to the Owner Unit, as needed, at Unit Owner's expense.

h. Suspension from Rental Program. Hotel Owner may refuse to rent the Owner Unit and suspend the Owner Unit's participation in the Rental Program if, in Hotel Owner's sole discretion, the Owner Unit is not maintained in accordance with the Hotel Standards. Failure of Unit Owner to cause the Owner Unit to meet the Hotel Standards at any time during the Term shall be a default hereunder which shall entitle Hotel Owner to immediately discontinue renting the Owner Unit and move pending reservations to other Hotel Units until such time as the deficiency is remedied to Hotel Owner's satisfaction. If Unit Owner fails to remedy the deficiency within thirty (30) days after written notice to Unit Owner, Hotel Owner may terminate this Agreement. In the event the Owner Unit is rented by the Unit Owner in breach of this Agreement then upon the discovery thereof the Hotel Owner shall provide notice thereof and the Unit Owner shall pay to the Hotel Owner the amount of two and one-half times the average daily rate then in effect at the Hotel for each day that the Owner Unit was rented to another by the Unit Owner in violation of the exclusivity granted to the Hotel Owner by the Unit Owner for the Hotel Owner to act and serve as the exclusive rental agent to offer the Owner Unit for rental under the terms and conditions set forth in this Agreement.

9. **UNIT OWNER'S USE OF THE OWNER UNIT.** Unit Owner and Hotel Owner agree that:

a. Unit Owner's Reservation. Provided that Unit Owner is in compliance with the terms of this Agreement, requests by Unit Owner (for itself or on behalf of its Personal Guests) for reservations to use the Owner Unit (**Personal Use**) shall be accepted by Hotel Owner, subject to the limitations of this Agreement including, without limitation, prior confirmed reservations, blackout periods, seasonal limitations and extraordinary circumstances. Unit Owner shall reserve the Owner Unit for Personal Use by delivering to Hotel Owner the Request for Reservation in the form attached to this Agreement as Exhibit A (the **Request for Reservation**) or other written request clearly identifying that it is a request for Personal Use and containing the same information as the form. Unit Owner acknowledges that there is no guarantee that the Owner Unit will be available for Personal Use regardless of when the Unit Owner makes its Request for Reservation. Hotel Owner will not be able to schedule Personal Use during periods of time when the Owner Unit has been reserved by a Hotel Guest.

b. Blackout Periods. Unit Owner will not be permitted to reserve the Owner Unit for Personal Use during the following periods: Annual Fort Lauderdale Boat Show. National Football League Super Bowl week (if applicable) and National Football League Pro Bowl week (if applicable) (**Blackout Periods**).

c. Limited Blackout Periods. The following dates are hereby established as Limited Blackout Periods:

1. President's Day weekend
2. Easter week and weekend
3. Fort Lauderdale Air Show period
4. Memorial Day weekend
5. Christmas week and weekend
6. New Year week and weekend

During the Limited Blackout Periods, an Owner may select any two (2) from the above list, during which the Owner may reserve the use of their unit for such periods. For example, an Owner may select to reserve their unit for the Fort Lauderdale Air Show period and also the Christmas week and weekend.

We respectfully request that the Owner provide us advance written notice at least one hundred twenty (120) days prior to the proposed start date of the Owner's stay at the resort during any of the above Limited Blackout Periods.

d. Hotel Owner shall have the right to establish additional Blackout Periods from time to time upon prior written notice to Unit Owner.

e. Seasonal Limitations. Subject to availability at the time of Hotel Owner's receipt of the Request for Reservation, Unit Owner may reserve the Owner Unit for Personal Use for up to sixty (60) days during the High Season, and for up to sixty (60) days during the Low Season. Unit Owner may reserve the Owner Unit for Personal Use subject to: (i) Unit Owner's delivery of the Request for Reservation to Hotel Owner no less than seven (7) days prior to the date of desired occupancy; and (ii) the Owner Unit's availability for the period requested at the time such Request for Reservation is received by Hotel Owner. As used in this Agreement, **High Season** and **Low Season** shall mean the following:

High Season	The period commencing November 15 and ending April 15.
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Low Season	The period commencing April 16 and ending November 14.
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f. Unit Owner Compliance with Hotel Policies. Unit Owner and its Personal Guests shall check in and register at the Hotel, establish credit, check out, and otherwise comply with the Hotel's arrival and departure and other check in and registration procedures. Hotel Owner shall have control over the keys to the Owner Unit during the Term and shall issue them, as appropriate, to Unit Owner and Personal Guests during periods of Personal Use, and to Hotel staff to perform their duties. Unit Owner agrees to return all keys at the end of any period of Personal Use.

g. Hotel Services. During periods of Personal Use, Hotel Owner will provide to Unit Owner and its Personal Guests the standard daily housekeeping and cleaning services and to supply the standard hotel amenities (such as soap, shampoo, coffee, etc.) on a complimentary basis. Unit Owner and its Personal Guests may use any other service or amenity provided by Hotel Owner to a Hotel Unit or otherwise provided at the Hotel or Condominium. Hotel Owner shall provide such services or amenities (**Hotel Services**) at such rates and on such other terms as are determined by Hotel Owner from time to time. Unit Owner or its Personal Guest shall pay for all such services no later than the time of checkout. Unit Owner shall pay for any services or amenities provided to a Personal Guest and not paid for by such Personal Guest.

h. Departure Cleaning. Unit Owner or their Personal Guests shall be provided departure cleaning on a complimentary basis, so that their unit can be cleaned, supplied, and prepared for rental under the Rental Program in accordance with the Hotel Standards.

i. Credit Card Authorization. In order to secure Unit Owner's timely payment of funds, Unit Owner agrees to maintain a valid credit card authorization on file with Hotel Owner at all times as a source of funds. A form of credit card authorization that may be required is attached to this Agreement as Exhibit B. This card may be used by Hotel Owner to pay all expenses owed that are past due by 30 days from the date of the statement. Hotel Owner will mail Unit Owner a copy of the receipt within thirty (30) days of each charge. Unit Owner hereby authorizes Hotel Owner to access the credit card established in this paragraph to meet Unit Owner's financial obligations under this Agreement.

j. Telephone Usage. During periods of Personal Use, Unit Owner shall be charged for all long distance and local calls that are made through the Hotel's system at the same rate as Hotel Guests. If Unit Owner has a private line for its use in the Owner Unit, Unit Owner is responsible for deactivating that line when not occupying the Owner Unit. Hotel Owner shall not be responsible for any charges incurred in connection with use of Unit Owner's private line by Hotel Guests or by Unit Owner.

10. **RULES AND REGULATIONS**. Unit Owner and its Personal Guests shall at all times abide by and comply with all rules and regulations established from time to time by Hotel Owner any Hotel Operator or pursuant to the Declarations or any reciprocal easement agreement affecting the Owner Unit. Unit Owner shall be responsible for advising all Personal Guests of such rules and regulations.

11. **LIMITED POWER OF ATTORNEY**. Unit Owner does hereby irrevocably name, constitute and appoint Hotel Owner, its legal representatives, successors and assigns as Unit Owner's attorney-in-fact for the Term for the limited purposes of (i) providing Hotel Guests with full access to all common areas associated with the Owner Unit, (ii) causing Unit maintenance activities required of Hotel Owner to be undertaken promptly, (iii) issuing and signing confirmed reservations for the Owner Unit and (iv) taking any action, that may be lawfully permitted and required to evict any Hotel Guest. This power of attorney is specifically limited to the above areas and is valid only when circumstances prevent Unit Owner from representing Unit Owner's interest in a timely manner.

12. **STORAGE OF PERSONAL PROPERTY**. Unit Owner shall not store or leave any property in the Owner Unit except items that may be securely and properly stored in the Owner Unit's designated locked Unit Owner's closet, if one exists. The Hotel Owner assumes no responsibility or liability for items stored by Unit Owner in the Owner Unit, whether or not such items are stored in designated locked Unit Owner's closet. Unit Owner hereby grants Hotel Owner access to the interior of the Unit Owner's closet and shall provide Hotel Owner with a copy of the key to the Unit Owner's closet. Hotel Owner shall be entitled to access the Unit Owner's closet (if any) in its sole discretion and without liability to Unit Owner to remove and discard any contents that are considered by Hotel Owner as a health or safety hazard or which interfere with the maintenance of the Hotel Standards.

13. **TERMINATION AND DEFAULT**

a. Default By Unit Owner. If Unit Owner shall default in the performance of Unit Owner's obligations under this Agreement and such default shall continue sixty (60) days after Unit Owner's receipt of written notice from Hotel Owner specifying the default, Hotel Owner may, in addition to all other remedies available to Hotel Owner at law, terminate this Agreement and/or temporarily cease its efforts to rent the Owner Unit pursuant to this Agreement until such time as Unit Owner has cured the default or satisfied the deficiency; provided, however, if, as a result of such default, the Owner Unit is not in a condition suitable for rental, Hotel Owner may immediately cease renting the Owner Unit until such time as Unit Owner's default is cured at Unit Owner's expense. Unit Owner agrees that upon receipt of written notice from Hotel Owner pursuant to this section, the Unit Owner agrees not to occupy the Owner Unit until such time as the noticed default has been duly cured.

b. Default By Hotel Owner. If Hotel Owner shall default in the performance of its obligations under this Agreement and shall fail to cure such default within sixty (60) days after Hotel Owner's receipt of written notice from Unit Owner detailing the default in question, Unit Owner may, as its sole and exclusive remedy, terminate this Agreement by delivery to Hotel Owner of a written termination notice at any time prior to the date that Hotel Owner has cured the default in question.

c. Termination Upon Sale of Unit. This Agreement shall automatically terminate upon the sale or other conveyance or transfer of title (voluntary or involuntary) of the Owner Unit from Unit Owner, unless Hotel Owner expressly waives such termination and approves an assignment of this Agreement to the subsequent Unit Owner of the Owner Unit. Unit Owner shall provide Hotel Owner with at least forty-five (45) days prior written notice of any proposed sale or other conveyance or transfer of title of the Owner Unit. Unit Owner further agrees that the Owner Unit may not be shown to prospective buyers at any time that the Owner Unit is being rented to a Hotel Guest. In the event that Hotel Owner waives such termination of this Agreement and approves the assignment of this Agreement to the subsequent Unit Owner, then the amounts then remaining in any Reserve on account of the Owner Unit shall not be delivered to Unit Owner and shall be retained by the Hotel (for the benefit of the subsequent Unit Owner) for use with respect to the Owner Unit in accordance with this Agreement (as assigned to such subsequent Unit Owner). Any sums held in any Reserve on account of the Owner Unit shall be identified in an appropriate estoppel letter to be provided by the Hotel Owner in connection with any such sale of the Owner Unit.

d. Pending Reservations. If the Term of the Agreement terminates or expires for any reason, this Agreement shall remain in full force and effect for any reservations of the Owner Unit that have been confirmed prior to written notice of termination of this Agreement (subject to Hotel Owner's good faith efforts to transfer any such confirmed reservation to another Hotel Unit in the Rental Program), and Unit Owner specifically agrees to honor this Agreement as to such periods of confirmed occupancy. Hotel Owner shall be entitled to receive any commissions, fees and/or expenses due as a result of the reservation made during the Term. Unit Owner understands and agrees that while the Owner Unit may not be specifically reserved at the time this Agreement otherwise terminates, to the extent that total advance reservations for the Hotel would include the Owner Unit, then the Owner Unit shall be deemed reserved.

e. Final Reconciliation. Upon any expiration or termination of this Agreement, Hotel Owner shall prepare a final reconciliation of accounts (including all sums owed under any provision of this Agreement) and a final settlement shall be effected (by payment of funds) between Unit Owner and Hotel Owner within thirty (30) days of Hotel Owner's delivery to Unit Owner of such final reconciliation. The foregoing obligations shall survive termination or expiration of this Agreement. Any termination of this Agreement by the Unit Owner shall not be operative until such time as the Unit Owner has paid to Hotel Owner any and all sums due to Hotel Owner under this Agreement, and during the pendency of any such sums being so due to the Hotel Owner, the Hotel Owner may continue to act as exclusive rental agent under this Agreement until such time as Hotel Owner may collect such sums due from the Net Rental Income due to the Unit Owner pursuant to the provisions of this Agreement. Upon the payment of such sums due to the Hotel Owner from the rental of the Owner Unit, then the termination of this Agreement by the Unit Owner shall then become effective. The Unit Owner may elect to pay to Hotel Owner the sums due upon receiving notice thereof from the Hotel Owner, and upon such payment the termination of this Agreement in accordance with the Unit Owner's notice shall be fully effectual. Absent the Unit Owner's payment to the Hotel Owner within fifteen (15) days after the notice of termination issued by the Unit Owner, the Unit Owner agrees not to occupy the Owner Unit until such time as all such sums due to the Hotel Owner have been paid.

14. **UNIT OWNER'S ACKNOWLEDGEMENTS.** Unit Owner acknowledges and agrees that:

- Execution of this agreement and participation in the Rental Program is optional and is not a requirement of unit ownership of the Owner Unit.
- Neither Hotel Owner nor any Hotel Operator, or any of their respective officers, representatives, employees, agents, subsidiaries, parent hotel owner and affiliates has (A) made any statements or representations with respect to the economic or tax benefits of unit ownership of the Owner Unit; (B) emphasized the economic benefits to be derived from the managerial efforts of Hotel Owner or from participation in the Rental Program; or (C) made any suggestion, implication, statement or representation, that any pooling arrangement will exist with participants in this program or that Unit Owner will share in any way in the rental proceeds of other Hotel Unit in the Hotel.

- Without prior notification, approval from and coordination with Hotel Owner, Unit Owner agrees not to use or enter the Owner Unit, nor will Unit Owner authorize any agent, independent contractor, or other person to use or enter the Owner Unit, except during periods of Personal Use pursuant to proper authorized reservations issued by the Hotel Unit Owner.
- Unit Owner may not alter, modify or remove any electronic locking device or other type of locking device without the written consent of Hotel Owner.
- Neither this Agreement nor any other agreement for provision of rental services was entered into prior to Unit Owner entering into a binding, non-cancelable purchase agreement for the Owner Unit.
- Neither Unit Owner nor the Unit are under any contractual obligations or subject to other rental programs that would limit Unit Owner's ability to enter into this Agreement or comply with the provisions contained herein.
- Unit Owner has had all of its questions answered and has received all requested information regarding the Rental Program.
- No representation has been made that this Agreement will be renewed or extended.
- Each of Hotel Owner, any Hotel Operator, and their respective affiliates may engage in or possess an interest in other business ventures of every nature and description, independently or with other persons, including but not limited to the ownership, financing, sale, rental, operation, management, brokerage and development of real property, which may be adjacent to or competitive with, the Owner Unit. Unit Owner shall not have any right by virtue of this Agreement in and to such other business venture or to the income or profits derived therefrom.
- Neither Hotel Owner, nor any Hotel Operator, or their respective affiliates shall be liable for losses or damages sustained by a Unit Owner to the Owner Unit or its contents as a result of theft or vandalism, the recovery of which, and the payment for which if recovery is unsuccessful, shall be the responsibility of Unit Owner.

15. **ARBITRATION**

a. General. All disputes related to or arising out of this Agreement shall be decided by arbitration in accordance with this Section 15.

b. Selection of the Arbitrator. The party initiating the arbitration shall give notice to the other party setting out the items to be arbitrated. Within ten (10) business days, the parties shall attempt to agree upon a neutral arbitrator to resolve the dispute. If the parties are unable to agree upon an arbitrator, the entity administering the arbitration shall appoint the neutral arbitrator.

c. Administration. The arbitration shall be administered by Judicial Arbitration and Mediation Services (**JAMS**). If, at the time a dispute arises, JAMS does not exist or is unable to administer the resolution of the dispute, then the dispute resolution process shall be administered by the American Arbitration Association (**AAA**). If, at the time a dispute arises, AAA does not exist or is unable to administer the dispute resolution process and the parties cannot agree on the identity of a substitute service provider, then either party may petition the state or federal district court in the county in which the Hotel is located to appoint an arbitrator to administer the arbitration. If the court refuses to do so, either party may proceed by filing an action in any court of competent jurisdiction.

d. Rules. The arbitration shall be conducted in accordance with the rules of the service provider except to the extent inconsistent with this Agreement. The arbitrator shall strictly limit

discovery, motion practice and collateral proceedings to resolve the dispute at issue as efficiently and expeditiously as reasonably possible.

e. Equitable Relief. Subject to the applicable law, the arbitrator has the power to grant equitable relief, both by way of interim relief or as a part of its final award.

f. Fees and Expenses. During the pendency of the arbitration, the parties shall share equally the fees and expenses of the arbitrator. As part of the award, the arbitrator shall designate the party whose position is substantially upheld, who shall recover from the other party all of its reasonable attorneys' fees, costs and expenses, including its share of the fees and costs paid to the arbitrator, expert witness fees, compensation for in-house counsel, and all other fees and expenses incurred in connection with the arbitration. The arbitrator may determine that neither party's position was substantially upheld or otherwise allocate the fees and expenses in accordance with the relative extent to which either party's position was upheld.

g. WAIVER OF TRIAL BY JURY. HOTEL OWNER AND UNIT OWNER, TO THE FULLEST EXTENT ALLOWABLE UNDER FLORIDA LAW, HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, COUNTERCLAIM OR CROSSCLAIM, DEMAND, ACTION, CAUSE OF ACTION, OR PROCEEDING ARISING UNDER, WITH RESPECT TO, OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS AGREEMENT OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND IRRESPECTIVE OF WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT OR OTHER TRIER OF FACTS WITH COMPETENT JURISDICTION AS WRITTEN EVIDENCE OF THE CONSENT OF THE OTHER PARTY OR PARTIES HERETO TO WAIVE ITS OR THEIR RIGHT TO TRIAL BY JURY.

16. **INDEMNIFICATION; RELEASE.**

a. Indemnity. Unit Owner shall defend, indemnify, protect and hold Hotel Owner, any Hotel Operator, and their respective affiliates, and any of their respective directors, members, managers, shareholders, officers, employees, consultants, agents or representatives (collectively, **Indemnified Parties**) harmless from and against and not liable for any and all claims, demands, damages, judgments, costs, losses, penalties, fines, liens, suits, actions, expenses and liabilities, including, without limitation, reasonable attorneys' fees and costs and expenses incident thereto. of any kind or nature (collectively, **Claims**) arising out of any action or omission or course of action on the part of any Indemnified Party in its performance of its obligations under this Agreement or otherwise in connection with any obligation incurred by or instrument executed by any of the Indemnified Parties alone or by any of the Indemnified Parties together with Unit Owner, whether or not any of the Indemnified Parties shall be the signatory or one of the signatories on behalf of Unit Owner and whether incurred or executed on behalf of Unit Owner provided that this indemnity shall not apply to any Claims resulting from the gross negligence or willful misconduct of an Indemnified Party.

b. Releases. Unit Owner hereby absolutely and irrevocably releases, remises, acquits and forever discharges all Indemnified Parties from any and all Claims of every kind or nature, known or unknown, suspected or unsuspected, asserted or unasserted, fixed or contingent, at law or in equity, including, without limitation, those arising out of or relating in any way to (i) this Agreement, (ii) the Rental Program, or (iii) the performance or non-performance of Hotel Owner's obligations pursuant to this Agreement or in connection with the Rental Program. Unit Owner hereby acknowledges and agrees that it is expressly releasing all Claims of which it has any knowledge or awareness, as well as all Claims of which it has or may have no knowledge or awareness, with regard to all Indemnified Parties. In so doing, Unit Owner expressly acknowledges that it is knowingly and intentionally waiving and relinquishing all rights and benefits which it has or may have under any law, rule or regulation under the law of Florida or of any other state or jurisdiction to the effect that unknown or unsuspected claims are not released by a general release of claims without any express waiver of such statutory or other

protection. The foregoing releases shall not extend to Claims that arise as a result of an Indemnified Party's gross negligence or willful misconduct in performing its duties under this Agreement.

17. **MISCELLANEOUS PROVISIONS.** This Agreement shall be subject to and contingent upon the following:

a. Exculpation. Neither Hotel Owner nor Hotel Operator, nor any of their respective officers, representatives, employees, agents, subsidiaries, parent and affiliates shall be liable for any loss or damage to any person or property, including, but not limited to, Unit Owner, the Hotel Guests, the Owner Unit and its equipment, furnishings and appliances, of any nature resulting from any accident or occurrence in or upon the Owner Unit, the building in which the Owner Unit is a part of the Hotel, including but not limited to, any and all claims, demands, damages, costs and expenses (including, without limitation, attorneys' fees, judgments, fines and amounts paid or to be paid in settlement) resulting from: (i) the acts or omissions of Hotel Guests; (ii) wind, rain or other elements; or (iii) theft, vandalism, fire or act of God.

b. Entire Agreement. The parties hereto agree and acknowledge that this Agreement constitutes the entire Agreement between, the parties and there are no oral or written amendments, modifications, other agreements or representations.

c. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, which shall control all matters relating to the execution, validity and enforcement of this Agreement.

d. Owner Designate. Recognizing the fact that there may be several Unit Owners of a single Owner Unit, it is hereby agreed that Unit Owner's designate, as listed on the front page of this Agreement, shall have the authority to issue any and all instructions to Hotel Owner, and Hotel Owner shall act in reliance thereon.

e. Force Majeure. Hotel Owner shall not be liable for, or deemed to be in default of, any of its obligations hereunder due to any of the following events or circumstances (**Force Majeure**): (a) earthquake, hurricane, tornado or flood or other act of God; (b) war, act of terrorism, insurrection, rebellion, riots or other civil unrest; (c) epidemics, pandemics, quarantine restrictions or other public health restrictions or advisories; (d) strikes or lockouts or other labor interruptions not caused by a breach of any term or provision of this Agreement or any term or provision of any collective bargaining agreement affecting the Hotel by the party claiming the existence of Force Majeure; (e) disruption to local, national or international transport services; (f) embargoes, lack of materials, water, power or telephone transmissions; (g) failure of any applicable governmental authority to issue any approvals, or the suspension, termination or revocation of any material approvals due to reasons not caused by the party claiming the existence of Force Majeure; and (h) any other event or circumstance similar to those set forth in the preceding clauses (a) through (g) outside the reasonable control of the party claiming the existence of Force Majeure.

f. Severability. If any clause or provision of this Agreement shall be held invalid or void for any reason, such invalid or void clause or provision shall not affect the whole of this Agreement and the balance of the provisions of this Agreement shall remain in full force and effect.

g. Advance of Funds. Unit Owner hereby acknowledges and agrees that if Hotel Owner incurs any charge, fee, cost or expense with respect to the Owner Unit pursuant to this Agreement or otherwise at the request or with the consent of Unit Owner, Hotel Owner shall have the right to deduct such expenditures from Unit Owner's Rental Proceeds or other funds of Unit Owner that are available to Hotel Owner, such as any Reserve. The foregoing shall survive termination or expiration of this Agreement. If Hotel Owner or any Hotel Operator advances funds to fulfill Unit Owner's obligations under this Agreement, or Unit Owner fails to pay any sums due to the Hotel Owner on a timely basis when the same come due, then the same shall be repaid to Hotel Owner with interest at an annual rate of interest equal to the lesser of (a) 1.5% per month, or (b) the highest lawful rate permitted by law.

h. Notices. Any notice or demand required under this Agreement or by law shall be in writing and shall be deemed effective upon receipt if sent by personal delivery, upon one (1) business day if sent by express overnight delivery with a nationally recognized courier service (such as Federal Express) or three (3) business days after having been sent by US mail, certified mail, return receipt requested. If notice is to be given to Unit Owner, it shall be sent to the address appearing on the first page of this Agreement; if notice is to be sent to Hotel Owner, it shall be sent to the address below. Either party may change such addresses with written notice to the other party.

i. Authority. Unit Owner represents and warrants to Hotel Owner that Unit Owner has the full authority to enter into this Agreement, and that there is no other party with an interest in the Owner Unit whose joinder in this Agreement is necessary.

j. Binding Effect. This Agreement will run with the land and will be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of Unit Owner. Unit Owner covenants and agrees for itself and for its successors and assigns that the conveyance of any interest in the Owner Unit to any other person or entity shall constitute an assumption by such successors, assigns or transferees of all of the duties and obligations arising under this Agreement and upon any such conveyance the predecessor-in-interest of such assuming party shall be deemed to be relieved from any and all obligations or responsibilities arising under this Agreement.

k. No Third Party Beneficiary. This Agreement is solely for the benefit of the parties hereto and there are no intended third party beneficiaries to this Agreement

l. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original for all purposes.

m. Modification and Changes. Except as otherwise expressly provided for in this Agreement, this Agreement cannot be changed or modified except by another agreement in writing signed by Hotel Owner and Unit Owner or by their respective duly authorized agents.

n. **LIMITATION ON REMEDIES.** ANYTHING IN THIS AGREEMENT AND ANYTHING AT LAW OR IN EQUITY TO THE CONTRARY NOTWITHSTANDING, IN ANY ACTION OR PROCEEDING BETWEEN THE PARTIES ARISING UNDER OR WITH RESPECT TO THIS AGREEMENT OR IN ANY MANNER PERTAINING TO THE HOTEL, THE OWNER UNIT, THE RENTAL PROGRAM, ANY CLAIMED BREACH OF FIDUCIARY DUTIES OR TO THE RELATIONSHIP OF THE PARTIES HEREUNDER, EACH PARTY HEREBY UNCONDITIONALLY AND IRREVOCABLY AGREES THAT EACH PARTY WILL ONLY CLAIM AND BE ENTITLED TO RECEIVE FROM THE OTHER PARTY HERETO HIS OR HER ACTUAL DAMAGES, AND WAIVES AND RELEASES ANY RIGHT, POWER OR PRIVILEGE EITHER MAY HAVE TO CLAIM OR RECEIVE FROM THE OTHER PARTY HERETO ANY PUNITIVE, EXEMPLARY, STATUTORY OR TREBLE DAMAGES, OR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES. THIS SECTION SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

o. Memorandum of Agreement. At Hotel Owner's request, the parties will execute a memorandum of this Agreement, Hotel Owner and Unit Owner agree that Hotel Owner may, in its discretion, cause this Memorandum to be recorded in the land records of the county in which the Condominium is located at any time during the Term.

[Signatures on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year set forth above.

Signed and delivered in the presence of:

HOTEL OWNER

Q CLUB HOTEL LLC

By: HILTON MANAGEMENT LLC,
its authorized representative

By:

Name: _____

Date: _____

UNIT OWNER



Witness:

Witness:

Date: _____

Witness:

Witness

Date: _____

Date: _____

04/07/2022