

GROUND LEASE
(Hotel Component)

THIS GROUND LEASE (this “Lease”), dated as of _____, 2024 (the “Effective Date”), is entered into by and between the **TOWN OF LAKE PARK, FLORIDA**, a Florida municipal corporation (“Landlord”), and **FD P3 LP HOTEL, LLC**, a Florida limited liability company (“Tenant”) (collectively, the “Parties” and individually, a “Party”).

WHEREAS, in accordance with Florida Statutes §255.065, Forest Development P3 LPM, LLC, a Florida limited liability company (the “Developer”), an affiliate of Tenant, submitted to Landlord an unsolicited proposal for a Qualifying Project (the “Proposal for Redevelopment”) involving the redevelopment of six (6) parcels of land owned by Landlord (the “Land”), comprising approximately +/-12.01 acres generally located on the intracoastal waterway east of Federal Highway and north of Silver Beach Road in the Town of Lake Park, Florida, and commonly known as Lake Park Harbor Marina (the “Marina”); and

WHEREAS, the Town Commission selected the Developer’s Proposal for Redevelopment; and

WHEREAS, in accordance with said §255.065, Landlord and Developer entered into that certain Comprehensive Agreement dated as of August 2, 2023 (as the same may be amended or supplemented, collectively, the “Comprehensive Agreement”), memorializing their respective rights and obligations with respect to the redevelopment of the Marina; and

WHEREAS, all capitalized terms used but not otherwise defined in this Lease shall have the respective meanings ascribed to them in the Comprehensive Agreement; and

WHEREAS, pursuant to the Comprehensive Agreement, Landlord and Developer have agreed that Landlord and four (4) special purpose entities formed by Developer shall enter into four (4) separate ground leases for portions of the Marina, on which will be developed the “Hotel Component,” the “Boat Storage Component,” the “Public Marina Component” and the “Marina Restaurant Component” (as defined in the Comprehensive Agreement); and

WHEREAS, in accordance with the Comprehensive Agreement, Landlord and Tenant desire to enter into this Lease to document Tenant’s lease from Landlord of a portion of the Marina hereinafter described on which will be developed the Hotel Component, all in accordance with the terms and conditions hereinafter set out.

NOW, THEREFORE, for and in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **DEMISE.** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, all of the area shown on the plan attached hereto as **Exhibit A** and made a part hereof (the “Site Plan”), and more particularly described on **Exhibit B**, attached hereto and made a part

hereof, together with all appurtenant easements and rights thereto (collectively, the “**Premises**”). Landlord and Tenant hereby acknowledge and agree that this Lease shall be subject to the terms, conditions and provisions of the Comprehensive Agreement only to the extent the same pertain to the Hotel Component and that only a default under the terms of the Comprehensive Agreement that pertain to the Hotel Component shall constitute a default under this Lease.

2. TERM. The term of this Lease (the “**Term**”) shall be ninety-nine (99) years, commencing on the later of (i) the Effective Date; (ii) the earlier of (A) the date of the modification or termination of the Deed Restrictions and Reverter Clauses to Landlord’s and Developer’s reasonable satisfaction, and (B) the date that Developer notifies Landlord in writing that it intends to proceed with the Project even if the Deed Restrictions and Reverter Clauses are not fully terminated; (iii) August 2, 2025 (the “**Commencement Date**”). Notwithstanding the foregoing, in the event that the Deed Restrictions and Reverter Clauses have not been terminated or modified to the Developer’s reasonable satisfaction and the Developer has not notified Landlord in writing that it intends to proceed with the Project despite the fact that the Deed Restrictions and Reverter Clauses have not been fully terminated, Tenant shall have the right to terminate this Lease by written notice to Landlord on or before August 2, 2025.

3. LEASE PAYMENTS. As consideration for Landlord’s execution of this Lease with Tenant, Tenant shall make payments to Landlord in accordance with the schedule attached hereto as Exhibit C (the “**Lease Payments**”). During the Term, Tenant shall also be responsible for all real estate taxes (including ad valorem taxes and non-ad valorem assessments) assessed with respect to the Premises and for all expenses incurred in connection with the ownership, operation, maintenance, repair, occupancy or use of the Premises. In addition, Tenant shall pay or cause the Developer to pay the portion of the P3 Assessment Fee in the total amount of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) and the Building Permit Fee (as such terms are defined in the Comprehensive Agreement) applicable to the Hotel Component, which payments shall be made on or before August 2, 2024 in accordance with the Comprehensive Agreement. Except as otherwise expressly set forth in this Lease, Landlord shall not be responsible for any costs, expenses, or charges of any kind or nature respecting the Premises and Landlord shall not be required to render any services of any kind to Tenant or to the Premises. Landlord shall receive the Lease Payments free and clear of any and all impositions, taxes, liens, charges, deductions or expenses of any nature whatsoever in connection with the ownership, operation, maintenance, repair, occupancy or use of the Premises.

4. IMPROVEMENTS. Tenant hereby agrees to develop the Hotel Component on the Premises in accordance with the terms and conditions of the Comprehensive Agreement, to the extent such terms and conditions apply to the Hotel Component. Tenant covenants that the construction of all improvements at the Premises (the “**Improvements**”) shall be at Tenant’s sole cost and expense and in accordance with all applicable legal requirements. Tenant acknowledges and agrees that the interest of the Landlord in the Premises shall not be subject to liens for improvements made by the Tenant. Tenant shall not at any time permit any mechanics’, laborers’ or materialmen’s liens to stand against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or Tenant’s agents, contractors or subtenants, in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction or sufferance of Tenant. Tenant shall notify any contractor engaged in the construction of the Improvements of the foregoing, and the knowing or willful failure of the

Tenant to provide such notice to the contractor(s) shall render the contract between the Tenant and the contractor voidable at the option of the contractor. In the event any such lien is filed against the fee simple interest in the Premises as a result of any construction thereon by Tenant or on Tenant's behalf, then and in that event, Tenant shall cause said lien to be discharged or bonded over within thirty (30) days of Tenant's actual knowledge of same. The failure to do so shall, at the option of Landlord, constitute a breach of this Lease. If Tenant fails to have such lien or claim for lien so released or to deliver such bond to Landlord, Landlord, without investigating the validity of such lien, shall have the right to pay or discharge the same, and Tenant shall reimburse Landlord upon demand for the amount so paid by Landlord, including Landlord's reasonable expenses and attorneys' fees.

Subject to the terms and conditions of this Lease, until the expiration or earlier termination of this Lease, (a) all Improvements shall be and remain the property of Tenant, and (b) Tenant shall have the rights and benefits of ownership of the Improvements, including, without limitation the right to claim depreciation of the Improvements for tax purposes.

5. USE OF PREMISES. It is expressly agreed that the Premises may be used during the Term only for any purposes permitted pursuant to the Comprehensive Agreement or as may be permitted by the applicable governmental authority and may not use the Premises for any purpose in violation of the Deed Restrictions and Reverter Clauses to the extent the same have not been amended or terminated of record. Notwithstanding the foregoing, Landlord and Tenant hereby agree that, prior to the commencement of the construction of the Improvements, Tenant shall have the right to use the Premises for the parking of vehicles. Tenant, its agents, employees, customers, and invitees shall have free and unobstructed right to use the Premises for such purposes. Tenant shall comply with and abide by all federal, state, county, municipal, and other governmental statutes, ordinances, laws, and regulations affecting the Premises, the Improvements, or any activity or condition on or at the Premises. Tenant shall have access to the Premises twenty-four (24) hours per day, 365 days per year. Tenant shall have the right to place signs at the Premises provided such signs comply with the local ordinances and regulations. Upon the expiration of the Term, upon Landlord's request, Tenant shall remove all signage and shall restore and repair any damage caused by the installation or removal of such signs.

6. MAINTENANCE AND REPAIR. Throughout the Term, Tenant, at its sole cost and expense, shall (a) keep and maintain the Premises including all Improvements of every kind thereon and appurtenances thereto, in good order and condition, and (b) make such repairs, replacements and renewals (collectively, "**Repairs**") to the Premises as may be necessary or appropriate to keep and maintain the Premises in good order and condition, whether such Repairs are ordinary or extraordinary, foreseen or unforeseen. Without limiting the generality of the foregoing, Tenant shall keep and maintain all portions of the Premises and all driveways, sidewalks, parking areas, curbs and access ways adjoining the Premises in a clean and orderly condition, and shall keep and maintain all open areas of the Premises in a neat and orderly condition and perform all necessary landscaping work. All Repairs shall be promptly made with materials and equipment, which are at least equal in quality to those in place. Landlord shall not be obligated to make any repairs or replacements of any kind, nature, or description, whatsoever, to the Premises or the Improvements thereon.

7. INDEMNIFICATION.

(a) Subject to the subrogation provisions of this Lease, Tenant agrees to indemnify and hold Landlord and its former and current elected and appointed officials, agents, consultants and employees (collectively, "**Landlord Parties**") harmless, to the fullest extent permitted by law, from all liabilities, losses, interest, damages, costs and/or expenses (including, without limitation, reasonable attorneys' fees, whether suit is instituted or not, and if instituted, whether incurred at any trial, appellate or post judgment level), threatened or assessed against, levied upon, or collected from, any Landlord Party arising out of, from, or in any way connected with or arising from the negligence, recklessness, or intentional wrongful misconduct of Tenant in the performance of its obligations under this Lease. Notwithstanding the foregoing, Tenant shall not be required to indemnify any Landlord Party with respect to any liability, loss, damages, costs or expenses suffered as a result of the negligence and/or willful misconduct of such Landlord Party. To the extent this indemnification clause or any other indemnification clause in this Lease is subject to the provisions of Chapter 725, Florida Statutes, and such does not comply with Chapter 725, Florida Statutes, as such may be amended, such provision shall hereby be interpreted as the parties' intention for the indemnification clauses and to comply with Chapter 725, Florida Statutes, as such may be amended.

(b) Tenant shall not have any obligation to indemnify or defend the Landlord Parties against any claims brought against any Landlord Party by any third party challenging: (i) Landlord's legal authority to lease all or any portion of the Premises; (ii) the Town Commission's judgment in leasing all or any portion of the Premises; or (iii) Landlord's decision to enter into this Lease or the terms and provisions of this Lease, regardless of whether such claim seeks monetary damages or injunctive, declaratory or other relief. Provided however, that if any third party brings any claims against Landlord and Tenant, Tenant shall have the responsibility to defend the allegations against it. The provisions of this Section shall survive the expiration or earlier termination of this Lease. Any tort liability to which Landlord is exposed under this Lease shall be limited to the extent permitted by applicable law and subject to the provisions and monetary limitations of Section § 768.28, Florida Statutes, as it may be amended. Landlord expressly does not waive any of its rights and immunities under § 768.25.

8. TAXES. During the Term, Tenant shall assume full responsibility for and shall pay all taxes and assessments that accrue to the Premises or to the Improvements thereon, including sales and property taxes (including ad valorem taxes and non-ad valorem assessments). Tenant shall obtain, if available, a separate tax billing or assessment for the Premises, and Tenant shall pay the ad valorem real property taxes attributable to the Premises only. If a separate billing or assessment for the Premises is not available, Tenant shall pay its pro rata share of the cost incurred by Landlord for real property taxes upon the Project. Tenant agrees to reimburse Landlord within thirty (30) days after receipt of an itemized statement showing the pro rata amount due by Tenant.

In no event shall Tenant be obligated to pay any of Landlord's administrative fees relating to taxes nor shall Tenant be obligated to pay any interest or penalties imposed for late payment or otherwise unless caused by Tenant. Any real property taxes shall be apportioned so that Tenant shall pay only that portion of real property taxes or installments thereof as fall within the Term. Tenant shall not be obligated to pay any income tax, excise tax or other similar tax or charge, or

inheritance, franchise, capital levy transfer, estate, succession or other similar tax or charge that may be payable by or chargeable to Landlord under any present or future law of the United States or the state in which the Premises are located or imposed by any political or taxing subdivision thereof. Tenant shall have the right, by appropriate proceedings, to protest or contest any assessment or reassessment for real property taxes, or any special assessment, or the validity of either, or of any change in assessments or the tax rate and Landlord agrees to reasonably cooperate with Tenant in any such protest or contest. If Landlord is unwilling to pursue such protest or contest, then Tenant may do so in Landlord's name at Tenant's expense. Landlord agrees not to initiate or endorse any action or application which would increase Tenant's monetary obligations under this Section.

9. INSURANCE; WAIVER OF SUBROGATION. During the Term, Tenant shall comply with all of the insurance requirements imposed upon the Developer pursuant to the Comprehensive Agreement only to the extent the same are applicable to the Hotel Component.

Landlord and Tenant, for themselves and their respective insurers, hereby release each other of and from any and all claims, demands, actions and causes of action, (including, without limitation, subrogation claims), for loss or damage to their respective property located within or upon, or constituting a part of the Premises, even if the loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible, which loss or damage is covered by valid and collectible insurance policies, to the extent that such loss or damage is recoverable under such policies or, in the case of Landlord, if Landlord elects to self-insure. Landlord and Tenant shall each cause each insurance policy obtained by it to provide that each insurance company waives all rights of recovery by way of subrogation against the other party in connection with any damage covered by any such policy. The foregoing waiver of subrogation shall also apply in the event that Landlord elects to self-insure.

10. UTILITIES. During the Term, Tenant, at its sole cost and expense, shall take such action as may be necessary to procure the utility services required for Tenant's operation of the Premises, including, without limitation, making arrangements to extend and connect utility lines to and within the Premises. Tenant shall pay all charges for utility services used on the Premises during the Term. At Landlord's request from time to time (but no more frequently than twice in any calendar year), Tenant shall deliver to Landlord receipts or other evidence satisfactory to Landlord indicating the timely payment of utility expenses.

Landlord makes no representation or warranty with respect to the availability or sufficiency of any utility service to the Premises. Landlord is not required to furnish any utility services to Tenant and shall not be liable for the failure of any utility services or for the untenability of the Premises or other damage or loss resulting from the unavailability, interruption, inadequacy or termination of, any utility services.

11. DEFAULT. The following conditions shall be considered a "**Default**" by Tenant hereunder:

(a) Tenant's failure to pay any monetary sum as provided in this Lease which continues for thirty (30) days following Tenant's receipt of notice from Landlord to that effect (a "**Monetary Default**"); and

(b) Tenant's failure to observe or perform any of the covenants, conditions or provisions of this Lease that Tenant must observe or perform, other than a Monetary Default, where the failure continues for a period of ninety (90) days after Tenant's receipt of written notice from Landlord; provided, however, that if the nature of the obligation that Tenant has failed to perform is such that more than ninety (90) are reasonably required for its cure, a Default will not occur so long as Tenant commences the cure within such ninety (90)-day period and continuously prosecutes the cure to completion (a "**Non-Monetary Default**")

If a Monetary Default occurs hereunder, then in addition to any other lawful or equitable right or remedy which Landlord may have, including any rights or remedies available to Landlord under the Comprehensive Agreement (to the extent applicable to the Hotel Component), Landlord may, subject to any and all cure and notice provisions contained in this Lease, do the following: (i) commence a proceeding to terminate this Lease, or (ii) repossess the Premises, with or without terminating this Lease.

If a Non-Monetary Default occurs and is continuing, then in addition to any other lawful or equitable right or remedy which Landlord may have, including any rights or remedies available to Landlord under the Comprehensive Agreement (to the extent applicable to the Hotel Component), Landlord shall have the right, in its sole election, then, or at any time thereafter while such Default shall continue to (i) remedy the same and charge Tenant for the reasonable costs thereof (including reasonable interest thereon), (ii) sue for specific performance of Tenant's obligations under this Lease; or (iii) commence a proceeding to terminate this Lease.

In the event of the occurrence of any Landlord's default as is detailed in this Lease which is not cured within sixty (60) days of Tenant's notice to Landlord, or such longer period of time as may be necessary to cure defaults which are not subject to being cured within such sixty (60) day period, Tenant shall have the right, in its sole election, then, or at any time thereafter while such Landlord's default shall continue to (i) remedy the same and charge Landlord for the costs thereof (including reasonable interest thereon), or (ii) sue for specific performance of Landlord's obligations under this Lease; or (iii) such other remedy as may be available at law or in equity.

Subject to the terms of this Section, all rights and remedies of Landlord and Tenant are cumulative, and the exercise of any one shall not be an election excluding Landlord or Tenant at any other time from exercising a different or inconsistent remedy. No waiver by Landlord or Tenant of any covenant or condition shall be deemed to imply or constitute a further waiver of the same at a later time.

12. CASUALTY.

(a) General. If at any time during the Term, any Improvements are damaged or destroyed by fire or other casualty (a "**Casualty**"), Tenant shall promptly give written notice thereof to Landlord. Tenant's obligations under this Lease shall not be affected by any Casualty except as provided in this Section. Lease Payments shall not abate during the period when the

Premises are not usable by Tenant due to damage or destruction, provided, however, Tenant shall receive a credit against the Lease Payments for the relevant period in an amount equal to any insurance proceeds actually received by Landlord with respect to such period.

(b) Restoration.

(i) Upon the occurrence of a Casualty, unless this Lease is terminated pursuant to Section 12(c), Tenant shall proceed, at its sole cost and expense and with commercially reasonable diligence, to carry out or cause to be carried out any necessary demolition and debris removal and to repair, restore, replace or rebuild the Improvements as nearly as reasonably practical to their condition, quality and character immediately prior to such damage or destruction, with such changes or alterations as may be approved by Landlord or as may be required by Governmental Authority (the “**Restoration**”).

(ii) All insurance proceeds shall be applied first to reimburse Tenant for the necessary and proper expenses paid or incurred by Tenant in the adjustment and collection of the insurance proceeds (including, without limitation reasonable attorneys’ fees and disbursements) (the “**Net Insurance Proceeds**”). The balance remaining shall be paid and applied in accordance with the provisions of this Section 12(b). In the event of a Casualty resulting in damage to the Improvements of less than \$2,000,000.00, the Net Insurance Proceeds shall be paid directly to Tenant and used by Tenant to pay the costs of the Restoration of the Improvements, subject to and in accordance with the provisions of this Section 12(b) and any Leasehold Mortgage. In the event of a Casualty resulting in damage to the Improvements of \$2,000,000.00 or more, the Net Insurance Proceeds shall be paid to the Insurance Depository (as hereinafter defined) and shall be held, invested and disbursed, subject to and in accordance with the provisions of this Section 12(b) and any leasehold mortgage. The “**Insurance Depository**” shall mean an institutional lender jointly selected by Landlord and Tenant (or if the provisions of any leasehold mortgage so provide, as selected by the holder of any Leasehold Mortgage (and may be the Leasehold Mortgagee)) to perform the functions described herein.

(iii) Subject to the terms of any Leasehold Mortgage, the Insurance Depository shall invest and reinvest the Net Insurance Proceeds in United States government securities backed by the full faith and credit of the United States government. The income from the investment of the Net Insurance Proceeds shall be part of the Net Insurance Proceeds and shall be held, invested, and disbursed in the same manner as the balance of the Net Insurance Proceeds. All reasonable costs, fees, expenses and charges of the Insurance Depository in connection with the collection, investment, administration and disbursement of the Net Insurance Proceeds shall be paid by Tenant upon demand by the Insurance Depository. In the event that Tenant shall fail to pay such costs, fees, expenses and charges upon demand, the Insurance Depository may deduct the amount thereof from the Net Insurance Proceeds.

(iv) The Insurance Depository shall disburse the Net Insurance Proceeds from time to time in accordance with requests for disbursement (each, a “**Disbursement Request**”) made by Tenant and approved by the then Leasehold Mortgagee, or, if there is no Leasehold Mortgagee, Landlord. No disbursement of Net Insurance Proceeds shall be made without the prior written approval of the then Leasehold Mortgagee, or, if there is no Leasehold

Mortgagee, Landlord. Landlord shall be obligated to approve a Disbursement Request provided that Tenant has complied with the requirements of this Section.

(v) Subject to the other requirements of this Lease, Net Insurance Proceeds shall be disbursed periodically by the Insurance Depository as the Restoration progresses in amounts not exceeding 90% of the value of labor and materials incorporated into the work. The remaining 10% will be disbursed upon final completion of the Restoration.

(vi) If at any time during the course of the Restoration the then Leasehold Mortgagee, or, if there is no Leasehold Mortgagee, Landlord, reasonably determines that the undisbursed portion of the Net Insurance Proceeds will not be sufficient to complete the Restoration, Tenant shall deposit the difference, as reasonably determined by Leasehold Mortgagee or Landlord, as applicable, with the Insurance Depository, and such amount shall be held, invested and disbursed in the same manner as the balance of the Net Insurance Proceeds.

(vii) All Restoration work shall be performed by Tenant in accordance with the provisions of Section 4.

(viii) Except as otherwise provided in any Leasehold Mortgage or any related loan documents, in the event that (a) Tenant shall fail to commence or complete the Restoration as required by this Section or otherwise defaults in the performance of its obligations under this Section, or (b) a default beyond any applicable notice and cure periods shall occur before or during the course of the Restoration, the Net Insurance Proceeds shall be paid to and retained by Landlord.

(ix) Upon final completion of the Restoration and compliance with the requirements for the final disbursement, any excess Net Insurance Proceeds shall be paid to Tenant.

(c) Termination by Tenant.

(i) Subject to the terms of any Leasehold Mortgage or any related loan documents, upon the occurrence of Casualty during the last thirty (30) years of the Term or if at any time during the Term the Improvements are substantially destroyed and estimated cost of the Restoration would exceed one hundred ten percent (110%) of the Maximum Required Restoration Cost (as hereinafter defined), then, instead of carrying out the resulting Restoration, Tenant, at its option, may elect to terminate this Lease by written notice to Landlord given within thirty (30) days after the Casualty or the estimated cost of such Restoration shall have been determined, whichever last occurs. After making such election, Tenant shall proceed with reasonable diligence to

- (A) demolish the damaged portion of the Improvements to street grade;
- (B) remove all debris from the Premises;

(C) put the Premises in good, safe, lawful, clean and orderly condition (collectively, the “**Demolition**”). The Demolition shall be carried out at Tenant’s sole cost and expense. Upon completion of the Demolition, as certified by the architect handling the Demolition and upon payment of all Lease Payments payable under this Lease through the date of such completion, this Lease shall expire and terminate with the same force and effect as though the date of such completion were the Termination Date; and

(D) provide evidence reasonably satisfactory to Landlord that all subleases have been terminated.

The term “**substantially destroyed**” shall mean and refer to that condition where the use and occupancy of substantially all the Improvements have been materially adversely affected and the estimated cost of the resulting Restoration would exceed \$2,000,000.00. The term “**Maximum Required Restoration Cost**” shall mean and refer to the total of (i) the insurance proceeds payable in respect of any loss which is the subject of the Restoration for which such determination is to be made (excluding the proceeds of any business interruption or rent loss insurance) plus the deductible amount under any applicable insurance policy or, in the case of any taking which is the subject of such Restoration, the portion of any Award (as hereinafter defined) payable in respect thereof which is available for such Restoration, *plus* (ii) any additional insurance proceeds that would have been payable in respect of any such loss if Tenant had complied with all relevant obligations of Tenant under this Lease and all relevant obligations of Tenant under all insurance policies (excluding the proceeds of any business interruption or rent loss insurance), *less* (iii) necessary and proper expenses paid or incurred by Tenant in the adjustment and collection of the insurance proceeds (including, without limitation reasonable attorneys’ fees and disbursements).

(d) Tenant’s Obligations Not Affected. Tenant shall be obligated to carry out, or cause to be carried out, the Restoration pursuant to Section 12(b) or the Demolition pursuant to Section 12(c), as the case may be, regardless (except for Landlord’s negligence or willful misconduct) of the cause of the loss which is the subject of such Restoration or Demolition, whether or not insurance shall have been in effect with respect to such loss, whether or not any proceeds from any such insurance shall be paid by the insurer, and whether or not any such insurance proceeds shall be sufficient to cover the cost of such Restoration or Demolition. Anything herein to the contrary notwithstanding, unless caused by Landlord’s negligence or willful misconduct, Landlord shall not be obligated to carry out any Restoration or Demolition. Landlord shall not be liable for any inconvenience, loss of business or annoyance arising from any damage or destruction of or to the Improvements or from any Restoration or Demolition, whether carried out by Landlord or Tenant.

(e) Survival. The provisions of this Section 12 shall survive the expiration or earlier termination of this Lease.

13. CONDEMNATION.

(a) Notice. Landlord and Tenant each agree to give the other written notice of any taking by exercise of the power of condemnation or eminent domain, whether by legal

proceedings or otherwise (“**Taking**”) of all or any portion of the Premises promptly after receiving notice thereof. Landlord agrees not to initiate or endorse any Taking which would materially interfere with Tenant’s ability to use the Premises for the use(s) permitted under this Lease.

(b) Total Taking. In the event of a Taking (other than for temporary use) of the entire Premises or such a substantial part of the Premises that the remaining portion of the Premises, after Reconstruction, would be unsuitable for the continued use and occupancy for the uses permitted hereunder (a “**Total Taking**”):

(i) this Lease shall terminate as of the date that possession is delivered to the condemning authority;

(ii) Lease Payments shall be apportioned as of the date the Lease terminates; and

(iii) any condemnation award or payment shall be applied first to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys’ fees and disbursements). The amount of any condemnation award or payment remaining after first reimbursing Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award or payment (including, without limitation reasonable attorneys’ fees and disbursements) (the “**Net Condemnation Proceeds**”) shall be apportioned between Landlord and Tenant in the manner set forth in this Section.

(c) Partial Taking. In the event of any Taking (other than for temporary use) which is not a Total Taking:

(i) this Lease shall remain in full force and effect as to the portion of the Premises remaining immediately after such Partial Taking;

(ii) there shall be an equitable abatement of the Lease Payments payable under this Lease based on the portion of the Premises taken;

(iii) any condemnation award or payment shall be allocated first to the Leasehold Mortgagee, to the extent required by the Leasehold Mortgage or any related loan documents, and then to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys’ fees and disbursements);

(iv) Tenant shall proceed with due diligence to repair, restore and replace the Premises as nearly as possible to its condition and character immediately prior to such Partial Taking (the “**Reconstruction**”), except for any reduction in area caused thereby. The work performed under this Section shall be performed in accordance with the provisions of Section 4;

(v) the Net Condemnation Proceeds and any sums deposited by Tenant pursuant to Section 13(c)(vi) (collectively, the “**Reconstruction Funds**”) shall be held, invested and disbursed by the Insurance Depository to pay the costs of Reconstruction, subject to substantially the same terms and conditions as are applicable to the Net Insurance Proceeds under Section 12;

(vi) Tenant shall be solely responsible for any costs of Reconstruction which are in excess of the Net Condemnation Proceeds. If, at any time, Landlord reasonably determines that the Net Condemnation Proceeds will be insufficient to pay the remaining costs of Reconstruction, Tenant shall deposit the difference with the Insurance Depository, and such amount shall be held, invested and disbursed in the same manner as the Net Condemnation Proceeds;

(vii) any balance of the Reconstruction Funds remaining after completion of the Reconstruction shall be apportioned between Landlord and Tenant in accordance with the provisions of this Section 13.

(d) Net Condemnation Proceeds/Reconstruction Funds.

(i) In the event of a Total Taking, the Net Condemnation Proceeds shall be allocated first to the Leasehold Mortgagee, to the extent required by the Leasehold Mortgage or any related loan documents, and then apportioned between Landlord and Tenant in proportion to the fair market value of their respective interests in the Premises immediately prior to the Taking, as if such Taking had not occurred.

(ii) In the event of a Partial Taking, any Reconstruction Funds remaining after completion of the Reconstruction shall be applied first to reimburse Tenant for any sums deposited by Tenant pursuant to Section 13(c)(iv). The balance, if any, shall be apportioned between Landlord and Tenant in proportion to the fair market value of their respective interests in the Premises immediately prior to the Taking, as if such Taking had not occurred.

(iii) In determining the fair market value of Landlord’s interest in the Premises, due consideration shall be given to the fair market value of the Premises, as encumbered by the Lease, taking into account the remaining useful life of the Improvements at the expiration of the Term, as if such Taking had not occurred.

(e) Procedure for Apportioning Funds.

(i) Landlord and Tenant shall attempt, in good faith, to agree upon the apportionment of the Net Condemnation Proceeds or remaining Reconstruction Funds between Landlord and Tenant.

(ii) In the event that Landlord and Tenant are unable to agree upon the apportionment, either party shall have the right to submit such dispute (an “**Apportionment Dispute**”) to arbitration in accordance with the provisions of this Section and the arbitration rules of the American Arbitration Association then in existence.

(iii) During the first ten (10) days after either party notifies the other of its desire to submit the Apportionment Dispute to arbitration, Landlord and Tenant shall attempt to agree upon a single person (the “**Expert**”) who (a) shall be MAI certified, (b) shall have a minimum of ten (10) years’ experience in appraisal of real estate in the State in which the Premises are located, and (c) has not conducted within the previous three (3) years, does not presently conduct, and does not anticipate conducting a material amount of business with either Landlord or Tenant or their Affiliates, or otherwise have a financial interest in either Landlord or Tenant or their Affiliates and who is otherwise independent (the “**Expert Qualifications**”). If the parties agree upon a single Expert, each of them shall be responsible for one-half of the costs of the Expert so appointed. If Landlord and Tenant are unable to agree upon a single Expert, then within ten (10) days after the expiration of the period for agreeing upon a single Expert, each party, by giving notice to the other, shall appoint an Expert who meets the Expert Qualifications. Such notice shall be accompanied by a statement of all business conducted by the party making the appointment, and its Affiliates, with the Expert so appointed. If a party does not appoint an Expert within ten (10) days after the other party has given notice of the name of its Expert, the single Expert selected shall then be responsible for deciding the Apportionment Dispute.

(iv) If the two Experts are appointed by the parties as provided in this Section, they shall meet promptly and attempt to decide the Apportionment Dispute in accordance with the provisions of this Section. If they are unable to agree upon a resolution of the Apportionment Dispute within twenty (20) days after the second Expert has been appointed, the two Experts shall attempt to select a third Expert meeting the Expert Qualifications, within ten (10) days after the expiration of the period for the two Experts to render a decision. If the two Experts are unable to agree upon a third Expert within such period, either of the parties to this Lease may apply to the American Arbitration Association for the appointment of a third Expert who meets the Expert Qualifications. The third Expert, whether selected by the two Experts or by the American Arbitration Association, shall then be responsible for deciding the Apportionment Dispute. Each of the parties shall be responsible for the costs of its own Expert and one-half of the costs of the third Expert.

(v) In rendering a decision, the Expert(s) shall be entitled to solicit and receive both oral and written evidence, to conduct hearings and meetings and to consider any and all evidence which he deems necessary or appropriate to render his decision; provided, however, that in no event shall the Expert(s) conduct any *ex parte* hearings or otherwise receive oral evidence or testimony from any party outside the presence of the other party or, in the case of written evidence, unless a copy of such evidence is simultaneously delivered to the other party. The Expert(s) shall have no power to change the provisions of this Lease in any respect, and the jurisdiction of the Expert(s) is expressly limited accordingly.

(vi) The Expert(s) shall render a decision as soon as possible. Such decision shall be binding, final and conclusive on the parties (except in the case of manifest error), and judgment thereon may be entered in a court of competent jurisdiction.

(f) Taking For Temporary Use. In the event of a Taking of all or any portion of the Premises for temporary use or occupancy (a “**Temporary Taking**”):

(i) this Lease shall not terminate, there shall be no reduction in the Lease Payments payable under this Lease, and Tenant shall continue to perform and observe all of its obligations under this Lease as though such Taking had not occurred except only to the extent that it may be prevented from so doing;

(ii) any condemnation award or payment shall be applied first to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys' fees and disbursements);

(iii) the Net Condemnation Proceeds shall be held by the Insurance Depository and applied to the payment of Lease Payments coming due under this Lease. If the Temporary Taking extends beyond the expiration of the Term, Landlord shall be entitled to the portion of the Net Condemnation Proceeds allocable to the period after the expiration date;

(iv) at the termination of the Temporary Taking (whether prior or subsequent to the expiration date), Tenant shall proceed with due diligence to repair, restore and replace the Premises as nearly as possible to its condition prior to such Temporary Taking. The portion of the Net Condemnation Proceeds allocable to such Reconstruction shall be held, invested and disbursed by the Insurance Depository to pay the costs of Reconstruction upon substantially the same terms and conditions as are applicable to the Restoration Funds under Section 12. Tenant shall be responsible for any costs in excess of the amount of the award;

(v) any balance remaining after application of the condemnation award pursuant to Section 13(f)(ii), 13(f)(iii) and 13(f)(iv) shall be paid to Tenant.

(g) Survival. The provisions of this Article shall survive the expiration or earlier termination of this Lease.

14. LANDLORD ENCUMBRANCES. It is expressly understood and agreed that Landlord's fee interest in the Land is not subordinate to any Leasehold Mortgage (as hereinafter defined). Tenant has no right to, and shall not, place or create any mortgage or other lien or encumbrance purporting to encumber Landlord's fee interest in the Land. In the event Landlord elects to encumber the Land or any portion thereof with a fee mortgage, such fee mortgage shall be subordinate to Tenant's rights under this Lease and upon Tenant's request, Landlord shall execute and cause such fee mortgagee to enter into a recognition, non-disturbance and attornment agreement with Tenant, substantially in the form attached hereto as **Exhibit F** or such other form as Landlord, Tenant, such fee mortgagee and any Leasehold Mortgagee may mutually agree to.

15. LEASEHOLD MORTGAGE.

(a) Tenant may from time to time, and without the consent of Landlord, secure financing (which may include, without limitation, mortgage loans, general credit lines, bond financing, including Community Development District bond financing, and CPACE financing) from banks, insurance companies, other financial institutions or other lenders (each one, a

“**Leasehold Mortgagee**”), granting to such Leasehold Mortgagee as security for such financing or general credit lines a mortgage encumbering Tenant’s leasehold interest in the Premises (which may include a collateral assignment of Tenant’s leasehold interest in the Premises with rights of reassignment, hereinafter a “**Leasehold Mortgage**”) and/or a security interest in any furnishings, fixtures, equipment and personally purchased by or belonging to Tenant, or leased from third parties by Tenant and installed on the Premises by Tenant. To the extent any provision in this Section conflict or are inconsistent with any other provision of this Lease, the provisions of this Section shall control.

Tenant may also, with Landlord’s prior written consent, which shall not be unreasonably withheld, conditioned or delayed, apply for any county, state and federal grants that may be available to Landlord (including, without limitation, those available from the Florida Navigational District) for the financial benefit the Marina (collectively, the “**Grants**”) on behalf of Landlord. Landlord agrees to reasonably cooperate with Tenant in connection with Tenant’s application for any such Grants, provided that Landlord shall not be required to incur any cost or liability in connection therewith and Tenant shall be solely responsible for any costs incurred in connection therewith, including without limitation any contribution requirements.

(b) If Tenant shall enter into any such Leasehold Mortgage, the Tenant or Leasehold Mortgagee shall forward to Landlord a copy of such Leasehold Mortgage together with a written notice setting forth the name of the Leasehold Mortgagee and its notice information (address for certified mail and electronic mail (e-mail)).

(c) When giving notice to Tenant with respect to any default under the provisions of this Lease, Landlord shall also serve a copy of such notice upon the Leasehold Mortgagee, in accordance with such Leasehold Mortgagee’s preferred form of notice as previously established pursuant to clause (b) above. No such notice to Tenant shall be deemed to have been given unless a copy of such notice has been mailed to such Leasehold Mortgagee, which notice must specify the nature of each such default.

(d) The Leasehold Mortgagee, upon mailing by Landlord of the notice referred to in subparagraph (c) of this Section, shall have, in addition to any period of grace extended to Tenant under the terms and conditions of this Lease, a period of ninety (90) days within which to cure the default or cause the same to be cured or to commence to cure such default with diligence and continuity; provided, however, that as to any default of Tenant for failure to make Lease Payments or to pay taxes, insurance or other monetary obligations of Tenant hereunder, the Leasehold Mortgagee shall be given written notice of such default by certified mail by Landlord, and the Leasehold Mortgagee shall have thirty (30) additional days from the date the notice of default was mailed within which to cure such default. The Leasehold Mortgagee’s decision to cure, or cause to be cured, any default under the Lease shall be at the Leasehold Mortgagee’s sole discretion and election and Leasehold Mortgagee shall not be required to cure any non-monetary default not within such Leasehold Mortgagee’s control such as an act of bankruptcy.

(e) Each Leasehold Mortgagee shall have the right, but not the obligation, to perform any covenant or agreement under this Lease to be performed by Tenant, and Landlord shall accept such performance by any Leasehold Mortgagee as if performed by Tenant. In case Tenant shall default under any of the provisions of this Lease, the Leasehold Mortgagee shall have

the right (but not the obligation) to cure such default whether the same consists of the failure to make Lease Payments or to pay taxes, insurance, or other monetary obligation or the failure to perform any other matter or thing which Tenant is required to do or perform, and Landlord shall accept such performance on the part of the Leasehold Mortgagee as though the same had been done or performed by Tenant.

(f) In the case of any default by Tenant, other than in the payment of Lease Payments under this Lease, Landlord, so long as no monetary default beyond any applicable notice and cure periods shall exist, will take no action to effect a termination of the Term of this Lease without first giving to the Leasehold Mortgagee a reasonable time within which either (i) to obtain possession of the Premises (including possession by a receiver) and cure such default in the case of a default which is susceptible of being cured when the leasehold mortgagee has obtained possession; or (ii) to institute foreclosure proceedings and complete such foreclosure or otherwise acquire Tenant's interest under this Lease with diligence and continuity and thereafter to commence and diligently proceed to cure such default; provided, however, that the leasehold mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which would have been the reason for serving such a notice shall be cured, and provided further, that nothing in this Section shall preclude Landlord from exercising any rights or remedies under this Lease with respect to any other default by Tenant during any period of such forbearance.

(g) In the event of the termination of this Lease or of any succeeding lease made pursuant to the provisions of this Section prior to its stated expiration date, Landlord will quit claim to Leasehold Mortgagee any interest in the Improvements and, at the same time, enter into a new lease of the Premises upon the same terms and conditions as this Lease for the remainder of the Term with the Leasehold Mortgagee or, at the request of such Leasehold Mortgagee, to a corporation or other entity approved to conduct business in the State of Florida, formed by or on behalf of such Leasehold Mortgagee or by or on behalf of the holder of the note secured by the Leasehold Mortgage held by such Leasehold Mortgagee, for the remainder of the Term, effective on the date of such termination, upon the covenants, agreements, terms, provisions and limitations contained in this Lease (including, without limitation, the Lease Payments), provided that such Leasehold Mortgagee makes written request and executes, acknowledges and delivers to Landlord such new lease within thirty (30) days from the date of such termination and such written request and such new lease is accompanied by payment to Landlord of all amounts then due to Landlord, including reasonable attorneys' fees, court costs and disbursements incurred by Landlord in connection with any such default and termination as well as in connection with the execution and delivery of such new lease, less the net income collected by Landlord subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the Lease Payments thereafter becoming due under such new lease. In no event, however, shall such mortgagee or its nominee or designee be required to cure a default under this Lease which is not subject to being cured by such mortgagee or its nominee or designee in order to obtain a new lease. Any new lease referred to in this Section shall not require any execution, acknowledgment or delivery by Landlord in order to become effective as against Landlord and Landlord shall be deemed to have executed, acknowledged and delivered any such new lease immediately upon receipt by Landlord of such new lease accompanied by (i) payment to Landlord of all amounts then due to Landlord of which the Leasehold Mortgagee shall theretofore have received written

notice; and (ii) an agreement by the Leasehold Mortgagee to pay all other amounts then due to Landlord of which the Leasehold Mortgagee shall not theretofore have received written notice. In addition, immediately upon receipt by Landlord of such new lease, as provided in this subparagraph, Landlord shall be deemed to have executed, acknowledged and delivered to the Leasehold Mortgagee an assignment of all subleases covering the Premises which theretofore may have been assigned and transferred to Landlord and all subleases under which subtenants shall be required to attorn to Landlord pursuant to the terms and conditions of such subleases or this Lease. Such assignment by Landlord shall be deemed to be without recourse as against Landlord. Within ten (10) days after a written request therefore by the Leasehold Mortgagee, such assignment or assignments shall be reduced to writing in recordable form and executed, acknowledged and delivered by Landlord to the Leasehold Mortgagee.

(h) The Leasehold Mortgagee may become the legal owner and holder of this Lease by foreclosure of its mortgage or as a result of the assignment or quitclaim conveyance of this Lease and the Improvements in lieu of foreclosure, whereupon such Leasehold Mortgagee shall immediately become and remain liable under this Lease as provided in subparagraph (j) below, except that such Leasehold Mortgagee may assign this Lease without Landlord's consent to any assignee at any time, provided that prior notice is given to Landlord in accordance with this Lease.

(i) In the event that a Leasehold Mortgagee shall become the owner or holder of Tenant's interest by foreclosure of its mortgage or by assignment of this Lease in lieu of foreclosure or otherwise, the term "Tenant," as used in this Lease, means only the owner or holder of Tenant's interest for the time being so that, in the event of a sale, assignment or other disposition of Tenant's interest in this Lease by the Leasehold Mortgagee, the Leasehold Mortgagee shall be entirely freed and relieved of all covenants and obligations of Tenant under this Lease and it shall be deemed and construed, without further agreement between Landlord and the Leasehold Mortgagee or between Landlord, the Leasehold Mortgagee and the Leasehold Mortgagee's purchaser or assignee at any such sale or upon assignment of Tenant's interest, that the purchaser or assignee of Tenant's interest has assumed and agreed to carry out any and all covenants and obligations of Tenant. The Leasehold Mortgagee's purchaser or assignee shall sign an Assignment and Assumption Agreement of this Lease.

(j) Within ten (10) days after written request by Tenant or by Tenant's Leasehold Mortgagee, or in the event that upon any sale, assignment or mortgaging of Tenant's interest in this Lease by Tenant or Tenant's Leasehold Mortgagee, an offset statement shall be required from Landlord, Landlord agrees to deliver in recordable form a certificate to any proposed Leasehold Mortgagee, purchaser, assignee or to Tenant, certifying (if such be the case) (i) the amount of the Lease Payments due under the Lease, if any, and the date to which Lease Payments have been made; (ii) whether this Lease is in full force and effect; (iii) whether Landlord has any knowledge of any default under this Lease, or if any default exists, specifying the nature of the default; and (iv) whether there are no defenses or offsets which may be asserted by Landlord against Tenant in respect of obligations pursuant to this Lease as of the date of the estoppel. The estoppel letter shall be certified to Landlord and the Leasehold Mortgagee and none other.

(k) Reference in this Lease to acquisition of Tenant's interests in this Lease by the Leasehold Mortgagee shall be deemed to refer, where circumstances require, to acquisition of

Tenant's interest in this Lease by any purchaser at a sale on foreclosure of the Leasehold Mortgage and provisions applicable to the Leasehold Mortgagee in such instance or instances shall also be applicable to any such purchaser.

(l) So long as Tenant's interest in this Lease shall be mortgaged to a Leasehold Mortgagee, the parties agree for the benefit of such Leasehold Mortgagee that Landlord shall not sell, grant or convey to Tenant all or any portion of Landlord's fee simple title to the Premises without the prior written consent of such Leasehold Mortgagee. In the event of any such sale, grant or conveyance by Landlord to Tenant, Landlord and Tenant agree that no such sale, grant or conveyance shall create a merger of this Lease into a fee simple title to the Premises. This subparagraph (l) shall not be construed to prevent a sale, grant or conveyance of Landlord's fee simple title by Landlord to any person, firm or corporation other than Tenant, its successors, legal representatives and assigns.

(m) Reference in this Lease to a Leasehold Mortgagee shall be deemed to refer where circumstances require, to any assignee (subject to the provisions of subparagraph (i), above) of a Leasehold Mortgagee; provided that such assignee shall forward to Landlord a copy of such assignment of Leasehold Mortgage, together with a written notice setting forth the name and address of the assignee and its notice information (address for certified mail and electronic mail (e-mail)).

(n) Any Leasehold Mortgage shall be specifically subject and subordinate to Landlord's rights under this Lease. The sentence immediately preceding shall not be deemed or construed (by implication or otherwise) to impose or establish upon Tenant's interest in this Lease or upon the lien of any Leasehold Mortgage the superiority of any lien or encumbrance, including, without limitation, the lien of any fee mortgage, judgment or tax created directly or indirectly by, through or against Landlord or Landlord's interest in this Lease. Despite any provision which is or may appear to be to the contrary in this Lease, under no circumstances whatsoever shall the fee simple title interest of Landlord in the Premises, or any portion of them, be encumbered or subordinated, except for a mortgage on Tenant's leasehold interest.

(o) No Leasehold Mortgagee or other person succeeding to the interest of Tenant in this Lease through or subsequent to an enforcement proceeding shall be liable under this Lease, unless and until such time as it becomes the tenant of the leasehold estate, and then only for such obligations of Tenant which accrue during the period while it remains the tenant of the leasehold estate.

(p) Notwithstanding any provision in this Lease to the contrary, in the event of any Casualty or Taking of the Premises or any portion thereof and if allowed by law or its agreements with Tenant, the most senior Leasehold Mortgagee (or such other Leasehold Mortgagee, in order of lien priority, if the Leasehold Mortgagee having the most senior lien shall not request or shall not be permitted by law or its agreements with Tenant to do so) shall be permitted to receive insurance proceeds and/or condemnation awards otherwise payable to Tenant and shall be permitted (but shall not be obligated except as required by law or its agreements with Tenant or as provided in the next sentence) to restore the Premises. In addition, if such Leasehold Mortgagee (by reason of its acquiring Tenant's leasehold estate) shall be obligated under this Lease

to repair or restore the Premises, such obligation shall be limited to the amount of such proceeds or awards actually received by such Leasehold Mortgagee.

(q) Upon Tenant's request, and at no material cost to Landlord, Landlord shall execute such documents or instruments confirming Tenant's right and authority to enter into a Leasehold Mortgage and/or granting a security interest in this Lease and confirming that Landlord will give such Leasehold Mortgagee notice and the right to cure any Default of Tenant as provided herein. In addition, Landlord, upon the request of Tenant or any Leasehold Mortgagee, shall execute such reasonable modifications or amendments of this Lease as shall be required by such Leasehold Mortgagee or by any person to which Tenant has made application for a Leasehold Mortgage provided such modifications or amendments do not, taken as a whole, materially affect Tenant's obligations or materially affect Landlord's rights under this Lease. Landlord shall not unreasonably refuse any such request for such modification or amendment. Further, Landlord agrees to enter into a triparty agreement with Tenant and its lender, upon terms and conditions acceptable to such lender and to Landlord, to set forth the rights of Tenant's lender substantially as provided in this Section. In no case shall Landlord be required to guarantee any loan, provide any financing, or mortgage any of its property.

(r) Landlord and Tenant agree that they will make good faith efforts to assist one another so that Tenant can obtain a commercially reasonable loan to finance the construction of the Hotel Component.

16. LANDLORD NON-DISTURBANCE AND RECOGNITION AGREEMENT.

Tenant may enter into one or more subleases for the Premises with subtenants. Provided that Tenant obtain the prior written consent of the subject sublease(s) from Landlord, and Landlord agrees that such consent shall not be unreasonably withheld, conditioned, or delayed, then:

(a) Upon any termination of this Lease, provided the applicable subtenant of the Premises (or any portion thereof) is not in default under its sublease beyond any applicable notice and cure periods, (i) Landlord shall not disturb such subtenant's possession of its subleased premises, nor shall any of such subtenant's rights under its sublease be affected in any way by reason of any default under this Lease by Tenant, provided such subtenant shall attorn and recognize Landlord, as the subtenant's sublandlord under its sublease and (ii) Landlord shall recognize such subtenant's rights under its sublease, as such subtenant's sublandlord under its sublease, and accept such subtenant's attornment.

(b) Upon any such attornment and recognition, the applicable sublease shall continue in full force and effect as, or as if it were, a direct lease between Landlord and the subtenant upon all of the then executory terms, conditions and covenants as are set forth in the sublease prior to the date of attornment, and shall be applicable after such attornment and recognition provided, however, at no time shall Landlord be (i) liable for any prior default by Tenant, as sublandlord under the sublease; (ii) responsible for any monies owing by Tenant, as sublandlord under the sublease; (iii) required to account for any security deposit, other than any security deposit actually delivered to Landlord or for any rent that the subtenant might have paid for more than the current month to Tenant; nor (v) liable for the breach of any representation or warranty (of any nature whatsoever) made by Tenant or to any other party for matters arising prior to the date of attornment.

(c) Upon the request of a subtenant of the Premises (or any portion thereof), Landlord shall enter into a commercially reasonable non-disturbance, attornment and recognition agreement with the subtenant setting forth the terms and conditions of this Section 16 and such other terms as mutually may be agreed upon by Landlord and the subtenant.

17. COVENANT OF QUIET ENJOYMENT. Landlord covenants and warrants that, provided Tenant is not in breach of any material term of this Lease beyond any applicable notice and cure period, Tenant shall peacefully have and enjoy the sole possession of the Premises during the Term free from the adverse claims of any persons, firms or corporations claiming by, through or under Landlord. Landlord agrees to execute any and all easements or rights of way on, over or under the Premises or any part thereof at Tenant's request which are or may be needed or required by Tenant in conjunction with Tenant's use and enjoyment of the Premises; and Landlord agrees to execute any other public utility or governmental body related documents or agreements in the form customarily provided by such public utility or governmental body, which is necessary to fulfill the intent and purposes of this Lease, including, without limitation, the facilitation of, a successful prosecution of all Improvements and construction, signage rights, parking, access, drainage, utilities, communications, lighting, governmental services, the operations by Tenant under this Lease, and all other matters and things contemplated or impliedly necessary under this Lease for its full effectuation, performance or realization. Landlord agrees not to file or cause any zoning change to be made that would affect the Premises without the prior written approval of Tenant. Landlord warrants and represents that there are no mortgages or deeds of trust applicable to the Premises as of the Effective Date.

Landlord represents and warrants that the Premises are owned in fee simple by Landlord; that it is seized of the Premises in fee, subject only to the exceptions set forth on Exhibit D hereto, and that it has entered into this Lease with proper authority. If, at any time during the Term, any indebtedness, lien, assessment, claim, or other matter whatsoever shall arise or shall be asserted which in any way interferes or threatens to interfere with Tenant's use of the Premises as herein provided or referenced, and such indebtedness, lien, assessment, claim, or other matter arises due to Landlord's breach of this Lease or any act or omission of Landlord from and after the Effective Date, then Tenant shall have the right to expend such sums as are necessary to abate said threat or interference and deduct the same from consideration due Landlord until Tenant is reimbursed in full.

18. ASSIGNMENT AND SUBLETTING.

(a) Except as otherwise expressly provided herein, Tenant shall be permitted to sublease any portion of the Premises, in whole or in part, in any manner whatsoever, to subtenants (a "**Premises Tenant**") pursuant to a sublease in the ordinary course of its business (a "**Tenant Lease**") without the consent of Landlord, if the use specified in the Tenant Lease is permitted hereunder and by current and applicable zoning requirements. Tenant also may transfer, license, lease, sublease, and/or assign this Lease and its rights and interests hereunder, without the consent of Landlord, (i) at any time, to an Affiliate (as such term is defined in the Comprehensive Agreement), provided that Tenant or the Developer or a manager who is a knowledgeable manager reasonably approved by Landlord is the manager of such Affiliate; and (ii) from and after the issuance of a certificate of occupancy with respect to the Hotel Component, to any third party. Tenant shall also be permitted to transfer, convey or pledge its interest in this Lease to a Leasehold

Mortgagee without the consent of Landlord. Any such sublease, transfer, conveyance or pledge by the Tenant shall be subject to all of the terms and provisions of this Lease. Except as otherwise expressly permitted hereunder, if Tenant seeks to assign, transfer or sell its leasehold interest in this Lease, the express prior written consent of Landlord shall be required, which consent shall not be unreasonably withheld, conditioned or delayed. Any such consent to an assignment shall be subject to all of the terms and provisions of this Lease and, provided that the assignee agrees in writing to assume all of the Tenant's rights and obligations under this Lease, shall release Tenant from its obligations under this Lease. Landlord's consent shall not be required for Premises Tenant's certificates of occupancy, building permits, tenant allowances or buildout terms and procedures except as may otherwise be required by Landlord by virtue of Landlord being the Governmental Authority overseeing these items in its regulatory capacity. Within sixty (60) days of executing a Tenant Lease with a Premises Tenant, Lessee shall notify Lessor the Tenant Lease has been executed and the identity of the Premises Tenant.

(b) Should Tenant take any action to assign this Lease without the prior written consent of Landlord as provided in Section 18(a), then any such assignment shall be null and void and of no force and effect.

(c) Any successor or assignee of Tenant's rights and/or obligations under this Lease shall expressly assume in writing performance of such rights and/or obligations and deliver same to Landlord within ten (10) days after consummation of the assignment, transfer or sale.

19. NOTICES. All notices, requests, consents, demands, approvals or other communications required or permitted under this Lease shall be in writing, addressed to the person identified below, and delivered either by: (a) hand delivery, (b) overnight courier by a nationally recognized courier, with all fees prepaid; Registered or Certified Mail, return receipt requested and postage prepaid; or delivered by email with "FORMAL NOTICE UNDER GROUND LEASE" in the subject line:

If to Landlord: Town of Lake Park
Attention: Town Manager
535 Park Avenue
Lake Park, Florida 33403

With a copy to:

Town of Lake Park
Attention: Town Attorney
535 Park Avenue
Lake Park, Florida 33403

If to Tenant: FD P3 LP Hotel, LLC,
c/o Forest Development P3 LPM, LLC
Attn: Peter Baytarian
11231 US Highway 1, Suite 354

North Palm Beach, Florida 33408
info@forestdevelopment.com

And to:

Saul Ewing LLP
Attn: Anthony Kang
701 Brickell Avenue, 17th Floor
Miami, Florida 33131
Anthony.kang@saul.com

With a copy to:

Zabik & Associates, Inc.
Attn: Larry Zabik
11398 Okeechobee Blvd, Suite 2
Royal Palm Beach, Florida 33411
lzabik@zabikandassociates.com

Any and all tax notices and information shall also be sent to: Tenant

Each such notice shall be deemed delivered: (i) if delivered by hand, the date the receipt is signed; (ii) if sent by overnight courier, on the courier's confirmation of delivery date, or (iii) if sent by Registered or Certified Mail, upon receipt as indicated by the date on the signed return receipt.

Landlord and Tenant agree that any and all notices given by either party shall be provided simultaneously to any assignee of Tenant or any lender to Tenant when such assignee or lender has been previously identified in writing to the parties along with the appropriate address for such notices. Either Party may, at any time, change its address for the above purposes by sending a notice to the other party stating the change and setting forth the new address.

20. MISCELLANEOUS.

(a) Captions. Captions or headings of sections are for convenience only and shall not be considered in construing the meaning of the contents of such section.

(b) Partial Invalidity. If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

(c) Prevailing Party. Should Landlord or Tenant institute any legal proceedings against the other for breach of any provisions herein contained, each party in such action shall be

responsible for its own conduct costs and litigation expenses including reasonable attorneys' fees through all levels of appeal.

(d) No Prior Agreements / No Third-Party Beneficiaries. This Lease supersedes and cancels all prior negotiations between the parties, and all other negotiations and understandings are merged into this Lease. This Lease, together with the terms and conditions of the Comprehensive Agreement applicable to the Hotel Component, constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof. The parties acknowledge that there are no other promises, agreements, conditions, undertakings, warranties, or representations, oral or written, express or implied, between and among them, except as set forth, referenced, or incorporated herein or in the Comprehensive Agreement (to the extent incorporated herein). Furthermore, this Lease is intended solely for the benefit of the parties hereto expressly noted herein and whose signatures appear hereon and their respective permitted successors and assigns, as applicable. No third party shall have any rights or interest herein and there are no and shall be no third-party beneficiaries hereto.

(e) Amendments and Modifications/No Oral Modifications. All amendments or modifications to this Lease must be in writing signed by the Parties. No purported amendments or modifications to this Lease which are oral shall be effective, binding or enforceable.

(f) Interpretation and Gender. The singular shall include the plural, and the masculine, feminine or neuter shall include either of the others as appropriate in context.

(g) Successors and Assigns. All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors and assigns of the said parties; they shall all be bound jointly and severally by the terms, covenants and agreements herein.

(h) No Waiver. The failure to enforce any particular provision of this Lease on any particular occasion shall not be deemed a waiver by either party of any of its rights hereunder, nor shall it be deemed to be a waiver of subsequent or continuing breaches of that provision.

(i) Estoppel Certificates. Landlord and Tenant agrees, from time to time as may be requested by each other, to execute, acknowledge and deliver within thirty (30) days after being requested to do so an estoppel letter certifying the following to such party as it reasonably may designate, including any Leasehold Mortgagee: (a) that (i) this Lease is in full force and effect and has not been amended, modified or superseded; (ii) Landlord and Tenant are not in default under this Lease; (iii) Tenant has no defense, offset or counterclaim under this Lease or otherwise against Landlord with respect to this Lease or the Premises; (b) the date to which Lease Payments have been paid; and (c) such other information as the requesting party may reasonably request.

(j) Calculation of Time Periods. In the computation of any time periods hereunder shall exclude Saturdays, Sundays, and state or national legal holidays, and any time period provided for herein which shall end on Saturday, Sunday, or a legal holiday shall extend to 6:00 p.m. eastern time of the next business day.

(k) Florida Law and Venue. This Lease and all of its provisions shall be construed in accordance with the laws of the State of Florida. In the case of any legal proceedings, venue shall be Palm Beach County.

(l) Severability. In the event any provision of this Lease is prohibited, unenforceable or invalid under the laws of any jurisdiction, including those of the State of Florida, such prohibition, or unenforceable or invalid provision shall not in any fashion affect the enforceability or validity of the remaining provisions hereof.

(m) Construction. This Lease shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that all parties have contributed substantially and materially to the preparation of this Lease.

(n) No Cross Default. The Comprehensive Agreement contemplates that the “Project” (as defined in the Comprehensive Agreement) will be comprised of the “Hotel Component,” the “Boat Storage Component,” the “Public Marina Component” and the “Marina Restaurant Component” (collectively the “**Components**” and individually a “**Component**”). The Developer has created a separate entity to be the tenant under this Lease and separate entities to be the tenants under separate ground leases with Landlord with respect to the Boat Storage Component (the “**Boat Storage Lease**”), the Public Marina Component (“**Marina Lease**”), and the Marina Restaurant Component (the “**Restaurant Lease**”). The Boat Storage Lease, the Marina Lease and the Restaurant Lease are collectively referred to herein as the “**Other Leases**” and individually as an “**Other Lease**”).

Landlord and Tenant hereby agree that the rights and obligation under the Comprehensive Agreement shall be bifurcated so that (i) any rights and obligations with respect to the Hotel Component under the Comprehensive Agreement shall only benefit and be required to be performed by the Tenant under this Lease, any obligation under this Lease shall only apply to the Hotel Component under the Comprehensive Agreement, and any breach of the obligations under this Lease or the rights and obligations under the Comprehensive Agreement with respect to the Hotel Component shall not affect or constitute a default under the Other Leases; (ii) any rights and obligations with respect to any Component (other than the Hotel Component) under the Comprehensive Agreement shall only benefit and be required to be performed by the tenant under the applicable Other Lease, any obligation under the applicable Other Lease shall only apply to the applicable Component of such Other Lease under the Comprehensive Agreement, and any breach of the obligations under such Other Lease or the rights and obligations under the Comprehensive Agreement with respect to the Component applicable to such Other Lease shall not affect or constitute a default under this Lease; and (iii) to the extent of any inconsistency between the terms of this Lease and the terms of the Comprehensive Agreement, the terms of this Lease shall prevail and control.

(o) Landlord Approval. Landlord shall act on requests from Tenant for any consent or approval hereunder in a commercially reasonable manner and shall use commercially reasonable efforts to respond to any such request within twenty (20) days following Landlord’s receipt thereof (unless another time period for such response is expressly provided for herein). Landlord’s response may consist of an approval or disapproval of the request, or a conditional

approval thereof subject to specified conditions, or a request for further data or information, or any combination thereof. If Landlord does not approve, reject or request additional information regarding any request hereunder within twenty (20) days following Landlord's receipt thereof (or another time period expressly provided for herein with respect thereto), Tenant may provide to Landlord a second written request, which shall include a legend, printed in capital letters and boldface type, to the following effect: **"THIS COMMUNICATION REQUIRES IMMEDIATE RESPONSE. FAILURE TO RESPOND WITHIN TEN (10) DAYS FROM THE RECEIPT OF THIS COMMUNICATION SHALL CONSTITUTE A DEEMED APPROVAL BY LANDLORD OF THE ACTION REQUESTED BY TENANT."** Landlord shall be deemed to have approved or consented to such action if Landlord fails to object to or request additional information with respect thereto within ten (10) days of such second request.

Wherever in this Lease the approval or consent of Landlord is required, it is understood and agreed that, unless specifically stated to the contrary, such approval or consent shall be granted or withheld in the reasonable discretion of Landlord or of the Town Manager) of Landlord (the **"Town Manager"**) (as applicable), within a reasonable time, and shall not be unreasonably withheld, conditioned or delayed. Except a may be otherwise specifically provided herein, the following actions under this Lease shall be taken or not taken by the Town Manager in the discretion of the Town Manager acting reasonably:

- (i) The exercise of Landlord's rights of entry and inspection;
- (ii) The exercise of Landlord's right or obligation to execute a joinder in (a) applications for land development approvals or other governmental approvals (including permits) which are necessary for Tenant to obtain from governmental authorities, and where such applications require evidence of the consent of the property owner, and (b) any easement, declaration, amendment or creation of an agreement affecting title to the Premises and any other document as may be requested by Tenant in connection with the development and/or operation of the Premises;
- (iii) The exercise of Landlord's right to receive and approve or not approve and specify the basis for such disapproval the form of certificates of insurance, policies, limits, and coverages of insurance, bonds, and Environmental Assessments;
- (iv) The execution of estoppel statements (or any modifications of the terms thereof) to be given by Landlord under this Lease;
- (v) The approval, if required, of any assignment or sublease; and
- (vi) Other provisions of this Lease where the act, approval or consent of the Landlord is expressly authorized or required, except any amendment to this Lease shall require the written consent of the Town Commission of the Landlord.

(p) Further Assurances. Each Party will promptly cooperate each with the other and will execute and deliver any and all written further assurances and/or documents that are reasonably necessary, convenient, or desirable to evidence, complete or perfect (or any combination thereof) the transactions contemplated by this Lease, so long as no further assurance or document to be executed operates to impose any new or additional obligation or liability upon

any Party. Each Party will so perform all other acts that are reasonably necessary, convenient, or desirable for any such purpose, so long as no new or additional obligations or liabilities are incurred as a result thereof.

Additionally, Landlord further agrees that it will execute such documents and perform such acts as Tenant may reasonably require in connection with the development and/or operation of the Premises, including, but not limited to, executing such easements, documents affecting title to the Premises, applications for governmental approvals, modifications and/or termination of existing easements and/or restrictions affecting the Premises, creation of declarations affecting the Premises and such other documents and acts as reasonably requested by Tenant in connection with its development and/or operation of the Premises, provided that such cooperation shall be subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed.

21. DELAYS. In any case where either party hereto is required to do any act, such party shall be excused from the performance thereof for the duration of delays caused or resulting from Acts of God, war, civil commotion, fire or other casualty, labor difficulties, general shortages of labor, materials or equipment, government regulations, moratorium, other causes beyond such party's reasonable control or circumstances or events characterized at law as "force majeure", whether the time for such performance shall be designated by a fixed date, a fixed period of time, or a "reasonable" period of time. In addition, should any lawsuit, legal proceeding, investigation or other legal matter be filed or commenced against Landlord, Tenant, or any other party related to this Lease, which materially affects this Lease, all time periods contained in this Lease shall be delayed until such legal matter is resolved in its entirety, including any and all appellate proceedings or the like. Notwithstanding anything to the contrary set forth in this Section 21 or elsewhere in this Lease, no event of force majeure (or any event deemed to be beyond the control of Tenant) shall be construed to apply to any of Landlord's or Tenant's monetary obligations hereunder or to permit or allow either Landlord or Tenant to delay or defer any such obligation.

22. ENVIRONMENTAL MATTERS.

(a) For purposes hereof, the following terms shall have the following meanings:

(i) **"Environmental Laws"** shall mean all Federal, state and local laws, statutes, ordinances, codes, rules, regulations and other requirements respecting the environment, including but not limited to those respecting: (A) the generation, use, handling, processing, storage, treatment, transportation, or disposal of any solid or hazardous wastes, or any hazardous or toxic substances or materials; (B) pollution or contamination of land, improvements, air (including indoor air), or water (including groundwater); (C) emissions, spills, releases, or discharges of any substance onto or into the land, improvements, air (including indoor air), or water (including groundwater), or any sewer or septic system; (D) protection of wetlands; (E) aboveground or underground storage tanks; (F) air quality (including indoor air quality) or water quality (including groundwater quality); and (G) protection of endangered species. Without limiting the generality of the foregoing, the term "Environmental Laws" includes the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C., Sec. 9601, et seq.; the Resource Conservation and Recovery Act, as amended, 42

U.S.C., Sec. 6901, et seq., and the Toxic Substance Control Act of 1976, as amended, 15 U.S.C., Sec. 2601, et seq.

(ii) “**Environmental Violation**” shall mean (A) any direct or indirect discharge, disposal, spillage, emission, escape, pumping, pouring, injection, leaching, release, seepage, filtration or transporting of any Hazardous Substance at, upon, under, onto or within the Premises, or from the Premises to the environment, in violation of any Environmental Law or in excess of any reportable quantity established under any Environmental Law or which could result in any liability to any Governmental Authority or any other person for the costs of any removal or remedial action or natural resources damage or for bodily injury or property damage, (B) any deposit, storage, dumping, placement or use of any Hazardous Substance at, upon, under or within the Premises or which extends to any adjoining property in violation of any Environmental Law or in excess of any reportable quantity established under any Environmental Law or which could result in any liability to any Governmental Authority or any other person for the costs of any removal or remedial action or natural resources damage or for bodily injury or property damage, (C) the abandonment or discarding of any barrels, containers or other receptacles containing any Hazardous Substances in violation of any Environmental Laws, or (D) any violation of or noncompliance with any Environmental Law.

(iii) “**Governmental Authority**” shall mean any federal, state, county or municipal government, or political subdivision thereof, any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality, special service district or public body, or any court or administrative tribunal.

(iv) “**Hazardous Substances**” shall mean any substance, material or waste defined as a pollutant or contaminant, or as a hazardous, toxic or dangerous substance, material or waste, under any Environmental Law, including, without limitation, petroleum, petroleum products, PCBs and asbestos.

(b) Tenant shall not use, or permit its agents, employees, contractors, subtenants, licensees or invitees to use the Premises for the purpose of treating, producing, handling, transferring, processing, transporting, disposing, using or storing a Hazardous Substance in violation of any Environmental Law. Tenant shall, at Tenant’s own expense, comply with all Environmental Laws as the same affect the Premises or the operations and activities of Tenant, its agents, employees, contractors, subtenants, licensees or invitees (collectively, “**Tenant Parties**”) on or about the Premises.

(c) In the event Tenant becomes aware of any Environmental Violation or any suspected Environmental Violation at the Premises, Tenant shall promptly (a) notify Landlord of such Environmental Violation or suspected Environmental Violation, and (b) deliver to Landlord any notice filed by or received by Tenant with or from any Governmental Authority relating thereto immediately upon filing or receipt thereof.

(d) In the event that, in the reasonable opinion of Landlord, there is a basis to believe that an Environmental Violation exists, Landlord shall have the right to have its environmental consultants (“**Site Reviewers**”) visit the Premises and perform environmental site

investigations and assessments (“**Site Assessments**”) on the Premises for the purpose of determining whether there exists on the Premises any Environmental Violation or any condition which is likely to result in any Environmental Violation. Such Site Assessments may include both above and below the ground testing for Environmental Violations and such other tests as may be necessary, in the opinion of the Site Reviewers, to conduct the Site Assessments. The Site Reviewers shall use their good faith diligent efforts to minimize any interference with the operations of Tenant and other occupants of the Premises. Tenant shall supply to the Site Reviewers such historical and operational information regarding the Premises as may be reasonably requested by the Site Reviewers to facilitate the Site Assessments and shall make available for meetings with the Site Reviewers appropriate personnel having knowledge of such matters.

(e) In the event that there exists any Environmental Violation caused by any Tenant Party, Tenant shall, at its own cost and expense:

(i) promptly and diligently take any and all actions necessary to return the Premises to a condition which is in compliance with Environmental Laws, and which will not impede or limit further development of the Premises;

(ii) provide Landlord, within ten (10) days after Landlord’s request therefor, adequate financial assurances that Tenant will effect remediation in accordance with applicable Environmental Laws. Such financial assurances shall be a bond or letter of credit in form and substance reasonably satisfactory to Landlord and in an amount equal to Landlord’s reasonable estimate of the anticipated cost of such remedial action;

(iii) without limiting the generality of Section 22(e)(i), make all submissions and provide all information required by Environmental Laws. Tenant shall comply with all requests of the United States Environmental Protection Agency, the Florida Department of Environmental Protection and any other Governmental Authority having jurisdiction over the Premises, including any request that a cleanup plan be prepared and that a cleanup be undertaken with respect to the Premises. In such event, Tenant shall, at Tenant’s own expense, prepare and submit appropriate documents, and carry out the approved plans, or take such other action as may be appropriate to eliminate any environmental harm or threat to public health or welfare and to eliminate any potential liability of Landlord or Tenant. Any submissions made by Tenant pursuant to this Section and any action taken by Tenant pursuant to such submissions shall be subject to the prior review and approval of Landlord, which approval shall not be unreasonably withheld.

(f) Tenant shall indemnify, defend and save Landlord harmless from all claims, actions, suits, proceedings, losses, damages, liabilities, fines and expenses (including without limitation fees of attorneys, investigators and experts) arising or alleged to arise from or in connection with (a) any Environmental Violations, and (b) Tenant’s failure to provide all information, make all submissions and take all actions with respect to the Premises required by any Governmental Authority in connection with any Environmental Violations.

22. RADON. Section 404.056 (6), Fla. Stat., requires the inclusion of the following “Notification on Real Estate Documents” at the time of, or prior to, contract for sale and purchase

of any building or execution of a rental agreement for any building: “Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.”

23. SURRENDER. Upon the expiration or any earlier termination of the Term:

(a) Tenant shall surrender the Premises to Landlord, in good order, condition and repair, reasonable wear and tear, Casualty and Taking excepted;

(b) all right, title and interest of Tenant in and to the Premises shall automatically cease and terminate; and

(c) Tenant shall deliver the following to Landlord, to the extent in the possession or control of Tenant: (a) executed counterparts of any subleases, occupancy, license and concession agreements; (b) executed counterparts of any service and maintenance contracts then affecting the Premises; (c) true and complete maintenance records for the Premises; (d) any original licenses and permits then pertaining to the Premises, including, without limitation, the then existing certificate of occupancy for the Premises; and (e) any warranties and guaranties then in effect which Tenant has received in connection with any work or services performed or equipment installed in the Premises, together with a duly executed assignment thereof to Landlord. Nothing herein contained shall be or be deemed to be a consent by Landlord to any sublease, occupancy, license, concession agreement, service or maintenance contract for a term to expire later than the Expiration Date.

Notwithstanding the foregoing to the contrary, Landlord shall have the right to elect upon the expiration or any earlier termination of the Term, by written notice to Tenant no later than six (6) months prior to the date of such expiration or earlier termination, to require Tenant to raze the Improvements, and clear, grade and seed the former location thereof and put the Premises in good, safe, lawful, clean and orderly condition, in which event Tenant, at its sole cost and expense, shall do so at its sole cost and expense within one hundred and eighty (180) days of such expiration or termination.

24. RIGHT OF FIRST REFUSAL. From and after the date hereof and during the Term, Landlord shall not sell, transfer or otherwise dispose of or convey all or part of Landlord’s fee interest in the Premises to any third party until and unless Landlord shall have obtained a bona fide offer therefor (the “**Landlord’s Offer**”), delivered written notice thereof to Tenant, which notice shall contain a true and accurate copy of Landlord’s Offer, and offered to sell, transfer or otherwise dispose of such fee interest to Tenant at the same price and, except as hereafter provided, upon the same terms and conditions as contained in Landlord’s Offer, and Tenant has not elected to exercise its right of first refusal in accordance herewith.

If Tenant shall either deliver written notice of rejection of Landlord’s Offer to Landlord or fail to deliver written notice of acceptance of Landlord’s Offer within thirty (30) days after the date of receipt of Landlord’s notice, Landlord’s fee interest in the Premises may, during the one

hundred eighty (180) days thereafter, be sold, transferred or otherwise disposed of to the original offeror at the same price and upon the same terms and conditions as contained in Landlord's Offer.

In the event Tenant rejects Landlord's Offer or fails to accept Landlord's Offer in accordance herewith, this Lease and all of its terms and conditions (including this right of first refusal) shall nevertheless remain in full force and effect and Landlord and any purchaser or purchasers of the Premises shall be bound thereby.

Failure of Tenant to exercise its right of first refusal on one or more occasions shall not affect Tenant's right to exercise it on any subsequent occasion. Any sale or transfer of the Premises, or any part thereof, other than in strict compliance with the terms of this Section shall be null and void and of no effect as to Tenant, and Tenant shall be entitled to purchase the Premises from the purchaser upon the same terms and conditions and at the same price specified in Landlord's Offer, provided Tenant notifies Landlord of its election thirty (30) days after receipt of notice that complies with the requirements hereof. The making of Lease Payments to such purchaser or otherwise treating such purchaser as Landlord shall not be deemed to be a waiver of Tenant's right of first refusal or any other right or privilege of Tenant and shall not create an estoppel with respect thereto.

Any sale or transfer of Landlord's interest in the Premises, or any part thereof shall be expressly made subject to all of the terms, covenants and conditions of this Lease. In the event Landlord's Offer provides for the sale and purchase of Landlord's interest in the Premises and other property, Tenant shall only be required to purchase all the Premises in the event it desires to exercise its right of first refusal hereunder.

In the event Tenant exercises its right of first refusal then, notwithstanding the terms of Landlord's Offer (i) Landlord shall convey title to the Premises by warranty deed approved by Tenant and the title company; (ii) title to the Premises shall be free and clear of any liens and encumbrances except the lien for current taxes which are not delinquent at the time of closing and such other exceptions to title as may have been created by Tenant during the Term or as existed on the date hereof and/or were approved by Tenant thereafter; and (iii) title to the Premises shall otherwise comply with the terms of this Lease as they pertain to condition of title. Upon such election by Tenant, Landlord and Tenant agree to act in good faith to consummate a purchase agreement for the Premises incorporating the express terms of Landlord's Offer and other customary terms and provisions for similar transactions of similar property located in the same geographic area as the Premises.

25. **NO BROKER.** Landlord and Tenant represent and warrant to each other that no broker or finder was involved in arranging or bringing about this transaction and that there are no claims or rights for commissions, finders' fees or other compensation (collectively, "**compensation**") by any person or entity. If any broker or finder asserts a claim for compensation based upon any actual or alleged contact, dealings or communication with Landlord or Tenant, then the party through whom such broker or finder makes its claim shall indemnify and hold the other party (the "**Indemnified Party**") harmless from and against any and all claims, damages, judgments, suits, liabilities, losses, costs and expenses (including without limitation, reasonable

attorneys' fees and court costs) suffered or incurred by or brought against the Indemnified Party in connection with such claim for compensation..

26. MEMORANDUM OF LEASE. Immediately following the execution of this Lease, the parties shall execute and record a Memorandum of Lease in the public records in the form attached hereto as Exhibit E.

27. WAIVER OF TRIAL BY JURY. THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE OR THE RELATIONSHIP OF THE PARTIES CREATED HEREBY. THE PARTIES FURTHER HEREBY WAIVE THE RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN WAIVED. THE FOREGOING WAIVERS ARE IRREVOCABLE AND MUTUALLY, KNOWINGLY, WILLINGLY, INTENTIONALLY AND VOLUNTARILY MADE AFTER EACH PARTY HAS HAD THE BENEFIT OF OR OPPORTUNITY TO GAIN LEGAL ADVICE AND COUNSEL. EACH PARTY REPRESENTS, WARRANTS AND AFFIRMS TO THE OTHER THAT NO PARTY HAS IN ANY WAY AGREED, REPRESENTED OR OTHERWISE SUGGESTED OR IMPLIED THAT IT WILL NOT FULLY ENFORCE THE FOREGOING WAIVERS IN ALL INSTANCES.

[The Balance of the Page Intentionally Left Blank – Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed by their duly authorized officer where applicable and sealed as of the date first above written.

TENANT:

FD P3 LP HOTEL, LLC,
a Florida limited liability company

By: _____
Name:
Title:

Date: _____

LANDLORD:

TOWN OF LAKE PARK, FLORIDA

_____, **Attest;**
a Florida municipal corporation

By: _____
Mayor

By: _____
Town Clerk

Date: _____

Approved as to form and legal sufficiency

By: _____
Town Attorney

Exhibit A

Site Plan

Exhibit B

Legal Description of the Premises

Exhibit C

Lease Payments

Period	Lease Payment
Calendar Year 2024	\$0
Calendar Year 2025	\$75,000.00
Calendar Year 2026	\$75,000.00
Calendar Year 2027	\$75,000.00
Calendar Year 2028	\$75,000.00
Calendar Year 2029	\$75,000.00
Calendar Year 2030	\$75,000.00
Calendar Year 2031	\$75,000.00
Calendar Year 2032	\$75,000.00
Calendar Year 2033	\$75,000.00
Calendar Year 2034	\$75,000.00

Lease Payments shall be made on or before May 1 of each calendar year from 2025 to 2034

No Lease Payments shall be due or payable commencing with calendar year 2035

Exhibit D

Permitted Title Exceptions

Exhibit E

Form of Memorandum of Lease

This instrument was prepared by:

Saul Ewing LLP
Attention: Anthony Kang
701 Brickell Avenue, FL 17
Miami, Florida 33131

MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE (“Memorandum”) is made as of the ____ day of _____, 2023, by and between TOWN OF LAKE PARK, FLORIDA, a Florida municipal corporation, having an address of _____ (“Landlord”), and _____, a Florida limited liability company, having an address of _____ (“Tenant”).

WITNESSETH:

1. That by Ground Lease of even date hereof (the “Lease”), Landlord has demised and leased to Tenant and Tenant has rented from Landlord that certain real property located in Palm Beach County, Florida, as more particularly described in Exhibit “A” attached hereto and made a part hereof (the “Premises”), and the rights, easements and privileges granted to Tenant in the Lease.

2. The term of the Lease shall commence on _____, ____ (the “Commencement Date”) and shall expire at 12:00 Midnight on the ninety-ninth (99th) anniversary of the Commencement Date, unless sooner terminated as set forth in the Lease.

3. Pursuant to Florida Statutes Section 713.10 (2023), notice is hereby given that the Lease includes the following provision:

Tenant acknowledges and agrees that the interest of the Landlord in the Premises shall not be subject to liens for improvements made by the Tenant. Tenant shall not at any time permit any mechanics’, laborers’ or materialmen’s liens to stand against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or Tenant’s agents, contractors or subtenants, in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction or sufferance of Tenant.

4. For all other terms and provisions of the Lease, reference is hereby made to the Lease itself, and all persons are hereby placed on notice of the existence of the Lease and of its terms and provisions. The Lease and exhibits thereto are hereby incorporated by reference in this Memorandum. In the event of any conflict between the provisions of this Memorandum and the Lease, the provisions of the Lease shall govern, control and prevail.

5. Upon the expiration or earlier termination of the Lease for any reason whatsoever, Landlord shall be entitled to unilaterally execute and record a termination of this Memorandum which shall terminate and release this Memorandum. Tenant acknowledges and agrees that Tenant shall not be required to join in or execute such termination and that such termination, as executed only by Landlord, shall be effective to terminate this Memorandum without the joinder or execution by Tenant.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Memorandum of Lease to be duly executed and sealed as of the date first above written.

TOWN OF LAKE PARK, FLORIDA

_____, **Attest;**
a Florida municipal corporation

By: _____
Mayor

By: _____
Town Clerk

Date: _____

Approved as to form and legal sufficiency

By: _____
Town Attorney

STATE OF FLORIDA)
)SS:
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of [__] physical presence or [__] online notarization this ___ day of _____, 2023, by _____ as Mayor of the Town of Lake Park, Florida, a Florida municipal corporation, on behalf of the Town. He/She is personally known to me or has produced _____ as identification.

Print Name: _____
Notary Public
My Commission Expires:

[SIGNATURES CONTINUE ON NEXT PAGE]

Witnesses:

TENANT:

_____ By: _____
Print Name: _____ Print Name: _____
Title: _____

Print Name: _____

STATE OF _____)
)SS:
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of [__] physical presence or [__] online notarization this ___ day of _____, 2023, by _____ as a/the _____ of _____, LLC, a _____ limited liability company, on behalf of said entity. He/She is personally known to me or has produced _____ as identification.

Print Name: _____
Notary Public
My Commission Expires:

EXHIBIT "A"

LEGAL DESCRIPTION

[SEE ATTACHED]

Exhibit F

Form of Non-Disturbance and Attornment Agreement

Return to: (enclose self-addressed stamped envelope)

Name: _____

Address: _____

This Instrument Prepared by:

SPACE ABOVE THIS LINE FOR PROCESSING DATA

**NON-DISTURBANCE AGREEMENT BY FEE MORTGAGEE
AS TO A LEASEHOLD MORTGAGE(S)**

THIS NON-DISTURBANCE AGREEMENT (this "**Agreement**") by and between Town of Lake Park, Florida ("**Lessor**" or "**Town**"), having an address at _____, _____, having an address at _____ ("**Tenant**"), _____, having an address at _____ ("**Lender**"), and _____, having an address at _____ ("**Fee Mortgagee**").

WITNESSETH:

WHEREAS, Tenant is the lessee under that certain Ground Lease with the Lessor dated _____, as may be amended from time to time (the "**Lease**") with respect to the "Premises" demised under the Lease; and

WHEREAS, Fee Mortgagee has extended a loan to the Town (as may be amended, modified, substituted, or replaced), referred to herein as the "**Fee Loan**." The Fee Loan is secured by, among other things, a mortgage which encumbers the Town's interest in the Lease and the Premises, as same may be amended from time to time, together with an assignment of leases (collectively, the "**Fee Mortgage**"); and

WHEREAS, pursuant to the terms of the Lease, Tenant has obtained and may in the future obtain certain loans (“**Loan(s)**”) from lender(s) selected by Tenant (each, together with each lender(s)’ respective successors and assigns, a “**Lender**”), which Loan(s) are and shall be secured by a leasehold mortgage(s) encumbering Tenant’s rights in and to the Lease and the Premises (“**Leasehold Mortgage**”). Notwithstanding anything herein to the contrary, any lender(s) selected by Tenant shall not become a “Lender” under this Agreement until such time as such lender has provided a Lender Notice, as provided in Section 5 of this Agreement.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties intending to be legally bound, hereby agree as follows:

1. The recitations heretofore set forth are true and correct and are incorporated herein by this reference.

2. Fee Mortgagee, Town, Tenant and Lender (after the “**Lender Notice**,” as hereinafter defined, is provided for such Lender and after such Lender agrees to be bound by this Agreement) are individually a “**Party**” and collectively “**Parties**.”

3. If and as applicable, Tenant expressly acknowledges that Town has executed and delivered to Fee Mortgagee an Assignment of Leases and Rents (the “**Assignment of Leases**”), which assigns the Lease and the rent and all other sums due thereunder to Fee Mortgagee as security for the Fee Loan. For the avoidance of doubt, Fee Mortgagee expressly acknowledges and agrees that no property of any kind owned by Tenant (including, without limitation, any improvements, fixtures, personal property or other property owned by Tenant) are collateral for the Fee Loan and that Fee Mortgagee has no security interest in or pledge of any of Tenant’s property or any of its rights in the Lease (or derived therefrom other than any residual rights that the Town has to such assets commencing upon the expiration or earlier termination of the Lease or New Lease, as applicable). Tenant acknowledges that the interest of the Town under the Lease has been assigned to Fee Mortgagee solely as security for the purposes specified in said assignments, and Fee Mortgagee shall have no duty, liability or obligation whatsoever under the Lease or any extension or renewal thereof, either by virtue of said assignments or by any subsequent receipt or collection of rents thereunder, except (i) as provided herein, or (ii) upon Fee Mortgagee exercising control over the Town’s interest in the Lease. Tenant further agrees that only upon receipt of a written notice from Fee Mortgagee of an event of default by the Town under the Fee Loan, Tenant will thereafter, if requested by Fee Mortgagee (and after Tenant notifies the Town of the request received from Fee Mortgagee), pay rent to Fee Mortgagee in accordance with the terms of the Lease. Town shall have no claim against Tenant for any amounts paid to Fee Mortgagee pursuant to any such notice. Fee Mortgagee hereby agrees that it will only send such a notice if in its good faith judgment an event of default has occurred and has not been cured. To the extent Fee Mortgagee previously sent a notice to Tenant of such event of a default requesting payment of rent be paid to Fee Mortgagee, then at such time as such event of default has been cured and the cure accepted by Fee Mortgagee, Fee Mortgagee shall notify the Tenant in writing to again pay Sublessor such rents. Notwithstanding the foregoing provisions or any other provision herein to the contrary, Tenant shall be under no obligation to pay any rent or perform any other obligation set forth in the Lease to Fee Mortgagee unless and until Tenant receives written notice

from Fee Mortgagee that the Town is in default under the Fee Loan and Fee Mortgagee is entitled to the rent under the Lease.

4. Tenant shall have the right to mortgage, assign, pledge and hypothecate its interest in the Lease to any Lender as security for Loan(s). In connection with any financing obtained by Tenant (regardless of whether structured as mortgage financing, mezzanine financing or another type of financing), Fee Mortgagee shall execute such documents Lender may reasonably request in order to facilitate such financing (“**Future Non-Disturbance Agreement**”). For the avoidance of doubt, Fee Mortgagee’s and the Town’s agreement to provide the Non-Disturbance Agreement contemplated in the Lease as referenced herein shall only be for the benefit of first lien lenders with respect to Tenant’s interests in the Lease or first lien lenders with respect to the ownership interests in Tenant and to the extent that there are any other subordinate sub-leasehold mortgages and/or subordinate liens given by Tenant as for any interest in Tenant, Fee Mortgagee and the Town shall have no obligation to provide the future Non-Disturbance Agreement to such parties.

5. Within a reasonable time after Tenant obtains a loan from Lender, Tenant shall notify the Town and Fee Mortgagee in writing (“**Lender Notice**”) of the following, to wit: (i) the name and address and other contact information of the Lender, and (ii) confirming to the Town and Fee Mortgagee that Tenant has executed and delivered to Lender the Leasehold Mortgage, if applicable, or security interest in the ownership interests in Tenant given to Lender, if applicable. Further, notwithstanding anything to the contrary contained herein, upon delivery of the Lender Notice, Lender shall be deemed to be bound by this Agreement, whereupon Lender shall be deemed to be a “Leasehold Mortgagee” and entitled to all of the protections afforded a “Leasehold Mortgagee” thereunder, as provided in this Agreement. The delivery of Lender’s Notice shall be deemed to be an agreement by such Lender of the obligations of Lender set forth herein.

6. Tenant and any Lender (to the extent it has provided a Lender Notice) shall provide Fee Mortgagee, in the manner provided for herein for giving of notices, a copy of each notice of default given to the Town in connection with the Lease, and Fee Mortgagee shall have the right, but not the obligation, to remedy or cause to be remedied any default of the Town under the Lease, so long as such remedy is completed within any notice or grace period provided under the Lease and prior to Tenant electing to terminate the Lease due to any non-monetary default. In connection with any non-monetary defaults, the Tenant hereby agrees that, provided Fee Mortgagee has commenced to cure such non-monetary default and is proceeding with commercially reasonable diligence to complete such cure, Fee Mortgagee shall have an additional period of time as may be reasonable to enable Fee Mortgagee to remedy, or cause to be remedied, any such non-monetary default in addition to the period given to the Town for remedying, or causing to be remedied, such non-monetary default, and Tenant shall accept performance by Fee Mortgagee as performance by the Town.

7. To the extent Fee Mortgagee or any other party (each a “**New Lessor**”) shall acquire the interest of the Town under the Lease, the following shall be binding upon New Lessor:

(i) So long as Tenant recognizes the New Lessor and Tenant is not in default under the Lease (beyond any period given to Tenant by the terms of the Lease to cure such default) and is paying rent to the New Lessor under the Lease, New Lessor shall not, whether in the exercise of any of its rights under the Lease or otherwise, disturb Tenant's possession of the

Premises or deprive Tenant of any right or privilege granted to or inuring to the benefit of Tenant under the Lease; nor shall Tenant be named as a party in any foreclosure proceeding except to the extent required by law.

(ii) New Lessor shall recognize and keep the Lease as a direct sublease between Tenant and New Lessor, without the necessity of executing a new lease. In such event, New Lessor shall succeed to the interest of the Town under the Lease, the Tenant shall attorn (subject to the terms of this Agreement) to the New Lessor, in each case to be effective and self-operative without the execution of any further instruments.

(iii) Notwithstanding the foregoing, upon the request of either New Lessor and/or Tenant, the other Party shall promptly execute and deliver a commercially reasonable instrument in recordable form (an "**Attornment and Recognition Agreement**") that (i) as to the Lease, evidences the foregoing attornment by Tenant to New Lessor, and (ii) evidences the recognition of the Lease as a direct Lease between New Lessor and Tenant.

(iv) At the option of the New Lessor (which may be exercised at any time after an Attornment and Recognition Agreement is executed by New Lessor and Tenant), the New Lessor may enter into a new lease with the Tenant for the Premises (a "**New Lease**"). The New Lease shall contain the exact same terms and conditions contained in the Lease, whereupon the New Lease shall replace the Lease and be deemed a replacement Lease between Tenant and the New Lessor, and a new Non-Disturbance Agreement (similar in form to this Agreement as to such New Lease) shall be executed by New Lessor and Tenant.

(v) After New Lessor, or its successors and assigns, shall succeed to the interest of the Town under the Lease (or enter into a New Lease), New Lessor and Tenant, or their respective successors and assigns, shall be bound to each other under all of the terms, covenants and conditions of each of the Lease or New Lease, if applicable, and Tenant and New Lessor shall, from and after such succession by New Lessor to the interest of the Town under each of the Lease (or the entry of New Lease, if applicable) shall each have the same remedies against each other, or their respective successors and assigns, for the breach of any agreement or covenant or duty contained in each of the Lease or New Lease, if applicable, might have had against the other under the Lease as if such parties had been the original lessor or lessee (as applicable) under the Lease, provided, however, notwithstanding anything in the Lease (or New Lease, if applicable) or in this Agreement to the contrary, New Lessor, its successors and assigns, shall not be:

a. bound by any rent, additional rent or other amounts which Tenant might have paid for more than the current month except the most recent payment of rent paid by Tenant as required under the Lease, or to the extent such money was actually received by New Lessor; or

b. accountable for any money deposited with Lessor for any matter, including, capital improvement reserves, except to the extent such money was actually received by New Lessor; or

c. liable for any indemnities of the Town under the Lease for any period prior to New Lessor becoming the lessor under the Lease or New Lease; or

d. liable for any act or omission of the Town (or its members, officers, managers, employees, contractors, or agents) that occurred prior to such party becoming the New Lessor (and additionally, Tenant agrees that any such act or omission is not a defense or excuse to Tenant's continued performance under the Lease); provided, however, that except as otherwise expressly provided in this Agreement, New Lessor shall only be obligated for all obligations of the sublessor under the Lease to be performed from and after the date the New Lessor succeeded to the interest of the Town under the Lease; or

e. liable for the Town's breach of any agreement or covenant or duty contained in the Lease which occurred prior to the date the New Lessor succeeded to the interest of the Town (and additionally, Tenant agrees that no such breach is a defense or excuse to its continued performance under the Lease); provided, however, that except as otherwise expressly provided in this Agreement, New Lessor shall only be obligated for all obligations of the sublessor under the Lease to be performed from and after the date the New Lessor succeeded to the interest of the Town under the Lease.

Except as provided in this Agreement, Lessor and Tenant shall have their respective rights or remedies available to it under the Lease (or comparable provisions in the New Lease).

(vi) New Lessor shall, in the manner provided for herein for giving of notices, provide promptly to the Lender (to the extent it has provided a Lender Notice) a copy of each notice of default given by New Lessor to the Tenant in connection with the Lease or New Lease, if applicable.

(vii) Lender shall have the right, but not an obligation, to remedy or cause to be remedied any default of Tenant so long as such remedy is completed within any notice or grace period provided under the Lease or New Lease, if applicable, to Tenant as extended if Lender is diligently pursuing the completion of a non-monetary default of Tenant, as such extension is permitted under the Lease or New Lease, if applicable, and New Lessor shall accept performance by the Lender as performance by the Tenant under the Lease or New Lease, if applicable. Provided Lender satisfies the requirements of this Paragraph 7, any defaults by Tenant of any covenants and agreements which are not within the reasonable power of Lender or any nominee to perform shall not be enforced by New Lessor against Lender (but may be enforced against the Tenant), provided the same shall not be deemed to be a waiver of such obligations from and after the date Lender or its nominee acquires Tenant's interest in the Lease or New Lease, if applicable, or the interest in the Tenant, as applicable.

(viii) In case of a default by the Tenant under the Lease or New Lease, if applicable, beyond any applicable notice and cure period, other than a default in the payment of money and under such circumstances New Lessor having the right to terminate after all cure periods, if any, have expired, the New Lessor shall take no action to effect a termination of the Lease or New Lease, if applicable, by service of a notice or otherwise, without first giving Lender (to the extent it has provided a Lender Notice) a commercially reasonable time within which to either:

a. obtain possession of the Premises and the Tenant's improvements located thereon ("**Improvements**") (including possession by a receiver) and to cure such default in case of a default which is within the power of the Lender to cure, it being understood that the payment of money is within the Lender's power to cure, when such Lender has obtained possession of the Premises and the Improvements; or

b. initiate and complete foreclosure proceedings or otherwise acquire Tenant's leasehold interest under the Lease (or New Lease, as applicable), provided the New Lessor may seek to intervene and Lender consents to such intervention in said foreclosure proceedings and obtain an order authorizing the Lender to commence to cure such default as described by New Lessor and, if such order is obtained, Lender shall have a reasonable time thereafter to proceed diligently to cure such non-monetary defaults within its control to cure and to cure all monetary defaults and the New Lessor will not need to wait until the foreclosure proceedings are concluded. Upon issuance of such orders in the judicial proceedings and if Lender fails to diligently proceed to cure such default, New Lessor has the right to enter the Premises and cure such default, the cost and expenses of which shall be added to the Lease or New Lease, if applicable, as additional rent. Lender shall diligently proceed with the appointment of a receiver to operate and maintain the Premises under the Lease or New Lease, if applicable.

The provisions of Paragraph 7(viii) above are conditioned on the following: Lender, within the forty-five (45) days of receipt of a notice of default under the Lease or New Lease, if applicable, shall (i) notify New Lessor of its election to proceed with due diligence to promptly acquire possession of the Premises and any Improvements or to foreclose its Leasehold Mortgage or otherwise to extinguish Tenant's interest in the Lease or New Lease, if applicable; and (ii) deliver to New Lessor an instrument in writing duly executed and acknowledged, whereby the Lender agrees that (x) during the period Lender is enforcing its remedies and/or during the pendency of any foreclosure or other proceeding and until the interest of Tenant in the Lease or New Lease, if applicable, shall terminate, as the case may be, it will pay or cause to be paid to New Lessor (on behalf of Tenant) all monetary obligations of Tenant including rent (based on gross revenue Lender is able to collect), payment of taxes and insurance then due and from time to time becoming due under the Lease or New Lease, if applicable, which is to be remitted to New Lessor giving credit, however, for any net income actually collected by New Lessor (as applicable) in connection with the Premises, and (y) if delivery of possession of the Premises and the Improvements shall be made to Lender or its nominee, whether voluntarily or pursuant to any foreclosure or other proceedings or otherwise, such holder shall, promptly following such delivery of possession, perform or cause such nominee to perform, as the case may be, all covenants and agreements contained in the Lease or New Lease, if applicable, on Tenant's part to be performed to the extent that Tenant shall have failed to perform the same to the date of delivery of possession, as aforesaid except such covenants and agreements which are not within the reasonable power of the Lender or such nominee to perform but the payment of rent (based on gross revenue Lender is able to collect), taxes and insurance shall be deemed activity within the power of the Lender or its nominee to perform. Upon such extinguishment of Tenant's interest in the Lease or New Lease, if applicable, and such performance by such holder or such nominee, or by any purchaser of the Tenant's interest in the Lease pursuant to any foreclosure proceedings, New Lessor's rights to serve notice of election to end the term of the Lease or New Lease, if applicable, based on any non-monetary default which is not within the

power of such holder or nominee or such purchaser to perform, shall be deemed to be and shall be waived. If prior to any sale pursuant to any proceedings brought in foreclosure of the Loan(s), or if, prior to the date on which Tenant's interest in the Lease or New Lease, if applicable, shall otherwise be extinguished, the default in respect of which New Lessor shall have given notice shall have been remedied and possession of the Premises and the Improvements restored to Tenant, the obligations of the Lender pursuant to the instrument referred to in clause (x) of this paragraph shall be null and void (subject to a new right to cure for other defaults) and of no further force and effect. Nothing herein contained shall affect the right of New Lessor, upon the subsequent occurrence of any default by Tenant, to exercise any right or remedy reserved in the Lease or New Lease, if applicable, to New Lessor, subject to the rights of the Lender pursuant to this Agreement with respect to such default. Notwithstanding anything contained in this Agreement to the contrary, New Lessor shall not be required to waive monetary defaults such as payment of rent, taxes, insurance and other financial obligations under the Lease or New Lease, if applicable, giving credit, however, for any net income actually collected by New Lessor in connection with the Premises. Further, both parties agree payment of rent (based on gross rent Lender is able to collect), and payment of taxes, insurance and other monetary obligations shall never be deemed "not within the reasonable power of the Lender or such nominee to perform" or a default not susceptible of being cured and upon Lender or its designee becoming the Tenant, such party shall perform the deferred maintenance and other obligations within its reasonable control to the extent such matters could not be cured previously.

(ix) Upon (a) a foreclosure or deed in lieu of foreclosure, whereby the Tenant's interest in the Lease or New Lease, if applicable, is transferred to the Lender or foreclosure of ownership interests in Tenant or a transfer in lieu of foreclosure of ownership interests in Tenant, or its first assignee or (b) if such Lender is unable (despite commercially reasonable efforts to do so) to perform the cure within its cure period as provided in Section 7 (xi) and the Lease or New Lease, if applicable, is terminated or (c) if New Lessor shall give notice thereof to the Lender and in either of such cases, upon written request by the Lender given to New Lessor within thirty (30) days after such foreclosure (as provided in Section 7(xii)(a)) or the notice from New Lessor to the Lender of the termination of the Lease or New Lease, if applicable (as provided in Section 7(xii)(b)) to enter a "New Lease" (as hereinafter defined), New Lessor shall enter into and deliver a new lease ("**New Lease**") of the Premises with the Lender or its designee for the remainder of the term of the Lease or New Lease, if applicable, upon the exact same terms and conditions as contained in the Lease or New Lease, if applicable, including all right to the extensions thereof and dated as of the date of termination of the Lease or New Lease, if applicable, and convey to the Lender (or its designee) by quit claim bill of sale, a term of years in and to the Improvements, reserving to New Lessor the reversion of title to the Improvements upon the termination of the New Lease. The estate of the Lender (or its designee) as lessee under the New Lease shall have priority equal to the estate of the Tenant under the Lease or New Lease, if applicable (that is, there shall be no charge, lien or burden upon the Premises prior to or superior to the estate granted by such New Lease which was not prior to or superior to the estate of the Tenant under the Lease or New Lease, if applicable, as of the date immediately preceding the date the Lease or New Lease, if applicable, went in default. The quit claim bill of sale to the Improvements shall recite that the grantee holds title to the Improvements only so long as the New Lease shall continue in full force and effect, that upon termination of the New Lease, title to the Improvements shall revert to New Lessor automatically without payment. Nothing herein contained shall be deemed to impose any

obligation upon New Lessor or to cause the delivery of physical possession of the Premises and the Improvements to the Lender or its designee or to disavow any recognition of the Lease or New Lease, if applicable, or the rights of the Tenant pursuant to the terms of the Lease or New Lease, if applicable. The Lender or its designee shall pay all reasonable expenses, including reasonable attorneys' fees, incident to the execution and delivery of such New Lease and quit claim bill of sale to the extent requested by the Lender. If there be more than one (1) Leasehold Mortgage, the right to request and obtain a New Lease shall be limited solely to the Lender having the highest priority lien. New Lessor reserves the right to require a written legal opinion, at Lender's expense, as to whether or not such Leasehold Mortgage is a first lien on the Tenant's rights under the Lease or New Lease, if applicable.

However, if the Leasehold Mortgage is foreclosed, the purchaser who shall have acquired the Tenant's leasehold estate at the foreclosure sale shall execute and deliver such evidence of acquiring such leasehold estate to New Lessor. If Lender is the purchaser, it may assign its interest in the Lease or New Lease, if applicable, to any person, firm, corporation or entity designated by it who satisfies the minimum standard as expressly specified in the Lease or New Lease, if applicable, and such assignee shall execute and deliver such assignment to New Lessor in form reasonably acceptable to New Lessor, whereupon the Lender shall have no liability or obligation thereunder.

8. (a) Without the prior written consent of Fee Mortgagee (while its lien encumbers the Town's interest in the Lease or New Lease, if applicable) the Town and Tenant, shall not consent to or accept any voluntary cancellation, termination or surrender of the Lease (other than to enforce a default thereunder not cured within the applicable cure period). Without the prior written consent of Fee Mortgagee (while its lien encumbers the Town's interest in the Lease or New Lease, if applicable), which consent shall not be unreasonably withheld, conditioned or delayed, the Town and Tenant shall not, in any material respect, modify or amend the Lease or New Lease, if applicable, which materially changes the term, the rent, or otherwise materially increases the obligations of the Town or material decreases the obligations of Tenant under the Lease or New Lease, if applicable (a "**Lease Modification**"). In the event the Town sends its request for approval of a Lease Modification to Fee Mortgagee as a "Time Sensitive Request of Lender", then the Lender shall be deemed to have approved such request if the Fee Mortgagee does not disapprove same and specify the basis for such disapproval within twenty (20) days of request.

(b) Without the prior written consent of Lender (to the extent it has provided a Lender Notice and while its lien encumbers any Tenant interest in the Lease or New Lease, if applicable), the Town and Tenant shall not (i) consent to or accept any violation, cancellation, termination or surrender of the Lease or New Lease, if applicable (other than to enforce a default thereunder not cured within the applicable cure period (but subject to the terms hereof)), or (ii) modify or amend the Lease or New Lease, if applicable, in any material manner which changes the term, the rent, or otherwise materially increases the obligations of Tenant or material decreases the obligations of the Town or the rights of Tenant under the Lease or New Lease, if applicable (in each case, a "**Material Lease Modification**"). In the event the Town or Tenant sends a request to Lender for approval of a Material Lease Modification, any such consent of Lender shall not be

unreasonably withheld and shall be subject to the terms and provisions attached hereto as Exhibit A.

9. The Town and New Lessor agree that the restrictions on "Assignment" (as defined in the Lease or New Lease, if applicable) do not apply to either (a) an assignment of the Leasehold interest of Tenant as it relates to Lender (to the extent it has provided a Lender Notice) pursuant to the Leasehold Mortgage or the foreclosure of the Leasehold Mortgage or assignment in lieu of the foreclosure of the Leasehold Mortgage or (b) a pledge of ownership interests in the Tenant as it relates to Lender by its owner or the foreclosure on the ownership interests of Tenant or the assignment in lieu of the foreclosure of ownership interests in the Tenant, provided however, any subsequent assignment by Lender to a third party shall be subject to compliance with the minimum standards relating to an assignee as specified in the Lease or New Lease, if applicable.

10. The parties acknowledge that any Loan(s) obtained by Tenant are leasehold security interests on the Tenant's interest in the Premises and do not encumber or subordinate the fee simple title of the Town, the leasehold interest of Lessor, or any lien and/or leasehold interest held by Fee Mortgagee.

11. Any notice required or permitted to be given by the terms of this Agreement or under any applicable law by either party shall be in writing and shall be either hand delivered or sent by certified mail, postage prepaid, return receipt requested. Such written notice shall be addressed as follows:

As to Fee Mortgagee: _____

With a copy to: _____

As to Town: _____

With a copy to: _____

As to Lender: The name and address of the Lender and its representatives as set forth in the Lender Notice

As to Tenant: _____

unless the address is changed by the party by like notice given to the other parties. Notice shall be in writing, mailed certified mail, return receipt requested, postage prepaid and shall be deemed delivered three (3) business days after being properly mailed or upon hand delivery to the address indicated. Notwithstanding the foregoing, notices, requests or demands or other communications referred to in this Agreement may be sent by email (except that requests for Material Lease Modification approvals whereby the provisions of Exhibit A would be applicable must always be sent by certified mail return receipt requested or a nationally recognized delivery service such as Federal Express in addition to email) or by nationally recognized delivery service such as Federal Express, but shall only be deemed to have been given when received

12. This Agreement shall not be changed, modified or amended except by an instrument in writing and executed by all Parties to this Agreement.

13. This Agreement may be executed in any number of counterparts, each of which, when executed, shall be deemed an original and all of which shall be deemed one and the same instrument. Facsimile transmission signatures of this Agreement shall be deemed to be original signatures.

14. This Agreement is governed by Florida law and Palm Beach County, Florida is the agreed upon venue.

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

[Signature Pages to Follow]

WITNESSES:

TENANT:

By: _____

Print Name: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of physical presence or online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

Notary Public

Typed, print d or stamped name of Notary Public

My Commission Expires:

WITNESSES:

LENDER:

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of physical presence or online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said bank. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

 Notary Public

 Typed, print d or stamped name of Notary Public

My Commission Expires:

WITNESSES:

FEE MORTGAGEE:

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of physical presence or online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:

Exhibit A

If Tenant makes a written request of Lender in accordance with the terms of this Agreement to make a material modification or amendment to the Lease, accompanied by all such background information and explanations as may be reasonably necessary for Lender to determine whether to consent to or approve the request, and does not receive a consent, approval or rejection from Lender within five (5) business days after Lender's receipt of such request, then Tenant may provide Lender with a second written notice of any such request, with a copy of such first request, and if such second written notice includes, printed in capital letters of boldface type and at least 12 point font, a legend substantially to the following effect:

“THIS COMMUNICATION REQUIRES IMMEDIATE RESPONSE. FAILURE TO RESPOND WITHIN TEN (10) CALENDAR DAYS (OR LONGER PERIOD AS PROVIDED IN THAT CERTAIN NON-DISTURBANCE AGREEMENT DATED AS OF _____) FROM THE RECEIPT OF THIS COMMUNICATION SHALL CONSTITUTE A DEEMED CONSENT OR APPROVAL BY THE ADDRESSEE OF THE ACTION REQUESTED BY THE ADDRESSOR.”

and if the foregoing legend is included by the Tenant in the second written request to Lender, such request shall be deemed to have approved or consented to the item for which Tenant sought Lender's consent or approval for all purposes hereunder unless Lender denies the such request within ten (10) calendar days of Lender's receipt of such second written request; provided, however, that if Lender in writing notifies Tenant (including the basis for the need for additional time) within such ten (10) calendar day period that the nature of the request is such that more than ten (10) calendar days are required in order for the Lender to properly assess the request and respond to Tenant (including without limitation, as a result of loan approval authority for the requested change being a prerequisite to Lender's and/or any Loan participant's response to the request), then such period shall be extended for up to an additional twenty (20) calendar days (i.e. a total of thirty (30) calendar days after Lender's receipt of the second written request) for Lender and/or any Loan participant to properly assess the request and respond to Tenant so long as Lender and/or such Loan participant(s) have commenced their assessment within such ten (10) calendar days period and thereafter diligently conducts their review and determination of whether or not to approve or consent to such request.