DECLARATION OF COVENANTS, EASEMENTS & RESTRICTIONS

FOR

EVEREST PLACE LOT L HOTEL

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DECLARATION OF COVENANTS, EASEMENTS & RESTRICTIONS
FOR
EVEREST PLACE LOT L HOTEL

THIS DECLARATION OF COVENANTS, EASEMENTS & RESTRICTIONS FOR EVEREST PLACE LOT L HOTEL ("**Hotel Declaration**") made the ___ day of _____, 20___, by **EP ORLANDO HOSPITALITY I, LP**, a Florida limited partnership, having an office at _____ ("**Declarant**").

WHEREAS, the Declarant holds title to that certain real property located in Osceola County, Florida ("**Land**"), as more particularly identified on **Exhibit "A"** attached hereto and made a part hereof, on which the Declarant has or will construct a Building (as defined herein) that it intends to develop or has developed as a hospitality branded, cohesively managed, mixed-use vertical subdivision project known as or to be known as Everest Place Lot L Hotels and Resorts ("**Resort**");

WHEREAS, the Resort is located within a larger mixed-use community known as Everest Place ("**Everest Place**"), which is more particularly described in that certain Declaration of Covenants, Easement, and Restrictions for Everest Place ("**Master Declaration**"), recorded in Page ____, Book ___, in the Public Records of the County (as defined herein), and all amendments and supplements thereto, now existing or hereafter made from time to time;

WHEREAS, the Resort consists of a Hotel Parcel to be known as Everest Place Lot L Hotel and a Condo-Hotel Parcel to be known as Everest Place Lot L Condominium, a condominium within a portion of a building or within a multiple parcel building, which will both be subject to the Master Declaration for Everest Place, which contains certain covenants, easements, rules, regulations, and restrictions relating to the use of the Condo-Hotel Parcel and the Hotel Parcel (as these capitalized terms are defined herein);

WHEREAS, it is in the mutual best interest of the Hotel Parcel Owner and the Condo-Hotel Parcel to maintain and preserve the character, quality, and aesthetic standards of the Resort (including the Building in which the Hotel Parcel and the Condo-Hotel Parcel are located), pursuant to the terms of the Master Declaration and this Hotel Declaration, with particular emphasis on the efficient operation of the Building, including, but not limited to, the exterior design and landscaping, Lobby, entries and common halls and public areas serving or located in the Building, and the roof and exterior of the Building (as these capitalized terms are defined herein);

WHEREAS, the Declarant hereby declares that this Hotel Declaration and the Master Declaration encumbers each of the Parcels (as defined herein), which shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to this Hotel Declaration and the Master Declaration, which shall run with the Parcels and any part thereof and which shall be binding upon all parties having any right, title or interest in any of the Parcels or any part thereof, their heirs, successors and assigns.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein set forth, the Declarant hereby declares as follows:

ARTICLE I
DEFINITIONS

Whenever used in this Hotel Declaration and the Exhibits hereto the following terms shall have the meanings specified below unless the context otherwise requires:

1.1 "**Architect**" shall mean a particular architect or architectural firm, licensed to practice in the State of Florida, who shall perform the functions of Architect called for in this Hotel Declaration, including, without limitation, in Articles VIII, X and XII hereof. The practitioner or firm who shall serve as the Architect in any instance shall be determined in accordance with Section 11.2 hereof.

1.2 "**Architectural Committee**" means the persons or firms appointed pursuant to Section 9.2 hereof.

1.3 "**Association**" or "**Condo-Hotel Association**" means and shall refer to the "**EVEREST PLACE LOT L CONDOMINIUM ASSOCIATION, INC**., a Florida not-for-profit corporation," responsible for operating the Condo-Hotel Condominium (as defined herein). The Association also means, pursuant to Section 718.103, Florida Statutes "in addition to any entity responsible for the operation of common elements owned in undivided shares by unit owners, any entity which operates or maintains other real property in which unit owners have use rights, where membership in the entity is composed exclusively of unit owners or their elected or appointed representatives and is a required condition of unit ownership." For purposes of this Hotel Declaration, and notwithstanding the foregoing, the Association shall be deemed the Condo-Hotel Parcel Owner (as hereinafter defined), upon the recording of the Condo-Hotel Declaration, even though the Association will not actually hold title to any portion of the Condo-Hotel Parcel.

THE CONDOMINIUM IS BEING CREATED WITHIN A PORTION OF A BUILDING OR WITHIN A MULTIPLE-PARCEL BUILDING. PORTIONS OF THE BUILDING THAT ARE NOT INCLUDED IN THE CONDOMINIUM ARE (OR WILL BE) GOVERNED BY THIS HOTEL DECLARATION THAT CONTAINS IMPORTANT PROVISIONS AND RIGHTS. THE ASSOCIATION AND UNIT OWNERS MAY HAVE LIMITED OR NO CONTROL OVER THE MAINTENANCE, OPERATION, AND COSTS OF THE PORTIONS OF THE BUILDING THAT ARE NOT SUBMITTED TO THE CONDOMINIUM FORM OF OWNERSHIP. THE ALLOCATION BETWEEN THE PARCEL OWNERS OF THE COSTS TO MAINTAIN AND OPERATE THE BUILDING ARE SET FORTH IN THIS HOTEL DECLARATION. THE OWNER OF THE HOTEL PARCEL CONTROLS THE MAINTENANCE AND OPERATION OF THE PORTIONS OF THE BUILDING THAT ARE NOT SUBMITTED TO THE CONDOMINIUM FORM OF OWNERSHIP AND DETERMINES THE BUDGET FOR SUCH OPERATION AND MAINTENANCE.

EACH OWNER ACKNOWLEDGES AND AGREES THAT (1) THE ASSOCIATION WILL NOT HOLD TITLE TO ANY PORTION OF THE HOTEL PARCEL OR THE SHARED FACILITIES, AND (2) THE HOTEL PARCEL OR ITS SHARED FACILITIES WILL NOT BE SUBJECT TO THE JURISDICTION OF THE ASSOCIATION, THE OPERATION AND EFFECT OF THE ACT OR ANY RULES OR REGULATIONS PROMULGATED PURSUANT TO THE ACT.

1.4 "**Building**" means the ten (10) story structure containing the Hotel Parcel and the Condo-Hotel Parcel. Building shall also mean the improvements within the Hotel Parcel and the Condo-Hotel Parcel combined and the Shared Facilities, including, but not limited to, the attached Parking Garage (as defined herein).

THE CONDOMINIUM IN WHICH THE UNITS ARE LOCATED IS CREATED WITHIN A PORTION OF A BUILDING OR WITHIN A MULTIPLE-PARCEL BUILDING. THE COMMON ELEMENTS OF THE CONDOMINIUM CONSIST ONLY OF THE PORTIONS OF THE BUILDING SUBMITTED TO THE CONDOMINIUM FORM OF OWNERSHIP.

EACH UNIT OWNER ACKNOWLEDGES AND AGREES THAT THE PORTIONS OF THE BUILDING NOT INCLUDED IN THE CONDOMINIUM ARE GOVERNED BY THIS HOTEL DECLARATION, WHICH CONTAINS IMPORTANT PROVISIONS AND RIGHTS. EACH UNIT OWNER FURTHER ACKNOWLEDGES AND AGREES THAT THE CONDO-HOTEL CONDOMINIUM MAY HAVE NO COMMON ELEMENTS OR MINIMAL COMMON ELEMENTS.

1.5 "**Brand**" or "**Branded Name**" means certain branded names, trade names, trademarks, or service marks owned by, licensed by, or used by the Brand Owner (as defined herein).

1.6 "**Brand Agreement**" means and refers to any license agreement, naming agreement, management agreement, or other agreement by which the Resort, or any portion thereof, including without limitation, the Parcels created within the Resort, obtain(s) the right to use the specified Branded Name in connection with the branding of the Resort (or portions thereof).

1.7 "**Brand Owner**" means the owner of the Brand.

1.8 "**Building Plans**" means the plans and specifications for the Building, as such plans and specifications may be amended from time to time to reflect changes made during the course of construction or to reflect a permissible alteration made pursuant to this Hotel Declaration. Upon completion of the Building, the Building Plans shall be "as-built" plans.

1.9 "**Capital Improvement Expenses**" means a charge against each Owner (as defined in Article IV) and its Parcel (as defined herein), representing a portion of the costs incurred by the Hotel Parcel Owner for construction, installation, or replacement of any capital improvement to or for any portion of the Shared Facilities (as defined herein) for which the Hotel Parcel and/or the Condo-Hotel Parcel are responsible as provided in this Hotel Declaration, or any repair of such an improvement amounting to a capital expenditure under generally accepted accounting principles, which the Hotel Parcel Owner may from time to time undertake pursuant to this Hotel Declaration.

1.10 "**CDD**" means the Everest GMR Community Development District, an independent special district created pursuant to and existing under the provisions of Chapter 190, Florida Statutes, established to own and/or operate some of the land or improvements located or to be located within Everest Place, for which the Master Declarant (as defined herein) has agreed to operate, maintain, repair and/or replace pursuant to a written property management agreement.

THE EVEREST GMR COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS ON THE LAND. THESE TAXES AND ASSESSMENTS PAY FOR THE CONSTRUCTION,

OPERATION AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE CDD AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE CDD. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.

NO LAND OR IMPROVEMENTS OWNED BY THE CDD SHALL BE A COMMON ELEMENT UNDER THE CONDO-HOTEL DECLARATION OR A SHARED FACILITY UNDER THIS HOTEL DECLARATION.

1.11 "**CDD Improvements**": The Improvements within Everest Place owned by the CDD, including private Roadways, Underground & Street Lighting Electrical System, Stormwater Management System, Temporary Ponds, Environmental Conservation/Mitigation, Water Collection System, Water Distribution System, Reclaimed Water Distribution System, Dry Utility Infrastructure, Landscape and Irrigation, Hardscape and Monumentation, Bridge, and Pedestrian Promenade.

1.12 **"City"** shall mean the City of Orlando.

1.13 **"Common Area**" means all personal, real, and intangible property, or interests therein, located within and serving Everest Place, whether located on commonly held or privately held property, owned by the CDD or the Master Declarant (as those terms are defined in the Master Declaration). The Common Area, although not part of any portion of the Resort, may be for the common use, enjoyment, and benefit of Owners, Occupants, and each of their guests and invitees, in common with other owners, occupants, guests, and invites of other Sites (as defined in the Master Declaration) located within Everest Places, in accordance with the terms and conditions of the Master Declaration. A more detailed description of the Common Area is provided in Article VI of the Master Declaration.

1.14 "**Common Area Expenses**" means the costs and expenses for which Owners are liable to the Master Declarant for the costs and expenses incurred by the Master Declarant in (1) administering, managing, operating, maintaining, repairing, replacing, reconstructing, financing and/or improving the Common Area and improvements thereon; (2) in carrying out its powers and duties pursuant to the Master Declaration; (3) all costs and expenses with respect to all property and improvements located within the Common Area owned by the CDD; and (4) and for financing the operation, replacement and maintenance of the SWMSF (as defined herein).

THERE WILL BE A LIEN AGAINST THE CONDO-HOTEL UNITS FOR COMMON AREA EXPENSES NOT PAID TO THE MASTER DECLARANT IN ACCORDANCE WITH THE TERMS OF THE MASTER DECLARATION. THE MASTER DECLARANT'S LIEN RIGHTS FOR NONPAYMENT OF COMMON AREA EXPENSES ARE SUPERIOR TO THE ASSOCIATION'S LIEN RIGHTS FOR NONPAYMENT OF COMMON EXPENSES AND HOTEL PARCEL OWNER'S LIEN RIGHTS FOR NONPAYMENT OF SHARED FACILITIES EXPENSES, PURSUANT TO THE CONDO-HOTEL DECLARATION AND THIS HOTEL DECLARATION, RESPECTIVELY.

1.15 "**Common Elements**" means and includes, the portions of the Condo-Hotel Parcel that are not included within the Condo-Hotel Units; easements through Condo-Hotel Units for conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services to Condo-Hotel Units and the Condo-Hotel Condominium Property (as defined in the Condo-Hotel Declaration); an easement of support in every portion of the Building that contributes to the support of the Condo-Hotel Units and the Condo-Hotel Condominium Property; the property and installations required for the furnishing of utilities and other utility services to more than one Condo-Hotel Unit or the Common Elements; and any other parts of the Condo-Hotel Condominium Property designated as Common Elements in the Condo-Hotel Declaration (as those terms are defined in the Condo-Hotel Declaration) or otherwise required by law to be a Common Element. Common Elements also means any other improvements required by Florida Statutes Section 718.108(1), which are required to be a part of the Common Elements but with the understanding that the intention is to minimize Common Elements.

THE CONDO-HOTEL PARCEL HAS BEEN ESTABLISHED IN SUCH A MANNER TO MINIMIZE THE COMMON ELEMENTS. COMPONENTS OF THE BUILDING WHICH ARE TYPICALLY "COMMON ELEMENTS" OF A CONDOMINIUM, INCLUDING, BUT NOT LIMITED TO, THE PARKING GARAGE, THE VARIOUS SPECIFIED INTERIOR PORTIONS OF THE BUILDING, LIFE SAFETY SYSTEMS, ENTRY DOORS PROVIDING ACCESS TO THE CONDO-HOTEL UNITS, THE EXTERIOR OF THE BUILDING (INCLUDING WINDOWS), THE STRUCTURAL COMPONENTS OF THE BUILDING (INCLUDING ALL DRYWALL, FLOOR SLABS, DEMISING WALLS (AND ANY SPACE BETWEEN SUCH DEMISING WALLS), LOAD BEARING WALLS AND COLUMNS), POST TENSION CORDS AND RODS, THE COMMON HALLWAYS, BALCONIES, ELEVATORS AND STAIRWELLS, THE ROOF OF THE BUILDING, WALKWAYS, EXTERIOR WALLS, GATED AND CONTROLLED ACCESS ENTRIES, AND THE LOBBY, HAVE INSTEAD BEEN DESIGNATED IN THIS HOTEL DECLARATION AND THE CONDO-HOTEL DECLARATION AS PART OF THE HOTEL PARCEL OR AS SHARED FACILITIES WITHIN THE HOTEL PARCEL. NO PORTION OF THE SHARED FACILITIES SHALL BE DEEMED A COMMON ELEMENT, REGARDLESS OF ITS LOCATION.

IN THE EVENT OF AMBIGUITY WITH RESPECT TO OWNERSHIP OF AN IMPROVEMENT OR PROPERTY, REAL, PERSONAL OR MIXED, WHETHER OR NOT SITUATED WITHIN OR UPON THE CONDO-HOTEL PARCEL, SAID IMPROVEMENT SHALL BE DEEMED PART OF THE HOTEL PARCEL AND OWNED BY THE HOTEL PARCEL OWNER AND NOT A PART OF THE CONDO-HOTEL PARCEL.

1.16 "**Condo-Hotel Condominium**" means the west wing of the Building that contains the Condo-Hotel Condominium Property, which consists of one hundred eighty-four (184) Condo-Hotel Units located throughout the first (1st) through tenth (10th) floors of the Building and certain Common Elements, as illustrated on the Building Plans and plot plan, less any Shared Facilities located within these floors.

1.17 "**Condo-Hotel Declaration**" means the Declaration of condominium for Everest Place Lot L Condominium, a condominium within a portion of a building or within a multiple parcel building, which may be recorded in the Public Records of the County by the Condo-Hotel Parcel Developer (as defined herein) submitting the Condo-Hotel to the provisions of the

Condominium Act, together with all exhibits to the Condo-Hotel Declaration, as such Condo-Hotel Declaration and Exhibits thereto may be amended from time to time pursuant to Article XVIII hereof and the terms thereof.

In the event of an inconsistency between this Hotel Declaration and the Condo-Hotel Declaration, this Hotel Declaration shall control.

1.18 "**Condo-Hotel Parcel Developer**" means **EP ORLANDO CONDO DEVELOPMENT I, LP,** a Florida limited partnership, and its designated successors and assigns and shall include any person or entity to whom the Condo-Hotel Parcel Developer may expressly assign, convey or transfer all or a portion of its rights, privileges, duties and obligations as the Condo-Hotel Parcel Developer under the Condo-Hotel Declaration.

1.19 "**Condo-Hotel Parcel**" means the property legally described in **Exhibit "B-1"** attached hereto and made a part hereof, together with all improvements therein, including one hundred and eighty-four (184) Condo-Hotel Units, now or hereafter located on the first (1st) through tenth (10th) floors of the south wing of the Building (but excluding the floor slabs between such floors, common hallways, entry doors and the other structural elements of the Building situated between such floors). In the event the Condo-Hotel Declaration is recorded in the Public Records of the County, the term shall include the Condo-Hotel Units and the undivided interests in the Common Elements appurtenant thereto.

1.20 "**Condo-Hotel Parcel Owner**" shall mean prior to the recordation of the Condo-Hotel Declaration or in the event the Condo-Hotel Declaration is not recorded or is terminated after recordation, the owner or owners who own all of the fee simple estate of the Condo-Hotel Parcel.

Upon recordation of the Condo-Hotel Declaration, and from the date of such recordation, "Condo-Hotel Parcel Owner" shall thereafter mean, in the aggregate, the owners of the fee simple estates in all of the individual Condo-Hotel Units located in the Condo-Hotel Parcel included within the legal description made subject to such Condo-Hotel Declaration, including the undivided interest in the Common Elements which is appurtenant to each of the Condo-Hotel Units (each a "**Condo-Hotel Unit Owner**" and together "**Condo-Hotel Unit Owners**"). Notwithstanding the foregoing, for purposes of this Hotel Declaration the Association shall be deemed the Condo-Hotel Parcel Owner upon the recording of the Condo-Hotel Declaration, even though the Association will not actually hold title to any portion of the Condo-Hotel Parcel.

Liens on the Condo-Hotel Parcel which exist or may be imposed under this Hotel Declaration are liens on the entire Condo-Hotel Parcel and all estates therein. Obligations of the Condo-Hotel Parcel Owner hereunder shall be the several obligations of all persons, corporations, partnerships, trusts or entities who comprise the Condo-Hotel Parcel Owner, but only to the extent of each Condo-Hotel Unit's pro rata share of the obligation which shall be in the same percentage as the undivided interest in the Common Elements appurtenant to each such Condo-Hotel Unit. Acts of the Board of Directors or of the President of the Association provided for in the Condo-Hotel Declaration shall be deemed to be the act of the Condo-Hotel Parcel Owner, and the Board of Directors of the Association or the President of the Association shall act as the Condo-Hotel Parcel Owner, in any instance where such Board of Directors or President is authorized to act for

the Condo-Hotel Unit Owners on the matter in question by law or by this Hotel Declaration, the Condo-Hotel Declaration or the Articles of Incorporation or Bylaws (as those terms are defined in the Condo-Hotel Declaration) of the Association.

1.20.1. **Individual as Condo-Hotel Unit Owner**. If an individual is a record owner of legal title to a Condo-Hotel Unit, as defined below (an "**Individual Condo-Hotel Unit Owner**"), his or her ownership shall also include such Individual Condo-Hotel Unit Owner's spouse. If a Condo-Hotel Unit is owned by multiple Individual Condo-Hotel Unit Owners, all such individuals must designate in writing to the Hotel Unit Owner and the Association which one (1) of the multiple individuals is the primary point of contact for receiving correspondence and making decisions for such Condo-Hotel Unit ("**Responsible Individual**"). The maximum number of persons permitted to be on the deed as the Condo-Hotel Parcel Owner of such Condo-Hotel Unit shall not exceed a total of six (6) persons at any time. The designation of the Responsible Individual, by Individual Condo-Hotel Unit Owners under this subsection may not be changed more frequently than once in any twelve (12) month period, regardless of a change in ownership of the Individual Condo-Hotel Unit Owners of such Condo-Hotel Unit.

1.20.2. **Entity as Condo-Hotel Unit Owner**. If an entity (whether a corporation, partnership, limited liability company, trust or otherwise) is a record owner of legal title to a Condo-Hotel Unit (an "**Entity Condo-Hotel Unit Owner**"), the Entity Condo-Hotel Unit Owner must provide the Hotel Parcel Owner with a copy of such Entity Condo-Hotel Unit Owner's respective formation documents, as filed with the State of Florida or another applicable state, including, but not limited to the Entity Condo-Hotel Unit Owner's operating agreement, certificate of formation, articles of incorporation, trust agreements, and shareholder agreements ("**Formation Documents**"). For the purposes of this Hotel Declaration, the officers, directors, managers or trustees of such Entity Condo-Hotel Parcel Owner will be considered deeded Owners of its respective Condo-Hotel Unit. Such Entity Condo-Hotel Unit Owner must designate in writing to the Hotel Unit Owner and the Association which one (1) individual is the primary point of contact for receiving correspondence and making decisions for such Condo-Hotel Unit ("**Responsible Individual**"). The maximum number of persons permitted to be on the articles of incorporation or in the operating agreement as the officers and directors or managers of such Entity Condo-Hotel Unit Owner of such Condo-Hotel Unit shall not exceed a total of six (6) persons at any time. The designation of the Responsible Individual by an Entity Condo-Hotel Unit Owner under this subsection may not be changed more frequently than once in any twelve (12) month period, regardless of a change in ownership of the Entity Condo-Hotel Unit Owner of such Condo-Hotel Unit.

1.20.3. **Individual Condo-Hotel Unit Owners and Entity Condo-Hotel Unit Owners**. If a Condo-Hotel Unit is owned by a combination of Individual Condo-Hotel Unit Owners and Entity Condo-Hotel Unit Owners, the maximum number of permitted persons to be designated shall not exceed a combined total of six (6) persons at any time. The written designations required by an Individual Condo-Hotel Unit Owner

to the Hotel Parcel Owner in Subsection 1.20.1 above shall also be required for this Subsection 1.20.3, when applicable. The written designations required by an Entity Condo-Hotel Unit Owner to the Hotel Parcel Owner in Subsection 1.20.2 above shall also be required for this Subsection 1.20.3, when applicable.

1.21 "**Condo-Hotel Units**" means the one hundred and eighty-four (184) Condo Hotel Units constructed or to be constructed upon the Condo-Hotel Parcel, and any additions or replacements thereto, located on the first (1st) through tenth (10th) floors of the south wing of the Building. The Condo-Hotel Units shall be used primarily for transient occupancy accommodations and may not be used as a residence by the Condo-Hotel Unit Owner thereof.

EACH CONDO-HOTEL UNIT OWNER ACKNOWLEDGES AND AGREES THAT THE CONDO-HOTEL UNITS ARE INTENDED FOR TEMPORARY AND TRANSIENT USE WITH ANY USE OF OCCUPANCY, WHETHER BY AN OWNER OR AN OCCUPANT, BEING LIMITED TO NO MORE THAN THIRTY (30) DAYS IN A TWELVE-MONTH PERIOD, WHICHEVER IS LESS, PURSUANT TO THE COUNTY ORDINANCE.

EACH CONDO-HOTEL UNIT OWNER FURTHER ACKNOWLEDGES AND UNDERSTANDS THAT THERE WILL BE NO MAILBOX OR MAIL DELIVERY SERVICE TO HIS/HER/ITS CONDO-HOTEL UNIT OR TO ANY PORTION OF THE RESORT.

1.22 "**Condominium Act**" or "**Act**" means Chapter 718 of the Florida Statutes in effect on the date this Hotel Declaration is recorded in the Public Records of the County. This Hotel Declaration is not subject to the Act.

1.23 "**County**" means Osceola County.

1.24 "**Creditor Owner**" shall mean an Owner who has paid or advanced amounts due pursuant to this Hotel Declaration for the account of a Defaulting Owner, as defined below, or who has performed other obligations required to be performed by this Hotel Declaration on behalf of a Defaulting Owner, as permitted under Section 5.2 hereof or elsewhere in this Hotel Declaration.

1.25 "**Master Declarant**" shall mean and refer to GMR Orlando Development I, LP, a Florida limited partnership, and its designated successors and assigns and shall include any person or entity to whom the Master Declarant may expressly assign, convey or transfer all or a portion of its rights, privileges, duties, and obligations as the Master Declarant under the Master Declaration.

1.26 "**Defaulting Owner**" shall mean any Owner who is delinquent on its obligation to pay Expenses or other amounts due and payable pursuant to the terms of this Hotel Declaration or who has failed to perform other obligations required to be performed by this Hotel Declaration. For purposes of this Hotel Declaration, a Defaulting Owner may be the Association, in the event it agrees to act as a collection agent for the Hotel Parcel Owner of Expenses (as defined herein) owed by the Condo-Hotel Unit Owners to the Hotel Parcel Owner and fails to collect from and/or remit same to the Hotel Parcel Owner in accordance with the terms of this Hotel Declaration.

1.27 "**Declarant**" means EP ORLANDO HOSPITALITY I, LP, a Florida limited partnership, and any successor and/or assignee of the rights and obligations of the Declarant under this Hotel Declaration provided that no Owner, solely by reason of its purchasing a Parcel, shall be considered a successor or assignee of such rights and obligations unless it is specifically designated as such in an instrument executed by the Declarant. Provided, however, that any party succeeding to the Declarant's interest in the Hotel Parcel through foreclosure of a first mortgage lien or deed in lieu of foreclosure shall have the right, but not the obligation, to assume the rights and obligations of the Declarant, whether or not the Declarant has executed an instrument designating such lienholder as the Declarant. At the time of recording of this Hotel Declaration, the Declarant shall also mean and refer to the Hotel Parcel Owner.

1.28 "**Development and Sale Period**" means the period of time during which the Condo-Hotel Parcel Developer, the Declarant or the Master Declarant, as applicable, and each of their affiliates are using the Resort for the sale and marketing of Condo-Hotel Units or other property in the Resort and/or Everest Place, any other resorts, condominiums or other developments developed or to be developed by the Condo-Hotel Parcel Developer, the Declarant or the Master Declarant or any of their affiliates, including, but not limited to, the holding of sales and marketing meetings, the use of models (if one or more), the use of design centers, the use of service and construction trailers, and engaging in sales promotions and related sales and marketing activities for the general public. Developer's sales and marketing materials used during the Development and Sale Period will expressly provide that the permanent occupancy of the Units is prohibited.

1.29 "**Expenses**" or "**Hotel Expenses**" means the various forms of payments Owners are obligated to make to the Hotel Parcel Owner or its designee, including, without limitation, Shared Facilities Expenses (as defined herein).

1.30 "**Hotel Declaration**" means this instrument as it may be amended or supplemented from time to time, together with any amendment(s) hereto, which may be recorded amongst the Public Records of the County.

1.31 "**Hotel Parcel Owner**" means the person, corporation, partnership, joint venture, trust, or other entity or entities who, from time to time, shall be the owner or owners of the Hotel Parcel. The Hotel Parcel Owner shall also mean the owner of the Shared Facilities.

1.32 **Hotel Parcel**" or "**Hotel**" means the real property legally described in **Exhibit "B-2"** of this Hotel Declaration, together with all improvements now or hereafter located thereon, including portions of the Land and the Shared Facilities, the various specified interior portions of the Building, the exterior of the Building, the structural components of the Building (including all floor slabs and load bearing walls and columns), the Parking Garage, portions of the first (1st) through tenth (10th) floors of the Building, the common hallways, stairways, elevators, the Lobby (as defined herein) located on the 1st floor of the Building, the roof of the Building, and the two hundred eleven (211) Hotel guest rooms located on the first (1st) through ninth (9th) floors of the east wing of the Building, as more particularly described in the Building Plans, but specifically excluding the Condo-Hotel Parcel.

1.33 "**Hotel Services**" means those hotel-related services that are to be provided to the Hotel Parcel and the Condo-Hotel Parcel and the Owners, by the Hotel Parcel Owner or an entity providing the Hotel Services on behalf of the Hotel Parcel Owner.

1.34 "**Immediate Family Members**" means the immediate family members of each Condo-Hotel Unit Owner (i.e., spouse, children, and grandchildren). Immediate Family Members shall have substantially the same access and use rights as those of the Condo-Hotel Unit Owners to the Hotel Parcel and the Hotel Parcel's Shared Facilities upon payment of the Resort Fee (as defined herein).

1.35 "**Insurance Trustee**" means the institution appointed pursuant to Section 12.1 hereof.

1.36 "**Land**" shall mean the real property owned by the Declarant, which is more specifically described in **Exhibit "A"** attached hereto, on which the Declarant has constructed the Building, which includes the Hotel Parcel and the Condo-Hotel Parcel, provided, however, the Declarant reserves the right to withdraw from the provisions hereof such portion or portions of the Land (which is owned by the Declarant) as the Declarant from time-to-time elects. All of the Land and any right, title, or interest therein shall be owned, held, leased, sold, and/or conveyed by the Declarant and any subsequent Owner of all or any part thereof, subject to this Hotel Declaration and the Master Declaration.

1.37 "**Maintenance**" with regard to any particular component of the Building and Land shall include the maintenance, including, but not limited to, painting and other decorating, operation, and inspection, including, but not limited to, inspection for the purpose of meter reading, testing, repair, preservation, replacement and/or cleaning, including, but not limited to, dusting, washing, mopping and vacuuming thereof, as well as any other action commonly or customarily regarded as maintenance, in accordance with the Standards (as defined in Section 1.53 hereof).

1.38 "**Intentionally Left Blank**"

1.39 "**Master Documents**" means the Master Declaration recorded in Page ___, Book ____, in the Public Records of the County and all exhibits and instruments referred to therein and executed in connection therewith, and any amendments that are made from time to time to the Master Documents or any documents referred to therein.

EACH CONDO-HOTEL UNIT OWNER BY ACCEPTANCE OF A DEED OR OTHER INSTRUMENT CONVEYING HIS/HER/ITS RESPECTIVE CONDO-HOTEL UNIT, ACKNOWLEDGES, AGREES AND UNDERSTANDS THAT THE CONDO-HOTEL PARCEL, INCLUDING THE CONDO-HOTEL UNIT ACQUIRED IS SUBJECT TO THIS HOTEL DECLARATION, THE CONDO-HOTEL DECLARATION AND THE MASTER DOCUMENTS.

1.40 **Mortgagee**" means any holder of a first mortgage lien on a Parcel, or on a leasehold interest in an entire Parcel, or on a Condo-Hotel Unit within the Condo-Hotel Parcel, which mortgage is security for a loan advanced in good faith to finance the purchase of rights in and/or construction of a Parcel or a Condo-Hotel Unit in question or to refinance a loan of such nature,

provided that such holder shall give notice, as prescribed in Section 17.4, to the parties prescribed in Section 17.4, that it is the holder of such mortgage prior to being considered a Mortgagee for purposes hereof.

1.41 "**Occupant**" means any person or entity legally in possession and entitled to occupy all or part of a Parcel other than the Owner. Occupant shall also mean person(s) and/or entity(ies) from time to time legally entitled to the use and occupy a Condo-Hotel Unit under an ownership right or any lease, rental, tenancy agreement, sublease, assignment, license, concession, or other similar agreements (each an "**Occupant**" and together "**Occupants**"). Occupant is also included in the definition of a Permitted User.

1.42 "**Operator**" means an entity engaged by the Hotel Parcel Owner, in its sole and absolute discretion, pursuant to an operating agreement or management agreement, to assist the Hotel Parcel Owner in fulfilling or carrying out certain duties, powers or functions of the Hotel Parcel Owner to administer, operate and maintain the Hotel Parcel and its Shared Facilities. Operator shall also mean and refer to any successor operator of the Hotel Parcel and its Shared Facilities, pursuant to any future management/operating agreement executed by the Hotel Parcel Owner. The Hotel Parcel Owner may, in its sole discretion, be the Operator.

1.43 "**Owner**" or "**Owners**" means the Hotel Parcel Owner or the Condo-Hotel Parcel Owner, individually or collectively, as the context shall require. Owner shall also mean and sometimes refer to the Condo-Hotel Unit Owner, pursuant to Section 1.20 of this Hotel Declaration.

1.44 "**Parcel**" or "**Parcels**" means the Hotel Parcel and/or the Condo-Hotel Parcel, individually or together, as the context shall require.

1.45 "**Parking Garage**" means the three (3) story-attached parking garage located adjacent to the Building. The Parking Garage is part of the Hotel Parcel owned by the Hotel Parcel Owner.

1.46 "**Reconstruction Expenses**" means a charge against an Owner and its Parcel representing a portion of the cost incurred by the Hotel Parcel Owner for reconstructing the portion of the Building arising out of an event of casualty or condemnation or deterioration in which that Owner's Parcel is situated or for reconstructing the Shared Facilities for which such Owner is obligated to pay Shared Facilities Expenses as provided in this Hotel Declaration.

1.47 "**Resort**" means the real property described in **Exhibit "B-3"** attached hereto, which is owned by the Declarant or an affiliate of the Declarant, which the Declarant is dividing into two (2) legally separate parcels, the Hotel Parcel and the Condo-Hotel Parcel, pursuant to this Declaration.

1.48 "**Resort Fee**" means the mandatory per diem resort fee charged to a Condo-Hotel Unit for access to the Hotel Parcel and use of the Shared Facilities. The initial per diem Resort Fee will be Thirty-Five Dollars ($35.00). The Hotel Parcel Owner has the right to adjust the Resort Fee to cover any cost increases or decreases in the expenses covered by the Resort Fee. The Resort Fee shall be deemed a charge against the applicable Condo-Hotel Unit, and the Hotel Parcel Owner

shall have the same rights of collection as to the Resort Fee as it has with Expenses. The Resort Fee will be retained by the Hotel Parcel Owner and will not reduce the Shared Facilities Expenses payable by any of the Condo-Hotel Unit Owners.

CONDO-HOTEL UNIT OWNERS ACKNOWLEDGE AND AGREE THAT THE AMOUNT AND SUFFICIENCY OF THE RESORT FEE SHALL BE DETERMINED BY THE HOTEL PARCEL OWNER IN ITS SOLE AND ABSOLUTE DISCRETION.

CONDO-HOTEL UNIT OWNERS FURTHER ACKNOWLEDGE AND AGREE THAT THE RESORT FEE MAY BE MODIFIED BY THE HOTEL PARCEL OWNER FROM TIME TO TIME, DUE TO INCREASE IN COSTS AND EXPENSES ASSOCIATED WITH THE OPERATION AND ADMINISTRATION OF THE SHARED FACILITIES, INCLUDING, BUT NOT LIMITED TO, INCREASE IN INSURANCE PREMIUMS.

1.49 "**Shared Facilities**" means the various components of the Hotel Parcel, including recreational facilities, amenities, improvements, and personal property, which the Hotel Parcel Owner has constructed or will construct for the use, enjoyment, access, and benefit of the Hotel Parcel's guests and invitees ("**Hotel Guests**"), the Owners and each of their Occupants, family members, guests, and invitees. The initial Shared Facilities are specifically described in **Exhibit "C"** attached hereto and made a part hereof. Notwithstanding anything herein, or in any of the exhibits hereto, contained to the contrary, the Shared Facilities shall be deemed part of the Hotel Parcel. Non-inclusion in **Exhibit "B-2"** of any particular portion, component, feature, or system of the Hotel Parcel shall not prevent the same from being considered a Shared Facility if the definition of Shared Facility is otherwise satisfied by such item and such item is not specifically excluded from the definition of Shared Facilities. The Shared Facilities shall be maintained in accordance with the Standards (as defined herein).

Ownership of the Shared Facilities rests with the Hotel Parcel Owner. Each Shared Facility shall be burdened with the easements set forth in Article II or elsewhere in this Hotel Declaration in favor of the Condo-Hotel Parcel Owners (which includes the Condo-Hotel Unit Owners). The Hotel Parcel Owner hereby reserves the right to grant to other owners, occupants, guests, and invitees of other Sites (as defined in the Master Declaration) located within Everest Place the right to use certain Shared Facilities under terms and conditions established by the Hotel Parcel Owner, in its sole and absolute discretion, including charging said users a Resort Fee, to be retained by the Hotel Parcel Owner.

THE HOTEL PARCEL OWNER RESERVES THE ABSOLUTE RIGHT IN THE HOTEL PARCEL OWNER'S SOLE AND ABSOLUTE DISCRETION, WITHOUT THE JOINDER OF ANY PARTY, WHOMSOEVER, TO ALTER, CHANGE, ADD, REMOVE, OR MODIFY THE SHARED FACILITIES FROM TIME TO TIME. CONDO-HOTEL UNIT OWNERS SHOULD NOT BASE THEIR DECISION ON WHETHER TO PURCHASE A CONDO-HOTEL UNIT ON ALL OR CERTAIN SHARED FACILITIES BEING CONSTRUCTED NOW OR IN THE FUTURE.

1.50 "**Shared Facilities Expenses**" means the actual and estimated costs and expenses incurred by the Hotel Parcel Owner in relation to the Maintenance of or otherwise related to the Shared Facilities (including unpaid Expenses not paid by the Owner responsible for payment); all

costs of the Hotel Parcel Owner incurred in the performance of its duties under Article III hereof; the costs of management and administration of the Shared Facilities, including, but not limited to, costs incurred for the services of managers, accountants, attorneys and employees; costs of providing services, personnel or equipment for the Shared Facilities; costs of all cleaning and other services benefiting the Shared Facilities; costs of comprehensive general liability insurance for the Shared Facilities, workmen's compensation insurance and other insurance covering or connected with the Shared Facilities; real and personal property taxes for the Shared Facilities, if any; costs of funding any reserve funds established for replacement, deferred maintenance, repair and upgrading of the Shared Facilities and personal property thereon, if any; cost of all shared utilities including electricity, water and sewer services; and costs of all other items or services incurred by the Hotel Parcel Owner for any reason whatsoever in connection with the Shared Facilities or for the benefit of the Owners and each of their Occupants, family members, guests and invitees or within the parameters stated in Article IV, costs in connection with maintaining the Standards as described in Section 1.53 hereof.

EACH CONDO-HOTEL UNIT OWNER ACKNOWLEDGES, AGREES, AND UNDERSTANDS THAT THE HOTEL PARCEL OWNER'S LIEN AND FORECLOSURE RIGHTS RESERVED IN THIS HOTEL DECLARATION FOR NON-PAYMENT OF EXPENSES (INCLUDING THE SHARED FACILITIES EXPENSES) ARE INDEPENDENT OF ANY LIEN AND FORECLOSURE RIGHTS THE ASSOCIATION MAY HAVE FOR NON-PAYMENT OF CONDO-HOTEL COMMON EXPENSES PURSUANT TO THE ACT AND THE CONDO-HOTEL DECLARATION.

EACH CONDO-HOTEL UNIT OWNER ACKNOWLEDGES AND AGREES THAT THE SHARED FACILITIES EXPENSES MAY BE MODIFIED BY THE HOTEL PARCEL OWNER FROM TIME TO TIME DUE TO INCREASE IN COSTS AND EXPENSES ASSOCIATED WITH THE OPERATION AND ADMINISTRATION OF THE SHARED FACILITIES.

1.51 "**SFWMD**" or "**DISTRICT**" shall mean the South Florida Water Management District.

1.52 "**Special Expenses**" means a charge levied against an Owner and its Parcel, directly attributable to such Owner, equal to the cost incurred in connection with the enforcement of this Hotel Declaration against such Owner for failure to duly perform its obligations hereunder, and such other charges as may be provided for in Article IV.

1.53 "**Standards**" or "**Hotel Standards**" shall mean the highest of the following: (i) the standards of construction, development, operation, maintenance, repair and upkeep of the Building (and all Parcels therein), in a condition and a quality level no less than that which existed at the time that the initial design, development and construction of the Building (and all Parcels therein) was completed (ii) the standard established by the Hotel Parcel Owner, Operator, or any franchisor or licensor of the Hotel Parcel, from time to time; and (iii) the standard establish from time to time pursuant, to this Hotel Declaration and the Master Declaration, that the Hotel Parcel and the Condo-Hotel Parcel (including, but not limited to, the Condo-Hotel Units and its Common Elements) be owned, operated and maintained in accordance with the luxury standards of any hotel operated within the Building, as determined by the Hotel Parcel Owner or any licensor or

franchisor of the Hotel Parcel. Notwithstanding the foregoing, the Declarant has no ability to ensure and does not guarantee, represent or warrant that: (i) the Building will operate at all times in compliance with the Standards; or (ii) that any particular licensor, franchisor, or Operator, if any, will operate the Hotel for any period of time. NO OWNER SHALL HAVE ANY CLAIM AGAINST THE DECLARANT, THE MASTER DECLARANT, THE HOTEL PARCEL OWNER, MANAGER, OPERATOR, OR ANY LICENSOR OR FRANCHISOR FOR ANY MATTER RELATED TO THE FOREGOING MATTERS, NOR SHALL ANY OF THE FOREGOING MATTERS BE, OR BE DEEMED OR CONSTRUED TO BE, MATERIAL AND ADVERSE TO AN OWNER.

1.54 "**Surface Water Management System Facilities**" or "**SWMSF**" shall mean and refer to all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas located within or serving Everest Place (including the Resort). The Surface Water Management System Facilities are located on land that is (i) designated as Common Area or Special Common Area (as defined in the Master Declaration); (ii) owned by the Master Declarant, or (iii) subject to an easement in favor of the Master Declarant and its successors and/or assigns. All costs and expenses associated with the SWMSF shall be a Common Area Expense pursuant to the terms of the Master Documents.

1.54.1. "**SFWMD Permit**" shall mean the Environmental Resource Permit Number 49-106852-P. A Notice of the Environmental Resource Permit is recorded in the Official Records of Osceola County at OR Book 2526, Page 2038, pursuant to Section 1.1.14 of the Master Declaration.

1.55 "**Supplemental Declaration**" shall mean any declaration of covenants, restrictions, and easements which may be recorded by the Declarant for the purpose of supplementing or amending this Hotel Declaration or for the purpose of declaring all or any portion of the Parcels within the Building as Shared Facilities, or for the purpose of adding additional real property to the Building, either as Parcels, or Shared Facilities.

1.56 "**Visible Area**" means any portion of the Building curtain wall, facade, roof, garage, or another area of the Building visible from any Parcel, from the outside of the Building, or visible to persons utilizing the rights of ingress and egress through a given Parcel, including glass-enclosed areas.

Unless the context otherwise requires, any capitalized word or term not defined but used herein, which is defined in the Master Declaration, shall have the same meaning given to such word or term in the Master Declaration.

ARTICLE II
PLAN OF DEVELOPMENT AND EASEMENTS

2.1 **Creation of Separate Parcels**. The Declarant, by executing and recording this Hotel Declaration, does hereby declare and establishes the Hotel Parcel and the Condo-Hotel Parcel as separate estates in fee simple absolute. The Condo-Hotel Parcel will include one hundred and eighty-four (184) Condo-Hotel Units, located or to be located on the first (1st) through tenth

(10th) floors of the south wing of the Building and will be a separate Parcel from that of the Hotel Parcel. The Declarant intends to construct upon the Hotel Parcel two hundred and eleven (211) Hotel guest rooms (each a "**Hotel Guest Room**" and together "**Hotel Guest Rooms**") located or the be located on the first (1st) through ninth (9th) floors of the north wing of the Building. All other portions of the Building are included in the Hotel Parcel.

The Declarant shall have the right and power to execute and record such further documentation as the Declarant deems necessary and acting without the consent or joinder of any other person, in order to maintain this Hotel Declaration as a matter of public record. The Declarant, in its sole discretion, may assign this right and power to any subsequent Hotel Parcel Owner or any other person/entity. The Hotel Parcel Owner hereby expressly reserves the right to develop the Land upon such timetable as the Declarant, in its sole discretion, chooses and to modify the plan of development of the Land in such manner as it, in its sole discretion, chooses to add to, subtract from or otherwise modify the Hotel Parcel and the Shared Facilities.

2.2 **Easements**.

2.2.1. **Condo-Hotel Parcel Easements**. The Condo-Hotel Unit Owners (which includes each of their respective Occupants, family members, guests, and invitees) shall each have the following non-exclusive easements through, across, and upon the Hotel Parcel, subject to the reasonable regulation of easements provided for in Section 2.2.4:

(a) For pedestrian ingress and egress through the areas of the Hotel Parcel intended and designated for vehicular and pedestrian use, including, but not limited to, the Parking Garage, and for pedestrian ingress and egress through the entrance, service entrance, paths, walkways, hallways, and lobbies located in the Hotel Parcel that are at any point in time intended and designated for pedestrian use (including those portions of the Hotel Parcel required to afford reasonable access from each Condo-Hotel Unit to the public right of ways adjoining the Building as required by Section 718.104 (4)(m) of the Act), and for the use in common with the Hotel Parcel Owner, its tenants, invitees, and agents of such facilities and areas of the Hotel Parcel for the other uses for which such facilities and/or areas are normally used in a first class hotel, including, without limitation, common hallways and the elevators, and the Lobby located within the Hotel Parcel, which facilities and areas are shown on the Building Plans.

(b) For ingress and egress through, and use of, the Building elevator shafts and those sections of the Building service core (including service and passenger elevator shafts and cabs, pit, machine room, stairways and utility lines), which serve the Condo-Hotel Parcel and for access to the roof of the Building, and for Maintenance of the ventilating, heating and air-conditioning equipment of the Condo-Hotel Units located on the roof of the Building, as shown on the Building Plans.

(c) For use of the electric service vaults and the cables and conduits therein through which electric power is supplied by the public utility to the Condo-Hotel Parcel, as well as vaults, cables and conduits for cable television, telecommunications, telephone and related services, all as shown on the Building Plans.

(d) For use of the domestic and fire protection water service lines, sanitary and storm sewer lines, soil lines, gas lines and sewage ejector lines, including all valves, traps and clean-out appurtenant to any such line, located in the Hotel Parcel and serving the Condo-Hotel Parcel, all substantially as shown on the Building Plans.

(e) Notwithstanding anything to the contrary herein contained, the Condo-Hotel Parcel Owners have an easement to use the amenities located within the Hotel's Parcel's Shared Facilities, which are particularly set forth on **Exhibit "C"** attached hereto, to the same extent and with the same rights as a guest of the Hotel. The Hotel Parcel Owner reserves the right to deny such usage to any Condo-Hotel Parcel Owner or his/her/its respective Occupants, guests, family members, licensees, and invitees who do not comply with the Shared Facilities rules and regulations established by the Hotel Parcel Owner, or in connection with private events utilizing any of the Shared Facilities. The Hotel Parcel Owner reserves the right to add or modify existing amenities within the Hotel Parcel in the Hotel Parcel Owner's sole discretion and without the consent of any Owner.

Each Condo-Hotel Unit Owner acknowledges and agrees that during the period(s) of non-occupancy of his/her/its Condo-Hotel Unit ("**Non-Occupancy Period**"), such Owner may not utilize the Shared Facilities without the prior written consent of the Hotel Parcel Owner and payment of the Resort Fee.

2.2.2. **Hotel Parcel Easements**. The Hotel Parcel Owner shall have the following non-exclusive easements through, across, and upon the Condo-Hotel Parcel, subject to the reasonable regulation of easements provided for in Section 2.2.4 of this Hotel Declaration:

(a) For access to, ingress, and egress through all facilities, fixtures, and equipment, if any, within the service core or elsewhere in the Condo-Hotel Parcel, which serve the Hotel Parcel, including all mechanical and electrical equipment rooms, elevator machine rooms, stairways, cooling towers, utility lines, pipes, conduits, ducts and cables, all as may be shown on the Building Plans.

(b) For access through the Condo-Hotel Parcel for use and Maintenance of the roof of the Building.

2.2.3. **General Easements**. Each Owner shall have the following additional easements from the other Owners, which easements shall be used by the Grantee (as defined

herein) in common with, and not to the exclusion of, the Grantor (and in connection with any such easement, as well as in connection with any other easement granted in this Article or this Hotel Declaration, the Owner granting such easement and the Owners granted such easement, shall be referred to as the "**Grantor**" and the "**Grantee**", respectively):

(a) For access through units for conduits, plumbing, wiring, electrical, telephone, water, heating, ventilating, air cooling, gas, fire and life safety, communication, telecommunication, radio, cable television, exhaust, window washing, and other piping, lines, ducts, shafts, systems, facilities and equipment, and for the use of all other facilities whatsoever, except to the extent restricted by this Hotel Declaration, for the furnishing of utility services to more than one (1) Condo-Hotel Unit and the Common Elements and an easement of support in every portion of the Building that contributes to the support of the Condo-Hotel Units and Condo-Hotel Condominium Property (as defined in the Condo-Hotel Declaration).

(b) For use of the Shared Facilities located within the Hotel Parcel to the extent necessary to receive the benefit of the functioning of the Shared Facilities in accordance with the intended respective purpose of each particular Shared Facility.

(c) Of support in and to all structural members, footings, exterior walls, roof and foundations shown on the Building Plans as located within the Grantor's Parcel and which are necessary for support of the improvements on the Grantee's Parcel or of any facility with respect to which the Grantee is granted an easement under any provision hereof. Nothing in this Hotel Declaration shall be construed to require the Hotel Parcel Owner to erect, or permit the erection of, additional columns, bearing walls or other structures on its Parcel for the support of the Condo-Hotel Parcel, beyond those as shown on the Building Plans.

(d) For the continued existence of encroachments in the event that, by reason of the construction of the Building or the subsequent settling or shifting of the Building, any part of the improvements on any other Parcel encroaches or shall hereafter encroach upon any part on the Grantor's Parcel. Such easement for the continued existence of encroachments on the Grantor's Parcel shall exist only so long as all or any part of the encroachment shall remain.

(e) For Maintenance of any Shared Facility, or for any facility located within the Hotel Parcel, for which the Grantee has Maintenance responsibility, or for which Grantee is otherwise permitted or required to perform the Maintenance.

(f) For entry upon, and for ingress and egress through the Grantor's Parcel, with persons, materials and equipment, to the extent reasonably necessary

in the performance of the Maintenance of any facility, whether or not located within the Grantor's Parcel, for which Grantee has Maintenance responsibility, or for which Grantee is otherwise permitted or required to perform the Maintenance.

(g) For ingress and egress through the Grantor's Parcel to the extent necessitated by an emergency involving danger to life, limb or property.

2.2.4. **Extent of Owners' Rights and Easements**. Except as expressly provided herein to the contrary, any right and easement created by Sections 2.2.1, 2.2.2, and 2.2.3 of this Article or by any other provision of this Hotel Declaration shall be subject to the following:

(a) The right of the Hotel Parcel Owner to limit the number of guests, invitees, occupants, and Owners using the Shared Facilities.

(b) The right of the Hotel Parcel Owner to establish and enforce reasonable rules and regulations pertaining to the use of the Shared Facilities, including, but not limited to, the right to control the hours of use of the service elevator, and the right to limit access to the Building during "late night" hours or "holiday" hours.

(c) The right of the Hotel Parcel Owner to exercise self-help in any situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations).

(d) The right of the Hotel Parcel Owner, without the need to obtain the approval or written assent of the Condo-Hotel Parcel Owner, to borrow money for the purpose of improving the Shared Facilities and, in furtherance thereof, to mortgage, pledge or hypothecate the Shared Facilities and the Expenses therefor as security for money borrowed or debts incurred, provided that the rights of the mortgagee or secured party in any such case shall be subordinate to the rights and easements of the Owners under this Hotel Declaration, including their rights in the Shared Facilities and the Owners' use of such rights.

(e) The right of the Declarant, and any of the Declarant's affiliates to the non-exclusive use of the Shared Facilities without charge, for purposes of sales, leasing, display, exhibit, access, construction, ingress and egress.

(f) The right or duty of the Hotel Parcel Owner to reconstruct, replace or refinish any improvement upon the Shared Facilities, in its sole and absolute discretion, subject to those conditions and limitations set forth elsewhere in this Hotel Declaration.

(g) The right or duty of the Hotel Parcel Owner to plant and replace trees, grass, shrubs, ground cover and other vegetation upon any portion of the Shared Facilities, or adjacent to the Building.

(h) The rights and easements provided elsewhere in this Hotel Declaration.

(i) All plats, restrictions, covenants, conditions, reservations, limitations, easements and other matters of record affecting the Hotel Parcel (including its Shared Facilities) or any portion of the Building.

(j) Any easement granted pursuant to paragraphs (a), (b), (e) and (f) of Section 2.2.4 shall be subject to such reasonable regulations as the Grantor may impose.

(k) Notwithstanding Section 2.2.4 (c), the right of any Condo-Hotel Parcel Owner, or any party purchasing a Condo-Hotel Unit and becoming the owner thereof, to mortgage, pledge or hypothecate its interest in its Condo-Hotel Unit in order to finance the purchase of or the making of improvements to the Condo-Hotel Unit in question, or to refinance any loan made for such purpose, without the consent of any other party, provided that the rights of any mortgagee or secured party in such case shall be subject to the rights of the Hotel Parcel Owner under this Hotel Declaration, including Owners rights in the Shared Facilities.

2.2.5. **Common Area Easement**. All Owners shall have a right and easement of enjoyment in and to the Common Areas, including, without limitation, a right and nonexclusive easement in and to all lakes, ponds, ditches, canals, swales and other waterways which are now, or which shall hereafter become part of the Common Areas, and for stormwater drainage purposes, in accordance with the terms and conditions set forth under Article VI of the Master Declaration.

The use and enjoyment of the Common Area Easement is subject to the Master Declaration and all exhibits thereto.

2.2.6. Shared Facilities/Persons Entitled to Use the Shared Facilities. Each Condo-Hotel Unit Owner and each of their Immediate Family Members shall have a non-exclusive license and privileges to access to the Hotel Parcel and use the Shared Facilities in accordance with and subject to this Hotel Declaration and rules and regulations established from time to time by the Hotel Parcel Owner.

2.2.7. Right to Issue Short-Term Use Privileges. THE HOTEL PARCEL OWNER MAY, IN ITS SOLE AND ABSOLUTE DISCRETION, OFFER MEMBERSHIPS OR USE PRIVILEGES ON A DAILY OR OTHER SHORT TERM BASIS TO ANY PERSON OR ENTITY WHO IS NOT A CONDO-HOTEL UNIT OWNER, AN IMMEDIATE FAMILY MEMBER, OR A HOTEL GUEST, including, but not limited to Condo-Hotel Unit Owners' Occupants, extended family members, guests, invitees, and other owners or guest of other Sites located within Everest

Place (each a "**Permitted User**" and together "**Permitted Users**"). Only upon payment of the Resort Fee will Permitted Users be permitted to access the Hotel Parcel and use the Shared Facilities, and such access and use right shall be in accordance with and subject to the terms of this Hotel Declaration and rules and regulations established from time to time by the Hotel Parcel Owner. Notwithstanding the foregoing, the Hotel Parcel Owner reserves the right to charge a per diem Resort Fee to Permitted Users for access and use rights to the Hotel Parcel and its Shared Facilities.

2.2.8. Use by Permitted Users. In no event shall the granting of such access and use to Permitted Users reduce or abate a Condo-Hotel Unit Owner's obligations to pay his/her/its portion of the Shared Facilities Expenses pursuant to this Hotel Declaration or give any Condo-Hotel Unit Owner the right to avoid any of the provisions of this Hotel Declaration. Notwithstanding the foregoing, any entry upon the Hotel Parcel and use of the Shared Facilities without payment of a Resort Fee by a Permitted User shall be deemed a trespass, and each Condo-Hotel Unit Owner agrees to refrain from and shall cause his, her or its Permitted Users to refrain from any unauthorized entry upon the Hotel Parcel and its Shared Facilities without first paying the applicable Resort Fee to the Hotel Parcel Owner.

2.2.9. Promotional Access and Use of Shared Facilities. The Hotel Parcel Owner, and the Declarant and its affiliates shall have the right to use, schedule, and hold marketing, promotional, and other events in any portion of the Shared Facilities.

EACH CONDO-HOTEL UNIT OWNER ACKNOWLEDGES AND AGREES THAT THE HOTEL PARCEL OWNER MAY RESTRICT ACCESS AND USE OF THE SHARED FACILITIES TO CONDO-HOTEL UNIT OWNERS AND THEIR IMMEDIATE FAMILY MEMBERS AND PERMITTED USERS (IN ITS SOLE AND ABSOLUTE DISCRETION) AT ANY GIVEN TIME, INCLUDING, BUT NOT LIMITED TO, PEAK HOURS OF OPERATION, DURING TIMES SPECIAL EVENTS ARE BEING HELD AT THE HOTEL PARCEL, SEASONAL DEMANDS, OR HOLIDAYS.

TO ENSURE THE SAFE ENJOYMENT OF THE SHARED FACILITIES BY CONDO-HOTEL UNIT OWNERS AND THEIR IMMEDIATE FAMILY MEMBERS AND PERMITTED USERS AND TO ENSURE COMPLIANCE WITH THE STANDARDS AND LOCAL, STATE, AND COUNTY REGULATIONS AND ORDINANCES, EACH CONDO-HOTEL UNIT OWNER ACKNOWLEDGES AND AGREES THAT THE HOTEL PAREL OWNER, MAY, FROM TIME TO TIME (IN ITS SOLE AND ABSOLUTE DISCRETION), LIMIT THE NUMBER OF PEOPLE, INCLUDING, BUT NOT LIMITED TO, A CONDO-HOTEL UNIT OWNER'S IMMEDIATE FAMILY MEMBERS AND PERMITTED USERS, FROM ACCESSING AND UTILIZING THE SHARED FACILITIES AT ANY GIVEN TIME ("SHARED FACILITIES OCCUPANCY USE RESTRICTIONS"). THE HOTEL PARCEL OWNER RESERVES THE RIGHT TO DENY ACCESS TO A CONDO-HOTEL UNIT OWNER (AND ANY OF HIS/HER/ITS IMMEDIATE FAMILY MEMBERS AND PERMITTED USERS) WHO ARE IN VIOLATION OF THE SHARED FACILITIES OCCUPANCY USE RESTRICTIONS. AT THE TIME OF RECORDING OF THIS HOTEL DECLARATION, THE SHARED

FACILITIES OCCUPANCY USE RESTRICTIONS ESTABLISHED BY THE HOTEL PARCEL OWNER ARE SET FORTH IN EXHIBIT D, ATTACHED HERETO AND MADE A PART HEREOF. HOTEL PARCEL OWNER RESERVES THE RIGHT TO MODIFY THE SHARED FACILITIES OCCUPANCY USE RESTRICTIONS FROM TIME TO TIME (IN ITS SOLE AND ABSOLUTE DISCRETION).

2.2.10. Parking Garage.

(a) Valet Parking. The Parking Garage is part of the Hotel Parcel (but is not a Shared Facility) and is owned by the Hotel Parcel Owner. The Hotel Parcel Owner shall be responsible for the operation, maintenance, repair, and/or replacement of the Parking Garage, and the cost thereof shall be the obligation of the Hotel Parcel Owner. It is the intention of the Hotel Parcel Owner to offer valet parking ("**Valet Parking**") on areas of the Parking Garage identified by signage (designated by the Hotel Parcel Owner from time to time) illustrating that parking is reserved for Valet Parking services ("**Valet Parking Signage**"), which include general Valet Parking ("**General Valet Parking**") and premium Valet Parking ("**Preferred Valet Parking**"). The Hotel Parcel Owner reserves the right to charge a fee (to be paid to and retained by the Hotel Parcel Owner) to all Condo-Hotel Unit Owners, Occupants, family members, guests, invitees, and Hotel Guests for the use of such Valet Parking services ("**Valet Parking Fee**").

(b) Self-Parking. In addition to Valet Parking, the Hotel Parcel Owner intends to offer self-parking on areas of the Parking Garage identified by signage (designated by the Hotel Parcel Owner from time to tome) illustrating the self-parking spaces ("**Self-Parking**"), which shall be used on a first come first serve basis. The Hotel Parcel Owner reserves the right to charge a fee (to be determined, from time to time, by the Hotel Parcel Owner, in its sole and absolute discretion) to all Office Unit Owners, Occupants, family members, guests, invitees, and Hotel Guests for access to and use of the Self-Parking facilities, to be paid to and retained by the Hotel Parcel Owner ("**Self-Parking Fee**").

2.2.11. Electrical Powered Vehicle Charging. Parking spaces may, at the Hotel Parcel Owner's sole and absolute discretion, have access to an electric line so that such parking spaces may be equipped with an electrical outlet capable of charging electric-powered vehicles for use by Owners ("**EVC**"). The cost of all electricity associated with, or consumed from the EVC may be billed directly to the user thereof. All costs and expenses for the installation, operation, maintenance, repair and replacement of the EVC shall be the responsibility of such respective Condo-Hotel Unit Owner, including all costs and expenses for any damages to the EVC, the Parking Garage, or the Building resulting from the use of the EVC shall be the responsibility of the user thereof. The users shall be deemed to have agreed to hold the Association, the Hotel Parcel Owner, and the Declarant, the Master Declarant, and all other Condo-Hotel Unit Owners, harmless from and to indemnify them against any liability or damage to property, and/or from damages to any persons or

personal property resulting from, connected with, or relating to, directly or indirectly, such use of the EVC.

The Hotel Parcel Owner is hereby authorized and empowered to establish rules and regulations for the Parking Garage and any other parking facilities located within the Hotel Parcel. Each Condo-Hotel Unit Owner acknowledges and agrees that during non-occupancy, he/she/it will not be permitted to leave his/her/its respective vehicle parked in the parking garage. Any vehicle parked in violation of this Hotel Declaration, or any rules and regulations so established by the Hotel Parcel Owner, will result in the vehicle being removed and towed at the violating Condo-Hotel Owner's or vehicle owner's (if not a Condo-Hotel Unit Owner) sole expense.

2.2.12. Outdoor Swimming Pool Areas/Aqua Water Park. The outdoor swimming pools and the adjacent cabanas and seating areas (collectively referred to the "**Outside Swimming Pool Areas**") and the water park containing certain pools, slides and other improvements ("**Aqua Water Park**"), as depicted in the Building Plans are part of the Hotel Parcel's Shared Facilities and are owned by the Hotel Parcel Owner. The Hotel Parcel Owner shall operate, maintain, repair and/or replace the Outdoor Swimming Pool Areas and the Water Park and the cost thereof shall be a Shared Facilities Expense. The Hotel Parcel Owner has the right to restrict guests and/or other third parties access to the Outdoor Swimming Areas and Water Park and reserves the right to select and engage management and/or service providers to provide additional services, which may or may not include food and beverage offerings, and charge a fee to all Owners and their family members, Occupants, invitees, guests and Hotel Guests for the use of such services. The Hotel Parcel Owner is hereby authorized and empowered to establish rules and regulations for the Outdoor Swimming Pool Areas and Water Park and may make provision for the involuntary removal of any persons who are in violation of such rules and regulations.

2.2.13. Restaurant Areas/Food and Beverage Facilities. The Restaurant Areas and the Food and Beverage Facilities located throughout the Hotel Parcel are not part of the Shared Facilities. Notwithstanding the foregoing, the Condo-Hotel Parcel Owners shall have the right to use the Restaurant Areas, to the same extent as Hotel Guests.

2.2.14. Entertainment Areas/Performance Areas: The areas located within the Hotel Parcel designated as Entertainment Areas and Performance Areas (collectively, the "**Entertainment Areas**") in the Building Plans are part of the Hotel Parcel's Shared Facilities and are owned by the Hotel Parcel Owner. The Hotel Parcel Owner shall operate, maintain, repair, and/or replace the Entertainment Areas, and the cost thereof shall be a Shared Facilities Expense.

2.2.15. Lobby Area or Lobby. The Lobby or Lobby Area, as illustrated on the Building Plans is part of the Hotel Parcel's Shared Facilities and is owned by the Hotel Parcel Owner. The Hotel Parcel Owner shall operate, maintain, repair, and/or replace the Lobby Area, and the cost thereof shall be a Shared Facilities Expense.

2.2.16. Fitness Center. The Fitness Center is part of the Hotel Parcel's Shared Facilities and is owned by the Hotel Parcel Owner. The Hotel Parcel Owner shall operate, maintain, repair and/or replace the Fitness Center and the cost thereof shall be a Shared Facilities Expense.

2.2.17. Landscaped Areas. The areas located within the Resort designated as Landscaping, as depicted in the Building Plans, will be owned, and maintained by the Hotel Parcel Owner and the cost thereof a Shared Facilities Expense. The Maintenance may include, without limitation, grass cutting, tree trimming, sprinkling, fertilizing, and spraying.

2.2.18. Trash Receptacles. The areas designated as Trash Receptacles in the Building Plans shall be Shared Facilities to be located within the Hotel Parcel and made available by the Hotel Parcel Owner to Owners and each of their family members, Occupants, guests, and invitees, in accordance with the rules and regulations promulgated from time to time by the Hotel Parcel Owner. The Trash Receptacles shall be maintained, repaired, and replaced by the Hotel Parcel Owner, and the cost thereof [including trash service(s)] shall be a Shared Facilities Expense. Notwithstanding the foregoing, each Condo-Hotel Unit Owner shall regularly pick up all garbage, trash, refuse, or rubbish around his/her/its Condo-Hotel Unit. In order to preserve the aesthetics of the Resort, no Condo-Hotel Unit Owner shall place or dump any garbage, trash, refuse, or other materials on any other portions of the Resort, including, but not limited to, the Shared Facilities. All garbage, trash, refuse, or rubbish must be placed in proper-sized, closed trash bags and deposited in the Trash Receptacles located within the Building.

2.2.19. Laundry Facilities: The areas designated as Laundry Facilities, as depicted in the Building Plans, will be Shared Facilities located within the Hotel Parcel and made available by the Hotel Parcel Owner for use by Owners and each of their Occupants, family members, guests, and invitees, pursuant to this Hotel Declaration and rules and regulations promulgated from time to time by the Hotel Parcel Owner. It is anticipated the Hotel Parcel Owner will pay all expenses and costs associated with the maintenance and operation of the Laundry Facilities, and the cost thereof shall be a Shared Facilities Expense. The Hotel Parcel Owner hereby reserves the right, and each Owner acknowledges and agrees that the Hotel Parcel Owner will charge a "Per Use Fee" to all Unit Owners and their Occupants, family members, guests, and invitees for the use of the Laundry Facility, with such Per Use Fee to be paid to and be retained by the Hotel Parcel Owner.

2.2.20. Restroom and Shower Facilities. The areas designated as Restroom and Shower Facilities located throughout the Resort, as depicted in the Building Plans, shall be Shared Facilities located within the Hotel Parcel and made available by the Hotel Parcel Owner for use by Owners and each of their Occupants, family members,, guest, and invitees, pursuant to this Hotel Declaration and rules and regulations promulgated from time to time by the Hotel Parcel Owner. It is anticipated the Hotel Parcel Owner will pay all expenses and costs associated with the maintenance and

operation of the Laundry Facilities, and the cost thereof shall be a Shared Facilities Expense.

2.2.21. Balconies. Notwithstanding that the balconies situated adjacent to each Condo-Hotel Unit (each a "**Balcony**" and together the "**Balconies**") are part of the Hotel Parcel's Shared Facilities, there is hereby created in favor of each Condo-Hotel Unit the right to utilize the Balcony located adjacent to and directly accessible from that Condo-Hotel Unit, which right of use is subject to the provisions of this Hotel Declaration and such rules and regulations as may be adopted from time to time by the Hotel Parcel Owner. Balconies must be kept in a condition that meets or exceeds the quality guidelines and standards of any Hotel operated from within the Hotel Parcel, as established and determined by the Hotel Parcel Owner from time to time. The Maintenance responsibilities shall remain with the Hotel Parcel Owner and the cost thereof shall be a Shared Facilities Expense. Notwithstanding that the Hotel Parcel Owner will be responsible for the general Maintenance of the Balconies, each Condo-Hotel Unit Owner agrees, as a condition of use of said Balconies, to keep his/her/its respective Balcony maintained in accordance with the Standards.

No furniture, decorations or other personal property shall be placed on a Balcony without the prior written consent of the Hotel Parcel Owner.

2.2.22. Housekeeping Storage Rooms/Maids Room/Linen Closets. There are rooms located on various levels of the Building designated as "**Housekeeping Storage Rooms**," "Maids Rooms," and "Linen Closets" (collectively referred to as the "**Hotel Housekeeping Rooms"),** as depicted in the Building Plans, which are located within the Hotel Parcel are owned by the Hotel Parcel Owner and are not part of the Shared Facilities. Use of the Hotel Housekeeping Rooms are reserved exclusively for the Hotel Parcel Owner, the Operator, manager(s), if any, and its Hotel employees (including contractors and subcontractors).

2.2.23. Hotel Commercial Facilities. Certain facilities, including, but not limited to, restaurants, food and beverage facilities, spas, retail shops, conference rooms, and offices (each a "**Hotel Commercial Facility**" and together "**Hotel Commercial Facilities**"), as depicted in the Building Plans, are located within the Hotel Parcel, are owned by the Hotel Parcel Owner and are not part of the Shared Facilities. The Condo-Hotel Parcel Owners shall have the right to use the Hotel Commercial Facilities to the same extent and with the same rights as a guest of the Hotel. The Hotel Parcel Owner reserves their right to require the Condo-Hotel Parcel Owners and each of their Occupants, family members, invites, and guests to pay for such usage, as determined by the Hotel Parcel Owner, in its sole and absolute discretion, and shall be entitled to retain all fees associated with such use of the Hotel Commercial Facilities.

2.2.24. Vehicles and Personal Property. The Hotel Parcel Owner is not responsible for any loss or damage to any private property used, placed or stored in the Hotel Parcel or any Shared Facility by an Occupant. Without limiting the foregoing, any Condo-

Hotel Unit Owner and his/her/its family members, Occupants, guests, and invitees parking a vehicle within the Parking Garage assume all risk of loss with respect to his/her/its vehicle or personal property located within such a vehicle. Further, any person using any of the amenities of the Shared Facilities assumes all risk of loss with respect to his or her equipment, jewelry, or other possessions stored in lockers, if any, on bicycles, or within cars, vehicles, and wallets, books and clothing left in any of the Shared Facilities.

2.2.25. Waiver of Use. No Owner may exempt himself/herself/itself from personal liability for payment of Expenses, including, but not limited to, Shared Facilities Expenses, or release the Parcel or Condo-Hotel Unit owned by him/her/it from any of the Expenses, liens and charges provided for in this Hotel Declaration, by waiver of the use and enjoyment of the Shared Facilities or by abandonment of his/her/its Parcel or Condo-Hotel Unit.

2.2.26. No Resort Fee Reimbursement. No Permitted User whose access and use right privileges have been fully or partially restricted or suspended shall, on account of any such restriction or suspension, be entitled to any refund of any Resort Fee or any other fees paid to the Hotel Parcel Owner by such Permitted User.

THE HOTEL PARCEL OWNER MAY SELL, LEASE, ENCUMBER OR CONVEY ANY PORTION OF THE SHARED FACILITIES TO ANY PERSON OR ENTITY IN ITS SOLE AND ABSOLUTE DISCRETION AT ANY TIME. THE HOTEL PARCEL OWNER MAY SELL, LEASE OR ENTER INTO LEASE, LICENSE, FRANCHISE, USE OR ACCESS AGREEMENTS FOR ANY PORTION OF THE SHARED FACILITIES TO OR WITH ANY PERSON OR ENTITY, IN ITS SOLE AND ABSOLUTE DISCRETION, AT ANY TIME, SUBJECT TO THE TERMS OF THIS HOTEL DECLARATION AND THE MASTER DOCUMENTS.

EACH CONDO-HOTEL UNIT OWNER ACKNOWLEDGES AND AGREES THAT THE SHARED FACILITIES WILL BE OWNED, SUPERVISED, OPERATED, MANAGED AND CONTROLLED EXCLUSIVELY BY THE HOTEL PARCEL OWNER. NEITHER THE ASSOCIATION NOR CONDO-HOTEL UNIT OWNERS WILL HAVE ANY OWNERSHIP OR MANAGEMENT INTEREST IN OR ON THE SHARED FACILITIES. NOTWITHSTANDING THE FOREGOING, THE HOTEL PARCEL OWNER MAY (IN ITS SOLE AND ABSOLUTE DISCRETION) RETAIN A MANAGEMENT COMPANY OR COMPANIES OR CONTRACTORS (ANY OF WHICH MANAGEMENT COMPANIES OR CONTRACTORS MAY BE, BUT ARE NOT REQUIRED TO BE, A SUBSIDIARY, AFFILIATE, OR AN OTHERWISE RELATED ENTITY OF THE HOTEL PARCEL OWNER OR THE HOTEL PARCEL OWNER ITSELF) TO ASSIST IN THE OPERATION AND MANAGEMENT OF THE SHARED FACILITIES AND THE CARRYING OUT THE OBLIGATIONS OF THE HOTEL PARCEL OWNER HEREUNDER. THE FEES OR COSTS OF THIS OR ANY OTHER MANAGEMENT COMPANY SO RETAINED SHALL BE DEEMED TO BE PART OF THE SHARED FACILITIES EXPENSES.

EACH OWNER ACKNOWLEDGES AND AGREES THAT THE HOTEL PARCEL AND ITS SHARED FACILITIES, ARE NOT SUBJECT TO FLORIDA STATUTES CHAPTER 718 ("THE ACT"), SPECIFICALLY, SECTION 718.302 OF THE ACT AND THEREFORE THERE IS NO RIGHT TO CANCEL ANY PORTION OF THIS HOTEL DECLARATION AND NO RIGHT TO PURCHASE ANY PORTIONS OF THE SHARED FACILITIES.

2.2.27. Rental Program. All Condo-Hotel Unit Owners will have the option to have their respective Condo-Hotel Unit participate in a voluntary Condo-Hotel rental program with a rental management company, to be determined by the Hotel Parcel Owner (in its sole and absolute discretion), in which his/her/its respective Condo-Hotel Unit will be made available for rent by the public during times of Non-Occupancy by the Condo-Hotel Unit Owner ("**Voluntary Rental Program**"). Notwithstanding the foregoing, each Condo-Hotel Unit Owner acknowledges, agrees, and understands that participation in the Voluntary Rental Program is voluntary and is not a prerequisite or requirement for acquiring ownership of a Condo-Hotel Unit. The rate calculations for Unit rentals under the Voluntary Rental Program will be calculated on a daily or weekly basis.

ARTICLE III
POWERS AND DUTIES OF THE HOTEL PARCEL OWNER

3.1 Powers and Duties. The Hotel Parcel Owner shall have the exclusive power and duty to:

(a) Perform maintenance with respect to, repair, and otherwise manage the Shared Facilities in accordance with the Standards and the provisions of this Hotel Declaration.

(b) Clean or cause the Shared Facilities to be cleaned on a regular basis in accordance with the standards of a first-class hotel and residential facility, and to perform or cause to be performed other standard janitorial services as to the same.

(c) Obtain, for the benefit of the Owners for distribution through the Shared Facilities, all commonly metered water, sanitary sewage, and other utility services for the Building designed for common provision and metering services, and provide for distribution through the Building, through the Shared Facilities, of all other utilities, as necessary, to be metered as determined in the Building Plans.

(d) Levy fines against the appropriate Condo-Hotel Parcel Owner for violations of the provisions in this Hotel Declaration governing the conduct of such Condo-Hotel Parcel Owners. No fine shall be levied except after giving reasonable notice and opportunity for a hearing to the affected Condo-Hotel Parcel Owner. Notice of such hearing shall be delivered to the Condo-Hotel Parcel Owner no less than fourteen (14) days before such hearing and shall

include: (a) a statement of the date, time, and place of the hearing; (b) a statement of the provisions of this Hotel Declaration which have allegedly been violated; and (c) a short plain statement of the matters asserted by the Hotel Parcel Owner. The Condo-Hotel Parcel Owner and any other affected party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Hotel Parcel Owner. The hearing must be held before a committee established by the Hotel Parcel Owner. If the committee does not agree with the fine, the fine may not be levied. No fine may exceed one hundred dollars ($100.00) per violation, however, a fine may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing, provided however, that no such fine shall in the aggregate exceed one thousand dollars ($1,000.00). Fines for violating provisions in this Hotel Declaration may become a lien upon a Condo-Hotel Unit.

(e) Take whatever other actions the Hotel Parcel Owner deems advisable with respect to the Shared Facilities as may be permitted hereunder or by law.

(f) Employ or contract with a manager (which may be an affiliate of the Declarant) to perform all or any part of the duties and responsibilities of the Hotel Parcel Owner and delegate its powers to committees, officers, and employees.

(g) Enforce the applicable County and City regulation that limits the length of permitted stay in the Condo-Hotel Units.

The Hotel Parcel Owner shall use its good faith efforts to provide the services described above at reasonable levels comparable with practices in other similar properties, subject to the Hotel Parcel Owner's reasonable discretion, and subject to interruption due to the need to make repairs, alterations or improvements, or due to strikes or other labor disputes, fire, flood, explosion, severe weather, civil disturbances, war, acts, proceedings or regulations of any governmental authority, rationing, interruption of transportation facilities, and any cause beyond the reasonable control of the Hotel Parcel Owner. The obligation of the Owners to pay Expenses hereunder shall not abate in the event of any interruption of service, provided that the Hotel Parcel Owner shall pursue with diligence actions required to enable restoration of service. All costs and expenses incurred by the Hotel Parcel Owner in performance of its obligation under this Article with respect to the Shared Facilities shall be Shared Facility Expense, and each Condo-Hotel Unit Owner will be subject to the payment obligation set forth in Section 4.1 hereof.

ARTICLE IV
COVENANT FOR EXPENSES

4.1 Creation of the Lien and Personal Obligation of Expenses. The Condo-Hotel Parcel Developer hereby covenants, and each Owner of a Condo-Hotel Unit, by acceptance of a deed therefor whether or not it is so expressed in such deed, is hereby deemed to have covenanted, to

pay the Hotel Parcel Owner: (a) Shared Facilities Expenses, (b)Special Expenses, (c) Special Charges, (d) Capital Improvement Expenses, and (e) Reconstruction Expenses (each an "Expense" and together "Expenses"), and all such Expenses to be imposed and collected as hereinafter provided.

Expenses, together with interest, late charges, costs and reasonable attorneys' fees for the collection thereof, shall be a charge and continuing lien upon the Parcel or Condo-Hotel Unit Owner (as applicable), against which the Expense is made. Each such Expense, together with interest, costs, and reasonable attorneys' fees and late charges, shall also be the personal obligation of the person(s) or entety(ies) who was or were the Owner(s) of the Parcel or the Condo-Hotel Unit (as applicable) at the time when the Expense(s) against it fell due. Subject to the provisions hereof protecting Mortgagees, any personal obligation for delinquent Expenses shall pass to the successors-in-title to the Owner of the Parcel against which the Expenses were made and in cases in which a Parcel is owned by more than one individual or entity, shall be the joint and several obligation of each and all of those individuals or entities. Notwithstanding the foregoing, (a) the partners, officers, directors, employees, members, managers, or shareholders of the Hotel Parcel Owner shall have no personal liability for the Expenses obligations of the Hotel Parcel Owner; (b) the Hotel Parcel Owner shall deposit all monies collected as Expenses in one or more accounts, as it may elect; and (c) at such time as the Condo-Hotel Parcel is declared to be a condominium and while the Condo-Hotel Parcel remains a condominium, the lien for Expenses shall be created only against the Condo-Hotel Units and not against the Condo-Hotel Parcel as a whole. The amount of such lien with respect to each Condo-Hotel Unit shall be determined in accordance with the formula set forth in Section 4.6(b) below.

4.1.1. Association as Collection Agent. The Hotel Parcel Owner may delegate, in its sole and absolute discretion, the collection of Expenses from Condo-Hotel Unit Owners to the Association, in which case, the Association will act as a collection agent for the Hotel Parcel Owner and collect the Expenses from the Condo-Hotel Unit Owners and remit same to the Hotel Parcel Owner upon receipt. **Notwithstanding the foregoing, each Condo-Hotel Unit Owner acknowledges and agrees that in the event the Association accepts the responsibility of collection of the Expenses from the Condo-Hotel Owners that (1) Expenses and Common Expenses (as defined in the Condo-Hotel Declaration) will be separately invoiced and (2) are to be considered independent payment obligations with no relation to one another.**

4.1.2. Shared Facilities Expenses. Shared Facilities Expenses shall be levied by the Hotel Parcel Owner to fund performance by the Hotel Parcel Owner of its duties under this Hotel Declaration, which are performed for the benefit of all Owners; and to improve and maintain the Shared Facilities as provided herein. Disbursements from income received as Shared Facilities Expenses shall be made by the Hotel Parcel Owner for such purposes as it deems necessary for the discharge of its responsibilities herein.

4.1.3. Special Expenses. Special Expenses may or shall be levied by the Hotel Parcel Owner against all Owners for the cost of any Maintenance of the Shared Facilities, the Building or other Shared Facilities Expenses not otherwise required by a budget

adapted annually. Disbursements from income received as Special Expenses shall be made by the Hotel Parcel Owner for such purposes as it deems necessary for the discharge of its responsibilities herein and to reimburse the Declarant for prepaid expenses which it advanced, which may be classified as Shared Facilities Expenses.

4.2 Special Charges. A Special Charge shall be levied by the Hotel Parcel Owner against an Owner for the cost of any Maintenance of the Shared Facilities or the Building or any other Shared Facilities Expense made necessary by the willful or negligent act of such Owner or a person for whom such Owner is responsible, to the extent insurance proceeds are insufficient to cover the damage. For the purpose of this Section, the Hotel Parcel Owner shall be considered to be responsible for its employees and agents (excluding the Operator and its employees and agents), and its occupants, lessees, licensees, and invitees, and the Condo-Hotel Parcel Owner shall be considered to be responsible for their respective family members, and its and their respective employees, licensees, Occupants, invitees, and guests. A Special Charge may also be levied against an Owner for the costs of enforcement of this Hotel Declaration against such Owner if such Owner is in default of a covenant or provision of this Hotel Declaration and may also be levied in any other instance authorized elsewhere in this Hotel Declaration.

4.3 Reconstruction and Capital Improvement Expenses. In addition to Shared Facilities Expenses, Special Expenses, and Special Charges authorized above, Reconstruction Expenses and Capital Improvement Expenses may or shall be levied as hereafter provided. Reconstruction Expenses shall be levied in such circumstances, for such purposes and amounts, and in such proportions as are authorized in and determined pursuant to Section 8.3(a) and Section 10.4 hereof or generally in Articles VIII and X of this Hotel Declaration. Capital Improvement Expenses may be levied from time to time by the Hotel Parcel Owner in any fiscal year adopted for Expenses, to be applicable for that fiscal year only, for the purpose of funding, in whole or in part, any capital improvement to the Shared Facilities or for a new improvement which satisfies the definition of a Shared Facility. No action authorized in this Section 4.3 shall be taken without the prior written consent of the Declarant as long as the Declarant or any affiliate of the Declarant owns a Parcel.

4.4 Rate and Payment of Expenses. The Shared Facilities Expenses, Special Expenses, Special Charges, Capital Improvement Expenses, and Reconstruction Expenses provided for in this Article IV shall be allocated and assessed among the Parcels and the Owners thereof as follows:

(a) The above Expenses shall be allocated among the Parcels and the Owners thereof as set forth in **Exhibit "C"** attached hereto.

(b) The Condo-Hotel Parcel Owner shall allocate Expenses levied upon it among the Owners of the Condo-Hotel Units by multiplying the amount of such Assessment by the percentage ownership of Common Elements appurtenant to each particular Condo-Hotel Unit.

(c) The Hotel Parcel Owner may modify the formula set forth in Article XXIII and **Exhibit "C"** and referenced in Paragraph (a) above; to allocate certain Shared Facilities Expenses to one Parcel to the exclusion of another Parcel;

to assess various Shared Facilities Expenses categories based upon different percentage allocations than other Shared Facilities Expenses categories; and to modify such allocations in order to account for unforeseen changes in development plans and to maintain an equitable system of Expenses allocation. Any change that would increase the allocation to the Condo-Hotel Parcel for a given type of expense by more than twenty-five percent (25%) in any twelve (12) month period over the current allocation shall be subject to written consent by the Condo-Hotel Parcel Owners, except and the extent otherwise provided and contemplated herein, generally, and in Section 4.1 specifically.

(d) When the Condo-Hotel Parcel is declared to be a condominium, the Association shall, at the request of the Hotel Parcel Owner (which request may be revoked at any time), collect the Shared Facilities Expenses from Condo-Hotel Unit Owners and remit such funds to the Hotel Parcel Owner, notwithstanding the foregoing, in no event will Shared Facilities Expenses be considered Common Expenses of the Condo-Hotel Parcel. Otherwise, the Hotel Parcel Owner may collect the Shared Facilities Expenses directly from the Condo-Hotel Unit Owners.

(e) All Owners of a Condo-Hotel Unit shall have use rights to the Shared Facilities, along with other Owners or other Hotel guests located within the Hotel Parcel. All Condo-Hotel Unit Owners shall be obligated to pay for their share of the Shared Facilities Expenses allocated to the Condo-Hotel Unit, as provided in this Hotel Declaration and in **Exhibit "C,"** which is attached hereto.

Shared Facilities Expenses shall be estimated annually, in accordance with Section 4.6, and payable in monthly installments in advance or at such other time as may be determined by the Hotel Parcel Owner from time to time, but in no event less frequently than quarterly, on the dates determined by the Hotel Parcel Owner of which dates the Hotel Parcel Owner shall inform the Owners in advance. Adjustments to the Shared Facilities Expenses made necessary by changes in the Shared Facilities shall be made during a particular fiscal year or at the beginning of a next fiscal year, as the Hotel Parcel Owner determines, but until notified of how adjustments are to be handled, Owners shall continue to pay installments at the same intervals and in the same amounts as the most recent previously due installments. Capital Improvement and Reconstruction Expenses shall be due within thirty (30) days after notice of such charge is given by the Hotel Parcel Owner or in such monthly or quarterly installments, as applicable, as the Hotel Parcel Owner may specify. Special Expenses and Special Charges shall be due within thirty (30) days after notice of such a charge is duly given, except as may be otherwise specifically provided in this Hotel Declaration.

If any installment of any type of Expense is not paid when due, all scheduled or pending installments of such type of Expense for the following twelve months may be accelerated and shall be due in one lump sum to the extent allowed by law. If a certain type of Expense or installment thereof is defaulted upon, in addition to acceleration of all installments of such type of Expense, all other types of Expenses or installments may be accelerated and deemed due in one lump sum. The determination whether to accelerate Expenses or installments thereof shall be made by the

Hotel Parcel Owner or Creditor Owner (whichever is applicable) in the course of enforcement of defaulted obligations pursuant to Sections 5.4 and 5.5.

4.5 Accounting and Budgeting Matters. The Hotel Parcel Owner shall cause to be prepared an annual balance sheet and operating statement reflecting income and expenditures for the Shared Facilities for which the Condo-Hotel Parcel is obligated to pay Shared Facilities Expenses as herein provided, for each fiscal year, and shall cause to be distributed a copy of each such statement to each Owner and to each Mortgagee who has filed a written request for copies of the same with the Hotel Parcel Owner. At least thirty (30) days prior to the beginning of each fiscal year, the Hotel Parcel Owner shall prepare and distribute to the Owners a written, itemized estimate ("**Budget**") of the expenses to be incurred by the Hotel Parcel Owner during such year in performing its functions under this Hotel Declaration and for which the Condo-Hotel Parcel is obligated to contribute. The first annual Shared Facilities Expenses shall be adjusted according to the number of months remaining in that fiscal year. The estimate may (but need not) include reasonable reserves for repairing and replacing improvements (computed by means of a formula based upon the estimated life and estimated repair and replacement costs for each improvement) and may (but need not) include reserves for contingencies (neither such reserve shall be considered a Capital Improvement or Reconstruction Expenses). Shared Facilities Expenses shall be based on such Budget. The Hotel Parcel Owner may at any time amend the Budget, and the Shared Facilities Expenses shall be amended accordingly to the extent such Budget and the Shared Facilities Expenses were inadequate and additional sums are needed. Written notice of any change in the amount of the annual Shared Facilities Expenses shall be sent to every Owner at least thirty (30) days prior to the effective date of the change. At the end of any fiscal year all excess funds over and above the amounts used for Shared Facilities Expenses shall be retained by the Hotel Parcel Owner and used to reduce the following year's Shared Facilities Expenses. In the event Shared Facilities Expenses made to the Hotel Parcel Owner is less that the actual Shared Facilities Expenses due, and upon receipt of an itemized invoice evidencing in reasonable detail and with supporting calculation the actual Shared Facilities Expenses; each Condo-Hotel Unit Owner within twenty (20) days of receipt of said invoice, shall remit his/her/its respective payment, for the full amount of such difference between the actual Shared Facilities Expenses and the paid Shared Facilities Expenses.

4.6 No Obligation. The Hotel Parcel Owner shall have no obligation to fund and/or advance any deficit or shortfall in funds which were the obligation of the Owners of the Condo-Hotel Parcel in order to properly perform the Maintenance, repair and/or replacement obligations described herein.

4.7 Declarant's Deficit Funding/Declarant's Right to Subsidize Shared Facilities Expenses. Anything to the contrary herein notwithstanding, neither the Declarant nor any affiliate of the Declarant shall be liable for any Shared Facilities Expenses imposed upon any Parcel or Condo-Hotel Unit of which it or they are the Owners as long as the Declarant and/or affiliates of the Declarant pay all deficits in operation of the Shared Facilities above the Shared Facilities Expenses collectible from other Owners of Parcels or Condo-Hotel Units at some rate which has been set forth in the then current Budget. In calculating any such deficit, only actual current Shared Facilities Expenses (other than capital expenses and reserves) shall be counted. No Shared Facilities Expenses shall be due for any Parcel or Condo-Hotel Unit until a certificate of occupancy has been issued therefor.

The Budget deficit ("Deficit") is the difference between (i) the amount of Shared Facilities Expenses levied on the Condo-Hotel Units plus any other income received by the Hotel Parcel Owner during the period during which the Declarant has elected to fund the deficit, and (ii) the amount of the Hotel Parcel Owner's actual expenditures during that time period and excluding Special Expenses or Special Charges arising as a result of any unusual loss or liability. The calculation of the Declarant's deficit funding obligation shall be done on a cumulative basis (from the inception of the election to fund the deficit until the Declarant's election to cease funding the deficit) although the Declarant will fund the Shared Facilities Expenses to meet its cash flow obligations as they arise during the deficit funding period.

Declarant may seek to keep the Shared Facilities Expenses lower than they otherwise may be by subsidizing the Budget by making voluntary contributions in amounts determined by the Declarant. The amount of any such voluntary contributions may vary or may be discontinued and recommenced by the Declarant from time to time. The determination to subsidize the Shared Facilities Budget, the amount of any such voluntary contribution, the discontinuance and/or recommencement of any such voluntary contributions shall all be made in the Declarant's sole discretion and in no event shall the Declarant have any obligation whatsoever to make any such voluntary contributions. Each Condo-Hotel Unit Owner shall be solely responsible to review the Budget then in effect to determine if and to what extent the Declarant is making any voluntary contributions to subsidize the Budget and thus lower the Shared Facilities Expenses payable by the Condo-Hotel Unit Owners that would otherwise be higher.

Regardless of the Declarant's aforementioned election, the Declarant's Shared Facilities Expenses obligations may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these, the value of which shall be reasonably determined by the Declarant.

The Declarant's obligation to deficit fund is not a guarantee of the Shared Facilities Expenses as contemplated by Florida Statutes.

4.8 Working Fund Contribution. There is hereby established a Shared Facilities Working Fund Contribution, which is a one-time charge ("**Shared Facilities Working Fund Contribution**") applicable to each Condo-Hotel Unit in an amount equal to three (3) months Shared Facility Expenses for such Condo-Hotel Unit, to be paid to the Hotel Parcel Owner, based upon each Shared Facilities Budget at the time of closing. The Shared Facilities Working Fund Contribution shall become due and payable upon the sale or resale of a Unit, except if such conveyance is to an assignee of the Declarant's rights under this Hotel Declaration. The purpose of the Shared Facilities Working Fund Contribution is to create a fund for maintenance, repairs, and operations and to ensure that the Hotel Parcel Owner will have cash available to meet unforeseen expenditures and to acquire additional equipment and services deemed necessary or desirable by the Hotel Parcel Owner. The Shared Facilities Working Fund Contribution is not advance payments of Shared Facilities Expenses and shall have no effect on future Shared Facilities Expenses. In the event an Owner elects to have his/her/its respective Condo-Hotel Unit participate in the voluntary Rental Program (as defined herein), the Rental Program Manager will pay two (2) months of the Shared Facilities Working Fund Contribution to the Hotel Parcel Owner, on his/her/its behalf.

ARTICLE V
EFFECT OF NON-PAYMENT OF EXPENSES AND RESORT FEES; REMEDIES OF THE HOTEL PARCEL OWNER AND CREDITOR OWNER

5.1 Imposition of Lien. A lien is hereby imposed on each Condo-Hotel Unit (a) for enforcement by and for the benefit of the Hotel Parcel Owner to secure payment of all Expenses now or hereafter imposed in accordance with this Hotel Declaration, and (b) for enforcement by and for the benefit of any Creditor Owner, to secure repayment to such Creditor Owner of amounts advanced by such Creditor Owner, in the manner provided in Section 5.2, for the account of a Defaulting Owner. Such lien shall also secure payment to the Hotel Parcel Owner or repayment to the Creditor Owner of all late charges and interest assessed on delinquent Expenses pursuant to Section 4.1 or 4.5, reimbursement for or payment of all reasonable attorneys, fees and other reasonable costs incurred by the Hotel Parcel Owner or Creditor Owner in connection with the collection of claims relating to unpaid Expenses, room charges or other amounts due and/or the enforcement of the lien and payment of all amounts for subsequent Expenses, if any, the maturity of which may have been accelerated pursuant to Section 5.4 as a result of the event of a default in one payment of Expenses. If all or any portion of any installment of a Shared Facilities Expenses, Capital Improvement Expenses, Special Expenses, Special Charges or Reconstruction Expenses, is not paid within fifteen (15) days after its due date, the unpaid amount shall bear interest at the highest lawful rate from time to time (now at eighteen percent (18%) per annum) from the due date until the date of full payment. In addition to such interest, the Hotel Parcel Owner may charge an administrative fee in an amount not to exceed the greater of twenty-five dollars ($25.00) or five percent (5%) of each late Expenses installment payment. All late Expense payments upon account shall be first applied to interest accrued, then to any costs and reasonable attorney's fees and then to the Expense payment first due. All interest collected shall be credited to the Shared Facilities Expense account.

5.2 Creditor Owner Advances on Behalf of Defaulting Owner. If any Owner shall fail to pay Expenses such other amounts as may be due and payable pursuant to the terms of this Hotel Declaration (including, without limitation, late charges and interest on past due Expenses and costs of collection, including attorneys fees), then any other Owner may pay the same, and the Defaulting Owner shall then be indebted to the Creditor Owner for such amounts, on which interest shall accrue at the rate specified in Section 5.1, and the Creditor Owner shall also have the lien on the Defaulting Owner's Parcel provided for in Section 5.1, to secure payment of such indebtedness.

5.3 Notice of Claim of Lien. No action shall be brought to foreclose any lien herein unless at least thirty (30) days has expired following the date a Notice of Claim of Lien is deposited in the United States mail, certified or registered, postage prepaid, to the Defaulting Owner of the Parcel, and a copy thereof has been recorded by the Hotel Parcel Owner or the Creditor Owner, whichever is applicable, in the Public Records of the County. Any such Notice of Claim of Lien must recite a sufficient legal description of the Parcel liened, the record Owner or reputed Owner thereof, the amount claimed (which may include interest and late charges on the unpaid Expenses at the rates and amounts described in Section 5.1, reasonable attorneys' fees, late charges and expenses of collection in connection with the debt secured by the lien, and late charges), and the name and address of the claimant. Any such Notice of Claim of Lien shall be signed and acknowledged by an officer or agent of the Hotel Parcel Owner or the Creditor Owner, whichever is applicable.

5.4 Collection of Unpaid Expenses and Resort Fees. If any Expense or installment thereof or a Resort Fee is not paid within thirty (30) days after its due date, the Hotel Parcel Owner or the Creditor Owner (whichever is applicable) may mail a default notice to the Defaulting Owner and simultaneously to each Mortgagee of the Defaulting Owner's Parcel or of the Condo-Hotel Units within such Parcel who has requested a copy of such default notice, and in the event that an action for lien foreclosure is contemplated, a Notice of Claim of Lien pursuant to the preceding Section shall also be sent to the Defaulting Owner and Mortgagees, if any, who have requested a copy of such notice. A single notice meeting the requirements of both the default notice and the Notice of Claim of Lien may in the alternative be issued, in accordance with the same schedule and to the same persons as stated in the preceding sentence. The default notice shall specify (a) the fact that one or more Expenses or installments thereof or Resort Fees or other amounts due hereunder are delinquent, (b) the action required to cure the default, (c) a date, not less than thirty (30) days from the date that the default notice is mailed to the Defaulting Owner, by which date such defaults must be cured, and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the Shared Facilities Expenses or installments thereof becoming due in the following twelve months, and in the acceleration of all other Expenses which shall have been levied but not yet become due and payable, and may also result in the foreclosure of the lien securing unpaid amounts.

5.5 Creditor Owner's Remedies for Non-Payment.

(a) Enforcement of Lien. The Creditor Owner may bring an action in its name to foreclose any lien on a Condo-Hotel Unit in the manner in which mortgages of real property are foreclosed in Florida and may also bring an action to recover a money judgment for unpaid Expenses or Resort Fees or other amounts due with interest thereon (plus the costs and expenses mentioned in Section 5.1 hereof) without waiving any claim of lien, provided that in either case the Creditor Owner must give the Defaulting Owner at least thirty (30) days written notice of its intentions and, in the case of a foreclosure, must file a Notice of Claim of Lien in the Public Records of the County. Upon the timely curing of any default (including the payment of fees and costs secured by the Creditor Owner's lien) for which a Notice of Claim of Lien was filed, the Defaulting Owner is entitled to have a satisfaction of lien recorded upon payment to the Creditor Owner.

(b) Attorney's Fees and Other Costs of Enforcement. Reasonable attorneys' fees incurred by the Hotel Parcel Owner or Creditor Owner, whichever is applicable, incident to the collection of unpaid Expenses or Resort Fees or other amounts due or the enforcement of any lien provided for by Section 5.1 (including attorneys' fees in connection with any review of a judicial or administrative proceeding by appeal or otherwise), together with all sums advanced and paid by the Hotel Parcel Owner or Creditor Owner, whichever is applicable, or its agent for taxes and payments on account of superior liens or encumbrances that may be required to be advanced by the Hotel Parcel Owner or Creditor Owner, whichever is applicable, or its agent in order to preserve and protect its lien, shall be payable by the Defaulting

Owner and secured by the lien of the Hotel Parcel Owner or Creditor Owner, whichever is applicable.

5.6 Curing of Default. Upon the timely curing of any default for which a Notice of Claim of Lien was filed by the Hotel Parcel Owner or Creditor Owner, whichever is applicable, an officer thereof shall record an appropriate Release of Lien upon payment by the Defaulting Owner of a fee, to be determined by the Hotel Parcel Owner or Creditor Owner, whichever is applicable, to cover the cost of preparing and recording the release. A certificate executed by and acknowledged by any authorized officer or agent of the Hotel Parcel Owner or Creditor Owner, whichever is applicable, stating the amount of the indebtedness secured by the lien upon any Parcel created hereunder shall be conclusive as to the amount of such indebtedness as of the date of the certificate with respect to all persons, other than the Owner of the subject Parcel, who rely on it in good faith. Such a certificate shall be furnished to any Owner upon request at a reasonable fee.

5.7 Cumulative Remedies. The liens and the rights of foreclosure and sale hereunder shall be in addition to and not in substitution for all other rights and remedies which the Hotel Parcel Owner or Creditor Owner or other Owners and their assigns may have hereunder and under law, including a suit to recover a money judgment.

5.8 Subordination of the Lien to Mortgages. The lien to secure payment of Expenses and Resort Fees provided for in Sections 4.1 and 5.1 shall be subordinate to the lien of the first mortgage of any Mortgagee if such lien was created in good faith and for value and was recorded prior to the date on which the Notice of Claim of Lien is recorded (a "**First Mortgage**"). The sale or transfer of any Condo-Hotel Unit shall not affect the Expense or Resort Fee lien. However, the sale or transfer of any Condo-Hotel Unit pursuant to foreclosure of such First Mortgage or deed in lieu thereof (if such First Mortgage was recorded prior to the recording of a Notice of Claim of Lien) shall extinguish the lien of such Expenses as to installments or Resort Fees which become due prior to such sale or transfer. However, no sale or transfer shall relieve such Condo-Hotel Unit from liability for any installments of Expenses or Resort Fees thereafter becoming due or from the lien thereof. All amounts not collected by reason of such foreclosure or deed in lieu shall be deemed a Shared Facilities Expense and shall be collectible as such from all Condo-Hotel Units, including the Condo-Hotel Unit, which is the subject of the foreclosure or deed in lieu thereof. Liens for Expenses under this Article V shall be superior to liens for assessments of any Condo-Hotel association established with respect to any Condo-Hotel Unit in the Building. Notwithstanding the foregoing, an Institutional Mortgagee or other person who obtains title to a Condo-Hotel Unit by foreclosure of a First Mortgage or Institutional Mortgagee who obtains title to a Condo-Hotel Unit by deed in lieu of foreclosure shall be liable for the twelve (12) months of unpaid Expenses that became due prior to such acquisition of title. Expenses which are not due from such Institutional Mortgagee shall become Shared Facilities Expenses collectible from all Owners.

5.9 Each Claim Separate. Each claim of any party arising under this Hotel Declaration shall be separate and distinct, and no defense, set-off or counterclaim arising against the enforcement of any lien or other claim of any party hereto shall thereby be or become a defense, setoff, or counterclaim against the enforcement of any other lien or claim.

ARTICLE VI
OPERATION AND MAINTENANCE

6.1 Compliance with Laws and Insurance Requirements. Each Owner shall comply with all laws, rules, orders, ordinances, regulations and requirements (hereafter in this Section 6.1 collectively referred to as "laws" and each of which is individually referred to as a "law") now or hereafter enacted or promulgated, of the United States, the State of Florida, the County, the City, and of any other governmental authority or agency thereof now or hereafter having jurisdiction, and also of any recognized insurance rating organization and of any other body or board concurrently or successively exercising similar functions, and of any other lawful authority having jurisdiction, relating to the ownership, Maintenance or use of the Parcel or Condo-Hotel Unit owned by such Owner, and of any Shared Facility within such Parcel for which such Owner has Maintenance responsibility, if noncompliance with such law would subject any other Owner to liability or criminal prosecution, or would jeopardize the full force or effect of the certificates of occupancy for the Building, or portions thereof, or would result in the imposition of a lien against the Parcel or Condo-Hotel Unit of any other Owner or would cause termination of or would increase the rate of premiums on any public liability insurance policy maintained by the Hotel Parcel Owner, or the Condo-Hotel Parcel Owner, as the case may be, or on any casualty insurance policy maintained by such Owner or any other Owner. The provisions of this Section shall not be deemed to relieve any Owner of the obligation to perform any maintenance for which such Owner has the responsibility.

6.2 Construction and Other Liens. An Owner shall, within sixty (60) days after the filing of any construction, materialman's or other lien, bond off or otherwise remove of record any construction, materialman's or other lien affecting the Parcel or Condo-Hotel Unit of any other Owner, arising by reason of any work or materials ordered by such Owner or by reason of any act taken or suffered or omitted by such Owner. Removal of record of such lien may be accomplished by any means provided in the Florida Construction Lien Law or a successor statute thereto.

6.3 Disturbances. No Condo-Hotel Parcel Owner shall permit any noxious odor, noise or vibration which under the circumstances is unreasonable to emanate from the Parcel or Condo-Hotel Unit owned by such Owner which will damage or disturb the occupancy of any other Parcel or Condo-Hotel Unit or the enjoyment of any Shared Facility.

The Hotel Parcel Owner, who is to bear the Maintenance responsibility for the Shared Facilities located within the Hotel Parcel, shall utilize reasonable commercial efforts to not permit and to correct any noxious odor, noise or vibration which under the circumstances is unreasonable to emanate from such Shared Facilities which will damage or disturb the occupancy of any Condo-Hotel Parcel or the enjoyment of any Shared Facility serving any Condo-Hotel Unit. Notwithstanding the foregoing, all Condo-Hotel Unit Owners recognize and acknowledge that certain activities within the Hotel (e.g., restaurants, pools, water parks, entertainment centers, parties in certain areas of a hotel, trash collection, etc.) will by their very nature result in noise and odors which are unavoidable. By taking title to their respective Condo-Hotel Unit, each Condo-Hotel Owner agrees to these anticipated and unavoidable conditions.

All activities by or on behalf of any Owner in the use and occupancy of such Owner's Parcel, including, without limitation, Maintenance shall be performed, insofar as possible, in a manner which minimizes interference with the use of any other Parcel.

6.4 Maintenance of Parcels and Condo-Hotel Units. Subject to Section 6.6, each Owner shall be responsible for the Maintenance of all portions of its Parcel or Condo-Hotel Unit as well as the fixtures and equipment in its Parcel or Condo-Hotel Unit that serve only its Parcel or Condo-Hotel Unit (including but not limited to heating, ventilating and air conditioning equipment, plumbing fixtures and connections thereto, and electric panels, outlets and wiring). Each Owner shall also be responsible for the Maintenance of all facilities serving its Parcel or Condo-Hotel Unit exclusively which are located within the Parcel or Condo-Hotel Unit of another Owner.

(a) Condo-Hotel Unit Owners are required to report immediately in writing to the Hotel Parcel Owner and the Association (i) any evidence of water leak or water infiltration or excessive moisture in the Condo-Hotel Unit, and any other Common Elements; (ii) any evidence of mold that cannot be removed with a common household cleaner; (iii) any failure or malfunction in heating, ventilation or air conditioning, and (iv) any inoperable doors or windows.

(b) The Hotel Parcel Owner has a reasonable right of entry upon any Condo-Hotel Unit to make emergency repairs and to do other work reasonably necessary for the proper Maintenance and operation of Building and the Hotel Parcel.

6.5 Maintenance of Shared Facilities. The Hotel Parcel Owner shall be responsible for the Maintenance of all portions of the Building not required to be maintained by the respective Owners. This responsibility shall specifically include Maintenance of the Shared Facilities, in accordance with the Standards.

6.6 Requirements. All Maintenance in the Building shall be performed in a good workmanlike manner, by employees or agents of the Hotel Parcel Owner or Operator, or (in the case of Maintenance which is not the responsibility of the Hotel Parcel Owner, and the performance of which has not been let to the Hotel Parcel Owner or the Operator) by licensed bonded contractors approved by the Hotel Parcel Owner which contractors shall carry public liability insurance and employer liability insurance in amounts satisfactory to the Hotel Parcel Owner and such worker's compensation insurance as required by law.

ARTICLE VII
INSURANCE

7.1 Casualty Insurance. To the extent available, and to the extent not covered by the policy purchased by the Hotel Parcel Owner (which policy is paid for as a Shared Expense) the Owner of the Condo-Hotel Parcel shall keep all facilities serving the Condo-Hotel Parcel exclusively insured against loss or damage by fire, water, lightning, windstorm, hail, explosion, riot, damage from aircraft, collapse, and smoke damage, and such other risks, casualties and

hazards as may from time to time be carried by prudent owners of similar buildings in the County, with all risk, extended coverage, vandalism and malicious mischief endorsements in an amount equal to the full replacement value thereof excluding the cost of excavation and of foundations.

The insurance policies shall provide that all monies for losses payable thereunder shall be paid to the Insurance Trustee provided for in Section 12.1. Such policies shall name as parties insured as their interest may appear, (i) Condo-Hotel Parcel Owner, and (ii) the Hotel Parcel Owner, (iii) at the request of any Owner, the Occupant or mortgagee of all or any portion of the Parcel owned by such Owner, (iv) at the request of any such lessee, any holder of a leasehold mortgage which is a lien upon the lease held by such lessee, and (v) at the request of the board of directors of the Association, the Association. At the request of any Owner, such policies shall contain standard mortgagee clauses in favor of any mortgagee of all or any portion of the Parcel owned by such Owner and/or any holder of a mortgage on a leasehold interest in all or any portion of such Parcel, as their interests may appear, provided that the cost of adding any standard mortgagee clause shall be borne by the Owner requesting such addition. Nevertheless, all monies payable under such policies shall be payable in accordance with the provisions of this Hotel Declaration. Each such policy shall contain waivers of subrogation for the benefit of all Owners and waivers of any defense based on co-insurance or other insurance and shall provide that such policies may not be canceled or modified without at least thirty (30) days prior written notice to all of the named insureds and mortgagees. The Hotel Parcel Owner and any Mortgagee of the Hotel Parcel shall have the right to approve the amount of any proposed settlement of any claim under the insurance to be carried by the Condo-Hotel Parcel Owner under this Section 7.1, and, at their election to conduct the negotiations leading to such settlement subject to the right of the Condo-Hotel Parcel Owner, to approve any such settlement, which approval shall not be unreasonably withheld.

7.2 Liability Insurance. Each Owner and the Association shall maintain (a) commercial general liability insurance against claims for personal injury, death or property damage occurring upon, in, or about the Shared Facilities and the Condo-Hotel Parcel, as applicable, and on, in or about the streets, sidewalks, and passage-ways adjoining the Building for which the Hotel Parcel Owner has the Maintenance responsibility, and (b) worker's compensation and employers' liability insurance to the extent required by law. Said insurance shall be in at least such amounts as from time to time are carried by prudent owners of hotel or condominium apartment buildings in the County. The expense of such general liability insurance and other coverages required by this Section 7.2 shall be a Shared Expense. In no event, however, shall the comprehensive general liability insurance required by clause (a) above afford protection for a limit of less than $1,000,000.00 per occurrence, $2,000,000.00 in the general aggregate and $2,000,000.00 in the products-completed operations aggregate, nor shall the amount of workmen's compensation and employers' liability insurance required under clause (b) above be less than the amount required by applicable laws or regulations. The policies affecting such comprehensive general liability insurance shall name the Master Declarant, the Hotel Parcel Owner and the Association as insured parties. Each such policy shall contain waivers of subrogation for the benefit of all Owners, and waivers of any defense based on coinsurance or other insurance and shall provide that such policies may not be cancelled or modified without at least thirty (30) days, prior written notice to all of the insureds and mortgagees.

7.3 Insurance Policies. Thirty (30) days prior to the expiration of any policy of insurance from time to time maintained pursuant to Section 7.1, each Owner shall affect the renewal or replacement of such policy.

The form, amount and coverage, and every other matter relating to the insurance required to be maintained by each Owner under this Article VII including the insurance company or broker which is to issue or place such insurance, shall be subject to review and approval by the Hotel Parcel Owner or by an insurance consultant appointed by the Hotel Parcel Owner. The fees of any such insurance consultant shall be a Shared Expense.

Each Owner shall deliver copies of binders or certificates for the renewal policies to all other Owners who are required to be covered thereby to be followed within thirty (30) days by copies of the renewal policy, or in the case of the Hotel Parcel Owner, relevant pages from any blanket insurance policies or certificates which it may maintain indicating renewal of the required coverage in question under such blanket policy.

7.4 Insurance for Condo-Hotel Parcel Owners. The owners of the Condo-Hotel Units shall carry insurance for their own benefit, provided, that all policies for such insurance shall contain waivers of subrogation for the benefit of all Owners, and, further, provided, that the liability of the carriers issuing the insurance obtained pursuant to Sections 7.1 and 7.2, shall not be affected or diminished by reason of any such insurance carried by the owners of the individual Condo-Hotel Units.

7.5 Mandatory Insurance Program. If either the Hotel Parcel Owner or the Association obtains insurance coverage for (i) the property lying within the boundaries of the Condo-Hotel Units and all contents within the interior of the Condo-Hotel Units, including, but not limited to, personal property, fixtures, appliances, air conditioning and heating equipment, water heaters and built-in cabinets; and (ii) commercial general liability insurance (as set forth in Section 7.2), such insurance policy will be a mandatory insurance program that all Owners of the Condo-Hotel Units will be bound by and all costs for the premiums thereof shall be either a Shared Expense charged by the Hotel Parcel Owner or a Common Expense (as defined in the Condo-Hotel Declaration) of the Association.

ARTICLE VIII
DAMAGE TO THE STRUCTURE

8.1 Repair and Restoration.

(a) Mandatory Repair and Restoration by the Condo-Hotel Parcel Owner in Occurrences Involving No Damage Affecting Hotel Parcel or Shared Facilities. If any portion of the Condo-Hotel Parcel is damaged by fire or other casualty and there is no damage to any facility serving the Hotel Parcel and there is no damage to any improvements located in the Hotel Parcel or to any Shared Facilities, then the portion of the Condo-Hotel Parcel so damaged (except for furniture, furnishings and fixtures in the Condo-Hotel Units contained in the Condo-Hotel Parcel) shall be repaired and restored as promptly as is reasonable by the Condo-Hotel Parcel Owner, in

accordance with the then existing Building Plans (with such changes as are permitted by Sections 9.1) and any then existing Standards. The Condo-Hotel Parcel Owner, in accordance with the provisions of this Article VIII, shall be entitled to withdraw any insurance proceeds held by the Insurance Trustee by reason of such damage, for application to the cost and expense of such repair and restoration.

Notwithstanding the foregoing, in performing such repair and restoration, the Condo-Hotel Parcel Owner or the Owner of the applicable Condo-Hotel Unit, shall install in the kitchens and bathrooms of the Condo-Hotel Units, fixtures and appliances of the same kind and quality as originally found in the kitchens, if any, and baths of said Condo-Hotel Units, or if such are unavailable then such fixtures and appliances as shall be necessary to meet or exceed the quality guidelines and any brand standards of the Hotel Parcel Owner, any hotel operator, or any franchisor or licensor from within the Hotel Parcel (as may be established and determined by the Hotel Parcel Owner from time to time.)

(b) Mandatory Repair and Restoration by the Hotel Parcel Owner in Occurrences Involving No Damage Affecting the Condo-Hotel Parcel. If any portion of the Hotel Parcel is damaged by fire or other casualty, and there is no damage to the Condo-Hotel Parcel and, or to any improvements located in the Condo-Hotel Units, then the portion of the Hotel Parcel so damaged shall be repaired and restored by the Hotel Parcel Owner in accordance with the then-existing Building Plans (with such changes as are permitted by Section 9.1) and then existing Standards. The Hotel Parcel Owner shall, in accordance with the provisions of this Article VIII, be entitled to withdraw any insurance proceeds held by the Insurance Trustee by reason of such damage for application to the cost and expense of such repair and restoration.

(c) Mandatory Repair and Restoration of Damage Affecting All Parcels and/or Shared Facilities. If any portion of the Building is damaged, and if the provisions of the preceding paragraphs of this Section 8.1 are not applicable, then the repair and restoration of such damage (i) to any Shared Facility, Visible Areas, a facility located in one Parcel but serving another Parcel or portions of the Condo-Hotel Parcel insured under policies maintained pursuant to Section 7.1 hereof shall be performed by the Hotel Parcel Owner on behalf of all the Owners; (ii) to any portions of a Parcel other than those areas described in item (i) shall be performed by the Owner of the damaged Parcel. The Hotel Parcel Owner shall, in accordance with the provisions of this Article VIII be entitled to withdraw any insurance proceeds held with regard to any Parcel by the Insurance Trustee by reason of such damage for application to the cost and expense of such repair and restoration. To the extent necessary, such repair and restoration shall include installation in the Condo-Hotel Units of such fixtures and appliances of the same kind and quality as originally found in the kitchens and baths of said the Condo-Hotel Units, or if such are unavailable then such fixtures and appliances as shall commonly be found in kitchens, if any, and bathrooms necessary to meet or

exceed the quality guidelines and any brand standards of the Hotel Parcel Owner, any hotel operator, or any franchisor or licensor from within the Hotel Parcel (as may be established and determined by the Hotel Parcel Owner from time to time.)

(d) Self-Help. If at any time an Owner, including an owner of a Condo-Hotel Unit (hereinafter referred to in this paragraph as the "**Non-Performing Owner**") shall not be proceeding diligently with any work of repair and restoration required of it hereby, then any other Owner who would be benefited by such repair and restoration shall give written notice to the Non-Performing Owner and any other Owner specifying the respect in which such repair and restoration is not proceeding diligently. If, upon expiration of thirty (30) days after the giving of notice, the work of repair and restoration is not proceeding diligently, then, subject to the Non-Performing Owner's right to dispute as set forth below, the Owner giving notice may perform such repair and restoration in accordance with the then existing Building Plans (thereby releasing the Non-Performing Owner from any liability for the quality of such repair or restoration performed by said other Owner) and may take all appropriate steps to carry out the same, including, without limitation, entry onto the Parcel of any Owner to the extent necessary to perform such repair and restoration. The Owner performing such repair and restoration shall, in accordance with Article VIII, be entitled to withdraw any insurance proceeds held by the Insurance Trustee by reason of such damage, for application to the cost and expense of such repair and restoration. If at any time the Owners disagree as to whether the work of repair and restoration is proceeding diligently, then such dispute shall be settled by arbitration in accordance with Article XIV, and the Owner giving notice shall not perform such repair and restoration until the dispute shall have been settled. Any Owner who is diligently negotiating in good faith the settlement of any insurance claim under a policy held by it pursuant to Article VII, which is required to fund repair of a casualty insured by the policy in question, shall not be regarded as failing to proceed diligently with any repair or restoration required of it.

(e) Repair and Restoration. If any portion of a particular Parcel is damaged by fire or other casualty and there is no damage to any facility serving another Parcel, or to a Shared Facility, then the portion so damaged shall be repaired and restored by the Owner of such damaged Parcel. The Owner shall be entitled to withdraw any insurance proceeds held by the Insurance proceeds held by the Insurance Trustee by reason of such damage.

(f) Water Damage. In the event of water damage each owner of a Condo-Hotel Unit is responsible for drying out the cabinetry and other fixtures and personal property located within his/ her/its respective Condo Hotel Unit. In the event an Owner of a Condo-Hotel Unit fails to perform such work in a timely manner, the Hotel Parcel Owner may do so and charge the Owner of the Condo-Hotel Unit for the cost thereof. The Hotel Parcel Owner is

responsible for drying out the other portions of the Condo-Hotel Unit in the event of water damage and must take prompt action in that regard to preserve the integrity of the Building.

(g) Emergency. The Hotel Parcel Owner has the right to enter a Condo-Hotel Unit in the event of an emergency such as a water leak in the event damage is suspected.

8.2 Repair and Restoration Procedures. The plans and specifications for any repair or restoration to be performed under Section 8.1 shall be prepared by the Architect designated in accordance with Section 11.2. Unless the Hotel Parcel Owner otherwise agrees, plans and specifications for any repair or restoration shall be developed consistent with the then existing Building Plans. The Architect shall assist the Owner responsible for performing the repair or restoration in question in obtaining bids therefor from responsible contractors. Such contractor shall be chosen in the manner provided in Article XI hereof. The contractor shall work under the administration of the Architect and the Owner responsible under Section 8.1 for causing such repair and restoration to be performed. The Architect for a given repair or restoration is hereby authorized and directed to deliver such certifications and instructions as may be required by Article XII to the Insurance Trustee, from time to time as such repair and restoration progress, to obtain disbursement for application to the cost and expense of such repair and restoration of (a) the insurance proceeds and (b) any other monies for such repair or restoration, which may have been deposited with the Insurance Trustee pursuant to Section 8.3. All instructions to the Insurance Trustee shall be made available by the Architect at reasonable times for inspection by any Owner who will benefit from the repair or restoration being made.

8.3 Application of Insurance Proceeds and other Funds to Repair and Restoration.

(a) Insufficient Insurance Proceeds. All insurance proceeds paid in connection with a casualty shall be used to their full extent to fund restoration and repair hereunder. If the cost and expense of performing any repair and restoration provided for in Section 8.1 shall exceed the amount of insurance proceeds paid under policies maintained by the Owners by reason of the damage being repaired and restored, then such excess cost and expense shall be borne (subject to Section 8.3 (b) by the Owners in proportion to the cost and expense of repairing and restoring the improvements within each of their respective Parcels. For the purpose of determining such proportions, the cost and expense of repairing and restoring any Shared Facility shall be allocated by the Architect to the Owners in the proportion which shall be determined pursuant to Article XXIII and **Exhibit "C."** In any such instance of repair or restoration which is to be performed pursuant to Section 8.1, if the Architect's estimate of the cost and expense of performing such repair or restoration (or, if a fixed cost construction contract shall have been executed providing for the performance of such repair and restoration, then the fixed costs so provided for, plus all other expenses estimated by the Architect) exceeds the amount of insurance proceeds paid by reason of the damage which shall have necessitated such repair and restoration, then the Hotel Parcel Owner shall impose a Reconstruction Assessment upon each

Owner for its proportionate share of the amount of such excess cost and expense which shall be borne as provided above in this Section 8.3(a), whereupon each Owner shall so deposit with the Insurance Trustee the amount of such Owner's Reconstruction Expenses. If any Owner (hereinafter referred to in this sentence as the "**Defaulting Owner**") shall fail to pay, or, as the case may be, deposit, the Defaulting Owner's Reconstruction Expenses in accordance with this paragraph, then the Defaulting Owner's obligation may be enforced and the lien on the Defaulting Owner's Parcel securing payment of Expenses may be foreclosed, in accordance with Article V hereof.

(b) Limitations on Repair or Restoration of the Condo-Hotel Parcel. In the event a casualty occurs, and (i) the Building is totally destroyed or Substantially Damaged, as hereinafter defined in Section 8.3(d), and seventy-five percent (75%) of the voting interests of the unit owners (within the meaning of the Condominium Act), duly and promptly resolve not to proceed with repair or restoration or (ii) the Building is not totally destroyed or Substantially Damaged but more than eighty percent (80%) of the voting interests of the unit owners (within the meaning of the Condominium Act) duly and promptly elect not to pay for repair or restoration, then the Building, if the Hotel Parcel Owner so elects shall be restored as provided in Section 8.1, but the liability of the unit owners (within the meaning of the Condominium Act) constituting the Condo-Hotel Parcel Owner, for the costs of such repair or restoration shall be limited to the extent of the proceeds of insurance maintained pursuant to Section 7.1 hereof. Any deficit in the funds needed to fully repair and restore the Building in the manner provided for in Section 8.1 which is due to such election of the Condo-Hotel Parcel Owner, shall be compensated for by a commensurate decrease in the amount of repair and restoration to be done to the Building, or the Hotel Parcel Owner shall have the option but not the obligation to pay any such deficit. No unit owner (within the meaning of the Condominium Act) shall be subject to suit or claim by the Hotel Parcel Owner for monies in excess of such insurance proceeds, or for the proceeds of insurance maintained pursuant to Section 7.4 hereof, and the board of directors of the Association, shall not be required to assess the unit owners (within the meaning of the Act) for such excess cost or expenses. The Hotel Parcel Owner shall have the option but not the obligation to purchase the Condo-Hotel Parcel, pursuant to Section 24.1 in the event of an election by the unit owners (within the meaning of the Act) as and for the Condo-Hotel Parcel Owner, as applicable, under this paragraph. In the event the Hotel Parcel Owner elects to make such purchase, the proceeds paid to the Insurance Trustee from the casualty insurance policies of the Condo-Hotel Parcel Owner and the Hotel Parcel Owner shall first be utilized to fund the purchase price and closing costs of such purchase of Condo-Hotel Parcel, by the Hotel Parcel Owner, and any funds thereafter remaining shall be disbursed by the Insurance Trustee to the Hotel Parcel Owner, or its

mortgagee(s), as their interests may appear, for utilization in the repair of the Building or for such other purposes as the Hotel Parcel Owner and/or such mortgagee(s) may reasonably determine.

(c) Excess Repair and Restoration Funds. Upon completion of the repair and restoration in accordance with this Article of any damage to the Building, any insurance proceeds and any construction Expenses paid to the Insurance Trustee by reason of such damage in excess of the cost and expense of performing such repair and restoration shall be refunded to the Owners in the respective proportions by which each Owner contributed funds to the funds held by the Insurance Trustee, attributing to each Owner as its contribution the proceeds paid into the Insurance Trustee fund by the insurer under any insurance policy maintained by such Owner, plus any Reconstruction Expenses paid by such Owner for such repair and restoration.

(d) Substantial Damage. For the purpose of Section 8.2 and generally in this Hotel Declaration, Substantial Damage to the Building shall be defined as follows: (i) If greater than or equal to fifty percent (50%) of the replacement value of the Building is destroyed by such a casualty or loss occurring during the period commencing with the initial recordation of this Hotel Declaration and terminating thirty (30) years thereafter ("**Initial Period**"); (ii) If greater than or equal to thirty-five percent (35%) of the replacement value of the Building is destroyed by a casualty or loss occurring at any time during the period commencing with the end of the Initial Period and terminating ten (10) years thereafter ("**Second Period**"); (iii) If an amount greater than or equal to twenty-five percent (25%) of the replacement value of the Building is destroyed by a casualty or loss occurring at any time during the period commencing with the end of the Second Period.

8.4 Limitations on Repair or Restoration by the Hotel Parcel Owner. In the event that any casualty or loss results in Substantial Damage to the Hotel Parcel, the Hotel Parcel Owner shall have the option not to proceed with repair or restoration of the Hotel Parcel, as well the option not to proceed with any concurrently required repairs to the Condo-Hotel Parcel, notwithstanding any obligation the Hotel Parcel Owner might otherwise have to make such repairs under Section 8.1 (b) and/or (d). The Hotel Parcel Owner shall elect whether to exercise such option on or before the ninetieth (90th) day following the date such casualty or loss occurred and shall deliver written notice to the Condo-Hotel Parcel Owner and the Insurance Trustee of any election by it to exercise such option. In the event the Hotel Parcel Owner does exercise such option, the Hotel Parcel Owner shall be deemed concurrently to have exercised the option to purchase the Condo-Hotel Parcel granted under Section 24.1. In such event, the proceeds paid to the Insurance Trustee from the casualty insurance policies of the Condo-Hotel Parcel Owner on the Condo-Hotel Parcel and the Hotel Parcel Owner on the Hotel Parcel as a result of the casualty or loss occurrence in question shall first be utilized to fund the purchase price and closing costs of the Hotel Parcel Owner's purchase of the Condo-Hotel Parcel in accordance with Article XXIV, and any funds thereafter remaining shall be disbursed by the Insurance Trustee to the Hotel Parcel Owner, or its

mortgagee(s), as their interests may appear, for utilization in demolition of the Building or such other purposes as the Hotel Parcel Owner and/or such mortgagee(s) may reasonably determine.

8.5 Legal Variances. If, to perform any repair or restoration provided for in Section 8.1, it shall be necessary to obtain a variance, special permit or exception to or change in zoning or other laws ("**variance**") in order to repair or restore the Building to its condition as described in the Building Plans immediately prior to such damage, and if the Owner responsible for carrying out such repair and restoration believes it is possible to obtain the variance, and so notifies the Owners in writing, then the Owners shall cooperate to obtain the variance. If Architectural and/or legal services shall be necessary to obtain the variance, then the Owner responsible for carrying out such repair and restoration shall retain an Architect and/or attorney to perform such services. The legal and architectural fees and all other costs and expenses of applying for obtaining the variance, shall be considered as a part of the cost and expense of carrying out the repair and restoration. There shall be no obligation to commence any repair or restoration if a variance is sought in accordance with this Section, while such variance is being diligently sought.

If any repair or restoration to be performed pursuant to Section 8.1 hereof cannot be carried out in compliance with the law, and if the variance is not obtained pursuant to the immediately preceding paragraph within six (6) months of the date of the casualty, then necessary adjustments shall be made in the plans and specifications for such repair and restoration so that the Building, as repaired and restored, shall comply with law. However, no substantial reduction in the floor area contained within the Hotel Parcel or serving the Hotel Parcel and no substantial reduction in the floor area contained within the Condo-Hotel Parcel, or areas serving the Condo-Hotel Parcel, shall be made without the consent of the Owner who shall be affected by such reduction. If said Owner shall be unwilling to so consent, and if it shall not be feasible to make such adjustments without substantially reducing said floor areas, then such repair and restoration shall not be performed pursuant to Section 8.1. Subject to the provisions of the following paragraph, any insurance proceeds, less costs and expenses paid or incurred in applying for the variance, shall be paid out by the Insurance Trustee to the Owners in proportion to the amount such proceeds shall have been paid by the insurers for damage to improvements within the respective Parcels of each of the Owners.

If, pursuant to the immediately preceding paragraph, repair and restoration is not to be performed pursuant to Section 8.1, then the improvements within each Parcel shall be demolished, or repaired and restored, as the Owner of each Parcel shall elect, to such extent, if any, as may be necessary to comply with all laws, rules, orders, ordinances, regulations and requirements of any government or municipality or any agency thereof having jurisdiction. Such demolition, or repair and restoration, shall be mandatory and shall be performed by the Owner of the damaged Parcel, who shall be entitled to withdraw any insurance proceeds held by the Insurance Trustee by reason of such damage. The cost and expense of such demolition, repair and restoration shall be allocated among the Owners in proportion with the cost and expense of repairing and restoring the improvements within each of their respective Parcels, except that for the purpose of determining such proportions, the cost and expense of repairing or restoring any Shared Facility, shall be allocated to the Owners in the proportions which shall be determined pursuant to Article XXIII. Notwithstanding the foregoing, in the event that pursuant to this Section 8.3 repair or restoration is not to be performed as to a particular Parcel, the Owner of such Parcel shall not demolish Visible Areas or such portion of such Parcel which shall serve as support for the other Parcel or any

portions which contain facilities or areas which serve the other Parcel unless such demolition shall be necessary to comply with applicable law or unless such Parcel is to be demolished. Also notwithstanding the foregoing, in the event that pursuant to this Section 8.5, (i) if repair and restoration is not to be performed as to the Condo-Hotel Parcel, then the Hotel Parcel Owner shall have the option but not the obligation to purchase the Condo-Hotel Parcel pursuant to Section 24.1(a), and (ii) if repair and restoration is not to be performed as to the Hotel Parcel, the Hotel Parcel Owner shall have the option to purchase, and the Condo-Hotel Parcel Owner shall have the option to require the Hotel Parcel Owner to purchase, in accordance with Section 24.1(b).

In the event a purchase of the Condo-Hotel Parcel is to be made under the preceding sentence, the proceeds paid to the Insurance Trustee from the casualty insurance policies of the Condo-Hotel Parcel Owner and the Hotel Parcel Owner shall first be utilized to fund the purchase price and closing costs of such purchase of the Condo-Hotel Parcel by the Hotel Parcel Owner, and any funds remaining thereafter shall be disbursed by the Insurance Trustee to the Hotel Parcel Owner, or its mortgagees, as their interest may appear, for utilization in the repair of the Building or for such other purposes as the Hotel Parcel Owner and/or such mortgagee(s) may reasonably determine.

8.6 Disputes. If any dispute shall arise pursuant to the provisions of this Article, then the dispute shall be settled by arbitration in accordance with Article XIV hereof, but the arbitrators shall have no power or authority to vary the provisions of this Article VIII without the consent of each Owner.

ARTICLE IX
ALTERATIONS; ARCHITECTURAL CONTROL

9.1 Alterations. Subject to the provisions of **Exhibit "C"** with respect to cost-sharing of Shared Facilities, to the provisions of Article XXIII, and to the limitations contained in this Article, the Hotel Parcel Owner may at any time at the Hotel Parcel Owner's sole cost and expense make alterations to the improvements to the Building and the Hotel Parcel, in accordance with the then-existing Standards. In connection with such alterations, the Hotel Parcel Owner may relocate any easement within such Parcel granted to any other Owner pursuant to Article II, provided, however, that such alterations shall not, without such other Owner's consent, diminish the benefits afforded to such other Owner by such easement or interrupt such other Owner's use of such easement. The Condo-Hotel Parcel Owner shall not alter any Shared Facility without the consent of the Hotel Parcel Owner. The Condo-Hotel Parcel Owner agrees that it shall not make, nor permit to be made any alteration of the Condo-Hotel Parcel or the Condo-Hotel Units therein which shall necessitate the erection of additional columns, bearing walls, or other structures upon the Hotel Parcel for the support such alteration. Further, the Hotel Parcel Owner will have the right to specify the exact material(s) to be used for sound insulation purposes. In the event of a conflict between the materials specified, the decision of the Hotel Parcel Owner shall control.

If at any time any Owner proposes to make any such alterations, and if such alterations will change the location of, reduce the area of, or otherwise affect, any easement granted to another Owner pursuant to Article II, or such alteration is of the type for which the consent of the other Owner is required under the preceding paragraph, then, before commencing such alterations, the Owner who proposes to make such alterations shall give to such other Owners a copy of the plans

and specifications showing the proposed alterations. If such other Owners shall not, within thirty (30) days after delivery of said plans and specifications, give the Owner who proposes to make such alterations a written notice objecting to the proposed alterations, then, subject to the other restrictions set forth in this Article, the proposed alterations may be made by the Owner who proposes same, provided that alterations actually made are shown on the plans and specifications furnished to such other Owner. If the other Owner shall give a written notice objecting to the proposed alterations, and if the Owner who proposes to make such alterations and the other Owner objecting thereto do not resolve their differences within fifteen (15) days after the giving of such notice, then the Owner who proposes to make such alterations shall not commence the same until the dispute has been settled by arbitration in accordance with Article XIV.

Any Owner making alterations shall comply with all laws, rules, orders, ordinances, regulations and requirements of any government or municipality or any agency thereof having jurisdiction and the then established Standards, and shall, within thirty (30) days after demand by any other Owner, discharge, by the filing of a bond or otherwise, any construction, materialman's or other lien asserted against the Parcel of such other Owner by reason of the making of such alterations. Any Owner making an alteration shall provide to the Hotel Parcel Owner a complete set of as-built plans with respect to the work performed within thirty (30) days of substantial completion of said work. An Owner shall, to the extent reasonably practicable, make alterations in such a manner as to minimize any noise or vibration or odor which would disturb an Occupant or Occupants of a Parcel owned by any other Owner.

Any such alterations shall be made at the cost of the Owner performing the same; provided, however, if the same are performed by the Hotel Parcel Owner to a Shared Facility or as a capital improvement to the Building as a whole, then such alterations shall be paid for through Shared Facilities Expenses or a Capital Improvement Expense, as may be applicable, and shall also adhere to any then existing Standards.

Upon completion of any alteration pursuant to this Section 9.1, the Building Plans shall be amended to reflect such alteration "as-built." This Section 9.1 is subject to Section IV of the Master Declaration.

9.2 Composition. An Architectural Committee shall be formed by the Declarant and shall consist of three (3) members, who initially shall be persons designated by the Declarant (hereinafter, the "**Architectural Committee**"). Each of those persons shall hold office until the Declarant no longer owns any portion of the Condo-Hotel Parcel (or sooner at the Declarant's option) unless the Declarant removes him or her and replaces him or her with a new appointee before that time. Thereafter, two (2) members of the Architectural Committee shall be appointed by the Hotel Parcel Owner and one (1) member by the Condo-Hotel Parcel Owner. Members of the Architectural Committee appointed by an Owner may be removed by such Owner at any time without cause.

9.3 Review of Proposed Construction. Subject to Section 9.10 and such rights of approval granted in Section 9.1 or elsewhere in this Hotel Declaration, no improvement or alteration as provided for in this Article, or reconstruction, repair, demolition or the like as provided for in Articles VIII and X, (including landscaping) shall be performed, erected or installed on or in the Building by the Hotel Parcel Owner or the Condo-Hotel Parcel Owner, nor

any subdivision, platting or replating of the Hotel Parcel or the Condo-Hotel Parcel shall be made, unless and until, in any such case, the plans and specifications showing the nature, kind, shape, height, materials and location of the same have been submitted to, and approved in writing, by the Architectural Committee. The Architectural Committee shall approve proposals or plans and specifications submitted for its approval only if it considers that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the Building as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. The Architectural Committee may condition its approval of proposals and plans and specifications as it deems appropriate and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Architectural Committee may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The Architectural Committee may require such detail in plans and specifications submitted for its review as it considers proper, including, without limitation, floor plans, surveys, elevation drawings and descriptions or samples of materials and colors. Until receipt by it of required plans and specifications and other requested information as necessary, the Architectural Committee may postpone review of any proposal submitted for approval. The Architectural Committee shall have thirty (30) days after delivery of all required materials to approve or reject any such plans, and a proposal that is not rejected within such thirty (30) day period shall be deemed approved. Notwithstanding any provisions in this Article IX to the contrary, the approval of the Architectural Committee shall not be required for any non-structural additions, changes or alterations if the non-structural additions, changes or alterations are not in a Visible Area within either the Hotel Parcel or the Condo-Hotel Parcel.

9.4 Weight and Sound Restriction. Hard and/or heavy surface floor coverings, including, without limitation, tile or wood, may not be installed in any part of a Condo-Hotel Unit other than the kitchen and bathroom(s), without the consent of the Hotel Parcel Owner. The Hotel Parcel Owner shall not approve the installation of any hard and/or heavy surface floor coverings (for which approval is required) unless the aggregate sound isolation and acoustical treatment carries a minimum Sound Transmission Classification (STC) of 48 and a minimum Impact Isolation Classification (IIC) of 46. The installation of the foregoing insulation materials shall be performed in a manner that provides proper mechanical isolation of the flooring materials from any rigid part of the building structure, whether of the concrete subfloor (vertical transmission) or adjacent walls and fittings (horizontal transmission) and must be installed prior to the Condo-Hotel Unit being occupied. The installation of any improvement or heavy object must be submitted to and approved by the Hotel Parcel Owner and be compatible with the overall structural design of the Building. The Hotel Parcel Owner may require a structural engineer to review the proposed improvements, with such review to be at the Condo-Hotel Parcel Owner's sole expense. Condo-Hotel Parcel Owners will be held strictly liable for violations of these restrictions and for all damages resulting therefrom and the Hotel Parcel Owner has the right to require immediate removal of violations. Each Condo-Hotel Parcel Owner is hereby advised that sound transmission in a high-rise building such as the Building is very difficult to control, and that noises from adjoining or nearby Condo-Hotel Units and or mechanical equipment can often be heard in another Condo-Hotel Unit. The Declarant does not make any representation or warranty as to the level of sound transmission between and among Condo-Hotel Units and the other portions of the Building,

and/or from elevators or mechanical equipment, and each purchaser hereby waives and expressly releases any such warranty and claim for loss or damages resulting from sound transmission.

9.5 Meetings of the Architectural Committee. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The Architectural Committee may from time to time, by resolution unanimously adopted in writing, designate a representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Architectural Committee, except the granting of variances pursuant to Section 9.10. In the absence of such a designation, the vote of any two (2) members of the Architectural Committee, after at least seven days prior notice of a vote to all members, shall constitute an act of the Architectural Committee. After the Declarant no longer owns any of the Condo-Hotel Parcel, one of the members of the committee appointed by the Hotel Parcel Owner shall be designated to receive notice of alterations, and to schedule and give notice to the members of Architectural Committee meetings and votes.

9.6 No Waiver of Future Approvals. The approval of the Architectural Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

9.7 Compensation of Members. The members of the Architectural Committee shall receive no compensation for services rendered, other than reimbursement for third party expenses incurred by them on behalf of the Architectural Committee in the performance of their duties hereunder. The Architectural Committee may retain an Architect or engineer to advise it in its deliberations, to review plans and specifications submitted and to inspect work for which approval is required. The Architectural Committee may impose a fee upon an Applicant (as defined herein)/Owner to defray the costs and fees of the Architect or engineer in reviewing the Applicant's plans and specifications and inspecting the work.

9.8 Inspection of Work. The inspection of work and correction of defects therein, if any, shall proceed as follows:

(a) Notice of Completion. Upon the completion of any work for which approved plans are required under this Article, the applicant (who may be an Owner or the Association) for such approval ("**Applicant**") shall give the Architectural Committee written notice of the completion.

(b) Inspection. Within thirty (30) days thereafter, the Architectural Committee or its authorized representative may inspect the work. If the Architectural Committee finds that the work was not done in substantial compliance with the approved plans, it shall notify the Applicant in writing of the noncompliance within thirty (30) days thereafter, specifying the particulars of noncompliance.

(c) Non-Compliance. Any Applicant who receives notice of a non-compliance as provided in Section 9.8(b) of this Article shall remedy the noncompliance within thirty (30) days of being notified, and, if he/she fails to, the Architectural Committee shall notify the Owners in writing of the failure, its nature and the estimated cost of correcting or removing it. If the Applicant does not comply within said thirty (30) days, then any Owner at its option, may either remove the non-complying improvement or remedy the non-compliance, and in either case the Applicant shall reimburse such Owner, upon demand, for all expenses incurred in connection with such Owner's action. If the Applicant fails to promptly reimburse such Owner its expenses, such Owner may request that the Hotel Parcel Owner shall levy a Special Assessment against the Applicant and its Parcel for reimbursement.

(d) Effect of Committee's Failure to Notify Applicant. If for any reason the Architectural Committee fails to notify the Applicant of any non-compliance within thirty (30) days after its receipt of a written notice of completion from the Applicant, the improvements shall be deemed to be in accordance with the plans approved by the Architectural Committee.

9.9 Non-Liability of Committee Members. Neither the Architectural Committee, any of its members, nor its authorized representative, shall be liable to the Association, any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Committee's duties hereunder, unless the loss, damage or injury is due to the willful misconduct or bad faith of one of its members (in which case only the culpable member shall have any liability). The Architectural Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition on the basis of aesthetic considerations and the overall benefit or detriment which would result to the Building. The Architectural Committee shall take into consideration the then established Standards, the aesthetic aspects of the architectural designs, landscaping, color schemes, finishes and materials and similar features. It shall not, however, be responsible for reviewing any plan or design from the standpoint of structural safety or conformance with building or other codes.

9.10 Variances. The Architectural Committee may authorize a variance from compliance with any of the architectural provisions of this Hotel Declaration when circumstances such as natural obstructions, hardship, or aesthetic or environmental considerations dictate a variance. Any such variance must be evidenced in a writing signed by at least two (2) members of the Architectural Committee. No violation of this Hotel Declaration shall be deemed to have occurred with respect to a matter for which the variance was granted. The granting of such a variance shall not, however, operate to waive any of the restrictions in this Hotel Declaration for any purpose except as to the particular Parcel and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his or her use of the Parcel covered by the variance, including, but not limited to, zoning ordinances and set-back lines or requirements imposed by any governmental or municipal authority, nor the Owner's obligation to seek approval by another Owner as set forth in Section 9.1.

9.11 Declarant's Exemption. The provisions of this Article IX shall not apply to the Declarant and to any and all construction, alterations, additions or other work planned or performed by the Declarant or any affiliate of the Declarant. The provisions of this Article IX shall not apply to the CDD and to any and all construction, alterations, additions or other work planned or performed by the CDD.

9.12 This Section 9, in its entirety, is subject to Section IV of the Master Declaration.

ARTICLE X
CONDEMNATION

10.1 Payment to Insurance Trustee. Any awards for damage, direct and consequential, resulting from the taking, other than a temporary taking, by the exercise of the power of eminent domain, by any sovereign, municipality or other public or private authority, of all or any part of the Building or the easements or other appurtenances thereto shall be paid to the Insurance Trustee provided for in Section 12.1.

10.2 Allocation of Awards. The awards received by the Insurance Trustee pursuant to Section 10.1 shall be allocated by the Architect among the Owners in that proportion which the damage to each Owner's Parcel and to all easements and other appurtenances thereto shall bear to the damage to all of the Parcels and the easements and other appurtenances thereto, taking into account the allocation provided for in Article XXIII and **Exhibit "C,"** and the award shall be distributed by the Insurance Trustee to the respective Owners (or to any lessee or mortgagee to whom any Owner's rights to such award are assigned pursuant to Section 17.4) in accordance with such allocation, subject, however, to the provisions of Sections 10.4 and 10.5. If the damages to each Owner's Parcel and the easements and other appurtenances thereto shall have been determined by a court of law or equity in connection with the taking proceeding, then, subject to any right of appeal, such determination shall be conclusive as to the proportions of the total award to be allocated to each of the Owners pursuant to this Section 10.2, in lieu of application of the preceding sentence. Notwithstanding the foregoing, all condemnation proceeds allocated to any Owner shall first be paid to the Insurance Trustee, for utilization pursuant to Sections10.4 in funding repair and restoration, and Sections 10.3 and 10.4 shall control the timing and amount of any subsequent distribution to the Owners.

10.3 Repair and Restoration Following Condemnation. If the taking authority shall take a portion of the improvements within only one Parcel and if such taking does not include any facilities within such Parcel which serve or benefit the Owner of another Parcel or any Shared Facilities, then, subject to the provisions of Section 10.5, the repair and restoration of such improvements shall be performed by the Owner of such improvements and such Owner shall be entitled to withdraw, for application to the cost of said repair and restoration, in accordance with the provisions of Article VIII, that portion (which may be one hundred percent (100%)) of any condemnation award or awards paid to the Insurance Trustee by reason of such taking which shall have been allocated to the Owner of such improvements pursuant to Section 10.2.

In the event of a taking, if the provisions of the preceding paragraph shall not be applicable, then, subject to the provisions of Section 10.5, the repair and restoration of any damage to the Building occasioned by such taking shall be performed by the Hotel Parcel Owner on behalf of all

of the Owners. The plans and specifications for such repair and restoration shall be prepared by the Architect. Such plans and specifications shall provide for such changes in the Building as shall be required by reason of such taking. After completing the preparation of such plans and specifications, the Architect shall furnish to each Owner a set of such plans and specifications and shall assist the Hotel Parcel Owner in obtaining bids for such repair and restoration from responsible contractors. On the basis of such bids, the Architect shall furnish each Owner with an estimate of the portions of the cost and expense of such repair and restoration, which are to be borne by each of the Owners, respectively, in accordance with the allocation provided for in Section 10.4. Such contractor shall be selected in the manner provided in Article XI hereof. The contractor shall work under the administration of the Architect and the Hotel Parcel Owner. The Hotel Parcel Owner is hereby authorized, empowered and directed to instruct the Insurance Trustee from time to time as such repair and restoration progress, to disburse in accordance with the Architect's certificate issued pursuant to Section 12.2 the condemnation award or awards paid to the Insurance Trustee pursuant to Section 10.1 by reason of the taking and any other moneys deposited with the Insurance Trustee pursuant to Section 10.4, for application to the cost and expense of such repair and restoration. Each such instruction given by the Hotel Parcel Owner to the Insurance Trustee to disburse funds for such cost and expense shall be accompanied by a statement of the Architect setting forth the portion of such cost and expense which is to be borne by each of the respective Owners pursuant to the allocation provided for in Section 10.4. The Insurance Trustee shall charge each Owner's portion of such cost and expense against the portion of the condemnation award or awards allocated to such Owner pursuant to Section 10.2.

10.4 Allocation of Costs of Repair and Restoration. All condemnation awards paid to the Insurance Trustee shall first be used to fund all repairs and restoration to be performed under Section 10.3. To the extent the condemnation awards paid into the Insurance Trustee are insufficient to fully fund any repair and restoration to be performed under Section 10.3, or if there are no such awards, the cost and expense of performing the repair and restoration provided for in Section 10.3 shall be borne by the respective Owners in that proportion which the cost and expense of repairing and restoring the improvements within the Parcel of each Owner, respectively, shall bear to the entire cost and expense of such repair and restoration, except that the cost and expense of repairing and restoring any Shared Facility shall be allocated to the Owners pursuant to Article XXIII.

If the condemnation awards paid to the Insurance Trustee exceed one-hundred twenty percent (120%) of the estimate of the cost of the repair and restoration determined by the Architect pursuant to Section 10.3, then the Insurance Trustee shall distribute to the Owners, in advance of performance of restoration and repair, and surplus awards in excess of one-hundred twenty percent (120%) of the estimated cost of repair and restoration, such surplus to be distributed to the Owner in the respective proportions determined under Section 10.2 to be their respective shares of the condemnation awards. The sum retained by the Insurance Trustee shall be held and disbursed in accordance herewith to fund restoration and repair. If the cost of repair and restoration as determined by the Architect exceeds the amount of the condemnation awards paid to the Insurance Trustee, then a Reconstruction Assessment shall be payable by the Owners for the difference, which amount shall be deposited with the Insurance Trustee, the proportionate responsibility of each Owner for such amount being determined as provided in the second sentence of the first paragraph of this Section 10.4. If any Owner (the "**Defaulting Owner**") shall fail to pay the Defaulting Owner's Reconstruction Assessment in accordance with this paragraph, then the

Defaulting Owner's Obligation may be enforced and the lien on the Defaulting Owner's Parcel securing payment of the Assessment may be foreclosed, in accordance with Article V hereof.

Upon completion of any repair and restoration of the Building in accordance with this Article, any condemnation awards and Reconstruction Expenses paid to the Insurance Trustee which remain after payment of the cost and expense of performing such repair and restoration shall be refunded to the Owners in the respective proportions by which each Owner contributed funds to the funds held by the Insurance Trustee, attributing to each Owner as its contribution any condemnation award amount paid into the Insurance Trustee fund and allocated to such Owner under Section 10.2, plus any Reconstruction Assessment paid by such Owner for such repair and restoration.

10.5 Limitations on Repair or Restoration of the Condo-Hotel Parcel. In the event a condemnation occurs, and (a) there is a total condemnation or Substantial Taking, as hereinafter defined in Section 10.6 (d) , of the Building and seventy-five percent (75%) of the voting interests of the unit owners (within the meaning of the Condominium Act), duly and promptly resolve not to proceed with repair or restoration or (b) there is no Substantial Taking of the Building, but more than eighty percent (80%) of the voting interests of the unit owners (within the meaning of the Condominium Act) duly and promptly elect not to pay for repair or restoration, then the Building, if the Hotel Parcel Owner so elects shall be restored as provided in Section 10.3, but the liability of the unit owners (within the meaning of the Condominium Act) constituting the Condo-Hotel Parcel Owner for the costs of such repair or restoration shall be limited to the extent of the proceeds of condemnation for the Condo-Hotel Parcel pursuant to Section 10.2 hereof. Any deficit in the funds needed to repair and restore the Building in the manner provided for in Section 10.3 which is due to such election of the Condo-Hotel Parcel Owner shall be compensated for by a commensurate decrease in the amount of repair and restoration to be done to the Condo-Hotel Parcel, or the Hotel Parcel Owner shall have the option but not the obligation to pay any such deficit. No unit owner (within the meaning of the Act) shall be subject to suit or claim by the Hotel Parcel Owner for monies in excess of such condemnation proceeds, and the board of directors of the Association shall not be required to assess the unit owners (within the meaning of the Condominium Act) for such excess cost or expenses. The Hotel Parcel Owner shall have the option but not the obligation to purchase the Condo-Hotel Parcel pursuant to Section 24.1 in the event of an election by the unit owners (within the meaning of the Condominium Act) as and for the Condo-Hotel Parcel Owner, under this paragraph. In the event Hotel Parcel Owner elects to make such purchase, the proceeds paid to the Insurance Trustee from the proceeds of condemnation of the Condo-Hotel Parcel shall first be utilized to fund the purchase price and closing costs of such purchase of the Condo-Hotel Parcel by the Hotel Parcel Owner, and any funds thereafter remaining shall be disbursed by the Insurance Trustee to the Hotel Parcel Owner, or its mortgagee(s) , as their interests may appear, for utilization in the repair of the Building or for such other purposes as the Hotel Parcel Owner and/or such mortgagee(s) may reasonably determine.

10.6 Substantial Taking. For the purpose of Section 10.5 and generally in this Hotel Declaration, Substantial Taking of the Building shall be defined as follows: (i) If greater than or equal to fifty percent (50%) of the replacement value of the Building is destroyed by such a condemnation occurring during the period commencing with the initial recordation of this Hotel Declaration and terminating thirty (30) years thereafter ("**Initial Period**") ; (ii) If greater than or equal to 35% of the replacement value of the Building is destroyed by a condemnation occurring

at any time during the period commencing with the end of the Initial Period and terminating ten (10) years thereafter ("**Second Period**"); (iii) If an amount greater than or equal to twenty-five percent (25%) of the replacement value of the Building is destroyed by a condemnation occurring at any time during the period commencing with the end of the Second Period.

10.7 Limitations on Repair or Restoration by the Hotel Parcel Owner. In the event that any condemnation results in a Substantial Taking of the Building, the Hotel Parcel Owner shall have the option not to proceed with repair or restoration of the Building, notwithstanding any obligation the Hotel Parcel Owner might otherwise have to repair or restore under Section 10.3. The Hotel Parcel Owner shall elect whether to exercise such option on or before the ninetieth (90th) day following the date the order establishing the amount of the condemnation award becomes final and shall deliver written notice to the Condo-Hotel Parcel Owner and the Insurance Trustee of any election by it to exercise such option. In the event the Hotel Parcel Owner does exercise such option, the Hotel Parcel Owner shall be deemed concurrently to have exercised the option to purchase the Condo-Hotel Parcel granted under Section 24.1. In such event, the condemnation proceeds paid to the Insurance Trustee from the condemnation of the Condo-Hotel Parcel and Hotel Parcel as a result of the condemnation in question shall first be utilized to fund the purchase price and closing costs of the Hotel Parcel Owner's purchase of the Condo-Hotel Parcel in accordance with Article XXIV, and any funds thereafter remaining shall be disbursed by the Insurance Trustee to the Hotel Parcel Owner, or its mortgagee (s) , as their interests may appear, for utilization in demolition of the Building or such other purposes as the Hotel Parcel Owner and/or such mortgagee(s) may reasonably determine.

10.8 Temporary Taking. In the event of a taking of the temporary use of any space, the respective Owners shall be entitled to receive directly from the taking authority any award or awards for such taking of space within their respective Parcels or within any easement or appurtenance, according to the law then applicable.

10.9 Disputes. If any dispute shall arise pursuant to this Article X, such dispute shall be settled by arbitration in accordance with Article XIV, but the arbitrators shall have no power or authority to vary the provisions of this Article X without the consent of each Owner.

ARTICLE XI
SELECTION OF CONTRACTORS OR THE ARCHITECT

11.1 Selection of Contractors. When any repair, restoration, reconstruction, demolition, removal of debris or filling required to be performed pursuant to Sections 8.1 or 10.3 is to be funded with funds attributable to the insurance policies, condemnation awards and/or Reconstruction Expenses of a single Owner, such Owner may choose the contractor who shall perform such work, provided that the Architectural Committee shall have the right to approve any such contractor chosen by the Condo-Hotel Parcel Owner, which approval shall not be unreasonably withheld, conditioned or delayed. In each event wherein a contractor is needed to perform any repair, restoration, demolition, removal of debris or filling required to be performed pursuant to Sections 8.1 or 10.3, and such work is to be funded under the terms of this Hotel Declaration with funds attributable to the insurance policies, condemnation awards and/or Reconstruction Expenses of more than one Owner, then the Hotel Parcel Owner shall invite all of the contractors nominated by itself and by the Condo-Hotel Parcel Owner to submit bids for the

work to be performed. The Condo-Hotel Parcel Owner may nominate more than one, but not more than two contractors. The terms of bidding shall require that all bids be for a fixed cost and submitted at a particular place or places by a specified time and date. The Hotel Parcel Owner shall allow the contractors a reasonable time, following the announcement of the invitation to bid, to review any plans and specifications and to prepare estimates. The conditions of bidding shall require, unless such requirement is waived by the Hotel Parcel Owner, that the successful contractor post a performance bond and a labor and material payment bond, issued by a company authorized to engage in the business of issuing such bonds in the State of Florida, in an amount equal to the amount of such contract. The bond shall name the Hotel Parcel Owner, the Association and the holder or holders of the first mortgage upon each Parcel or upon the leasehold interest of such lessee, as joint and individual obligees, shall provide that all amounts which may be payable to the obligees thereunder shall be paid to the Insurance Trustee, and shall be conditioned on the completion of and payment for the work to be performed. Unless the Association on whose behalf such work is to be performed otherwise instructs the Hotel Parcel Owner in writing, the Hotel Parcel Owner shall select the lowest bidding responsive and responsible contractor, and shall, in the name of and for the account of the Owners to be benefited by the work to be performed, enter into a construction contract with such contractor providing for the completion of and payment for such work. In lieu of the foregoing bidding procedure, the Owners, in any contractor selection in which they are jointly interested, may at their option designate, without pursuing such procedure, such contractor as they may mutually agree upon.

11.2 Selection of the Architect. The Architect shall be the preparer of the Building Plans for the Building exterior, the Condo-Hotel Units, and the interior of the Hotel Parcel unless, either due to the aforementioned firm no longer being in practice or to a choice not to utilize such firm by persons herein empowered to make such choice, another practitioner or firm is chosen as hereafter provided. In all instances where no affirmative action to the contrary is taken by persons so authorized as hereafter provided in this Section 11.2, the Architect shall be as specified in the preceding sentence. The Hotel Parcel Owner shall have the power to appoint an Architect for purposes of any repair, restoration, reconstruction, and the like, under this Hotel Declaration concerning only the Hotel Parcel or a Shared Facility. The Condo-Hotel Parcel Owner shall have the power to appoint an Architect for purposes of any repair, restoration reconstruction, and the like, under this Hotel Declaration concerning only the Condo-Hotel Parcel provided that no Shared Facility shall be a part of any such repair, restoration or reconstruction. In all other cases of repair or restoration, the Hotel Parcel Owner shall have the right to select an Architect and shall give written notice of such choice to the Condo-Hotel Parcel Owner.

ARTICLE XII
DISBURSEMENT OF FUNDS BY INSURANCE TRUSTEE

12.1 Insurance Trustee. The Insurance Trustee shall be a bank or trust company to be selected by the Hotel Parcel Owner, authorized to do business in the State of Florida, which shall be reasonably satisfactory to the first mortgage on the Hotel Parcel. The Insurance Trustee may retain free of trust, from the monies held by it, the Insurance Trustee's reasonable fees and expenses for acting as Insurance Trustee.

The Insurance Trustee shall have no obligation to pay interest on any monies held by it unless the Insurance Trustee shall have given an express written undertaking by the Hotel Parcel

Owner to do so. However, if the monies on deposit are not held in an interest bearing account pursuant to agreement among the Insurance Trustee and the Hotel Parcel Owner, then the Insurance Trustee, within thirty (30) days after request from any Owner given to the Insurance Trustee and to the other Owners, shall purchase with such monies, to the extent feasible, United States Government securities payable to bearer and of the most practicable maturities, not in excess of one year, except insofar as it would, in the good faith judgment of the Insurance Trustee, be impracticable to invest in such securities by reason of any disbursement of such monies which the Insurance Trustee expects to make shortly thereafter, and the Insurance Trustee shall hold such securities in trust hereunder. Any interest paid or received by the Insurance Trustee on monies or securities held in trust, and any gain on the redemption or sale of any securities, shall be added to the monies or securities so held in trust by the Insurance Trustee. Unless the Insurance Trustee shall have undertaken to pay interest thereon, monies received by the Insurance Trustee pursuant to any of the provisions of this Hotel Declaration shall not be mingled with the Insurance Trustee's own funds and shall be held by the Insurance Trustee in trust for the use and purposes herein provided.

The Insurance Trustee shall have the authority and duty to disburse funds held by it pursuant to this Hotel Declaration in the manner, to the persons, and at the times provided in this Hotel Declaration. The Insurance Trustee shall not be liable or accountable for any action taken or suffered by the Insurance Trustee, or for any disbursement of monies by the Insurance Trustee, in good faith in reliance on advice of legal counsel. The Insurance Trustee shall have no affirmative obligation to make a determination of the amount of, or to affect the collection of, any insurance proceeds or condemnation award, unless the Insurance Trustee shall have given an express written undertaking to do so, which shall otherwise be the obligation of the Owners.

The Insurance Trustee may rely conclusively on any Architect's certificate furnished to the Insurance Trustee in accordance with the provisions of Section 12.2 hereof and shall not be liable or accountable for any disbursement of funds made by it in reliance upon such certificate.

The Insurance Trustee shall also be the Insurance Trustee for the Condo-Hotel Parcel Owner notwithstanding the fact that the Condo-Hotel Parcel Owner may have chosen a different Insurance Trustee for their respective parcels.

12.2 Architect's Certificate. In any instance when, pursuant to any provision of this Hotel Declaration, the Insurance Trustee shall be required to disburse insurance proceeds, condemnation awards or other funds for application to the cost of repair, restoration and/or demolition, the Insurance Trustee shall not be required to make disbursements more often than at thirty (30) day intervals, and each request for disbursement shall be made in writing at least five (5) days in advance. Each request for disbursement shall be accompanied by a certificate of the Architect, dated not more than ten (10) days prior to the request for disbursement, setting forth the following:

(a) That the sum then requested to be disbursed either has been paid by or on behalf of an Owner or Owners (in which case the certificate shall name such Owner or Owners) or is justly due to contractors, subcontractors, materialmen, engineers, Architects or other persons (whose names and addresses shall be stated) who have rendered or furnished, or agreed to

render or furnish, certain services, equipment, and materials and the principal subdivisions or categories thereof and the respective amounts so paid or due to each person in respect thereof and stating the progress of the work up to the date of the certificate;

(b) That the sum then requested to be withdrawn, plus all sums previously withdrawn, does not exceed the cost of the work actually accomplished up to the date of such certificate plus the cost of materials supplied and actually stored on-site (which materials shall be adequately insured against fire, theft and other casualties for the benefit of all Owners);

(c) That no part of the cost of the services and materials described in the foregoing paragraph (i) which is being counted as a basis for the then pending application has been the basis of the withdrawal of any funds in any previous application; and

(d) That following the making of the requested advance, the funds remaining with the Insurance Trustee shall be sufficient to complete the repair and restoration based upon the Architect's estimate of such cost to complete.

Upon compliance with the foregoing provisions of this Section 12.1, the Insurance Trustee shall, out of the moneys held by the Insurance Trustee, pay or cause to be paid to the Owners, contractors, subcontractors, materialmen, engineers, Architects and other persons named in the Architect's certificate the respective amounts stated in the certificate to be due them.

12.3 No Reliance by Contractors. No contractor, subcontractor, mechanic, materialman, laborer or any other person whatsoever, other than the Owners and any mortgagee or lessee to whom an Owner's rights shall have been assigned as permitted in Section 17.4, shall have any interest in or rights to or lien upon any funds held by the Insurance Trustee. The Owners and pursuant to such assignment any such mortgagees and lessees by agreement among themselves, may at any time provide for a different disposition of funds than that provided for in this Hotel Declaration, without the necessity of obtaining the consent of any contractor, subcontractor, mechanic, materialman, laborer or any other person whatsoever. If at any time the Owners, and such mortgagees and lessees, if any, shall jointly instruct the Insurance Trustee with regard to the disbursement of any funds held by the Insurance Trustee, then the Insurance Trustee shall disburse said funds in accordance with said instructions. The Insurance Trustee shall have no liability to anyone by reason of having so disbursed said funds in accordance with said instructions.

ARTICLE XIII
FORCE MAJEURE

13.1 Force Majeure. An Owner (hereafter in this Section 13.1 referred to as a "**Non-Performing Owner**") shall not be deemed to be in default in the performance of any obligation of such Non-Performing Owner under this Hotel Declaration, other than an obligation requiring the payment of a sum of money, if and so long as non-performance of such obligation shall be directly caused by fire or other unavoidable casualty, national emergency, laws, governmental or municipal restrictions, enemy action, civil commotion, strikes, inability to obtain labor or materials (except

where due to the economic inability of such Non-Performing Owner for reasons other than the failure of the Insurance Trustee to disburse funds), war or national defense preemptions, acts of God or other similar causes beyond the control of such Non-Performing Owner. Within fifteen (15) days after the giving of any written notice by another Owner (hereafter in this Section 13.1 referred to as "the **"Other Owner"**) to the Non-Performing Owner describing the non-performance by such Non-Performing Owner of any such obligation, the Non-Performing Owner shall notify the Other Owner in writing of the existence and nature of any such cause for non-performance which is beyond the control of the Non-Performing Owner, and the steps, if any, which the Non-Performing owner shall have taken to eliminate the cause for non-performance. Thereafter, the Non-Performing Owner shall from time to time on written request of the Other Owner keep the Other Owner fully informed in writing of all further developments concerning such cause for nonperformance and the efforts, if any, being made by the Non-Performing Owner to end the cause for non-performance.

ARTICLE XIV
ARBITRATION

14.1 Notice to Arbitrate. If a dispute shall arise between or among any of the Owners, and if, pursuant to any provision of this Hotel Declaration, the dispute is to be settled by arbitration, then any Owner may serve upon the other Owner or Owners involved in the dispute a written notice demanding that the dispute be arbitrated pursuant to this Article XIV.

14.2 Appointment of Arbitrators and Procedure. The arbitrators shall be appointed pursuant to the then applicable rules of the American Arbitration Association, or any organization successor thereto, and the proceeding shall follow said rules and shall take place in the County. Judgment upon the determination rendered by the arbitrators may be entered in any court having jurisdiction thereof. The fees and expenses of the arbitrators shall be divided equally between or among such Owners. If any Owner shall fail to pay its share of any fees or expenses of the arbitrators, it shall be deemed to be a "**Defaulting Owner**" and any other Owner or Owners may pay the same and become a Creditor Owner. The Defaulting Owner shall upon demand reimburse the Creditor Owner for such payment (failure to so do permitting the Creditor Owner to levy a Special Expenses on the Defaulting Owner and its Parcel therefor). If in connection with any arbitration it shall be necessary to determine the value of any Parcel or portion thereof, the arbitrators who shall be selected shall be disinterested persons of recognized competence in the field of real estate appraisal.

ARTICLE XV
ESTOPPEL CERTIFICATES

15.1 Estoppel Certificates. Each Owner agrees, within thirty (30) days after written request by any other Owner, to execute and deliver to such Owner or to any existing or prospective purchaser, mortgagee or lessee designated by such Owner, a certificate in recordable form stating to the best of its knowledge: (a) whether or not there is any existing default hereunder by any Owner in the payment of any sum of money owing to the Owner executing such certificates; (b) whether or not there is any existing default by any Owner with respect to which a notice of default has been given or received by the Owner executing such certificate and if there is any such default, specifying the nature and extent thereof; (c) whether or not there are any sums (other than those

arising within the previous forty-five (45) days out of the normal course of operation of the Building) which the Owner executing such certificate is entitled to receive or demand from any other Owner hereunder, and if there is any such sum, specifying the nature and extent thereof; (d) whether or not the Hotel Parcel Owner has performed or caused to be performed, or is then performing or causing to be performed, any Maintenance or other work not in the normal course of operation of the Building, the cost of which the Hotel Parcel Owner is or may be entitled to charge in whole or in part to any Owner but has not yet charged to such other Owner, and if there be any such Maintenance or other work, specifying the nature and extent thereof; (e) whether or not there are any set-offs, defenses or counterclaims then being asserted or otherwise known against enforcement of any obligations hereunder which are to be performed by the Owner executing such certificate, and, if so, the nature and extent thereof; (f) whether or not any Owner has given any notice to the Owner executing such certificate making a demand or claim hereunder which has not yet been discharged or otherwise resolved, or given any notice of a dispute to be settled or resolved by arbitration in accordance with the provisions of Article XIV, and if so, a copy of any such notice shall be delivered with the certificate; (g) whether or not there is any pending dispute involving the Owner executing such certificate which has been submitted for arbitration hereunder, and if so, specifying the nature of the dispute; (h) whether or not the arbitrators have made any ruling or decision involving the Owner executing such certificate within the ninety (90) days preceding the date of such certificate, and if so, identifying such ruling or decision; and (i) whether or not the Owner executing such certificate has made any then outstanding assignment of rights, privileges, easements or rights of entry pursuant to Section 17.4 or otherwise, and if so, identifying such assignment. Any such certificates which are required of the Condo-Hotel Parcel Owner with respect to the Condo-Hotel Parcel shall be given by the president or vice president of the Association and such certificate shall be regarded as that of the Condo-Hotel Parcel Owner.

In addition to the estoppel certificates delivered pursuant to the foregoing paragraph, the Condo-Hotel Parcel Owner shall deliver to the Hotel Parcel Owner, within thirty (30) days after written request therefor (but not more often than twice in each calendar year), a certificate setting forth the names of the owners of record (as shown by the Public Records of the County), of all Condo-Hotel Units in the Condo-Hotel Parcel, as the case may be, at the time of the giving of such certificate, as well as the names of the directors and the officers of the Association.

ARTICLE XVI
NOTICES

16.1 Giving of Notice. Any notice, demand, election or other communication (hereafter in this Article XVI collectively referred to as "**Notices**", and singly referred to as a "**Notice**"), which any Owner or other party hereto shall desire or be required to give pursuant to the provisions of this Hotel Declaration shall be sent by registered or certified mail and the giving of such notice shall be deemed complete at the time the same is deposited in the United States mail, with postage, including registration or certification charges, prepaid, enclosed in a sealed envelope addressed to the person intended to be given such notice at the address herein provided. Notices to any Owner shall be sent to such Owner addressed as follows or to such other address as may be designated by such Owner from time to time in a notice given pursuant to this Section16.1:

If to the Hotel Parcel Owner: EP ORLANDO HOSPITALITY 1 LP

8298 West Irlo Bronson Memorial Hwy,
Kissimmee, Florida 34747

Attn:

If to the Condo-Hotel Parcel Owner: EP ORLANDO CONDO DEVELOPMENT 1 LP
8298 West Irlo Bronson Memorial Hwy,
Kissimmee, Florida 34747

Attn:

Any Owner who has previously complied with the notice provisions may from time to time by written notice to the other Owners, designate a different address which shall be substituted for that specified above.

Copies of notices to any Occupant or holder of a mortgage entitled to receive such copies pursuant to Section 17.4 shall be addressed to such Occupant or holder at the address or addresses, designated by such Occupant or holder or to such other address or addresses, as such Occupant or holder may thereafter from time to time designate by written notice given pursuant to the provisions of this Article XVI.

If at any time and from time to time any person, corporation, or other entity shall succeed in whole or in part to the interest or estate of any Owner, then such person, corporation, or other entity shall not be entitled to receive any notice hereunder, and any notice given (or deemed to have been given) to the prior Owner of such interest or estate shall be deemed to have been given to such person, corporation or other entity, unless and until the party giving such notice shall be given written notice of the change of ownership by which such person, corporation or other entity shall have acquired such interest or estate. Nothing herein contained shall be construed to preclude personal service of any notice, demand, request or other communication in the same manner that personal service of a summons or other Legal Process (as defined herein) may be made.

16.2 Multiple Ownership. If at any time the interest or estate of any Condo-Hotel Parcel Owner hereto shall be owned by more than one person, corporation or other entity (hereafter in this paragraph collectively referred to as "**Said Owners**"), then, Said Owners shall give to such other Condo-Hotel Parcel Owner a written notice, executed and acknowledged by all of Said Owners, in form proper for recording, which shall designate the Responsible Individual (as described in Section 1.20.1 of this Hotel Declaration) as agent for all of Said Owners for all notices thereafter given to Said Owners hereunder and for the service of process in any action or proceeding, whether before a court or by arbitration, involving the determination or enforcement of any rights or obligations hereunder. Thereafter, until such Responsible Individual designation is revoked by written notice given by all of Said Owners or their successors in interest, any notice, and any summons, complaint or other Legal Process or any notice given in connection with an arbitration proceeding (which such summonses, complaints, Legal Process and notices given in connection with arbitration proceedings are hereafter in this Section 16.2 collectively referred to as "**Legal Process**") given to, or served upon, such Responsible Individual shall be deemed to have been given to, or served upon, each and every one of Said Owners at the same time that such

notice or Legal Process is given to, or served upon, such agent. If Said Owners shall fail so to designate in writing one such Responsible Individual to whom all notices are to be given and upon whom any Legal Process is to be served, or if such designation shall be revoked as aforesaid and a new Responsible Individual is not designated, then any notice or Legal Process may be given to, or served upon, any one of Said Owners as agent for all of Said Owners and such notice or Legal Process shall be deemed to have been given to, or served upon, each and every one of Said Owners at the same time that such notice or legal process is given to, or served upon, any one of them, and each of Said Owners shall be deemed to have appointed each of the other Condo-Hotel Parcel Owners as the Responsible Individual for the receipt of notices and the service of Legal Process as aforesaid.

Notwithstanding the foregoing provisions of this Section 16.2, to the extent permitted by law, notices to the Condo-Hotel Parcel Owner, as applicable, and all of its constituent Condo-Hotel Unit Owners shall be served upon the president of the Association for the Condo-Hotel Parcel and such president shall be the agent for service of process of the Condo-Hotel Parcel Owner and its constituent the Condo-Hotel Unit Owners. Legal process served upon such agent shall be effective service upon the Condo-Hotel Parcel Owner and its respective constituent Condo-Hotel Unit Owners as though served individually on each and all such persons. The president of the Association may be empowered to give notice and/or serve process on behalf of the Condo-Hotel Parcel Owner and any or all Condo-Hotel Unit Owners for any purposes under this Hotel Declaration, which notice shall be binding upon the Condo-Hotel Parcel Owner and/or the Condo-Hotel Unit Owners in whose behalf it shall have been given.

ARTICLE XVII
HEIRS, SUCCESSORS AND ASSIGNS

17.1 Provisions Run with the Land. This Hotel Declaration is intended to and shall run with the real property benefited and burdened hereby and shall bind and inure to the benefit of the parties hereto and their successors in title.

17.2 Release on Conveyance. In the event that any person or entity (the "**Grantor**") who owns all or any portion of any Parcel conveys to another (the "**Grantee**") all of the right, title and interest of such Grantor in such Parcel or portion thereof, then the Grantor shall from the time of such conveyance be entirely relieved from the obligation to observe and perform all covenants and obligations which the Grantor would otherwise be liable hereunder to observe and perform by virtue of ownership of the interest conveyed. In the event of any such conveyance by a Grantor of all of its interest in a Parcel or portion thereof, the Grantee shall from the time of such conveyance be deemed to have assumed the liability to observe and perform all the covenants and obligations imposed by this Hotel Declaration on the person owning the interest conveyed. No Grantor shall be released by virtue of this Section 17.2 from liability incurred under any covenant or obligation in this Hotel Declaration prior to the time of its conveyance of all of its interest. In any case in which a transfer or conveyance of title occurs by reason of eminent domain, and such taking is only for a temporary period, or for only a portion of a Parcel, the Grantor in such instance shall be relieved from performance of its covenants and obligations hereunder only to the extent prescribed elsewhere in this Hotel Declaration, and to the extent not so prescribed, as may be prescribed by such legal or equitable principles then applicable in the State of Florida.

17.3 Easements Benefit Occupants, etc. Subject to the provisions of Section 2.2.4, any easement or right of entry herein granted to any Owner shall be for the benefit not only of such Owner but also for the benefit of any Occupants, family members, licensees, employees, guests, invitees, agents and contractors of such Owner whom such owner shall permit to use such easement or right of entry.

17.4 Assignment of Rights to Occupants, Mortgagees. Any Owner may, without the necessity of conveying title to such Owner's Parcel, assign or otherwise transfer to any Occupant of the entire Parcel, or to the holder of a first mortgage covering the entire Parcel, all or any of the rights, privileges, easements and rights of entry herein given to such Owner (including, without limitation, any right to make any election, to exercise any option or discretion, to give any notice, to perform any work of demolition, restoration, repair, replacement or rebuilding, to receive moneys from the Insurance Trustee other than the moneys required for restoration, repair or reconstruction of the Building or Parcel and to receive any and all other moneys payable to such Owner). Any such lessee may in turn assign or otherwise transfer all or any of such rights, privileges, easements and rights of entry to the holder of a first mortgage covering the leasehold estate of such lessee, and any such lessee or holder may exercise any such right, privilege, easement or right of entry so assigned or otherwise transferred to it to the same extent as if in each instance this Hotel Declaration specifically granted such right, privilege, easement or right of entry to such lessee or holder. No other Owner (or the Insurance Trustee or any other person having any rights hereunder) shall be bound to recognize any assignment, lease, mortgage or other transfer referred to in this Section 17.4, or the exercise or accrual of any rights pursuant to such assignment, lease, mortgage or other transfer, or to recognize any holder of a first mortgage as a Mortgagee hereunder, until such other Owner and the Insurance Trustee are given written notice, in the manner provided in Article XVI for the giving of notice, of such assignment, lease, mortgage or other transfer, which notice shall then be imputed to any other person having rights hereunder. Said notice shall be accompanied by a certified copy of the instrument effecting such assignment or other transfer. Any Owner, the Insurance Trustee, mortgagee or lessee who is given written notice as aforesaid of such assignment or other transfer, and any successor, personal representative, heir or assign of such Owner or such other person, shall thereafter, simultaneously with the giving of any "notice" (as that term is defined in the first sentence of Article XVI) under this Hotel Declaration to such assignor or transferor, give to such lessee or holder a copy of such notice pursuant to said Article XVI. No such notice shall be effective against such lessee or holder unless a copy thereof is given to such lessee or holder as aforesaid.

Any such Occupant/lessee or holder to whom rights, privileges, easements or rights of entry are assigned or otherwise transferred pursuant to this Section 17.4 shall, within ten (10) days after written request made by any Owner (but not more than twice during each calendar year), execute, acknowledge and deliver to such Owner, or to any existing or prospective purchaser, mortgagee or lessee designated by such Owner, an estoppel certificate in recordable form containing the statements called for in Section 15.1 except that the words "the Owner executing such certificate", wherever the same appear in Section 15.1, shall be deemed instead to refer to the lessee or holder executing such estoppel certificate. Any Owner of a Condo-Hotel Unit in the Condo-Hotel Parcel may assign or otherwise transfer its rights in the manner described in this Section 17.4 with respect to its portion of the Condo-Hotel Parcel. To be considered a Mortgagee of the Condo-Hotel Parcel, or of a Condo-Hotel Unit for purposes of this Hotel Declaration, the holder of such a first mortgage shall give notice as prescribed in the preceding paragraph. In addition to giving notice as prescribed

in this Section 17.4, the holder of a first mortgage lien as to either Parcel or any Condo-Hotel Unit in the Condo-Hotel Parcel shall also satisfy the definition of Mortgagee included in Article I, in order to be considered a Mortgagee under this Hotel Declaration.

17.5 Certain Imputations and Stipulations Concerning Notice under Article XVII. If pursuant to Section 17.4, notice of the identity of a particular lessee of an entire Parcel or holder of a first mortgage on a Parcel or a Condo-Hotel Unit in the Condo-Hotel Parcel is given to the Owner of the other Parcel and/or the Insurance Trustee, as those parties are then identified and constituted, knowledge of such notice and its contents shall be imputed without further action to the successors and assigns of such Owner and Insurance Trustee. Knowledge of such notice shall likewise continue to be imputed to the persons to whom knowledge of notices to other Owner and Insurance Trustee is imputed under Section17.4, regardless of any succession or assignment among the other Owner and Insurance Trustee and/or among such person to whom knowledge or notice is imputed under Section 17.4.

ARTICLE XVIII
CERTAIN RESTRICTIONS AND OBLIGATIONS WITH RESPECT TO CONDO-HOTEL PARCEL

18.1 Condo-Hotel Declaration and Amendments Thereto. The Condo-Hotel Declaration shall be initially in the form approved by the Hotel Parcel Owner, and no amendment thereto shall be made without the prior written consent of the Hotel Parcel Owner. The Condo-Hotel Parcel Owner agree that the Hotel Parcel Owner may exercise the rights of the board of directors of the Association and aggrieved Condo-Hotel Unit Owner under Section 718.303 of the Act, in the case of the failure of any Condo-Hotel Unit Owner of such condominium to comply with the Condo-Hotel Declaration, or the bylaws, articles, rules and regulations of the Association.

18.2 The following provisions of the Condo-Hotel Declaration providing for restrictions pertaining to the Condo-Hotel Units shall not be revoked or amended for a period of thirty (30) years from the date of the recording of the Condo-Hotel Declaration without the prior written consent of the Superintendent for the School District of Osceola County, on behalf of the Osceola County School Board:

(a) the provision set forth in Section 15.1 (2) of the Condo-Hotel Declaration that states that mailboxes or mail delivery service will not be available in the Condo-Hotel Parcel or the Resort;

(b) the provision set forth in Section 15.1 (2) that states that garbage collection for the Condominium shall be provided by a commercial hauler, and not part of the Osceola County residential garbage collection. The Hotel Parcel Owner shall be responsible for increased amenities facilities expenses, which shall be a Shared Facilities Expense;

(c) the provisions set forth in Sections 15.10 (a), 15.1(1), 15.1 (3), and 15.1(4) that state that the Condo-Hotel Units are intended for non-permanent occupancy and will not qualify for homestead exemption

(d) the provisions set forth in Section 15.1(3) that state that school transportation will not be provided for the Condo-Hotel Units; and

(e) The provisions that set forth in Section 15.1 providing that the Association is authorized to pay an amount equal to any educational system impact fee in the event of a violation.

ARTICLE XIX
SEVERABILITY

19.1 Severability. If any provision of this Hotel Declaration is prohibited by or is unenforceable under any applicable law, such provision shall be severed without invalidating the remaining provisions of this Hotel Declaration. To the full extent permitted by law the remaining provisions of this Hotel Declaration shall be deemed to be a valid and binding agreement in accordance with its terms.

ARTICLE XX
REMEDIES

20.1 Remedies. The remedies provided in this Hotel Declaration shall not be exclusive and, in the event of a breach of any of the terms, covenants and conditions hereof, the Owners shall be entitled to pursue any remedies available at law or in equity, including specific performance, in addition to or in lieu of any of the remedies provided herein, to the exclusion of punitive damages and consequential damages.

ARTICLE XXI
MISCELLANEOUS

21.1 Waiver. No provision contained in this Hotel Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

21.2 Conflict. Any conflict in the terms and conditions of this Hotel Declaration, the Master Documents, or the Condo-Hotel Declaration shall be resolved in the following order of priority: (a) the Master Documents; (b) this Hotel Declaration; and (c) the Condo-Hotel Declaration.

21.3 Gender. The use of any gender in this Hotel Declaration shall be deemed to include all other genders and the use of the singular shall be deemed to include the plural, and vice versa, unless the context otherwise requires.

21.4 Amendments. This Hotel Declaration and the provisions herein may be amended, changed, terminated or modified by the Declarant without the consent of any other Owner.

21.5 Governing Law/Venue. This Hotel Declaration shall be governed, construed, applied and enforced in accordance with the laws of Florida including matters affecting title to all real property described herein. The venue for any legal action or suit commenced in connection with the interpretation, construction, validity, enforcement or performance of this Hotel Declaration shall be Osceola County, Florida.

21.6 Further Assurances. From time to time after the date hereof, each party hereto shall furnish, execute, and acknowledge, without charge, such other instruments, documents, materials, and information as the other parties hereto may reasonably request in order to confirm to such parties the benefits contemplated hereby.

21.7 Exculpation. Notwithstanding anything herein to the contrary, the representations, covenants, undertakings and agreements made in this Hotel Declaration by the Declarant and/or the Hotel Parcel Owner are not made and intended as personal representations, covenants, undertakings or agreements by the Declarant or the Hotel Parcel Owner or for the purpose or with the intention of binding either the Declarant or the Hotel Parcel Owner personally, but are made and intended for the purpose of binding the property of the Declarant and the Hotel Parcel Owner. No personal liability is assumed by nor shall at any time be asserted or enforceable against the Declarant or the Hotel Parcel Owner on account of any representation, covenant, undertaking or agreement of the Declarant or the Hotel Parcel Owner contained in this Hotel Declaration either expressed or implied. All such personal liability, if any, is expressly waived and released by the Owners and by all persons claiming by, through or under the Owners.

21.8 Limitation on Powers. Anything in this Hotel Declaration to the contrary notwithstanding, the existence or exercise of any easement, right, power, authority, privilege or duty of the Hotel Parcel Owner as the same pertains to any condominium located within the Building which would cause the Hotel Parcel Owner or the Hotel Parcel to be subject to Chapter 718 or Chapter 721, Florida Statutes, shall at the option of the Hotel Parcel Owner be null, void and of no effect to the extent, but only to the extent, that such existence or exercise is finally determined to subject the Hotel Parcel Owner or Hotel Parcel to the provisions of said Chapter 718 or Chapter 721. It is the intent of this provision that the Hotel Parcel Owner not be deemed to be a condominium association, and that the fee interest of the Hotel Parcel Owner in the Shared Facilities located in the Hotel Parcel (or any other portion of the Building) not be deemed to be common elements of any such condominium, within the meaning of applicable laws or administrative rules for any purpose. This Hotel Declaration shall not be deemed a Hotel Declaration of condominium under Chapter 718 Florida Statutes.

21.9 CPI. Whenever a specific dollar amount is recited in this Hotel Declaration, unless limited by law or by the specific text hereof or unless held to be unconscionable, such amounts shall be increased from time to time by application of a nationally recognized consumer price index using the date of recordation of this Hotel Declaration is as the base year. The index used shall be that published by the United States Department of Labor, Bureau of Labor Statistics, designated as "Consumer Price Index, all urban consumers, United States, 1982-84 = 100, all items". If the Bureau of Labor Statistics shall change the method for determining the consumer price index or in the event the Bureau of Labor Statistics shall cease to publish said statistical information and it is not available from any other source, public or private, then the Hotel Parcel Owner shall choose a reasonable alternative to compute such increases.

21.10 Disclaimers and Releases. Any disclaimers or releases given by Owners of Condo-Hotel Units in favor of the Condo-Hotel Parcel Owner shall automatically be deemed to also release the Hotel Parcel Owner and its affiliates.

21.11 Waiver of Jury Trial. Neither the Declarant, the Hotel Parcel Owner, the Owners nor the Association shall seek a jury trial in the event of any litigation based upon or arising out of this Hotel Declaration or as a result of any relationship between or among the Declarant, the Hotel Parcel Owner, the Owners, and the Association. In that regard, it is hereby acknowledged that THE DECLARANT, THE OWNERS, THE HOTEL PARCEL OWNER AND THE ASSOCIATION, HEREBY MUTUALLY, KNOWINGLY AND VOLUNTARILY WAIVE THE RIGHT TO A TRIAL BY JURY, AND NEITHER OF THEM SHALL SEEK A TRIAL BY JURY, IN ANY LAWSUIT OR PROCEEDING (INCLUDING, WITHOUT LIMITATION, ANY COUNTERCLAIM OR ANY OTHER LITIGATION PROCEDURE) BASED UPON, ARISING OUT OF OR RELATED TO THIS HOTEL DECLARATION OR AS A RESULT OF ANY RELATIONSHIP BETWEEN OR AMONG THE DECLARANT, THE HOTEL PARCEL OWNER, OWNERS AND THE ASSOCIATION. THE WAIVER CONTAINED HEREIN IS IRREVOCABLE AND SHALL BE SUBJECT TO NO EXCEPTIONS.

21.12 Validity of The Condo-Hotel Declaration, the Hotel Declaration, and the Master Documents; Release of the Declarant, the Master Declarant, and the Hotel Parcel Owner.

EACH CONDO-HOTEL UNIT OWNER IS ADVISED TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS HOTEL DECLARATION, THE CONDO-HOTEL DECLARATION AND THE MASTER DECLARATION. BY ACCEPTANCE OF A DEED TO A CONDO-HOTEL UNIT, EACH CONDO-HOTEL UNIT OWNER ACKNOWLEDGES THAT HE/SHE/IT HAS SOUGHT AND RECEIVED SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. THE MASTER DECLARANT, THE DECLARANT AND THE HOTEL PARCEL OWNER ARE RELYING ON THE CONDO-HOTEL UNIT OWNER CONFIRMING IN ADVANCE OF ACQUIRING A CONDO-HOTEL UNIT THAT THIS HOTEL DECLARATION, THE CONDO-HOTEL DECLARATION, AND THE MASTER DOCUMENTS ARE VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO THE MASTER DECLARANT, THE DECLARANT AND THE HOTEL PARCEL OWNER. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING THE CONDO-HOTEL UNIT OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS HOTEL DECLARATION, THE CONDO-HOTEL DECLARATION AND THE MASTER DOCUMENTS ARE INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR THE DECLARANT TO SUBJECT THE RESORT TO THIS HOTEL DECLARATION, EACH CONDO-HOTEL UNIT OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE THE MASTER DECLARANT, THE DECLARANT AND THE HOTEL PARCEL OWNER AND EACH OF THEIR SHAREHOLDERS, PARTNERS, MEMBERS, MANAGERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AFFILIATES, SUCCESSORS AND ASSIGNS, FROM ANY AND ALL LIABILITY, CLAIMS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH A CONDO-HOTEL UNIT OWNER MAY HAVE IN THE FUTURE AGAINST THE MASTER DECLARANT, THE DECLARANT AND/OR THE HOTEL PARCEL OWNER AND EACH OF, THEIR SHAREHOLDERS, PARTNERS, MEMBERS, MANAGERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AFFILIATES, SUCCESSORS AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THE VALIDITY OR ENFORCEABILITY OF THIS HOTEL DECLARATION, THE CONDO-

HOTEL DECLARATION AND THE MASTER DOCUMENTS, OR THE EXHIBITS HERETO AND THERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

ARTICLE XXII
MEANING OF THE CONDO-HOTEL PARCEL OWNER

22.1 Meaning of the Condo-Hotel Parcel Owner. In the event of the recording of the Condo-Hotel Declaration, wherever in this Hotel Declaration the consent or approval of the Condo-Hotel Parcel Owner is required or provided for, and no other means by which such consent or approval shall be given is specified, the same shall be deemed to have been given if the president of the Association for the Condo-Hotel Parcel shall have given such consent or approval.

ARTICLE XXIII
STANDARD OF ALLOCATION

23.1 Standard of Allocation, Repair and Restoration. Whenever, pursuant to this Hotel Declaration, it shall be necessary to determine the proportion of any Expense hereunder which is to be borne by each Owner, the following shall apply:

(a) The proportion to be borne by the Owner of any Parcel shall be determined in the manner provided in **Exhibit "C."**

(b) In the event that any new facilities, not presently called for or shown in the Building Plans, shall hereafter be constructed pursuant to this Hotel Declaration, and such new facility meets the definition of a Shared Facility, Expenses pertaining to such facility shall be allocated as determined by agreement of the Owners, or, if the Owners shall fail to agree, by arbitration in accordance with the provisions of Article XIV.

ARTICLE XXIV
THE HOTEL PARCEL OWNER'S PURCHASE OR OPTION TO PURCHASE THE CONDO-HOTEL PARCEL OR CONDO-HOTEL UNITS IN CERTAIN CIRCUMSTANCES

24.1 Purchase of Condo-Hotel Parcel in Certain Instances of Casualty or Condemnation.

(a) The Hotel Parcel Owner Options. The Hotel Parcel Owner shall have and is hereby granted the right and option to purchase the entire Condo-Hotel Parcel in the following instances: (i) in the event that the Condo-Hotel Parcel Owners acting as and for the Condo-Hotel Parcel Owner make an election as provided for in Section 8.3(b) not to pay for repair or restoration in the event of casualty; (ii) in the event of an election by the Condo-Hotel Parcel Owner under Section 8.4 not to proceed with the repair and restoration of the Building in the circumstances described therein; (iii) in the event of an election by the Hotel Parcel Owner under Section 8.4 not to proceed with the repairs and restoration described therein; (iv) in the event

that the Condo-Hotel Parcel Owners acting as and for the Condo-Hotel Parcel Owner make an election as provided for in Section 10.5 not to pay for repair or restoration in the event of a condemnation; (v) in the event of an election by the Hotel Parcel Owner under Section 10.7 not to proceed with the repairs and restorations described therein. By making the election described in Section 10.7 the Hotel Parcel Owner shall be deemed to have automatically exercised its option described in (v) of the first sentence. By making the election described in Section 8.4, the Hotel Parcel Owner shall be deemed to have automatically exercised its option described in (iii) of the first sentence.

(b) The Condo-Hotel Parcel Owner Right. The Condo-Hotel Parcel Owner shall have and is hereby granted the right and option to require the Hotel Parcel Owner to purchase the entire Condo-Hotel Parcel in the event of an election by the Hotel Parcel Owner under Section 8.4 or Section 10.7 not to proceed with the repair and restoration of the Building described therein.

(c) Purchase Price. The purchase price for the Condo-Hotel Parcel in any sale arising from the circumstances described in items (i), (ii) or (iii) of subsection (a) of this Section 24.1 shall be the amount of the condemnation award for such Parcels or the actual insurance proceeds paid under the insurance policy carried for the Condo-Hotel Parcel under Section 7.1, less the actual cost of demolition of such parcels to the extent demolition is required by applicable law or governmental authorities following such casualty or condemnation and to the extent such cost of demolition is utilized by the Hotel Parcel Owner to accomplish such demolition, provided such insurance coverage is a "**Full Replacement Value**" policy. In the event a "Full Replacement Value" policy is not the type of insurance in place, then the purchase price for the Condo-Hotel Parcel shall be the replacement value of the Condo-Hotel Parcel, as the case may be. Said purchase price shall be distributed among the Condo-Hotel Parcel Owners based upon the relative values of such Condo-Hotel Units as evidenced by the latest assessed values for ad valorem tax purposes (i.e., a Condo-Hotel Unit's ad valorem assessed value shall be the numerator and the total ad valorem assessed value of all Condo-Hotel Units shall be the denominator).

To fund the purchase price and closing costs for any purchase of the Condo-Hotel Parcel under this Section, the Hotel Parcel Owner shall be entitled to draw upon and utilize any and all funds paid to the Insurance Trustee, including proceeds from the insurance policies on the Parcels maintained under Section 7.1 or condemnation awards, and any funds thereafter remaining with the Insurance Trustee shall be payable to the Hotel Parcel Owner, or its mortgagee(s), as their interests may appear, for utilization in repair, restoration or demolition of the Building or for such other purposes as such parties as their interest appear may reasonably determine.

24.2 Closing. In the event the Hotel Parcel Owner elects or is required to purchase the Condo-Hotel Parcel pursuant to Section 24.1, the closing of title for Section 24.1(c) purchase shall occur ninety (90) days after a final determination of the purchase price pursuant to Section 24.1(c).

The closing of title for any purchase of a Condo-Hotel Unit or Units by the Hotel Parcel Owner pursuant to this Section 24.2 shall take place on the date designated by the Hotel Parcel Owner, but not later than thirty (30) days from the date of the Hotel Parcel Owner's notice of election to purchase. At the closing, the Hotel Parcel Owner shall pay the purchase price and all owners of each Condo-Hotel Unit to be conveyed shall execute and deliver to the Hotel Parcel Owner a General Warranty Deed for such Condo-Hotel Unit conveying said Condo-Hotel Unit to the Hotel Parcel Owner. The purchase price shall be adjusted at closing for any taxes, insurance premiums, or utility deposits, such adjustments to be allocated between the parties in accordance, with the allocations then customary in the County, as may be varied in the case of a sale pursuant to this Section 24.2 by specific terms accepted by the Hotel Parcel Owner.

24.3 Disputes. All disputes under this Article XXIV shall be settled by arbitration in accordance with the provisions of Article XIV, provided that the arbitrators shall not vary the terms of this Article.

24.4 Zoning and Other Regulations, Permits, and Approvals. No Owner shall, without obtaining the prior written consent of the Hotel Parcel Owner and the Master, which consent may be withheld, for any reason whatsoever, directly or indirectly apply for or obtain or cause to be obtained (i) a change in the zoning classification of any Parcel, (ii) any conditional or special use permit relating to the use of any portion of a Parcel, (iii) any variance from any provision of law, including, but not limited, zoning and land use regulations, applicable to any portion of a Parcel or the Resort, (iv) any subdivision plat or replat of any Parcel, or (v) an amendment or modification to any governmental permit applicable to any portion of the Resort.

24.5 Superiority of the Master Documents. All Owners and Mortgagees hereby acknowledge and agree that the Resort (and all Parcels located therein) shall be operated and administered in accordance with the Master Documents and that the Master Documents take priority over this Hotel Declaration with respect to all matters set forth in the Master Documents. As the Master Documents and all amendments thereto are superior to this Hotel Declaration, the Master Documents and all amendments thereto should be read in conjunction with this Hotel Declaration.

24.6 No Merger: Notwithstanding an Owner's ownership of more than one Parcel, the easements declared and established hereunder shall burden and benefit each Parcel individually, as applicable and without merger as a result of such common ownership, and upon conveyance of a Parcel so that such Parcel ceases to be under common ownership, neither the Owner conveying said Parcel nor the Owner acquiring said Parcel shall need to execute additional documentation to evidence the existence of said Easements, and said Easements shall relate back to and shall be deemed to have been created as of the date this Hotel Declaration was recorded in the Public Record of the County.

24.7 Controlled Vehicular Access Gate System.

The Master Declarant reserves the right to install a controlled vehicular access gate system at the main entrance of Everest Place, which, if installed, shall be owned by the Master Declarant as a Common Area, and the costs and expenses associated with same shall be a Common Area Expense. The hours of operation of any such controlled vehicular access gate system will be

determined by the Master Declarant, in its sole and absolute discretion. The Master Declarant, the Declarant, the Condo-Hotel Developer, the Hotel Parcel Owner, or the Association make no representations whatsoever as to the security of Everest Place (including the Resort) or the effectiveness of any such controlled vehicular access gate system. All Owners agree to hold the Master Declarant, the Declarant, the Condo-Hotel Developer, the Hotel Parcel Owner and the Association harmless from any loss or claim arising within Everest Place (including the Resort) from the occurrence of a crime or other act. Owners acknowledge and agree that any such controlled vehicular access gate system is designed to provide limited access control and to deter crime, not prevent it. Notwithstanding anything herein to the contrary, neither the Master Declarant, the Declarant, the Condo-Hotel Developer, the Hotel Parcel Owner or the Association, make any representations whatsoever to commence, complete or construct any controlled vehicular access gate system within any specific time period. The Master Declarant, the Declarant, the Condo-Hotel Developer, the Hotel Parcel Owner, the Association, and each of their successors, assigns, employees, contractors, sub-contractors and potential purchasers shall have access to Everest Place, including all portions of the Resort at all times and the Association nor any Owner shall impede any such access. Any controlled vehicular access gate system installed shall remain open during construction and sales hours to allow the Master Declarant, the Declarant, the Condo-Hotel Developer, the Hotel Parcel Owner, the Association, and each of their successors, assigns, employees, contractors, sub-contractors, lessees and potential purchaser's access to Everest Place (including the Resort). The Master Declarant, the Declarant, the Condo-Hotel Developer, the Hotel Parcel Owner and the Association hereby reserve and grant an easement in favor of itself, its successors and/or assigns throughout all portions Everest Place, including the Resort, as may be necessary, for the purpose of accessing Everest Place (and the Resort) for any purpose whatsoever. No Owner or the Association shall do any act which may interfere with The Master Declarant, the Declarant, the Condo-Hotel Developer, or the Hotel Parcel Owner having access through the controlled vehicular access gate system. In the event of any accident, blockage or other emergency, at the request of an emergency services provider, the controlled vehicular access gate system shall be opened until traffic flow is restored.

ARTICLE XXV
FRANCHISE DISCLAIMER AND OCCUPANCY USE RESTRICTIONS

25.1 Intentionally Lef Blank.

25.2 Occupancy Restrictions. The use of the Condo-Hotel Units shall be restricted to and shall be in accordance with the following provisions:

(a) Occupancy. Condo-Hotel Units shall be used only in accordance with all applicable City, County and State codes, ordinances and regulations and the approvals and permits issued for the improvements, and for no other purpose. Pursuant to Osceola County Code of Ordinances, Chapter 24-42 (the "**Educational System Impact Fee Ordinance**" or "**County Ordinance**"), the Resort in which the Condo-Hotel Parcel is located is designated and operated as "Vacation Villas" in compliance with the terms and provisions of the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988; (collectively, the "**Acts**"). Each Condo-Hotel Unit Owner, by acceptance of

a deed or other instrument conveying a Condo-Hotel Unit, agrees to comply with Condo-Hotel Unit occupancy restrictions, pursuant to the County Ordinance.

(b) Permanent Residency. No person shall reside as a permanent resident in any Condo-Hotel Unit located within the Resort. The Condo-Hotel Units can only be used for Transient Occupancy, with any use of occupancy being limited to no more than thirty (30) days in a twelve-month period, whichever is less.

(c) Operating Characteristics and Restrictions.

1. No mailboxes or mail delivery is allowed with respect to any Condo-Hote Unit;

2. No Condo-Hotel Unit shall be occupied as a residential dwelling unit;

3. Condo-Hotel Units shall not qualify or be used for homestead or home occupation purposes;

4. Condo-Hotel Unit Owners shall not utilize the address of the Condo-Hotel Unit as an address for purposes of establishing residency, applying for public schools, or registering to vote; and

5. Each Condo-Hotel Unit Owner, by acceptance of a deed or other instrument conveying a Condo-Hotel Unit, further acknowledges and agrees that all restrictions contained in this Section 25.2 shall remain valid and legally binding in the event that (i) the City or County adopt new ordinances, regulations, statutes or resolutions concerning any of the restrictions set forth in the County Ordinance; or (ii) the County Ordinance is modified, in any way whatsoever.

[SIGNATURES AND NOTARY BLOCKS TO FOLLOW]

IN WITNESS WHEREOF, this Hotel Declaration has been duly executed and delivered by the Declarant on the day and year first above written.

Signed, sealed and delivered
in the presence of:

_____
Print Name: _____
Address: _____
_____

_____
Print Name: _____
Address: _____
_____

EP ORLANDO HOSPITALITY I, LP, a Florida limited partnership

By: _____
_____,its _____

Address: 8298 West Irlo Bronson Memorial Hwy, Kissimmee, Florida 34747

STATE OF FLORIDA)
) 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 _____, as _____ of **EP ORLANDO HOSPITALITY I, LP**, a Florida limited partnership, freely and voluntarily under authority duly vested in them. He/She is personally known to me.

(Notarial Seal)

Name: _____
Commission No.: _____
Notary Public State of: _____

SCHEDULE OF EXHIBITS

Exhibit A	Legal Description of Land
Exhibit B-1	Legal Description of Condo-Hotel Parcel
Exhibit B-2	Legal Description of Hotel Parcel
Exhibit B-3	Legal Description of Everest Place
Exhibit C	Allocation of Shared Facilities Expenses
Exhibit D	Shared Facilities Occupancy Use Restriction

EXHIBIT “A”

Legal Description of Land

(COMPRISED OF THE LEGAL DESCRIPTION OF HOTEL PARCEL AND CONDO-HOTEL PARCEL):

"LEGAL DESCRIPTION PARCEL"L"

A PARCEL OF LAND LOCATED IN THE WEST HALF OF SECTION 4, TOWNSHIP 25 SOUTH, RANGE 27 EAST, OSCEOLA COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINS AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 4; THENCE SOUTH 89°53'46" WEST, ALONG THE SOUTH LINE OF SAID SECTION 4, A DISTANCE OF 113.43 FEET; THENCE LEAVING SAID LINE, RUN NORTH 03°43'08" WEST, A DISTANCE OF 143.27 FEET TO THE POINT OF THE COMMENCEMENT; SAID POINT BEING AT THE INTERSECTION OF THE NORTH RIGHT OF WAY OF OAK ISLAND ROAD AND THE WEST RIGHT OF WAY OF S.R.429, (PER F.D.O.T. MAP, F.P. NO. 403497-3); THENCE LEAVING SAID POINT, RUN NORTH 04°09'33" WEST, A DISTANCE OF 1,563.94 FEET; THENCE SOUTH 86°16'52" WEST, A DISTANCE OF 110.45 FEET; THENCE SOUTH 85°33'13" WEST, A DISTANCE OF 268.32 FEET; THENCE SOUTH 60°25'52" WEST, A DISTANCE OF 242.69 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 150.00 FEET, AND A CENTRAL ANGLE OF 35°01'34"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 91.70 FEET TO THE POINT OF TANGENCY; BEING THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 131.76 FEET, AND A CENTRAL ANGLE OF 37°36'20"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 202.52 FEET TO THE POINT OF TANGENCY; BEING THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 379.14 FEET, AND A CENTRAL ANGLE OF 06°00'43"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 7.35 FEET TO THE POINT OF TANGENCY; BEING THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 142.58 FEET, AND A CENTRAL ANGLE OF 83°24'54"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 207.58 FEET TO THE POINT OF TANGENCY; BEING THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 70.00 FEET, AND A CENTRAL ANGLE OF 13°23'08"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 16.35 FEET TO THE POINT OF TANGENCY; BEING THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 70.40 FEET, AND A CENTRAL ANGLE OF 121°41'19"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 149.52 FEET TO THE POINT OF TANGENCY; BEING THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 70.00 FEET, AND A CENTRAL ANGLE OF 52°53'39"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 64.62 FEET TO THE POINT OF TANGENCY; BEING THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 30.00 FEET, AND A CENTRAL ANGLE OF 85°42'48"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 44.88 FEET TO THE POINT OF TANGENCY; BEING THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 120.00 FEET, AND A CENTRAL ANGLE OF 32°53'30"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 68.89 FEET TO THE POINT OF TANGENCY; THENCE NORTH 85°33'47" EAST, A DISTANCE OF 760.12 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 285.00 FEET, AND A CENTRAL ANGLE OF 04°26'47"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 88.70 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 04°26'47" EAST, A DISTANCE OF 471.11 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINING 9.043 ACRES MORE OR LESS.

EXHIBIT “B-1”

Legal Description of the Condo-Hotel Parcel

THE VERTICALLY ENCLOSED AREA LYING 113.3 FEET ABOVE THE FIRST FLOOR TOP OF SLAB GRADE, BEING THE TOP OF SLAB OF THE FIRST FLOOR TO THE BOTTOM OF SLAB OF THE ROOF OF A BUILDING, LESS AND EXCEPT: THE NATURAL GROUND DIRECTLY BELOW THE BOTTOM OF SLAB OF THE FIRST FLOOR AND WITHIN THE FOLLOWING MENTIONED COURSES, EXCLUDING ALL FLOOR SLABS, ROOF, ELEVATOR SHAFTS, HALLWAYS, STAIRWAYS, BALCONIES, TERRACES, CORRIDORS AND DRYWALL WITHIN THE UNITS (ALL OF WHICH ARE INCLUDED WITHIN THE HOTEL PARCEL) AND EXCLUDING ALL STRUCTURAL SUPPORTS AND COLUMNS (WHICH ARE ALSO A PART OF THE HOTEL PARCEL) LOCATED WITHIN THE FOLLOWING DESCRIBED PROPERTY.

A PORTION OF PARCEL L, LOCATED IN THE WEST HALF OF SECTION 4, TOWNSHIP 25 SOUTH, RANGE 27 EAST, OSCEOLA COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE AT THE INTERSECTION OF THE NORTH RIGHT OF WAY OF OAK ISLAND ROAD (ALSO KNOWN AS FUNIE STEED RD) AND THE WEST RIGHT OF WAY OF S.R. 429, ACCORDING TO PER F.D.O.T. MAP, F.P. NO. 403497-3; THENCE LEAVING SAID POINT, RUN NORTH 04°09'07" WEST FOR A DISTANCE OF 1,525.93 FEET; THENCE SOUTH 86°16'52" WEST FOR A DISTANCE OF 110.45 FEET; THENCE RUN SOUTH 85°33'15" WEST FOR A DISTANCE OF 259.85 FEET; THENCE RUN NORTH 04°26'47" WEST FOR A DISTANCE OF 80.43 FEET TO THE POINT OF BEGINNING; THENCE RUN SOUTH 85°25'56" WEST FOR A DISTANCE OF 79.89 FEET; THENCE RUN SOUTH 60°25'56" WEST FOR A DISTANCE OF 175.82 FEET; THENCE RUN NORTH 29°34'04" WEST FOR A DISTANCE OF 6.50 FEET; THENCE RUN SOUTH 60°25'56" WEST FOR A DISTANCE OF 6.00 FEET; THENCE RUN SOUTH 29°34'30" EAST FOR A DISTANCE OF 4.67 FEET; THENCE RUN SOUTH 60°25'56" WEST FOR A DISTANCE OF 36.00 FEET; THENCE RUN NORTH 29°34'04" WEST FOR A DISTANCE OF 0.46 FEET; THENCE RUN SOUTH 60°25'56" WEST FOR A DISTANCE OF 6.23 FEET; THENCE RUN NORTH 29°34'04" WEST FOR A DISTANCE OF 43.54 FEET; THENCE RUN NORTH 60°25'56" EAST FOR A DISTANCE OF 6.48 FEET; THENCE RUN NORTH 29°34'04" WEST FOR A DISTANCE OF 51.58 FEET; THENCE RUN NORTH 60°25'56" EAST FOR A DISTANCE OF 191.89 FEET; THENCE RUN NORTH 04°34'04" WEST FOR A DISTANCE OF 406.90 FEET; THENCE RUN NORTH 85°25'56" EAST FOR A DISTANCE OF 109.75 FEET; THENCE RUN SOUTH 04°34'04" EAST FOR A DISTANCE OF 297.21 FEET; THENCE RUN NORTH 85°25'56" EAST FOR A DISTANCE OF 150.48 FEET; THENCE RUN SOUTH 04°34'04" EAST FOR A DISTANCE OF 81.67 FEET; THENCE RUN SOUTH 85°25'56" WEST FOR A DISTANCE OF 115.89 FEET; THENCE RUN SOUTH 04°34'04" EAST FOR A DISTANCE OF 105.46 FEET TO THE POINT OF BEGINNING.

EXHIBIT “B-2”

Legal Description of the Hotel Parcel

LEGAL DESCRIPTION: PARCEL "L"

A PARCEL OF LAND LOCATED IN THE WEST HALF OF SECTION 4, TOWNSHIP 25 SOUTH, RANGE 27 EAST, OSCEOLA COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 4; THENCE SOUTH 89°53'46" WEST, ALONG THE SOUTH LINE OF SAID SECTION 4, A DISTANCE OF 113.43 FEET; THENCE LEAVING SAID LINE, RUN NORTH 03°43'08" WEST, A DISTANCE OF 143.27 FEET TO THE POINT OF THE COMMENCEMENT; SAID POINT BEING AT THE INTERSECTION OF THE NORTH RIGHT OF WAY OF OAK ISLAND ROAD AND THE WEST RIGHT OF WAY OF S.R.429, (PER F.D.O.T. MAP, F.P. NO. 403497-3); THENCE LEAVING SAID POINT, RUN NORTH 04°09'07" WEST, A DISTANCE OF 1,525.93 FEET; THENCE SOUTH 86°16'52" WEST, A DISTANCE OF 110.45 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 85°33'13" WEST, A DISTANCE OF 259.85 FEET; THENCE ALONG A NON-TANGENT LINE RUNS SOUTH 60'25'52" WEST, A DISTANCE OF 251.82 FEET TO A POINT OF NOT-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 150.00 FEET, AND A CENTRAL ANGLE OF 51°04'30", THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 133.71 FEET TO A POINT OF NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 379.13 FEET, AND A CENTRAL ANGLE OF 30'36'20", THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 202.52 FEET TO POINT OF ANOTHER NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 70.08 FEET, AND A CENTRAL ANGLE OF 06°00'43", THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 7.35 FEET TO A POINT OF NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 142.58 FEET, AND A CENTRAL ANGLE OF 83'24'54"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 207.58 FEET TO A POINT OF COMPOUND CURVE TO THE LEFT, HAVING A RADIUS OF 70.00 FEET, AND A CENTRAL ANGLE OF 13°23'08", THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 16.35 FEET TO A POINT OF NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 70.39 FEET AND A CENTRAL ANGLE OF 115'20'59"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 141.73 FEET TO ANOTHER POINT OF NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 34.49 FEET, AND A CENTRAL ANGLE OF 24'32'03"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 14.76 FEET TO THE END OF THIS CURVE; THENCE NORTH 38°20'56" EAST, A DISTANCE OF 17.65 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 25.00 FEET, AND A CENTRAL ANGLE OF 90'00'00"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 39.27 FEET TO THE POINT OF NON-TANGENT OF SAID CURVE; THENCE ALONG A NON-TANGENT LINE RUNS NORTH 51°39'04" WEST, A DISTANCE OF 26.38 FEET THE BEGINNING OF A CURVE TO THE LEFT, HAVING A RADIUS OF 335.52 FEET, AND A CENTRAL ANGLE OF 08'29'55"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 49.76 FEET TO THE END OF SAID CURVE; THENCE NORTH 19°43'29" EAST, A DISTANCE OF 16.08 FEET; THENCE NORTH 15°01'49" EAST, A DISTANCE OF 34.61 FEET TO THE POINT OF NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 329.51 FEET, AND A CENTRAL ANGLE OF 05'27'51", THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 31.42 FEET TO THE POINT OF NON-TANGENCY; THENCE NORTH 85°33'49" EAST, A DISTANCE OF 399.68 FEET, THENCE NORTH 04°26'46" WEST, A DISTANCE OF 37.56 FEET; THENCE NORTH 85°33'14" EAST, A DISTANCE OF 114.99 FEET; THENCE SOUTH 04°26'46" EAST, A DISTANCE OF 37.58 FEET; THENCE NORTH 85°33'53" EAST, A DISTANCE OF 134.47 FEET; THENCE SOUTH 04°30'38" EAST, A DISTANCE OF 19.89 FEET; THENCE NORTH 85°33'13" EAST, A DISTANCE OF 54.91 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 37.00 FEET, AND A CENTRAL ANGLE OF 63'12'28"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 40.81 FEET TO A POINT ON A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 285.00 FEET, AND A CENTRAL ANGLE OF 25°30'17, THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 126.86 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 04°26'46" EAST, A DISTANCE OF 509.12 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE CONDO-HOTEL PARCEL, AS FOLLOWS:

THE VERTICALLY ENCLOSED AREA LYING 113.3 FEET ABOVE THE FIRST FLOOR TOP OF SLAB GRADE, BEING THE TOP OF SLAB OF THE FIRST FLOOR TO THE BOTTOM OF SLAB OF THE ROOF OF A BUILDING, LESS AND EXCEPT: THE NATURAL GROUND DIRECTLY BELOW THE BOTTOM OF SLAB OF THE FIRST FLOOR AND WITHIN THE FOLLOWING MENTIONED COURSES, EXCLUDING ALL FLOOR SLABS, ROOF, ELEVATOR SHAFTS, HALLWAYS, STAIRWAYS, BALCONIES, TERRACES, CORRIDORS AND DRYWALL WITHIN THE UNITS (ALL OF WHICH ARE INCLUDED WITHIN THE HOTEL PARCEL) AND EXCLUDING ALL STRUCTURAL SUPPORTS AND COLUMNS (WHICH ARE ALSO A PART OF THE HOTEL PARCEL) LOCATED WITHIN THE FOLLOWING DESCRIBED PROPERTY.

A PORTION OF PARCEL L, LOCATED IN THE WEST HALF OF SECTION 4, TOWNSHIP 25 SOUTH, RANGE 27 EAST, OSCEOLA COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE AT THE INTERSECTION OF THE NORTH RIGHT OF WAY OF OAK ISLAND ROAD (ALSO KNOWN AS FUNIE STEED RD) AND THE WEST RIGHT OF WAY OF S.R. 429, ACCORDING TO PER F.D.O.T. MAP, F.P. NO. 403497-3; THENCE LEAVING SAID POINT, RUN NORTH 04°09'07" WEST FOR A DISTANCE OF 1,525.93 FEET; THENCE SOUTH 86°16'52" WEST FOR A DISTANCE OF 110.45 FEET; THENCE RUN SOUTH 85°33'15" WEST FOR A DISTANCE OF 259.85 FEET; THENCE RUN NORTH 04°26'47" WEST FOR A DISTANCE OF 80.43 FEET TO THE POINT OF BEGINNING; THENCE RUN SOUTH 85°25'56" WEST FOR A DISTANCE OF 79.89 FEET; THENCE RUN SOUTH 60°25'56" WEST FOR A DISTANCE OF 175.82 FEET; THENCE RUN NORTH 29°34'04" WEST FOR A DISTANCE OF 6.50 FEET; THENCE RUN SOUTH 60°25'56" WEST FOR A DISTANCE OF 6.00 FEET; THENCE RUN SOUTH 29°34'30" EAST FOR A DISTANCE OF 4.67 FEET; THENCE RUN SOUTH 60°25'56" WEST FOR A DISTANCE OF 36.00 FEET; THENCE RUN NORTH 29°34'04" WEST FOR A DISTANCE OF 0.46 FEET; THENCE RUN SOUTH 60°25'56" WEST FOR A DISTANCE OF 6.23 FEET; THENCE RUN NORTH 29°34'04" WEST FOR A DISTANCE OF 43.54 FEET; THENCE RUN NORTH 60°25'56" EAST FOR A DISTANCE OF 6.48 FEET; THENCE RUN NORTH 29°34'04" WEST FOR A DISTANCE OF 51.58 FEET; THENCE RUN NORTH 60°25'56" EAST FOR A DISTANCE OF 191.89 FEET; THENCE RUN NORTH 04°34'04" WEST FOR A DISTANCE OF 406.90 FEET; THENCE RUN NORTH 85°25'56" EAST FOR A DISTANCE OF 109.75 FEET; THENCE RUN SOUTH 04°34'04" EAST FOR A DISTANCE OF 297.21 FEET; THENCE RUN NORTH 85°25'56" EAST FOR A DISTANCE OF 150.48 FEET; THENCE RUN SOUTH 04°34'04" EAST FOR A DISTANCE OF 81.67 FEET; THENCE RUN SOUTH 85°25'56" WEST FOR A DISTANCE OF 115.89 FEET; THENCE RUN SOUTH 04°34'04" EAST FOR A DISTANCE OF 105.46 FEET TO THE POINT OF BEGINNING.

EXHIBIT “B-3”

Legal Description of Everest Place

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF OSCEOLA, STATE OF FL, AND IS DESCRIBED AS FOLLOWS:

THE WEST 1/2 OF SECTION 4, TOWNSHIP 25 SOUTH, RANGE 27 EAST, LYING NORTH OF OAK ISLAND ROAD A/K/A FUNIE STEED ROAD, AND LYING SOUTH OF STATE ROAD 530 AND LYING WESTERLY OF STATE ROAD 429 (WESTERN BELTWAY), OSCEOLA COUNTY, FLORIDA.

LESS AND EXCEPT THAT PART CONVEYED IN STIPULATED ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 1948, PAGE 719, PUBLIC RECORDS OF OSCEOLA COUNTY, FLORIDA.

MORE PARTICULARLY DESCRIBED AS AND ONE AND THE SAME AS FOLLOWS:

A PARCEL OF LAND LOCATED IN THE WEST HALF OF SECTION 4, TOWNSHIP 25 SOUTH, RANGE 27 EAST, OSCEOLA COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 4; THENCE SOUTH 89°53'46" WEST, ALONG THE SOUTH LINE OF SAID SECTION 4, A DISTANCE OF 113.43 FEET; THENCE LEAVING SAID LINE RUN NORTH 03°43'08" WEST, A DISTANCE OF 143.27 FEET TO THE POINT OF BEGINNING; SAID POINT BEING AT THE INTERSECTION OF THE NORTH RIGHT OF WAY OF OAK ISLAND ROAD AND THE WEST RIGHT OF WAY OF S.R. 429, (PER F.D.O.T. MAP, F.P. NO. 403497-3); THENCE LEAVING SAID POINT, RUN ALONG SAID NORTH RIGHT OF WAY THE FOLLOWING THREE COURSES, NORTH 55° 10' 27" WEST, A DISTANCE OF 1501.21 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 680.00 FEET, AND A CENTRAL ANGLE OF 28° 09' 44"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 334.24 FEET TO THE POINT OF TANGENCY,; THENCE NORTH 83° 20' 10" WEST, A DISTANCE OF 1020.88 FEET TO THE WEST LINE OF SAID SECTION 4; THENCE ALONG SAID LINE THE FOLLOWING TWO COURSES; NORTH 00° 43' 17" EAST, A DISTANCE OF 1433.97 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 4; THENCE NORTH 00° 32' 30" EAST, A DISTANCE OF 2538.65 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 34277.47, A CHORD BEARING OF SOUTH 89°43'06" EAST, AND A CHORD DISTANCE OF 337.46 FEET; SAID CURVE ALSO BEING THE SOUTH RIGHT OF WAY OF STATE ROAD 530 (PER SAID F.D.O.T. MAP AND OFFICIAL RECORDS BOOK 1948, PAGE 719); THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 0°33'51", A DISTANCE OF 337.46 FEET TO THE POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT OF WAY, SOUTH 89° 26' 11" EAST, A DISTANCE OF 342.59 FEET TO THE BEGINNING OF THE LIMITED ACCESS RIGHT-OF-WAY OF SAID S.R. 429; THENCE CONTINUE SOUTH 89°26'11" EAST, ALONG SAID LIMITED ACCESS RIGHT-OF-WAY, A DISTANCE OF 209.33 FEET; THENCE SOUTH 88° 14' 46" EAST, ALONG SAID LIMITED ACCESS RIGHT-OF-WAY, A DISTANCE OF 1062.58 FEET TO THE AFORESAID WEST RIGHT OF WAY OF S.R. 429; THENCE RUN ALONG SAID RIGHT OF WAY THE FOLLOWING EIGHTEEN COURSES; SOUTH 00° 33' 49" WEST, A DISTANCE OF 86.74 FEET;, TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 694.00 FEET, AND A CENTRAL ANGLE OF 12° 37' 47"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 152.98 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 12°03' 58" EAST, A DISTANCE OF 409.65 FEET; THENCE SOUTH 80° 14' 09" WEST, A DISTANCE OF 268.02 FEET; THENCE SOUTH 12° 02' 37" EAST, A DISTANCE OF 314.47 FEET; THENCE SOUTH 09° 45' 51" EAST, A DISTANCE OF 193.45 FEET; THENCE SOUTH 40° 45' 41" EAST, A DISTANCE OF 245.89 FEET; THENCE SOUTH 05° 21' 29" EAST., A DISTANCE OF 193.34 FEET; THENCE SOUTH 39° 38' 31" WEST, A DISTANCE OF 141.42 FEET; THENCE SOUTH 05° 21' 29" EAST, A DISTANCE OF 160.00 FEET; THENCE SOUTH 50° 21' 29" EAST, A DISTANCE OF 141.42 FEET; THENCE SOUTH 05° 21' 29" EAST, A DISTANCE OF 286.03 FEET; THENCE SOUTH 37° 12' 49" EAST, A DISTANCE OF 326.12 FEET; THENCE SOUTH 04° 51' 53" EAST, A DISTANCE OF 660.06 FEET; THENCE SOUTH 03° 43' 08" EAST, A DISTANCE OF 724.17 FEET; THENCE SOUTH 04° 51' 47" EAST, A DISTANCE OF 601.03 FEET; THENCE SOUTH 03° 43' 08" EAST., A DISTANCE OF 551.27 FEET; THENCE SOUTH 03° 43' 08" EAST, A DISTANCE OF 32.00 FEET TO THE POINT OF BEGINNING.

EXHIBIT “C”

ALLOCATION OF SHARED FACILITIES EXPENSES SCHEDULE

% ALLOCATION OF SHARED FACILITIES EXPENSES	
*CONDO-HOTEL PARCEL	46.6092%
HOTEL PARCEL	53.3908%
TOTAL:	100.00%
*Note: The Condo-Hotel Parcel % Allocation is based upon the aggregate of the percentages of all the Condo-Hotel Units	

EXHIBIT “D”

SHARED FACILITIES OCCUPANCY USE RESTRICTION

Studio Units- Three (3) adults and one (1) minor child under the age of 18.
One Bedroom Units- Five (5) adults and three (3) minor children under the age of 18.
Two Bedroom Units- Eight (8) adults and four (4) minor children under the age of 18.

THESE SHARED FACILITIES' OCCUPANCY USE RESTRICTIONS ARE SUBJECT TO CHANGE BY THE HOTEL PARCEL OWNER FROM TIME TO TIME, IN ITS SOLE AND ABSOLUTE DISCRETION.

CERTIFICATE REGARDING RECEIPT FOR PAID REAL ESTATE TAXES

This is to certify that attached hereto as Exhibit "1" is a receipted bill indicating that all real estate taxes due and owing on the property upon which the Building is located, as described in the foregoing Declaration of Covenants, Easements & Restrictions for _____ Hotel ("Hotel Declaration") have been paid as of the date of recordation of the Hotel Declaration.

WITNESSES:

EP ORLANDO HOSPITALITY I, LP,
a Florida limited liability partnership

_____ By: _____

Print Name: _____ _____

Address: _____ its _____

_____

_____

Print Name: _____

Address: _____

_____

STATE OF FLORIDA)
) 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 _____, _____ of **EP ORLANDO HOSPITALITY I, LP**, a Florida limited partnership, freely and voluntarily under authority duly vested in them. He/she is personally known to me.

(Notarial Seal)

Name: _____
Commission No.: _____
Notary Public State of: _____

EXHIBIT “1”

Receipt for 20__ Paid Real Estate Taxes