

RENTAL POOL AGREEMENT

THE8 HOTEL APARTMENTS

HOTEL APARTMENT UNIT: 603

HOTEL APARTMENT UNIT TYPE: TWO BEDROOM

HOTEL APARTMENT UNITS RENTAL POOL AGREEMENT

This Agreement (this "**Agreement**") by and among:

, ("**Seller**"); and

("Manager"); and

("Owner") also defined as "Buyer" .

Capitalized terms used in the Recitals have the meaning given to them in clause 1 of this Agreement.

Manager and Owner are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties".

RECITALS:

- A. Whereas Seller is the seller of the Hotel Apartments at THE8, Palm Jumeirah Dubai.
- B. Owner is a Hotel Apartment Unit owner and has agreed to participate in the Hotel Apartment Units Rental Pool to be operated by the Manager pursuant to the terms of this Agreement whereby the Hotel Apartment Unit shall be placed into a rental pool to be made available for renting out to third parties.
- C. This Agreement records the Owner's appointment of the Manager to operate and manage the Hotel Apartment Unit as part of the Hotel Apartment Units Rental Pool in accordance with the terms of this Agreement and acknowledges the Manager's right, if it so wishes, to appoint itself or one of its affiliated companies as the operator of the Hotel Apartments and the Hotel Apartment Units Rental Pool or to delegate performance of certain or all services in such respect to an Operator.
- D. This Agreement supersedes all previous agreements entered into by the Seller and the Owner prior to the Effective Date in connection with any rental pool program at THE8, Palm Jumeirah, Dubai.

NOW THEREFORE, the Parties have agreed as follows:

1. DEFINITIONS

- 1.1. "**Applicable Law**" means the laws, regulations, decrees and rules applicable in the Emirate of Dubai, United Arab Emirates and all directions and guidelines by any Relevant Authority from time to time;
- 1.2. "**Base Fee**" means 7.50% of the Hotel Apartments Units Net Revenue;
- 1.3. "**BMS**" means the building management statement containing the terms and conditions governing the Development and the operation thereof, and regulating the ownership, use and enjoyment of the various properties and common areas prepared in accordance with the JOP Law as it may be varied from time to time.
- 1.4. "**Black Out Nights**" means the nights in any calendar year when neither Owner nor Family nor Friends shall be entitled to occupy the Hotel Apartment Unit by utilizing Points Entitlement, as such nights shall be determined by Manager in its absolute discretion (but not exceeding twenty (20) nights in any calendar year) as being nights when it is anticipated that occupancy rates, and

Seller:

Manager:

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therefore room revenue from letting to third parties, can be maximized for the benefit of all Owners, and in respect of which dates Owner shall receive written notice in accordance with clause 4.3;

- 1.5. **"Development"** means the development known as "THE8, Palm Jumeirah, Dubai" as identified on the Site Plan;
- 1.6. **"Duration"** means the period specified in clause 2 of this Agreement;
- 1.7. **"Effective Date"** means the date upon which the Hotel Apartment Unit is handed over the Owner in accordance with the terms of the Sale and Purchase Agreement;
- 1.8. **"Family"** means Owner's spouse and their children, and Owner's and spouse's parents, but not further or otherwise, which family by virtue of clauses 3.2(a) and 3.2(d), are entitled to occupy the Hotel Apartment Unit subject to availability on the basis of Owner's Points Entitlement and at the Owner's Special Rate (and subject to the whole other terms of this Agreement);
- 1.9. **"FF&E"** means the Furniture Fixtures and Equipment in respect of the Hotel Apartment Unit as defined in the Uniform System of Accounts and as further specified by the Manager (and in respect of which Owner shall have no input) which is sometimes referred to herein as **"the Hotel Apartment Unit FF&E"** (and references to Hotel Apartment Units FF&E are references to FF&E in all Hotel Apartment Units in the Hotel Apartment Units Rental Pool collectively) and which shall at all times remain the property of Owner, under declaration that for the Duration of this Agreement, Owner shall not be entitled to take possession of, or remove any item of FF&E from any Hotel Apartment Unit, nor to use same other than in accordance with Owner's rights to occupy the Hotel Apartment Unit in accordance with the terms of this Agreement. For the avoidance of doubt, FF&E excludes and Furniture Fixtures and Equipment that is located in the "Common Parts" (as such term is defined in the JOP Law);
- 1.10. **"Fiscal Year"** means a calendar year running from 1st January to 31st December;
- 1.11. **"Force Majeure Event"** means an act of God including fire, flood, earthquake, windstorm or other natural disaster, plague, disease or other epidemic; pandemic (including without limitation COVID 19), an act of any sovereign including terrorist attacks, war (whether war declared or not), invasion, act of foreign enemies, hostilities, civil war, rebellion, revolution, insurrection, military action, confiscation, nationalisation, or threat of any of the foregoing; labour dispute including strike, go slow action, lockout or boycott; the act, negligence and/or omission of any government, any utilities board(s), any Relevant Authority and/or any of their contractors and/or agents or any other act, matter or cause which is beyond the control of and unforeseeable by the Manager;
- 1.12. **"Franchisor"** means any hotel franchisor (if applicable) with whom Seller, Manager or any of their affiliated companies have entered into a franchise agreement with relating to the Hotel Apartments.
- 1.13. **"Friends"** means Owner's friends who by virtue of clause 3.2(a), are entitled to occupy the Hotel Apartment Unit subject to availability on the basis of the Owner's Points Entitlement (and subject to the other terms of this Agreement);
- 1.14. **"Fund for FF&E"** means a fund managed by the Manager that is funded by the Rental Pool of the Hotel Apartment Units pursuant to clause 4.1(d), in order to fund future costs, investments and refurbishments of the Hotel Apartment Units FF&E in order to maintain the Standards and as further described in clause 4.1(d);
- 1.15. **"High Season"** means any period during any calendar year which shall be determined by the Manager to be the high season (subject always to the Black Out Nights) and in respect of which Owner shall receive written notice in accordance with clause 4.3 and any reference to **"High Season Use"** in this Agreement relates to use of Hotel Apartment Units during the said period;
- 1.16. **"Hotel Apartments"** means those parts of the Development which operate as hotel apartments as identified on the Site Plan, and for the avoidance of doubt, excludes the "common parts" (as that term is defined in the JOP Law) of the Development;

Seller:

Manager:

Owner:

- 1.17. **"Hotel Apartments Management Agreement"** means any management agreement as may be entered into between the Manager and an Operator relating to the provision of certain or all services with respect to the operation and management of the Hotel Apartments or such other Hotel Apartment management agreement for said purposes and as may be entered into by the Manager with any other Operator from time to time;
- 1.18. **"Hotel Apartment Unit"** means unit number **603** in THE8 as more particularly described in the Title deed with an internal area of 1139.90 Sq. ft. and an external area of 97.09 Sq. ft and references to **"Hotel Apartment Units"** means all those units in the Hotel Apartment Units Rental Pool;
- 1.19. **"Hotel Apartment Unit Adjusted Gross Operating Profit" or "Hotel Apartment Units AGOP"** has the meaning given in Schedule 1;
- 1.20. **"Hotel Apartment Units Annual Budget"** means the annual budget produced by Operator in conjunction with the Manager and approved by the Manager for each Fiscal Year for the operation of the Hotel Apartment Units in the Hotel Apartment Units Rental Pool collectively;
- 1.21. **"Hotel Apartment Units Net Operating Profit Methodology Statement"** means the methodology statement for calculating Hotel Apartment Units Net Operating Profit as set out in Schedule 1;
- 1.22. **"Hotel Apartment Units Net Operating Profit"** has the meaning given in Schedule 1;
- 1.23. **"Hotel Apartment Units Net Revenue"** means all receipts, income and proceeds of sale of Hotel Apartment Unit room nights of every kind arising from the operation of the Hotel Apartment Units in the Hotel Apartment Rental Pool in the ordinary course of business (whether resulting from cash or credit), proceeds from business interruption insurance and condemnations, calculated on an accrual basis, but excluding there from all added value, sales, turnover and other taxes, gratuities, service charges, credits or refunds to guests, proceeds of insurance (other than business interruption insurance), loans and any refinancing of loans, proceeds of sales.
- 1.24. **"Hotel Apartment Units Rental Pool"** means the rental pool program to be administered by the Manager relating to Hotel Apartment Units;
- 1.25. **"Hotel Apartment Unit Type"** means one of the following Hotel Apartment unit types: Studio, One-Bedroom, 2-Bedroom or 3-Bedroom.
- 1.26. **"Incentive Fee"** means:
 - (a) 0% of the Hotel Apartment Units AGOP if the Hotel Apartment Units AGOP is less than 20% of Hotel Apartment Units Net Revenue;
 - (b) 7% of the Hotel Apartment Units AGOP if the Hotel Apartment Units AGOP is between 20% and 30% of Hotel Apartment Units Net Revenue;
 - (c) 8% of the Hotel Apartment Units AGOP if the Hotel Apartment Units AGOP is between 30% and 35% of Hotel Apartment Units Net Revenue;
 - (d) 10% of the Hotel Apartment Units AGOP if the Hotel Apartment Units AGOP is above 35% of Hotel Apartment Units Net Revenue.
- 1.27. **"Intellectual Property"** means all intellectual property rights owned by Manager, Operator or any Franchisor from time to time including all trademarks, copyrights, patents, design rights, database rights, goodwill, trade secrets, know-how and all similar proprietary rights as may exist anywhere in the world (whether registered or unregistered).
- 1.28. **"JOP Law"** means Law No. 6 of 2019 Concerning Ownership of Jointly Owned Properties in the Emirate of Dubai including but not limited to its amendments, any regulation, document, circular, decision, guideline and direction under such law and/or issued by the Dubai Land Department or any

Seller:

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other Relevant Authority relating to the regulation and governance of Jointly Owned Property (as such term is defined in the JOP Law);

- 1.29. **"Low Season"** means any period during any calendar year which is neither High Season nor any of the Black Out Nights and in respect of which Owner shall receive written notice in accordance with clause 4.3 and any reference to Low Season Use in this Agreement relates to use of Hotel Apartment Units during the said period;
- 1.30. **"Management Fees"** means the Base Fee and the Incentive Fee;
- 1.31. **"Monthly Statement"** means a statement in the form attached hereto as Schedule 2;
- 1.32. **"Operator"** means any independent Hotel operator that is appointed by Manager or its affiliated companies from time to time to operate the Hotel Apartments at Manager's sole and exclusive discretion. However, Manager and its affiliated companies reserve the right not to appoint an independent hotel Operator (and to terminate any appointed hotel Operator and the related Hotel Apartments Management Agreement, if applicable, without prior approval) and to operate the Hotel Apartments directly or via one of the Manager's affiliated companies, at its sole and exclusive discretion and without prior approval (and in which case the Manager or such affiliated company shall be considered as the "Operator" for the purposes of this Agreement). Manager and its affiliated companies also reserve the right to enter into contractual franchise arrangements relating to the Hotel Apartments with any Franchisor (and to terminate the same) at its sole and exclusive discretion and without prior approval (and in which case the Manager or such affiliated company shall be considered as the "Operator" for the purposes of this Agreement);
- 1.33. **"Owner's Proportion"** the proportion by which the size of the Hotel Apartment Unit (as stated in clause 1.18) bears to the aggregate size of all of the Hotel Apartment Units in the Hotel Apartments.
- 1.34. **"Owner's Share of Hotel Apartment Units Net Operating Profit"** means, as from the opening of the Hotel Apartment, the Net Operating Profit payable to Owners of Hotel Apartment Units in the Hotel Apartment Units Rental Pool. The Hotel Apartment Units Net Operating Profit shall be apportioned in accordance with the Owner's Proportion;
- 1.35. **"Points Entitlement"** means 28 points in each full calendar year for the Duration of this Agreement (**"Points"**) which are hereby granted to Owner to be utilised in each calendar year by Owner and/or Family and/or Friends and which annual Points Entitlement shall decrease on an annual basis in accordance with Owner's (and/or Family and/or Friends') use of Hotel Apartment Units in the relevant calendar year having regard to Low Season Use and High Season Use, under declaration that any Owner's Points unused at the end of any calendar year shall be forfeited by Owner and automatically expire and shall not be carried forward to the next calendar year. For clarification it is not permitted to utilise future years Points in the current calendar year;
- 1.36. **"Relevant Authority"** means the Government of the Emirate of Dubai or the United Arab Emirates, as the case may be, or any person or entity relating to or acting in connection with the Government of the Emirate of Dubai or the United Arab Emirates having any jurisdiction or authority over the Development and/or the Hotel Apartments including any ministry, department, municipality, local authority and/or service providers (including, without limitation the Dubai Municipality, the Dubai Land Department, Department of Economy and Tourism, RERA, Dubai Police, Dubai Civil Defence and/or any utility provider as the case may be).
- 1.37. **"Room Nights"** mean the number of nights in any calendar year when, subject to availability, Owner and/or Family and/or Friends may occupy a Hotel Apartment Unit based upon Owner's Points Entitlement;
- 1.38. **"Sale and Purchase Agreement"** means the Sale and Purchase Agreement entered into between The Eight Propco Investments FZE and Owner in respect of Owner's acquisition of the Hotel Apartment Unit; an

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- 1.39. **"Shortfall in the FF&E Fund"** means any shortfall in the Fund for FF&E, as such shortfall is referred to in clause 3.3;
- 1.40. **"Site Plan"** means the site plan for the Development annexed to this Agreement as Schedule 3.
- 1.41. **"Owners Special Rate"** means the reduced rate per night for occupancy by Owner and/or Family of a Hotel Apartment Unit after expiry of Owner's Points Entitlement in any calendar year as such special rate shall be determined from time to time by Manager.
- 1.42. **"Standards"** means the design, construction, operational or brand standards of the Manager or any Operator or any Franchisor (as applicable) as applicable to the Hotel Apartments or the Development.
- 1.43. **"Uniform System of Accounts"** means the current edition of the Uniform System of Accounts for the Lodging Industry (currently Eleventh Revised Edition, 2014) published by the American Hotel & Lodging Educational Institute, as revised from time to time and as modified by the applicable provisions of any Hotel Apartments Management Agreement (if any) or by Applicable Law or requirement.
- 1.44. **"Working Capital"** means the amount of liquid funds needed for day to day operations of the Hotel Apartment Units business relating to the Hotel Apartment Units Rental Pool, such as change, funds, bank accounts, petty cash, receivables and other current assets less accounts payable and other accrued liabilities directly attributable to the operation of the Hotel Apartment Units in the Hotel Apartment Units Rental Pool, so as to provide the necessary funding to meet the relevant Hotel Apartment Units obligations on a current basis.
- 1.45. **"Working Capital Shortfall"** means any shortfall in the Working Capital, as such shortfall is referred to in clause 3.6.

2. DURATION

This Agreement shall commence from and including the Effective Date and shall remain in effect unless terminated in accordance with clause 6.

3. OWNER'S RIGHTS AND OBLIGATIONS

3.1. General

- (a) Owner shall, subject to clause 3.2, always make the Hotel Apartment Unit available for the purpose of use as part of the Hotel Apartments by the Manager in accordance with the terms of this Agreement. The Owner shall not, and the Owner has no right to access or use:
 - (i) the Hotel Apartment Unit as the Owners residence or for the Owner's personal use; or
 - (ii) the facilities and amenities of the Development.
- (b) Owner agrees to cooperate with the Manager, any Operator, and other owners of Hotel Apartment Units in the operation of the Hotel Apartment Units Rental Pool.
- (c) The Owner acknowledges that the Manager has been appointed to manage the Development in accordance with the BMS and agrees that it shall raise no objection in relation thereto or take any action of whatever nature to remove, or seek to remove, the Manager as the manager of the Development, the Hotel Apartments or the Hotel Apartment Units Rental Pool at any time.

3.2. Owner's Occupancy, Owner's Special Rate, Black Out Nights and Reduced International Rate

- (a) Owner and/or Family and/or Friends shall only have the right to occupy a Hotel Apartment unit of the same Hotel Apartment Unit Type as the Hotel Apartment Unit owned by Owner, as such shall be determined by the Manager and subject to this Agreement. Such occupancy shall be

Seller:

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in accordance with Owner's Room Nights entitlement in any calendar year and subject to availability, and shall be exercised by giving prior notice to Manager detailing the proposed dates of occupancy, provided always that in the case of Family and/or Friends, Owner shall provide written confirmation to the general manager of the Hotel Apartments no later than seven (7) days prior to any proposed occupancy of the identity of such Family and/or Friends, together with a copy of the passport in respect of each person, and such written confirmation shall be deemed to be Owner's consent to (a) occupation by Family and/or Friends and (b) the resultant deduction from Owner's Points Entitlement.

- (b) Use of a Hotel Apartment Unit by Owner and/or Family and/or Friends, in accordance with this clause 3.2, during the Low Season shall result in a deduction from Owner's Points Entitlement of one Point per night of occupancy. For the avoidance of doubt, Owner may choose (or may allow Family and/or Friends) to occupy a Hotel Apartment Unit, in accordance with this clause 3.2, for 28 nights during the Low Season and not at all during the High Season thereby fully utilizing its full Points Entitlement for that calendar year. Owner may also choose (or may allow Family and/or Friends) to occupy, in accordance with this clause 3.2, during a combination of both High Season and Low Season in any calendar year and the Points Entitlement shall be reduced in accordance with both this clause 3.2(b) and clause 3.2(c).
- (c) Use of a Hotel Apartment Unit by Owner and/or Family and/or Friends, in accordance with this clause 3.2, during the High Season shall result in a deduction from Owner's Points Entitlement of two Points per night of occupancy. For the avoidance of doubt, Owner may choose (or may allow Family and/or Friends) to occupy a Hotel Apartment Unit, in accordance with this clause 3.2, for 14 nights during the High Season and not at all during the Low Season, thereby fully utilizing its full Points Entitlement for that calendar year.
- (d) In the event that Owner and/or Family have utilized the entire allocated points entitlement for any calendar year and wishes to occupy a Unit of the same Hotel Apartment Unit Type as the Hotel Apartment Unit owned by Owner, in accordance with this clause 3.2, Owner and/or Family shall be entitled subject to availability, to occupy a Unit of the same Hotel Apartment Unit Type, at the Owner's Special Rate.
- (e) Where Manager shall have positively confirmed availability to Owner as a result of a notice by Owner in accordance with clause 3.2(a), Owner shall be deemed to have occupied the Unit on the agreed night(s) whether or not Owner (or Family and/or Friends) actually occupies the apartment and the appropriate deduction shall be made from Owner's Points Entitlement, unless where Owner cancels any such Unit reservation in compliance with Manager's or any Operator's, cancellation policy from time to time, in which case no such deduction shall be made from the Owner's Points Entitlement.
- (f) Owners and Family and Friends' occupancy of Hotel Apartment Units on the basis of the Points Entitlement shall be complimentary and free of charge, so that neither Owner nor Family nor Friends shall pay any charge for the room itself. Notwithstanding the foregoing, Owner and Family and Friends shall be charged at full standard rates for all other Hotel Apartment services which may be requested by Owner and/or Family and/or Friends during any stay (including, but not limited to, in-room movies, room service, food and beverage, spa treatments, dry cleaning and personal laundry, telephone and internet usage etcetera). Owner, Family and Friends shall at all times during periods of occupancy of Hotel Apartment Units be required to act and behave in an appropriate manner as befits third party Hotel Apartment guests and to comply fully with any rules and regulations of the Hotel Apartment applying from time to time including without limitation the number of guests permitted in each room. For the avoidance of doubt, the following conditions shall apply to the right to occupy a Hotel Apartment Unit, (i) only Owner and/or Family and/or Friends are permitted to utilize the Points Entitlement and occupy a Hotel Apartment Unit in accordance with Owner's Room Nights entitlement (ii) only Owner and/or Family are permitted to occupy a Hotel Apartment Unit at the Owner's Special Rate and (ii) Owner is expressly prohibited from utilizing the Points Entitlement or the Owner's Special Rate and entering into any form of rental agreement or otherwise with any third party entitling that third party to occupy a Hotel Apartment Unit, with or without remuneration. For the sake of clarification all Hotel Apartment Unit usage is to be reserved via the Manager or Operator.

Seller:

Manager:

Owner:

- (g) Neither Owner, nor Family nor Friends shall be entitled to occupy any Hotel Apartment Unit at any time during the Black Out Nights by utilizing the Points Entitlement or otherwise but Owner and/or Owner's spouse shall be entitled to occupy Hotel Apartment Units during the Black Out Nights at the Owner's Special Rate.

3.3. Fund for FF&E Shortfall

- (a) Owner acknowledges that, where there is any Shortfall in the FF&E Fund, the Manager may require Owners of Hotel Apartment Units collectively and in proportion to the size of the relevant Hotel Apartment Unit to contribute towards the costs of refurbishment or replacement of Hotel Apartment Units FF&E. Manager has the exclusive sole discretion regarding the utilization and deployment of the Fund for FF&E in accordance with clause 4.1(c),
- (b) Owner acknowledges that, in the event that the Owner does not contribute its share of the Shortfall in the FF&E Fund in accordance with the Owner's Proportion, the Manager has the right, but not the obligation and its sole discretion, to deduct such Shortfall in the FF&E Fund in accordance with the Owner's Proportion from Owner's Share of Hotel Apartment Units Net Operating Profit.

3.4. Service charge

Owner acknowledges that the service charge for the management and maintenance of the common parts of the Development (as defined in the JOP Law and identified in the Site Plan) shall be paid by Owner, in accordance with the JOP Law and the Owner shall not refrain from paying the service charges approved by RERA as set out in Article 28 of the JOP Law.

In the event the Manager has been approved by RERA as the management entity of the common parts of the Development under the JOP Law, then the Owner grants and authorizes Manager, the right but not the obligation, at its sole discretion, to deduct the amount of the service charges due by the Owner under the JOP Law from Owner's Share of Hotel Apartment Units Net Operating Profit.

3.5. Rental Pool Annual Budget / Monthly Report

The Manager shall provide Owner (by way of the website it has set up to keep Owners informed) with information regarding the Hotel Apartment Unit's business in the Hotel Apartment Units Rental Pool and other matters, including, but not limited to, details of the Hotel Apartment Units annual budget for each Fiscal Year, monthly financial trading reports of the Hotel Apartment Units and any other relevant matter, such as policy changes and Black Out Nights.

3.6 Working Capital Shortfall and Losses

The Owner of the Hotel Apartment Unit acknowledges that in the event there is a Working Capital Shortfall and/or losses the Manager may require Owners of Hotel Apartment Units collectively and in proportion to the size of the unit to contribute towards the Working Capital and/or losses. Owner hereby acknowledges that Manager has the right, but not the obligation and at its sole discretion, to deduct from Owner's share of Hotel Apartment Units Net Operating Profit from time to time such amount(s) as Manager shall deem appropriate to fund the Hotel Apartment Units business requirements for Working Capital and/or losses.

3.7. Audit/Audit Certificate

The Manager will procure that within 120 days of the end of each Fiscal Year the books and records of the Hotel Apartment Units for each Fiscal Year are audited and that an audit certificate is issued.

Seller:

Manager:

Owner:

4. MANAGER RIGHTS AND OBLIGATIONS

4.1. General obligations

- (a) Manager shall perform or shall procure, the performance by Operator, of all management and operational obligations necessary to operate the Hotel Apartment Unit under the Hotel Apartment Units Rental Pool as an international first-class hotel apartment and in compliance with Applicable Law.
- (b) This Agreement is intended to be the basis for a fruitful cooperation between the Manager and Owner with respect to the management of the Hotel Apartment Unit under the Hotel Apartment Units Rental Pool. It is the goal of the Manager to maximize the profit by applying room rates and prices, which allow the optimization of room occupancy at the highest possible room rates and prices. In accordance with the foregoing, the Manager shall have the sole and exclusive rights at its sole discretion to operate the Hotel Apartment Units for terms and at such occupancy rates with a view towards obtaining the greatest total room revenue from all Hotel Apartment Units within the Hotel Apartment class and atmosphere. Owner shall have no input or raise any objection whatsoever into any aspect of the foregoing process.
- (c) The Manager shall repair and maintain the Hotel Apartment Unit and Hotel Apartment Units FF&E (located in the Hotel Apartment Unit), save for damage caused by Owner, or his Family and/or Friends, to ensure the continuing operation of the Hotel Apartment Unit as an international first-class hotel apartment. Moreover, the Manager shall replace or renew the Hotel Apartment Units FF&E to maintain the Standards.
- (d) The Fund for FF&E shall be established and funded by deducting one percent (1%) of the Hotel Apartment Units Net Revenue in the 2023 Fiscal Year, two percent (2%) in the 2024 Fiscal Year, three percent (3%) in the 2025 Fiscal Year, four percent (4%) in the 2026 Fiscal Year and five percent (5%) in each Fiscal Year (or part thereof) thereafter. Any Shortfall in the FF&E Fund shall be payable by Owners of Hotel Apartment Units in accordance with clause 3.3(a).
- (e) The Manager shall pay, for and on behalf of the Owner all operating expenses associated with managing and operating the Hotel Apartments Units under the Hotel Apartment Units Rental Pool, including but not limited to Management Fees, utilities, contribution to the Fund for FF&E and all other related expenses, as a deduction in computing in the Hotel Apartment Units Net Operating Profit. In addition, the Manager may deduct from the Hotel Apartment Units Net Operating Profit any Working Capital Shortfall and or Shortfall in the FF&E Fund assessed against the Hotel Apartment Unit to the extent not paid by Owner.

4.2. Rights of the Manager to Receive all Hotel Apartment Unit Revenue from Hotel Apartment Unit Occupancy

On behalf of, and as agent for Owner, the Manager is authorized to demand, receive, and invoice and issue receipts for, all Hotel Apartment Units revenue from the occupancy of the Hotel Apartment Unit.

4.3. High Season, Low Season and Black Out Nights Notices

Manager shall serve written notice on Owner each calendar year during the month of December (or such other month as the Manager shall determine from time to time) and communicate to Owner specifying (a) the dates fixed for High Season and Low Season and (b) the Black Out Nights, all for the succeeding Fiscal Year.

5. OWNER'S SHARE OF HOTEL APARTMENT UNITS NET OPERATING PROFIT

5.1. Hotel Apartment Units Net Operating Profit Methodology Statement

The Owner shall be entitled to receive the Owner's Share of Hotel Apartment Units Net Operating Profit calculated in accordance with the Owner's Proportion and the Hotel Apartment Units Net Operating Profit Methodology Statement detailed in Schedule 1. The Manager shall, at its sole and exclusive

Seller:

Manager:

Owner:

discretion, ensure the correct and fair value apportionment of the shared expenses between the Hotel Apartment Units and the units in the Hotel Apartments that are used exclusively as food and beverage outlets or other commercial purposes as identified on the Site Plan, to ensure all expenses are fairly and equitably apportioned in accordance with the Uniform System of Accounts and Applicable Law where applicable. Manager may, at its sole and exclusive discretion, decide when and where appropriate, to make changes to the Hotel Apartment Units Net Operating Profit Methodology Statement. Manager or Operator shall notify the Owners as soon as practical in writing, with detailed explanations of the respective changes, and circulate this with the Owner's Monthly Statement.

5.2. **Monthly Statement**

The individual Monthly Statement shall be made available to the Owners of Hotel Apartment Unit(s) by e-mail and/or published on-line website created exclusively for the Owners information and communication by the Manager or Operator.

5.3. **Base Fee and Incentive Fee**

The Manager shall be entitled to receive and deduct from the Hotel Apartment Units the Base Fee and the Incentive Fee. The Base Fee and the Incentive Fee shall be payable monthly. If there has been any under or over payment of the Incentive Fee during the previous Fiscal Year the necessary adjustment shall be made within 30 days of the annual audit of the Hotel Apartments.

6. TERMINATION

6.1. Owner shall not be entitled to terminate this Agreement in any circumstances save where the Manager shall make a voluntary assignment for the benefit of creditors; shall admit in writing its inability to pay its debts as they mature; shall commence a voluntary case in bankruptcy or insolvency or for reorganization; shall consent to an involuntary bankruptcy or reorganization; shall petition to any tribunal for the appointment of any receiver or trustee for it or any substantial part of its assets; or if the Manager shall consent to any of the proceedings set forth in this clause 6.1 or shall suffer an order for relief in an involuntary case in bankruptcy or insolvency or for reorganization or an order appointing a receiver or trustee for it or any substantial part of its assets, and any such order shall not be dismissed within a period of sixty (60) days; and, in all of the foregoing circumstances, provided also that the Hotel Apartments Management Agreement has been validly terminated.

6.2. The Seller and/or the Manager shall be entitled to terminate this Agreement, without the need for a court order or mutual consent, without liability and without prejudice to any other rights or remedies the Seller and/or Manager may have under Applicable Law, and with immediate effect by serving written notice on Owner:

- (a) in the event that the Hotel Apartments Management Agreement (if any) or other Hotel Apartments management agreement terminates;
- (b) in the event that it is no longer economically viable in the Manager's sole discretion to continue with the operation and management of the Hotel Apartment Unit as an international first-class Hotel Apartment Unit in the Hotel Apartment Units Rental Pool;
- (c) in the event any Relevant Authority introduces new (or amends any existing) Applicable Laws, regulations, approvals, classifications and/or licenses which may affect or impact the legality or viability of the Hotel Apartment Units Rental Pool or the overall lodging industry; or
- (d) the Owner fails to remedy any breach of this Agreement after receiving 14 days' notice in writing from the Manager requiring remedy of the breach.

6.3. The Owner irrevocably releases and discharges the Seller from, and the Owner waives, any and all claims, actions, demands and/or the like whatsoever against the Seller (and the Owner shall not have and/or make any claims, actions, demands and/or the like whatsoever) for losses, costs, taxes, levies, expenses, damages and/or liabilities incurred, suffered or that may be incurred or suffered by the Owner

Seller:

Manager:

Owner:

directly or indirectly as a result of the termination of this Agreement under this clause 6.1 and clause 6.2.

- 6.4. The Parties acknowledge and agree that the right of the Seller and/or Manager to terminate this Agreement under clause 6.2 is pursuant to Article 218 the UAE Civil Code (Federal Law No. 5 of 1985), and a court order or mutual consent shall not be required to give effect to any termination of this Agreement.
- 6.5. This Agreement shall automatically terminate without the need for a court order or mutual consent in the event that the Sale and Purchase Agreement is terminated for any reason.

7. MISCELLANEOUS

7.1. Notices

Any notice, statement or demand required or permitted to be given under this Agreement shall be in writing, sent by courier or e-mail to either Party at the address set forth in the preamble to this Agreement or to such other address as may be intimated by written notice by either Party to the other. The effective date of service of any such notice shall be the date of factual service upon the recipient stamped and certified on a return form of an official mail carrier or the receipt of a messenger service. If notice is given by e-mail, the day of receipt of the e-mail shall be the effective date of service, provided the hard copy of the notice is subsequently received as provided in this clause.

7.2. Taxes

The costs and expenses payable by the Manager for and on behalf of Owner shall also include all taxes levied including VAT, assessed against, or payable by, the Manager with respect to the Hotel Apartment Unit. The Manager shall not be liable for any income taxes, corporate taxes, withholding taxes or any other taxes attributable to income earned by, or paid to, Owner.

7.3. Force Majeure Event

- (a) In case of the occurrence of a Force Majeure Event, the Manager will give written notice to Owner thereof and such notice shall set forth the cause, commencement and expected duration of such event.
- (b) For the duration of the Force Majeure Event, the Manager will be excused from performing such obligation hereunder as it is prevented from performing due to such Force Majeure Event.
- (c) In case the Force Majeure Event continues for a period exceeding six (6) months as determined by the Manager in its sole discretion, the Seller and/or Manager may give notice of termination without any compensation being due to Owner.

7.4. Insurance of Hotel Apartment Unit FF&E

The Manager shall insure or shall procure the insurance of Hotel Apartment Units FF&E. Owner acknowledges it shall have no entitlement to any proceeds of such insurance during the term of this Agreement and the Manager shall procure that such other insurances as are necessary for the operation and management of international first-class hotel apartments and in accordance with the JOP Law are maintained in place.

7.5. Successors and Assigns and Sale of Hotel Apartment Unit by Owner

- (a) Owner must assign its rights and obligations in this Agreement to any third party that purchases the Hotel Apartment Unit from Owner, but shall otherwise not be entitled to assign or otherwise transfer this Agreement. Should Owner wish to sell the Hotel Apartment Unit to a third-party buyer, such sale shall be conditional upon (i) the new owner signing a deed of covenant in the Manager's prescribed form whereby the new Owner agree to be bound by all of the terms of the Rental Pool Agreement; (ii) such sale being coordinated and conducted through the

Seller:

Manager:

Owner:

Manager or its affiliated companies and otherwise in accordance with the Sale and Purchase Agreement; and (iii) the Manager carrying out an inspection of the Hotel Apartment Unit prior to the transfer of the Hotel Apartment Unit to the new owner. The Owner shall be obliged to disclose to any such third party purchaser the nature and terms of the Rental Pool Agreement and the Seller, Manager and their respective affiliated companies shall have no responsibility or liability in such regard.

- (b) The Manager shall be entitled to assign or transfer this Agreement at any time in whole or in part without the consent of Owner to any third party capable of operating and managing the Hotel Apartments in accordance with the terms of this Agreement.

7.6. Registration of this Agreement

This Agreement shall be binding upon the Manager, Owner and all future owners and shall inure for the benefit of such parties from time to time. As soon as reasonably practicable and legally permissible, this Agreement shall be registered as a restriction against the title of the Hotel Apartment Unit at the Dubai Land Department. Even if this is not possible, every owner of the Hotel Apartment Unit from time to time agrees, declares and undertakes that this Agreement has the form and effect of a restriction on the Hotel Apartment Unit for so long as it is in force.

7.7. Forecasts and Projections

The Owner acknowledges that in entering into this Agreement it has not relied on any forecasts or projections prepared by the Manager or Operator or any of their affiliated companies and that neither Manager nor Operator, nor any of their affiliated companies, have made any representations, warranties or guarantees regarding the future financial performance, success or continuing commercial viability of the Hotel Apartment Units Rental Pool and the Owner acknowledges that no guarantee is provided by the Manager or Operator or any of their affiliated companies that Owner will receive any Owner's Share of Hotel Apartment Units Net Operating Profit for any given Fiscal Year.

7.8. Intellectual Property

- (a) The Owner shall not have any right to use any Intellectual Property of the Manager, Operator or any Franchisor relating to the Development, including in relation to any disposal of the Hotel Apartment Unit. Notwithstanding the above, the Owner may use any trademarks associated with the Development solely to identify the address of the Hotel Apartment Unit.
- (b) The Owner agrees that the Manager and any of its affiliated companies shall have an unrestricted and perpetual right to affix and display any logo and signage containing any Intellectual Property at any location within the Hotel Apartments or Development.

7.9. Applicable Law and Governing Documents

The Owner shall comply in all respects with Applicable Laws, the Sale and Purchase Agreement, the BMS and any other governing documents or rules relating to the Development and any master community governing documents.

7.10. Headings

Headings of the clauses herein are for convenience and are not to be construed as limitations and/or interpretations on the scope of any clause.

7.11. Waiver

Failure of either Party at any time to require performance by the other Party of any provision hereof will in no way affect the full right to require such performance at any time thereafter. Waiver by either Party of a breach of any obligation hereunder will not constitute a waiver of any succeeding breach of the same obligation. Failure of either Party to exercise any of its rights provided under this Agreement will not constitute a waiver of such right.

Seller:

Manager:

Owner:

7.12. Invalidity of Particular Provisions

If any term of this Agreement (including this clause) or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term of this Agreement shall be valid and enforced to the fullest extent permitted by law.

7.13. Entire Agreement

This Agreement constitutes the entire agreement and understanding between the Parties in connection with the subject matter of this Agreement.

7.14. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same agreement.

7.15. Confidentiality

The Parties agree that the matters set forth in this Agreement are strictly confidential. Except as disclosure may be required to third party buyers of the Hotel Apartment Unit, or to a financier in relation to the financing of the Hotel Apartment Unit from an institutional lender, or as may be required by law or by the order of any Relevant Authority or otherwise to comply with legal requirements, each Party shall make every effort to ensure that such information is not disclosed to any other third person without the prior consent of the other Party. The obligations set forth in this clause 7.15 shall survive any termination or expiration of this Agreement.

7.16. Variation and Cancellation

No agreement varying, adding to, deleting from or canceling this Agreement shall be effective unless reduced to writing and signed by or on behalf of the Parties.

7.17. Interpretation

In this agreement, unless inconsistent with the context words referring to one gender shall include a reference to the other gender; words importing the singular shall include the plural and vice versa; and words referring to natural persons shall include companies and vice versa.

8. GOVERNING LAW AND JURISDICTION

This Agreement and the rights and obligations of the Parties hereunder shall be governed by and construed, interpreted and enforced in accordance with the laws applicable in the Emirate of Dubai, U.A.E., and the courts in Dubai, U.A.E. shall have exclusive jurisdiction to decide any matter relating to this Agreement.

9. OWNER'S ACKNOWLEDGEMENT

Owner declares and acknowledges that (i) Owner has read this Agreement in full and fully understands the legal effect of the document and how it impacts on the Hotel Apartment Unit ownership and its use, and (ii) in the event of any dispute or breach by Owner of this Agreement, Owner shall not seek to rely on any argument that it was unaware or did not otherwise understand the terms of this Agreement.

Seller:

Manager:

Owner: