

VERO BEACH HOTEL AND CLUB, A CONDOMINIUM

PURCHASE AND SALE AGREEMENT

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.

This Purchase and Sale Agreement ("Agreement") is made and entered into as of this ____ day of _____, 2009, by and between VERO LODGING, LLC, a Florida limited liability company ("**Seller**"), 2655 No. Ocean Drive, Suite 100, Singer Island, FL 33404, and the Buyer or Buyers listed below who have signed this Agreement ("**Buyer**").

.....

Buyer(s): _____

Address: _____

City: _____ State: _____ Zip Code: _____

E-Mail: _____

Telephone: _____ Office: _____ Fax: _____

Social Security Number(s): _____

Cooperating Broker (See Section 16 herein); If no name is provided below, there is no Cooperating Broker:

Closing Date (See Section 9 herein): _____

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IN CONSIDERATION of the respective agreements hereinafter set forth, Buyer and Seller agree as follows:

1. **PURCHASE AND SALE.** Buyer agrees to purchase from Seller, and Seller agrees to sell to Buyer, for the Total Purchase Price set forth below, and on the terms and conditions contained in this Agreement, Unit _____ ("**Unit**") of **Vero Beach Hotel**

and Club, a Condominium, as shown in the Prospectus for the Condominium for which Buyer has executed a separate receipt (the "Prospectus").

2. **PURCHASE PRICE:**

Total Purchase Price: (exclusive of Closing expenses, prorations): \$ _____

**Total Purchase Price
To Be Paid As Follows:**

First Deposit - due now \$10,000.00

Second Deposit – due in 16 days \$ _____

Third Deposit - due _____: \$ _____

Balance of the Total Purchase Price (due at closing in local bank cashier's check or received wire transferred funds): \$ _____

3. **DEPOSIT.** The First Deposit is due upon Buyer's execution of this Agreement. The Second Deposit is due sixteen (16) days after the date of this Agreement. The Third Deposit shall be due on or before _____. All Deposits shall be held in escrow by ELITE TITLE, 3055 Cardinal Drive, Suite 105, Vero Beach, FL 32963 (the "**Escrow Agent**") in accordance with the Escrow Agreement in the form included in the Prospectus and shall be disbursed only in accordance with the Escrow Agreement. The Escrow Agent shall provide Buyer with a receipt for the Deposits upon request.

4. **ALL CASH.** Buyer understands and agrees that he/she will be obligated to pay "all cash" at Closing, and that this Agreement and Buyer's obligations under this Agreement to purchase the Unit are not contingent upon Buyer obtaining a mortgage loan from any lender or any conditions imposed by any such lender. Buyer will be solely responsible for making his/her own financial arrangements for the purchase of the Unit. If Buyer does arrange for a mortgage loan, Seller agrees to reasonably cooperate with any lender and to coordinate the Closing with such lender, provided such lender meets the Seller's Closing schedule and pays Seller the proceeds of its mortgage loan at Closing.

Although Seller is not obligated to do so, if Seller agrees to delay Closing until Buyer's lender is ready, or to wait for funding from Buyer's lender until after Closing, Buyer agrees to pay a late funding charge equal to interest, at the then highest applicable lawful rate, on all funds due, which have not then been paid from the date Seller originally scheduled Closing to the date of actual payment and final clearance. This late funding charge may be estimated by Seller at Closing. Seller's estimate will be adjusted after Closing based on actual funding and clearance dates upon either Seller's

or Buyer's written request. The provisions of this Section 4 will survive (continue to be effective after) Closing.

5. **SELLER'S FINANCING**. Buyer understands that Seller has acquisition, construction and/or other financing with respect to the Condominium. Buyer agrees that this Agreement, and all modifications and additions thereto, will be subordinate in all respects to the lien and priority of any mortgage (and related security interests) now or hereafter placed on the Unit securing Seller's financing, including all loan renewals, future advances, extensions and modifications. The parties intend that this subordination shall be effective automatically without any further notice to, or action by, Buyer. Buyer acknowledges that, as additional security for any of Seller's financing, Seller may assign all of its rights under this Agreement to its lender(s), including all rights Seller may have to Buyer's Deposits, subject to requirements of applicable laws. Seller shall cause the Unit to be released from the mortgage and other financing documents at Closing.

6. **COMPLETED UNIT; INSPECTION; FURNISHINGS.**

(a) Buyer acknowledges that Seller has completed all construction and development activity with respect to the Condominium and the Unit which Seller intends or is required to do; provided, however, that the Seller may, in its sole discretion, conduct further construction, development, repair and other activities with respect to the Condominium generally and other units therein. Such completion is evidence by the Certificate of Completion pertaining to the Unit issued by the City of Vero Beach as well as the surveyor's Certificate of Substantial Completion included in the recorded Condominium Documents described in this Agreement.

(b) Buyer acknowledges and agrees that, prior to executing this Agreement, Buyer has inspected the Unit and all other relevant portions of the Condominium and finds all of same to be acceptable and usable for Buyer's purposes without any representation, warranty or further construction obligations of the part of the Seller, except as noted below. For this reason, Buyer is purchasing, and Seller is selling, the Unit and the balance of the Condominium in their "AS IS, WHERE IS, WITH ALL FAULTS" condition, save and except the warranties provided by the Florida Condominium Act (as described in Section 18) which Seller and it's relevant contractors and others parties will honor during the duration thereof.

(c) The Unit is furnished and equipped with the standard items listed on Exhibit "A" to this Agreement, or the costs of all of which are included in the Purchase Price.

The provisions of this Section 6 will survive (continue to be effective after) closing.

7. Intentionally Deleted.

8. Intentionally Deleted.

9. **CLOSING.** The term "Closing" refers to the time when Seller delivers the special warranty deed to the Unit to Buyer, and Buyer delivers to Seller the balance of the Total Purchase Price and any additional amounts owed by Buyer under this Agreement as set forth herein, and ownership of the Unit changes hands (the "**Closing**" and/or the "**Closing Date**"). At Closing, the parties will execute and deliver all documents Seller's closing agent deems necessary or appropriate. Buyer shall not move any personal items into or take occupancy of the Unit until a certificate of occupancy for the Unit has been issued by the appropriate governmental agency, and Seller has received the Total Purchase Price in accordance with the terms of this Agreement. Legal and physical possession of the Unit shall be delivered to Buyer at Closing.

The Closing Date is as specified on Page 1 of this Agreement.

Buyer understands that Seller has the right to schedule the time and place for Closing. Buyer will be given at least ten (10) days' notice of the time and place of Closing. Seller is authorized to postpone the Closing for any reason and Buyer will close on the new date, time and place Seller specifies in its notice of postponement (as long as at least 2 days' notice of the new date, time and place are given). A change of time or place of Closing only (that is, one not involving a change of date) will not require any additional notice period. Any formal notice of Closing, postponement or rescheduling may be given orally, by telephone, facsimile, mail or other reasonable means of communication at Seller's option. All of these notices to Buyer will be sent or directed to the address, facsimile or telephone number (as appropriate), specified on Page 1 of this Agreement unless Seller has received written notice from Buyer of any address change prior to the date Seller's notice is given. These notices (other than a change of address) will be effective on the date given or mailed. An affidavit of one of Seller's employees or agents stating that this notice was given or mailed to Buyer will be conclusive.

If Buyer fails to receive any of these notices or the confirmation because Buyer failed to advise Seller of any change of address or telephone or facsimile number, or because Buyer has failed to pick up a letter when Buyer has been advised of an attempted delivery or because of any other reason, Buyer will not be relieved of Buyer's obligation to close on the scheduled date unless Seller agrees in writing to postpone the scheduled date. If Seller agrees in writing to reschedule the Closing at Buyer's request, or if Buyer is a corporation (or other business entity) and Buyer fails to produce the necessary documents establishing proof of the organization, good standing and authorization of representatives, as requested by the Seller, and, as a result, Closing is delayed, or if Closing is delayed for any other reason (except for a delay desired, requested or caused by Seller), Buyer agrees to pay at Closing a late funding charge equal to interest, at the then highest applicable lawful rate, on that portion of the Total Purchase Price not then paid to Seller (and cleared), from the date Seller originally scheduled Closing to the date of actual closing. Additional late funding charges also may be imposed as stated in this Agreement. All prorations will be made as of the originally scheduled date. Purchaser understands that Seller is not required to

reschedule or to permit a delay in closing and that if purchaser fails to timely close as required by this Section 9, Buyer will be in default under Section 15 of this agreement.

10. **TITLE.** Buyer's ownership of the Unit is referred to as "title". At Closing, Buyer will receive good and marketable title to the Unit, subject to the permitted exceptions listed below ("**Permitted Exceptions**"). At Closing, Buyer will receive the following documents, which Buyer agrees to accept as proof that title is as represented above:

A. Title Commitment. Subject to Buyer's election to forgo the issuance of the Title Policy, as defined herein, a written title commitment from a title insurance company licensed in Florida agreeing to issue Buyer a title insurance policy for the Unit (ALTA Owner's Policy with Florida modifications) (the "**Title Policy**"). The title commitment will list the following Permitted Exceptions (exceptions subject to which Buyer agrees to take title):

1. Real property taxes and assessments affecting the Unit for the year of Closing, and subsequent years, including any applicable special assessment, community redevelopment or improvement districts;

2. All laws, and all restrictions, covenants, conditions, limitations, agreements, reservations and easements recorded in the public records, or otherwise established with respect to the Condominium, for example, zoning restrictions, property use limitations and obligations, easements (rights-of-way), Plat restrictions and agreements relating to telephone lines, water and sewer lines and other utilities;

3. The restrictions, covenants, conditions, easements, liens, terms and other provisions imposed by the documents contained or referred to in the Declaration, as described in Section 12 herein, and any amendments thereto (and any other documents which Seller, in its sole discretion, believes to be necessary or appropriate) which will be recorded by Seller now or at any time after the date of this Agreement in the Public Records of Indian River County, Florida, and all amendments to any of such documents;

4. The mortgage in favor of Buyer's lender, if any;

5. Pending governmental liens for public improvements as of Closing (Seller will be responsible, however, for certified governmental liens for public improvements as of Closing, as provided herein); and

6. All other standard title exceptions contained in an ALTA owner's title policy customarily issued in Indian River County, Florida for similarly situated properties, and all other title exceptions for items common to the subdivision; provided that no limitation on Buyer's title may prohibit construction of the Unit, nor the use of it as a Unit, subject to the Condominium Documents described in Section 12 hereof.

B. Closing Documents. At Closing, Buyer will receive: (i) a special warranty deed to the Unit which will be subject to (that is, contain exceptions for) all of the matters described above, (ii) Seller's form of owners (no lien) affidavit, (iii) FIRPTA ("non-foreign") affidavit and gap affidavit, (iv) Bill of Sale for any personalty contained within the Unit, and (v) Certificate of Occupancy for the Unit. The title commitment and the documents listed in this Section 10B are collectively referred to herein as the "**Closing Documents**".

If Buyer finds title not to be in the condition required by this Agreement, then within ten (10) days of receipt from Seller of the title commitment described above, Buyer shall notify Seller in writing of the specific nature of the claimed title defect and the specific actions needed to correct the alleged title defect, failing which any claimed title defect shown in the title commitment shall be deemed waived by Buyer. In the event Seller cannot provide the quality of title described above, Seller will have a reasonable period of time (at least ninety (90) days after Buyer gives Seller written notice of an objection to title) to correct any defects in title, but Seller is not obligated to do so. If Seller cannot, or at any time elects not to, correct the claimed title defects, then within five (5) days of notice from Seller, Buyer shall elect to either (i) accept title in the condition Seller offers it (with defects) and pay the Total Purchase Price for the Unit (without reduction of offset), and Buyer will not make any claims against Seller because of the defects which will also be excepted from the special warranty deed; or (ii) cancel this Agreement and receive a full refund of the Deposit, whereupon Seller will be relieved of all obligations under this Agreement upon delivery to Buyer of the Deposit. If Buyer does not give written notice of such election to Seller within said five (5) day period, Buyer will be deemed to have elected option (i) of the preceding sentence.

11. **CLOSING COSTS**. Buyer understands that, in addition to the Total Purchase Price (inclusive of Approved Upgrades and Change Orders). Buyer shall pay at Closing the following fees and costs ("**Closing Costs**"):

A. The actual costs of: (i) officially recording the special warranty deed in the Public Records of Indian River County, Florida; (ii) the documentary stamp tax obligation (e.g., "transfer taxes") incurred in connection with the conveyance of the Unit; and (iii) the premium for the Title Policy;

B. Buyer's prorated share of the maintenance assessment charged by the Association for the assessment period in which Closing occurs and a prepayment of the next month's assessment;

C. A payment to the Association of an initial contribution equal to two (2) months assessments for the Unit, not to be credited to other assessments;

D. Reimbursement to Seller for any utility deposits for the Unit which Seller may have advanced prior to Closing;

E. Reimbursement to Seller for the Unit's share of any Association insurance premiums or other Association expenses prepaid by Seller as of the date of closing;

F. All fees, costs, points, and charges imposed by Buyer's mortgage lender, if any, shall be paid at Closing. Buyer acknowledges the Closing Charges referred to in Section 11.A. above do not include any mortgage loan closing costs, or the cost of title insurance for Buyer's lender;

G. Real property taxes will be prorated through the day before Closing on the current year's tax amount for the Unit. If Closing occurs on a date when the current year's tax assessment is not available, taxes will be prorated on the prior year's tax, as allocated to the Unit by Seller, and will be later adjusted by Buyer and Seller based on the exact amount of taxes, with allowance for the applicable discount amount; and

H. Certified Special Assessments levied by governmental entities as of the scheduled Closing Date shall be paid by Seller. Pending Special Assessments assessed by governmental entities as of the scheduled Closing Date shall be assumed by Buyer. If any such Certified Special Assessments are payable in installments, the installment due in the year of Closing shall be prorated and Buyer shall assume the balance of any such installments.

12. **ASSOCIATION**. Buyer understands and agrees that, upon Closing, Buyer will automatically become a member of Vero Beach Hotel and Club Condominium Association, Inc. (the "**Association**") and that Buyer's ownership, use and occupancy of the Unit and the Condominium generally will be subject to the following documents contained in the Prospectus, as amended from time to time (before or after Closing): Declaration of Condominium (including the survey/plot plan exhibits) the Articles of Incorporation, By-Laws and Rules and Regulations of the Association.

Buyer agrees to adhere to and be bound by the terms of the aforesaid documents and all changes and amendments thereto. Buyer acknowledges and agrees that Seller has reserved the right to modify any of such documents prior to Closing and that: (i) neither prior notice to Buyer nor Buyer's consent shall be required for any such modifications, and (ii) any such modifications will not affect Buyer's obligation under this Agreement, except as provided by law with respect to material and adverse amendments

THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY BUYER, AND RECEIPT BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO BUYER BY SELLER UNDER SECTION 718.503, FLORIDA STATUTES. THIS AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM SELLER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE

OFFERING IN A MANNER THAT IS ADVERSE TO BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

The provisions of this Section 12 shall survive the Closing.

13. **CONDOMINIUM ASSOCIATION ASSESSMENTS.** Buyer understands that the estimated operating budget for the Association contained in the Prospectus (the "**Budget**") provides only an estimate of what it will cost to run the Association during the period of time stated in the budget. The budget is not guaranteed to contain accurate predictions of the expenditures shown therein and, as such, are subject to change at any time and from time to time to reflect actual and projected expenditures or changes in assumptions. These changes may occur before or after Closing, but will not affect any of Buyer's obligations under this Agreement (except as to resulting changes in closing prorations or as provided in Section 12, above).

The provisions of this Section 13 shall survive the Closing.

14. **ADJUSTMENTS WITH THE ASSOCIATION.** Buyer acknowledges that Seller may advance money to the Association, or on behalf of the Association, to pay for certain Association expenses, including, without limitation, prepaid insurance premiums, common utility charges and deposits, permit and license fees, charges for service and maintenance contracts, salaries of Association employees, and other similar expenses. Seller is entitled to be reimbursed by the Association for all such sums advanced or paid by Seller on behalf of the Association, but only to the extent they exceed the operating deficits to be funded by Seller per the Prospectus.

15. **DEFAULT.** If Buyer fails to perform Buyer's obligations under this Agreement (including making scheduled deposits and other payments) Buyer will be in "default". If Buyer is still in default five (5) days after Seller sends notice thereof, Seller shall be entitled to the remedies provided herein. If, however, Buyer's default is in failing to close on the scheduled date, then Seller can cancel this agreement without giving Buyer any prior (or subsequent) notification or opportunity to close at a later date. Upon Buyer's default (and the expiration of any notice period, if applicable), all of Buyer's rights under this Agreement will end, and Seller can resell the Unit to any third party as if this Agreement had never been made without any obligation to reimburse or account to Buyer for any part of the proceeds of such sale to a third party. Buyer understands and agrees that because Seller has taken the Unit off the market for Buyer, has spent money on sales, advertising, promotion and construction, and has incurred other costs incident to this sale, Buyer's default will damage Seller. As compensation for this damage, in the event Seller cancels this Agreement due to Buyer's default, Buyer authorizes Seller to keep (or if not then paid by Buyer, Buyer will pay to Seller) all Deposits and other pre-closing advance payments (including, without limitation, payments due for Approved Change Orders) Buyer has then made (and which would have been required to have been made had Buyer not defaulted) and all interest which

was, or would have been, earned on them, all as liquidated damages (and not as a penalty). Buyer and Seller agree to this because there is no other precise method of determining Seller's damages. Alternatively, Seller will have the right to specifically enforce this Agreement, but hereby agrees to not make any claims against Buyer for any other damages. Any damage or loss that occurs to the Unit while Buyer is in default will not affect Seller's right to liquidated damages. The remedies afforded Seller in this Section 15, as a result of a default by Buyer, constitute Seller's sole and exclusive remedies.

If Seller defaults under this Agreement, Buyer will give Seller ten (10) days' notice of it and if Seller has not cured the default within such period, Buyer will have such rights as may be available in equity or under applicable law.

The provisions of this Section 15 will survive Closing.

16. **REAL ESTATE BROKER.** If, and when, the Closing occurs and Seller receives the Total Purchase Price, Seller will pay a sales commission to the licensed cooperating broker ("**Broker**"), if any, named on Page 1 of this Agreement, pursuant to separate agreement with Seller. If no Broker's name is provided on Page 1 of this Agreement, there shall be no sales commission obligation to any Broker. By signing this Agreement, Buyer is representing and warranting to Seller that Buyer has not consulted or dealt with any other licensed real estate broker or salesperson with respect to this Unit, and that Buyer will indemnify, defend (with legal counsel of Seller's choice) and hold harmless Seller from any person or entity claiming otherwise, including commissions, damages and other sums for which Seller may be held liable, and all attorneys' fees and court costs incurred by Seller, regardless of whether a lawsuit(s) is actually brought or whether Seller ultimately prevails. The provisions of this Section 16 shall survive Closing.

17. **ONGOING ACTIVITIES.** Buyer understands that as long as Seller owns property within the Condominium, it may retain model units within the Condominium. Seller's salespeople may show and do whatever else is necessary and helpful for sales, leasing or management. In addition to the foregoing, Seller and its affiliates, contractors, subcontractors, licensees and designees may conduct such construction and other activities in or around the Condominium as are deemed necessary or appropriate in the sole discretion of the party conducting such activities. Without limiting the generality of the foregoing, and as a material inducement to Seller to enter into this Agreement, Buyer acknowledges and agrees that Seller and/or other parties affiliated with Seller will be conducting construction, sales, and other activities within or around the Condominium, both before and after Buyer closes under this agreement. Buyer recognizes Seller's and their rights to do so and will not (i) deem any of these activities to be nuisances or noxious or offensive activities, (ii) enter, or allow any others under Buyer's control to enter, any areas where such activities are being conducted (even when they have temporarily ceased, such as during nonworking hours), or (iii) interfere with, restrict or impede the work of Seller or others within the Condominium, and Buyer hereby grants Seller access to the lot and all portions thereof, subsequent to closing in order to complete any work in the Condominium.

18. **STATUTORY WARRANTY; DISCLAIMER OF IMPLIED WARRANTIES; CONSTRUCTION CLAIMS NOTICE.** Buyer and Seller acknowledge that Section 718.203, Florida Statutes, grants Buyer certain warranties. Buyer understands that these are the only warranties made by Seller with regard to the Unit or the Condominium and, to the maximum lawful extent and unless clearly and absolutely prohibited by law, all other implied warranties of fitness for a particular purpose, merchantability and habitability, any warranties imposed by statute, and all other express and/or warranties of any kind or character are specifically disclaimed and seller has not given and buyer has not relied on or bargained for any such warranties. As to any implied warranty that cannot be disclaimed entirely, all secondary incidental and consequential damages are specifically excluded, waived and disclaimed. Without limiting the generality of the foregoing, if, but only if, Seller is prohibited from disclaiming entirely certain implied warranties by reason of the provisions of the "Magnuson-Moss Warranty Act" (15 U.S.C. §2301 *et. seq.* (1981) (the "**Warranty Act**"), if applicable, Seller hereby limits those implied warranties (if any) (A) in scope to those (if any) given on "consumer Products" (if any) (as defined in the Warranty Act, if applicable) which are actually covered by the Limited Warranty, and (b) in duration to the one year period of Seller's Limited Warranty, and all those implied warranties (if any) are hereby disclaimed absolutely thereafter.

FLORIDA LAW CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST A CONTRACTOR, SUBCONTRACTOR, SUPPLIER OR DESIGN PROFESSIONAL BEFORE YOU FILE YOUR LAWSUIT, YOU MUST DELIVER TO THE CONTRACTOR, SUBCONTRACTOR, SUPPLIER, OR DESIGN PROFESSIONAL A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE YOUR CONTRACTOR AND ANY SUBCONTRACTORS, SUPPLIES, OR DESIGN PROFESSIONAL THE OPPORTUNITY TO INSPECT THE ALLEGED CONSTRUCTION DEFECTS AND MAKE AN OFFER TO REPAIR OR PAY FOR THE ALLEGED CONSTRUCTION DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE CONTRACTOR OR ANY SUBCONTRACTORS, SUPPLIERS, OR DESIGN PROFESSIONALS. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER FLORIDA LAW. The provisions of this Section 18 will survive Closing.

19. **RADON GAS.** Radon Gas is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

20. **NOTICES.** Whenever Buyer is required or desires to give notice to Seller, the notice must be in writing and it must be sent certified mail, postage prepaid, with a return receipt requested to Seller at the address set forth on page 1 of this Agreement or such other address as Seller may otherwise direct.

Unless this Agreement states other methods of giving notices, whenever Seller is required or desires to give notice to Buyer, the notice must be in writing and sent either: (i) by first class mail, postage prepaid (unless sent outside of the United States, in which event written notices to Buyer may be sent by regular air mail); (ii) by facsimile transmission or e-mail if Buyer has indicated a facsimile number or e-mail address on Page 1 of this Agreement; or (iii) by a national overnight courier service, to the address for Buyer set forth on Page 1 of the Agreement. A change of address notice is effective when it is received. All other written notices are effective on the day they are properly mailed, transmitted, or delivered, as the case may be, whether or not received (and all permitted non-written notices to Buyer are effective on the date given by Seller) unless receipt is required as specifically set forth in portions of this Agreement.

21. **TRANSFER OR ASSIGNMENT.** Buyer shall be entitled to assign, sell or transfer his interest in this Agreement or Buyer's rights hereunder as long as (a) Buyer remains liable for the performance of Buyer's obligations hereunder and (b) Buyer provides Seller with a copy of the assignment at least ten (10) days prior to Closing. If Buyer is a corporation, other business entity, trustee or nominee, a transfer of any equity, beneficial or principal interest in Buyer will constitute an assignment of this Agreement requiring consent. If Seller grants consent to an assignment by Buyer, Seller's consent must be in writing to be effective, and may be conditioned in any manner Seller desires in its sole discretion (other than the payment of a fee). Any permitted assignee must fully assume all of the obligations of Buyer hereunder by written agreement for Seller's benefit, a counterpart original executed copy of which shall be delivered to Seller. Buyer's assignee will have no greater rights of any kind than Buyer does at the time the assignment is made. No new agreement will be deemed to be made by reason of an assignment. Any permitted assignment will not release Buyer from its obligations under this Agreement.

Seller may freely assign or transfer all of its rights and obligations under this Agreement, including its rights in and to Buyer's Deposit and all other payments made by Buyer under this Agreement.

22. **OTHERS BOUND BY THIS AGREEMENT.** If Buyer dies or in any way loses legal control of his/her affairs, this Agreement will bind his/her heirs and personal representatives. If Buyer has received permission to assign or transfer his interest in this Agreement, this Agreement will bind anyone receiving his/her interest. If Buyer is a corporation or other business entity, this Agreement will bind any successor corporation or entity. If more than one person signs this Agreement as Buyer, each will be jointly and severally liable for full performance of all Buyer's duties and obligations under this Agreement, and Seller can enforce this Agreement against each or either Buyer as individuals or together. If two (2) or more persons and/or entities are named herein as Buyer or if any person named herein as Buyer is married, any selections, change orders, or other actions hereunder taken by, and any notice to, any one person or entity named as Buyer, or any spouse of a Buyer whether or not named as a Buyer, will be binding on Buyer.

23. **FLORIDA LAW; SEVERABILITY.** This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida, and any disputes in connection with this Agreement will be settled according to Florida law.

In the event any part of this Agreement violates a provision of Florida or federal law, such law will control. In such case, however, the rest of the Agreement (not in violation) will remain in force and effect. Without limiting the generality of the foregoing, it is Buyer's and Seller's mutual desire and intention that all provisions of this Agreement be given full effect and be enforceable strictly in accordance with their terms. If, however, any part of this Agreement is not enforceable in accordance with its terms or would render other parts of this Agreement or this Agreement, in its entirety, unenforceable, the unenforceable part or parts are to be judicially modified, if at all possible, to come as close as possible to the expressed intent of such part or parts (and still be enforceable without jeopardy to other parts of this Agreement, or this Agreement in its entirety), and then are to be enforced as so modified. If the unenforceable part or parts cannot be so modified, such part or parts will be stricken and considered null and void, and the remainder of this Agreement shall continue in full force and effect, in order that the mutual paramount goal (that this Agreement is to be enforced to the maximum extent possible strictly in accordance with its terms) can be achieved.

24. **TIME OF THE ESSENCE.** The performance of all obligations on the precise times stated in this Agreement is of absolute importance, and failure to perform any such obligations on time is an event of default, time being of the essence with respect to each provision of this Agreement which requires performance by Buyer within a specified time period or upon a specified date.

25. **ENTIRE AGREEMENT.** This Agreement constitutes the entire understanding between the parties, and may not be amended except by written agreement executed by all parties hereto. Any current or prior agreements, understandings, verbal and visual representations and statements, including, without limitation, statements and representations of Seller's sales representations, if not expressed in this Agreement or in the Condominium Documents, are hereby merged into the terms of this Agreement and are void and have no effect, and Buyer acknowledges that he/she has not relied on such information or materials.

26. **LITIGATION.** In the event of any dispute arising out of this Agreement, the prevailing party shall be entitled to recover all costs incurred, including, without limitation, reasonable attorneys' fees and costs through the appellate levels and all bankruptcy and administrative proceedings. The venue of any litigation or other dispute resolution arising out of this Agreement shall be Indian River County, Florida. This provision shall survive the Closing or earlier termination hereof.

27. **RECORDING.** Neither this Agreement, nor any notice of memorandum hereof (nor any Lis Pendens) may be recorded among the Public Records, and such recording shall constitute Buyer's default under this Agreement. Buyer hereby waives any lien rights, legal or equitable, which might be available to Buyer by virtue of this Agreement. Buyer acknowledges and agrees that Buyer's violation of the terms of this paragraph

will materially impair Seller's title to the Unit and will cause substantial damage to Seller. In such event, Seller shall be entitled, at Buyer's expense (including all attorneys fees and costs incurred by Seller), and without waiving Buyer's default under this Agreement, to obtain the immediate discharge of any recorded notice, memorandum or lis pendens which Buyer may record in the Public Records; or, alternatively, at Seller's option, and without waiving Buyer's default under this Agreement, Seller may require that Buyer immediately post a bond in the full amount of the Purchase Price, plus all closing costs and attorneys fees for which Buyer may be liable under this Agreement. Buyer waives any requirement imposed by law that Seller demonstrate any economic damage in order to support the posting of the bond required above.

28. **SURVIVAL.** The provisions and disclaimers in this Agreement which are expressly set forth herein to have effect after Closing (but only those provisions and disclaimers) will continue to be effective after Closing and delivery of the deed. All other provisions of the Agreement shall be deemed performed or waived at Closing, and shall be merged into the deed.

29. **INCORPORATION BY REFERENCE.** Every exhibit, schedule, modification, rider, and other addendum and appendix attached to this Agreement or referred to herein is hereby incorporated in this Agreement.

30. **RIGHTS AND REMEDIES CUMULATIVE.** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

31. **INTERPRETATION.** Every covenant, term, provision of this Agreement shall be construed simply according to its fair meaning, and shall not be more strictly construed against any one of the parties hereto. Further, notwithstanding the fact that the form of this Agreement has been drafted, initially, by Seller, all parties to this Agreement have participated fully in the negotiation and preparation hereof, and as this Agreement has been fully negotiated between the parties hereto, the principle of contract interpretation which would result in any ambiguity being construed against the draftsman shall not, and is not intended, to apply. In construing this Agreement, the singular shall be held to include the plural, the plural shall be held to include the singular, and the use of any gender shall be held to include every other gender. The titles and captions contained herein are for convenience only and shall not be deemed a part of the context of this Agreement.

32. **NEGOTIATIONS.** Buyer acknowledges that the negotiation of this Agreement and all discussions with Seller and its agents regarding the sale of the Unit were conducted in the English language. Buyer also acknowledges that (a) he/she has had ample opportunity to inspect the documents provided to Buyer pursuant to this Agreement, and pursuant to any request of Buyer, and (b) that although Seller's sales agents are not authorized to change the form of this Agreement, they have strict instructions from Seller to communicate any of Buyer's requests for changes to Seller's

management, which has given Buyer the opportunity to discuss and negotiate such changes. In light of the foregoing, Buyer's decision to sign this Agreement now is totally free and voluntary and Buyer acknowledges and accepts all of the provisions of the Agreement and the Condominium Documents as fair, reasonable, negotiated, discussed and explained to his/her satisfaction.

33. **BUYER'S ACKNOWLEDGEMENTS**

As a material inducement to Seller to enter into this Agreement and consummate the transaction provided for herein, Buyer acknowledges and represents and warrants to Seller that Buyer understands and agrees to take title to the Unit subject to the following matters:

A. Except as agreed to in writing by Seller, neither ownership of the Unit nor membership in either of the associations described herein shall in any manner entitle Buyer to membership in any club now or hereafter existing including, without limitation, one operated within the adjacent hotel property.

B. Notwithstanding the proximity of the Condominium to the adjacent hotel and its amenities and grounds, ownership of the Unit shall not entitle Buyer to any right of use or easement, prescriptive or otherwise, to any portion of the hotel, its amenities or grounds, save and except specific access rights to the Condominium as established by the Reciprocal Easement and Cost Sharing Agreement contained in the Condominium Documents, and then only in accordance with the specific provisions thereof.

C. Buyer has entered into this Agreement and is acquiring the Unit based solely on Buyer's independent evaluation of the use value thereof. Neither Seller, any affiliate or representative of Seller or any third party has made or delivered any statement, representation or warranty as to the economic value of the Unit or any potential use thereof including, without limitation, any return on rental or resale activities.

D. Phase II of the Condominium, in which the Unit is located, may contain up to twenty (20) units which are subject to fractional (a/k/a "timeshare") ownership. Such units and the method of ownership are described in the Condominium Documents. Accordingly, Developer advises Buyer:

UNITS IN THIS CONDOMINIUM ARE SUBJECT TO TIMESHARE ESTATES.

The foregoing acknowledgements shall survive closing and be binding upon Buyer and all persons claiming by, through or under Buyer.

34. **COUNTERPARTS**. This Agreement may be executed in counterparts, each of which shall be deemed an original, and shall be binding upon the party or parties who executed same, but all of such counterparts shall constitute one and the same Agreement.

35. **EFFECTIVE DATE.** The effective date ("**Effective Date**") of this Agreement shall be the date stated on Page 1 of this Agreement, and shall be the date from which all time periods under this Agreement are computed.

By signing below, Buyer and Seller agree to be bound by all terms and provisions of this Agreement. Accordingly, Buyer is hereby advised to carefully review this Agreement and the Condominium Documents and to consult with an attorney of Buyer's choice. If, after the execution of this Agreement, Buyer or any attorney on Buyer's behalf, informs Seller that Buyer desires or intends to terminate this Agreement, or that Buyer is or may be unable or unwilling to comply with any of the terms of this Agreement, then at the option of Seller, same will constitute a default by Buyer.

IN WITNESS WHEREOF, the parties hereto have sworn to and have executed this Agreement as of the date first above written.

SELLER:

VERO LODGING, LLC, a Florida limited liability company

By: _____
Print Name: _____
Title: _____

BUYER(S):

Print Name: _____

Print Name: _____