

Effective Date: _____

**SALE AND PURCHASE AGREEMENT
FOR ROSEWOOD RESIDENCES TUCKER'S POINT BERMUDA.
RESIDENCE #__**

B E T W E E N :

VENDOR: HARBOUR COURT NORTH LTD.

- AND -

PURCHASER:

-AND -

GUARANTOR: TP HOLDCO LIMITED

SALE AND PURCHASE AGREEMENT (the ‘Agreement’)

1. THE PARTICULARS

The Effective Date: _____

The Vendor: Name: **HARBOUR COURT NORTH LTD.** a company incorporated in and under the laws of Bermuda and having its registered office at Ground Floor Victoria Place 31 Victoria Street Hamilton HM10 Bermuda.

The Purchaser:	(1) Name:	*****
	Address:	*****
	Nationality:	[Bermudian/United States Citizens/specify other...]
	(2) Name:	*****
	Address:	*****
	Nationality:	[Bermudian/United States Citizens/specify other...]
	(3) Name:	*****
	Address:	*****
	Nationality:	[Bermudian/United States Citizens/specify other...]
	(4) Name:	*****
	Address:	*****
	Nationality:	[Bermudian/United States Citizens/specify other...]

Guarantor: Name: **TP HOLDCO LIMITED** a company incorporated in and under the laws of Bermuda and having its registered office at Ground Floor Victoria Place 31 Victoria Street Hamilton HM10 Bermuda.

The Property: **Tenure:** Leasehold for a term of 999 years commencing on the date of the first completion of the sale of any Residence.

Description: ALL THAT Residence referred to as Rosewood Residence
_____ The Rosewood Residences at Tucker's Point,
Bermuda, as the same is more particularly described in the
Lease.

Details
of Property: **[3BR Description:** 3 bedrooms, 3 ½ bathrooms, kitchen,
living room, exterior verandas and pool] or
[4BR Description: 4 bedrooms, 4 ½ bathrooms, kitchen,
living room, exterior verandas, pool and spa]

together with a dedicated garage space

as is more particularly described in the Property Plans & Specifications annexed hereto

Ordinance Sheet: 554598-137785 {*Property is under construction and hence precise co-ordinates not shown on latest OS Map. These coordinates apply to 34 Harbour Drive, the closest assessed home*}

The Purchase Price: US\$ []

Contractual Completion Date: The date determined in accordance with the provisions of clause 4.11 of this Agreement

The Vendor's Attorneys: Wakefield Quin Limited, Ground Floor Victoria Place 31
Victoria Street Hamilton HM10 Bermuda. Attn: Michelle
Stone DDI 441-494-4080/E: mstone@wq.bm

The Purchaser's Attorneys: []

Location of Head Title Deeds: Epitome of Title to be provided. Original title deeds are available for inspection only at the offices of Wakefield Quin Limited

2. DEFINITIONS AND INTERPRETATION

In this Agreement, unless the context otherwise requires, the terms appearing in the Particulars shall have the meanings specified therein, and:

- 2.1 **‘Actual Completion Date’** means the date of actual completion whenever it occurs;
- 2.2 **‘Application Plans’** means the plans prepared by the Architect (as listed in the OBMI Index Sheet annexed hereto) copies of which have been made available to the Purchaser and the Purchaser’s Attorneys prior to the date hereof;
- 2.3 **‘Apportionments’** has the meaning given to it in clause 4.10;
- 2.4 **‘Architect’** means OBMI or such other appropriately qualified person or entity as may be appointed by the Vendor in relation to this Agreement;
- 2.5 **‘Brand’** has the meaning given to it in clause 12;
- 2.6 **‘Brand Standards’** has the meaning given to it in clause 4.18(g);
- 2.7 **‘Building’** means the apartment block of which the Property forms a part;
- 2.8 **‘Building Contractor’** means a reputable general contractor experienced in the construction of high-end residential property in Bermuda selected by the Vendor and notified to the Purchaser;
- 2.9 **‘Certificate of Completion of Making Good Defects’** means the certificate of that name contemplated by clause 5.6, confirming that the items listed on the Schedule of Defects have been satisfactorily completed;
- 2.10 **‘Closing costs’** includes without limitation legal fees as set out in section 4.15, escrow fees, wire fees, and bank charges, stamp duties, licence fees and all applicable disbursements and registration fees contemplated herein;

- 2.11 **‘Commencement Date’** means the date upon which the Architect certifies that construction of the Building has commenced, such date not to be more than 120 days after satisfaction of the Conditions;
- 2.10 **‘Completion Payment’** means the Final Payment as adjusted by all other sums payable by the Vendor and the Purchaser to each other pursuant to the provisions of this Agreement including without limitation Apportionments and Closing Costs;
- 2.12 **‘Condition Date’** means the date by which the Conditions must be satisfied, being twelve (12) months from the date hereof or such later date as the parties hereto agree in writing;
- 2.13 **‘Conditions’** means
- 2.13.1 the Purchaser receiving the Licence in Principle referred to in clause 6.1 (unless clause 6.6 shall apply); and
- 2.13.2 the Vendor concluding not less than four (from the total of 8) Sale and Purchase Agreements with prospective purchasers who have either secured or do not require the Licence in Principle referred to in clause 6.1 (which final requirement, the Vendor shall be at liberty to waive in its sole discretion);
- 2.14 **‘Current Estate’** means the lands known as Area E2 or Harbour Court North and more particularly described in Current Estate Description and shown outlined in red on and Bermuda Land Surveys Plan reference LS8723A annexed hereto;
- 2.15 **‘Data Room’** means the site provided for general information only located at website page: <https://tuckerspointcollection.com/purchaser-documents/>
- 2.16 **‘Economic Completion’** means completion of all steps necessary to achieve peaceable occupation and legal completion that lie outside the Purchaser’s control which shall include for the avoidance of doubt:
- 2.16.1 Delivery of the Occupancy Certificate to the Purchaser’s Attorneys;
- 2.16.2 Delivery of the certificate of Substantial Completion to the Purchaser’s Attorneys;
- 2.16.3 Delivery of the engrossments of the Lease, duly executed by the Vendor and inclusive of as built demise plans, to the Purchaser’s Attorneys;
- 2.16.4 Delivery of the engrossments of the documents outlined in the Disclosure and Acknowledgement attached hereto to the Purchaser’s Attorneys
- 2.16.5 Delivery of the Occupation Licence, duly executed by the Vendor;
- 2.16.6 Confirmation of the assessment number, ARV and postal address for the Property;
- (but excluding for the avoidance of doubt the grant of the Final Licence and the execution of the closing documents by the Purchaser);
- 2.17 **‘Estate’** means either:
- 2.17.1 the Current Estate as more particularly described in the Current Estate Description and Current Estate Plan as at the date hereof; or
- 2.17.2 once Subdivision Approval is secured by the Vendor, pursuant to clause 4.7, the Modified Estate shown for identification purposes only edged in red on the plan entitled “Modified Estate Plan” annexed hereto;
- 2.18 **‘Final Licence’** means the licence issued upon finalisation of the licence process approving the Purchaser to acquire the Lease of the Property by the Minister of National Security following satisfaction of the Licence Conditions;

- 2.19 **‘Final Payment’** means the sum of [] United States Dollars (US\$[]) representing one third of the Purchase Price, payable on Final Payment Date (and subject always to clause 9.2 below);
- 2.20 **‘Final Payment Date’** means the earlier of:
2.20.1 5 working days after the Contractual Completion Date;
2.20.2 5 working days prior to the Occupation Date;
- 2.21 **‘First Deposit’** means the sum paid by the Purchaser prior to the date hereof to the Vendor’s Attorney’s [under a Priority Reservation Agreement made as between the parties hereto in order to reserve the Property] representing one sixth of the Purchase Price (which sum shall henceforth form the First Deposit hereunder);
- 2.22 **‘Force Majeure’** means any fire, explosion, accident, strike, lockout or other labour dispute, drought, storm, hail, earthquake, embargo or other casualty (whether or not covered by insurance) materially and adversely affecting the business or properties or operation of the Vendor or materially and adversely affecting the ability of the Vendor to perform its obligations hereunder (including for the avoidance of doubt any work stoppages or labour disputes, labour or supply chain shortages or restrictions on the importation of labour or materials as a result of a pandemic (or similarly incapacitating event), natural physical events, lightning, floods, wind damage, earthquake, fires, the inability of the Vendor to obtain materials or labour on terms acceptable to the Vendor (acting reasonably), civil disturbances, transportation or production disasters, power or other utility failures, or any other causes beyond the reasonable or practical control of Vendor but excluding for the avoidance of doubt delays caused by an express act or negligent omission of the Vendor);
- 2.23 **‘Governmental Consents’** means all applicable licences, permits and any other certificates or permissions required by the Government of Bermuda or its authorised departments or corporations (including any planning approval and building permit) in order to commence and carry out Works or the Infrastructure Works, as the case may require;
- 2.24 **‘HOA Management Agreement’** means the Management Agreement dated 21st July 2023 made between the Vendor of the one part and RWTP Management of the other part pertaining to management of the services for the Current Estate, which agreement shall be terminated and replaced by the Residential Management Agreement on the subdivision of the Pre-Existing Development and the Modified Estate;
- 2.25 **‘Hotel Residence’** shall have the meaning afforded to it in Part VI of the Bermuda Immigration and Protection Act 1956 (as amended and consolidated);
- 2.26 **‘Infrastructure Works’** means that part of the Works comprising the construction and/or installation of all accesses, driveways, footpaths and roadways, main pipes and conduits and utilities which are to be provided by the Vendor for the common use of the tenants or occupiers of the Estate, including water access dedicated for use by the owners and lawful occupiers of the Residences only, as detailed on the Site Plan annexed hereto;
- 2.27 **‘Interest Rate’** means three per centum (3%) per annum above the base lending rate of HSBC Bank Bermuda Limited for United States dollar deposits as published from time to time;
- 2.28 **‘Landscaping Works’** means the hard and soft landscaping that is to surround the Residences as indicated on the indicative Landscaping Plan annexed hereto together with such revisions as the Guarantor in its reasonable discretion may determine based on availability of plants, site and soil conditions and planting season;
- 2.29 **‘Last Sale Date’** has the meaning given to it in clause 5.5;

- 2.30 **‘Lease’** means a lease of the Property (to be substantially in the same form as the draft Lease attached to this Agreement) together with such minor revisions as the Vendor’s Attorneys shall propose and Purchaser’s Attorneys shall agree and record in writing (each acting reasonably);
- 2.31 **‘Licence in Principle’** means an approval in principle granted by the Minister for National Security pre-approving the Purchaser (where requisite) to acquire the Lease of the Property;
- 2.32 **‘Licence Conditions’** means any conditions attaching to the Licence in Principle which require satisfaction prior to the grant of a Final Licence, which shall include:
- 2.32.1 the grant of an Occupancy Certificate for the Property;
- 2.32.2 the Bermuda Government’s Land Valuation Unit determining that the Property’s annual rateable value shall be above the threshold for non-Bermudian purchase of a Hotel Residence (if any);
- 2.33 **‘Long Stop Date’** means the date falling 30 months after the Commencement Date provided that such date shall be extended by Force Majeure;
- 2.34 **‘Modified Estate’** shall mean the proposed lot of land comprising only the Residences (and excluding the Pre-Existing Development) which is shown for identification purposes only outlined in red on the Modified Estate Plan;
- 2.35 **‘Modified Estate Plan’** means the outline drawing so marked annexed hereto, which is based on a historic land survey and shall be confirmed by formal survey;
- 2.36 **‘Notice to Complete’** means a notice requiring Completion of this Agreement in accordance with clause 4.13 hereof;
- 2.37 **‘Occupancy Certificate’** means the Certificate of Use and Occupancy for the Property issued by the Department of Planning;
- 2.38 **‘Occupation Date’** means the earlier of
- 2.38.1 The date the Purchaser shall enter into occupation of the Property under the terms of the Occupation Licence under clause 8; and
- 2.38.2 The date falling 10 Working Days after the occurrence of the last of the circumstances comprising Economic Completion;
- 2.39 **‘Occupation Licence’** means a licence agreement in the form annexed hereto;
- 2.40 **‘Permission’** means the grant of planning permission from the Department of Planning to construct the Residences (Planning Department Reference P0020-23, approved by the DAB on 11 July 2023 and reconfirmed by the Cabinet Minister on 15 January 2024), and the ancillary building permit granted under permit number BC0086-23, issued on 15 January 2024 (as such permission may be amended by the Guarantor in its reasonable discretion as contemplated herein);
- 2.41 **‘Planning Act’** means the Development and Planning Act 1974;
- 2.42 **‘Pre-Existing Development’** means the seven completed apartments and townhouse units erected by the Vendor on the Estate and sold prior to the date hereof inclusive of any exclusive use areas serving the same, which are collectively shown for identification purposes outlined in blue on the Modified Estate Plan;

- 2.43 **‘Property Plans & Specifications’** means the specifications and floor plans of the Property copies of which are annexed hereto (note: where such drawings refer to more detailed subordinate layer drawings, the same are available on request from the Architect);
- 2.44 **‘Residences’** means an exclusive development of eight residences (including the Property), referred to as “Rosewood Residences Tucker’s Point Bermuda” to be constructed over two Buildings situated at Harbour Drive Hamilton Parish HS02, Bermuda as set out on the Site Plan;
- 2.45 **‘Residential Management Agreement’** means a property branding agreement documenting the provision of the services that the Resort Operator will provide to the Residences to ensure that the same are maintained to Brand Standards;
- 2.46 **‘Resort Operator’** means the management company operating the hotel and resort property currently known as **Rosewood, Bermuda** and/or any alternative appointed by the owners of the said hotel and resort from time to time;
- 2.47 **‘Schedule of Defects’** means the list of items that remain outstanding at the date of Substantial Completion as certified by the Architect;
- 2.48 **‘Second Deposit’** means the sum of _____ United States Dollars (US\$[]) representing one sixth of the Purchase Price, payable five (5) working days after Commencement Date;
- 2.49 **‘Secured Lender Consent’** shall mean a consent in the form annexed hereto from any bank lending institution or entity holding security over the Estate from time to time;
- 2.50 **‘Share Purchase Consideration’** means one dollar (\$1.00) per share together with one half of the stamp duty, if any, relating to the transfer of the Purchaser’s shares to the Purchaser;
- 2.51 **‘Site Plan’** means the plan so named annexed hereto;
- 2.52 **‘Structural Completion’** means that the Property is structurally complete (i.e. that structural elements of the Property, inclusive of all walls and slabs supporting the same within the Building, are in place, cured and at full structural capacity) and that all mechanical electrical and plumbing infrastructure is in place;
- 2.53 **‘Subdivision Approval’** means permission to subdivide the Modified Estate from the Current Estate pursuant to clause 4.7;
- 2.54 **‘Substantial Completion’** means substantial completion of the Property and all parts of the Infrastructure Works necessary for the use and enjoyment thereof (but excluding the final top surface of the roadway which may be deferred until the substantial completion of the last Residence, so long as the roadway remains driveable at all times) as certified by the Architect pursuant to the building contract under which the Property is being constructed;
- 2.55 **‘Target Date’** means the target date for Substantial Completion, being 24 months after the Commencement Date provided that such date shall be extended by the period of any delay occasioned Force Majeure subject to the Vendor using all reasonable endeavours to minimise the effects of any such delay;
- 2.56 **‘Third Deposit’** means the sum of [] United States Dollars (US\$[]) representing one third of the Purchase Price, payable on the Third Deposit Date;

- 2.57 **‘Third Deposit Date’** means 5 working days after the date that the Purchaser shall receive written confirmation from the Architect confirming Structural Completion;
- 2.58 **‘Working Day’** means any day from Monday to Friday (inclusive) which is not a Bank Holiday;
- 2.59 **‘Works’** means the works to be carried out on the Estate involving the construction of eight Residences in 2 Buildings and the Infrastructure Works landscaping and other works pursuant to final planning approvals granted in accordance with plans prepared on behalf of the Vendor and approved by the Development Applications Board of the Department of Planning and including the Works contemplated in the Permission;
- 2.60 the expressions ‘the Vendor’, ‘the Purchaser’, ‘the Guarantor’ and the Bank include their respective successors in title;
- 2.61 words importing one gender shall be construed as importing any other gender;
- 2.62 words importing the singular shall be construed as importing the plural and vice versa;
- 2.63 words importing persons shall be construed as importing a corporate body and/or a partnership and vice versa;
- 2.64 where any party comprises more than one person the obligations and liabilities of that party under this Agreement shall be joint and several liabilities of those persons;
- 2.65 unless expressly stated to the contrary, any reference to a specific statute includes any statutory extension or modification, amendment or re-enactment of that statute and any regulation or order made under that statute, and any general reference to a statute includes any regulation or order made under that statute;
- 2.66 the clause headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation save for the headings “The Particulars” and “The clauses”;
- 2.67 any reference to a clause or a condition or a paragraph or a schedule is to one in this Agreement so numbered.

3. **AGREEMENT TO GRANT THE LEASE**

3.1 **Conditional Agreement**

- 3.1.1 Completion of this Agreement is conditional upon the Conditions being satisfied (or where applicable, waived) on or before the Condition Date;
- 3.1.2 The Vendor and the Purchaser have each agreed to use all reasonable endeavours to secure satisfaction of the Conditions that lie within their control by the Condition Date;
- 3.1.3 In the event that any Condition has not been satisfied on or before the Condition Date, either the Vendor or the Purchaser may rescind this Agreement by serving written notice to that effect on the other and the provisions of clause 4.14.1 shall apply provided that where either party is found to have actively frustrated the satisfaction of a Condition by committing some other breach of this Agreement, such rescission shall be without prejudice to the rights and remedies of the other party.

3.2 **Grant of the Lease**

- 3.2.1 The Vendor is the freehold owner of the Estate in fee simple;
- 3.2.2 In consideration of the payments to be made hereunder by the Purchaser on account of the Purchase Price and of the mutual agreements and covenants contained in this Agreement the Vendor shall construct the Property and grant the Lease of the Property and the Purchaser shall pay the Purchase Price for and accept the Lease of the Property and execute a duplicate of it in accordance with the terms of this Agreement.

4. **THE CLAUSES**

4.1 **Payment of the Purchase Price**

- 4.1.1 The Purchaser shall pay the First Deposit to the Vendor's Attorney as stakeholder on or before the date of this Agreement;
- 4.1.2 The Purchaser shall pay the Second Deposit to the Vendor's Attorney as stakeholder within five (5) working days after Commencement Date;
- 4.1.3 The Purchaser agrees that the Vendor's Attorneys may release the First and Second Deposits to the Vendor forthwith upon the satisfaction (or waiver where applicable) of the Conditions;
- 4.1.4 The Purchaser shall pay the Third Deposit to the Vendor by the Third Deposit Date;
- 4.1.5 On or before the Final Payment Date the Purchaser shall pay the Final Payment to the Vendor; and
- 4.1.5 All sums payable by the Purchaser pursuant to the provisions of this clause 4 shall be paid by direct credit to a bank account nominated by the Vendor.

4.2 **Formation**

The contract between the parties hereto is made when the First Deposit is held by the Vendor's Attorneys as stakeholder and a complete copy of this Agreement has been signed by all the parties and dated.

4.3 **Vendor's Title**

The Vendor shall deduce good title to the Estate including the Property in accordance with established conveyancing practice in Bermuda and shall make the documents of title to the Property and the Estate available to the Purchaser's Attorneys for inspection.

4.4 **The Property**

The Vendor hereby covenants and declares and the Purchaser hereby expects that:

- 4.4.1 Subject to delays occasioned by Force Majeure, the Works will commence no later than the Commencement Date (with such date to be notified to the Purchaser in writing);
- 4.4.2 The Works will be undertaken and completed by the Vendor in a good and workmanlike manner and with good quality and suitable materials in accordance with the Governmental Consents and in accordance with the Property Plans & Specifications with the intent that the Vendor shall use all reasonable endeavours to procure that the certificate of Substantial Completion and the Occupancy Certificate are issued on or before the Long Stop Date;

- 4.4.3 The Property will include a Furniture, Fixtures and Equipment ("FF&E") package that meets Brand Standards. The FF&E package is further described in the form of FF&E Addendum provided with the form of this Agreement. The FF&E Addendum shall be considered a collateral contract to this Agreement;
- 4.4.4 The Property shall be connected to the Resort Operator's waste-water treatment plant and shall have access to the Resort Operator's piped water and bulk gas supplied (with such services being separately metered and charged at the Resort Operator's rates);
- 4.4.5 Title to the Property and any fixtures therein shall otherwise pass to the Purchaser by delivery free from any charge lien burden or adverse claim on the Actual Completion Date;
- 4.4.6 The First, Second and Third Deposits shall be applied solely towards the costs of the Works that shall include the Property and/or up to 1/8th of the costs of the Infrastructure Works and for no other purpose;
- 4.4.7 The Vendor shall make certain that there are, at all times, sufficient funds (having regard to funds released to the Vendor and all future payments yet to be made by the Purchaser and other purchasers of the Residences and any construction loan secured by the Vendor) so as to ensure that the Works can be completed and meet the standards required for both the certificate of Substantial Completion and the Occupancy Certificate to be issued and for the Property to be subsequently occupied by Purchaser;
- 4.4.8 If the Occupation Date does not occur by the Long Stop Date, the Purchaser shall be at liberty to rescind this Agreement by serving written notice on the Vendor whereupon the Guarantor shall procure prompt return of all monies paid by the Purchaser to the Vendor or the Vendor's Attorneys under this Agreement (being no longer than 20 Working Days from the date of such notice).

4.5 **Matters Affecting the Property/Estate**

All rights benefitting the Property over the Estate are granted subject to all encumbrances discoverable by inspection of the Property and the Estate and so far as the Vendor is aware there are no encumbrances affecting the Estate other than:

- 4.5.1 those disclosed in the title deeds to the Estate (copies of which have been supplied to the Purchaser's Attorneys prior to the date hereof); and
- 4.5.2 those contemplated by the HOA Management Agreement and the Residential Management Agreement.

4.6 **Planning Permission**

- 4.6.1 The Guarantor warrants that no "development" as defined in the Planning Act has been or will be carried out on the Modified Estate without planning permission for the same having been granted, or otherwise in contravention of the Planning Act or any condition contained in any planning permission granted in accordance therewith.
- 4.6.2 Notwithstanding the provisions of clause 4.6.1 above, if any such development shall occur which materially reduces the value of the Property, the Purchaser may:-
 - (a) by written notice served upon the Vendor and the Guarantor rescind this Agreement; or

- (b) serve notice upon the Vendor and the Guarantor confirming his desire to proceed with his purchase of the Property.

4.7 **Subdivision**

- 4.7.1 The Vendor warrants that planning permission for the subdivision of the lands comprised in the Current Estate Description has been granted and registered under planning reference ## S0079/07.
- 4.7.2 The Vendor has reached a commercial agreement with the owners of the 7 completed homes comprising the Pre-Existing Development, which will require/allow the Vendor to further subdivide the Current Estate, in order to separate the Pre-Existing Estate from the Modified Estate upon which the Residences will be constructed. The Vendor at its own cost shall with all due diligence and dispatch cause an application to be made on its behalf to the Department of Planning effect such further subdivision.
- 4.7.3 Should such application prove successful, the Vendor shall transfer the Pre-Existing Estate to another wholly owned subsidiary entity of the Guarantor, having first secured landholding powers for such entity to acquire the Pre-Existing Estate and reserving for the benefit of the Modified Estate rights of way and easements for the passage of utilities of the developed section of Harbour Drive passing through the Pre-Existing Estate. The subdivision approval shall grant like rights of way and easements for the passage of utilities in favour of the Pre-Existing Estate over the extension to Harbour Drive that shall form part of the Infrastructure Works. It shall also grant an easement for the use of a swim cove presently enjoyed by #34 Harbour Drive that will be left in its present natural state to preserve the privacy and amenity of such home;
- 4.7.4 In the unlikely event that either (i) the agreement to further subdivide the Current Estate as contemplated in Section 4.7.2 is not formalised or (ii) the application with the Department of Planning to subdivide the Current Estate as contemplated in this Section 4.7.3 is not successful, the 8 Residences shall form part of the Current Estate (together with the 7 existing homes) and the Vendor shall account separately for the services that shall be provided to the Residences and any reserve that shall be funded by the owners of the Residences.
- 4.7.5 The Guarantor shall pay all legal fees and bear the costs of all formalities required to perfect the separation contemplated in this Clause 4.7, including without limitation stamp duty, registration costs and planning fees.
- 4.7.7 Following completion of the Voluntary Conveyance of the Pre-Existing Estate to the new subsidiary:
 - 4.7.7.1 references in this Agreement to 'the Estate' shall be adjusted to reference the Modified Estate;
 - 4.7.7.2 the rights benefitting the Estate in the Lease shall be adjusted reflect the easements exceptions and reservations contemplated herein; and
 - 4.7.7.3 the Vendor's Attorneys shall make such further adjustments to the form of the Lease and other agreements as may be requisite.

4.8 **Insurance**

- 4.8.1 The Vendor shall, until the Actual Completion Date, insure or procure the insurance of the Works against all risks to its full reinstatement value together with architect's and surveyor's fees and the costs of demolition and clearance with an insurance office of good repute and the Vendor will procure that a note is endorsed on the

relevant policy of insurance of the Purchaser's interest in the Property from the Actual Completion Date and ensure that such policy shall contain a general proviso agreeing that the equitable entitlement of other persons may be advised in the event of a claim.

4.8.2 If at any time before the Actual Completion Date the Property is damaged or destroyed to such an extent that it makes it unusable for its intended purpose as at the date hereof:-

4.8.2.1 the Purchaser may proceed to complete his purchase but require that the Vendor shall utilise the proceeds from its insurance policies to rebuild and re-instate the Property making up any shortfall from the Vendor's own monies (save where insurance is vitiated by the Purchaser); or

4.8.2.2 the Purchaser may rescind this Agreement by written notice served upon the Purchaser if the damage to the Property is not reasonably capable of being repaired within a period of 12 months of the date of destruction or damage; and

4.8.2.3 either party may rescind this Agreement by written notice served upon the other where the Property has become unusable for that purpose as a result of damage against which the Vendor could not reasonably have insured, or which it is not legally possible for the Vendor to make good whereupon the Vendor shall procure prompt return of all monies paid by the Purchaser to the Vendor or the Vendor's Attorneys under this Agreement.

4.9 **The Lease**

The Lease shall be prepared in duplicate by the Vendor's Attorneys and engrossments thereof shall be delivered to the offices of the Purchaser's Attorneys not less than 10 Working Days prior to the Contractual Completion Date.

4.10 **Apportionments**

4.10.1 Any income and outgoings of the Property shall be apportioned between the Vendor and the Purchaser so far as the change of ownership on the Actual Completion Date will affect entitlement to receive or liability to pay them.

4.10.2 In apportioning any sum, it is to be assumed that the Vendor owns the Property until the end of the Actual Completion Date.

4.11 **Contractual Completion Date**

For the purposes of this Agreement, unless otherwise agreed in writing between the parties, the "Contractual Completion Date" shall be 10 Working Days after the later of:

4.11.1 the date that Economic Completion is achieved; and

4.11.2 the date that the Purchaser receives notification from the Cabinet Office that the Final Licence has been issued and is ready for collection (subject to payment of the requisite fee by the Purchaser, if any); and;

and time shall be of the essence in regard to the Contractual Completion Date.

4.12 **Completion**

- 4.12.1 Completion of the grant of the Lease and payment of the Completion Payment (or balance thereof) shall take place on the Contractual Completion Date at the offices of the Vendor's Attorneys or where they may direct.
- 4.12.2 If the balance of the Completion Payment is received after 4:00 p.m. on a Working Day, completion shall be treated as taking place on the next Working Day.
- 4.12.3 If the balance of the Completion Payment is paid by direct credit to a bank account then it shall be treated as having been received upon the earlier of:
 - (a) when the bank to which it is transferred notifies the Vendor's Attorneys that it has been received; or
 - (b) one hour after actual receipt of such credit by the Vendor's Bank.
- 4.12.4 Completion shall not take place before 9:30 a.m. nor after 5:00p.m. on a Working Day, nor on a day that is not a Working Day unless the Vendor's Attorneys agree to the same.
- 4.12.5 The Property shall be free and clear of all liens and tenancies, with all fixtures installed and delivered to the Purchaser in a clean and tidy condition suitable for immediate occupation on the Actual Completion Date.

4.13 **Notice to Complete**

- 4.13.1 If, for any reason, the parties fail to complete on the Contractual Completion Date, either party who is ready, able and willing to complete may give the other a notice to complete ("Notice to Complete").
- 4.13.2 The parties are then to complete this Agreement within 10 Working Days (as to which time is of the essence) of the giving of a Notice to Complete excluding the day on which the notice is given.
- 4.13.3 On receipt of a Notice to Complete if the Purchaser has not paid the entirety of the Completion Payment and/or has paid sums amounting to less than the aggregate Purchase Price, the Purchaser shall forthwith pay the sum that shall remain outstanding.
- 4.13.4 The service of a Notice to Complete by the Vendor or the Purchaser shall not prejudice any right of either party to rescind this Agreement.

4.14 **Remedies**

4.14.1 **Rescission**

Should either the Vendor or the Purchaser properly rescind this Agreement pursuant to the terms of this Agreement:

- (a) unless the rescission is as a result of the Purchaser's breach of contract, the Purchase Price (or such part thereof as shall have been paid by the Purchaser on account thereof) shall be repaid to the Purchaser by the Guarantor;
- (b) the Purchaser shall return any deeds or documents received from the Vendor or the Vendor's Attorneys; and
- (c) the non-defaulting party may claim damages.

4.14.2 Late Completion

If either party fails to complete this purchase on the Contractual Completion Date in accordance with the terms of this Agreement and such failure cannot be attributed wholly to the other's default the Vendor or Purchaser (as appropriate) shall pay compensation to the other. Compensation in the event of default by the Purchaser is calculated at the Interest Rate on the Purchase Price, less any part thereof already paid, for the period between the Contractual Completion Date and the Actual Completion Date;

4.14.3 Purchaser's Failure to Comply with Notice to Complete

If the Purchaser fails to complete in accordance with a Notice to Complete, the following terms shall apply:-

- (a) The Vendor may by notice to the Purchaser rescind this Agreement, and if it does so it may:
 - (i) retain the First Deposit and all accrued interest and shall forthwith refund all other monies paid by the Purchaser pursuant to the terms of this Agreement; and/or
 - (ii) If the Purchaser has occupied the Property prior to completion, the Vendor retain all sums due and owing under the Occupation Licence;
 - (i) resell the Property; and/or
 - (ii) claim damages to the extent that the Purchaser's breach shall result in a loss that exceeds the sum retained under 4.14.3(a)(i) and (ii) above, including for the avoidance of doubt as a consequence of any fall in re-sale values, additional marketing costs and/or commissions.
- (b) The Vendor expressly retains such other rights and remedies to which the Vendor may be entitled to at law. For the avoidance of doubt the Vendor's obligation to repay any part of the Purchase Price under this clause 4.1.4.3 shall be deferred until all claims under clause 4.1.4.3(a)(iv) have been quantified and satisfied in full.

4.14.4 Vendor's Failure To Comply With Notice To Complete

If the Vendor fails to complete in accordance with a Notice to Complete the following terms shall apply:

- (a) The Purchaser may by notice to the Vendor:
 - (i) rescind this Agreement and obtain a refund of all monies paid to the Vendor or the Purchaser's Attorneys pursuant to the terms hereof; or
 - (ii) seek specific performance in which event clause 4.17 shall not apply
- (b) the Purchaser expressly retains such other rights and remedies to which the Purchaser may be entitled at law.

4.15 Legal Fees and Disbursements

- 4.15.1 Subject as expressly provided in this clause 4.15, the Vendor and the Purchaser shall be separately liable each to his own attorney, but not to the attorney of the other, for all legal costs incurred in connection with this transaction.
- 4.15.2 The Purchaser shall pay to the Vendor's Attorneys on the Completion Date the sum of Three thousand five hundred Bermuda Dollars (BD\$3,500.00) as the recommended Bermuda Bar Association Council's scale fee for the provision of leasehold development documents (namely this Agreement, the Lease, any linked agreement and the FF&E Addendum).
- 4.15.3 For the avoidance of doubt the Vendor shall not be liable to pay any conveyance charge or other fee to the Purchaser's Attorneys.
- 4.15.4 The stamp duty payable on this Agreement, the Lease and the bill of sale (if any) shall be paid by the Purchaser.
- 4.15.5 The legal costs incurred in connection with any application by the Purchaser for a Licence in Principle and Final Licence to acquire the Property together with any fee payable in respect thereof shall be paid by the Purchaser.
- 4.15.6 The legal costs incurred in connection with the preparation by the Purchaser's Attorneys of any mortgage of the Property together with stamp duty and the registration fees payable therefor shall be paid by the Purchaser.
- 4.15.7 The legal costs incurred in respect of securing the Secured Lender's Consent (and any release of the Lender's security over the Property) shall be paid by the Vendor.
- 4.15.8 The costs of separating the Modified Estate from the Current Estate (if applicable) shall be paid by the Guarantor.

4.16 Development of Estate

The Guarantor in carrying out the Works intends to construct the Residences in 2 Buildings provided always that the Vendor shall be at liberty to:

- 4.16.1 make minor revisions amendments or changes to the form layout or extent of the Works and the Residences in the Vendor's reasonable discretion; and
- 4.16.2 dispose of minor parts of the Estate should the Guarantor reasonably require the same (for example, for road widening purposes or where such land shall house a common amenity, such as Resort Operator's waste-water treatment plant);

provided that no revision or amendment shall adversely affect the Property nor lessen the utilities and amenities that are to be enjoyed by the owners and occupiers of the Property under the terms of this Agreement.

4.17 Arbitration

In the event that either party shall seek specific performance, such application shall proceed via the Courts of Bermuda. Subject thereto, if any question or dispute whatsoever shall arise between the parties hereto touching on or concerning this Agreement or the rights of the parties hereunder, the matter in dispute shall be referred to arbitration by a single arbitrator to be appointed by agreement between the parties hereto but in default of such agreement to be appointed by the President of the Institute of Arbitrators and shall be considered a submission to arbitration within the meaning of the Arbitration Act 1986 or any Act amending or replacing the same and the decision of such arbitrator shall be final and binding on the parties hereto.

4.18 **Disclaimer and representations**

4.18.1 The Purchaser admits that:

- (a) He enters into this Agreement solely as a result of his own inspection of the Property Plans & Specifications and the Estate and on the basis of the terms of this Agreement and not in reliance upon any representation or warranty either written or oral or implied made by or on behalf of the Vendor or the Vendor's agents, other than replies given by the Vendor's Attorneys in correspondence; and
- (b) This Agreement contains the entire agreement between the parties as to the subject matter herein.

4.18.2 The Purchaser represents and warrants that:

- (a) The Purchaser acknowledges, warrants, represents and agrees that this Agreement is being entered into by the Purchaser without reliance upon any representations concerning any potential for future profit, any future appreciation in value, any rental income potential, tax advantages, depreciation or investment potential and without reliance upon any brand or hotel affiliation, management company or any monetary or financial advantages.
- (b) The Purchaser acknowledges, warrants, represents and agrees that no statements or representations have been made by the Vendor, the Guarantor or any of its agents, employees or representatives with respect to (i) the ability or willingness of the Vendor or Guarantor to assist the Purchaser in financing, renting or selling any Residence (ii) the economic or tax benefits to be derived from the managerial efforts of a third party as a result of renting any Residence (iii) the economic or tax benefits to be derived from ownership of any Residence, or (iv) any potential for future profit, any future appreciation in value, any rental income potential, tax advantages, depreciation or investment potential from the ownership or rental of any Residence.
- (c) The Purchaser acknowledges, warrants, represents and agrees that information contained in all marketing and advertising materials, including without limitation, the brochure (if any) and/or project website (if any), is conceptual only and is used to depict the spirit of the lifestyles and environment to be achieved rather than specifics that are to be delivered. Such information is merely intended as illustrations of the activities, community and concepts depicted therein and/or features consistent with the displayed lifestyle and should not be relied upon as representations, express or implied, of the actual detail.
- (d) The Purchaser acknowledges, warrants, represents and agrees that the Purchaser has not relied upon any verbal representations, advertising, portrayals or promises other than as expressly contained herein and the Lease or any other document provided, including, specifically, but without limitation, any representations as to: (i) potential appreciation in or resale value of any Residence, (ii) the existence of any "View" from any Residence or that any existing "View" will not be obstructed in the future, (iii) traffic conditions in, near or around the Estate, (iv) disturbance from nearby properties, (v) disturbance from air or vehicular traffic, (vi) disturbances from any uses from and/or operations and/or events held from the club, resort or upon the any shared facilities (including, without limitation, closures of such facilities to accommodate those events) or use of the shared facilities by non-residents, (vii) the availability of any club, hotel and/or concierge services, (viii) any particular design or construction professional (e.g., architect, contractor, interior designer) being involved in the development or design of the Estate (it being understood and agreed that Vendor may select, retain, remove and/or change any such professional at any time without notice), or (ix) any particular Brand affiliation or maintaining any existing Brand affiliation.
- (e) The Purchaser's decision to enter into this Agreement is not based on the continued existence or availability of any mark, brand or management by any Brand or any particular party.

- (f) The Purchaser acknowledges, warrants, represents and agrees that neither the Purchaser (including any and all of its directors and officers and direct and indirect owners), nor any of its affiliates or the funding sources for either is a Specially Designated National or Blocked Person. The Purchaser further represents and warrants that it is in compliance with any applicable anti-money laundering laws. The Purchaser agrees it will notify the Vendor in writing immediately upon the occurrence of any event which would render the foregoing representations and warranties of this Section incorrect. For purposes hereof, a “Specially Designated National or Blocked Person” means: (i) a person designated by the U.S. Department of Treasury’s Office of Foreign Assets Control, or other governmental entity, from time to time as a “specially designated national or blocked person” or similar status; (ii) a person described in Section 1 of U.S. Executive Order 13224, issued on September 23, 2001; or (iii) a person otherwise identified by government or legal authority as a person with whom the Vendor or the Guarantor, is prohibited from transacting business.
- (g) The Purchaser acknowledges, warrants, represents and agrees that for so long as the Residences are associated with a Brand, the Brand shall have the right to require that the shared facilities, the Residences and the portion of the Estate exclusively serving the same (including, without limitation, the common areas) be operated, managed and maintained at a minimum according to the standards of quality, service, character, appearance and image required by the Brand, as the same may be amended from time to time (the “**Brand Standards**”).
- (h) Notwithstanding any other condition, statement, or understanding of any Buyer, Residence Owner, the Vendor or any other person to the contrary, (i) the Brand shall not be deemed to, and has not acted as, the developer, architect, engineer, contractor, broker or marketer (or in any similar capacity) in connection with the Residences and/or the project or the marketing or sale of the Residences; and (ii) the owner of the Brand does not make, and shall not be deemed to have made, any representations or warranties of any nature whatsoever in connection with the project, creation of the association or the marketing or the sale of the Residences.
- (i) The Purchaser represents and warrants to the Vendor that this transaction was not brought about by any real estate broker or salesperson other than the in-house sales consultant engaged by the Guarantor or any a professional brokerage engaged by the Guarantor to be its exclusive listing agent, whose commission will be paid by the Guarantor.

For the avoidance of doubt this clause 4.18 shall survive completion of the purchase of the Property.

4.19 **Restriction on Assignment**

4.19.1 This Agreement is personal to the Purchaser and shall not be capable of assignment save where the Vendor shall have failed to comply with a Notice to Complete properly served upon it by the Purchaser in which case this Agreement may be assigned upon the same terms and conditions as would have applied to an assignment of the Property under clause 3.22 of the Lease (with such amendment only as may be required to reflect the terminology utilised herein).

4.19.2 Save as provided above, the Vendor shall not be required to transfer the Property to anyone other than the Purchaser.

4.20 **Merger on Completion**

The provisions of this Agreement shall not merge on completion of the grant of the Lease of the Property insofar as they remain to be performed or in circumstances where merger would be clearly inconsistent with the terms hereof.

4.21 **Notices**

- 4.21.1 A notice required or authorised by this Agreement must be in writing and shall be delivered by hand or transmitted in facsimile form to the addressee.
- 4.21.2 Giving a notice to a party's attorney has the same effect as giving or delivering it to that party.
- 4.21.3 Subject to the following provisions of this clause 4.21 a notice is given when it is received.
- 4.21.4 If a notice is received after 4:00 p.m., local time for the recipient, on a Working Day, or on a day which is not a Working Day, it is to be treated as having been received on the next Working Day.
- 4.21.5 Unless the actual time of receipt is proved, a notice delivered by hand or transmitted by facsimile is to be treated as having been received before 4:00 p.m. on the day of such delivery or transmission.
- 4.21.6 A copy of any notice served hereunder shall be provided to any secured lender, who shall have provided a Secured Lender Consent at the address or addresses notified by the secured lender from time to time (one of which shall be an attorney practising in Bermuda).

4.22 **Governing Law and Variation**

This Agreement shall be governed and construed in all respects by and in accordance with the laws of the Islands of Bermuda and may be modified or varied only by an instrument in writing signed by all the parties hereto or their respective attorneys on their behalf.

5. **THE CLAUSES**

5.1 **Conflict**

Where there is a conflict between clause 4 and clause 5 of this Agreement, the terms of the latter shall prevail.

5.2 **Encumbrances**

- 5.2.1 The Property is sold subject to all easements, covenants, conditions, restrictions and stipulations contained or referred to in the Lease but shall be sold free from any mortgage charge lien or other financial encumbrance or encumbrances including any "disclosable overriding interests" ("DOI") as referred to in Rule 29 of the Land Title Registration Rules 2018.
- 5.2.2 If the Property is found to be subject to any easement, covenant, condition, restriction, stipulation or DOI that has not been disclosed in this Agreement or the Lease, then the Purchaser shall by notice to the Vendor, be permitted to rescind this Agreement.
- 5.2.3 If the title deeds to the Property and the Estate reveal that the Property is sold subject to any adverse covenant, easement or other encumbrance which is not disclosed in this Agreement (or of which the Purchaser's Attorneys do not have notice), the Purchaser may, without prejudice to any other right or remedy the Purchaser may have against the Vendor, by notice in writing to the Vendor rescind this Agreement.

5.3 **Capacity of Vendor**

The Vendor owns the freehold title to the Estate as Beneficial Owner and shall lease the Property to the Purchaser in such capacity.

5.4 **Possession**

The Property is sold with vacant possession on completion.

5.5 **Ownership of Vendor/Transfers of Shares**

5.5.1 The parties acknowledge that the Vendor shall continue to own the freehold reversion in the Estate and administer the Common Areas for the collective benefit of the leasehold owners of the Estate. The Guarantor has agreed to transfer control of its shares in the Vendor to the leasehold owners of the Residences, following completion of the Works and the Last Sale Date, as defined below.

5.5.2 In this clause 5.5, the following definitions shall apply:

“**Last Sale Date**” means the latest of:

5.5.2.1 the date on which the leasehold title to the last of the Residences is granted to a third party purchaser thereof;

5.5.2.2 provided that subdivision of the Pre-Existing Estate and Modified Estate is secured, the date on which the subsidiary company is given a Certificate of Incorporation and the Section 4A permission to own the Pre-Existing Estate in its corporate name;

5.5.2.3 the date on which the Vendor and the said subsidiary are each issued with its own licence pursuant to section 114B of the Companies Act 1981 (as amended) allowing its shares in the same to be 100% owned by restricted persons; and

“**Purchaser Transfer Shares**” means one eighth of the shares in the said subsidiary provided that the Modified Estate is subdivided from the Pre-Existing Estate;

5.5.3 In the unlikely event that the Modified Estate shall not be subdivided from the Current Estate, the following provisions shall apply to the transfer of control of its shares to the leasehold owners of the Residences and the Pre-Existing Development and the Purchaser Transfer Shares shall mean one fifteenth of the shares in the Vendor (representing the combined total homes erected and to be erected on the Current Estate);

5.5.4 The Vendor shall use all reasonable endeavours to secure all necessary Governmental Consents necessary to convey the Pre-Existing Estate to the said subsidiary (at the cost of the Guarantor) as quickly as practicably following the date hereof, leaving the Vendor as the freehold owner of the Modified Estate;

5.5.5 Copies of the Voluntary Conveyance of the Pre-Existing Estate shall be disclosed to the Purchaser’s Attorneys, who shall be kept apprised of any material developments.

5.5.6 Forthwith following the Last Sale Date:

5.5.6.1 the Vendor will make application to Minister of Finance and the Bermuda Monetary Authority for approval to transfer the Purchaser Transfer Shares;

5.5.6.2 the Vendor will make application to the Accountant General for an adjudication with respect to the stamp duty, if any, which will be payable as a result of the proposed transfer of the Purchaser Transfer Shares

- 5.5.6.3 and shall then transfer the Purchaser Transfer Shares to the Purchaser for no additional consideration and free of all liens.

5.6 **Making Good of Defects**

- 5.6.1 (a) As soon as practicable following the issuance by the Architect of the certificate of Substantial Completion, the Purchaser and the Guarantor's representative shall inspect the Property and agree the Schedule of Defects. If the Guarantor and the Purchaser are unable to agree a mutually convenient time, the Guarantor shall set the time of the inspection and provide the Purchaser with a minimum of 15 days' notice and the Purchaser may attend or nominate a representative to attend in the Purchaser's place. If the Purchaser does not attend or nominate a representative, the Guarantor shall keep a video recording of the inspection and make the same available to the Purchaser upon request, received within 2 months of the date of inspection.
- (b) The Guarantor shall rectify the matters referred to in the Schedule of Defects as soon as reasonably practicable subject to the Purchaser granting the Guarantor's contractors suitable access to the Property and may not be used as a reason to delay completion. The Guarantor shall not be responsible for any additional work not specified in the Schedule of Defects. The Purchaser's acceptance of the Property at completion shall not be deemed a waiver of the Purchaser's right to have the Defects remedied at the Guarantor's sole expense.
- 5.6.2 Any shrinkage or other fault or defect in the Property which shall appear within 12 months from the Occupation Date and which shall result from faulty workmanship or bad materials or any act or omission of the Vendor/Guarantor's agents or contractors in breach of the terms of this Agreement shall be made good within a reasonable time at the Guarantor's own expense and to the reasonable satisfaction of the Purchaser.
- 5.6.3 Any defect shrinkage or other fault or defect in the 'Common Areas' (as that expression is defined in the Lease) or any other part of the Estate that impacts upon the use and enjoyment of the Property arising prior to or within 12 months of the Occupation Date and which shall arise from faulty workmanship or bad materials or any act or omission of the Vendor/Guarantor's agents or contractors in breach of the terms of this Agreement shall be made good at the Guarantor's own expense and to the reasonable satisfaction of the Purchaser.
- 5.6.4 For the avoidance of doubt the Guarantor shall retain all contract retentions due to the Building Contractor and/or any sub-contractor in a segregated account, in order that the same shall be available and may be released promptly following the grant of the Occupancy Certificate and/or the Certificate of Making Good Defects and ensure that such further sums are set aside to the said segregated account sufficient to deal with matters collectively identified on the Schedule of Defects for the Residences that are not addressed by the said contract retentions.
- 5.6.5 For the avoidance of doubt this clause shall survive completion.

5.7 **Confidentiality**

The parties hereto shall not disclose the terms of this Agreement or information about the other party not already in the public domain hereto to any person (other than to their respective professional advisers, who shall owe them a duty of confidentiality in respect of such information) during the subsistence of this Agreement or after it has been completed,

save where the other party's consent to such disclosure has first been obtained, or where the disclosure is in accordance with the requirements of any government, municipal or other authority or regulatory body.

5.8 **Guarantee**

In consideration of this Agreement being entered into by the Vendor and the Purchaser the Guarantor, as Beneficial Owner of the Vendor, has at the Vendor's request been joined as a party to this Agreement and hereby guarantees as follows:

- 5.8.1 That the Vendor or the said subsidiary upon subdivision of the Modified Estate (as the case may require) shall perform its obligations as Vendor (or the Vendor's successor) under this Agreement.
- 5.8.2 The Guarantor shall pay and make good to the Purchaser and shall indemnify the Purchaser against all losses damages costs expenses and liability which the Purchaser may suffer or properly incur by reason of the failure of the Vendor to perform its obligations in this Agreement.
- 5.8.3 The Guarantor is not to be exonerated from this guarantee because of any forbearance or other indulgence neglect or delay of the Purchaser in enforcing his rights against the Vendor other than as required in accordance with the terms of this Agreement.
- 5.8.4 The Purchaser acknowledges that the Purchaser is under a duty to take reasonable steps to mitigate any of the losses damages costs expenses and liabilities payable by the Guarantor to the Purchaser pursuant to the terms of this Guarantee and shall not include unforeseeable loss and in any event the Purchaser will provide written evidence of such claim as the Guarantor may reasonably require.
- 5.8.5 The Purchaser acknowledges that no action may be taken against the Guarantor without first giving to the Vendor and the Guarantor the reasonable opportunity to remedy any breach of the terms of this Agreement by service upon the Vendor and the Guarantor of a notice of the relevant breach (where capable of remedy) but if the same shall not be remedied within the period of 30 days from the date of the Purchaser's notice or sooner in the event of an emergency then the Purchaser shall be deemed to have complied with the terms of this sub-clause and may commence action against the Guarantor without reference to the Vendor.
- 5.8.6 The Guarantor shall automatically be released from this guarantee upon the issuance of the Certificate of Completion of Making Good Defects as outlined in clause 5.6 insofar as it relates to this Agreement but without prejudice to any accrued right of action of the Purchaser against the Guarantor.

5.9 **Statutory Notices**

The Vendor shall be responsible to the Purchaser for ensuring that all notices are given that are required by any Statute in respect of the Works and shall pay and indemnify and keep indemnified the Purchaser from and against liability in respect of any fees or charges legally payable under any Statute in respect of the carrying out and completion of the Works.

5.10 **As Built Plans**

If requested the Vendor shall at the expense of the Purchaser furnish the Purchaser with at least one complete set of the permit drawings of the Property and (insofar as relevant) shall

supply at no additional charge any operating manuals and test certificates in respect of all electrical and mechanical services installations at the Property.

5.11 **Vendor Delay and Variations**

The Vendor shall use reasonable endeavours to ensure that the Certificate of Substantial Completion is properly issued by the Architect in accordance with the terms of this Agreement by the Target Date PROVIDED ALWAYS THAT:-

5.11.1 If there shall be any delay occasioned by Force Majeure the Target Date shall be extended equivalent to the extension of time to which the building contractor is entitled under the building contract or by the equivalently period of delay created by the Force Majeure event, as certified by the Architect and provided further that:

- (a) if and whenever it becomes reasonably apparent that the Works are likely to be materially delayed beyond the Target Date (whether by Force Majeure or otherwise) the Vendor will as soon as reasonably possible give notice in writing to the Purchaser of the circumstances so far as it is reasonably possible at the time of giving such notice including particulars of the event or events causing the delay and the expected effects thereof and the estimated extent of the delay; and
- (b) the Vendor will give such further written notices to the Purchaser as may be reasonably necessary for keeping up-to-date the particulars and estimate referred to in clause 5.11.1(a) above including any material change in such particulars or estimate;

5.11.2 (a) If any of the materials referred to in the Plans shall not be procurable within a reasonable period of time or although procurable within a reasonable period of time shall not be procurable at a reasonable cost the Vendor shall be at liberty to substitute such other materials of comparable or higher quality as the Architect may specify in writing but only where such substitution shall not materially alter the design, functionality, external appearance, gross internal area, layout, nature, capacity, standard of construction or structural integrity of the Property as provided for in the Property Plans & Specifications;

- (b) In the event the exterior site layout or soft and hard landscaping of the area surrounding the Property as shown in the Site Plan forming part of the Property Plans & Specifications cannot be constructed as anticipated and depicted by such Property Plans & Specifications due to site conditions then the Vendor reserves the right to make such changes as may be necessary during the course of construction provided that where the change in question materially and adversely affects the Property the Vendor shall advise the Purchaser of the same in writing.

5.12 **No Variation**

5.12.1 The parties acknowledge that the Residences are branded residence accommodations and the Purchaser shall not be entitled to request alterations to the Works.

5.12.2 The Purchaser accepts that the Property is part of branded building and acknowledges that there shall be no changes to the external façade of the Building or to matters which would impact the uniform appearance of the exterior and areas visible from such exteriors, including the balconies.

5.13 **Substantial Completion**

- 5.13.1 On Substantial Completion of the Building of which the Property forms part the Vendor shall procure that the Architect shall issue the certificate of Substantial Completion and a copy of such certificate shall forthwith be delivered to the Purchaser and the Purchaser's Attorney and the date stated in the Architect's certificate shall be the date of Substantial Completion of the Property for the purpose of this Agreement.
- 5.13.2 The Vendor shall as soon as reasonably practicable following the date of Substantial Completion of the Property clear away and remove from the Property all constructional plant materials rubbish and temporary works of every kind used for or accumulated by reason of the carrying out of the construction of the Property and shall make good any damage caused by such clearance and removal to the Purchaser's reasonable satisfaction.
- 5.13.3 The Vendor shall use its best endeavours to give to the Purchaser at least 14 days' notice of the times when the Architect proposes to make his inspections for the purpose of issuing the Certificate of Substantial Completion of the Property and/or the Works, the Schedule of Defects and the Certificate of Completion of Making Good Defects and shall afford the Purchaser and / or its representative (if any) all reasonable facilities for accompanying the Architect on such inspections and the Purchaser and / or its representative shall have the right to make representations in regard thereto and the Vendor shall procure that the Architect shall have due regard to any such representations but subject thereto nothing herein shall fetter the professional discretion of the Architect to issue the certificate of Substantial Completion, the Schedule of Defects and the Certificate of Completion of Making Good Defects (copies of which shall be provided to the Purchaser).
- 5.13.4 The Architect shall be entitled to issue the certificate of Substantial Completion notwithstanding the matters detailed on the Schedule of Defects aforesaid or that the planting and seeding of the landscaped areas on the Property have not been completed and the Vendor hereby undertakes to complete such planting and seeding as soon as reasonably possible in accordance with the Plans.

5.14 **Purchaser's Inspection Rights**

The Purchaser shall have the right (but not the obligation) for itself and its representative at all reasonable times during normal working hours upon giving a minimum of 5 Working Days' notice to the Architect and Vendor to inspect the state and progress of the Works and the Property and to inspect the materials and workmanship thereof. The Purchaser shall indemnify, defend and hold the Vendor harmless from any claims, loss, damage or expense arising from any personal injury or property damage while at the construction site, with or without the Vendor's consent. The Purchaser hereby waives the right to any claims or causes of action against the Vendor arising from personal injury or property damage occurred while at the construction site. The Purchaser hereby acknowledges that entry into the construction site and the Property during construction can be dangerous and that hazards may exist which are not observable and shall be solely at the Purchaser's own risk. For the avoidance of doubt the Purchaser shall not be entitled to make unsolicited inspections and shall comply with all construction guidance and wear safety equipment on such visits.

6. **RESTRICTED PERSON**

- 6.1 Where the Purchaser is a Restricted Person as defined in Part VI of The Bermuda Immigration and Protection Act 1956 (as amended) the Purchaser shall with all due diligence and dispatch, within 15 days of execution of this Agreement, cause an application to be made on his behalf to the Minister of Home Affairs for the Licence in Principle allowing him to use the Property for private residential purposes and will use all reasonable endeavours to procure the approval of such application subject to satisfaction of Licence Conditions.
- 6.2 If the Licence in Principle is not approved by the Condition Date (or within such further period as the Vendor and the Purchaser shall agree in writing) then either the Vendor or the Purchaser shall be at liberty by notice to the other to rescind this Agreement and upon such rescission the Deposit together with all interest accrued thereon, shall be forthwith repaid to the Purchaser and thereafter this Agreement shall be at an end and there shall be no further liability or claim between the Vendor or Purchaser with respect to this Agreement.
- 6.3 It is hereby acknowledged by the Vendor and the Purchaser that a Final Licence will not be issued until the Licence Conditions are satisfied. The Vendor shall use all reasonable endeavours to ensure that the Property when constructed meets all Licence Conditions and shall supply supporting evidence in respect thereof whereupon the Purchaser shall seek the Final Licence with all due diligence, keep the Vendor full apprised of all developments and promptly pay any licence fee upon notification of the same.
- 6.4 In the event that the Final Licence is not approved (subject only to payment of the licence fee by the Purchaser, where applicable) within a period of 12 months after the date of the Occupancy Certificate (or such further period as the Vendor and the Purchaser shall agree in writing) other than due to the failure of the Purchaser to diligently seek and procure the same, the Purchaser shall be entitled to rescind this Agreement whereupon clause 4.14.1 shall apply provided always that should refusal be the result of the Purchaser being convicted of an offence in any jurisdiction, any refund shall be limited to the lesser of:
- 6.4.1 all sums paid by the Purchaser less a sum equating to ten per cent (10%) of the Purchase Price, and the value of any special orders that cannot be cancelled/returned (which shall be forfeited and accrue to the Vendor as agreed liquidated damages); and
- 6.4.2 the proceeds of re-sale (less the said sum equating to ten per cent (10%) of the Purchase Price and the value of any special orders that cannot be cancelled/returned, which shall be forfeited and accrue to the Vendor as agreed liquidated damages) to be repaid by the Vendor within 3 Working Days following completion of the re-sale of the Property (with the Vendor using reasonable endeavours to effect such re-sale as quickly as reasonably practicable).
- 6.5 The Purchaser is obliged to make an election at the time of making the application for the Licence in Principle, as contemplated in clause 6.1, confirming if the Purchaser wishes to make one or other of the following elections, namely
- 6.5.1 Election (a): election to place on hotel inventory; and
- 6.5.2. Election (b): election to keep for private use;

and the Purchaser acknowledges that the Purchaser has discretion to exercise such election free of any influence of the Vendor or Guarantor but that should Election (a) be made, the Purchaser will need the consent of the Minister to change such election, which consent can be withheld in the Minister's discretion (under The Bermuda Immigration and Protection Act 1956 and The Bermuda Immigration and Protection (Land-Holding Charges) Regulations 2007).

- 6.6 For the avoidance of doubt this clause 6 shall not apply to any person who possesses Bermudian status and/or is deemed to belong to Bermuda and hence not to be a 'restricted person' under Section 11(5) of the Bermuda Constitution Order 1968.

7. **CAVES**

In the event the Vendor once it commences construction discovers a cave or caves or other unanticipated geological features beneath the Property that would substantially impact the Vendor's ability to proceed with the Works it reserves the right to rescind this Agreement by serving notice upon the Purchaser to such effect and reimbursing all sums paid by the Purchaser.

8. **EARLY OCCUPATION**

- 8.1 In consideration of the terms of this Agreement the Purchaser may use the Property in accordance with the terms of the Occupation Licence commencing on the Occupation Date but subject to the last of the circumstances comprising Economic Completion having first occurred.
- 8.2 The Vendor and the Purchaser agree to execute an engrossment of the Occupation Licence on or before the Occupation Date and the Purchaser further agrees to pay in accordance with the terms and provisions of the Occupation Licence with effect from the Occupation Date.

9. **SECURED LENDER**

- 9.1 The party supplying construction financing for the development of the Residences intends to take a mortgage debenture over the Estate and has agreed to provide a Secured Lender Consent to purchasers of the Residences, including a covenant with the Purchaser that notwithstanding any enforcement by the said lender of its security over assets held by the Guarantor, the secured lender will not interfere with or disturb the Purchaser's rights hereunder or to be created by the Lease.
- 9.2 In the event that the Vendor shall refinance at any stage, it shall secure a similar Secured Lender Consent from any incoming lender (with such variations as the lender acting reasonably may require).

10. **FACSIMILE COPIES OF AGREEMENT**

It is agreed that this Agreement may be signed in facsimile form and that facsimile copies of this Agreement bearing the duly attested signatures of the parties hereto will be binding.

11. **BRAND DISCLOSURE AND ACKNOWLEDGEMENT**

Concurrently with the execution of this Agreement (or thereafter if a Brand (defined below) is engaged for the Residences at a later time) and again on the Actual Completion Date, the Purchaser agrees that the Purchaser will execute and deliver to the Vendor a Brand Disclosure and Acknowledgement for the benefit of such Brand, as described in this clause 11. The Purchaser acknowledges and agrees that the brand of the Residences may change from time to time, and that the Vendor may enter into agreement(s) with such other brand(s) (each, a "Brand" and collectively, if more than one, the "Brands") providing it with licenses to use certain trademarks, trade names and/or other intellectual property associated with such Brand in connection with the marketing, sale and development of the Residences and/or the operation of the Residences' association. To the extent required by the Vendor,

the Guarantor or a Brand, the Purchaser agrees to execute any disclosures and/or acknowledgements required by the Vendor, the Guarantor or the Brand (each, a “Brand Disclosure and Acknowledgment”), which upon execution, shall be incorporated into this Agreement and run for the benefit of the Vendor, the Guarantor, the Brand. The exact contents of each Brand Disclosure and Acknowledgment that may be required to be executed by the Purchaser shall be determined in the Guarantor’s reasonable discretion having regard to brand standards of the particular Brand. To the extent that the Purchaser fails to execute a Brand Disclosure and Acknowledgment within ten (10) working days following the delivery of same to the Purchaser by the Vendor, then, at any time thereafter, Vendor may serve a Notice to Complete whereupon clauses 4.13 and 4.14 shall apply.

12. **MISCELLANEOUS**

- 12.1 The Purchaser acknowledges that the Property is being sold as a private home and not as an investment and that no representations have been made to Purchaser regarding the Property as an investment.
- 12.2 Without limiting the generality of the foregoing, the Purchaser has not relied on any representations or warranties, other than those set out herein, as to:
- the current or future real estate tax liability, assessment or valuation of the Property;
 - the availability of any financing for purchase, construction or alteration of the Property;
 - the physical condition of the Property including, without limitation environmental conditions, geological conditions, subsurface conditions, earthquake faults and the resulting damage of past and/or future earthquakes, underground water reservoirs, soil conditions, caves; and
 - the merchantability of the Property for any use other than single-family residential use.
- 12.3 Other than as specifically set forth in this Agreement, the Vendor makes no representation whatsoever, express or implied, with respect to the Property
- 12.4 The Vendor undertakes no responsibility or liability for representations made or information distributed by brokers, consultants or any other party, except as set forth in this Agreement with respect to the Property.

AS WITNESS the hands of the parties hereto the day and year first above written

SIGNED by the Vendor in the presence of:	)	
	)	
Signature of Witness:	)	_____
	)	(Vendor signs above)
	)	
Name of Witness:	)	
Address of Witness:	)	
	)	
	)	
Occupation of Witness:	)	

SIGNED for and on behalf of the
Purchaser in the presence of:

Signature of Witness:

Name of Witness:

Address of Witness:

Occupation of Witness:

(Purchaser signs above)

SIGNED for and on behalf of the
Purchaser in the presence of:

Signature of Witness:

Name of Witness:

Address of Witness:

Occupation of Witness:

(Purchaser signs above)

SIGNED for and on behalf of the
Purchaser in the presence of:

Signature of Witness:

Name of Witness:

Address of Witness:

Occupation of Witness:

(Purchaser signs above)

SIGNED for and on behalf of the
Purchaser in the presence of:

Signature of Witness:

Name of Witness:

Address of Witness:

Occupation of Witness:

(Purchaser signs above)

SIGNED for and on behalf of	)	
the Guarantor in the presence of:	)	
	)	
Signature of Witness:	)	_____
	)	(Guarantor signs above)
Name of Witness:	)	
Address of Witness:	)	
	)	
	)	
Occupation of Witness:	)	

List of Annexures:

- OBMI Index Sheet (listing of all plans approved under planning approval P0020-2023, copies of which are available in the Data Room and/or are publicly accessible at the Department of Planning)
- Current Estate Description
- Current Estate Plan
- Modified Estate Plan (provisional - to be finalised by land survey)
- Landscaping Plan
- Lease
- Occupation Licence
- Demise Plans (Residence plans, including garages)
- Secured Lender Consent
- Site Plan (showing Building locations)

Brand Disclosure and Acknowledgment
Purchaser Disclosure and Acknowledgment

THIS PURCHASER DISCLOSURE AND ACKNOWLEDGEMENT (“Disclosure and Acknowledgement”) is made as of the _____ day of _____, 202__ by _____ (whether one or more, “Purchaser”) for the potential purchase of a Residence in Rosewood Residences at Tucker’s Point, Bermuda, situated at Harbour Drive, Hamilton Parish HS02, Bermuda (the “Residence”) identified in that certain Sale and Purchase Agreement to which this Disclosure and Acknowledgement is attached (the “SPA”) and which SPA is executed concurrently with this Disclosure and Acknowledgement. Purchaser hereby acknowledges and agrees that:

1. The developer of the Residences is TP HOLDCO LIMITED Bermudian limited liability company (the “Developer”). Developer has entered into agreements with ROSEWOOD HOTELS AND RESORTS, NETHERLANDS B.V., a Dutch limited liability company and/or its affiliates (“Rosewood”), pursuant to which (a) Developer may use certain Rosewood marks in connection with the sales and marketing of the Residences (“Developer License”), and (b) Rosewood and the Association intend to enter into a management agreement for Rosewood’s initial management of the Association and the Residences (“Association Agreement”).
2. Rosewood (a) is not the owner, seller, developer, builder, broker, sponsor or offeror of the Residences, (b) is not affiliated with Developer, and (c) has not acted as broker, finder, salesperson or agent for Developer in connection with the offering or sale of the Residences.
3. Rosewood is not responsible for (a) the design, construction, development, offering, marketing, sale or solicitation of any portion of the Residences, (b) the contents of the Residence or other governing or offering documents for the Residences or Association (including, without limiting, the budgets, the SPA, and any Sales and Purchase Agreement), or (c) the sales and marketing process and materials (including, without limiting, any sales or marketing materials and any statements or representations by Developer, brokers, sales persons or any other person). Rosewood has not confirmed the accuracy of any governing, offering, marketing or sales materials or documents provided by Developer or otherwise with respect to the Residences. Rosewood does not make any representations, warranties or guaranties whatsoever with respect to the Residences. Purchaser waives and releases Rosewood from and against any liability with respect to any representations or defects or any claim whatsoever, relating to the design, construction, development, offering, marketing, sale or solicitation of the Residences.
4. So long as the Association Agreement is in effect, the Residences shall be known as “Rosewood Residences at Tucker’s Point, Bermuda” or by any other name as may be approved by Rosewood (the “Branded Name”). The Developer License is not in perpetuity and may be terminated, pursuant to its terms, by Rosewood or Developer without notice to, and without the consent of, Purchaser, the Association or any owner at the Residences, in which event the Association Agreement will also terminate (or will not come into effect, as applicable). Further, the Association Agreement is not in perpetuity and may be terminated by Rosewood without the consent of Purchaser or the Association, or otherwise pursuant to its terms. In the event that the foregoing agreements are not in effect or terminate, (a) all use of Rosewood’s tradenames, trademarks or service marks shall cease as to the Residences, (b) all indicia or connection between the Residences, and Rosewood (including, without limitation, signs or other materials bearing any of Rosewood’s trademarks or service marks or tradenames) shall be removed from the Residences, (c) all services to be provided by Rosewood to the Residences shall cease, and (d) the Residences will no longer be known under the Branded Name.
5. The Residences owners and purchasers: (a) have not and will not be granted a license to use, or any ownership or other rights in or to, any of the Rosewood marks (including the Branded Name), except for such limited use as may be set forth in the Association Agreement; and (b) have no rights under, and are not beneficiaries to, the Developer License or any other agreements between Developer (or its affiliates) and Rosewood.
6. Purchaser has entered into the SPA with the intent to identify the Residence in the Residence for purchase without reliance upon any representation (and no statements or representations have been made to Purchaser by Developer, Rosewood or any of their respective affiliates, agents, employees or representatives) concerning or with respect to (a) the ability or willingness (if any) of Developer, Rosewood or their respective affiliates to assist Purchaser in renting or selling the Residence, or (b) any potential for future profit, rental income, economic or tax advantages, depreciation or investment that may or may not be derived or realized from the Residence, or any monetary or financial advantage with respect thereto.

- 7. Purchaser has entered into the SPA with the intent to identify the Residence in the Residence for purchase for the purpose of occupying the Residence as a primary, secondary or vacation residence and not for investment purposes.
- 8. The foregoing acknowledgments and agreements are binding upon Purchaser, its heirs, legal representatives, successors and assigns and inure to the benefit of Rosewood and its agents, employees or representatives, and their successors and assigns. This Disclosure and Acknowledgement shall survive the termination of the SPA and closing of the acquisition of the Residence and any other Units by Purchaser.

IN WITNESS WHEREOF, Purchaser has executed this Disclosure and Acknowledgement as of the date and year first above written.

PURCHASER:

Printed Name: _____

Printed Name: _____

Printed Name: _____

Printed Name: _____