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Type of Document:	**First Amendment to Easement and Maintenance Agreement for Access, Ingress, Egress and Recreational Use**
Association:	**Daytona Beach Resort and Conference Center Condominium Association, Inc., a Florida corporation not-for-profit**
Developer:	**Daytona Beach Resort, L.L.C., a Florida limited liability company**
Dated:	**February 28, 2019**

Return to:

David Neal Stern, Esquire
Frank, Weinberg & Black, P.L.
1875 N.W. Corporate Boulevard, Suite 100
Boca Raton, FL 33431
Telephone: (561) 989-0700
Our File No.: 16115.006

Attention: Shelia Congdon

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County Volusia
Date 4/23/2021 Time 11:06:04 AM
By SHELIA CONGDON
FRANK WEINBERG BLACK P.L.

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Attention: Shelia Congdon

FIRST AMENDMENT TO EASEMENT AND MAINTENANCE
AGREEMENT FOR ACCESS, INGRESS, EGRESS AND RECREATIONAL USE

This FIRST AMENDMENT TO EASEMENT AND MAINTENANCE AGREEMENT FOR ACCESS, INGRESS, EGRESS AND RECREATIONAL USE ("Easement Amendment") made and entered into 28th day of February, 2019, by and between DAYTONA BEACH RESORT AND CONFERENCE CENTER CONDOMINIUM ASSOCIATION, INC., a Florida corporation not-for-profit (the "Association") and DAYTONA BEACH RESORT, L.L.C., a Florida limited liability company (the "Developer").

WITNESSETH:

WHEREAS, on or about October 19, 2000, the Developer executed a declaration of condominium titled *Declaration of Condominium Establishing Daytona Beach Resort and Conference Center, a Condominium Resort*, which instrument was recorded at Book 4625, Page 342 et seq. of the Volusia County, Florida, public records (the "Condominium Declaration");

WHEREAS, on or about October 19, 2000, the Association and the Developer entered into that certain agreement titled *Easement and Maintenance Agreement for Access, Ingress, Egress, and Recreational Use*, which instrument was recorded at Book 4625, Page 328 et seq. of the Public Records of Volusia County, Florida, and then re-recorded with exhibits at Book 6142, Page 2479 et seq. of such records (the "Original Easement Agreement"); and

WHEREAS, the Developer and the Association wish to amend the Original Easement Agreement in the manner set forth below (with the Original Easement Agreement, as amended by this Easement Amendment, being hereafter referred to the "Amended Easement Agreement").

NOW, THEREFORE, in consideration of Ten ($10.00) Dollars, the agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. Recitals; Capitalized Terms. The above recitals are true and correct and incorporated herein by reference. The capitalized terms not otherwise defined herein shall have the meanings as set forth in the Original Easement Agreement or, if not defined therein, in the Declaration. Except as otherwise amended, the Original Easement Agreement remains in full force and effect.

2. Treatment of 14th Floor Rooms.

A. The parties acknowledge that there are currently 300 Units in the Condominium, without considering the rooms on the floor currently referred to as the 14th floor of the Property. On the 14th floor, there are twenty-two (22) rooms currently designated as numbers 1401 through 1422. Such rooms are hereinafter referred to the "14th Floor Rooms." Of those rooms, eighteen (18) have been fully constructed (i.e., current room numbers 1401-1409, and 1414-1422) (the "Completed Rooms"), and the other four (4) are currently unfinished (i.e.., current room numbers 1410-1413) (the "Uncompleted Rooms"). A legal description of the area described as the 14th

Floor in Exhibit "A" (page 10 of 17) of the Condominium Declaration is attached hereto as Exhibit A.

B. The parties agree that the 14th Floor Rooms were never submitted to condominium ownership and are not subject to the Declaration of Condominium; however, pursuant to this instrument each of the Completed Rooms and each owner thereof shall, effective as of April 1, 2018, be liable to pay assessments levied by the Association in the same amount and manner as condominium units subject to the Declaration ("Units"). As such, each of the Completed Rooms and each owner thereof is thereafter liable to the Association for a proportionate share of the Association's common expenses. For example, (a) each of the eighteen (18) Completed Rooms and each owner thereof is now liable for 1/318 of the Association's regular and special assessments as if such Completed Room were part of the Condominium; and (b) when each of the four (4) Uncompleted Rooms is fully constructed, each such room and each owner thereof will be liable for 1/322 of the Association's common and special assessment expenses. The Association acknowledges that it is standard practice that the Developer has always effected payment of its regular assessments for Developers' units by showing the amount as a credit offset against the amounts billed each month to the Association for the Association's payment obligations to the Developer under the Original Easement Agreement. The Association agrees to accept credits under the standard practice described herein under the Amended Easement Agreement as payment in full by the Developer of regular assessments due to the Association.

C. Notwithstanding anything contained herein to the contrary the 14th Floor Rooms shall be deemed Developer Retained Property and shall be subject to the sole control of the Developer. In this regard, the Developer shall have the right to create a separate condominium regime time share regime or any other ownership structure selected by Developer covering one or more of the 14th Floor Rooms. In the event that a 14th Floor Room is conveyed to a third-party purchaser, then (a) the Developer shall provide prompt written notice to the Association identifying such 14th Floor Room and the purchaser(s); and (b) such purchaser(s) rather than the Developer shall be liable to the Association for post-sale amounts owed to the Association on account of such 14th Floor Room pursuant to Paragraph B above.

D. With respect to any and all amounts owed to the Association on account of a Completed Room, the Association shall have the right to collect amounts by pursuing any and all available remedies, which specifically include, without limitation, (a) setting off such amounts against amounts owed by the Association to the Developer pursuant to the Amended Easement Agreement, to the extent such Completed Room is owned by the Developer at the time such amounts came due; (b) proceeding with the filing and foreclosure of a lien against (i) such room(s) if submitted to a condominium form of ownership, and only to the extent the current or former owner(s) of such Completed Room(s) are delinquent in the payment of assessments; or (ii) the property described in Exhibit A if the 14th Floor Rooms are not submitted to condominium The procedure for foreclosing such lien shall be the same procedure applicable to the foreclosure of a mortgage of real property under Florida law; and (c) other collection-related remedies that would be available to the Association under the Declaration or applicable law if the Completed Room was subject to the Declaration. The Association is entitled to recover its

reasonable attorney's fees and expenses incurred in seeking to recover unpaid assessments and other charges owed on account of Completed Rooms.

3. General Provisions. The parties hereto agree to execute any and all documents reasonably necessary to effectuate the intent and purpose of the Easement Agreement, including this instrument. Each Party reserves all rights and remedies at law or in equity to enforce this Amended Easement Agreement. No provision of this Amended Easement Agreement, which may be deemed unenforceable shall in any way invalidate any other provision thereof, all of which shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the date and year first above written.

[SIGNATURES ON FOLLOWING PAGES]

DAYTONA BEACH RESORT, L.L.C.

By: W. Harrison Merrill, Manager

Date: 2/28/2019

STATE OF Georgia)
)ss
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this February 28th 2019, by W. Harrison Merrill, as Manager of Daytona Beach Resort, LLC who is personally known to me or who produced driver's license number _____ as identification.

Notary Public
State of Georgia
(seal)

APRIL D PEARCE NOTARY PUBLIC CARROLL COUNTY, GA MY COMMISSION EXPIRES AUGUST 22, 2020

Witnesses:

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

DAYTONA BEACH RESORT, L.L.C.

By: Alan Rommes, President

Date: 3-22-19

STATE OF Tennessee)
)ss
COUNTY OF Washington)

The foregoing instrument was acknowledged before me this March 22nd 2019, by Alan Rommes, as President of Daytona Beach Resort who is personally known to me or who produced driver's license number Drivers License as identification.

da Conference Center COA

Meagen Mullins
Notary Public
State of Tennessee
(seal)

MEAGEN MULLINS
STATE OF TENNESSEE NOTARY PUBLIC
WASHINGTON COUNTY

Witnesses:

Tammy R Wyatt

EXHIBIT A

14th Floor

A PORTION OF THE NORTHERLY 441.93 FEET OF BLOCK ELEVEN (11), ORTONA PARK, SECTION 3, AS PER MAP IN MAP BOOK 23, PAGES 232 AND 233, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM THE NORTHWEST CORNER OF SAID BLOCK 11, RUN N65'24'10E ALONG THE NORTH LINE OF SAID BLOCK 11 A DISTANCE OF 245.37 FEET; THENCE, S24'45'08E A DISTANCE OF 82.97 FEET TO THE POINT OF BEGINNING, SAID POINT OF BEING THE NORTHEAST CORNER OF A MASONRY WALL; THENCE CONTINUE ALONG THE EXTERIOR OF SAID WALL THE FOLLOWING COURSES AND DISTANCES S24'45'08E 88 FEET; S85'17'18'W 34.83 FEET; S24'42'44E ONE HALF A FOOT; S85'17'16'W TWENTY-FIVE FEET; N24'42'44'W ONE HALF A FOOT; S65'17'10'W 151.64 FEET; N24'45'05'W 88 FEET; N65'17'16'E 165.64 FEET; S24'42'44'E 1.5 FEET; N65'17'15'E 22.75 FEET; N24'42'44'W 1.5 FEET; N65'17'18'E 33.10 FEET TO THE POINT OF BEGINNING. HAVING A LOWER FLOOR FINISHED FLOOR ELEVATIONS OF 119.95 FEET, 120.45 FEET, AND 122.45 FEET, WITH A CEILING ELEVATIONS OF 124.85 FEET, 129.75 FEET AND 132.80 FEET, BASED ON NATIONAL GEODETIC 1829 VERTICAL DATUM, CONTAINING 5855.65 SQUARE FEET.