



Totem Pole Park

Condominium Unit Owners Association

4 Totem Pole Rd. Freedom, NH. 03836

Management Company Contract

Revision 1.5

Dated: June 1, 2023

MANAGEMENT CONTRACT

This Management Contract, (hereinafter called the “Contract”), made as of the 27th day of May 2023, by and between TOTEM POLE PARK CONDOMINIUM UNIT OWNERS ASSOCIATION, (hereinafter called the “Association”), and **T & M Enterprises, LLC, D/B/A, Troon Property Services**, (hereinafter called the “Management Company”). This Contract shall commence at 12:00 AM on June 01, 2023 and cease at 12:00 AM on November 01, 2023.

PREAMBLE

The Association is the organization of Unit Owners of Totem Pole Park, a Condominium Campground, created under the New Hampshire Condominium Act, (RSA Chapter 356 B). It consists of 456 Condominium Units, Campsites, Commercial Properties, and Common Areas located on Ossipee Lake, Freedom, Carroll County, State of New Hampshire, as defined in the Declaration of Condominium dated August 25, 1988, recorded in Book 1346, Page 991 of the Carroll County Registry of Deeds, as amended.

It is necessary and essential for the preservation and promotion of the interests of the Unit Owners in the Condominium, the protection of economic values, and the convenience and wellbeing of the Unit Owners of the Condominium to provide for the necessary and orderly administration, upkeep and management of the Condominium. The Association is authorized by the New Hampshire Condominium Act, NH RSA 356-B and Article 3-102(g) of the Articles of Agreement and Article 4-106 of the By-Laws to enter into a Management Contract and to delegate to the Management Company certain powers granted to the Association by the Declaration and the Condominium Act in order to permit and facilitate the management and regulation of the Condominium. The Association has resolved that it is necessary and appropriate to contract with a Management Company and to delegate certain management duties to the same.

NOW, THEREFORE, in consideration of the above and the mutual promises and covenants set forth below, it is agreed as follows:

ARTICLE I

Definitions

“Condominium instruments” means the Declaration, By-laws, Use Regulations, as well as the Internal Control Policy, and the Operations Manual of Totem Pole Park Condominium Unit Owners Association - Rev. 5.4, dated 8/19/19, (hereinafter called the “Manual”).

“Management Company” shall mean **T & M Enterprises, LLC, D/B/A Troon Property Services**, and its officers, directors, employees, agents, and subcontractors.

The definitions of certain terms set forth in the Declaration and RSA 356 B shall apply to this Management Contract as well.

ARTICLE II

Appointment

The Association does hereby contract with the **T & M Enterprises, LLC, D/B/A Troon Property Services** as

the Management Company of the Condominium to supervise, direct and control the management and operation of the Condominium in accordance with this Contract. The Contract shall commence at 12 AM on June 01, 2023 and cease at 12 AM on November 01, 2023, unless sooner terminated pursuant to Article VIII hereof. The Management Company accepts such appointment and agrees to manage the Condominium during the term of this Contract in accordance with the terms and conditions of this Contract, the Condominium Instruments, and the Manual. **NOTE:** The Manual indicates the minimum requirements to assist the Management Company in the management and operation of the Park and must be accomplished as directed.

ARTICLE III

Authority

1. Operation of Campground: In order to facilitate efficient operation, the Association delegates to the Management Company the authority, and the Management Company assumes the responsibility, to hire a full time Manager who shall reside in the Park from June 1st through October 31st.

The Management Company must comply with, and enforce, all rules, regulations, and requirements as set forth in the Condominium Instruments, the Internal Control Policy, and the Operations Manual, (with the amendments noted in *Item C of Miscellaneous Provisions*). The Association authorizes the Management Company to set standards of operation using such documents currently in force unless otherwise stated. The Management Company shall be reimbursed for any additional costs resulting from the administration and enforcement of Condominium Instruments adopted after the effective date of this contract. The Management Company must substantiate all such additional costs to the satisfaction of the Board of Directors (hereinafter called the "BOD"). The Association is required to administer and enforce any system of fines for violation of the Use Regulations and By Laws. If a Unit Owner disputes the Management Company's decision, the BOD shall make the final decision. The Management Company's decisions concerning enforcement, interpretation and minor variations shall prevail until such time as the BOD overturns the Management Company's decisions. If, after reasonable efforts, as determined by the Management Company, to enforce a covenant, restriction or regulation, violations continue to occur, the Management Company shall turn the matter over to the BOD for a determination of further enforcement actions.

2. Entering into Contracts on behalf of the Campground.

The Association authorizes the Management Company to enter into reasonable and customary contracts, not to exceed the term of this Management Contract, to provide utility services to the common property, such as the Community Building and restroom facilities, as well as to provide for the removal of household rubbish from centrally located dumpsters. Such contracts shall be subject to review and approval by the BOD. The costs of rubbish removal, electric service, and propane shall be paid by the Association. Under no circumstances shall the Management Company be required to pay for utilities supplied to individual campsites or to the common properties. Any additional sources of power used to Association buildings needs BOD approval with possible cost adjustments. The Management Company shall disclose any referral fees received from any such contract work performed on behalf of the Association.

3. Use of Buildings and Equipment on Campground Premises.

A. The Association authorizes the Management Company to have use of all of the following:

(1) The Management Company's residence and office, together with the surrounding land. **NOTE:** With 24 hour notice at a mutually agreed upon time, or in the event of an emergency, the Association has the right to inspect the Manager's residence to ensure that it is being properly maintained. The Management Company shall

be responsible for all utilities in the Management Company's residence plus obtaining insurance, i.e. tenants policy for personal liability and personal property. The Manager's residence must be kept free of clutter, debris etc. and they must maintain the property in accordance with use regulations # 6.

(2) The Maintenance Building;

(3) The Beach Hut as shown on the Site Plan for Totem Pole Park, revised through September 13, 1988;

(4) The Registration Office;

(5) The Management Company must manage and be responsible for the maintenance of all common utility systems, such as water, sewerage, electrical, and associated equipment.

(6) The two staff lots within the Maintenance Area, have been designated for use by the Management Company, its agents and employees, during the term of this contract by mutual agreement between the Management Company and the BOD.

(7) All of the above, (1 through 6), must be kept clean and clear of debris at all times in accordance with Use Regulations # 6.

B. The Management Company must maintain a schedule of activities and uses of the common facilities and common areas, such as the Community Building. Any special uses of the common facilities and extra services for the benefit of individual Unit Owners or groups of Unit Owners shall be scheduled through, and by, the Management Company.

ARTICLE IV

Services Provided by T & M Enterprises, LLC, D/B/A Troon Property Services

1. Maintenance and Repair of Grounds

A. The Management Company must provide services reasonably necessary to provide care and upkeep of the Condominium Campground, using the Manual as a minimum requirement, including, but not limited to, the following:

1. Except for unscheduled uses as provided in Article III, Section 3B, the Management Company shall cause the common areas of the Condominium, including the matters and areas identified in subparagraphs (1) – (7), below, to be maintained as set forth in the Manual. The Association shall pay for consumable items, such as, but not necessarily limited to, toilet paper, light bulbs, garbage bags, sanitizer/soap, paint, and fertilizer. Tools with which to do the routine jobs related to maintenance and repair shall be the responsibility of the Management Company, but the Management Company shall not be responsible for providing heavy or specialized equipment to do special or non-routine jobs which do not fall under day to day routine operational maintenance.

(1) Interior and exterior cleaning and routine maintenance of community structures such as the Community Building, restrooms, Arcade, Laundromat, Store, Snack Bar, and the two apartments and all recreation facilities. The cleaning of the commercial properties may be excluded at the discretion of the BOD should any of these facilities be leased by an outside agency, at which time an adjustment in the contract price

may be negotiated. Also included is painting and repair of the Association common property including, but not limited to fences, picnic tables, canopies, mini golf, basketball court, horseshoe pits and shuffleboard court. Routine maintenance of the grounds, includes routine road maintenance (cold patch, gravel, grading of road edges only, the beach grading and light parking lot grading), normal grounds care for areas other than Campsites (grass, trees, shrubs, etc.), parking areas and all ways within the Condominium. Routine maintenance does not include structural repairs or foundation work, roof repairs or roof replacement.

(2) Ordinary household refuse collection and removal from designated areas, not to include yard waste, construction materials, appliances or any other non-ordinary household refuse. The Management Company's additional expenses attributable to non-ordinary refuse shall be reimbursed by the Association, at a cost of \$50.00 per dump run, plus any disposal charges required, provided, nevertheless, that such reimbursement shall be subject to one or more BOD members viewing the **non-ordinary** refuse in question and approving the reimbursement.

(3) Routine maintenance of utilities, (except facilities owned by the utility company and the electrical entrance and circuit breaker boxes serving individual campsites), including exterior lighting, and routine maintenance of the water and sewerage systems in compliance with applicable regulatory authorities and the Town of Freedom.

(4) The maintenance, repair or replacement of odor control equipment or devices. The BOD will provide any related changes, as well as a *hold harmless statement* in writing.

(5) The maintenance, repair or replacement of any components of the water or sewerage systems, excluding the maintenance, repair and pumping of the cement septic tanks and the maintenance, repair and pumping of the cement septic pump chambers. These services will be subcontracted and scheduled annually.

(6) All work must be agreed upon by the BOD and the Management Company.

(7) The Management Company shall oversee the general maintenance and repair of the campground by either performing routine maintenance, or securing bids for contractors for non-routine maintenance, repairs or improvements. The distinction between routine and non-routine maintenance, repair and improvement shall be determined by agreement between the BOD and the Management Company. At the Association's request, the Management Company shall submit bids for non-routine maintenance, repair or improvements from contractors for the Association's approval. The Management Company shall oversee said contracted non-routine maintenance, repair or improvement to its completion and advise the BOD of such satisfactory completion. The Management Company is responsible for the ordering of all maintenance supplies to include, paint, water parts, consumables (toilet paper, soap etc.), registration office supplies, sand, loam etc. The Association will reimburse the Management Company for these expenses incurred. All expenses incurred by the Management Company for specialized equipment rentals including a large air compressor, large backhoe etc. will be reimbursed by the Association. **NOTE:** Any purchase amount exceeding \$500 over the course of one week, (whether one or multiple items), needs BOD approval.

2. This Management Contract does not include maintenance of any improvements within an Owner's Campsite, or any cost of repairing the sewer and water system due to the negligence of a specific Unit Owner or guests or tenants of that Owner. In the event of such negligence, the Management Company must first obtain the authorization of the BOD prior to issuing a special assessment to the Unit Owner to cover such repair expenses.

The Management Company shall not be responsible for any expenses incurred in repairing or replacing property or components damaged by vandalism. The Management Company shall be responsible to identify any individuals causing the vandalism and to bill the expenses incurred to the appropriate Unit Owner.

3. The parties do not intend that the Management Company shall be liable for the cost or implementation of any improvements, major repairs or replacements that are in the nature of capital improvements or additions. In the event that such improvements, major repairs or replacements are required by reason of any law, or by order of a competent governmental authority, or are otherwise required for the continued safe and orderly operation of the Condominium, the Management Company must immediately give the BOD notice thereof and shall be authorized -- to take appropriate remedial action unless the BOD decides to contest the law or order requiring such action. The cost of all such improvements, major repairs or replacements shall be borne by the Association.

4. The Management Company is authorized to take all necessary steps to make emergency repairs and is not required to notify the BOD in advance if such notice is not practicable. Emergency repairs as defined in RSA 356-B:40- c. The Management Company shall not be liable to the Association for its actions in dealing with an emergency in the absence of bad faith or gross malfeasance. The cost of all such emergency repairs shall be borne by the Association unless such repairs are manifestly the responsibility of the Management Company, as part of its normal maintenance responsibilities.

5. The Management Company, at the Association's expense, shall be obligated to clean up or repair damage from acts of nature, such as flooding, windstorms, fires, rodent or insect infestations, subject to the prior review and approval of the BOD, such approval not to be unreasonably withheld. Such prior review and approval by the BOD shall not be required in emergency situations, when, in the judgment of the Management Company, any delay in obtaining BOD approval may increase the likelihood of personal injury or damage to property. The Management Company shall not be liable to the Association for its actions in dealing with such acts of nature in the absence of bad faith or gross malfeasance.

6. Under no circumstances shall the Management Company be required to provide maintenance for individual Campsites or the improvements within Campsites, except as specifically provided in this Management Contract. Under normal circumstances, the Management Company and/or its employees shall only enter within an individual Campsite in order to correct an emergency, such as repairing a broken utility, or to enforce the Use Regulations or By-Laws.

2. Management of Day to Day Business

A. The Management Company, or its designated representatives, must reside within the Park at all times in order to oversee the day to day operations of the Condominium Campground.

B. The Management Company shall have an office on the site sufficient for the purpose of overseeing all Condominium operations provided, however, that during the Management Company's time away from the Park there must be a qualified and authorized person on call.

C. The Management Company shall employ and pay such qualified personnel as the Management Company deems necessary to maintain and operate the Park. Such personnel must include, but shall not be limited to, officers or agents of the Management Company. All employees must have a CORI check and must provide proof of being legal residence to the satisfaction of the BOD.

D. The Management Company agrees that during the term of this Contract to appoint, as Manager at Totem Pole Park, an individual with the necessary qualifications to perform the duties and obligations called for under this agreement. All necessary arrangements shall be made so that the Management Company, or at least one key employee, (the Manager), or principal of the Management Company, (Robert Troon), shall return telephone calls within a reasonable time period according to the circumstances prompting the call. There shall be no addition or substitution of principals, nor shall the principals convey any interest in the Management Company without first obtaining the consent of the BOD.

E. All personnel employed by the Management Company must at all times be employees of the Management Company. All costs of every kind arising out of the employer/employee relationship established thereby, (including fringe benefits and the cost of compliance with governmental laws and regulations and insurance rules), shall be borne by the Management Company. Subject to the requirements of 2.C. above, the Management Company shall have absolute discretion to hire, dismiss, promote, supervise, direct and train all of its employees, to determine their compensation and fringe benefits and, generally, to establish and maintain all policies relating to employment.

F. The Management Company, in conjunction with Debit One, must prepare and maintain ownership records relating to the Condominium Units and the Unit Owners. Such records shall be open to inspection by the BOD at reasonable times and upon reasonable notice, and must be turned over to the Association upon the termination of this Contract. An up-dated list of Owners' names, addresses and telephone numbers (if available) shall be provided by the Association bookkeeping firm. The Management Company is responsible for updating Owners' contact information and managing the One Call System.

G. The Management Company and Unit Owners shall maintain a businesslike relationship.

H. The Management Company must submit monthly written updates to the BOD concerning the matters covered by this Contract and must attend such meetings of the BOD as the President or other officer as the Association requests.

I. The Management Company must provide proper oversight and maintenance to the storage area to ensure that all By Laws and Use regulations are being enforced.

J. The Management Company is responsible for the operation of the Store, Snack Bar, Arcade, and Laundromat, this operation shall include:

1. Obtaining all licenses required for the operation of the Store and Snack Bar;
2. Providing, training, and supervising a Store Manager to run the Store and Snack Bar;
3. Providing to the BOD no later than June 08 a schedule for the hours and days that the Store and Snack Bar are to be open, (to be approved by the BOD), and work with BOD Liaison monthly or more frequently to address questions and concerns as needed;
4. Hiring, training and supervising qualified personnel to staff the Store and Snack Bar;
5. Management will oversee all subcontractors to ensure equipment will be operational in the Store, Snack Bar, Arcade, and Laundromat.

Management operations will include:

- Securing vendors and controlling inventory
- Securing all necessary State of New Hampshire licensing
- Securing necessary equipment or repairs
- Hiring, training, and supervision of staff
- Facilitating payroll operations and maintaining payroll records
- Setting up procedures and policies for store/snack bar operation
- Setting up procedures and policies as outlined in the Internal Control Policy
- Advertising, promotions, and promotional materials such as menus, flyers, bulletin boards, etc.
- Providing staff uniforms
- Working with Association bookkeeping firm to facilitate timely payment to vendors/contractors, taxes, licensing, and forwarding of receipts and deposits for Association accounting day to day management of operations
- Adherence to the approved Internal Control Policy

All costs incurred by the Management Company for equipment, inventory, licensing, taxes, cleaning, supplies, repairs, payroll costs, uniforms, utilities and all other costs related to the above stated Store/Snack bar operations will be reimbursed to the Management Company by the Association.

Management will handle all payroll costs to be reimbursed at the set payroll rate, (equal to or less than the local market rate), which includes payroll fees, social security, state and federal taxes, worker's compensation insurance and liability insurance. Payment and reimbursement of payroll costs, (including an administrative fee equal to 10% of the gross wages), will be made within two weeks of request for such. Audits of payroll timecards may be conducted by the BOD upon request.

6. Management Company will be reimbursed for Store and Snack bar employees at current liability insurance and workman's compensation rates.

7. Management Company will work with Debit One to maintain accurate financial records. Prior to licensing each year, if the BOD signs with another contractor to manage the operation of the store and snack bar, the Management Company will relinquish this responsibility.

K. The Management Company shall provide and publish a schedule of appropriate activities for adults and children, and hiring and properly training staff to supervise all activities including the Beach Hut.

L. The Management Company shall strictly monitor and enforce compliance with the By-Laws and Use Regulations, which shall include, for example, but not by way of limitation, the following:

1. Hiring and training Security staff to ensure that all Use Regulations and By-Laws are being followed;
2. Administering fines for non-adherence to the Use Regulations and By-Laws in a timely and accurate manner;
3. Ensuring that all Security personnel act in a proper and professional manner with Unit Owners and guests when handling all potential or actual violations of the Use Regulations and By-Laws.

M. The Management Company shall provide and ensure the proper maintenance and cleanliness of the maintenance area and staff lots. Only equipment used by the Management Company for the maintenance of the Condominium is allowed in the maintenance area.

N. The Management Company shall provide an ongoing list of priorities for managing and maintaining the Condominium to be made available to the BOD and all owners on a monthly basis.

3. Maintenance of Federal, State, County or Municipal Requirements, Licensing/permits, and Insurance Requirements

A. The Association authorizes the Management Company to take such action as may be necessary to comply promptly with any and all orders or requirements affecting the Condominium placed thereon by any Federal, State, County or municipal authority having jurisdiction over the same. The Management Company must promptly notify the BOD of any such action. The Management Company shall not be directed to enforce any policy, which contravenes lawful statutes, ordinances or regulations. The Management Company shall not be responsible for any action taken by or at the direction of the BOD, which is found to contravene any statute, ordinance or regulation. The Association shall indemnify and hold the Management Company harmless for any costs or damages arising from such action.

B. The Management Company must apply for, process, and take all necessary steps to procure and maintain in place, (in the name of the Association), all licenses and permits required for the operation of the Condominium as required by any governmental or regulatory authority, (at the sole cost of the Association). The cost of testing or reports needed to maintain permits shall be borne by the Association.

C. The Association shall place with insurance companies and keep in force all forms of insurance as is required as is by law and the Condominium Instruments, to the extent that such compliance is reasonably feasible. The Management Company shall investigate all accidents or claims for damage relating to the ownership, operation and maintenance of the Condominium and shall cooperate and make all reports required by an insurance company in connection therewith. The Management Company shall notify the BOD of all such accidents or claims.

D. The Management Company shall not be liable to the Association for any loss or damage which is covered by an insurance policy or policies on the Condominium, including, without limitation, the campsites, and the common facilities, unless such loss or damage is caused by the negligence or willful misconduct of the Management Company. The Association hereby agrees to indemnify and defend the Management Company, its agents and employees, against and hold them harmless from liability, damages, costs and expenses, (including reasonable attorneys' fees) sustained or incurred from injury (including death) to any person or property in or about the Condominium, or in connection with the performance of the obligations of the Management Company or under the express or implied direction of the Association, unless such were caused by the negligence or willful misconduct of the Management Company. The Management Company shall not be liable, and bears no responsibility for, any unlawful activity by third parties or activity by third parties causing damage or injury to persons or property, which the Management Company could not be reasonably expected to be aware of. The Association shall reimburse the Management Company for any monies which the Management Company is required to pay out in connection with any claim, proceeding, judgment, charge or prosecution instituted or maintained against the Management Company or against the Association and the Management Company, jointly, due to the condition or use of the Condominium, or acts or omissions of the Management Company or employees of the Management Company or the Association, or arising out of or based upon any law, and shall defend promptly, at the sole expense of the Association, any claim, action or proceeding brought against the Management Company or the Association, jointly or severally, arising out of or connected with any of the foregoing, unless the same results from the Management Company's breach of this contract, or the Management Company's negligence, or willful misconduct. It is expressly understood and agreed that the foregoing

provisions of this Section shall survive the termination of this Contract.

The Management Company hereby agrees to indemnify and defend the Association, its agents, members, and employees, against and hold them harmless from liability, damages, costs and expenses, (including reasonable attorney' fees), sustained or incurred from injury (including death) to any person or property in or about the Condominium, or in connection with the performance of the obligations of the Association, unless such were caused by the negligence or willful misconduct of the Association.

The Management Company represents and warrants that it is fully experienced and properly qualified to perform the work provided for in the Contract and is properly equipped, organized and financed to perform such work. The Management Company must finance its own operation hereunder and shall operate as an Independent Contractor and not as the agent or employee of the Association. Management Company employees are directed to perform services by the Management Company only.

The Management Company agrees to indemnify the Association and hold the Association free and harmless from and against all liabilities, claims and demands for personal injury or property damage arising out of or caused by any act or omission by Management Company or anyone the Management Company has working for the Management Company at any time from the date of this Contract until its termination. The Management Company promises to use proper care and caution in the employment of its personnel and the performance of the work required under this Contract so as not to cause personal injury or damage to any Association, Unit Owner's, or adjacent property. The Management Company shall indemnify and hold the Association harmless from any liabilities, claims or demands for such personal injury or damage to such Association, Unit Owner's, or adjacent property. The Management Company shall hold the Association free and harmless from all liabilities, costs and charges by reason of act, omission or representation by Management Company or any of its subcontractors, agents or employees.

The Management Company's agreement to indemnify and hold the Association harmless includes and shall extend to the Unit Owners, and the directors, officers, agents, and employees of the Association and shall include, but not be limited to, attorney fees incurred in defending claims indemnified against.

The Management Company shall, at all times, commencing with the date of commencement of the Contract, carry public liability insurance coverage for death or bodily injury and, if the Management Company has employees, shall maintain workers' compensation for such employees. The Management Company shall also be responsible for, and pay any taxes on, amounts paid to the Management Company under this Contract.

It is expressly understood and agreed that the foregoing indemnity and hold harmless provisions of this Section shall survive the termination of this Contract for a period of three years or the applicable statute of limitations, whichever occurs first.

E. The Management Company understands and agrees that it shall often be in possession of information concerning the Association, or Unit Owners, that is or should be considered confidential and that such information must be treated with the utmost sensitivity. All key employees will sign a confidentiality agreement. The Management Company shall inform all of its officers, employees, and agents of the importance of exercising substantial care in this area. A breach of confidentiality shall be considered a reason for immediate termination of this Contract. The Management Company shall have access to the password for the security cameras. Additionally, a designated member of the BOD shall have the password, and company contact

information, in the event of an emergency which requires follow up with a member of the Management Co.

ARTICLE V

Duties/Responsibilities of Association

1. The Association hereby authorizes its President, or any two Directors acting in conjunction, (any such action by the Directors being subject to and conditioned upon approval of the necessary amendments to the Association documentation), to sign ministerial documents on behalf of the Association for such matters as the placement of insurance, the signing of applications for permits, and other matters and actions which are contemplated by this Management Contract and for which the signature of an Association officer is required. In addition, the BOD authorizes the President or such other officer as the BOD designates, to be the official contact person for all dealings with the Management Company.

2. After the Manager and the Management Company have exhausted reasonable efforts to enforce the Condominium Instruments, including the Association's Use Regulations and By-Laws, as mutually agreed upon between the Management Company, the Manager and BOD, the BOD shall have ultimate and final responsibility to enforce the Condominium Instruments.

3. Invoices submitted by the Management Company for expenses incurred by the Management Company shall be reviewed promptly by the BOD and, if approved, shall be paid within 14 days of receipt of such invoice. If the BOD does not approve such invoice in whole or in part, the President shall immediately notify the Management Company of such non approval and the reasons therefore and shall schedule a meeting with the Management Company to discuss such invoice. If the non-approval is only for part of the invoice, the Association shall pay the balance of the invoice within 14 days of receipt of such invoice. If the BOD and the Management Company cannot agree on a resolution of the issue concerning the non approved invoice, the matter shall be referred to a third party agreed upon by the BOD and the Management Company for a final resolution.

4. The Association requires a Fidelity Bond for the Management Company and its employees in an amount equal to fifty percent (50%) of the estimated cash requirement for common expenses for the first year and renewable every year thereafter of this contract as stated in the By-laws 4-112. The Association shall be the obligee under such bond, and the Management Company shall be responsible for all premium payments unless otherwise agreed on between the Management Company and the BOD.

Miscellaneous Provisions

1. The Management Company shall not be responsible, and does not assume liability, for any claims that might be asserted against the Declarant or the prior Management Company.

2. Upon termination of this Contract at the end of its term, the Management Company must remain available to its successor on a daily basis for a period of one (1) month. During that time, the Management Company must winterize the water system and all common buildings located within the condominium development.

ARTICLE VII

Compensation and Term of Contract

1. The Management Company will be compensated based on a submitted bid of \$262,000 for 5 months as approved by the BOD. The contract shall commence on June 01, 2023 and continue through October 31, 2023. The Management Company will be paid on a MONTHLY basis, payable on the 5th day of each month as outlined in the payment schedule below.

- At signing ⇒ \$20,000
- June 5, 2023 ⇒ \$32,400
- July 5, 2023 ⇒ \$52,400
- August 5, 2023 ⇒ \$52,400
- September 5, 2023 ⇒ \$52,400
- October 5, 2023 ⇒ \$52,400

2. If a special assessment is required for the funding of the compensation of the agreed amount of \$262,000, and the Association does not approve it, this contract becomes null and void and can be renegotiated.

3. Either party may terminate this Contract with cause upon 30 days prior written notice to the other, or by mutual agreement upon 90 days prior written notice to the other. "With cause" shall mean a material and substantial breach in the performance of either party's obligations under this Contract and the failure to cure the breach or event of default in accordance with Section 5, below.

4. Upon termination, the Management Company shall, within fourteen (14) days, submit documentation for any monies due the Management Company, and the Association shall have fourteen (14) days to review such documents. The Association shall have an additional thirty (30) days within which to pay or collect by means of special assessment any funds due the Management Company. The Management Company shall also pay the Association any sums due from the Management Company to the Association within thirty (30) days. In the event of dispute, the matter shall be submitted to arbitration as provided below.

5. Defaults: The following shall constitute "events of default" under this Contract:

A. The failure of either the Management Company or the Association, (but not individual Unit Owners), to make any payment required to be made in accordance with the terms hereof within thirty (30) days after receipt by such party of written notice that such payment has not been made; or

B. The failure of either the Management Company or the Association, (but not individual Unit Owners), to perform, keep or fulfill any of the other covenants, undertakings, obligations or conditions set forth in the Contract, and the continuance of such default for a period of thirty (30) days after written notice of said failure.

C. Upon the occurrence of any such events of default, the non defaulting party may give to the other party (the "Noticed Party") notice of such default - (the "Notice") and notice that this Contract shall terminate upon the expiration of a period of thirty (30) days from the date of such notice unless, prior to the expiration of such period, such default has been cured or, in the event of a default which is not susceptible of being cured within such thirty (30) days, unless the defaulting party shall promptly commence to cure the default and must thereafter diligently pursue such efforts to completion.

D. The Notice shall state the specific reason(s) for the default and the specific action(s) required to cure the Noticed Party's default. If the Noticed Party does not agree with all or portions of the Notice, within fifteen (15) days after receipt thereof the Noticed Party shall give written notice to the non-defaulting party of such disagreement, which notice shall specifically identify the areas of disagreement with the Notice and that the Noticed Party requests a determination thereof by arbitration; provided, as to the portion of the non defaulting party's notice that the Noticed Party agrees with, the Noticed Party shall proceed to cure as provided above. If the arbitrator determines that any noticed default denied by the Noticed Party exists, the arbitrator by written opinion shall identify such default, the action(s) required to cure the default and the specific period of time, which the Noticed Party shall have to cure the default. If the Noticed Party complies with the decision of the arbitrator, this Contract shall not terminate.

E. If the Management Company defaults, the Association has the right to recover prorated consequential damages of pre-paid fees in the event the Management Company provides the documentation to support stated expenses and are agreed upon with the BOD. NOTE: Consequential damages are defined as *the cost of services contracted, but not provided*.

6. Miscellaneous Provisions:

A. This Contract shall insure to the benefit of and constitute a binding obligation upon the contracting parties.

B. This Contract shall constitute the entire agreement between the contracting parties, and no variance or modification thereof shall be valid and enforceable, except by supplemental agreement in writing, executed and approved in the same manner as this Contract.

C. Amendments to the Operations Manual, Rev. 5.4, includes the following:

- Beach Hut hours will open at 10 AM and close at 3 PM, Sunday through Friday. One (1) staff Activities Counselor will operate it and offer guidance for unscheduled activities. No planned activities will be offered.
- The Beach Hut will open at 10 AM and close at 5 PM on Saturdays with scheduled activities.
- The following theme days will be offered: 4th of July, Christmas in July, Inflatables, Carnival Day, and Labor Day weekend activities.
- Evening activities will be adjusted as follows:
 - During the time period of June 23, 2023 through Sept. 3, 2023, Tues. and Thurs. night activities, (other than Tues. night Bingo - run by the Management Company, and Thurs night Karaoke - run by volunteers), will not be offered. This excludes special events led by either the Management Company or the Association.
 - Family Game Show Night, Music Bingo, and/or Trivia will be provided on evenings determined by the Management Company and advertised/staffed accordingly.
- The Beach Hut will be closed 8/21-8/25/23 and 8/28-9/1/23. Access to the equipment normally accessed through the BH will still occur in a manner determined by the Management Company in conjunction with the BOD.
- The Store and Snack Bar offerings and operations for the Summer of 2023 requires further negotiation.

D. Nothing in this Contract is intended or shall be construed to confer upon or to give to any person, firm or corporation other than the parties hereto any right, remedy or claim under or by reason of this Contract. All

terms and conditions in this Contract shall be for the sole and exclusive benefit of the parties hereto.

E. Any and all issues, disagreements, disputes, questions or matters arising under this Contract upon which the parties do not agree, shall be settled by arbitration in accordance with Rules of the American Arbitration Association by an arbitrator or arbitrators appointed in accordance with those rules. Such arbitration shall be conducted in the State of New Hampshire. The decision or award rendered shall be binding as to any facts found and may be entered in a Court of competent jurisdiction. The allocation of the cost of arbitration shall be determined by the arbitrator.

F. All notices required or which may be given under this Contract shall be in writing, sent by certified mail, return receipt requested and if addressed to the Management Company, shall be addressed to Robert Troon, President, T & M Enterprises, LLC D/B/A Troon Property Services, P.O. 1457, Conway, NH 03818 and also to the Association, care of the current President of the BOD of the Totem Pole Park Condominium Unit Owners Association.

G. This Contract is subject to the provisions of the New Hampshire Condominium Act, the Declaration, By-laws Use Regulations, Internal Control Policy, and Manual of Totem Pole Park, a Condominium Campground, and any of the foregoing may be duly amended from time to time, provided, nevertheless, that such amendments shall not require any additional obligation of performance on the part of the Management Company which is not specifically called for in this Contract, unless agreed to in writing by the parties. In the event of amendments arising by legislation or by operation of law, additional expenses resulting, if any, must be borne by the Association.

H. Upon termination of this Contract, Management will immediately return to the BOD all records, notes, documentation, passwords, vendor contact information, and other items that were used, (i.e., Association-owned equipment), created, or controlled by Management during the term of this Contract.

I. This Agreement shall be signed on behalf of the Association by Kimberly Lauranzano, President, and on behalf of the Management Company by Robert Troon, President/owner of T & M Enterprises, LLC D/B/A Troon Property Services and shall be effective as of the date first written above. IN WITNESS WHEREOF, the parties hereto have executed this Management Contract the 1 day of June, 2023.

TOTEM POLE PARK CONDOMINIUM UNIT OWNERS ASSOCIATION

Name: Kimberly Lauranzano Duly Authorized President Date: 6-1-23

T & M Enterprises, LLC, D/B/A TROON PROPERTY SERVICES - MANAGEMENT COMPANY

Name: Robert Troon Duly Authorized President Date: 6/1/23