



ASSOCIATION MANAGEMENT CONTRACT

THIS CONTRACT ("Contract") is made and entered into on NOV 25 2023, by and between **NAPLES SQUARE II CONDOMINIUM ASSOCIATION, INC.**, a Florida not-for-profit corporation ("Association"), and **FIRSTSERVICE RESIDENTIAL FLORIDA, INC.**, a Florida corporation ("FirstService").

A. Association is the entity responsible for the operation of **NAPLES SQUARE II CONDOMINIUM ("Community")**, located at **1035 3rd Avenue S, Naples, FL 34102**, established by the documents thereof recorded in the Public Records of **Collier** County, Florida ("**Declaration**"), which Community consists of **72** units or lots ("**Units/Lots**").

B. Association desires to retain FirstService, and FirstService desires to be so retained, to manage Community.

NOW, THEREFORE, for other good and valuable consideration received by each party from the other, the receipt, adequacy and sufficiency of which are hereby acknowledged, and in further consideration of the mutual covenants and agreements hereinafter set forth, the parties hereby agree as follows:

1. **EXCLUSIVE MANAGER.** Association hereby retains and appoints FirstService, and FirstService hereby accepts such retainer and appointment, on the terms and conditions hereinafter set forth, as exclusive manager of Association.

2. **TERM AND TERMINATION.**

2.1 This Contract will commence on **November 1, 2023** and will continue for a term ending on the last day of **October, 2026** ("**Initial Term**"), subject to termination as provided herein.

2.2 In the event that either party defaults by failing to perform its obligations set forth in this Contract, the other may give 60 days' written notice of its intent to cancel with specific detail as to the alleged breach. Should the default not be cured within the 60 day period (or in the case of a default requiring more than 60 days to cure, unless reasonable steps have been taken to cure such default and such cure is diligently pursued thereafter), the non-defaulting party will have the right to cancel this Contract and/or the right to institute appropriate legal proceedings to recover such damages as allowed by law. In addition, after the first 12 months of the Initial Term, this Contract may be cancelled by either party, without cause, with 60 days written notice to the other party.

2.3 If allowed by applicable law, this Contract will automatically be extended after the Initial Term on an annual basis for successive 1 year renewal terms ("**Extended Term**").

A. If either party desires that this Contract not automatically extend for another year, they will provide written notice of their intent to cancel at least 90 days prior to the expiration of the Initial Term or any Extended Term of this Contract.

B. If an automatic annual extension is not allowed by law, this Contract will automatically be extended on a month-to-month basis until the termination of this Contract. During the period of time when this Contract has been extended on a month-to-month basis, either party will have the right to terminate this Contract without cause upon 30 days' written notice to the other party.

3. **SERVICES.** During the term hereof, FirstService will assist Association in performing the following services as requested by Association, when and if needed and as limited by the hours as stipulated in Schedule I of this Contract, or as otherwise specified herein, to assist Association, and will appoint at least 1 employee (i.e., the Community Association Manager ("**CAM**")) to effectuate same:

3.1 In addition to those employees of FirstService stipulated in Schedule I of this Contract, FirstService will employ and supervise such persons as needed (which person or persons employed by FirstService may be on a part-time or full-time basis) or assist Association in engaging as independent contractors or employees working on behalf of Association such persons, firms or companies necessary to properly operate Community and maintain the common areas/elements of Community (collectively, "**Common Areas**"), according to FirstService's reasonable judgment, the budget of Association and the directives of the Board of Directors of Association ("**Board of Directors**" or "**Board**"). All personnel so employed by FirstService will be engaged on behalf of and for the benefit of Association. Any vendors or independent contractors will be deemed hired by Association. FirstService will also assist Association in coordinating the work of any independent contractors engaged by Association with the day to day activities of Association. However,

under no circumstances will FirstService or an employee of FirstService be designated to serve as Association's representative in any contract.

3.2 Cause those portions of Common Areas to be maintained and repaired including, but not limited to, landscaping, painting, roofing, cleaning and such other ordinary maintenance and repair together with the purchase of materials, equipment and supplies consistent with the approved budget or as requested by Association; provided, however, FirstService will not obligate Association for any single item of repair, replacement, refurbishing, materials, equipment or supplies the cost of which exceeds the sum of \$1,000.00 without the prior approval of Association, unless provided for in the approved budget of Association. Notwithstanding anything contained herein to the contrary, FirstService will have the right, but not the duty, without first obtaining the approval of Association, to make emergency repairs and replacements which, according to FirstService's reasonable belief, are required to eliminate or avoid danger to persons or to property, for the preservation and safety of Association, for the safety of persons, or in order to avoid suspension of any necessary service to Association.

3.3 FirstService will advise owners of Units/Lots ("**Owners**") and occupants of the need to comply with the Declaration, Articles of Incorporation and Bylaws of Association and applicable rules and regulations, in connection with the operation of Community and any violations thereof actually known by FirstService. Notwithstanding anything contained in this Contract to the contrary, Association hereby acknowledges that in no event will FirstService be liable for the failure of Association, Owners and occupants to comply with all laws, statutes, ordinances and rules of governmental authorities and the Declaration, Articles of Incorporation, Bylaws of Association and applicable rules and regulations of Community ("**Governing Documents**"). Notwithstanding anything to the contrary contained herein, FirstService does not have the authority to provide and will not be responsible for providing legal advice to Association.

3.4 Subject to the direction of Association and Association budget, FirstService will solicit contracts on behalf of Association as needed for services reasonably necessary with respect to the operation, maintenance, upkeep, repair, replacement, and preservation of Common Areas. All contracts will be approved and executed by an officer of Association. Association acknowledges that within the scope of this Contract and in carrying out all of its duties and responsibilities hereunder, including but not limited to those set forth in this paragraph, FirstService is acting solely as an agent for Association and, accordingly, any expenses or liabilities incurred by FirstService hereunder, whether in its name or that of Association, will be the sole obligation of Association and not that of FirstService. Neither FirstService nor any of its partners, stockholders, officers, directors, employees, servants or agents will be personally liable in any fashion for any contract made in compliance with the provisions of this Contract. The parties hereto acknowledge and agree that notwithstanding anything to the contrary contained herein or elsewhere in this Contract, FirstService will not perform, nor be expected to perform, the services which would normally be performed by a construction manager and/or an engineer on construction projects undertaken, or to be undertaken, by Association.

3.5 Engage a payroll processing service or other entity, at Association's direction and expense, to prepare, as needed, all payroll and file the necessary forms, as needed, for employment insurance, withholding and social security taxes and all other forms relating to employment of Association's employees, if any, required by federal, state or municipal authorities. (This subparagraph relates only to those direct employees of Association, if any, not to employees of FirstService who provide services to Association under this Contract.)

3.6 Retain and engage, as needed, at Association's direction, approval and expense and as agents of Association, such attorneys, accountants, insurance consultants, tax consultants and other experts and professionals, whose services Association may reasonably require.

3.7 Maintain, as needed, appropriate records of all insurance coverage carried by Association, including, but not limited to, current policy information, certificates of insurance, and procurement of loss runs.

3.8 Accept applications and references of prospective Unit/Lot purchasers and facilitate transfers and leases of Units/Lots, all as needed; provided, however, that the actual approval or disapproval of the same will be given and executed by a proper officer of Association as and if required by the Declaration.

3.9 Prepare and send, as needed, all letters, reports and notices as may be reasonably requested by Association, and attend **up to 12** meetings of Board of Directors per year, annual meeting and budget meeting of Association and file minutes thereof, which minutes will be prepared and recorded by Association or its designee.

3.10 Perform periodic visual Community inspections and make recommendations to Board of Directors as to maintenance and improvements to Common Areas.

3.11 Provide regular reports to Board of Directors of the status of pending and completed operations affecting Association.

3.12 Provide the day-to-day bookkeeping services, as needed or monthly, necessary to pay the bills of Association. This service will consist of the following:

A. Keep all records of and perform all services in connection with the payment of bills, payrolls and such other items as may be provided for in the budget.

B. Collect all regular and special assessments levied by Board of Directors, as needed or monthly, from Association's members and other revenues, which may be due Association. Association hereby authorizes FirstService to request, demand, collect, receive and receipt for any and all assessments and charges which may be due Association and to alert Association's attorney of the status of receivables where they may need to take action in the name, and on behalf, of Association by way of making, recording, satisfying or foreclosing Association's liens therefore, initiating legal process or taking such other action necessary or appropriate, in its reasonable judgment, subject to Association's approval, for the collection of such assessments.

C. Cause all bills received and approved by Association, as needed or monthly, for services, work and supplies ordered in connection with maintaining and operating Community, to be paid by Association from Association's available funds all such proper bills as and when the same will become due and payable.

D. Maintain, as needed, Association's financial record books, accounts and other financial related records as provided by Association's Bylaws and pursuant to applicable law and issue certificates of account to Owners and their mortgagees and lienors together with such other documents as may be generally requested or provided in connection with sales, mortgages, or other transfers of Units/Lots or interests therein. FirstService may charge reasonable fees to Owners, purchasers of Units/Lots, their mortgagees and lienors (jointly referred to as, "**Owner Parties**") as additional compensation to FirstService for the preparation of a certificate of account and for such other documents as may be generally requested or provided in connection with sales, mortgages, or other transfers of Units/Lots or interests therein, to the extent not prohibited by applicable law, and for preparation and delivery of documents to be delivered to a purchaser in connection with the sale of a Unit/Lot. To the extent that applicable law prohibits FirstService from charging Owner Parties reasonable fees or if FirstService is limited in the amounts it may charge Owner Parties for certificates of account and/or related documents by statute or administrative rule, Association agrees to pay reasonable fees to FirstService for the preparation and delivery of documents to be delivered to a purchaser in connection with the sale of a Unit/Lot. The parties agree that an annual compilation, review or audit of the financial records will be made by an independent certified public accountant employed by, and at the cost, expense and approval of Association and at such times as determined by Association.

E. Prepare, annually, a suggested operating budget for Association setting forth an itemized statement of anticipated receipts and disbursements based upon the then current schedule for assessments and taking into account the general condition of Association and Community. Said budget, together with an explanatory statement, will be submitted to Association for final approval. The budget will serve as a supporting document for the schedule of assessments, reserve transfers and master assessment payments.

F. Deposit, as needed or weekly, all funds collected from Owners and others into a bank account established and maintained by FirstService, in FirstService's preferred partner bank, an operating account ("**Account**") in the name of Association and federal tax identification number. Such Account will be separate from all other accounts of FirstService and will identify FirstService as agent or custodian of said Account with signatory authority. Per mutual agreement of the parties, FirstService may establish Association's reserve account(s) and any other accounts in the name of Association at a financial institution(s) chosen by Association and FirstService will have signatory authority over all reserve accounts. FirstService will have no liability or responsibility for the rate of interest earned, if any, on such funds. FirstService will be under no liability or responsibility for any loss resulting from the insolvency of such depository. Within 60 days following the termination of the contract relationship between Association and FirstService, any account established and maintained by FirstService will be closed and their balances will be transferred to a new bank as designated by Association.

G. On a monthly basis, FirstService will render to Board of Directors statements of receipts, expenses, disbursements, financial charges, reserves and bank reconciliations. These statements will include a general analysis comparing the actual receipts and expenses to Association's approved budget. FirstService will provide the financial reports to the Board of Directors on or before the 30th of the month for the previous month (or on the next business day if the 30th falls on a Saturday, Sunday, or holiday) if bank statements are provided to FirstService on a timely basis, unless Association is notified in writing of a delay due to Association's actions, request or if otherwise agreed by the parties for the particular month affected. This first financial report provided to Association may be delayed due to the transition of services or if Association utilizes a non-FirstService preferred partner bank. In the event Association cannot provide accurate financial information at the commencement of bookkeeping services which would include, but is not limited to, accurate general ledger beginning balances, Owners' ledgers, financial statement packages and supporting documents or schedules, FirstService will only be responsible to produce a cash management report, an accounts payable report and an accounts receivable report reflecting information from and after the commencement of the bookkeeping services. If Association requests that FirstService assists in the process of obtaining accurate financial information, Association will be charged \$100.00 per hour for bookkeeping employees and \$250.00 per hour for any of FirstService's vice presidents or directors. Said charges will also apply for bookkeeping services outside the scope of this Contract. If Association requests that FirstService use incomplete or inaccurate financial information provided by Association or its agent, Association will indemnify, defend and hold harmless FirstService, its directors, officers, agents,

and employees, including reasonable attorney's fees and costs from any Claims (as defined herein), and will not assert any Claims related to the use and application of the incomplete or inaccurate financial information by FirstService.

3.13 FirstService will have access to Common Areas at all times as may be necessary so as to perform its duties hereunder.

3.14 FirstService represents and warrants that the person or persons employed by FirstService to directly provide any community association management services as defined in Chapter 468, Florida Statutes as required under this Contract will have at all times a Community Association Manager's license from the Florida Department of Business & Professional Regulation, and that FirstService will otherwise comply with provisions of Section 468.432, Florida Statutes.

3.15 The assumption of obligations by FirstService under this Contract is as agent of Association and does not require FirstService to pay any of the costs and expenses which are the obligation of Association, except as specifically assumed by FirstService in this Contract.

3.16 The records of Association that are in FirstService's possession will be kept at the office of FirstService or at a location designated by FirstService, and will be available for inspection, and for review and audit all as required by applicable law. For extraordinary or repeated records inspection or production requests, FirstService may charge Association a reasonable administrative fee for the time required to produce documents and for the time of a representative of FirstService to oversee the inspection.

4. **DESIGNATION.** Association will designate in writing a single individual who will be authorized to deal with FirstService on any matter relating to this Contract. In the absence of any such designation, the President of Association will have this authority. Association will not unreasonably interfere nor permit, allow or cause any of its Officers, Directors or members to unreasonably interfere with FirstService in the performance of its duties or in the exercise of any of its powers hereunder.

5. **INSURANCE.** Association and FirstService agree to obtain and maintain the respective insurance policies as set forth in this Contract (the "**Required Policies**"). The insurance requirements set out in the following subparagraphs are independent from all other obligations of the parties to this Contract and apply whether or not required by any other provision of this Contract, and regardless of the enforceability of any other provisions of this Contract. If, at any time, either party hereto allows any of its Required Policies to lapse, the other party may immediately terminate this Contract upon delivery of written notice to the other party.

5.1 **By Association.** Association hereby agrees to maintain at all times and to provide evidence of the following insurance to FirstService. Coverage for FirstService as an insured will apply as non-contributing insurance before any other insurance or self-insurance, including any deductible or retention maintained by, or provided to, FirstService:

A. Commercial General Liability Insurance covering all premises and operations, including and with limits not less than: (1) \$1,000,000 each occurrence for bodily injury, property damage and personal and advertising injury; (2) \$2,000,000 general aggregate; (3) \$1,000,000 products and completed operations; (4) \$1,000,000 non-owned and hired auto liability; (5) contractual liability; (6) assault and battery covered as a regular occurrence; and (7) "your real estate manager" included as an insured in the "Who Is An Insured" section of the policy.

B. Directors' and Officers'/Employment Practices Liability Insurance, including and with limits not less than: (1) \$1,000,000 per claim and aggregate applicable to the D&O coverage section; (2) \$1,000,000 per claim and aggregate applicable to the third-party EPL coverage section; (3) retroactive date back to the inception date of Association or coverage for full prior acts; and (4) FirstService as "property manager" must be included within the policy's definition of "insured" to the extent acting on behalf of Association pursuant to the terms of this Contract. In the event Association's Umbrella or Excess Liability Insurance (as detailed below) does not sit over its Directors' and Officers'/Employment Practices Liability Insurance, the coverages referenced herein will be increased to \$2,000,000.

C. Workers' Compensation Insurance providing state statutory coverage for all employees, subcontractors, or volunteers of Association, and Employers' Liability Insurance with limits not less than: (1) \$500,000 each accident for bodily injury; (2) \$500,000 each employee for bodily injury caused by disease; and (3) \$500,000 bodily injury caused by disease.

D. Umbrella or Excess Liability Insurance, including and with limits not less than: (1) \$5,000,000 each occurrence and aggregate; (2) follow-form coverage sitting over Association's Commercial General Liability, Directors' and Officers'/Employment Practices Liability and Employers' Liability policies; and (3) coverage for FirstService will be primary before any other insurance or self-insurance, including any deductible maintained by or provided to FirstService other than the Commercial General Liability, Directors' and Officers'/Employment Practices Liability and Employer's Liability coverages maintained by Association.

E. Commercial Crime Insurance written on a discovery form with a policy limit not less than the higher of the amount stated in Association's Governing Documents or the minimum amount as may be required by applicable

law or any regulatory requirements, covering employee dishonesty, client coverage if applicable, forgery & alteration, money & securities inside and outside the premises, computer fraud and wire transfer fraud. Must include coverage for FirstService as property manager.

F. Property or Hazard Insurance written on an all-risk or special-perils form covering 100% of Association's real and personal property values, or as otherwise mandated by state law.

G. INTENTIONALLY OMITTED.

H. All insurance carriers must be rated "A IX" or better by A.M. Best Company or "Substantial" or better by Demotech, and must be licensed or authorized to do business in the state in which Community is located.

I. Prior to the commencement of work under this Contract, Association will provide a current and original certificate of insurance providing evidence of the aforementioned insurance requirements. Association and FirstService agree that no work will commence under the terms of this Contract until a current and original certificate of insurance is received and approved by FirstService. Association will supply FirstService with a current and original certificate of insurance showing evidence of renewal coverage in compliance with the terms of this Contract.

5.2 By FirstService. FirstService hereby agrees to maintain at all times and to provide evidence of the following insurance:

A. Commercial General Liability Insurance, including and with limits not less than: (1) \$1,000,000 each occurrence for bodily injury, property damage and personal and advertising injury; (2) \$2,000,000 general aggregate; (3) \$1,000,000 products and completed operations; (4) contractual liability coverage; and (5) assault and battery covered as a regular occurrence.

B. Commercial Auto Liability Insurance, including and with limits not less than: (1) \$1,000,000 combined single limit and (2) \$1,000,000 non-owned and hired automobile liability.

C. Workers' Compensation Insurance providing state statutory coverage for all employees or subcontractors of FirstService, with Employers' Liability Insurance with limits not less than: (1) \$500,000 each accident for bodily injury; (2) \$500,000 each employee for bodily injury caused by disease; and (3) \$500,000 bodily injury caused by disease.

D. Umbrella or Excess Liability Insurance, including and with limits not less than: (1) \$5,000,000 each occurrence and aggregate and (2) follow-form coverage over the Commercial General Liability and Employers' Liability policies.

E. Prior to the commencement of work under this Contract and upon request of Association, FirstService will provide a current and original certificate of insurance providing evidence of the aforementioned insurance requirements. Association will be an additional insured for vicarious liability only on FirstService's Commercial General Liability policy to the extent that FirstService is obligated to indemnify Association pursuant to this Contract. Upon request of Association, FirstService will supply Association with a current and original certificate of insurance showing evidence of renewal coverage in compliance with the terms of this Contract.

5.3 Waiver of Subrogation. Each party agrees to waive all rights of subrogation against the other for damages or losses, regardless of whether or not covered by insurance, where possible. This mutual waiver will not serve to abrogate or invalidate either party's rights to be indemnified and/or held harmless pursuant to any other portions of this Contract.

6. **COMPENSATION AND COST REIMBURSEMENT.**

6.1 Association agrees to pay FirstService the sum(s) stipulated in Schedule I of this Contract per month ("**Contract Price**"), in advance on the first day of each month or as otherwise stated in this paragraph to be paid bi-weekly in arrears. The Contract Price may be increased due to any documented increases in social security, Medicare, unemployment, minimum wage or other governmental imposed taxes or charges, and/or due to any increases in workers' compensation insurance rates as stipulated by NCCI, and will be a direct pass through to Association as of the effective date of any such increase. By agreement in writing by both parties, the management fee payable to FirstService may be increased to the amount reflected each year in the operating budget as adopted and approved for the ensuing year. Association will establish and properly fund an account with such federally-insured bank to be designated for ACH withdrawal by FirstService to meet Association's obligations for all amounts owed to FirstService under this Contract. Association will reimburse FirstService bi-weekly, in arrears, for actual wages paid (as per agreement by both parties) plus any labor rate and accrued benefits as stipulated in Schedule I if labor is provided on that basis. Association agrees that all outstanding balances due in excess of 30 days will be assessed interest at the maximum rate as allowed by law on the unpaid balance. Further, if payments for on-site staff are more than 15 days delinquent, FirstService will have the ability, notwithstanding anything to the contrary contained in this Contract, to remove on-site staff members upon 7 days' written notice to Association. During the period of time that on-site staff members have been removed from the Community, FirstService will have no responsibility for performance of services under this Contract that would be performed by on-site staff members. Further, FirstService will not be liable to Association, its members or to Owners, their guests and invitees for any injury, losses, costs, penalties, fines, fees, suits, demands, causes of action, judgments,

obligations, claims or expenses incurred, sustained, arising out of and/or related to FirstService's inability and/or failure to perform any of its duties and obligations under this Contract during the period of time when FirstService's on-site staff members have been removed from the Community.

6.2 Any additional hours or staff, including, but not limited to staff needed to work for employees who take provided PTO, vacation or holiday time, or bonuses requested by Association will be paid for at the individual's compensation plus labor rate as stipulated in Schedule I. Any employees of FirstService that are required to remain on-site will be paid during their break. Any non-exempt employee working in excess of 40 hours per week will be paid at time and one half.

6.3 In addition, any on-site Community Association Manager or maintenance supervisor who is an employee of FirstService will be required to attend periodic off-site continuing education programs or training sessions arranged by FirstService. FirstService will attempt to arrange such sessions to minimize any inconvenience to Association, and such sessions will be kept to a minimum.

6.4 Except as is otherwise expressly provided herein, Association will pay or reimburse FirstService for all additional expenses (as are more specifically set forth by illustration only in Schedule II hereto, made a part hereof by this reference) which may be incurred by FirstService in providing services, materials and supplies immediately upon receipt of an invoice thereof, except that FirstService will not be entitled to reimbursement for salaries of officers of FirstService and general office overhead of FirstService, as said items are actually included within the Contract Price.

6.5 Without limiting the provisions of Paragraph 6.4, if Association requests in writing that FirstService provide project coordination services to coordinate the project with the day-to-day affairs of Association, FirstService may charge for restoration of Common Areas after natural disasters and other insurable claims such as, without limitation, hurricanes, fire or floods, or other construction projects undertaken by Association. Association agrees to reimburse FirstService in an amount as the parties mutually agree for the additional administrative burden FirstService will incur and for additional staff, if needed, to assist with and coordinate the insurance claims (if any) and the repair and restoration process and work performed by contractors engaged by Association.

6.6 FirstService may charge Association for litigation support services, which may include but are not limited to, court appearances, production of documents, discovery, meetings with counsel, depositions, etc. at \$75.00 per hour for administrative staff; \$150.00 per hour for the community association manager, regional director, or bookkeeping staff; and \$300.00 per hour for vice presidents, presidents or officers of FirstService. Association will not be billed for litigation support services performed by on-site staff provided that such services can be performed during normal working hours within the normal day-to-day responsibilities of FirstService, the document requests are not excessive or unreasonable, and FirstService is not required to provide temporary support staff. In addition, FirstService may seek reimbursement of any administrative and legal fees and costs that are incurred by FirstService in response to subpoenas or administrative orders that seek the production of any documents in FirstService's possession, custody, and control relating to Association. The charges will not exceed \$300.00 per hour for attorney time, \$125.00 per hour for paralegal time, \$40.00 per GB upload/download for eDiscovery software, \$0.25 per page for hardcopy production, and \$0.05 per page for electronic production. This paragraph will survive the termination or expiration of this Contract.

7. **ENGAGEMENT OF EMPLOYEES BY ASSOCIATION.** Association recognizes that FirstService (i) is engaged in the competitive community association management business, (ii) invests time and money in the hiring, training and development of its employees at all levels, which promotes productivity, efficiency and the employment of a competent and specialized workforce, and (iii) has a legitimate business interest in protecting its employee resources and the investment it makes to develop and enhance those resources. Accordingly, Association covenants and agrees that it will not, directly or indirectly, hire, employ, or otherwise engage any employees of FirstService, or former employees of FirstService, who provided services to Association ("**FirstService Employees**"), prospective employees FirstService presents for consideration ("**FirstService Prospective Employees**") or contract with, or in any way engage, the services of any firms employing any FirstService Employees or FirstService Prospective Employees during the term of this Contract and for a period of 12 months following the end of the contract relationship between the parties hereto. Should Association violate this paragraph, it agrees to pay, as liquidated damages, and not a penalty or buyout, the sum of 30% of the annual salary/wages of said FirstService Employees at time of termination or resignation of said employee(s) from FirstService, and/or the sum of 30% of the anticipated annual salary/wages of said FirstService Prospective Employees. Association agrees that the afore-described liquidated damages are fair, equitable, and reasonable sums not disproportionate to the anticipated and probable injuries which would result from a breach by Association and are appropriate to compensate FirstService for such contemplated injuries, the actual value of which are not certain and are currently difficult to ascertain. This paragraph will survive the termination or expiration of this Contract.

8. **NOTICES.** All notices required hereunder will be in writing and will be effective when deposited in the United States mail, with proper postage prepaid, certified mail, return receipt requested, or by national carrier delivery (FEDEX

or UPS) and will be properly addressed:

To Association:

To the current President
At Association's address of record or the mailing address
FirstService has on file for the President.

To FirstService:

FIRSTSERVICE RESIDENTIAL FLORIDA, INC.
2950 N 28th Terrace
Hollywood, FL 33020
Attention: Legal Department

or to such other address or person as either party will, from time to time, designate for itself, in writing, to the other party, provided that notice of any change of address or contact person will not be effective until received.

9. **LIABILITY.** FirstService is not liable to Association (or to its directors, members, tenants, shareholders or their guests and invitees) for any Claims (defined below) unless the Claim is caused solely by FirstService's willful misconduct or gross negligence. FirstService will indemnify Association for any Claims to the extent the Claim is caused solely by FirstService's willful misconduct or gross negligence. "Claims" means any loss, claim, demand, liability, damages, injunctive relief, fines, penalties, administrative (or administrative agency) complaints, costs and expenses (including reasonable legal fees). FirstService is not liable for consequential, exemplary or punitive damages. "Indemnified Parties" means FirstService and its parent company, affiliates, their respective shareholders, members, directors, officers, partners, employees, representatives, assigns and agents. Association will defend, indemnify and hold harmless the Indemnified Parties from Claims arising from any of the following: bodily injury, personal injury or property damage, including but not limited to property damage caused by FirstService employees; acts performed by FirstService under this Contract; liens filed against Community, Association, or the Indemnified Parties; liability based on FirstService's status under applicable law as a "managing agent" (or similar characterization); acts of Association or its employees or third parties hired by Association; events that either occurred prior to FirstService's appointment or after the termination of this Contract; or FirstService's negligence (but not if caused solely by FirstService's willful misconduct or gross negligence) including but not limited to the negligent actions of the Indemnified Parties, regardless of whether such negligence was the sole, proximate or producing cause of the Claims. If any applicable legal limitations affect the enforceability of the indemnification under this Contract, such legal limitations will operate to amend the indemnification only to the minimum extent necessary to bring the provisions of this Contract into conformity with the requirements of such limitations. This indemnification is not limited to amounts payable under insurance policies. This paragraph does not abrogate FirstService's rights to coverage under any Association insurance policy, or modify the provisions of Paragraph 5. This paragraph survives the expiration or termination of this Contract.

10. **MISCELLANEOUS.**

10.1 In any legal action arising from this Contract or connected herewith the prevailing party will be entitled to recover all costs and reasonable attorneys' fees incurred (whether pre-trial, at mediation, arbitration or trial and in any appeals).

10.2 In any litigation arising from this Contract, venue will be solely in Collier County, Florida.

10.3 Association and FirstService hereby irrevocably and unconditionally waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal action or proceeding arising out of or relating to this Contract or any contract or transactions contemplated hereby, and for any counterclaim in connection herewith.

10.4 No waiver of a breach of any of the covenants contained in this Contract will be construed to be a waiver of any succeeding breach of the same or any other covenant.

10.5 No modification, release, discharge or waiver of any provision hereof will be of any force, effect or value, unless in writing, signed by both of the parties to this Contract, their respective successors and assigns. This Contract may be executed in any number of counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. A signed copy of this Contract or any addendum transmitted by e-mail or other means of electronic transmission will be deemed to have the same legal effect as delivery of an original executed copy of this Contract or addendum hereto for all purposes. Execution by FirstService must be by a president or any other executive officer as reflected in the records maintained by the Secretary of State.

10.6 If any term or condition of this Contract is, to any extent, invalid or unenforceable, the remainder of this Contract is not to be affected thereby and each term and condition of this Contract is to be valid and enforceable to the fullest extent permitted by law. This Contract will be construed in accordance with the laws of the State of Florida.

10.7 FirstService will be free to contract for similar services to be performed for other entities, wherever located, while it is under contract with Association. Under no circumstances will this Contract provide the basis for Association, or any of its members, officers, directors, agents or employees, to look to FirstService as its or their employer, or a partner or principal. Nothing in this Contract will be deemed to create or be construed as constituting a joint venture or partnership between Association and FirstService. Association, its members, officers, directors, agents or employees who are not direct employees of FirstService will not be entitled to, nor will they make any claim for, any benefits accorded to FirstService's employees, including, but not limited to, workers' compensation, vacation or sick pay.

Initials  Initials 

10.8 Except as otherwise set forth herein, this Contract constitutes the entire understanding and agreement between the parties hereto, supersedes all prior written or oral agreements with respect to its subject matter. Notwithstanding the foregoing, this Contract will not act to excuse any amounts due and unpaid under a previous contract between the parties, nor will this Contract act to extinguish any obligations from a previous contract between the parties which specifically survive the termination or expiration thereof. This Contract will be binding upon the parties hereto and their respective successors and assigns.

10.9 Association represents and warrants that the execution, delivery and performance of this Contract by Association will not conflict with, nor result in the breach of, any agreement, whether oral or written, document, indenture or other instrument to which Association is a party or under which it is bound. Association further represents and warrants that it has full power and authority to execute and deliver this Contract, and to perform the obligations hereunder, and that it has taken all actions necessary to authorize the execution, delivery and performance of this Contract. Association also represents that it is not bound by the terms of any collective bargaining agreement and there has been no action taken by its employees which would subject Association to the collective bargaining process under applicable labor laws. Association is not aware of any labor organizing efforts involving its employees.

10.10 To the extent Chapter 718 is applicable to this Community, the parties hereto hereby acknowledge and agree that this Contract complies with Section 718.3025, Florida Statutes.

10.11 Association agrees to provide a safe and healthy work environment for all employees provided by FirstService. If FirstService, in the exercise of its reasonable discretion, determines that there are conditions within the Community which pose a hazard to the safety and/or health of its employees, including but not limited to, harassment, threats of harm or cyber bullying by Owners, residents, guests and invitees, FirstService will have the ability, notwithstanding anything to the contrary contained in this Contract, to remove on-site staff members upon written notice to Association. **Where possible, Association will first be provided 48 hours' written notice and an opportunity to address the alleged hazard.** During the period of time that on-site staff members have been removed from the Community, FirstService will have no responsibility for performance of those on-site services under this Contract that would be performed by on-site staff members. Further, FirstService will not be liable to Association, its members or to Owners, their guests and invitees for any injury, losses, costs, penalties, fines, fees, suits, demands, causes of action, judgments, obligations, claims or expenses incurred, sustained, arising out of and/or related to FirstService's inability and/or failure to perform any of its duties and obligations under this Contract during the period of time when FirstService's on-site staff members have been removed from the Community.

10.12 FirstService is not an architect, landscape architect, engineer or construction manager and does not provide these types of professional services under this Contract. Notwithstanding anything to the contrary in this Contract, it is not FirstService's responsibility to determine whether any structure within the Community, including its architectural design or whether the height and location of the hedges, foliage, and/or other landscaping is in compliance with federal, state and local laws, ordinances, rules, regulations, and orders of any public authority having jurisdiction over the Community. FirstService disclaims any and all liability related to, arising out of or associated with the professional services referenced in this paragraph and FirstService has no liability for any claims or lawsuits related to, arising out of, or associated with the professional services referenced in this paragraph. This paragraph survives the expiration or termination of this Contract.

10.13 In the event that FirstService will be required under any law or by any governmental agency to collect sales tax on any fees payable to FirstService hereunder, the amount of any such sales tax will be charged to and will be payable by Association. In the event the governing municipality imposes a charge for a business tax receipt, occupational license or similar charge related to FirstService's performance of services for Association from Association's on-site management office, the actual charge will be paid by Association.

10.14 During the term of this Contract and to the extent not prohibited by the Governing Documents, FirstService reserves the right to affix and maintain a sign in a prominent location within the Community to identify FirstService ("Professionally Managed by ..."). Said sign will be in a location likely to come to the attention of those entering the Community, and will have approximate dimensions of 15"w x 12"h.

10.15 Association acknowledges and agrees that it and/or Owners may from time to time receive email contact or other communication from FirstService regarding topics including, but not limited to, discounts obtained by FirstService for various services which are being made available to Owners, promotions being offered by FirstService or services being offered by FirstService and/or its affiliated or related companies or subsidiaries.

10.16 FirstService does not provide notary services. Any employee who notarizes a document is acting outside the scope of FirstService's employment. Accordingly, notwithstanding anything to the contrary contained in this Contract, Association hereby agrees to defend, indemnify and hold harmless FirstService and its employees from any claims, demands, suits, etc., including, but not limited to reasonable attorney's fees and costs whether pre-litigation, or at the trial or appellate levels, if applicable, against it or them by any party, resulting from or related to the performance of the above services, except if caused solely by the gross negligence of FirstService.

12.4 **Commencement of Limited Services.** In an effort to achieve a seamless transition of services, upon Association's request and direction, FirstService may perform limited services, such as establishing Association's bank accounts and causing payment of certain invoices (the "Limited Services") prior to commencement. The fee(s) for such services will be as mutually agreed upon by the parties. Should FirstService provide the Limited Services, the terms and conditions of this Contract will apply as if this Contract is in full force and effect.

12.5 **Allocation of Labor and/or Fees.** The labor and/or management fees have been allocated based on the assumption that FirstService is managing **Naples Square II Condominium Association, Inc.** and **Quattro at Naples Square Condominium Association, Inc.** Should FirstService not be managing both of the **Naples Square** associations outlined above, and should FirstService and the remaining **Naples Square** association which is being managed by FirstService not agree on the re-allocation of labor and/or management fees, FirstService may terminate this Contract upon 30 days' written notice.

ABSENCE OF SECURITY DISCLAIMER. Association is not entering into an agreement with FirstService to provide any form of security, detective, burglar protection, or other protection services. Protection services include, but are not limited to: bodyguard services, burglar or fire alarm or other security system devices, monitoring and maintenance, guard, patrol and parking or other facility security services, vehicle or foot patrol, gate, lobby, or entrance guard service, or personnel which may be dispatched from any other site upon request for any of the aforementioned reasons (collectively, "Security/Protection Services"). Association understands that FirstService is not providing any form of Security/Protection Services. Association recognizes it is possible that board members, occupants, invitees, Owners, tenant, or guests may interpret the presence of FirstService employees as a form of security, but Association is responsible to clearly communicate to its board members, occupants, invitees, Owners, tenants, and guests that FirstService is not providing any form of Security/Protection Services. FirstService will not in any way be considered an insurer or guarantor of Security/Protection Services within the Community. FirstService will not be held liable for any loss or damage by reason of failure to provide adequate Security/Protection Services nor for ineffectiveness of Security/Protection Services measures undertaken or for any negligence in not providing Security/Protection Services. FirstService does not represent or warrant that any fire protection, burglar alarm systems, access control systems, perimeter walls or fencing, patrol services, surveillance equipment, monitoring devices, security systems (if any are present) will prevent loss by fire, smoke, burglary, theft, hold-up or otherwise, nor that fire protection, burglar alarm systems, access control systems, perimeter walls or fencing, patrol services, surveillance equipment, monitoring devices or other security systems or services will provide the detection or protection for which the system is designed or intended and further acknowledges that FirstService has made no representations or warranties nor has Association, any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year written above:

NAPLES SQUARE II CONDOMINIUM ASSOCIATION, INC.

Signature

Michael Simon PRES.
Printed Name and Title

FIRSTSERVICE RESIDENTIAL FLORIDA, INC.

Signature

Stephanie Parker
Printed Name and Title

Initials MS Initials SP

**SCHEDULE I – CONTRACT PRICE
NAPLES SQUARE II CONDOMINIUM ASSOCIATION, INC.
72 Units/Lots**

MANAGEMENT FEE

Includes supervising regional director and bookkeeping services

<u>EFFECTIVE</u>	<u>MONTHLY</u>
November 2023	\$2,300.00
November 2024	\$2,415.00
November 2025	\$2,536.00

Post term 5% annual increase if Contract is extended after Initial Term (rounded to nearest dollar)

ON-SITE STAFF (IF APPLICABLE)

The on-site staff will consist of the following positions to be provided by FirstService. This is the minimum staffing and may only be increased upon prior written approval of Association and FirstService. **This staffing may only be decreased per mutual agreement of the parties via an addendum to this Contract.**

<u>Position</u>	<u>Minimum Hours Per Week</u>	<u>Labor Rate</u>
Licensed CAM	20	23 %
Any additional administrative	Per mutual approval	23 %
Any additional concierge/front desk	Per mutual approval	25 %
Maintenance	20	25 %
Janitorial	40	25 %
Any additional non-administrative	Per mutual approval	25 %

The labor rate as stipulated above is a percentage of and is added to the wages paid and includes, but is not limited to, social security tax, federal/state unemployment tax, workers' compensation insurance, FirstService's contribution to employee 401(k) benefit, pre-employment screening, recruitment expense, payroll processing and human resource administration.

Eligible on-site staff will receive the following minimum benefits (if Association elects eligible full-time employees of FirstService for a part-time position at Association, these benefits will be on a pro rata basis):

- Standard health care benefits will be offered to all eligible on-site staff members who are employees of FirstService, with Association and the employee each paying a portion of the cost. The monthly amount Association will be responsible for in 2023 for each eligible on-site staff member who elects coverage is \$698.00, which is inclusive of the costs associated with the benefits. This amount will be referred to as the "**Monthly Benefit Payment**" and is subject to increase on an annual basis and is due in full as to any employee that elects coverage and is employed as of the first of the month. There is no credit or pro rata return of any portion of the Monthly Benefit Payment should an employee resign, be terminated or transferred after the first of the month. Employees are entitled to standard health care benefits while on FMLA leave. Employees who elect coverage will have the option to select alternate health care plans offered by FirstService and/or add dependents.
- Association is responsible to pay for employees paid time off provided by FirstService's policies, including but not limited to holidays, accrued vacation, and personal time off ("PTO") as stipulated in FirstService's standard employment policies, up to and including the termination of this Contract or transfer of the employee from this Community.

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SCHEDULE II NAPLES SQUARE II CONDOMINIUM ASSOCIATION, INC.

These expenses are subject to increase upon 30 days' written notice to Association

- A. **STANDARD CHARGES.** The following expenses will be charged to and become a cost of Association when applicable and will be reimbursed to FirstService.
1. Maintenance fee payment handling of \$1.10 per Unit/Lot per month, regardless of payment frequency or method of payment (whether statements/direct debit, or other form of non-delinquent assessment communication).
 2. Administrative fees for production and inspection of records by Association members at \$75.00 per hour for administrative staff and \$150.00 per hour for the community association manager, regional director, or bookkeeping staff.
 3. Community technology solutions, including Connect and the website at \$100.00 per month.
 4. Miscellaneous expenses (storage/retrieval, 1099 forms and preparation, etc.) at \$360.00 per year; copies at \$150.00 per year.
 5. Payroll and system technology cost at cost.
 6. Courier services at cost.
 7. Membership notices/packages at \$3.50 per Unit/Lot.
- B. **ADDITIONAL CHARGES.** The following expenses will be charged to and become a cost of Association when applicable and will be reimbursed to FirstService.
1. Special assessment preparation and communication at \$10.00 per Unit/Lot per year for each assessment issued.
 2. Special assessment processing at \$3.00 per Unit/Lot for months when the special assessment is due throughout the term of the assessment.
 3. Monthly fee to operate a time clock or other time capture device within the Community and fees/costs to install and/or service.
 4. NSF check handling fee to the extent not prohibited by law to compensate FirstService for the processing of the NSF and the preparation and mailing of the notice.
 5. Violation notices at \$5.00 each.
 6. Postcards at \$2.00 per Unit/Lot.
 7. Check handling fee at \$2.00 per check that is unable to post (i.e., not signed, not dated properly, not made payable to Association, etc.).
 8. Any fees/costs to acquire/install/service/operate cell phones or on-site computers/office equipment.
 9. Reimbursement for items such as business cards, name tags, uniforms, office supplies, and janitorial supplies.
 10. Certified mail handling at \$7.50 per piece.
 11. Manual check processing, other than in an emergency at \$3.00 per check; emergency manual checks at \$25.00.
 12. If applicable: Fees associated with usage of FirstService's DocuSign services for board business.
 13. If applicable: Any services not provided for in this Contract will be agreed upon in writing by Association and FirstService (e.g., the creation and maintenance of applications or websites for Association).
 14. Reimbursement for travel and expenses of FirstService employees related to Association business.
 15. Administrative fee for bank accounts at non-FirstService partner banks: \$25.00 per account per month.
 16. Certificates of deposit: \$50.00 per certificate at opening and each renewal.
 17. Additional/specialized administrative support services are billed at \$75.00 per hour for administrative staff and \$150.00 per hour for community association managers.
- C. The following expenses will be billed to Association and charged to Owner for reimbursement to Association.
1. Collections as follows:
 - Delinquent account reminders at \$11.00 each.
 - 30 day collection notices at \$36.00 each.
 - Attorney transfer packages on collection matters at \$200.00 each.
 - Statutorily required notification of intent to record claim of lien at \$150.00 each (if Association elects to have FirstService prepare/send the notification and governing law or regulation does not preclude FirstService from preparing the notification).
- D. The following expenses will be charged to Owner or third party.
1. FirstService may charge, collect and retain a lease or resale application processing fee to the extent not prohibited by law.