

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

LEISURE INVESTMENTS HOLDINGS LLC,
et al.,¹

Debtors.

Chapter 11

Case No. 25-10606 (LSS)

(Jointly Administered)

Re: Docket Nos. 401, 832, & 867

**DEBTORS’ REPLY IN SUPPORT OF THE DEBTORS’ FIFTH NOTICE OF
PROPOSED MISCELLANEOUS ANIMAL ASSET TRANSFERS**

Leisure Investments Holdings LLC and certain of its affiliates (collectively, the “**Debtors**”) in the above-captioned chapter 11 cases (collectively, the “**Chapter 11 Cases**”) hereby submit this reply (this “**Reply**”) in support of the proposed transfer (the “**Transfer**”) of eight bottlenosed dolphins to Sea World LLC (the “**Transferee**”) and in response to the correspondence submitted to the Court by Danay Voiles and Kelly Fischbach (collectively, the “**Respondents**”) related thereto [Docket No. 867] (the “**Response**”). In support of this Reply, the Debtors respectfully state as follows:

PRELIMINARY STATEMENT

1. The Debtors have now spent ten months in chapter 11—seven of which have been spent on a comprehensive sale and marketing process that has spanned multiple hemispheres. From the outset of the Chapter 11 Cases, the Debtors’ new management sought to bring stability and transparency to a corporate enterprise that had long been mismanaged and, prior to the petition

¹ Due to the large number of Debtors in these chapter 11 cases a complete list of the Debtors is not provided herein. A complete list of the Debtors along with the last four digits of their tax identification numbers, where applicable, may be obtained on the website of the Debtors’ noticing and claims agent at <https://veritaglobal.net/dolphinco>, or by contacting counsel for the Debtors. For the purposes of these chapter 11 cases, the address for the Debtors is Leisure Investments Holdings LLC, c/o Riveron Management Services, LLC, 600 Brickell Avenue, Suite 2550, Miami, FL 33131.



date, was drained of cash by prior management. Despite contentious litigation in Mexico with former management perennially in the background as a result of continued and unrepentant violations of the automatic stay, the Debtors have proceeded with a sale strategy to market the Debtors' corporate enterprise with the purpose of maximizing the value of the Debtors' assets for the benefit of the Debtors' estates and creditors, while ensuring the responsible stewardship of the Debtors' live animals.

2. In July 2025, the Debtors obtained approval of customary bid procedures to govern a transparent and comprehensive process for marketing the Debtors' asset portfolio. *See* Docket No. 402. With the financial support of the DIP Lenders,² the Debtors ran a comprehensive marketing effort—now in its seventh month—that resulted in the assignment of the Debtors' lease interests in an aquarium and marine park in Miami, Florida; the wind down and sale of the Debtors' dolphinarium in Panama City Beach, Florida; and the sale of the Debtors' marine facility in St. Augustine, Florida.

3. In October 2025, after significant marketing and diligence efforts failed to yield a viable transaction, the Debtors adjourned the auction and hearing for the assignment of the Debtors' existing leasehold interest in the Dolphin Connection facility (“**Dolphin Connection**”), located in Duck Key, Florida.³ Dolphin Connection offers dolphin experiences and related programming to the public, including opportunities to swim with dolphins. The Debtors lease the facility from Hawks Cay Resort pursuant to that certain *License Agreement*, attached hereto as

² Capitalized terms used but not defined herein shall have the meaning given to them in the *Order Establishing Bidding Procedures Relating to the Sales of All or a Portion of the Debtors' Assets* [Docket No. 402] (including the attached Bidding Procedures) or the *Declaration of Steven Robert Strom in Support of the Debtors' Chapter 11 Petitions and First Day Pleadings* [Docket No. 10], as applicable.

³ As discussed in detail below, the term of the Debtors' lease expires in October 2026. With only a nine-month term, the economic viability of a transaction is significantly diminished.

Exhibit A (the “**Lease**”), by and between Keys Hotel Operator, LLC d/b/a Hawks Cay Resort (the “**Landlord**”) and Dolphin Connection, Inc. The Debtors had hoped that additional time canvassing the market and negotiating transaction terms with interested parties would facilitate the resolution of various economic terms and, critically, certain licensing and regulatory issues that had complicated a going concern transaction, among other issues.

4. Unfortunately, a viable transaction for Dolphin Connection did not materialize. In December 2025, after all potential transaction proposals had been vetted and pursued, the Debtors determined that further marketing efforts were unlikely to be successful and initiated efforts to wind down the Dolphin Connection operations, including engaging in discussions with parties in interest about the transfer of the Debtors’ eight bottlenosed dolphins (the only live animals that reside at Dolphin Connection) (the “**Transferred Animals**”). The Debtors’ discussions with interested parties about transfer of the Transferred Animals occurred on the heels of a sizable undertaking to transfer all of the live animals from the Debtors’ Miami Seaquarium facility to leading institutions located throughout the United States. Consequently, the Debtors had for months been engaged in extensive animal transfer processes and in discussions with third party recipients (with the assistance of the Debtors’ advisors) about the placement of animals, including transportation logistics, recipient suitability and capacity, and other factors.

5. In particular, the Debtors had been in contact with the Transferee about animal transport and logistics since September 25, 2025. After considering Transferee’s excellent reputation for animal welfare and transport, capacity to care for the Transferred Animals, and willingness to bear the costs and responsibility of transport, among other factors, the Debtors entered into an animal transfer agreement with the Transferee for the donation and transfer of the

Transferred Animals, which was filed under a miscellaneous asset transfer notice on December 22, 2025 [Docket No. 832] (the “**Fifth Transfer Notice**”).

6. The Response does not take issue with the Transferee’s ability to transport or care for the Transferred Animals. Instead, the Response misapprehends the facts and circumstances of the Debtors’ property interests and ignores various legal factors and limitations that constrain all parties, including this Court. Any transaction for Dolphin Connection—even a “going-concern solution” as proposed by Respondents—would require transport of the Transferred Animals because the Landlord has declined to extend the term of the Lease, which expires in nine months. Under the Lease, a counterparty must remove the Transferred Animals from the facility at the end of the Lease term. Therefore, a “going concern solution” does not accomplish the Respondents’ stated objective—avoiding animal transport. Further, legal constraints require the Debtors to make a prompt determination about lease assumption or rejection. As of January 31, 2026, pursuant to section 365(d)(4) of the Bankruptcy Code, the Lease will be deemed rejected and the Debtors required to surrender their property interest, absent agreement with the Landlord otherwise. 11 U.S.C. § 365(d)(4); *see also* Docket No. 852 (approving stipulation between the Debtors and Landlord further extending the deadline to reject the Lease). Therefore, absent an alternative agreement with the Landlord, the Debtors must assume or reject the Lease by month end, and the Debtors have not received an actionable bid for Dolphin Connection and the leasehold interest, *cum onere*, on terms that would yield value to the Debtors and their estates. Therefore, the Debtors must promptly transition their operations in advance of the deadline, making a “going concern solution” an impractical and unrealistic alternative.

7. Finally, as detailed below, Ms. Voiles, who was represented by counsel, was given a full and fair opportunity to consider and diligence the Debtors’ assets, and the Debtors’ advisors

spent substantial amounts of time responding to Ms. Voiles' inquiries, explaining processes, and providing diligence information, including offering to facilitate discussions with interested parties and coordinating a site visit. Even after the Respondents filed the Response, the Debtors' advisors continued to respond to Ms. Voiles' inquiries, offering to facilitate a direct conversation with Landlord's counsel (which Landlord's counsel agreed to, but Ms. Voiles declined) and providing diligence information. The Debtors even offered Ms. Voiles an extended opportunity to submit a Bid. However, seemingly no amount of response or information was sufficient to satisfy Ms. Voiles, and Ms. Voiles declined to submit a Bid. Accordingly, the evidentiary record establishes that the Debtors ran a comprehensive, fair, and transparent process, which they extended beyond the Court-approved bidding and auction deadlines to facilitate additional discussion and participation. Allegations to the contrary are meritless, unsupported, and should be overruled.

8. For all of these reasons, and as set forth more fully below and in the declarations of Charles Geizhals (the "**Geizhals Declaration**") and Robert Wagstaff (the "**Supplemental Wagstaff Declaration**"), filed concurrently herewith, and the declaration of Robert Wagstaff, attached to the Fifth Transfer Notice (collectively, the "**Declarations**"), the Court should overrule the Response and approve the Transfer. The Transfer is the result of a reasonable exercise of the Debtors' business judgment and follows a full and fair process designed to maximize the value of the Debtors' assets.

REPLY

I. The Court should approve the Transfer.

9. The standard for approval of the use or sale of property outside the ordinary course of business is well settled. "Transactions under § 363 must be based upon the sound business judgment of the debtor or trustee." *In re Filene's Basement, LLC*, Case No. 11-13511 (KJC),

2014 WL 1713416, at *12 (Bankr. D. Del. Apr. 29, 2014); *see also In re Culp*, 545 B.R. 827, 844 (D. Del. 2016) (“In evaluating whether a sound business purpose justifies sale of property under Section 363, courts consider a variety of factors—including the proportionate value of the asset to the bankruptcy estate as a whole; the amount of elapsed time since the filing; the effect of a proposed distribution; the difference between the proceeds to be realized versus the appraised value of the property; and whether the asset is increasing or decreasing in value—which essentially represent a ‘business judgment’ test.”), *aff’d*, 681 F. App’x 140 (3d Cir. 2017).

10. “Where the trustee articulates a reasonable basis for the business decision, courts will generally not entertain objections.” *Culp*, 545 B.R. at 844; *see also Filene’s Basement*, 2014 WL 1713416, at *12 (“Generally, ‘where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.’” (quoting *In re MF Global, Inc.*, 467 B.R. 726, 730 (Bankr. S.D.N.Y. 2012))). As long as “a valid business justification exists, then a strong presumption follows that the agreement was negotiated in good faith and is in the best interests of the estate.” *Culp*, 545 B.R. at 844. Moreover, “the burden of rebutting that presumption falls to parties opposing the transaction.” *Filene’s Basement*, 2014 WL 1713416, at *12 (quoting *MF Global*, 467 B.R. at 730).

11. Here, the proposed Transfer to the Transferee easily satisfies the § 363(b) standard. The Debtors conducted an extensive postpetition marketing campaign designed to elicit the highest and best offers for the Debtors’ assets. The marketing process was overseen by the Debtors’ independent director, Steven Strom, and the Debtors’ Chief Restructuring Officer, Robert Wagstaff, and was implemented by Greenhill & Co., LLC (“**Greenhill**”), the Debtors’ investment banker, in accordance with Court-approved bidding procedures (the “**Bidding Procedures**”). *See*

Docket No. 402. As detailed in the Geizhals Declaration, all potential bidders had a full and fair opportunity to conduct diligence and bid on the Debtors' assets.

12. The Debtors and Greenhill conducted an extensive and comprehensive marketing process (the "**Marketing Process**") pursuant to the bidding procedures approved by the Court. Greenhill began marketing Dolphin Connection, along with Marineland Dolphin Adventure, on July 14, 2025. Greenhill sent initial "teaser" presentations to 268 potential bidders, including potential strategic acquirers and financial sponsors. In addition, Greenhill received inquiries from 12 parties. Following Greenhill's initial outreach, the Debtors executed confidentiality agreements with 21 parties specifically interested in Dolphin Connection, who subsequently received a detailed confidential information memorandum (the "**CIM**") and were granted access to a virtual data room containing additional diligence materials pertaining to the Debtors' business. Greenhill also encouraged all potential bidders to submit additional diligence and data requests and coordinated site visits with potential bidders.

13. On June 3, 2025, Ms. Voiles, through counsel, contacted the Debtors to express interest in Dolphin Connection. On July 16, 2025, she executed a confidentiality agreement and thereafter received access to the virtual data room as well as the CIM. On August 18, 2025, the deadline for non-binding indications of interest ("**IOI(s)**"), Ms. Voiles was one of five interested parties who submitted an IOI. Ms. Voiles' submission was expressly contingent on the Landlord consenting to various modifications to the Lease, including a request for an initial five-year lease extension and an option to renew for an additional five years. Ms. Voiles' IOI was not contingent on financing, although she indicated to the Debtors that she might consider obtaining financing.

14. Greenhill spoke with Ms. Voiles and her counsel on August 21, 2025 to discuss her IOI, and Greenhill facilitated a site visit of the Dolphin Connection property on August 25, 2025.

Greenhill and the Debtors' management team also engaged with other bidders who had provided an IOI in a similar fashion.

15. In September 2025, the Landlord communicated that it was not likely to entertain offers to modify the terms of the Lease and was reserving rights regarding certain assignability issues.⁴ The Debtors and Greenhill subsequently informed parties that the Lease term was unlikely to be extended and that any bids for Dolphin Connection should not be contingent on Lease modifications given that the Debtors had no unilateral power—nor does the Court—to force such modifications on the Landlord.

16. The Debtors received two Bids by the Bid Deadline of October 6, 2025, each for \$250,000 (inclusive of the consideration to satisfy approximately \$170,000 in cure amounts). Ms. Voiles did not submit a Bid, although Greenhill and Ms. Voiles continued to correspond until October 21, 2025.

17. In addition, the Debtors received a bid proposal from the Landlord, which was contingent on additional diligence and the resolution of various licensing and regulatory issues and other transaction terms, which would have involved a material amount of transaction expense, execution risk, and uncertainty. The Debtors agreed to adjourn the auction and sale hearing for Dolphin Connection to facilitate further negotiations with the hope that additional time canvassing the market and negotiating transaction terms with Landlord and other interested parties would facilitate the resolution of various economic terms and, critically certain licensing and regulatory issues that had complicated a going concern transaction, among other issues. The Debtors and

⁴ Under section 6 of the Lease, the term of the Lease terminates on “October ____, 2026, unless and until sooner terminated as provided herein.” The parties have interpreted such provision to mean that the term of the Lease expires not later than October 31, 2026.

In its discussions with the Debtors, Landlord reserved any and all rights to argue to this Court that the Lease was in the nature of a license agreement and could not be assigned to a third party without the Landlord's consent.

Landlord spent several weeks negotiating bid proposals and transaction terms. Ultimately, however, the Landlord declined to further engage in bidding.

18. After considering the Bids received (the value of which would not have covered cure costs, legal fees, broker fees, and other transaction costs) and consulting with the Consultation Parties, including the Committee, the Debtors concluded that the costs to effectuate a going concern transaction for Dolphin Connection would far exceed the nominal value of the asset given its limited Lease term, among other factors. Accordingly, after a full and fair marketing process, which extended for more than five months after Greenhill's initial outreach, the Debtors determined that a wind down of the Dolphin Connection facility, in connection with an orderly and coordinated transfer of the Transferred Animals to an accredited, reputable assignee, would best maximize value and mitigate costs, as well as ensure the continued responsible care of the Transferred Animals. As detailed in the Supplemental Wagstaff Declaration, the Debtors thereafter engaged with their advisors and interested parties regarding the placement and transfer of the Transferred Animals, ultimately selecting the Transferee as the most suitable recipient under the circumstances. On December 22, 2025, the Debtors filed the Fifth Transfer Notice, informing parties of the intent to transfer the Transferred Animals to the Transferee.

19. On January 3, 2026, following the filing of the Fifth Transfer Notice, Ms. Voiles reengaged with Greenhill to reiterate her continued interest in Dolphin Connection. After substantial discussion and correspondence with Greenhill and Debtors' counsel, the Debtors offered Ms. Voiles and other known interested parties an extended opportunity to submit bids for Dolphin Connection on the terms of the existing Lease without modification. Ms. Voiles declined to submit a Bid or engage with the Landlord.

20. The value of the proposed Transfer to the Debtors' estates is substantial. The Transferee has agreed to accept sole financial and legal responsibility for the transfer of the Transferred Animals to the Transferee's facility, thereby relieving the Debtors' estates from the continued costs and obligation to provide housing, food, and care to the Transferred Animals and mitigating the costs and obligations associated with physical animal transport. Moreover, the Transfer paves the way for the Debtors to relinquish possession of the Dolphin Connection facility to the Landlord in accordance with the Debtors' obligations under the Bankruptcy Code upon rejection of the Lease at month end or such other date as the Landlord and the Debtors agree.

21. As a "going concern solution" is not a practical alternative that will realize value for the Debtors' estates, the coordinated transfer of the Transferred Animals to a responsible third party is the only viable option for mitigating substantial continued obligation and cost and effectuating a prompt disposition of the Dolphin Connection operations. The Transferee has come highly recommended and has substantial experience with animal transport and care, and no party has objected on the basis of the Transferee's ability to adequately care for and transport the Transferred Animals. Accordingly, the Debtors' decision to Transfer the Transferred Animals is a practical and sound business decision that will mitigate cost and expense, thereby providing value to the Debtors' estates.

II. The Court should overrule the Response.

22. The Transfer is the result of an exercise of the Debtors' reasonable business judgment, in consultation with the Consultation Parties, following an extensive Marketing Process, and should be approved.

23. As an initial matter, the facts and circumstances of the Debtors' leasehold interests, as well as the limits of section 365 of the Bankruptcy Code, constrain the Debtors and parties in

interest as to the ultimate disposition of the Dolphin Connection facility. The Debtors have only the rights to the Dolphin Connection facility that they bargained for under the Lease and they must comply with their obligations under section 365 of the Bankruptcy Code. As the Debtors are facing an imminent deadline by which the Lease will be deemed rejected by operation of law, and the term of the Lease ends in a mere nine months, the Lease has limited value and, under any feasible scenario, the Transferred Animals must be removed and transported to one or more alternative facilities. Therefore, it is a plainly inaccurate notion to suggest that a “going concern solution” is an alternative that will obviate the need to transport the Transferred Animals.

24. Second, the Respondents have no fiduciary obligations to creditors and cannot dictate the Debtors’ business and chapter 11 strategy. The Debtors’ use and transfer of property is afforded a deferential standard because, among other reasons, the Debtors have fiduciary obligations to maximize value for all creditors. *See Official Comm. of Unsecured Creditors of Cybergenics Corp. v. Chinery*, 330 F.3d 548, 573 (3d Cir. 2003) (holding that, where no trustee is appointed, 11 U.S.C. § 1107(a) provides that the debtor-in-possession enjoys the powers that would otherwise vest in the bankruptcy trustee, which include the fiduciary duty to maximize the value of the bankruptcy estate); *In re Marvel Ent. Grp., Inc.*, 140 F.3d 463, 474 (3d Cir. 1998) (stating that the debtor-in-possession’s fiduciary duty to maximize value includes the “duty to protect and conserve property in its possession for the benefit of creditors”); *In re Pack Liquidating, LLC*, 658 B.R. 305, 319 (Bankr. D. Del. 2024) (applying the fiduciary duty to maximize creditor recoveries to the debtor-in-possession). The Debtors have the benefit of the results of the Marketing Process, which was implemented by experienced restructuring professionals, and substantial experience operating the Debtors’ facilities since the inception of the Chapter 11 Cases. The Debtors’ ability to forecast costs and expenses, their knowledge of their

existing liquidity, experience with vendors including the Landlord, oversight of operations, interactions with the Debtors' workforce, along with discussions with the DIP Lenders, the Committee, and other parties in interest best positions the Debtors to determine case and asset disposition strategy. The evidentiary record reflects that the Debtors exercised their reasonable business judgment when determining to transfer the Transferred Animals to the Transferee, after consultation with the major stakeholders in the Chapter 11 Cases and their advisors, because the Debtors believe that the Transfer will mitigate substantial costs and obligations of the Debtors' estates. Accordingly, this Court should defer to the Debtors' business judgment and approve the Transfer.

25. Finally, as established by the Declarations, Ms. Voiles has been afforded a full and fair opportunity to bid for the Debtors' assets. The Debtors and their advisors have on numerous occasions engaged with Ms. Voiles and her attorney regarding diligence requests, process inquiries bid negotiations, and other issues. Even as late as last week, the Debtors engaged with Ms. Voiles to ascertain whether a Bid may be forthcoming and to facilitate discussions with the Landlord and parties in interest. Ms. Voiles declined to Bid or engage in discussions with the Landlord. Accordingly, Ms. Voiles' complaints regarding access to information or a lack of engagement are baseless and should be rejected.

[Signature Page Follows]

CONCLUSION

WHEREFORE, for all of the foregoing reasons, the Debtors respectfully request that the Court overrule the Response and approve the Transfer.

Dated: January 21, 2026

/s/ Allison S. Mielke

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EXHIBIT A

Dolphin Connection Lease

LICENSE AGREEMENT
(between Keys Hotel Operator, Inc., d/b/a Hawks Cay Resort
and Dolphin Connection, Inc.)

THIS LICENSE AGREEMENT (the “Agreement”) is made and entered into as of this _____ day of October, 2021, by and among Keys Hotel Operator, Inc., d/b/a Hawks Cay Resort (“Hawks Cay Resort”), and Dolphin Connection, Inc., (“Licensee”).

WHEREAS, Licensee desires to operate a business providing services (as more fully described herein below) to Hawks Cay Resort guests and the general public from Hawks Cay Resort; and,

WHEREAS, Hawks Cay Resort agrees to grant Licensee the privilege of utilizing a portion of its property for providing the services to the resort guests and the general public.

NOW THEREFORE, in consideration of the promises and mutual covenants and conditions contained in this Agreement, Hawks Cay Resort and Licensee agree as follows:

1. **GRANT OF USE.** Hawks Cay Resort hereby grants to Licensee a limited license to use a portion of its resort located at 61 Hawks Cay Boulevard, Duck Key, Monroe County, Florida 33050, on the terms and conditions set forth herein:

1.1 **Grant of Use – Premises.** Licensee is currently in possession of and continuing to conduct business on the premises referenced herein. During the term of this Agreement, Hawks Cay Resort grants to Licensee the continued use of the current premises which consist of: a lagoon area; docks; fences/pens; and, an office space (the “Premises”) – as depicted on the attached *Exhibit A*. The Premises shall be continuously utilized and occupied by Licensee during the term of this Agreement for the sole purpose of offering a dolphin program and for related and incidental purposes in connection with such program (the “Services”)- as more particularly described herein below.

1.2 **Grant of Use- Parking.**

(a) **Parking for Licensee, its agents, employees, officers and directors, customers, clients, guests, and invitees** is in the guest self-parking areas only. Valet parking will be charged at non-guest rates.

(b) **General Rules for Parking.** Licensee shall not permit any trailers or heavy equipment on or about the premises and/or parking areas. The parking lots listed in the subparagraphs herein may sometimes be referred to collectively as the “Parking Lots” in this Agreement.

(c) **Reassignment.** The Parking Lots may be reassigned from time to time at the sole and absolute discretion of Hawks Cay Resort.

1.3 **Deliveries.** Deliveries of fish and other supplies necessary for the operation of Licensee’s business shall allowed. All such deliveries shall be coordinated with the Hawks Cay

Resort purchasing manager – in advance- so as not to interfere with the Resort’s deliveries and other activities and operations of the Resort and its guests.

2. USE OF THE PREMISES (GENERALLY).

2.1 Licensee covenants to exercise due care in the use of Hawks Cay Resort property and occupation of the Premises. Licensee shall take no action or inaction that in any manner interferes with Hawks Cay Resort’s use of the property and the operation of its resort, marina, restaurants, bars and other auxiliary operations. Licensee’s use of the resort and marina property, including the Premises and Parking Lots, is to be considered inferior and subordinate to Hawks Cay Resort’s use. The resort and marina property, including the Premises and Parking Lots are to be used at the sole risk of the Licensee. Hawks Cay Resort shall not be liable for the security, care or the protection of the property of Licensee, its employees, agents, customers, clients, guests, and invitees, nor for any damage of whatever kind or manner to the property of Licensee.

3. ACCEPTANCE OF THE PREMISES.

3.1 Licensee is currently possessing the Premises. Licensee acknowledges that it has inspected the Premises and Parking Lots and is satisfied that each, as the case may be, is adequate for the safe operation of the Licensee’s Business in accordance with the terms of this Agreement. No representations or warranties were made by Hawks Cay Resort, nor relied upon by Licensee-related to the condition of the Premises.

4. LICENSEE’S BUSINESS OPERATIONS.

4.1 Upon mutual execution of this Agreement, Licensee intends to offer to Hawks Cay Resort guests and the public- a dolphin program (the “Services”). In recognition of the fact that Licensee shall be operating its business from the Hawks Cay Resort, this agreement, in part, is intended to set forth certain minimum standards for the Services provided by Licensee with a goal towards ensuring the utmost safety of Hawks Cay Resort guests and the public while at the same time ensuring that the Services are provided in a manner that is compatible with the “first class” standard expected by Hawks Cay and its guests. Licensee will be expected to maintain these standards, however Licensee shall for all purposes control the means of providing the Services and shall be responsible for the satisfactory completion of providing the Services. Licensee shall retain sole and absolute discretion of the manner and means of carrying out the activities and responsibilities under this Agreement.

The minimum standards for Licensee’s provision of said Services, are as follows:

(a) The Services will be offered to Hawks Cay Resort guests and the public seven (7) days a week (weather permitting) year round – with the exception of Christmas Day and New Year’s Day. Services will be made available to Hawks Cay Resort guests on a priority basis over the general public. Any cessation of services (including those due to weather events) will be permitted only with the express written consent of the then current VP Managing Director of Hawks Cay Resort each time. The VP Managing Director of the resort may withhold consent for any reason. Licensee shall provide seven (7) days advance notice to the VP Managing Director of

the resort whenever reasonably possible. With the exception of a permitted cessation of business, Licensee will have adequate employees available during business hours.

(b) Licensee shall be solely responsible for the care for all dolphins (including maintaining the Premises) in accordance with all federal, state, and local laws, and regulations, policies and guidelines.

(c) Licensee shall ensure that all employees and staff of Licensee wear clean and appropriate attire consistent with the first class standards of Hawks Cay Resort. All employees of Licensee providing services will attend Hawks Cay Resort Orientation and any special training offered from time to time. The purpose of this training is solely to ensure Licensee's employees are familiar with the standards of Hawks Cay Resort as they relate to guest relations. No tuition will be charged. Licensee will be responsible for any wages due employees while attending training. Licensee shall ensure that all employees of Licensee abide by the same Hawks Cay Resort "rules of conduct" that apply to Hawks Cay Resort's employees. Licensee agrees to remove from Hawks Cay Resort any of its employees that violate Hawks Cay Resort rules. This training in no way shall infringe upon the sole and absolute discretion in which Licensee chooses to conduct its business so as to ensure the safety of guests and others.

(d) Licensee, in its discretion, should use reasonable diligence in assessing the competency of each and every customer who participates in its dolphin program to assure the individual is qualified and is knowledgeable of safe practices (ability to swim, disabilities, awareness of hazards, etc.). Licensee will establish contingencies for assisting Hawks Cay Resort guests with disabilities, emergency protocols and evacuation planning.

(e) All gear (wetsuits, masks, snorkels, fins, life preservers, etc.), is to be in first class condition and shall be repaired or replaced to appear and function in like new condition at all times. Licensee will maintain, on Hawks Cay Resort premises, a sufficient amount of gear to meet the needs of Hawks Cay Resort guests and the public, including children.

5. COMPLIMENTARY SERVICES.

5.1 Each month of the term of this Agreement (as defined herein) - Licensee shall provide Hawks Cay Resort ten (10) complimentary dolphin programs for use by the Resort in its sole and absolute discretion. Hawks Cay Resort will provide Licensee at least two (2) days advance notice whenever reasonably possible of its intent to use these items. Existing reservations will have priority over complimentary use.

5.2 At Hawks Cay Resort's request- Licensee agrees that it shall participate in any media or other promotional event presented in which Licensee is to be featured. In such event, Licensee agrees to provide two (2) complimentary programs per event to Hawks Cay Resort to be utilized in conjunction with such opportunity. The two (2) complimentary programs shall not be counted against the yearly allotment of complimentary programs as set forth herein- but shall be considered in addition to.

6. TERM.

6.1 Term. The term of this Agreement commences on October ____, 2021 and shall terminate on October ____, 2026, unless and until sooner terminated as provided herein. The term set forth herein shall under no circumstances exceed five years.

6.2 Renewal. This Agreement **shall not** automatically renew and there is no option to renew provided by this Agreement. Without limiting the preceding sentence- Hawks Cay Resort and Licensee agree to attempt good faith negotiations for a renewal term in the event that Licensee expresses its desire to do so by providing written notice to Hawks Cay Resort no less than ninety (90) days prior to the expiration of the then current term. Hawks Cay Resort reserves the right in its sole and absolute discretion to decline any request by Licensee for a renewal term.

6.3 Termination on sale or transfer. In the event of a sale or any and all other transfer(s) of ownership Hawks Cay Resort, its business operations, and/or the real property located at 6 Hawks Cay Boulevard, Duck Key, Monroe County, Florida 33050 this agreement shall immediately terminate at the sole option and discretion of Hawks Cay Resort. Licensee shall not be entitled to any compensation, fee, penalty or other damages as a result of such termination. Termination under this paragraph shall be effective upon delivery of written notice of such by Hawks Cay Resort to Licensee.

7. LICENSE FEES.

7.1 In consideration for the use granted to Licensee herein, and the additional considerations provided hereunder, Licensee agrees to pay Hawks Cay Resort (Licensor) as follows:

- a. 26% license fee (includes credit card commission) on all gross receipts received from dolphin programs; and,
- b. 15% license fee (includes credit card commission) on all gross receipts received from the sale of any merchandise and other retail items.

7.2 No sales by Licensee are exempt from the license fee due on all gross receipts as set forth herein.

8. BOOKING FOR THE SERVICES PROVIDED BY LICENSEE; RECORDING SERVICE ACTIVITY, COLLECTION OF GROSS RECEIPTS AND PAYMENT OF LICENSE FEE.

8.1 All bookings for Services offered by Licensee will be done through the use of the Fare Harbour point of sale system ("POS").

8.2 Any Service provided by Licensee from the Hawks Cay Resort premises shall be accounted for in the POS.

8.3 For the convenience of the Hawks Cay Resort guests, Hawks Cay Resort may accept reservations for Licensee and will utilize the POS for booking.

8.4 Settlement of gross receipts and license fees will be made on a monthly basis.

8.5 Licensee will be responsible for compiling and providing an itemized list of gross receipts to Hawks Cay Resort by the 5th day of each monthly period.

8.6 The term “gross receipts” shall include all money received by, or paid to the Licensee or Hawks Cay Resort for Licensee’s use and benefit, excluding monies collected for sales tax.

8.7 All guests must check-in at the location designated by Hawks Cay Resort- which may change from time to time – in Hawks Cay Resort’s sole and absolute discretion. Guest cancellations must go through the POS or will be deemed not cancelled.

8.8 Noncompliance of this provision shall be grounds for termination of this agreement.

9. RIGHT TO AUDIT BOOKS AND RECORDS OF LICENSEE.

9.1 Hawks Cay Resort shall have the right to audit the books and records of Licensee once per year. If Hawks Cay Resort, in its sole discretion, determines that more frequent audits should be performed, then Licensee will make its books and records available to Hawks Cay Resort- accordingly. If the results of the audit show a variance of three percent (3%) or greater of the commission due, then Licensee will pay the costs of the audit.

10. LATE FEES AND INTEREST.

10.1 All amounts due hereunder shall be promptly paid and failure to do so shall, should the charges remain unpaid after seven (7) days from the date incurred, entitle Hawks Cay Resort to charge Licensee \$100.00, which is not a penalty but is to recompense Hawks Cay Resort for administrative costs.

10.2 Any amount due from Licensee hereunder which is not paid when due shall bear interest at the rate of ten (10) percent per annum until paid in full.

11. CUSTOMER COMPLAINTS, PUBLIC RELATIONS, ETC.

11.1 Licensee shall be solely responsible for addressing any and all complaints, questions or concerns of its customers and shall have someone on premises at all times during operational hours who has the ability to address any and all of such.

11.2 Licensee shall be solely responsible for all issues related to public relations- including but not limited to protests, adverse media exposure or other matters related thereto which in any manner relates to the Services provided by Licensee. Any and all costs, expenses and/or damages (including but not limited to marketing, public relations efforts, as well as all attorney’s fees and costs) incurred by Licensor as a result of any protests, adverse media exposure or the like shall be reimbursed to Licensor by Licensee.

12. MAINTENANCE, REPAIR AND ALTERATIONS.

12.1 Licensee shall be solely responsible (except as specially modified herein) to keep the Premises in good condition and repair, clean and neat, and, the Licensee shall deliver up the premises at the end of the term in good condition and repair, except for ordinary wear and tear.

12.2 Hawks Cay Resort will maintain all of the electric, plumbing, and docks. Licensee shall be responsible for all other maintenance required for Licensee's Premises. Notwithstanding the foregoing, in the event any said items are damaged, or incur excessive wear and tear, due to actions of Licensee, its employees, agents, customers, clients, guests, and invitees, the cost of repairing or replacing said item(s) shall be reimbursed by Licensee.

12.3 Hawks Cay Resort is not responsible for inspecting Licensee's Premises. During the term of this Agreement, Licensee shall have the obligation to inform Hawks Cay Resort in writing of any and all known matters which require maintenance or repair.

12.4 Licensee may make additions, alterations, or improvements to the premises only with the written consent of Hawks Cay Resort, which permission may be withheld in Hawks Cay Resort's sole and absolute discretion.

12.5 Any additions, alterations, or improvements made to the premises, with Hawks Cay Resort's consent, shall be in compliance with all insurance requirements and regulations and laws of governmental authorities and shall, on the expiration or sooner termination of the Agreement term, become the property of Hawks Cay Resort. However, Hawks Cay Resort may at its option require Licensee, at Licensee's sole cost and expense, to remove any additions, alterations, or improvements at the expiration or sooner termination of the Agreement term, and to repair any damages to the premises caused by such removal.

12.6 No mechanics', laborers', or materialmen's' lien arising from any improvements made or work performed by or for Licensee shall attach to or become a lien on any of Hawks Cay Resort's property. In the event that a lien is asserted on Hawks Cay Resort's property, Licensee shall indemnify Hawks Cay Resort against, and Licensee shall immediately discharge any such lien.

12.7 Hawks Cay Resort reserves the right at any time and from time to time during the Agreement term to make any additions, alterations, changes or improvements to the Premises, and appurtenances, in Hawks Cay Resort's sole and absolute discretion.

12.8 Americans with Disabilities Act. Licensee acknowledges that the Americans with Disabilities Act (the "ADA") requires that programs, services, and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Licensee further acknowledges its obligation to comply with the ADA and any other federal, state or local disability rights legislation. Licensee warrants that it will fulfill that obligation, and that it will not discriminate against disabled persons in the provisions of services, benefits or activities. Licensee shall be solely responsible for ensuring (including the costs and

expenses associated with) that the operation of its business and the Services provided and the Premises are in full compliance with the Americans with Disabilities Act.

13. LAWS, ORDINANCES, ETC. (INCLUDING HAZARDOUS WASTE).

13.1 Licensee shall, at Licensee's sole cost and expense, cause the Premises, to be used, and the Licensee's business to be conducted, in accordance with all laws, ordinances, codes, licenses, permits, orders, rules, regulations and requirements of every governmental or quasi-governmental authority or agency applicable to Licensee.

13.2 Without limiting the foregoing, Licensee shall, at Licensee's sole cost and expense, ensure that its business, and use of the premises are in compliance with all laws pertaining to air, water, upland/storm water run-off, use and storage of hazardous materials, waste disposal and sewage disposal. These shall include, but are not limited to, the following:

(a) Licensee shall not have any hazardous materials upon, about, or beneath the Premises nor anywhere within Hawks Cay Resort's property including the Resort, Marina, Premises, and Parking Lot. Licensee shall indemnify, defend, and hold Hawks Cay Resort, and their principals, agents and employees, harmless from and against any and all damages from the use and/or storage of hazardous materials.

14. TERMINATION.

14.1 If any payment required by this Agreement shall not be paid when due, after seven (7) days written notice, Hawks Cay Resort shall have the right to terminate this Agreement, or seek any other remedies available at law and equity.

14.2 If either Hawks Cay Resort or the Licensee fails to perform or breaches any terms of this Agreement, other than the agreement of Licensee to pay any fee or other amount due hereunder, and the default continues for ten (10) days after a written notice specifying the performance required shall have been given to the party failing to perform, then the party so giving notice may institute an action in a court of competent jurisdiction seeking any and all remedies available at law and equity. If the default is of such a nature that it cannot reasonably be cured within ten (10) days then the defaulting party will take appropriate action to cure the default within a reasonable time depending on the nature of the default.

14.3 Hawks Cay Resort shall provide Licensee with written notice of each and every alleged breach or default of this Agreement by Licensee. In the event that the Licensee has frequently, regularly or repetitively defaulted in the performance of or breached any of the terms, covenants and conditions required herein to be kept and performed by the Licensee, and regardless of whether the Licensee has cured each individual condition of breach or default, the Licensee may be determined by Hawks Cay Resort to be a "habitual violator". The determination as to whether Licensee is a habitual violator shall be made by, and in the sole and absolute discretion of Hawks Cay Resort. At the time such determination is made, Hawks Cay Resort shall issue to Licensee a written notice advising of such determination and citing the circumstances. Such notice shall also advise Licensee that there shall be no further notice or grace periods to correct any subsequent

breaches or defaults and that any subsequent breaches or defaults of whatever nature (no matter how minor), taken with all previous breaches and defaults, shall be considered cumulative and collectively shall constitute a condition of non-curable default and grounds for immediate termination of this Agreement. In the event of any subsequent breach or default, Hawks Cay Resort may terminate this Agreement upon the giving of written notice of termination to Licensee, such termination to be effective upon delivery of the notice to Licensee.

15. EFFECT OF EXPIRATION AND TERMINATION.

15.1 The expiration or termination of this Agreement, for any reason, shall not release either party from any obligation or liability to the other party, including any payment and delivery obligation, that: (i) has already accrued hereunder; (ii) comes into effect due to the expiration or termination of the Agreement; or (iii) otherwise survives the expiration or termination of this Agreement.

16. HOLDING OVER.

16.1 Should Licensee continue in occupancy of the premises after the expiration of this Agreement, any such holding over shall not constitute a renewal or extension of this Agreement. Any holding over shall subject Licensee to payment of double the monthly license fee, as well as any other damages, fees, costs, expenses or other items incurred by or on behalf of Hawks Cay Resort as a result thereof.

17. REMOVAL OF LICENSEE PROPERTY ON EXPIRATION OR TERMINATION.

17.1 Upon expiration or termination of this Agreement, Licensee shall immediately cease to operate the Licensee business. In such event it is acknowledged and agreed that the health and safety of the dolphins is of primary importance. On expiration of this Agreement- Licensee property (including the dolphins) shall be removed from the Premises immediately- it being expressly acknowledged by Licensee that in such event it shall have sufficient time to make arrangement for such. In the event of termination of this Agreement – Licensee shall remove all Licensee property within thirty (30) days from the date of such termination. Licensee shall be liable to Hawks Cay Resort for all damages and expenses Hawks Cay Resort may suffer as a result of the Licensee’s failure to remove the Licensee property as set forth herein.

18. LIMITATION OF REMEDIES.

18.1 Anything in this Agreement and anything at law or in equity to the contrary notwithstanding, in any action or proceeding between the parties hereto arising under or with respect to this Agreement or in any manner pertaining to the Resort, Marina and/or Premises, and/or Parking Lot and/or any appurtenances thereto, or to the relationship of the parties hereunder, each party hereby unconditionally and irrevocably (i) agrees that each party will only claim and be entitled to receive from the other party hereto her/his/its actual damages (i.e. compensatory damages), and (ii) waives and releases any right, power or privilege either may have to claim or receive from the other party hereto any exemplary, special/consequential, statutory or treble damages, each party acknowledging and agreeing that the remedies herein provided, and other remedies at law and in equity, will in all circumstances be adequate. The sole exception to this

limitation of remedies set forth herein shall be in the event that the image and/or reputation of Hawks Cay Resort is diminished in any manner by action or inaction of Licensee.

19. SIGNAGE AND ADVERTISING.

19.1 No signs may be displayed without prior written permission of Hawks Cay Resort. Hawks Cay Resort shall be entitled to approve of any and all signs including content and pictures in its sole and absolute discretion.

19.2 Upon termination of this Agreement, Licensee shall immediately remove any signs erected with Hawks Cay Resort's permission. Should Licensee fail to remove any signs, Hawks Cay Resort may remove same at Licensee's risk and cost.

19.3 Licensee shall not advertise its business as having any connection with Hawks Cay Resort's business, other than its business is being operated from the Hawks Cay Resort premises. Licensee will take all steps necessary to inform its customers that it is in no way affiliated with Hawks Cay Resort and is separate and distinct from Hawks Cay Resort

20. MARKETING.

20.1 During the Term of this Agreement, Licensee agrees to: (i) conduct quarterly marketing events designated by Hawks Cay Resort (designed to promote Licensee's business to Resort guests); and, (ii) grant Hawks Cay Resort with an irrevocable license to use all pictures, videos, signs and other such content, the trade name and all other names, likenesses and images associated with Licensee for the purpose of marketing Hawks Cay Resort and Marina in any and all mediums, including without limitation all print, internet and digital forms. Notwithstanding the foregoing, the trade name, and all other names, likenesses and images associated with Licensee, to the extent owned by Licensee, shall remain the property of Licensee and the use rights described in this section shall terminate upon termination of this Agreement.

20.2 Licensee and Licensee's employees shall commit to no less than four (4) hours per month of dedicated marketing. Programs presented shall be designed to educate the guests and promote the Licensee Services. All programs are to be designed and conducted by Licensee but must be approved by Hawks Cay Resort prior to presentation.

21. INSURANCE.

LICENSEE SHALL NOT BE ENTITLED TO USE THE PREMISES UNTIL LICENSEE PROVIDES PROOF OF ALL INSURANCES REQUIRED HEREUNDER- TO THE SATISFACTION OF HAWKS CAY RESORT. FAILURE OF LICENSEE TO OBTAIN AND MAINTAIN THE REQUIRED INSURANCES SHALL BE GROUNDS FOR IMMEDIATE TERMINATION OF THIS AGREEMENT.

21.1 Licensee shall secure and maintain full and comprehensive Commercial General Liability insurance, insuring against all risks associated with the operation of its business and use of the Premises, and Parking Lot, including but not limited to bodily injury, death, and property damage. The insurance shall provide coverage for all claims that may arise from the operation of Licensee's business and use of the Premises and Parking Lot, provided under this Agreement,

whether such are by Licensee or anyone directly or indirectly employed or in any manner associated with Licensee, including but not limited to customers, clients, guests, and invitees of Licensee. The insurance shall specifically include coverage adequate to meet Licensee's indemnification obligations hereunder. The minimum limit of insurance shall be \$2,000,000.00.

21.2 Licensee shall further secure and maintain fire, theft and liability insurance, on the Premises and other equipment of Licensee (as applicable). The insurance shall specifically include coverage for environmental and pollution related claims.

21.3 All insurance policies obtained by Licensee shall name Keys Hotel Operator, Inc., a Florida corporation, d/b/a Hawks Cay Resort, and those affiliated or related entities listed on the attached *Exhibit B*.

21.4 Licensee shall provide Hawks Cay Resort with a certificate(s) of insurance in form satisfactory to Hawks Cay Resort evidencing such coverage.

21.5 The insurance required herein must provide for thirty (30) days advanced written notice to be provided to Hawks Cay Resort in the event of termination or cancellation.

21.6 Hawks Cay Resort shall have the absolute right to suspend immediately any and all Licensee rights or activities under this Agreement during any period when Licensee cannot provide Hawks Cay Resort satisfactory evidence of such coverage. Should it become necessary, Licensee consents to the entry of an exparte order from a Court for injunctive or other relief preventing Licensee from operating its business until such time as satisfactory evidence of coverage can be provided.

21.7 Licensee understands and agrees Hawks Cay Resort is in no way liable for obtaining and/or maintaining any of the foregoing insurance or any other insurances that would in any way provide coverage for injury to person or property for Licensee, its business operations, its agents, employees, customers, clients, guests, and invitees. The purpose of this clause is to insure that Licensee carries its own insurance.

21.8 Licensee is required to secure and maintain Worker's Compensation insurance as required by law providing statutory benefits for all persons employed by Licensee in connection with its business contemplated herein.

21.9 Subrogation. Notwithstanding anything to the contrary herein, Licensee waives any right of recovery against Hawks Cay Resort for any loss or damage to the extent same is required to be covered by Licensee's insurance hereunder. Licensee shall obtain from its insurers a waiver of any subrogation the insurer may have against Hawks Cay Resort in connection with any loss or damage covered by Licensee's insurance.

21.10 Fire Insurance Standards. The Licensee shall not permit the use or storage of materials of any kind that are prohibited by standard policies of fire insurance companies in the state of Florida in any facilities or space occupied or used by Licensee pursuant to this Agreement.

22. STORMS AND WEATHER EVENTS.

22.1 Licensee, in the event that a tropical storm, and/or hurricane, or other severe weather event is solely responsible for the safekeeping of the Premises and the property of Licensee and any and all damages caused thereby. Licensee acknowledges and understands that it should make suitable arrangements for the Premises and Licensee property (including but not limited to the dolphins in Licensee possession and control) in anticipation of a storm or weather event. THE PREMISES ARE NOT TO BE CONSIDERED A SAFE HARBOR FOR STORMS OR OTHER WEATHER EVENTS. Licensee agrees to be solely liable for the payment of any and all damages caused to Hawks Cay Resort as a result of Licensee and/or Licensee's property during such a weather event. Force Majeure, act of God or other similar defense or claim will not be a defense to Licensee's liability as set forth herein- it being specifically acknowledged that it is Licensee's responsibility to make advance plans for such events. Without limiting the foregoing, Hawks Cay Resort will use good faith efforts to attempt to accommodate Licensee's reasonable request for space within the Resort to assist in the safekeeping of the dolphins in the event of an impending storm- however if a mandatory evacuation order is entered no persons nor animals shall remain on the Resort property.

23. WAIVER, INDEMNITY AND HOLD HARMLESS AND DISCLAIMER.

23.1 LICENSEE WAIVES, RELEASES (UNCONDITIONALLY AND FULLY), AND FOREVER DISCHARGES Hawks Cay Resort and its parent, subsidiary and affiliated companies, officers, directors, partners, board members, shareholders, attorneys, insurers, agents, employees, and representatives (individually and collectively, the "Released Parties") from any and all claims, liabilities of every kind, demands, damages (including without limitation, direct, indirect, incidental, consequential and punitive), losses and causes of action, whether known, unknown, asserted, unasserted, fixed, conditional, or contingent, of any kind or nature (including without limitation, those based in contract, tort, statutory, or other grounds, which Licensee has or may have in the future, including court costs, attorneys' fees and litigation expenses (individually and collectively, the "Claims") that may arise out of, or result from the provision of Licensee's Services and/or any other use of the Resort and Marina, Premises, and Parking Lot, including death, personal injury, partial or permanent disability, negligence, property damage and damages of any kind, property theft, and Claims relating to the provision of first aid, medical care, medical treatment, or medical decisions and any claims for medical or hospital expenses, EVEN IF SUCH CLAIMS ARE CAUSED BY THE NEGLIGENT ACTS, OMISSIONS, OR THE CARELESSNESS OF THE RELEASED PARTIES AND EVEN IF THE RELEASED PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIMS. Any such release is intended to be a complete, unconditional and general release of all Claims. The Released Parties may plead such releases as a complete and sufficient defense to any Claim, as intended beneficiaries of such releases.

23.2 LICENSEE FURTHER COVENANTS AND AGREES NOT TO SUE Hawks Cay Resort and/or any of the other Released Parties for any of the Claims that Licensee has waived, released (unconditionally and fully), or discharged herein. LICENSEE AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS Hawks Cay Resort and/or any of the other Released Parties from any and all expenses incurred, Claims made by Licensee or third parties, for liabilities assessed against Hawks Cay Resort and/or any of the other Released Parties, including but not limited to court costs, attorneys' fees, and litigation expenses, arising out of or resulting from, directly or indirectly, in whole or in part, Licensee's provision of the Services and/or any other use of the Resort, Marina, Premises and/or Parking

Lot, Licensee's breach or failure to abide by any part of this Agreement, and/or any other of Licensee's actions or inactions which cause injury or damage to Licensee and/ or any other person or property.

23.3 Hawks Cay Resort disclaims all implied warranties and Licensee, for itself and its heirs, successors and assigns, and hereby releases Hawks Cay Resort from any and all liability arising out of any claimed implied warranty.

23.4 In the event of any damage or injury to the Resort, Marina, including the Premises and Parking Lot or to any property of Hawks Cay Resort, or to any guests, or other occupants of the Resort and Marina arising from the active or passive acts, omission or negligence of Licensee, its employees, agents, customers, clients, guests, and/or invitees, all expenses incurred by Hawks Cay Resort to repair or restore the property, or to compensate for the damage or costs incurred shall be paid by Licensee on Hawks Cay Resort's demand.

24. LICENSEE TO PROVIDE RELEASE OF LIABILITY.

24.1 Licensee shall provide each and every client and customer with a release of liability. The release of liability will also inform the clients and customers that Licensee is not affiliated with Hawks Cay Resort in any manner – but is an independent contractor. The release of liability will also include a release of any and all claims against Hawks Cay Resort, and its affiliated entities as set forth on *Exhibit B*, including but not limited to claims arising from the use of the Resort, Marina, Premises and Parking Lot, and any and all appurtenances thereto. A sample copy of the release of liability shall be submitted to Hawks Cay Resort upon execution of this Agreement.

25. DAMAGE OR DESTRUCTION TO PREMISES.

25.1 In the event that premises will be destroyed or damaged by fire, explosion, windstorm or other casualty, so as to be: (a) rendered un-tenantable, Hawks Cay Resort, may, at its election, either: (i) terminate this lease as of the date of such casualty, by written notice to Licensee, within 45 days following the date of casualty, in which event all the Licensee fees and other amounts due hereunder will be apportioned on a per diem basis and paid by Licensee, to the date of casualty; or, (ii) proceed with all due diligence to repair, restore or rehabilitate the premises to the condition existing immediately prior to casualty, in which event this Agreement will not terminate and the amounts due hereunder will abate on a per diem basis during the period of restoration work; (b) partially damaged, but not rendered un-tenantable, Hawks Cay Resort, will proceed with all due diligence to perform or cause restoration work to be performed, in which event the amounts due hereunder will abate in proportion to the nonuse ability of premises during the period of restoration work.

25.2 In the event of a casualty as set forth herein, and notwithstanding anything in this agreement to the contrary, the decision to rebuild or repair or not is within the sole and absolute discretion of Hawks Cay Resort. Licensee shall have no claim against Hawks Cay Resort arising from Hawks Cay Resort's decision to rebuild or repair or not, and/or delays associated therewith, including but not limited to any loss or damage incurred by Licensee.

26. EMINENT DOMAIN OR CONDEMNATION PROCEEDINGS.

26.1 If any portion of the premises shall be taken under the exercise of the power of eminent domain by any competent governmental or corporate authority during the term of this Agreement, there shall be proportionate abatement of the license fees thereafter to be paid based on what is taken, but Licensee shall not be entitled to any award from the condemning authority. Provided, however, Licensee shall have the option to terminate the Agreement if a taking of a portion of the property has a material adverse effect on the Licensee's continuing business levels. The option to terminate shall be exercisable within 10 days of the entry of an Order of Taking and shall lapse thereafter.

27. BANKRUPTCY.

27.1 In the event the Licensee shall be adjudged bankrupt or shall make assignment for the benefit of creditors or otherwise have its interests under this Agreement taken on execution, then Hawks Cay Resort may, at Hawks Cay Resort's option, terminate this Agreement. Termination under this paragraph shall be effective upon delivery of written notice by Hawks Cay Resort to Licensee.

28. AUTHORITY TO APPROVE ON BEHALF OF HAWKS CAY.

28.1 Any permission or approval required on behalf of Hawks Cay Resort under this Agreement may only be given, in writing, by the then current VP Managing Director of Hawks Cay Resort; no other employee, agent or other representative of Hawks Cay Resort may provide such permission or approval. No oral permission or approvals are valid, even if alleged to have been given by the then current VP Managing Director of Hawks Cay Resort.

29. RESORT RULES.

29.1 Licensee shall observe faithfully and comply strictly with the Rules and Regulations, as Hawks Cay Resort may from time to time adopt for the safety, care and cleanliness of the Resort, including the Premises, Parking Lots and surrounding areas for the preservation of good order therein. Hawks Cay Resort shall not be liable to Licensee for any violation of the Rules and Regulations or for the breach of any covenant or condition in any other agreement by any other in the Resort and Marina. Hawks Cay Resort shall provide a current copy of the resort rules and any and all amendments to the Rules and Regulations to Licensee.

30. TIME OF ESSENCE.

30.1 Time is of the essence with respect to the performance of each of the covenants of this Agreement.

31. BROKERS.

31.1 The parties warrant that they have had no dealings with any real estate broker or agents in connection with the negotiations of this Agreement, and that they know of no real estate broker or agent who is or might be entitled to a commission in connection with this Agreement, and the parties agree to indemnify and hold one another harmless from and against all claims for any such commissions.

32. WAIVER.

32.1 No waiver or modification of the terms and conditions contained herein shall be effective unless in writing and duly signed by an officer or agent authorized to act on behalf of the waiving party. The failure of either Hawks Cay Resort or Licensee to insist in any one or more instances upon the strict performance of any one or more of the obligations of this Agreement, or to exercise any right or election herein contained, shall not be construed as a waiver or relinquishment for the future of the performance of such or more obligations of this Agreement or of the right to exercise such election, but the same shall both continue and remain in full force and effect with respect to any subsequent breach, act or omission. No payment by Licensee or receipt by Hawks Cay Resort of a lesser amount than that which is owed, shall be deemed to be other than on account of the earliest amount then unpaid, nor shall any endorsement or statement on any check or any letter accompanying any check or payment, be deemed an accord and satisfaction, and Hawks Cay Resort may accept such check or payment without prejudicing Hawks Cay Resort's right to recover the balance of such fee or pursue any other remedy provided in this Agreement.

33. NO ESTATE BY LICENSEE.

33.1 This Agreement shall create the relationship of Licensor and Licensee between Hawks Cay Resort and Licensee, and no estate shall pass out of Hawks Cay Resort. Licensee has only a right to use the Premises, Parking Lots and/or any appurtenances thereto, as set forth in this Agreement, not subject to levy or sale and not assignable by Licensee except as expressly provided in this Agreement.

34. ENTIRE AGREEMENT.

34.1 This Agreement contains the entire agreement between the parties hereto and all previous negotiations leading hereto, and no agent, representative, salesman or officer of Hawks Cay Resort has authority to make or has made any statement, agreement or representation, either oral or written, in connection herewith, which would modify or change the terms and conditions set forth in this Agreement (except for Rules and Regulations which may be amended from time to time).

35. GOVERNING LAW; VENUE; JURISDICTION.

35.1 This Agreement and all transactions contemplated by this Agreement will be governed by, and construed and enforced in accordance with, the laws of the state of Florida without regard to principles of conflicts of law. The parties acknowledge that a substantial portion of the negotiations, anticipated performance and execution of this Agreement occurred in Monroe County, Florida. Any permitted civil action, or legal proceeding with respect to this Agreement will be brought only in the courts of record within the 16th Judicial Circuit in and for Monroe County, Florida (Marathon Division) or, the United States District Court, Southern District of Florida. Each party consents to the jurisdiction of such Florida court in any civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such Florida court.

36. ATTORNEY'S FEES.

36.1 In the event of any action or proceeding brought by either party against the other party under this Agreement, the prevailing party shall be entitled to recover for the fees of its attorneys in such action or proceeding, including costs of appeal, if any, in such amount as the court may adjudge reasonable as attorney's fees.

36.2 In the event that Hawks Cay Resort engages legal counsel – short of filing suit- due to Licensee's failure to pay and/or failure to comply with other terms of this Agreement, Licensee shall be liable to reimburse Hawks Cay Resort for any and all such fees and costs.

36.3 If Hawks Cay Resort is made a party to any litigation instituted by or against the Licensee, by any third party, the Licensee shall indemnify Hawks Cay Resort against and save it harmless from all costs and expenses, including reasonable attorney's fees, incurred in connection therewith.

37. HEADINGS AND INTERPRETATION.

37.1 The article and section captions contained in this Agreement are for convenience only and do not in any way limit or amplify any terms or provisions of this Agreement. The terms "Hawks Cay Resort" and "Licensee" as used in this Agreement shall include the plural as well as the singular, the neuter shall include the masculine and feminine genders and, if there be more than one Licensee, the obligations imposed on Licensee under this Agreement shall be joint and several.

37.2 This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

38. SEVERABILITY.

38.1 If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each provision of this Agreement shall be severable and valid and enforceable to the fullest extent permitted by law

39. NOTICES.

39.1 All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail (in each case, return receipt requested, postage pre-paid). Such communications to Hawks Cay Resort or Licensee shall be delivered at the following addresses:

HAWKS CAY RESORT:

c/o VP Managing Director
61 Hawks Cay Blvd.
Duck Key, Florida 33050

with a copy to:

Richard A. Malafy
Campbell & Malafy
10887 Overseas Highway
Marathon, Florida 33050

LICENSEE:

Dolphin Connection, Inc.
c/o Travis Burke
9600 N Ocean Shore Blvd.
St. Augustine, FL 32080

39.2 Hawks Cay Resort or Licensee may change the address for notifications by sending a written notice to the other party in accordance with this section.

40. FORCE MAJEURE.

40.1 If either party shall be delayed, hindered or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor trouble, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, acts of God (including but not limited to flooding, tropical storms and hurricanes), government or regulatory shut downs, viruses, pandemics or other health concerns, or other reason of a like nature not the fault of the party delayed in performing or doing acts required under this Agreement, the period for the performance of any such act shall be extended for a reasonable period.

41. SUBORDINATION.

41.1 This Agreement, and all rights of Licensee hereunder, are and shall be subject and subordinate to all mortgages which may now or hereafter affect the premises upon which the Resort, Marina, Premises and Parking Lot are located and to each and every advance made or hereafter to be made under such mortgages, and to all renewals, modifications, replacements and extensions of such mortgages, and spreaders and consolidations of such mortgages. This Section shall be self-operative and no further instrument of subordination shall be required to make it effective, however, Licensee shall promptly execute and deliver any instrument reasonably requested to evidence such subordination.

42. ESTOPPEL CERTIFICATE.

42.1 At any time, upon request of Hawks Cay Resort, Licensee shall execute, acknowledge and deliver an instrument, stating, if the same be true, that this Agreement is a true and exact copy of this Agreement between the parties hereto, that there are no amendments hereof (or stating what amendments there may be), that the same is then in full force and effect and that, to the best of its knowledge, there are no offsets, defenses or counterclaims with respect to the payment of fees reserved hereunder or in the performance of the other terms, covenants and conditions hereof on the part of Licensee to be performed, and that as of such date no default has been declared hereunder by either party or if so, specifying the same. Failure to give such a certificate within ten (10) business days after written request shall be conclusive evidence that this Agreement is in full force and effect and Hawks Cay Resort is not in default and in such event, Licensee shall be estopped from asserting any default known to Licensee at that time.

43. ASSIGNMENT.

43.1 Licensee shall not assign, pledge, hypothecate or any other manner attempt to transfer the rights and obligations under this Agreement without the prior written consent of Hawks Cay Resort – which consent may be withheld by Hawks Cay Resort in its sole and absolute discretion.

43.2 Licensee shall not permit the use of the premises by any person other than Licensee, without the written consent of Hawks Cay Resort – which consent may be withheld by Hawks Cay Resort in its sole discretion.

43.3 Any sale of stock of Licensee (if a corporation), assignment of partnership interest (if a partnership), assignment of beneficial interest (if a trust), or other device which has the effect of transferring the practical benefits of this Agreement from the parties currently controlling Licensee, shall be a prohibited transfer.

43.4 Any purported assignment or other attempted transfer in violation of this Section shall be null and void.

43.5 No assignment or other attempt to transfer by Licensee, even if approved by Hawks Cay Resort, shall relieve the Licensee of any of its obligations hereunder.

43.6 Notwithstanding the foregoing, (and if Hawks Cay Resort does not exercise its absolute right to terminate as set forth herein) Hawks Cay Resort shall have the right to assign this Agreement in connection with the sale or transfer of the Hawks Cay Resort, its business operations, and/or the real property located at 61 Hawks Cay Boulevard, Monroe County, Florida 33050, at which point Hawks Cay Resort shall be relieved of all obligations hereunder.

44. NO THIRD PARTY BENEFICIARIES.

44.1 This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall

confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

45. WAIVER OF JURY TRIAL.

45.1 EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, AND, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY.

46. COUNTERPARTS.

46.1 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

47. TRADEMARK.

47.1 The Hawks Cay Resort name and logo are registered trademarks belonging to Hawks Cay Resort Licensee shall not use either the name or logo. Licensee shall only be entitled to utilize the name "Hawks Cay Resort" when describing where Licensee's business is located- but shall make clear that Licensee is not affiliated in any other manner with Hawks Cay Resort.

48. RELATIONSHIP OF HAWKS CAY RESORT AND LICENSEE.

48.1 With respect to the performance of the duties and obligations arising under this Agreement, nothing in this Agreement is intended nor shall be construed to create a partnership, an employer/employee relationship, a joint venture relationship, franchisor and franchisee, or master and servant relationship between Hawks Cay Resort and Licensee. It is understood, intended and agreed that neither the method of computation of fees, nor any other provision contained herein, nor any acts of the parties hereto creates a relationship other than the relationship of Licensor and Licensee.

48.2 It is Licensee's duty to make sure that all of Licensee's employees, agents, customers, clients, guests, and invitees and the general public are informed that Licensee is in no way affiliated with Hawks Cay Resort. Licensee shall post on all signs, advertisements (including social media- websites, Facebook, Twitter, etc.) waivers, releases and other things provided to its employees, agents, customers, clients, guests, and invitees and the general public that it is not

affiliated with Hawks Cay Resort in any manner whatsoever. Licensee shall not represent, communicate or imply in any advertising, literature, announcement or by any other means that it is in any manner whatsoever affiliated with Hawks Cay Resort. It is the strict and absolute intent of the parties to this agreement that Licensee is solely acting as an independent contractor.

48.3 Hawks Cay Resort shall not be liable for any obligations incurred by Licensee.

48.4 Licensee shall not act as an agent of Hawks Cay Resort, in any manner, nor bind Hawks Cay Resort in any manner.

49. RADON GAS.

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

50. AMENDMENTS.

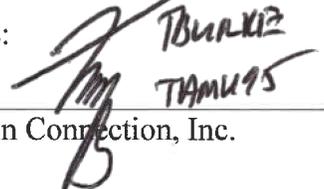
50.1 No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with same or similar formality as this Agreement and executed by an authorized representative of Hawks Cay Resort and Licensee.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed this ____ day of October _____, 2021.

HAWKS CAY RESORT:



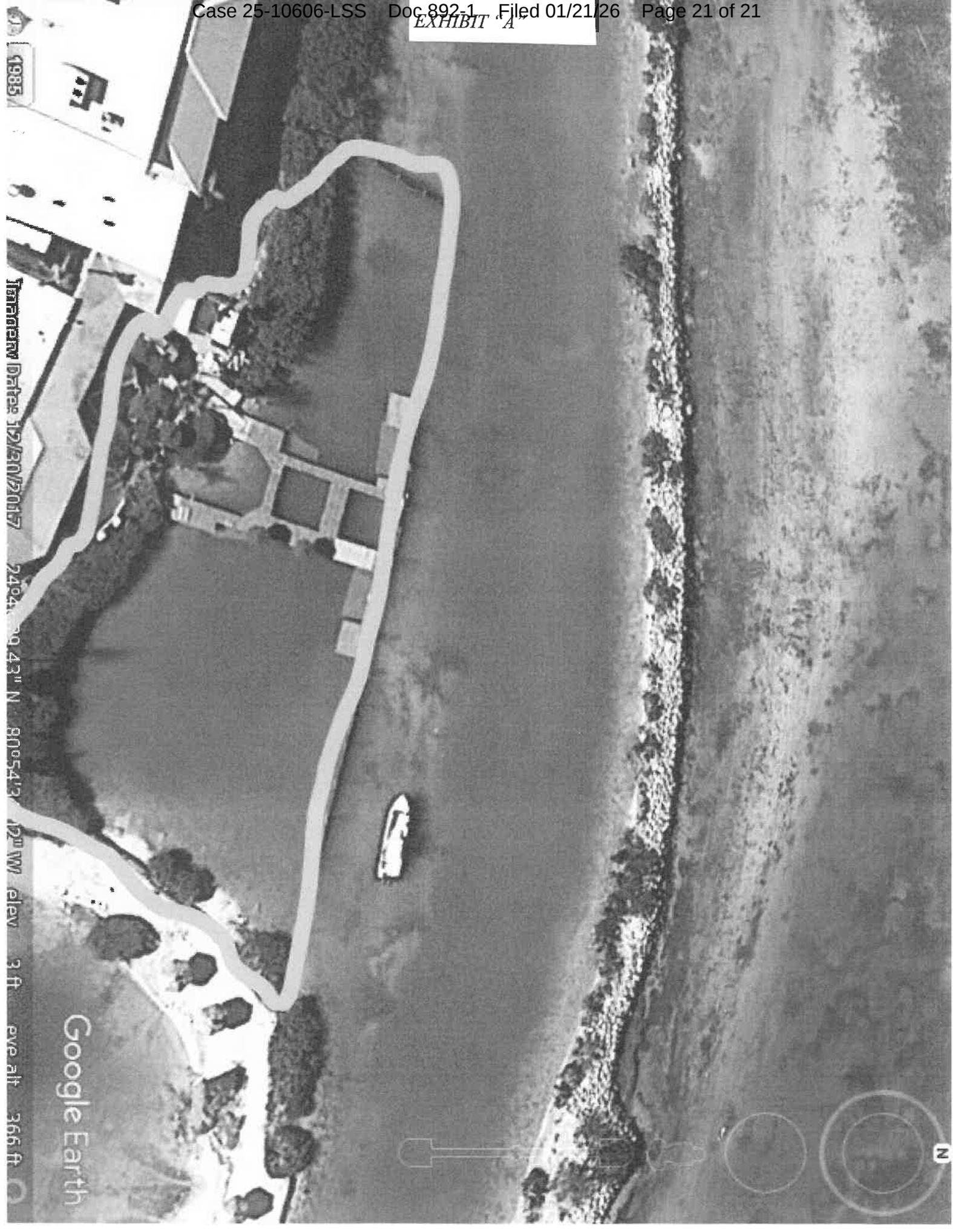
By: Justin Epps
Its: Vice President

LICENSEE: 

By: Dolphin Connection, Inc.

***Personal Guarantee Required if Licensee is a corporation.**

EXHIBIT A



1985

Timestamp Date: 12/30/2017

24°24'39.43" N 80°54'12" W elev 3 ft eye alt 366 ft

Google Earth

2

EXHIBIT "B"

Keys Hotel Operator, Inc.

CWI Keys Hotel, LLC (Delaware Corporation)

Merritt Hospitality LLC

HEI Merritt Hospitality LLC

PERSONAL GUARANTY OF LICENSE AGREEMENT

In consideration of and as an inducement to Keys Hotel Operator, Inc., d/b/a Hawks Cay Resort (“Hawks Cay Resort” and/or “Licensor”) to enter into a certain License Agreement dated October____, 2021 (“License Agreement”), between Hawks Cay Resort, and Dolphin Connection, Inc. (“Licensee”), in reliance on this guaranty of _____ (“Guarantor”), who does hereby unconditionally guarantee the due and punctual payment of all sums due (including interest and penalties) to be paid by Licensee pursuant to the License Agreement and the performance by Licensee of all the terms, conditions, covenants and agreements of the License Agreement, and Guarantor jointly and severally agrees to pay all of Licensor's costs, expenses and reasonable attorney's fees incurred in enforcing the covenants and agreements of Licensee in and relation to the License Agreement or those incurred by Licensor in enforcing this guaranty.

Guarantor waives notices of the acceptance of this agreement, presentment, protest, notice of protest and all demands for performance and all notices of nonperformance which might otherwise be a condition precedent to the liability of Guarantor under this agreement, and Guarantor covenants and agrees that Licensor may proceed directly against Guarantor, without first proceeding or making claim or exhausting any remedy against Licensee or pursuing any particular remedy or remedies available to Licensor.

Guarantor covenants and agrees that, without releasing, diminishing, or otherwise affecting the liability of Guarantor under this agreement or the performance of any obligation contained in this agreement, and without affecting the rights of Licensor, Licensor may, at any time and from time-to-time, and without notice to or further consent of Guarantor:

(a) make any agreement extending or reducing the term of the License Agreement or otherwise altering the terms of payment of all or any part of the amounts due thereunder, or granting any indulgences with respect to the terms of payment, or modifying or otherwise dealing with the License Agreement;

(b) exercise or refrain from exercising or waiving any right Licensor might have;

(c) accept security of any kind from Licensee;

(d) consent to any assignment or subletting in accordance with the License Agreement by Licensee, its successors and assigns, made with or without notice to Guarantor;

(e) consent to a changed or different use of the Licensed premises (as defined in the License Agreement); and,

Guarantor agrees that in the event of any one of the following:

(a) Licensee shall become insolvent or shall be adjudicated a bankrupt;

(b) Licensee shall file a petition for reorganization, arrangement or similar relief under any present or future provision of the Bankruptcy Code;

(c) such a petition filed by creditors of Licensee shall be approved by a court;

(d) Licensee shall seek a judicial readjustment of the rights of its creditors under any present or future federal or state law; or

(e) a receiver of all or part of its property and assets is appointed by any state or federal court, and in any such proceeding the License Agreement shall be terminated or rejected or the obligations of Licensee under it shall be modified, then Guarantor will immediately pay to Licensor, or its successors or assigns: (i) an amount equal to all fees accrued to the date of the termination, rejection or modification; plus (ii) an amount equal to the then cash value of all fees which would have been payable under the License Agreement for the unexpired portion of the term thereby demised, less the then cash rental value of the licensed premises for the unexpired portion of the term, together with interest on the amounts designated in (i) and (ii) above at the highest rate then payable in the state of Florida per annum from the date of the termination, rejection or modification to the date of payment.

Neither Guarantor's obligations to make payment in accordance with the terms of this agreement nor any remedy for the enforcement of it shall be impaired, modified, changed, released or limited in any manner whatsoever by any impairment, modification, change, release, or limitation of the liability of Licensee or its estate in bankruptcy or of any remedy for the enforcement thereof resulting from the operation of any present or future provision of the national Bankruptcy Act or from the decision of any court.

This guaranty of License Agreement shall be binding on the successors and assigns of Guarantor and each of them and inure to the benefit of the successors and assigns of Licensor (including any assignee of the License Agreement).

Guarantor has caused this agreement to be executed and notarized November_____, 2021.

(printed name of guarantor)

(signature of guarantor)