

ADDENDUM TO AOB

This Addendum to AOB (this "Addendum") supplements, is incorporated into, and made a part of the Assignment of Benefits dated _____ (the "Agreement") by and between Orchid Cove Condominium Association, Inc. (the "Association") and SFR Services, L.L.C. d/b/a Southern Florida Restoration (the "SFR") and shall be effective as of the ____ day of _____, 2020.

1. **THE CLAIM.** SFR shall be solely responsible, financially and otherwise, for all investigations, inspections and reports in preparation of an insurance claim, preparation of the insurance claim, and submitting the insurance claim to the Association's insurance carrier or carriers, as appropriate, in connection with anticipated damages to any roof or roof system within Orchid Cove, a Condominium, arising out of Hurricane Irma (the "Claim" or "Claims"). The Association and SFR acknowledge and agree that the Association will not be responsible for any costs or expense incurred by SFR, or anyone furnishing labor, materials or services at the direction of SFR or on behalf of SFR, in the preparation or submission of any Claim or Claims and that any financial responsibility, whatsoever, of the Association in connection with or arising out of the Agreement shall be limited solely to insurance proceeds disbursed by the Association's insurance carrier or carriers in connection with any Claim or Claims unless the Association and SFR agree, in writing, to any additional charges in advance of such additional charges being incurred.

2. **THE WORK.** Upon acceptance or approval of any Claim or Claims, SFR, shall prepare all necessary plans, drawings, and/or specifications and develop the means and methods for removing and replacing any and all portions of any roof or roof system within Orchid Cove, a Condominium, in accordance with all applicable codes and ordinances and subject to any accepted or approved Claim or Claims (the "Work"). SFR recognizes and agrees that the plans, drawings, and/or specifications are subject to, and limitations may be imposed upon the Work, by requirements of the Association's insurance carrier or carriers and limitations imposed by Chapter 718, Florida Statutes (the "Condominium Act") and the Declaration of Condominium of Orchid Cove, a Condominium, which may require participation and/or approvals by the Association, its membership, and/or the Association's insurance carrier or carriers.

3. **SELECTION OF CONTRACTOR.** The Association and SFR shall mutually agree upon a roofing company (the "Roofing Contractor") to perform the Work.

4. **PAYMENT PROCEDURES.** Notwithstanding anything contained in the Agreement to the contrary, no payments shall be due SFR unless and until approved or released by the Association's insurance carrier or carriers in connection with any Claim or Claims. The Association and SFR acknowledge and mutually agree that the Roofing Contractor shall look solely to SFR for payment for any labor, services or materials furnished by, or on behalf of, the Roofing Contractor to Orchid Cove, a Condominium, and that SFR shall enter into a contract with the Roofing Contractor prior to commencement of the Work that includes provision for the Roofing Contractor looking solely to SFR for payment for any labor, services or materials furnished by, or on behalf of, the Roofing Contractor to Orchid Cove, a Condominium. SFR further agrees that SFR shall not release any payment to the Roofing Contractor unless and until the Roofing Contractor furnishes the Association an executed WAIVER AND RELEASE OF LIEN UPON PROGRESS PAYMENT from the Roofing Contractor and any subcontractor or supplier to Roofing Contractor in accordance with Section 713.20, Florida Statutes. SFR further agrees that final payment shall not be due the Roofing Contractor unless and until the Roofing Contractor furnishes the Association an executed WAIVER AND RELEASE OF LIEN UPON FINAL PAYMENT from Roofing Contractor and any subcontractor or supplier to Roofing Contractor, in accordance with Section 713.20, Florida Statutes. Additionally, SFR agrees that the Roofing Contractor shall not be entitled to final payment unless and until the Roofing Contractor has furnished the Association a fully executed CONTRACTOR'S FINAL PAYMENT AFFIDAVIT in accordance with Section 713.06, Florida Statutes.

5. **SUPERVISION OF WORK.** SFR shall supervise and direct the Work, using SFR's best skill and attention. SFR shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work. SFR shall be responsible to the Association for acts and omissions of the Roofing Contractor's employees, subcontractors and their agents and employees, and other persons performing portions of the Work at the direction of SFR or for the benefit of SFR. SFR shall enforce strict discipline and good order among the Roofing Contractor's employees and other persons carrying out the Work. SFR shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. SFR warrants to the Association that materials and equipment furnished in the Work will be of good quality and new unless otherwise required or permitted by the Association, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of any approved Claim or Claims. SFR shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Work.

By appropriate agreement, written where legally required for validity, SFR shall require the Roofing Contractor and each subcontractor, to the extent of the Work to be performed by the subcontractor, to be bound to SFR by terms of the Agreement, and to assume towards SFR all the obligations and responsibilities which SFR, under the Agreement, assumes toward the Association.

SFR shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- 1 employees on the Work and other persons who may be affected thereby;
- 2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of SFR, the Roofing Contractor or any subcontractors or sub-subcontractors; and
- 3 other property at Orchid Cove, a Condominium, or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

6. **CHANGES.** Changes in the Work may be accomplished after execution of the Agreement, and without invalidating the Agreement, only by written Change Order, in the form attached hereto, signed by the Association and SFR, and any insurance carrier if applicable, in advance of commencing or furnishing such change and when so made, the value of the work or materials added or omitted and any extension or deduction from the time of completion necessitated thereby shall be computed and determined by SFR, subject to the written approval and acceptance by the Association.

7. **CORRECTION OF WORK.** SFR shall promptly correct all Work rejected by the Association, or its insurance carriers, and any Work failing to conform to the requirements of any approved Claim or Claims or the Contract Documents, whether observed before or after completion and whether or not installed, in place or completed. SFR shall bear the costs of correcting such rejected or nonconforming Work, including additional testing and inspections and compensation for any consulting Engineer's services and expenses made necessary thereby. SFR shall commence correction of nonconforming Work within five (5) calendar days after the date of written notice from the Association. If, within one year after completion of the Work or designated portion thereof, any of the Work is found to be not in accordance with the requirements of any approved Claim or Claims or the Contract Documents, SFR shall correct it promptly after receipt of written notice from the Association. This period of one year shall be extended with respect to portions of Work first performed after completion by the period of time between completion and the actual performance of the corrected work. This obligation under this subparagraph shall survive acceptance of the Work and termination of the Agreement. The Association shall give such notice promptly after discovery of the condition. SFR shall remove from Orchid Cove, a Condominium, portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by SFR nor accepted by the Association. If SFR fails to correct nonconforming Work within a reasonable time, the Association may correct it at SFR's expense. If SFR does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Association, the Association may remove it and SFR agrees to pay the Association for all costs incurred therewith. If the Association prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Association may do so instead of requiring its removal and correction, in which case any payments due, or to become due, to SFR be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

8. **INSURANCE.** SFR shall secure, pay for, and maintain such liability and other insurance coverage as appropriate for the Work being performed, including CGL coverage in an amount of at least \$1 million with pop-up coverage, and as will provide protection from claims which may arise as a result of SFR's or the Roofing Contractor's performance of the Work for the following: claims under workers' compensation, disability benefits or other similar employee benefits acts; claims for damages because of bodily injury, occupational disease or sickness, or death of SFR's or the Roofing Contractor's employees; claims for damages because of bodily injury, occupational disease or sickness, or death of persons other than SFR's employees; claims for damages insured by reasonably available personal injury liability coverage which are sustained by any person as a result of an offense directly or indirectly related to the employment of such person by SFR or by any other person for any reason; claims for damages other than to the Work itself because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle. Prior to commencing any Work, SFR and the Roofing Contractor shall furnish the Association certificates of coverage for such insurance, which name the Association as an additional insured under such policies. These certificates and the insurance policies required by this paragraph shall contain a provision that coverages afforded under

the policies shall not be canceled or allowed to expire until after at least thirty (30) days' prior written notice has been given to the Association.

9. **INDEMNITY.** To the fullest extent permitted by law, SFR shall indemnify and hold harmless the Association, its agents, officers, directors, management and employees, or any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees and court costs, arising out of or resulting from SFR's or the Roofing Contractor's performance or non-performance of the Work, but only to the extent caused in whole or in part by negligent acts or omissions of SFR or the Roofing Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. In claims against any person or entity indemnified under this paragraph by an employee of SFR or the Roofing Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this paragraph shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for SFR or the Roofing Contractor or a subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts SFR acknowledges that ten (\$10.00) dollars has been included in the Contractor's bid, which represents the cost to the Association for the provision of the indemnification required in accordance with this paragraph. SFR and the Association agree that any such indemnification shall not exceed \$1 million.

10. **LIENS.** SFR will save and keep Orchid Cove, a Condominium, and all portions of the Work, free from all mechanic's or construction liens by the Roofing Contractor and any subcontractors, suppliers or laborers. If SFR fails to remove such lien(s) by bonding or otherwise within thirty (30) days or if SFR files a lien against Orchid Cove, a Condominium, or any portion of the Work, the Association may retain sufficient funds, out of any money due or thereafter to become due to SFR to pay the same, including reasonable attorney's fees and the cost of any lien bonds that the Association may elect to obtain.

11. **SUCCESSORS AND ASSIGNS.** The Association and SFR respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Neither party shall assign the Agreement as a whole without written consent of the other. In case SFR, on written consent of the Association, assigns all or any part of any money due or to become due SFR, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee to any money due or to become due SFR shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work.

12. **GOVERNING LAW.** The Agreement, including this Addendum, and all Contract Documents, shall be governed by the laws of the State of Florida. Jurisdiction and venue for any action involving a dispute arising under the Agreement, including this Addendum, and all Contract Documents, or any action interpreting or enforcing any provision of the Agreement, including this Addendum, and all Contract Documents, shall lie exclusively in a court of competent jurisdiction located in Manatee County, Florida.

13. **DISPUTE RESOLUTION.** All disputes arising under the Agreement, including this Addendum, and all Contract Documents, or in any way arising out of the Work shall be resolved through litigation. The prevailing party in any such action shall be entitled to collect from the other party its reasonable attorneys' fees, including paralegal fees and appellate attorneys' fees, and costs incurred in prosecuting or defending any such action. The prevailing party shall be deemed to be the party who recovers a net recovery, or has the Agreement, including this Addendum, and all Contract Document, interpreted or enforced in its favor or consistent with its position in the litigation.

14. **TERMINATION.** Either the Association or SFR may terminate the Agreement for cause upon thirty (30) calendar days' written notice to the other party. Before terminating for cause, the party seeking to terminate for cause shall provide the other party written notice of the specific default and an opportunity to cure. If the default is not cured to the satisfaction of the non-defaulting party within five (5) business days of demand, or commencement of cure is not undertaken and diligently pursued in the case where cure is not possible in five (5) days, then, by additional written notice at least thirty (30) calendar days' after the initial notice, the party seeking to terminate for cause shall advise the defaulting party that the Agreement is terminated. If termination by the Association, then SFR shall be entitled to payment for all Work in place and approved for payment by the Association's insurance carrier or carriers from insurance proceeds available as a result of a Claim or Claims through the date of termination. If termination by SFR, the Association may withhold any payment or payments approved by the Association's insurance carrier or carriers from insurance proceeds available as a result of a Claim or Claims until all Work is final and complete and may set off any payment or payments approved by the Association's insurance carrier or carriers from insurance proceeds available as a result of a Claim or Claims.

15. **CONTRACT DOCUMENTS.** The Agreement, this Addendum, any plans, drawings, and/or specifications for the Work, any approvals or requirements of any insurance carrier for any Claim or Claims, and subsequent modifications or change orders (collectively, the "Contract Documents") constitute the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter thereof, whether oral or written. No change, waiver or modification of the provisions of the Contract Documents shall be valid unless in writing and signed by both the Association and SFR.

16. **PRIORITY OF DOCUMENTS.** To the extent there shall be an inconsistency or conflict between this Addendum and the Agreement or any other of the Contract Documents, then this Addendum shall control and govern the Agreement and any other Contract Documents.

17. **SEVERABILITY.** If any part or portion of the Contract Documents is, for any reason, held or declared to be inoperative, unenforceable or void, it is the intent of the parties that the remainder of the Contract Documents, after exclusion of such inoperative, invalid or unenforceable part, shall remain valid and enforceable as if such excluded part had never been included.

18. **NOTICES.** Any and all notice to be provided in connection with the Contract shall be provided by U.S. mail, return receipt requested, as follows:

To the Association: Orchid Cove Condominium Association, Inc.
c/o Progressive Community Management , Inc.
3701 South Osprey Avenue
Sarasota, Florida 34239

To the Contractor: SFR Services, L.L.C. d/b/a Southern Florida Restoration
2336 SE Ocean Boulevard #279
Stuart, Florida 34996

ASSOCIATION

SFR

As its: _____

As its: Ricky McGraw, President

Date: _____

Date: 6/23/2020