

All services performed by Fractional Villas, Inc., Inc. ("FVI") are provided on and subject to the following terms and conditions.

WHEREAS, FVI, among other activities, provides consulting services for the fractionalization of property, as defined herein ("Services"). Client requires FVI consulting services and desires to hire FVI, and FVI agrees to provide the consulting services on the terms and conditions set forth in this agreement ("Agreement").

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree to the following:

1. Services To Be Performed By FVI. FVI agrees to provide and complete the Services that are listed on the PayPal invoice for those itemized services that have been paid for by Client ("Scope of Work"). FVI shall perform all Services in a reasonable timeframe, typically completed or delivered within 10 days of order. Client will be provided the opportunity to approve all work product produced by FVI. Changes to any completed Service, or Scope of Work will incur an extra charge to be quoted by FVI. Certain Services may require the purchase of associated services, or items for completion. Client will be notified if this is required once the Scope of Work is received and paid for by Client. FVI reserves the right to refuse any order, or listing, and provide an immediate refund. Any changes to this Agreement or to the Scope of Work must be in writing signed by duly authorized representatives of Client and FVI that expressly references this Agreement and/or the Scope of Work. Neither the Agreement nor the Scope of Work may be changed, waived, modified, discharged, or otherwise terminated unless mutually agreed to by both FVI and the Client. FVI is solely responsible for choosing the manner and methods of performing the Services and the performance of such Services by its employees, agents, and/or independent contractors.
2. Warranty. FVI warrants that the design, creative work, material, analysis, data, programs, and Services provided pursuant to this Agreement will be performed by qualified personnel. In the event FVI subcontracts the performance of any of the Services, FVI further warrants that all subcontractors shall be paid in full for their services and shall be bound by the terms of this Agreement. Client agrees that FVI has not and does not make any other warranties or representations whatsoever, express or implied, with respect to any Services performed hereunder. FVI expressly disclaims all other warranties, including without limitation, those of accuracy, condition, merchantability, and fitness for a particular purpose. Client accepts this disclaimer of warranty and shall not take any action contrary to such disclaimer.
3. Disclaimer of Legal Advice. In the course of providing such Services, FVI may give business advice or an opinion regarding the fractional sale of the property owned of the Client. However, Client is hereby put on notice that FVI is not a law firm, it does not engage in the practice of law, and it does not render any legal advice. Therefore, Client is hereby advised to seek its own legal counsel regarding any legal issues relating to its business, including issues relating to Services to be performed under this Agreement. If Client purchases FVI proprietary and comprehensive legal document package ("Legal Documents") for the sale of Undivided Interests in the Client's property, and such Legal Documents require personalization, or any legal advice, then such services will be provided by an attorney recommended to Client by FVI, licensed to practice law, under direct contract for legal services to the Client.
4. Compensation. Client agrees to fully pay FVI the amount charged on the PayPal invoice(s) and/or for any additional services ordered, requested by Client, or incurred by FVI at the direction of Client, including any related expense reimbursement upon receipt of any such invoice and/or reimbursement request. Any payment which is past due shall be subject to an additional charge at the rate of 1.5% per month of the outstanding balance due or the highest rate of interest permitted by applicable law. In the event that any payment due FVI is collected at law or through, or under advice from, an attorney-at-law, or through a collection agency, Client agrees to pay all costs of collection, including without limitation, all court costs and reasonable attorney's fees.
5. Confidentiality. Client acknowledges and agrees that Client has and will have access to and will come into contact and learn various technical and non-technical trade secrets ("Trade Secrets") and other confidential information, that are the property of the FVI (collectively, the "Confidential Information"). FVI and Client acknowledge and agree that Client is being provided access to such Trade Secrets and Confidential Information, subject to and solely based upon Client's agreement to the covenants set forth in this Agreement and Client would not otherwise be afforded access to such information.
6. Confidential Information. Confidential Information shall be defined as information related to the marketing, sale, ownership and use of undivided interests in real property includes, but is not limited to: (i) forms, documents, contracts, research methods, methods of compiling real estate information, methods of creating FVI's database, procedures, devices, data processing programs, software, computer models, and other means used by the FVI in the conduct of its business; (ii) product formulations, strategies and plans for future business, new business, product or other development, new and innovative product ideas, potential acquisitions or divestitures, and new marketing ideas; (iii) information with respect to costs, commissions, fees, profits, sales, markets, sales methods and financial information; (iv) mailing lists, the identity of FVI's customers, advisors, representatives, distributors, and suppliers and their names and addresses, the names of potential buyers and their agents and/or brokers, the amounts paid by such individuals to FVI, specific needs and requirements of such individuals, and leads and referrals to prospective property purchasers; (v) the structure, sequence, and organization of the FVI's services; and (vi) the identity of the FVI's consultants, their respective salaries, bonuses, benefits, qualifications and abilities; all of which information Client acknowledges and agrees is not generally known or available to the general public, but has been developed, compiled or acquired by the FVI at great effort and expense. Confidential Information can be in any form: oral, written or machine readable, including electronic files. For purposes of this Agreement, the definition of the "Client" includes, if applicable, the Client, its legal parent entity, its subsidiaries, its parent's wholly owned subsidiaries, its members, its stockholders, its employees, its executors, its directors, its trustors, its trustees, its officers, its administrators, its legatees, its distributees, any other successors in interest. "Confidential Information" shall not include information that (a) was in the public domain when the disclosing party granted access to the receiving party; (b) entered the public domain through no fault of the receiving party subsequent to receipt; (c) was in a receiving party's possession free of any obligation of confidence at the time of the disclosure by the disclosing party; (d) was rightfully communicated by a third party to a receiving party free of any obligation of confidence subsequent to the time of the originating party's communication thereof to the receiving party; (e) was developed by employees or agents of a party independently of and without knowledge or reference to any Confidential Information; (f) is approved for release by written authorization from the originating party; or (g) is required to be disclosed

pursuant to any statute, law, rule or regulation of any governmental authority or pursuant to any order of any court of competent jurisdiction, but in any case, the originating party will be immediately notified by the receiving party before disclosure and given a reasonable opportunity to obtain a protective order or other form of protection.

7. Prohibited Uses of Confidential Information. Client agrees to treat all Confidential Information in a secret and confidential manner and agrees not to reproduce or copy any of such Confidential Information without FVI's written consent. This obligation of confidentiality shall survive termination of this Agreement for a period of three (3) years.
8. Intellectual Property. Client and FVI acknowledge that the other has certain intellectual property rights that may be revealed or provided to the other party in accordance with this Agreement. Each party acknowledges that this Agreement does not grant any right or title of ownership in their respective intellectual property rights to the other unless specifically provided in this Agreement. Any intellectual property shall remain the originator's property unless otherwise provide herein.
9. Reproduction of Materials. FVI owns the copyright to any and all original materials produced by FVI, including flyers, cost comparison sheets, signs, posters, banners, brochures, logos, copywriting, WebPages, newsletters, print advertising, press releases, audio and video productions, studies, evaluations, analyses, budgets, price lists, furnishings schedules, legal agreements and documents, reservation and scheduling systems, and training materials. In exchange for the full payment of all invoices for services provided by FVI under the Scope of Work, a limited license is granted to the Client to use any materials produced, or provided to Client by FVI under the Scope of Work, for the specific property that the material relates to. The Client will have no right to use any of the materials provided by FVI for use in the promotion, marketing, sales, or legal documentation of any other property. Such usage will be considered a violation of this limited license grant and the copyright of FVI. FVI shall be entitled to full statutory damages for each such copyright violation.
10. Independent Contractors. It is the express intention of the parties that FVI is an independent contractor and not an employee, agent, joint venturer, or partner of Client. Nothing in this Agreement shall be interpreted or construed to create or establish the relationship of employer and employee between Client and FVI or any employee or agent of FVI. Since FVI is an independent contractor to Client, FVI shall retain the right to perform services for other parties during the term of this Agreement. Neither party shall have the power, nor shall either party represent that it has the power, to bind the other party to or to assume or create any obligations, express, or implied, on behalf of the other party. Client will not provide fringe benefits, including, but not limited to, life, disability, and health insurance, paid vacation, worker's compensation, or any other employee benefits, for the benefit of FVI's employees, agents, or independent contractors.
11. Indemnification and Hold Harmless. Client agrees to indemnify, defend, and hold harmless FVI its agents, employees or any other person from and against any and all claims, actions, suits, government actions, liabilities, costs, loss and expense (including attorneys fees), sustained by any entity, person or persons, brought against either Client, or FVI, or both parties, by Client's customers, buyers of Client's property, or any other third parties, that arise out of, as a consequence of, or as a result of or from (a) the promotion, marketing, advertising, or sale of the or result from fractional sale of the property owned of the Client; or (b) the sale of the Clients property to one or more owners, parties or entities; or, (c) FVI's performance of its obligations and or Services under this Agreement; or, (d) as a result of any negligent or willful acts, omissions, or responsibilities of the Client, its employees, agents, or independent contractors; or, (e) an account of damage to property arising out of or in consequence of this agreement, whether such injuries to persons or damage to property are due or claim to be due to any active or passive negligence of FVI. It is further understood and agreed that the Client shall (at the option of FVI) defend FVI with appropriate counsel, and shall further bear all costs and expenses, including the expense of counsel, in the defense of any suit arising hereunder. Client's choice of legal counsel must be acceptable to FVI in FVI's reasonable discretion.
12. Limitation of Liability.
  - a. Notwithstanding Clause 11, above, Client agrees that neither FVI nor any of its affiliates will be responsible or have any liability whatsoever for any acts, omissions, errors, delays, interruptions, losses, and/or damages in providing or as a result of Services performed pursuant to this Agreement (including, but not limited to, liability for any penalties, fines, fees, and/or expenses incurred by Client directly or indirectly as a result of Services performed by FVI). Client agrees that it has sole responsibility for determining the legality and usability of any information, materials or data contained in the Services performed pursuant to this Agreement.
  - b. However, notwithstanding subparagraph 12.a, Client expressly agrees that in no event shall FVI's liability in connection with any acts, omissions, negligence, errors, delays and/or interruptions relative to the Services exceed the amount of fees charged to Client by FVI under this Agreement for the Services that may have caused, or contributed to any such claim. In no event will FVI be liable to Client for and Client expressly waives any right to damages arising from loss of merchantability and/or special, incidental, consequential, punitive and/or other extraordinary damages of any kind (including, but not limited to, loss of profits or income or claims of Client's customers, buyers or any third party related to Client in any matter, and/or for any fines, or penalties, or loss incurred due to any violation of federal, state or local laws, and/or zoning, whether or not FVI had knowledge that such damages might be incurred, arising out of or relating to any provision in this Agreement (including but not limited to this Clause and Clause 11) or the Services performed and whether based on contract, tort, or any other legal theory. No action, regardless of form, arising out of or in connection with this Agreement (other than an action by FVI for any amount due FVI by the Client) may be brought more than one (1) year after the first to occur of (a) completion of the Services to be performed under this agreement; or, (b) the termination or expiration of this Agreement; or (c) the event giving rise to such cause of action.
13. Assignment. Neither Client nor FVI may assign this Agreement or the obligations created thereby without the prior written consent of the other party, which consent will not be unreasonably withheld. Notwithstanding the foregoing, FVI may assign this Agreement to its parent or a company under common ownership or control with such parent and subcontract with third parties to perform any of its obligations under this Agreement.
14. Binding on Successors. Subject to any restrictions stated in any other provision of this agreement, this Agreement will be binding on and will inure to the benefit of the parties and their respective successors and permitted assigns. None of the provisions of this Agreement are intended to provide any rights or remedies

to any person (including without limitation any employees or creditors of either of the parties hereto), other than the parties and their respective successors and permitted assigns.

- 15. Severability. In the event that any of the provisions of this Agreement should be held invalid or unenforceable by law, such invalidity or unenforceability will not affect the validity or enforceability of any other provision of this Agreement.
- 16. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes any and all prior oral and/or written understandings and agreements. There are no oral or written agreements or understanding between the parties affecting this Agreement or related to the Services performed by FVI.
- 17. Non-Solicitation. Client and FVI agree that any employee or subcontractor of FVI ("Personnel") that was introduced to Client by FVI for the performance of Services under this Agreement shall be solicited for services or employment by Client within three (3) years after the termination of this Agreement.
- 18. Governing Law and Attorney's Fees. The parties knowingly, expressly, and willingly, and as a matter of agreed upon risk allocation and service pricing considerations, agree that all disputes under or relating to this Agreement or otherwise shall be decided in accordance with the substantive laws of the State of California, County of San Diego, without regard to the conflict of any law provisions thereof. Further, the parties agree that jurisdiction and venue with respect to any suit in connection with this Agreement shall reside exclusively in the state or federal courts of San Diego County, State of California, and by executing this Agreement, Client and FVI voluntarily consent to jurisdiction in such court. The prevailing party in any suit under this Agreement shall be entitled to recover its reasonable attorneys' fees, costs, and expenses incurred in connection therewith.
- 19. Early Termination. In addition to termination upon completion of Services, as provided for in Clause 1 of this Agreement, this Agreement may be terminated by either party upon giving thirty (30) days written notice to the other party, or upon the completion of the Services to be performed under the Scope of Work. If the Client terminates the Agreement in accordance with this Clause, Client shall still be obligated to pay FVI for such Services that are rendered up to the time of such termination, plus all expenses FVI has incurred in performing such services, including agreed to travel expenses. The termination of this Agreement shall not affect in any way any right or claim of any party hereto incurred or accruing prior to the date of termination, including without limitation, any right or claim of FVI for compensation payable for services rendered or reimbursable expenses incurred prior to such termination date.
- 20. Amendments/Waivers. Any changes, waivers, modifications, discharges, or termination of any provision of this Agreement must be made in accordance with the terms set forth in Clause 1 above. The failure of either party to enforce at any time any of the provisions of this Agreement will in no way be construed as a waiver of such provision, or in any way to affect the validity of this Agreement or any part thereof or the right of any party thereafter to enforce each and every provision of this Agreement. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.
- 21. Titles and Headings. The titles and headings contained in this Agreement do not constitute part of the Agreement. Such titles and headings are for the purposes of convenience only and do not affect the interpretation of this Agreement.

The undersigned have read and do hereby agree to be bound by the terms of this Agreement.

**Client:**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Property Address: \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Email: \_\_\_\_\_

**Fractional Villas, Inc.**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_

Date: \_\_\_\_\_  
 Title: \_\_\_\_\_

985 Jeffrey Road  
 Del Mar, CA 92014  
 888-U-INDULGE

**Please sign and fax this document to: 858-228-1772**