

# Villas de Palermo Covenants, Conditions and Restrictions

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## Villas de Palermo Covenants, Conditions and Restrictions (CCRs)

This contract is made by Empresa Turistica del Pacifico SA, (ETP), a Nicaraguan corporation and management company, as owner of portions of a unique coastal property aka Villas De Palermo duly registered with number 26,425 at the Public Registration Office in Rivas, AND

Owner \_\_\_\_\_  
of Villa number \_\_\_\_ Villas de Palermo, San Juan del Sur, Nicaragua.

### A. The Parties and the Board

**1. ETP.** ETP is a Nicaraguan SA (corporation). ETP is the management company for the property known as "Villas de Palermo" and the hotel operation branded as "Palermo Hotel and Resort at Villas de Palermo". ETP manages and maintains the property and the hotel operation, and until the expiration of ETP's certification under Nicaraguan Tourism Law 306, in compliance with that Law which is binding on the company until September 2017. ETP also owns the common property at Villas de Palermo, in trust for the Owners who are the Shareholders of ETP.

**2. ETP Board of Directors.** ETP is administered by a five (5) person Board of Directors, elected by the Owners. The Board of Directors operates ETP in the best interests of Owners who own ETP.

**3. Owner.** The Owners of the 50 Villas at Villas de Palermo are shareholders in ETP and, as such, elect the Board that administers ETP and supervises the management of Villas De Palermo.

### B. Purpose and Declaration

**1. Purpose.** The purpose of this contract is to perpetuate the rich variety of this coastal, pastoral, and tropical dry forest environment for the benefit of all who own property within Villas de Palermo and to define and memorialize the legal relationship and agreements between and the Parties.

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**2. Summary of Duties.** ETP, under the direction and authority of the Board of Directors, shall enforce and manage these covenants, conditions and restrictions for the benefit of the Owners. The Board of Directors has the responsibility and authority to administer these covenants, conditions and restrictions, as well as the authority to assess fees and develop policies in accordance with the provisions herein. Owner shall observe the agreements stated herein and promote the joint purposes described herein.

**3. Declaration of Parties.** The Parties declare that all of the real property located in the development, described as follows: *ETP property, all as shown on maps # 304940-000 (00109) filed in the Office of CATASTRAL in Rivas*, is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the covenants and restrictions set forth in this declaration, all of which are declared, established, and agreed upon for the purpose of enhancing and perfecting the value, desirability and attractiveness of said real property, and shall be binding upon and accrue to the benefit of ETP and each Owner, and each successor in interest. ETP will perform the day-to-day operations, and until the expiration of ETP's certification under Nicaraguan Tourism Law 306, in compliance with that Law which is binding on the company until September 2017.

## C. Use and Restrictive Covenants

(1) ETP shall have the right at any time, when an Owner is not on premises, to enter a Villa for the purpose of maintaining such Villa and the surrounding area or otherwise enforcing the restrictions set forth. When an Owner is on premises ETP shall obtain permission to enter, which may not be unreasonably withheld.

(2) The Villas shall be used exclusively for residential purposes and as vacation rentals and ETP shall set reasonable occupancy limitations.

(3) In each calendar year, and unless otherwise contractually agreed to between Owner and ETP, neither Owner nor Owner's designee shall occupy

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Owner's unit in excess of 109 days a year, whether consecutive or otherwise.

(4) Owner will make Owner's unit(s) available for rent through ETP when not occupied by Owner or his guest, no less than 70% of the year (256 days).

(5) Neither Owner nor his agent shall advertise using the brand "Villas de Palermo" through local newspapers, internet, with real estate agents or by any other means. Violations will be reviewed by the Board and appropriate remedial action is authorized to assure compliance with this provision.

(6) Personal belongings shall be stored in the "bodega" (Owner storage closet) and the Owner shall be responsible to lock the bodega prior to departure and maintain keys.

(7) ETP will make every effort to accommodate an Owner's stay in his Villa; however there is no guarantee of a particular unit being available. The Parties agree that early notice of intent increases the likelihood of availability.

(8) No activity or use shall be allowed which is a nuisance or causes unreasonable embarrassment, disturbance, or annoyance to guests of the hotel or other Owners in the enjoyment and use of their Villa, or in their enjoyment and use of common area.

(9) No animals may be maintained on the property by renters. Pets are not allowed in common areas. Owners may bring their household pet when staying in their Villa, however, additional fees for cleaning may be assessed, to clean Villas occupied by pets. Owners may be assessed for any damage and extra cleaning caused by pets allowed in their Villa.

(10) No tree or shrub shall be planted on the property, or removed from it, by anyone except by permission from ETP.

(11) No signs, including but without limitation, commercial, political and similar signs, visible from neighboring property, shall be erected or

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maintained upon the property.

(12) No trailer of any kind, truck camper, or boat shall be kept, placed or maintained upon any area of the property except by permission from ETP.

(13) All garbage and trash shall be placed and kept in covered containers. In no event shall such containers be maintained so as to be visible from neighboring property.

(14) No outside clotheslines for drying or airing will be permitted.

(15) There shall be no exterior fires whatsoever.

(16) No power, telephone or other utility line (wire or conduit), which would be visible from neighboring property, shall be installed, except as installed by ETP.

(17) There shall be no exterior lighting of any sort either installed or maintained, the light source of which is visible from neighboring property except as installed by ETP.

(18) There shall be no antenna of any sort either installed or maintained, which is visible from neighboring property except as installed by ETP.

(19) Any changes to the exterior of the Villa shall be subject to approval by the ETP Board. Owners of the Villas will not alter the outside appearance prior to receiving written approval from the ETP Board. The Board shall not unreasonably deny changes to the exterior that do not diminish the value of the individual Villas.

(20) Owner and guests agree to respect parking restrictions and use designated parking areas established by the ETP Board.

(21) Owner agrees to maintain adequate furnishings in the unit to allow the use of the Villa as a hotel unit. The original furniture package will be used as a standard to determine whether furnishings are adequate.

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## D. Duties, Authority, and Selection of the Board

**1. Duties & Authority.** The Parties agree that the ETP Board shall have the following duties and authority:

- determine ETP's mission and purpose;
- maintain the corporation to assure continuity;
- govern the organization by broad policies and objectives;
- ensure that ETP complies with Nicaraguan corporate, labor, tax and property Laws;
- select the general manager;
- support the general manager and review his/her performance;
- ensure effective organizational planning;
- ensure adequate resources;
- manage resources effectively;
- enhance ETP's public image and advocate for ETP's products and services;
- account to the homeowners for ETP's expenditures of funds and provide fiscal accountability;
- serve as a final court of appeal in internal disputes; and
- assess ETP's performance.

**2. Eligibility and Term of Directors.** An Owner<sup>1</sup> seeking to serve on the Board of Directors ("Candidate") must be (i) an Owner of a Villa or the designee of a corporate Owner; (ii) not delinquent in payment of assessments, and (iii) not in violation of the CCRs or subject to any disciplinary action by the Board.

A Board member will automatically forfeit his or her Board of Directors' position when he or she no longer is an Owner.

The total number of Directors is five (5). Each is to be elected to serve a term of three (3) years. Terms of Directors are to be staggered with a three (3) year cycle of elections for one (1), two (2) and two (2) Directors elected in subsequent years of the three (3) year cycle. No more than one (1) Owner of the same Unit may serve on the Board at one time.

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<sup>1</sup> The term "Owner" shall mean the holder of record fee title to a Villa. If more than one person owns a single Villa, the term "Owner" shall mean each and every owner of that Villa. In the event the Owner is a corporation or trust, the president of the corporation or the trustee of the trust may designate the person who will be eligible to serve as Director.

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**3. Operating Fund, Reserves, and Assessments.** The Parties agree that the ETP Board shall have the authority to operate and manage the hotel and related activities including but not limited to the restaurant, collect and spend revenues, manage and maintain the property, employ staff, hire and supervise a general manager, and manage all accounts necessary thereto.

The Board shall have the authority to assess Owners for amounts necessary to maintain the Villas and the common property. The assessments shall be published as monthly maintenance fees and shall be proposed and discussed before implementation

The Board shall have the authority to structure assessments to accommodate various plans for Owner use. All operational business decisions shall be within the Board's authority, including the management and expenditure of revenue.

**4. Payment of Maintenance Fees and Transfer of Ownership.** Each monthly maintenance fee shall be a separate, distinct and personal debt and obligation of each Owner(s) against whom it is charged by ETP.

If the Owner fails to pay such fee or any installment thereof when due, the Owner may be deemed in default and ETP may apply any of the following remedies: withhold all services from the Villa, including utilities and/or accrue interest month on the unpaid balance, and/or seek legal action, including property liens.

The Parties agree that no Villa will be sold or transferred to another person or entity until the Owner account is paid and the new Owner has executed a both a current CCR contract and a Shareholder's agreement.

**5. Revocation of Prior CCRs.** All prior contracts between the Parties are hereby declared void and no effect.

**Signatures on following page**

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## **Owner**

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Name

Date

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Signature

## **ETP**

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Name and Position

Date

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Signature