USE AND SERVICE AGREEMENT

Between

ARBOR POINTE MANAGEMENT, LLC

and

UNIT OWNER/MEMBER(S):

DATED:

Residence Unit No:

USE AND SERVICE AGREEMENT

THIS USE AND SERVICE AGREEMENT (the "Agreement") is made as of the hereinafter defined Commencement Date between Arbor Pointe Management, LLC, hereinafter referred to as "Service Provider", Unit Owner and Member/Occupant in consideration of and upon the following terms and conditions to which Service Provider, Unit Owner and Member hereby agree:

BASIC TERMS.

SERVICE PROVIDER:	Arbor Pointe Management, LLC 1000 Arbor Lake Drive Naples, FL 34110
UNIT OWNER:	_____, whose Unit Number is _____, at Arbor Trace Condominium Association, Inc., hereby designate(s) the Member(s) named at the end of this Agreement as the party(s) to this Agreement.
MEMBER/OCCUPANT:	The persons named at the end of this Agreement are, as of the Commencement Date, residing in the Unit and are the "Member(s)" and/or "Occupant(s)" covered by this Agreement.
SERVICE CENTER FACILITIES:	The Service Center facilities (the "Service Center") consist of a privately owned service center consisting of (i) an approximately 24,000 square foot community facility on the first floor containing dining, activity, commercial, recreational and administrative areas, and (ii) an approximately 12,000 square foot personal care facility on the second floor providing assisted living residential units and ancillary health services. Also included in the Service Center is an outdoor heated pool and spa and picnic pavilion.
COMMENCEMENT DATE:	_____
INITIAL TERM OF AGREEMENT:	This Agreement shall commence on the above referenced date and end at 11:59 p.m. on December 31st. Hereafter; the commencement date will be January 1st of each year and will be for a term of one (1) calendar year thereafter.
EXTENSION OPTIONS:	This Agreement shall automatically renew on January 1st of each year for successive one (1) year terms unless this Agreement is terminated by the Service Provider, by written notice, at least thirty (30) days prior to termination as hereinafter provided.

SERVICE CENTER FEES:	Refer to Exhibit A

The 2026 fee schedule, attached hereto as **Exhibit A**, is based upon survey responses by community residents and management estimates of service elections. Should the service elections of the community differ significantly from the community survey responses and management's estimates, then the Service Center Base Fee, Food Service Fee, and Housekeeping Service Fee will be adjusted in the next fiscal year to accurately reflect the fixed and variable costs of maintaining the standards of quality and service to which the community is accustomed.

FEE ADJUSTMENTS:	See paragraph 4.00.
BASIC SERVICES:	Those services provided to Member as part of the Monthly Service Center Fees, which services are more particularly described on Exhibit "A" attached hereto and made a part hereof by reference.
ADDITIONAL SERVICES:	Those extra services provided to Member at an additional charge, which services are more particularly described on Exhibit "B" attached hereto and made a part hereof by reference.
EVENT OF DEFAULT:	The occurrence of any one or more of the events listed in paragraph 11.01 hereof.

The foregoing Basic Terms are hereby incorporated into and made a part of this Agreement. Each reference in this Agreement to any of the Basic Terms shall mean the respective information herein above set forth. The Basic Terms are supplemented by and shall be construed in connection with and controlled by the remainder of this Agreement. In the event of a conflict between the Basic Terms and any provision set forth in the remainder of this Agreement, the Basic Terms of this Agreement shall control.

1.00 TERM. The term of this Agreement shall commence and expire on the respective dates set forth in paragraph 1.00 of this Agreement, subject to extensions expressly set forth in this Agreement. The Service Provider shall not be required to continue providing any service to the Member if the Member or Unit Owner is in default of this Agreement.

2.00 MONTHLY SERVICE CENTER FEES. Member agrees to pay the Monthly Service Center Fees set forth in paragraph 1.00 of this Agreement in advance on the first day of each calendar month during the term of this Agreement. Service Provider shall cause to be delivered to Member no later than five (5) calendar days prior to the first day of each month an invoice that shall include the Monthly Service Center Fees and an itemized list of any special charges for Additional Services. The obligation to pay the Monthly Service Center Fees shall commence on the Commencement Date set forth in said paragraph 1.00. The Monthly Service Center Fees for partial months shall be prorated on a daily basis.

2.01 Lien of Service Center Fees. Pursuant to the terms of this Agreement and the Declaration of Condominium for the Condominium, Service Provider is hereby granted a lien upon Unit Owner's Condominium Unit ("Unit") in the Condominium and its appurtenant undivided interest in the Common Elements and upon any exclusive right to use a parking space constituting Limited Common Elements appurtenant to any such Unit, which lien shall and does secure the monies due for all: (1) Service Center Fees incurred by Member under the terms of this Agreement; and (2) interest, which may become due on delinquent charges payable by Member to Service Provider; and (3) costs and expenses, including reasonable legal fees, which may be incurred by Service Provider in enforcing its lien upon the Unit and its appurtenances. The lien granted to Service Provider may be established and foreclosed in the Circuit Court in and for Collier County, Florida. The lien of the Service Provider shall also secure all advances for taxes and payments on account of superior mortgages, liens or encumbrances made by Service Provider to preserve and protect its lien, together with interest on all such advances made for such purposes. Service Provider's lien may be filed and recorded immediately upon the occurrence of a monetary default of this Agreement by Member or Unit Owner.

2.02 Recording of Priority of Lien. Service Provider's lien shall be effective from and after recording in the Public Records of Collier County, Florida, a claim of lien stating the description of the Unit encumbered thereby, the name of the record owner of Member's Unit and the amount and date when due. No such lien that is recorded shall continue for a period longer than one year after the claim of lien has been recorded unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. Such claims of lien shall secure all unpaid Service Center Fees, interest, costs and legal fees that are due and that may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. Service Provider's lien shall be subordinate to the lien of any mortgage or any other lien recorded prior to the time of recording of Service Provider's claim of lien.

3.00 ESCALATION. On January 1 of each year during the term of this Agreement, Service Provider shall have the right to adjust the Monthly Service Center Dues set forth in paragraph 1.00 for delivery of the services required hereunder to reflect increases or decreases in the cost of living as such increase or decrease is reflected in the "Revised Consumer Price Index" for All Urban Consumers, All Items (1967 equals 100) published by the Bureau of Labor Statistics of the United States Department of Labor (the "Index"). On each said January 1 anniversary date, the total Service Fee Income for the immediately preceding year shall be multiplied by a fraction, the numerator of which is the point at which such Index stands on December 1 preceding the January 1 anniversary date then at hand and the denominator of which is the point at which said Index stood on December 1 of the immediately preceding year. The product so obtained shall be the targeted Service Fee Income for the coming year. The targeted Service Fee Income may also be adjusted for changes in levels of service which are approved by the board of Tower Trace LLC. This adjusted (if any) targeted Service Fee Income will then be allocated to each Member by calculating the appropriate fixed expense and variable expense components. The allocation will be billed to each Member each month beginning on such January 1 anniversary date and continuing until the next succeeding January 1 anniversary date. For purposes of this paragraph only, the term "year" shall mean the period of time commencing on the Commencement Date and ending on the next December 31, and thereafter, commencing on each anniversary of January 1 and ending on the following December 31 of each year. In the event the Index is discontinued during any term of this Agreement, a mutually agreeable alternate index shall be selected and substituted, therefore.

4.00 PLACE OF PAYMENT. Monthly Service Center Fees and additional charges that Member may from time to time incur shall be paid by Member to Service Provider at Service Provider's address or at such other address as Service Provider may designate by written notice to Member, without any offset, deduction, or notice of demand whatsoever. Any payment that is not made by Member within five (5) calendar days of the date when due shall be subject to a late charge in the amount of ten percent (10%) of the amount past due or, at the option of Service Provider, shall bear interest from the date due at fifteen percent (15%) per annum until paid. Member covenants to pay Monthly Service Center Fees, and all additional charges due hereunder shall be independent covenants and shall survive the expiration and termination of this Agreement. The failure of Member to make payment within five (5) calendar days of the date when due shall be considered a monetary default of this Agreement.

5.00 LEVEL AND DESCRIPTION OF SERVICES. Service Provider shall cause to be provided to Member certain services at the level and scope more particularly described on Exhibit "A". Member acknowledges and understands that Service Provider may subcontract with third parties or employ professional management to provide the services required hereunder.

6.00 SERVICE PROVIDER'S WARRANTIES.

6.01 Compliance with Laws. At all times during the term of this Agreement, Service Provider shall, at its own cost and expense, comply with all governmental laws, ordinances, orders and regulations affecting the use and operation of the Service Center now in force or that may thereafter be in force.

6.02 Operation of Service Center. At all times during the term of this Agreement, Service Provider shall operate the Service Center at a reasonable standard of care with sufficient quantities of materials, equipment and supplies to carry on its business and provide the services described in Exhibit "A".

7.00 ASSIGNMENT. Member shall not assign or transfer its rights under this Agreement, in whole or in part, or allow the use of this Agreement by any other person other than Member, without prior written consent of Service Provider. The consent of Service Provider to any such assignment or transfer by Member shall not constitute a waiver of the necessity for such consent to any subsequent assignment or transfer. This prohibition against assignment or transfer shall be construed to include a prohibition against any assignment or transfer by operation of law. If this Agreement is assigned, Service Provider may collect the Monthly Service Center Fees from the assignee and apply the net amount collected to the monthly Service Center Fees herein reserved, but no such assignment, transfer or collection shall be deemed a waiver of this provision or the acceptance of the assignee or transferee or as a release of Member from the further performance of Member's obligations reserved for and to be performed by Member according to the provisions herein.

8.00 RESERVATIONS BY SERVICE PROVIDER. Service Provider is operating the Service Center for the use of Members; however, Service Provider reserves unto itself the right to provide assisted living facility services to individuals or entities other than Members, including individuals who are not actual Members of the Arbor Trace and Tower Pointe Condominium Community, when space is available in the assisted living facility, and provided that the provision of such assisted living facility services by Service Provider does not violate any governmental laws, ordinances, orders, deed restrictions or regulations.

9.00 SERVICE CENTER SERVICES.

9.01 Basic Services. As of the Commencement Date of this Agreement, Service Provider shall cause to be provided to Member, at a minimum, the level of Basic Services selected by the Member on Exhibit "A". Member and Service Provider hereby understand and agree that at various points in the future Service Provider may find it advantageous to add or subtract certain services from those described on Exhibit “A” for any number of reasons, including cost, minimal or non-use, or availability of alternative services; provided, however, that at no time during the term of this Agreement shall any of the Basic Services be terminated by Service Provider if fifty percent (50%) or more of the Members (on a one vote per Unit basis) object in writing to said change in services following Service Provider’s delivery to each Member of a general written notice outlining same.

9.02 Additional Services. As of the Commencement Date of this Agreement, Service Provider may provide, at Member's election, certain Additional Services that are more particularly described in Exhibit “B”. Member and Service Provider may find it advantageous to add or subtract certain services from those described in Exhibit “B” for any number of reasons, including cost, minimal or non-use, or availability of alternative services; provided, however, that at no time during the term of this Agreement shall any of the Additional Services be terminated by Service Provider if fifty percent (50%) or more of the Members (on a one vote per Unit basis) who then receive the particular Additional Services sought to be terminated, object in writing to said change in services following Service Provider’s delivery to each such affected Member of a general written notice outlining same.

9.03 Change in Level of Food Service Option by Member/Occupant. At the beginning of each year after the initial Commencement Date during the term of this agreement, Member/Occupant shall have the option to change the level of Food Service to another level of service as described in Exhibit “A” attached hereto. The monthly rate shall be the current rate in effect for the desired level of Food Service at the time of change. In no case will the level of Food Service be less than ten (10) meals per month per Member. Member/Occupant shall notify Service Provider in writing of Member/Occupant’s election at least 15 days prior to the anniversary of the Commencement Date. The Food Service option so elected shall commence on June 1st of each year after the initial Commencement Date. Changes in the desired level of Food Service may also be made at any time during the year and necessary adjustments shall be made on the bill for the remaining months through the end of the rolling year.

9.04 Change in Level of Housekeeping Service by Member/Occupant. During the term of this agreement, Member/Occupant shall have the option twice annually for a minimum of thirty (30) days each change from any level of Housekeeping Service to another level of service as described in Exhibit “A” attached hereto. The monthly rate shall be the current rate in effect for the desired level of Housekeeping Service at the time of change. Member/Occupant shall notify Service Provider in writing of Member/Occupant’s election no later than the 15th day of that month preceding the month in which Member/Occupant desires such Housekeeping Service to be changed. The Housekeeping Service option so elected shall commence at 12:01 a.m. on the first day of the calendar month following the month in which Service Provider received such written notice, and necessary adjustments shall be made on the bill for the next succeeding month.

10.00 LOSS OF USE BY CONDEMNATION OR CASUALTY.

10.01 Duty to Restore or Rebuild. If, at any time during the term of this Agreement, all or any substantial portion of the Service Center shall be either (i) acquired or taken by eminent domain for any public or quasi-public use or purpose or (ii) destroyed in whole or in substantial part by fire or other casualty such that it becomes impossible to operate Service Center and provide Basic Services, Service Provider shall rebuild and restore the Service Center to the extent permitted, but only upon Service Provider's actual receipt of any condemnation award or insurance proceeds for such reconstruction and restoration in order to minimize any interruption in provision of Basic Services.

10.02 Suspension or Reduction in Monthly Service Center Fees. Member's obligation to pay the Monthly Service Center Fees, and all other charges due hereunder, shall cease (or be reduced in proportion to those Basic and Additional Services the provision of which is prevented by any taking or destruction) for any period during which any taking, or destruction prevents provision of Basic Services. Member shall again be obligated to pay Monthly Service Center Fees and all other charges due hereunder commencing on such date as the Service Provider again begins providing Basic Services to Member.

11.00 DEFAULT AND PROCEDURES FOR CURE.

11.01 Events of Default. The failure by either Member, Unit Owner or Service Provider to perform timely or to observe properly any of the obligations or terms hereof made the responsibility of that party shall constitute an Event of Default under this Agreement.

11.02 Cure by Defaulting Party. Upon the occurrence of a dispute concerning a non-monetary Event of Default, and within a reasonable time thereafter, the non-defaulting party shall provide notice of such Default to the other party. The Default notice shall set forth, inter alia, the specific occurrence that gave rise to the Event of Default as well as the steps required to cure such Default. The recipient of such Default notice shall have thirty (30) calendar days from the date of receipt thereof within which to cure the Default. No notice is required for a monetary Default.

12.00 NOTICES. Any notice, demand or request for other communication or instrument that may be or is required to be given under this Agreement shall be delivered in person or sent by United States Postal Service Registered or Certified Mail, postage prepaid, and shall be addressed to Unit Owner, Member, or Service Provider, as the case may be, at the Service Providers address listed in paragraph 1.00 of this Agreement or the Unit Owner or Member's address listed at the end of this Agreement; provided, however, that either Unit Owner, Member, or Service Provider may designate such other address as shall be given by ten (10) day prior written notice to the other party. Each notice, demand or request shall be effective upon being so deposited. The time period in which a response thereto must be given, or action taken with respect thereto, as the case may be, shall commence to run from the date of receipt of the notice, demand or request by the addressee thereof, as evidenced by the return receipt. Rejection or other refusal by the addressee to accept or the inability of the United States Postal Service to deliver because of a change of address for which no notice was given shall be deemed to be the receipt of the notice sent.

13.00 SEVERABILITY. If any portion of this Agreement or application thereof to any person or circumstance shall to any event be invalid, the remainder of this Agreement or the application of such provision to any person or circumstance other than those as to which it is held invalid shall not be affected thereby and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

14.00 BINDING EFFECT. Except as otherwise expressly provided, all provisions herein shall be binding upon and shall inure to the benefit of the parties, their legal representatives, successors, and assigns. Each provision to be performed by Unit Owner, by Member, and by Service Provider shall be construed to be both a covenant and a condition.

15.00 NON-DISTURBANCE. Service Provider hereby agrees that during the Term of the Agreement it will not diminish, interfere with, or disturb Member's exercise of Member's rights and privileges under this Agreement so long as Member is not in default (beyond any period given Member to cure such default) in the payment of Monthly Service Center Fees and additional charges that may occur from time to time or in the performance of any of the terms, covenants, or conditions of this Agreement on Member's part to be observed and performed.

16.00 NO INTEREST IN REAL PROPERTY. Member and Service Provider hereby acknowledge and agree that Member's rights and interest under this Agreement are contractual only and in no way constitute a transfer or conveyance of an interest in real property.

17.00 RULES AND REGULATIONS. Service Provider may from time to time promulgate such reasonable rules and regulations for the benefit of Service Center Members. Failure by Member to keep and observe said rules and regulations shall constitute a breach of the terms of this Agreement in the same manner as if the same were contained herein as covenants. Service Provider hereby reserves the right from time to time to amend or supplement said rules and regulations within its reasonable judgment and to adopt and promulgate additional rules and regulations applicable to the Service Center within its reasonable judgment. Notice of such additional rules and regulations and amendments and supplements thereto, if any, shall be given to Member, and Member hereby agrees to comply with and observe all such rules and regulations and amendments and supplements thereto.

18.00 INTERPRETATION. This Agreement and the exhibits attached hereto set forth the entire agreement between the parties. Any prior conversations or writings are hereby merged herein and extinguished. No subsequent amendment of this Agreement shall be binding upon either party hereto unless reduced to writing and signed and attached to this document. The captions assigned to the various paragraphs of this Agreement have been inserted only as a matter of convenience and are not intended to define, limit, construe or describe the scope of intent of any paragraph nor in any way affect this Agreement. All obligations of Member under this Agreement, including, without limitation, the obligation to pay Monthly Service Center Fees, shall survive the expiration and the termination of this Agreement and shall survive any payment made at such expiration or termination.

19.00 SERVICE CENTER. Member understands and acknowledges that the Service Center is not a part of the Condominium, but rather the Service Center is made available for use by Member pursuant to the contracted terms of this Agreement. Nothing herein contained shall be construed to create any other form of relationship between Services Provider and Member.

20.00 TERMINATION OF AGREEMENT. This Agreement shall automatically terminate upon closing of the sale of Unit Owner's Condominium Unit and the simultaneous entering into of an Agreement by the purchaser(s) of Unit Owner's Condominium Unit on the terms and conditions then in effect. When there are multiple Members, in the event one Member dies or involuntarily vacates the Unit, beginning on the first day of the next calendar month, any fees and meals for that Member who has vacated the Unit, will terminate and the level of service under this Agreement shall be reduced to the Service Center Base Fee, Capital Reserve Fee and meals and housekeeping services described in Exhibit "A" for the surviving Member(s). In the event the last surviving Member dies or involuntarily vacates the Unit, beginning on the first day of the next calendar month, the level of service under this Agreement shall be reduced to the Service Center Base Fee and Capital Reserve Fee only. A Member shall be deemed to have involuntarily vacated the Unit if such Member is admitted into a skilled nursing facility, assisted living facility, nursing home, hospice facility, or other extended care facility. As set forth in the Declaration of Condominium for the Condominium, as a condition of ownership, each unit owner is required to enter into a use and service agreement. By signing below, Member(s) hereby acknowledges that this Agreement will supersede all other use and service agreements previously executed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on this _____ day of _____, 202__.

UNIT OWNER:

Signature:_____

Printed Name:

Signature: _____

Printed Name:

MEMBER:

Signature: _____

Printed Name:

Signature: _____

Printed Name:

SERVICE PROVIDER:

Arbor Pointe Management, LLC

_____

Jennifer Whitten, Executive Director