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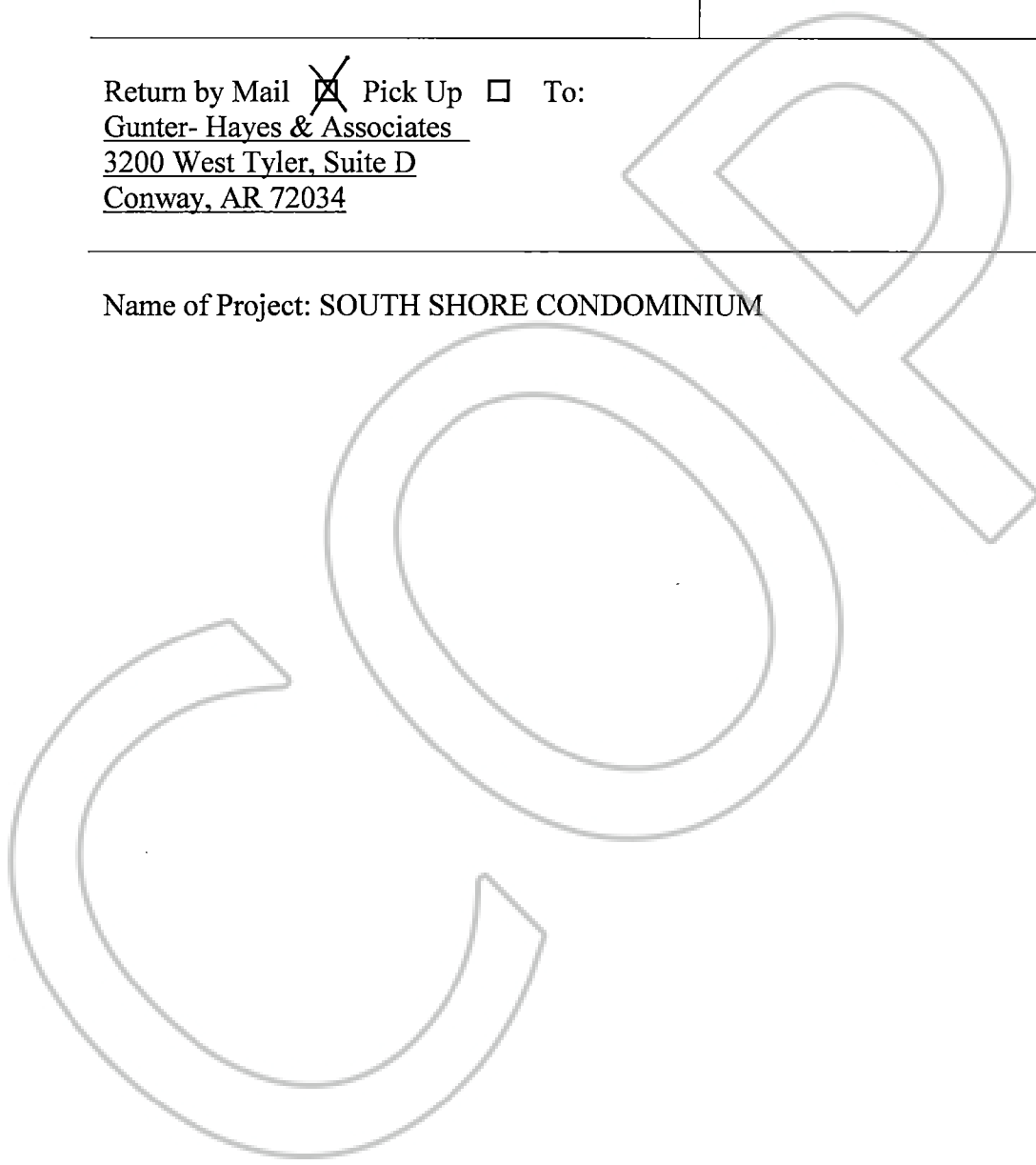


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KAREN ELLISON, RECORDER

Return by Mail Pick Up To:
Gunter- Hayes & Associates
3200 West Tyler, Suite D
Conway, AR 72034

Name of Project: SOUTH SHORE CONDOMINIUM



**CLUB PROPERTY DECLARATION FOR CLUBWYNDHAM
ACCESS VACATION OWNERSHIP PLAN AT
SOUTH SHORE CONDOMINIUM**

THIS CLUB PROPERTY DECLARATION FOR CLUBWYNDHAM ACCESS VACATION OWNERSHIP PLAN AT SOUTH SHORE CONDOMINIUM (hereinafter referred to as this "**Club Property Declaration**") is executed and effective the 19 day of February, 2016 by **WYNDHAM VACATION RESORTS, INC.**, a Delaware corporation (hereinafter referred to as either "**Declarant**" or "**Club Property Owner**", depending upon the context).

RECITALS:

A. The Club Property Owner is the owner and developer of a residential project commonly known as South Shore Condominium (the "**Project**") which has been developed and operated as a timeshare plan (the "**Subject Club Property Plan**") pursuant to the laws of the State of Nevada consisting of residential timeshare units together with recreational amenities, service and commercial units, landscaping, parking and driveways, and other facilities (said real estate and the improvements thereon from time to time are hereinafter collectively called the "**Subject Club Property**"). The Club Property Owner has heretofore marketed and sold to the public fee simple timeshare interval ownerships ("**Real Property Interests**") in the Project.

B. Pursuant to that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions and Grant and Reservation of Easements for ClubWyndham Access Vacation Ownership Plan (the "**Declaration**"), a copy of which Declaration is attached hereto as Exhibit B, the Declarant has established a uniform plan (the "**Club**") (i) for the development, use, occupancy and ownership of the various interests in real property (also included within the term "**Real Property Interests**" as it is used in this Club Property Declaration) which are from time to time conveyed either to PTVO Owners Association, Inc., a non-stock, non-profit Delaware corporation (the "**Association**") or to a trust company or other Person for the benefit of the Association and in certain specific instances, for the benefit of the Declarant; (ii) for the valuing of those Real Property Interests in terms of a number of factors; (iii) for the issuance of memberships in said plan ("**Ownerships**") which have use and occupancy rights in those Real Property Interests (the value attributable to said use and occupancy rights being denominated in "**Points**"); (iv) if the Declarant so elects, for the creation and/or establishment of special use, reservation or other rights in some or all of said Real Property Interests (call "**Special Features**"); (v) for the imposition of mutual and beneficial restrictions, covenants, conditions, obligations, and easements upon said Real Property Interests and Ownerships which apply uniformly to the use, enjoyment repair, maintenance, restoration, improvement, transfer and encumbrance of all of such Real Property Interests and Ownerships; and (vi) for the payment of all taxes, assessments, insurance premiums, and other expenses relating thereto, all for the mutual enjoyment, convenience, protection, and benefit of all of the Real Property Interests and all current and future owners of Ownerships.

C. Under the Declaration, Declarant has reserved the right to add Real Property Interests to the Club and in furtherance of that right, the Club Property Owner and the Declarant have agreed that the Club Property Owner will, among other things, (i) transfer, from time to

time, at the direction of the Declarant, title to Real Property Interests and other interests in the Subject Club Property (1) to the Association for the benefit of the Owners and, in certain specific instances, for the benefit of the Declarant, (2) to one or more institutions having trust powers who have been appointed a trustee ("**Trustee**" or "**Trustees**") under that certain ClubWyndham Access Vacation Ownership Plan Declaration of Trust dated January 4, 2008 (the "**Declaration of Trust**"), for the benefit of the Association and, in certain specific instances, for the benefit of the Declarant, or (3) to another Person for the benefit of the Association and, in certain specific instances, for the benefit of the Declarant; and (ii) prior to each such conveyance, subject the Real Property Interests then to be conveyed to the terms and provisions of the Declaration, the first such conveyance being the real property legally described on Exhibit A1 through A4 attached hereto and made a part hereof (the "**Initial Real Property Interests**") and in exchange for which, the Declarant is entitled to sell Ownerships in the Association valued in the use and occupancy rights attributable to the Initial Real Property Interests .

D. The Declarant may, in the future, cause additional Real Property Interests, both in the Subject Club Property (hereinafter called "**Additional Real Property Interests**") and in the other parcels of real property, to be subjected to the Declaration and immediately thereafter to be transferred to the Association for the benefit of the Owners and the Declarant as aforesaid, or to the Trustee, to another trustee or to another Person for the benefit of the Association and Declarant as aforesaid, in exchange for the right to sell more Ownerships based on the Points attributable to such conveyed interests.

E. The Declarant and the Club Property Owner desire to impose upon the Initial Real Property Interests and on all Additional Real Property Interests which are, from time to time, pursuant to Supplemental Declarations, expressly subjected to the terms of this Club Property Declaration, mutual and beneficial restrictions, covenants, conditions, obligations, and easements to apply uniformly to the use, enjoyment, repair, maintenance, restoration, improvement, transfer, and encumbrance of all portions of Subject Club Property which become Real Property Interests in the Club and all Ownerships created with respect thereto and for the payment of all taxes, assessments, insurance premiums, and other expenses relating thereto, all in the interest of the mutual enjoyment, convenience, protection, and benefit of all portions of the Subject Club Property which so become Real Property Interests in the Club and all current and future owners of Ownerships.

F. The Declarant and the Association have heretofore entered into the Declaration to set out, among other things, the relationship between the Declarant and the Association and each party who is acting as a trustee (including the Trustee) and each other Person who is holding title to Real Property Interests for the benefit of the Association and the Declarant as aforesaid; the conditions of transfer of Real Property Interests to the Association, to the Trustee, to another trustee or to another Person for the benefit of the Association and Declarant as aforesaid; and the rights and responsibilities of the Declarant, the Association, each party acting as trustee (including the Trustee) and each other Person holding title to Real Property Interests for the benefit of the Association and the Declarant, as aforesaid, and the owners of Ownerships.

G. The Parties wish to incorporate the Declaration into this Club Property Declaration and to apply all of the terms thereof to the Parties, the Association, and the Trustee

and to the Initial Real Property Interests as if said document originally applied to the Parties, the Association and the Trustee and to the Initial Real Property Interests hereunder, except as otherwise stated in this Club Property Declaration.

NOW THEREFORE WITNESSETH that in consideration of the premises and other good and valuable consideration, the Parties covenant and agree as follows:

The Declarant hereby declares that the Initial Real Property Interests and all Additional Real Property Interests which are, from time to time, pursuant to Supplemental Declarations, expressly subjected to the terms of this Club Property Declaration, and all improvements thereon and all appurtenances thereto are and shall be held, sold, conveyed, encumbered, leased, occupied, improved, and used subject to the covenants, conditions, restrictions, easements, and limitations of record contained or incorporated by reference in this Club Property Declaration and in the Declaration, the provisions of which are hereby incorporated herein by this reference as applicable to said Initial and Additional Real Property Interests as Real Property Interests under the Declaration, as defined thereunder, as the Declaration may from time to time lawfully be amended and/or supplemented, all of which are established, declared, and agreed to be for the purpose of enhancing and protecting the value, desirability and enjoyment of said Initial and Additional Real Property Interests and all Ownerships created with respect thereto. All such covenants, conditions, reservations, restrictions, easements, and limitations shall constitute equitable servitudes upon said Initial and Additional Real Property Interests, shall run with the land so long as each such Real Property Interest is subject to the Declaration, and shall be binding upon and inure to the benefit of the Declarant, the Trustee, the Association, all owners of Ownerships, any other Persons having or acquiring any right, title or interest therein and thereto, each of their respective heirs, legal representatives, successors, and assigns, and all other Persons who are present within or use said Real Property Interests for any purpose whatsoever.

ARTICLE 1.

DEFINITIONS

The terms used in this Club Property Declaration and not expressly defined herein shall have the same meanings as defined in the Declaration and in the Exhibits attached thereto, and all amendments and supplements thereto, except as otherwise provided below or elsewhere in this Club Property Declaration:

"Parties" means the Declarant and the Club Property Owner.

"Subject Club Property Real Property Interests" means the Initial Real Property Interests and the Additional Real Property Interests.

ARTICLE 2.

INTERPRETATION

2.1 Issuance of Club Points. In exchange for causing the Club Property Owner to convey the Initial Real Property Interests to the Association or to the Trustee for the benefit of the Association and in certain instances, for the benefit of the Declarant and in accordance with the requirements of the Declaration, there shall be issued to Declarant the total sum of EIGHTEEN MILLION FIVE HUNDRED FORTY-TWO THOUSAND FIVE HUNDRED (18,542,500) Points provided that at the time of such conveyance (a) there is delivered to the Association an Owners Title Insurance Policy in the amount of \$223,437.13 covering the Initial Real Property Interests and insuring the Association's or Trustee's title thereto is free and clear of all Blanket Liens (as defined in the Declaration) or evidencing that there is a Non-Disturbance Agreement (as defined in the Declaration) in effect for any Blanket Lien and (b) all of the taxes and other sums referred to in Section 2.4 below are paid.

2.2 Damage or Destruction. The procedures to be followed in the event of any damage or destruction of all or any portion of the Subject Club Property Real Property Interests shall be governed by the recorded instruments described on Exhibit A governing the Subject Club Property and the Subject Club Property Plan (and in default thereof, the provisions of the Declaration with respect thereto shall apply).

2.3 Insurance. Except as otherwise provided in this Club Property Declaration or in the Declaration, insurance coverage for the Subject Club Property Real Property Interests shall be governed by the recorded instruments described on Exhibit A governing the Subject Club Property and the Subject Club Property Plan (and in default thereof, the provisions of the Declaration with respect thereto shall apply).

2.4 Taxes, Title Insurance, Etc. The Declarant or the Club Property Owner shall pay all transfer taxes, recording fees, title insurance and other costs or fees involving transfer of the Subject Club Property Real Property Interests to the Association or to one or more Trustees.

2.5 Conflict of Documents. If there shall arise any conflict or ambiguity between this Club Property Declaration and the terms and provisions of the Declaration, the terms and provisions of the Declaration shall, in all instances, control and prevail.

2.6 Withdrawal from Declaration. In the event some or all of the Subject Club Property Real Property Interests are withdrawn from this Club Property Declaration or any Supplemental Declaration thereto (and, thereby, the Declaration), the Association, or the Trustee on behalf of the Association, shall convey or otherwise transfer such withdrawn Subject Club Property Real Property Interests as directed by Declarant.

2.7 Special Features. Declarant hereby declares that thirty-five percent (35%) of the Initial Real Property Interests shall be subject to Special Features. Such Special Features may consist of (but are not limited to consisting solely of) any one or more of the following described attributes:

- (i) The right of the holder thereof to reserve a fixed Use Period (a) in one specific Club Accommodation; (b) in a specific type of Club Accommodation (for example, a 2-bedroom unit); (c) in one specific Club Property; or (d) in a specific group of Club Properties;
- (ii) The right of the holder thereof to reserve a fixed Club Accommodation or group of Club Accommodations at one Club Property or at a specified group of Club Properties;
- (iii) The right of the holder thereof to make a reservation for any Use Period in any generally available Club Accommodation prior to the right of the Owners to make such a reservation, but subject to the prior reservation of such Use Period by another Person who holds the same Special Feature or who holds a Special Feature that permits an earlier reservation period, if any.

The exact nature of any Special Feature and the terms and provisions applicable to its use shall be specified in the Special Features Contract pursuant to which an Owner acquires such Special Feature. Notwithstanding the fact that Declarant has, pursuant to this Section 2.7, created Special Features in the Initial Real Property Interests, Declarant is under no obligation to delineate or sell any Special Features and should Declarant elect to sell Special Features, Declarant may not sell Special Features that would affect the occupancy or usage of more than thirty-five percent (35%) of the Initial Real Property Interests.

2.8 Counterparts. This Club Property Declaration may be executed in any number of counterparts, each of which individually shall be considered to be an original, but all of which taken together shall constitute one and the same instrument.

2.9 Incorporation of Recitals. All of the recitals first set forth in this Club Property Declaration are true and correct and are hereby incorporated herein by this reference.

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IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed in its name, and its corporation seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year above written.

FOR RECORDATION:

Attest: Julie Kisha
Assistant Secretary

DECLARANT AND CLUB PROPERTY OWNER:

WYNDHAM VACATION RESORTS, INC., a Delaware corporation



By: Charles A. Bott
Name: Charles A. Bott
Title: Senior Vice President

ACKNOWLEDGMENT

STATE OF FLORIDA)
) §
COUNTY OF ORANGE)

I, Tatiana Johnson, a Notary Public in and for said County and State, do hereby certify that on the 19 day of February 2016, before me personally came Charles A. Bott with whom I am personally acquainted, who, being by me duly sworn, says that he is the Senior Vice President and that Julie Kisha is the Assistant Secretary of Wyndham Vacation Resorts, Inc., the corporation described in and which executed the foregoing instrument; that they know the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal; that the name of the corporation was subscribed thereto by the Senior Vice President and Assistant Secretary subscribed their names thereto and the said common seal was affixed, all by order of the Board of Directors of said corporation; and that the said instrument is the act of said corporation.

WITNESS my hand and official seal this 19 day of February, A.D. 2016.

My Commission Expires: 9/16/2018

Tatiana Johnson
NOTARY PUBLIC

[Seal]

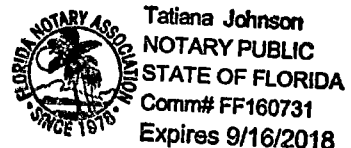


EXHIBIT A1

Legal Description of Initial Real Property Interests and the Recorded Instruments Governing the Use and Operation of Said Interests

A **1,215,000/109,787,500** undivided fee simple interest as tenants in common in **Units 8101, 8102, 8103, 8201, 8202, 8203, 8301, 8302, and 8303** in **South Shore Condominium** ("Property"), located at 180 Elks Point Road in Zephyr Cove, Nevada 89449, according to the Final Map #01-026 and Condominium Plat of South Shore filed of record in Book 1202, Page 2181 as Document Number 559872 in Douglas County, Nevada, and subject to all provisions thereof and those contained in that certain Declaration of Condominium - South Shore ("Timeshare Declaration") dated October 21, 2002 and recorded December 5, 2002 in Book 1202, Page 2182 as Instrument Number 559873, and also subject to all the provisions contained in that certain Declaration of Restrictions for Fairfield Tahoe at South Shore and recorded October 28, 2004 in Book 1004, Page 13107 as Instrument Number 628022, Official Records of Douglas County, Nevada, which subjected the Property to a timeshare plan called Fairfield Tahoe at South Shore ("Timeshare Plan"), together with that certain Club Property Declaration for ClubWyndham Access Vacation Ownership Plan ("Plan Declaration"), recorded prior hereto, together with any and all amendments and supplements thereto. Less and except all minerals and mineral rights which minerals and mineral rights are hereby reserved unto the Grantor, its successors and assigns.

EXHIBIT A2

Legal Description of Initial Real Property Interests and the Recorded Instruments Governing the Use and Operation of Said Interests

A **3,909,000/90,245,000** undivided fee simple interest as tenants in common in **Units 9101, 9102, 9103, 9104, 9201, 9203, and 9204** in **South Shore Condominium** ("Property"), located at 180 Elks Point Road in Zephyr Cove, Nevada 89449, according to the Final Map #01-026 and Condominium Plat of South Shore filed of record in Book 1202, Page 2181 as Document Number 559872 in Douglas County, Nevada, and subject to all provisions thereof and those contained in that certain Declaration of Condominium - South Shore ("Timeshare Declaration") dated October 21, 2002 and recorded December 5, 2002 in Book 1202, Page 2182 as Instrument Number 559873, and also subject to all the provisions contained in that certain Declaration of Restrictions for Fairfield Tahoe at South Shore and recorded October 28, 2004 in Book 1004, Page 13107 as Instrument Number 628022, Official Records of Douglas County, Nevada, which subjected the Property to a timeshare plan called Fairfield Tahoe at South Shore ("Timeshare Plan"), together with that certain Club Property Declaration for Club Wyndham Access Vacation Ownership Plan ("Plan Declaration"), recorded prior hereto, together with any and all amendments and supplements thereto. Less and except all minerals and mineral rights which minerals and mineral rights are hereby reserved unto the Grantor, its successors and assigns.

EXHIBIT A3

**Legal Description of Initial Real Property
Interests and the Recorded Instruments
Governing the Use and Operation of Said Interests**

A **4,941,500/128,986,500** undivided fee simple interest as tenants in common in **Units 10101, 10102, 10103, 10104, 10201, 10202, 10203, 10204, 10301, 10302, 10303, and 10304** in **South Shore Condominium** ("Property"), located at 180 Elks Point Road in Zephyr Cove, Nevada 89449, according to the Final Map #01-026 and Condominium Plat of South Shore filed of record in Book 1202, Page 2181 as Document Number 559872 in Douglas County, Nevada, and subject to all provisions thereof and those contained in that certain Declaration of Condominium - South Shore ("Timeshare Declaration") dated October 21, 2002 and recorded December 5, 2002 in Book 1202, Page 2182 as Instrument Number 559873, and also subject to all the provisions contained in that certain Declaration of Restrictions for Fairfield Tahoe at South Shore and recorded October 28, 2004 in Book 1004, Page 13107 as Instrument Number 628022, Official Records of Douglas County, Nevada, which subjected the Property to a timeshare plan called Fairfield Tahoe at South Shore ("Timeshare Plan"), together with that certain Club Property Declaration for ClubWyndham Access Vacation Ownership Plan ("Plan Declaration"), recorded prior hereto, together with any and all amendments and supplements thereto. Less and except all minerals and mineral rights which minerals and mineral rights are hereby reserved unto the Grantor, its successors and assigns.

EXHIBIT A4

Legal Description of Initial Real Property Interests and the Recorded Instruments Governing the Use and Operation of Said Interests

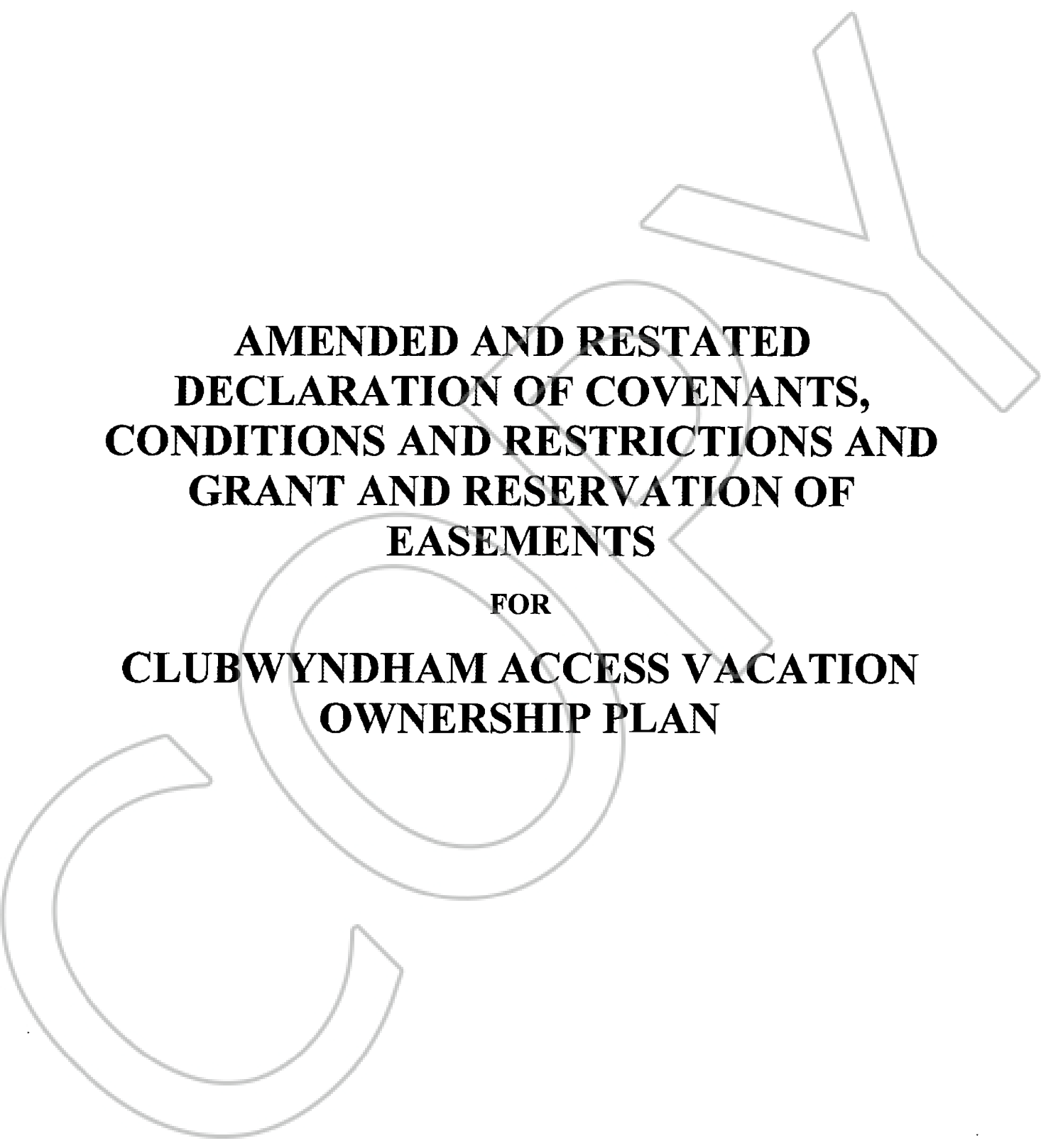
A 8,477,000/183,032,500 undivided fee simple interest as tenants in common in **Units 12101, 12102, 12103, 12201, 12202, 12203, 12302, 14102, 14103, 14104, 14202, 14203, 14204 and 14302** in **South Shore Condominium** ("Property"), located at 180 Elks Point Road in Zephyr Cove, Nevada 89449, according to the Final Map #01-026 and Condominium Plat of South Shore filed of record in Book 1202, Page 2181 as Document Number 559872 in Douglas County, Nevada, and subject to all provisions thereof and those contained in that certain Declaration of Condominium - South Shore ("Timeshare Declaration") dated October 21, 2002 and recorded December 5, 2002 in Book 1202, Page 2182 as Instrument Number 559873, and also subject to all the provisions contained in that certain Declaration of Restrictions for Fairfield Tahoe at South Shore and recorded October 28, 2004 in Book 1004, Page 13107 as Instrument Number 628022, Official Records of Douglas County, Nevada, which subjected the Property to a timeshare plan called Fairfield Tahoe at South Shore ("Timeshare Plan"), together with that certain Club Property Declaration for ClubWyndham Access Vacation Ownership Plan ("Plan Declaration"), recorded prior hereto, together with any and all amendments and supplements thereto. Less and except all minerals and mineral rights which minerals and mineral rights are hereby reserved unto the Grantor, its successors and assigns.

EXHIBIT B

**Amended and Restated Declaration of Covenants, Conditions and Restrictions
and Grant and Reservation of Easements for ClubWyndham Access
Vacation Ownership Plan (a/k/a the "Declaration")**

[SEE ATTACHED]





**AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS AND
GRANT AND RESERVATION OF
EASEMENTS
FOR
CLUBWYNDHAM ACCESS VACATION
OWNERSHIP PLAN**

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THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANT AND RESERVATION OF EASEMENTS FOR CLUBWYNDHAM ACCESS VACATION OWNERSHIP PLAN (this "**Declaration**") dated May 17, 2012 for reference purposes, and which amends and restates that Declaration of Covenants, Conditions and Restrictions and Grant of Easements for ClubWyndham Access Vacation Ownership Plan dated January 3, 2008, is made by **WYNDHAM VACATION RESORTS, INC.**, a Delaware corporation (the "**Declarant**"); and **PTVO OWNERS ASSOCIATION, INC.**, a non-stock, non-profit Delaware corporation (the "**Association**").

RECITALS:

A. The Declarant has established a uniform plan called the ClubWyndham Access Vacation Ownership Plan (hereinafter called the "**Club**") for the development, use, occupancy and ownership of the various interests in real property (herein referred to as the "**Real Property Interests**" and more particularly described below) and the payment of all taxes, assessments, insurance premiums, and other expenses relating to the Real Property Interests. The Declarant will convey, or cause others to convey, Real Property Interests (1) to the Association for the benefit of the Owners (as defined below) and with respect to the Declarant's rights under Sections 13.6, 13.7 and 13.8 below, for the benefit of the Declarant; or (2) to one or more institutions having trust powers who have been appointed a trustee (hereinafter individually a "**Trustee**" and collectively the "**Trustees**") under a declaration of trust (hereinafter individually a "**Trust Declaration**" and collectively "**Trust Declarations**") pursuant to each of which Trust Declarations a trust is organized (individually "**Trust**") for the purpose of holding title to said Real Property Interests for the benefit of the Association and with respect to the Declarant's rights under Sections 13.6, 13.7 and 13.8 below, for the benefit of the Declarant; or (3) to another Person for the benefit of the Association and, in certain instances, for the benefit of the Declarant. Prior to each such conveyance of Real Property Interests, the Declarant will subject such Real Property Interests to this Declaration and in connection therewith, the Declarant (1) will assign values denominated as "**Points**" to each respective Real Property Interest based on the Declarant's determination of the use and occupancy value of such Real Property Interest which value will be based on a number of factors, including location, size, capacity, furnishings and other features of the Accommodations (as hereinafter defined) available in respect of such Real Property Interests (the "**Club Accommodations**"); the location (geographic, topographic and scenic), recreational and other features of the "Club Property" (as that term is defined in Recital B below) to which such Real Property Interest relates; demand and availability for Owner use; the cost to buy, build, operate or maintain such Club Property; other factors that may affect the experience for such Club Property, such as holidays, ski season, rainy periods, and so on; and any other factors deemed relevant by the Declarant at the time such Real Property Interest(s) are being subjected to this Declaration and the Association will, in accordance with the terms of this Declaration, then issue memberships in the Association entitling the holders thereof to participate in the Club, including the use and occupancy of the Club Accommodations (herein referred to as the "**Ownerships**" and more particularly described below) with each Ownership having ascribed to it a specified number of Points which establishes the use and occupancy rights which the holder of such Ownership has and (2) may create, establish and/or define and reserve for Declarant, its successors and assigns, special use; reservation and/or other rights which may be attributable to some or all of such Real Property Interests ("**Special Features**"), all such

Special Features to be owned by the Declarant and the Declarant shall have the right to sell such Special Features to the Owners. Under this Declaration, (a) the Parties will impose mutual and beneficial restrictions, covenants, conditions, obligations, and easements to apply uniformly to the use, enjoyment, repair, maintenance, restoration, improvement, transfer and encumbrance of each respective Club Accommodation, the Real Property Interests which are the basis for each Club Accommodation and each Ownership for the benefit of the Declarant, the Association and all Owners and (b) the Declarant will impose certain covenants, conditions and restrictions on the Special Features for the benefit of the Declarant, the Association and each Owner to whom Declarant sells any Special Feature.

B. The Declarant may enter into agreements with the respective owners of Real Property Interests (collectively "**Club Property Developers**") that contain one or more Accommodations at various locations (each a "**Club Property**" and collectively, "**Club Properties**"). Declarant is, and will in the future become, the owner of interests in real properties that may become Club Properties and in that capacity, may act as a Club Property Developer. Club Properties may be developed as timeshare plans, but there is no requirement that a Club Property be subject to a timeshare plan (other than the Club). Under such agreements, Club Property Developers will from time to time at the direction of the Declarant convey Real Property Interests in their respective Club Properties either to the Association or to a Trustee for the benefit of the Association. Each Club Property Developer, together with the Declarant, will, for purposes of making the then to be conveyed Real Property Interests part of the Club, subject such Real Property Interests to this Declaration immediately before the Club Property Developer conveys such Real Property Interests to the Association or to a Trustee for the benefit of the Association and if the Declarant so elects, Special Features may be defined, created and/or established at that time with respect to some or all of such Real Property Interests.

C. In exchange for procuring from time to time the transfer of Real Property Interests to the Association for the benefit of the Owners or to a Trust for the benefit of the Association, the Declarant and Permitted Club Developers (as defined below) shall be exclusively entitled to (1) offer and sell the Ownerships attributable to such Real Property Interests to the general public or any other Person (as hereinafter defined), to retain all of the proceeds therefrom, and to instruct the Association to issue Ownerships to Persons designated by the Declarant from time to time and the Association shall be required to issue such Ownerships and (2) to offer and sell and, to the extent sold for a limited term, to offer and resell any Special Features to Owners, to retain all proceeds from the sale thereof and to instruct the Association as to who is the holder, from time to time, of each such Special Feature.

D. Declarant and the Association (with the understanding that the Association is, as of the date hereof, controlled by the Declarant) are entering into this Declaration to describe and establish the Club and the Ownerships; the basis on which Points and Special Features will be created, sold and used; the relationships among the Association, any Persons acting as a Trustee, the Owners and the Declarant; the basis upon which Real Property Interests will be transferred to the Association or to a Trustee for the benefit of the Association; the rights and obligations of the Declarant, any Person acting as a Trustee, any External Exchange Program and any Exchange User (as those terms are hereinafter defined), the Association and the Owners; and the management and operation of the Club and the Association.

NOW THEREFORE in consideration of the mutual covenants contained in this Amended and Restated Declaration and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

The Declarant and the Association hereby declare that all interests in all real property and all improvements thereon and all appurtenances thereto which are, from time to time, subjected to this Amended and Restated Declaration and all Ownerships in the Association and all appurtenances thereto created with respect to such interests are and shall be held, sold, conveyed, encumbered, leased, occupied, improved, and used subject to the covenants, conditions, reservations, restrictions, easements, and limitations of record contained or incorporated by reference in this Amended and Restated Declaration, including without limitation, those contained in all of the other Club Instruments (as hereinafter defined), as the same from time to time may lawfully be amended or supplemented, all of which are established, declared, and agreed to be for the purpose of enhancing and protecting the value, desirability, and enjoyment of all such interests and Ownerships. All such covenants, conditions, reservations, restrictions, easements, and limitations shall constitute equitable servitudes upon such interests, shall run with such interests so long as each such interest is subject hereto, shall be binding upon and inure to the benefit of the Declarant, the Association, any Trustee, all Owners and any other Persons having or acquiring any right, title, or interest therein and thereto and each of their respective heirs, legal representatives, successors, and assigns, and all other Persons who make any use of a Real Property Interest for any purpose whatsoever.

By entry of his name into the Club Ownership Register (as hereinafter defined), each Person for him/herself, his/her heirs, legal representatives, successors, assigns, and any other Person or Persons holding or occupying a Club Accommodation by, through, or under such Person, and whether or not expressly stated therein, covenants, consents, and agrees to and with the Declarant, the Association, and with all other Owners, to have ratified and to be bound by, observe, comply with, and perform the covenants, conditions, reservations, restrictions, easements, and limitations contained in this Amended and Restated Declaration and in the Articles of Incorporation, By-Laws, the Regulations, and any other Club Instruments (as respectively defined below), as each of the aforesaid documents may lawfully be amended or supplemented from time to time.

This Declaration, each Club Property Declaration and all Supplemental Declarations (as those terms are hereinafter defined) are intended to benefit and bind each Owner, the Declarant, the Association, and anyone else, including the Trustee, who now or hereafter has or acquires any rights or interests in any Real Property Interests subjected hereto or in any Ownership. Each of these parties has the right to enforce the Club Instruments.

ARTICLE I **DEFINITIONS**

The terms used in this Declaration and in the exhibits attached hereto, and all amendments and supplements thereto, shall have the following meanings, except as otherwise provided or unless the context otherwise requires or otherwise expressly provides:

"Accommodation". Means the physical space in an apartment, condominium, home, or cooperative unit, cabin, lodge, hotel or motel room, or any other private or commercial structure or facility forming part of a parcel of real property, available for overnight use or occupancy by one or more individuals.

"Active Real Property Interests". Has the meaning assigned to it in Section 13.6 below.

"Active Real Property Interests Declaration". Has the meaning assigned to it in Section 13.6.

"Arbitration Procedure". Has the meaning assigned to it in Section 20.2.

"Articles of Incorporation". Means the Articles or Certificate of Incorporation of the Association, as it may lawfully be amended from time to time.

"Assessment". Means any amount which, from time to time, is levied by the Board of Directors upon one (1) or more Owners, including, but not limited to, Regular Assessments and Special Assessments, but excluding Individual Charges.

"Assessment Period". Means the period for which the Assessment is to be levied.

"Assigned Club Accommodation". Means any Club Accommodation, the use and occupancy of which has been assigned to a particular Owner or Occupant by the Reservation Services Provider for one (1) or more Use Period(s) in accordance with the provisions of this Declaration and the Regulations.

"Association". Means PTVO Owners Association, Inc., a non-stock, non-profit corporation established under the laws of the State of Delaware and being the organization of persons who hold Ownerships, together with its successors and assigns and its wholly owned subsidiaries.

"Biennial Points". Means Points that can only be used every other Use Year (e.g., every even numbered or every odd numbered Use Year).

"Blanket Liens". Means any encumbrance on title to a Real Property Interest (a) which secures or evidences the obligation to pay money or to sell or transfer such Real Property Interest or an interest therein and (b) which authorizes, permits or requires the holder of such encumbrance to foreclose and sell, or to cause the loss of use of, the Real Property Interest or an interest therein or subject thereto (such as a mortgage, option to purchase or a judgment). The following shall not be deemed to be Blanket Liens: (i) lien of real estate taxes or other taxes and assessments levied by public authority which are not due and payable; (ii) the lien of assessments not yet due and payable charged under the Club Instruments, the External Exchange Program Instruments or the Club Property Instruments; (iii) the lease of a single Accommodation or of a Club Property which contains only one Accommodation which lease is assigned to the Association or a Trustee and constitutes the principal basis for the use rights to be exercised by Owners in such Club Accommodation; and (iv) any lien for costs or fees charged by a Trustee or

any successor to a Trustee or charged by any other Person holding title to Real Property Interests for the benefit of the Association or the Declarant solely for its activities in so holding title.

"Board of Directors" or "Board". Means the board of directors of the Association.

"By-Laws". Means the By-Laws of the Association, as they may lawfully be amended from time to time, pursuant to the provisions thereof.

"Club". Has the meaning assigned to it in Recital A.

"Club Accommodation". Has the meaning assigned to it in Recital A.

"Club Costs". Means and includes all costs incurred by the Association for and on behalf of the Owners in respect of Active Real Property Interests, as provided in Section 11.3 hereof.

"Club Instruments". Means this Declaration, the Club Property Declarations, all Supplemental Declarations, the Articles of Incorporation, the By-Laws, the Trust Declarations, the Regulations, and any other document or instrument which defines or governs the Association or the Club, as each may lawfully be amended or supplemented from time to time.

"Club Ownership Register". Means the definitive record of the Owners of the Association, their personal contact details (including the name of the Principal Contact and of each Permitted User), the number of Points of each type ascribed to each Ownership and if applicable, the nature and term of any Special Features held by the Owner, whether such Club Ownership Register is maintained in paper or in electronic format.

"Club Property" or "Club Properties". Has the meaning assigned to it in Recital B.

"Club Property Declaration". Means the instrument executed by the Club Property Developer of a Club Property, the Declarant, and the Association, under which the Real Property Interests in that Club Property which are to be the first Real Property Interests in that Club Property to become part of the Club are subjected to this Declaration. After recordation of the Club Property Declaration to which this Declaration is attached as an exhibit, all subsequent Real Property Interests at that Club Property will be subjected to this Declaration pursuant to Supplemental Declarations or other instruments.

"Club Property Developer". Has the meaning assigned to it in Recital B.

"Club Property Instruments". Means any declaration, articles of incorporation, by-laws, rules and regulations and all other documentation pertaining to one Club Property and specifically excluding the Club Instruments and the External Exchange Program Instruments.

"Club Property Owners Association". Means the entity responsible for the operation, physical maintenance and repair of a Club Property pursuant to its Club Property Instruments, where the Association is not the party so responsible.

"Converted Real Property Interests". Has the meaning assigned to it in Section 13.6 below.

"Declarant". Means WYNDHAM VACATION RESORTS, INC., a Delaware corporation, together with its successors, and assigns.

"Declarant's Points". Means the total of:

(a) the unsold Points for which no current Ownership Certificates have been issued, and the unsold Points which are deemed to have been issued to the Declarant pursuant to Section 13.1 hereof or to a Permitted Club Developer pursuant to Section 13.5; and

(b) any Points that have been reacquired by the Declarant or a Permitted Club Developer in any manner.

Any reference in this Declaration to "Declarant's Term Points," "Declarant's Perpetual Points," or "Declarant's Biennial Points" shall mean those Declarant's Points which are of that kind or type.

"Declaration". Means this Declaration for the Club, together with all Exhibits attached hereto, as they may lawfully be amended or supplemented from time to time, pursuant to the provisions hereof.

"Director". Means any person appointed or elected to the Board of Directors of the Association pursuant to the By-Laws.

"Exchange User". Means any person who occupies a Club Accommodation pursuant to an exchange through an External Exchange Program.

"External Exchange Program". Means any exchange membership program with which the Association is affiliated from time to time.

"External Exchange Program Instruments". Means the Affiliation/Membership Agreements between the Association and an External Exchange Program and any applicable documents regulating the conduct of that External Exchange Program or governing or describing the relationship between that External Exchange Program and the Club, the Association and/or the Owners.

"External Exchange Program Operator" means the person or entity who operates or manages an External Exchange Program.

"Furnishings". Means all furnishings, fixtures and chattels in or appurtenant to a Club Accommodation or Real Property Interest, and available for use by Owners during their Use Period.

"Holdover Occupant". Means any Owner or Occupant who fails to vacate his or her Assigned Club Accommodation at the end of his or her reserved or scheduled Use Period(s), or

at such earlier time as may be established by the Regulations, or otherwise uses or occupies a Club Accommodation during any period other than his or her reserved or scheduled Use Period(s), without written authorization from the Owner entitled to occupy such Club Accommodation at that time, or who prevents another Owner from using or occupying such Club Accommodation during such Owner's Use Period(s).

"Inactive Real Property Interests". Has the meaning assigned to it in Section 13.6 below.

"Individual Charge". Means a charge levied by the Board or the Manager upon a particular Owner for one or more of the reasons permitted hereunder.

"Lender of Record". Means any Person who holds a Security Interest in an Ownership, including but not limited to the secured party under a security agreement and its successors and assigns, provided that such security is evidenced by a written instrument, which may or may not have been perfected according to applicable law, but notice of which shall have been provided to the Association for entry into the Club Ownership Register.

"Maintenance Period". Means, with respect to each Club Accommodation, up to seven (7) days and nights, not necessarily consecutive, during each calendar year, which may be reserved by the Association or the Club Property Owners Association to perform maintenance of a Club Accommodation. If needed to maintain or upgrade any Club Accommodation and if the Club Property's vacancy rate is high enough to permit it (that is, so as to not materially impact the Owners' ability to reserve Club Accommodations at such Club Property), the Association or the Club Property Owners Association, as the case may be, may reserve more than seven (7) days for maintenance, etc. of such Club Accommodation.

"Management Agreement". Means the then-effective agreement(s) between the Association and one or more Managers which provides for management and the operation of the Association and administration of the Association's participation in, and relationship with, the Club, except for the Reservation System.

"Manager". Means the Person or Persons, its/their successors and assigns, engaged from time to time by the Association to undertake the duties, responsibilities, and obligations of managing and operating the Association and administering the Association's participation in, and relationship with, the Club, pursuant to the then-effective Management Agreement.

"Minimum Points Requirement". Has the meaning assigned to it in Section 8.5 below.

"Non-Disturbance Agreement". Means a recorded agreement signed by the holder of a Blanket Lien which states (a) its Blanket Lien is subject and subordinate both (i) to the rights of the Owners, the Association, the Declarant, any Trustee, each External Exchange Program Operator, and each External Exchange Program to use the Real Property Interests and (ii) to the Club Instruments, any Trust Declaration, all External Exchange Program Instruments and the Club Property Instruments and (b) such holder and anyone who acquires the Real Property Interests through its Blanket Lien, and each of their respective successors and assigns, will not use or permit or cause the Real Property Interests covered thereby to be used in a manner which prevents or precludes the Owners, the Association, the Declarant, any External Exchange

Program Operator, or any External Exchange Program from using such Real Property Interests in accordance with the Club Instruments.

"Occupant". Means any person occupying or permitted to occupy a Club Accommodation, including, but not limited to, any Owner, members of the Owner's family, the Owner's guests, tenants, licensees, and invitees, and any renters, or Exchange Users and their respective family members, guests, tenants, licensees and invitees.

"Officer". Means any person elected or appointed by the Board of Directors, pursuant to the By-Laws to serve as an officer of the Association.

"Owner". Means a Person who acquires an Ownership. The Ownership Certificate for each Ownership will be issued to the Principal Contact for that Ownership and all Owners will have their name entered in the Club Ownership Register. The term "Owner" includes the Declarant with respect to the Declarant's Points.

"Ownership". Means a membership in the Association which consists of the right to participate in the Club, and the rights to use and occupy Club Accommodations and Real Property Interests, which rights are denominated in Points. There may be more than one class of Ownership as may be created by the Declarant from time to time.

"Ownership Certificate". Means the certificate issued by the Association to the Principal Contact naming that Person(s) as an Owner and specifying, among other things, the number and type of Points and if applicable, the kind of Ownership held by that Owner.

"Parties". Means the Declarant and the Association .

"Permitted Club Developer". Means any Person or Persons which the Declarant from time to time appoints in accordance with Section 13.5.

"Permitted Club Developer Agreement". Means an agreement between the Declarant and a Permitted Club Developer.

"Permitted Users". Means that or those individual(s) who have the right to use the Points assigned to an Ownership (such as, to make a reservation for a Club Accommodation or to use the Points in any way permitted under the Club Instruments). If an Ownership is held in the name of one or more individuals, that or all of those individual(s) shall be Permitted Users. If an Ownership is held in the name of a trust, corporation, partnership, limited liability company or other entity, then that or those individuals designated by the Principal Contact to be such shall be Permitted Users. The Principal Contact is always a Permitted User. The Permitted Users with respect to each Ownership shall be identified in the Club Ownership Register. The Declarant or the Association shall have the right to limit the maximum number of Permitted Users per Ownership.

"Perpetual Points". Means Points attributable to Real Property Interests that will cease to be available only if the Club is terminated in accordance with the By-Laws.

"Person". Includes any individual, corporation, partnership, limited liability company, limited liability partnership, association, governmental body, society, mutual benefit corporation or other entity.

"Points". Has the meaning assigned to it in Section 8.1.

"Points Value". Means the number of Points required to occupy any particular Club Accommodation during any particular Use Period.

"Principal Contact". Has the meaning assigned to it in Section 7.3 below.

"Program Change". Has the meaning assigned to it in Section 13.12.

"Purchase Agreement". Means any agreement with the Declarant or a Permitted Club Developer (including, but not limited to, a security agreement or retail installment contract) pursuant to which a Person acquires an Ownership.

"Real Property Interest". Means a leasehold, fee simple or other real property interest in an Accommodation or a group of Accommodations in a Club Property, together with any and all rights and privileges belonging or in any manner appertaining thereto (including any rights and privileges in common elements, facilities and/or amenities), including a timeshare interval, an undivided interest, and any other type of interest in real property which is owned or leased by the Association or by a Trustee or any other Person on behalf and for the benefit of the Association for the use of the Owners, now or hereafter submitted to this Declaration, as amended or supplemented from time to time.

"Reconveyance Notice". Has the meaning assigned to it in Section 13.7 below.

"Regular Assessments". Means the annual assessment levied by the Board upon all Ownerships for their share of regular annual Club Costs in accordance with Section 11.5 hereof.

"Regulations". Mean the rules of the Club, including but not limited to the terms and conditions of Ownership, the use of Points, the use of Special Features, the utilization of the Reservation System and general use of Club Accommodations.

"Reservation System". Means the method, arrangement, or procedure by which Owners reserve use and occupancy of Club Accommodations pursuant to the terms of the Club Instruments.

"Reservation Services Agreement". Means the agreement between the Association and the Reservation Services Provider pursuant to which the Reservation Services Provider operates the Reservation System for the benefit of the Association and the Owners.

"Reservation Services Provider". Has the meaning assigned to it in Section 13.3.

"Seasons". Means the days of each calendar year which are configured into groups of time and for configured groups of time which are in excess of 7 days, the same day of the week in the same group shall be allotted a consistent Point Value.

"Security Interest". Has the meaning as provided in the Uniform Commercial Code as adopted in the applicable State or for jurisdictions outside of the United States of America, as provided in any applicable law.

"Special Assessment". Means an Assessment levied by the Board upon some or all of the Owners as provided in Section 11.8 hereof.

"Special Features". Means rights which may be attributable to specific Real Property Interests and the Person who holds such rights has special reservation, special use, special priority reservation and/or some other special rights. Special Features may include, but are not limited to, (i) Special Features that permit the holder thereof to reserve a fixed Use Period in a specific Club Accommodation, a specific Club Property or a specific group of Club Properties, (ii) Special Features that permit the holder thereof to reserve a fixed Accommodation or group of Accommodations at one Club Property or at a specified group of Club Properties, or (iii) Special Features that permit the holder thereof to make a reservation for any Use Period in any generally available Accommodation prior to the right of the Owners to make such a reservation, but subject to the prior reservation of such Use Period by another Person who holds the same Special Feature or who holds a Special Feature that permit an earlier reservation period, if any. All Special Features will be owned by the Declarant or, if the Declarant so permits, by a Permitted Club Developer, and the Declarant and Permitted Club Developer will be permitted to sell such Special Features, but only to Owners. An Owner may acquire a Special Feature that can be used every Use Year during his Ownership or for a limited number of Use Years (which need not be consecutive Use Years) and upon the expiration of such limited term, the Declarant (or Permitted Club Developer) would be able to sell such Special Features again.

"Special Features Contract" means the agreement between the Declarant (or a Permitted Club Developer) and an Owner pursuant to which that Owner acquires a Special Feature and which describes the exact nature of the Special Feature, the term of the Special Feature and the consideration to be paid for the Special Feature. Upon execution of each Special Features Contract, the Declarant (or the Permitted Club Developer) shall notify the Association of the nature of the Special Feature so sold, the name of the Owner acquiring the Special Feature and the term of such Owner's Special Feature rights and thereupon, the Association shall cause the Club Ownership Register to reflect such information. Each time that the Declarant (or Permitted Club Developer) terminates or suspends an Owner's rights to use a Special Feature or a Special Features Contract expires, the Declarant (or Permitted Club Developer) shall so notify the Association and thereupon, the Declarant (or the Permitted Club Developer) shall be deemed to be the holder of such Special Feature (until the Association is otherwise notified to the contrary by such holder).

"Supplemental Declaration". Means any declaration annexing additional Real Property Interests in a Club Property to this Declaration, as provided in Article V hereof.

"Term Points". Means Points attributable to Real Property Interests that will be available for a defined term.

"Title Policy". Has the meaning assigned to it in Section 5.1.

"Total Points". Means the total number of Points, of all types, that exist from time to time as set forth in the various recorded documents subjecting Real Property Interests to, or withdrawing Real Property Interests from, this Declaration.

"Trust". Has the meaning assigned to it in Recital A, along with any effective amendments or supplements thereto.

"Trustee". Has the meaning assigned to it in Recital A.

"Trust Declaration". Has the meaning assigned to it in Recital A, together with all amendments, modifications or supplements thereto.

"Use Period". Means the period of time during which an Owner is entitled to use and occupy an Assigned Club Accommodation pursuant to the terms of the Club Instruments.

"Use Year". Means the twelve (12) calendar month period during which an Owner has the right to reserve occupancy of a Club Accommodation using his/her/their Points. Each Owner's Use Year shall start on the first day of a calendar year; provided, however, that an Owner with Biennial Points will only be able to use those Points every other Use Year.

"Voting Power". Means the aggregate vote or written assent of Owners entitled to vote, in person or by proxy, including, if there is more than one class of Owners, the aggregate vote or written assent of all classes of Owners.

ARTICLE II

PURPOSES AND EFFECT OF THIS DECLARATION

By signing and recording this Declaration against Real Property Interests, from time to time, the Declarant and the Association intend the following:

- (a) To create the Club for the Owners to share the use, enjoyment, management, upkeep and repair of such Real Property Interests and for the operation of the Club;
- (b) To comply with the legal requirements necessary to include the Real Property Interests in the Club and to dedicate such Real Property Interests to use in the Club;
- (c) To give notice of the Club and of the rights of the Owners to use the Club Accommodations;
- (d) To grant to Declarant the right to define, establish and/or create and reserve for itself Special Features, which Special Features may relate to some or all of the Real Property Interests in the Club from time to time;
- (e) To grant an easement to the Owners to use the Club Accommodations in the manner and at the times permitted by the Club Instruments;

(f) To grant and reserve easements to use the Club Accommodations in favor of the Declarant and the Association to the extent they are specifically permitted to do so under the Club Instruments;

(g) To the extent that the Association affiliates with an External Exchange Program, to grant an easement to the External Exchange Program Operator to use the Club Accommodations in the manner and at the times specifically permitted under the Club Instruments and the External Exchange Program Instruments and to grant an easement to each such External Exchange Program to allow its Exchange Users to use the Club Accommodations in the manner and at the times specifically permitted in the Club Instruments and its External Exchange Program Instruments;

(h) To protect the Owners' rights to use the Club Accommodations and Special Features (i) from the claims upon the interest of the Declarant, any Permitted Club Developer, or any Club Property Developer and (ii) from the claims by creditors of the Declarant, any Permitted Club Developer, any Club Property Developer, or any one claiming by, through or under any of them; and

(i) To enhance, maintain and protect the value, desirability and enjoyment of the Real Property Interests and all interests therein for the benefit of the Declarant, the Association and the Owners.

ARTICLE III **INTERPRETATION**

For the purposes of this Declaration, except as otherwise specifically expressed or provided:

(a) All reference to designated "Articles", "Sections", "Schedules", or other subdivisions are to the designated articles, sections, schedules and other subdivisions of this Declaration;

(b) The words "Declaration", "hereof", "hereunder", and "herein", and similar expressions refer to the whole of this Declaration and not to any particular Article, Section, Schedule, or other subdivision;

(c) The headings are for convenience only, form no part of this Declaration or any exhibits annexed hereto and are not intended to interpret, define or limit the scope or extent of interest of this Declaration or any provision hereof;

(d) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all calculations to be made hereunder are to be made, in accordance with generally accepted accounting principles;

(e) All payments required to be made pursuant to the provisions of this Declaration will be made in currency of the United States or such other currency upon which the Parties may agree from time to time;

(f) Words importing the singular will include the plural and vice versa. Words importing one gender will be deemed to include all other genders;

(g) Any reference to a statute includes and is a reference to, such statute, the amendments to such statute, and the regulations which are in force at the relevant time, and any statute or regulation that may be passed which has the effect of superseding such statutes or regulations; and

(h) The word "including", when following any general statement, term or matter is not to be construed to limit such general statement, term or matter to the specific items or matters set forth immediately following such word, or to similar items or matters, whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather, is to be construed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter.

ARTICLE IV **INITIAL TRANSFER OF REAL PROPERTY INTERESTS**

The Declarant shall cause the Real Property Interests described in the Club Property Declaration to which this Declaration is attached to be transferred to the Association or a Trustee for the benefit of the Association, free and clear of all Blanket Liens or with a Non-Disturbance Agreement in place with respect to any Blanket Lien that continues to encumber such Real Property Interests, and with those Special Features, if any, described in said Club Property Declaration. Declarant shall assign, or if Declarant is not the Owner of such Real Property, then Declarant shall cause the Club Property Developer to assign, to the Association all third party warranties then applicable to such Real Property Interests. Notwithstanding the foregoing, the transfer of such Real Property Interests shall be without any expressed or implied representation or warranty from the Declarant or the Club Property Developer, including any warranties, statutory or otherwise, of habitability, merchantability or fitness for a particular purpose, except as may be required by law.

ARTICLE V **ADDITION AND REMOVAL OF REAL PROPERTY INTERESTS**

5.1 **Additional Real Property Interests.** Prior to the issuance of any Ownership all or any portion of whose Points are attributable to any additional Real Property Interests, and prior to Declarant's obligation to pay Assessments on Declarant's Points attributable to any such additional Real Property Interests, the Declarant shall provide to the Board (a) the Title Policy insuring the Association's or applicable Trustee's title to such additional Real Property Interests is (1) free and clear of all Blanket Liens, or a Non Disturbance Agreement or other agreement is in place to ensure the Association's or such Trustee's title to such additional Real Property Interests will not be divested by foreclosure of any Blanket Lien on such additional Real Property Interests, and (2) subject to only the Club Instruments, the Club Property Instruments, if any, and those other matters that do not unreasonably interfere with use of such additional Real Property Interests in the Club (it being agreed that any lease by the Club Property Developer or Club Property Owners Association, as the case may be, to the Declarant or one of its affiliates of any common

area or non-residential unit portion of such Club Property shall not be deemed to be an unreasonable interference), and (b) either (i) a copy of a temporary or permanent certificate of occupancy, or its equivalent, for all such additional Real Property Interests where construction of the related Club Accommodations is complete, or (ii) to the extent allowed by applicable law, a payment and performance bond, a letter of credit or such other assurances as is customary in the timeshare industry or accepted by the applicable regulatory agency to assure completion of construction with respect to all not completely constructed Club Accommodations, the Real Property Interests with respect to which are then being conveyed to the Association or to a Trustee; it being understood that any such bond, letter of credit or other assurance shall be in favor of the Association or, if required by law, in favor of the applicable regulatory agency and shall provide assurance of the completion of construction of all such additional Real Property Interests where construction of the related Club Accommodations is not complete. Until such time as the conditions set forth herein for the issuance of any Ownership or Declarant's obligation to pay Assessments have been satisfied, all operational and other costs related to any such additional Real Property Interest (including without limitation property taxes and insurance) shall be the sole responsibility and obligation of the Declarant. Any transfer of additional Real Property Interests may relate to both constructed and not constructed (or not fully constructed) Club Accommodations. In connection with each transfer of such additional Real Property Interest, (a) Declarant shall assign, or if Declarant is not the transferor, Declarant shall cause such transferor to assign, to the Association all third party warranties then applicable to such additional Real Property Interest and (b) neither the Declarant nor the transferor thereof (if not the Declarant) shall be deemed to have made any express or implied warranty with respect to such additional Real Property Interest, including any warranty, statutory or otherwise, of habitability, merchantability or fitness for a particular purpose, except as may be required by law.

5.2 **Method of Transfer.**

(a) The transfer of any additional Real Property Interest to the Club shall be effected by (1) the Declarant's execution and recordation of a Supplemental Declaration, or equivalent document under applicable law, that subjects the additional Real Property Interests described in such document to the terms and conditions of this Declaration and (2) then, the delivery and recordation, if appropriate, of the instrument transferring such additional Real Property Interests to the Association or to a Trustee, as the case may be, in accordance with the requirements of this Declaration. Each such Supplemental Declaration or equivalent document for additional Real Property Interests at a Club Property shall reference the recording information for the Club Property Declaration to which this Declaration is attached and pursuant to which the initial Real Property Interests at that Club Property were subjected to this Declaration; shall state that the additional Real Property Interests covered thereby are expressly made subject to this Declaration; shall indicate the number of Points (and type of Points) assigned by the Declarant to such additional Real Property Interests; shall, if the Declarant so elects, define, create and/or establish one or more Special Features attributable to all or any portion of such additional Real Property Interests; and shall be recorded in the official records of the jurisdiction in which that Club Property is located.

(b) If such additional Real Property Interests are conveyed to a Trustee and if required by the terms of the applicable Trust Declaration or by the Board, the Association

shall amend the Trust Declaration to reflect the transfer of the additional Real Property Interests and, if required by law or by the Board, shall record such amendment in the appropriate recording office. The terms of such Trust Declaration (as amended) shall apply to all additional Real Property Interests conveyed to the applicable Trustee.

5.3 **Supplemental Declaration.** A Supplemental Declaration may contain such additions and modifications to this Declaration as may be necessary to reflect the different character and conditions, if any, of the additional Real Property Interests or as the Declarant may deem appropriate in the development of such property; provided, however, that such modifications shall not be inconsistent with the general plan or intent of this Declaration, nor shall they revoke any of the provisions of this Declaration.

5.4 **Effect of Transfer of Real Property Interests.** Upon the transfer of additional Real Property Interests to the Association or to a Trustee, such additional Real Property Interests shall be deemed part of the Club and shall be subject to the terms of this Declaration and the other Club Instruments. All provisions of this Declaration, including the Declarant's rights identified in Article XIII, and those provisions regarding the Owners' obligations to pay Assessments, shall apply to the additional Real Property Interests immediately upon recording the applicable Supplemental Declaration. With respect to any additional Real Property Interests conveyed to a Trustee, Declarant reserves the right to require such Trustee to execute and record one or more instruments from time to time to evidence the rights of the Declarant, the Association and the Owners concerning Real Property Interests held in the applicable Trust.

5.5 **No Obligation of the Declarant.** Neither this Declaration nor the Club Property Declaration to which this Declaration is attached shall impose or be deemed to impose any obligation on the Declarant to transfer or cause to be transferred any additional Real Property Interests to the Association or to a Trustee. Specifically, the Declarant makes no representation, covenant or warranty to the Association, the Owners or to any other Person that the Declarant will at any time in the future, transfer or cause to be transferred any additional Real Property Interests. If the Declarant elects to transfer, or cause to be transferred, any additional Real Property Interests, then subject to the provisions of this Declaration, there is no limit to the number of additional Real Property Interests that may be so transferred. The Declarant may transfer, or cause to be transferred, additional Real Property Interests in one or more transactions.

5.6 **Transfer of Replacement Club Accommodations.** If a Real Property Interest is required to be replaced pursuant to Sections 14.3 or 15.2, the same method of transfer as provided in Section 5.2 above shall be followed.

5.7 **Removal of a Real Property Interest.** Except in the event of loss of a Club Accommodation as provided in Section 5.9, or of damage or destruction of a Real Property Interest as provided in Section 15.2, or of condemnation or taking of a Real Property Interest as provided in Section 14.3; except as expressly reserved by the Declarant under Section 13.6 below with respect to Inactive Real Property Interests, under Section 13.7 below with respect to the conveyance of Real Property Interests upon dissolution or liquidation of the Association, or under Section 13.8 with respect to a Club Property substitution; or except as otherwise expressly provided in Section 21.16 below or elsewhere in one of Club Instruments, no Real Property Interest may be conveyed by the Association or a Trustee, as the case may be, or made no longer

subject to this Declaration. If a Real Property Interest is removed under Sections 5.9, 14.3 or 15.2, or pursuant to Declarant's right to remove Inactive Real Property Interests under Section 13.6 below, Declarant's right to receive certain Real Property Interests upon dissolution or liquidation of the Association as provided in Section 13.7 below, or Declarant's right to substitute for a Club Property under Section 13.8 below, the Association shall amend this Declaration and, if applicable, the corresponding Trust Declaration to remove such Real Property Interests from this Declaration and such Trust Declaration, as well as to cancel all Points assigned to, and any Special Features attributable to, such Real Property Interests, and shall record such amendments and other instruments in the appropriate recording office and any other recording office in which this Declaration or such Trust Declaration have been recorded.

5.8 Status of Real Property Interests. Except as provided in Section 13.6 below and except with respect to any Special Features attributable thereto, all Real Property Interests subjected to the Club Instruments whether conveyed to the Association or to a Trustee for the benefit of the Association shall, for all purposes of this Declaration and the Club, be deemed to be owned by the Association and whether the Real Property Interests are owned by the Association or a Trustee, the Association shall be entitled to exercise all rights, and be obligated to fulfill all duties and obligations, of the owner of such Real Property Interests under the applicable Club Property Instruments, including exercising voting rights and paying all amounts due under such Club Property Instruments with respect to such Real Property Interests.

5.9 Board's Options Upon Loss of Club Accommodations – Generally. In order to maintain the ability of all Owners to reserve Use Period(s) in Club Accommodations, in the event Club Accommodations are lost for any reason (other than through condemnation or eminent domain as provided in Article XIV, or damage or destruction as provided in Article XV), the Board shall, at its sole election, (a) if permitted under applicable law, delete from the Points then owned by the Owners other than Declarant a number of Points equal to the number of Points ascribed to the Club Accommodation(s) lost (such reduction to be done in such fashion as the Board shall determine so long as it is permissible under applicable law) and thereafter the Club Ownership Register will be amended accordingly, (b) replace such Club Accommodation with a substitute Accommodation which must provide the Owners with an opportunity to enjoy a substantially similar vacation experience as was available with the Club Accommodation being removed [such determination to be based on all relevant factors, including, but not limited to, some or all of the following: site, capacity, furnishings, maintenance, location (geographic, topographic and scenic) demand and availability for Owner use, and recreational capabilities] and shall cause title to such substitute Accommodation to be conveyed to the Association or to a Trustee for the benefit of the Association and subjected to this Declaration as provided in Section 5.2 hereof (it being understood that, if a Special Feature was attributable to the lost Club Accommodation, then the same Special Feature shall be attributable to the substitute/replacement Accommodation), or (c) take any other action permitted under applicable law in order to continue to meet the requirements of Section 8.4 below. If the Board elects to replace, then, so long as Declarant is still active and willing to accommodate the Board's request, the Board shall engage the Declarant to acquire said substitute Accommodation and the Declarant agrees to take all necessary action to do so. If the amount of any reserves and other funds available for replacement is not sufficient to pay the costs to replace the Club Accommodation, the Board shall levy a Special Assessment pursuant to Section 11.8 below. If the Special Assessment is not approved by the majority of the Board, then the Board shall not to complete the purchase of the proposed

substitute Accommodation and shall continue its search for a suitable substitute Accommodation as to which either no Special Assessment is required or the approval of a majority of the Board as provided in Section 11.8 is obtained. The Board may, and the Declarant shall have the right to, provide alternative Accommodations meeting the replacement standard described in clause (b) above for the time period when the Association is in the process of obtaining replacement Accommodations and during the time period such alternative Accommodations are available to the Owners, the Association shall be responsible for, and Club Costs shall include, all assessments levied against such Accommodations and to the extent not covered thereby, all other costs of maintenance and use (including taxes and utilities). For this purpose, the Board shall assign Point Values to such alternative Accommodations to enable the Club to continue to comply with the requirements of Section 8.4.

ARTICLE VI

USE AND OCCUPANCY RIGHTS, EASEMENTS AND RESTRICTIONS

6.1 **Club Instruments.** In addition to the provisions of this Declaration, the use and occupancy of the Club Accommodations by the Owners and their guests, and by Exchange Users shall be subject to the other Club Instruments, including the By-Laws and such Regulations as may be promulgated from time to time.

6.2 **Care of Club Accommodations.** Each Occupant shall exercise reasonable care in the use of the Club Accommodations, the Furnishings and any property of the Association or the Club Property Owners Association, whether or not such property is part of the Club Accommodations.

6.3 **Responsibility for Damage.** Each Occupant shall be liable for the cost and expense of any maintenance, repair, or replacement of a Club Accommodation, Furnishings or any other portion of a Club Property made necessary as a result of such Occupant's negligent or intentional acts or omissions. The negligent or intentional act or omission of an Owner's or an Exchange User's family members, guests, tenants, licensees or invitees shall be deemed to be the act of the applicable Owner or Exchange User, and the applicable Owner or Exchange User shall be jointly and severally liable with all such Persons. Without prejudice to the applicable insurer(s) rights of subrogation, if the Association or the Club Property Owners Association maintains insurance on the Club Accommodation, the Furnishings or other portions of a Club Property, files an insurance claim and receives payment on the claim, then the liability of the Owner or Exchange User and any such Person(s) jointly and severally liable with them shall be decreased by the amount of the paid insurance claim in excess of any costs incurred in connection with the filing and processing of such claim.

If a Club Accommodation is rendered uninhabitable due to the intentional or negligent act or omission of an Owner or an Exchange User, or the family member, guest, tenant, licensee or invitee of an Owner or an Exchange User, the Association shall use reasonable efforts to find, and shall initially pay for, alternative Accommodations of reasonably comparable quality and location for any Person(s) subsequently authorized to occupy such uninhabitable Club Accommodation. If the Association is unable to find alternative Accommodations of reasonably comparable quality and location and is otherwise unable to accommodate the Owner or the Exchange User, family member, guest, tenant, licensee or invitee of the Owner, then such

Owner's reservation shall be cancelled and the Association shall credit the Owner's account for the Points used to make the reservation for all nights the Owner or Exchange User, family member, guest, tenant, licensee or invitee of the Owner was unable to occupy the Club Accommodation. The Association may levy an Individual Charge against the responsible Owner, Exchange User, and/or Occupant for the uninsured cost of providing such alternative Accommodations, together with an administrative fee payable to the Association in amount determined by the Board from time to time.

The Association shall submit a bill to the responsible Owner, Exchange User and/or Occupant for all amounts payable to the Association under this Section. Such amounts shall be enforceable as a claim for money damages against the applicable Owner, Exchange User and/or Occupant and in the case of Owners, shall constitute an Individual Charge to the applicable Owner. The Association shall make all reasonable efforts to collect such amounts; however, the Association has no obligation to pursue collection from Occupants other than an Owner and each Owner shall remain primarily liable for any loss, damage or destruction caused by any Person (other than an Exchange User or the guests, licensees or invitees of an Exchange User) who occupies a Club Accommodation with that Owner's permission.

Any loss, damage, or destruction caused by an Exchange User, or guests, licensees or invitees of an Exchange User, to a Club Property, a Club Accommodation, Furnishings, or any other property of the Association or of the applicable Club Property Owners Association, or any violation of the Club Instruments by an Exchange User, shall be remedied by the Association, and the cost so incurred, to the extent not covered by insurance or recovered from the Exchange User, shall be a Club Cost and shall be shared by all Owners and be reflected in the Regular Assessment; provided, however, that if such Exchange User is also an Owner, such costs shall constitute an Individual Charge to such Owner and shall be borne by such Owner exclusively.

6.4 **Offensive Use.** No Occupant shall cause or permit any unlawful, improper, or offensive use of any Club Property, Club Accommodation or Furnishing nor shall any Occupant permit any portion of the property of the Association or of the applicable Club Property Owners Association to be used in any manner contrary to, or not in accordance with, the provisions of the Club Instruments or the applicable Club Property Instruments. Furthermore, no Occupant shall cause or permit anything to be done or kept in a Club Accommodation or Club Property which might adversely affect its safety or soundness; which is reasonably likely to increase the rate of any insurance coverage of the Association or of the applicable Club Property Owners Association; which obstructs or interferes with the rights of other Occupants or which annoys them by unreasonable noises or otherwise, nor shall any Occupant commit or permit any nuisance, objectionable or disruptive behavior, or illegal acts in or about the Club Accommodations or Club Property.

6.5 **Hazards to Health and Safety.** Any violation of the Club Instruments which is deemed by the Board of Directors or the Manager to constitute a hazard to health or safety shall be corrected immediately. The Owner or Exchange User responsible shall be liable for any uninsured expense of correcting such violation.

6.6 **Maximum Occupancy Restriction.** No Occupant shall cause or permit his or her Assigned Club Accommodation to be occupied overnight by a number of persons in excess of

such occupancy limits as are imposed by law, by the Club Instruments, or by the applicable Club Property Instruments.

6.7 Vacating Club Accommodations. Each Occupant shall vacate his or her Assigned Club Accommodation on the final day of his or her reserved or scheduled Use Period at the time specified in the then-current Regulations. At such time, each Occupant shall take all such steps as are necessary to ensure the removal of all persons occupying his or her Assigned Club Accommodation during his or her reserved or scheduled Use Period, along with all of the personal property of such Persons. If any Occupant (a) fails to vacate his or her Assigned Club Accommodation at the end of his or her reserved or scheduled Use Period(s) or at such earlier time as may be fixed by the then-current Regulations; (b) otherwise uses or occupies a Club Accommodation during any period other than his or her reserved or scheduled Use Period(s) without written authorization from the Owner entitled to occupy such Assigned Club Accommodation at that time, or (c) prevents another Owner from using or occupying such Club Accommodation during such other Owner's reserved or scheduled Use Period(s), then such Occupant shall be deemed a Holdover Occupant and shall be subject to immediate removal, eviction or ejection (each Owner being hereby deemed to have waived any statutorily required notice of removal, eviction or ejection to the extent that such notice may be waived under the law of the jurisdiction in which the Club Accommodation is located).

The Association, acting through the Manager, shall take such prompt and immediate steps as may be necessary to remove such Holdover Occupant and his or her personal property from the Club Accommodation wrongfully occupied, to the extent permitted by law. The Association shall use its best efforts to secure, at its own expense, alternative Accommodations for any Owner or Occupant who is unable to occupy his or her Assigned Club Accommodation due to the failure of any Holdover Occupant to vacate such Club Accommodation. Such alternative Accommodations shall be comparable in quality and location to such Owner's or Occupant's Assigned Club Accommodation, to the extent reasonably possible, and the cost of providing such alternative Accommodations shall initially be borne by the Association. Notwithstanding the above, the Association shall not incur any liability in the event it is unable to secure alternative Accommodations nor shall it be liable for any loss or damage to such alternative Accommodations caused by an Owner or Occupant.

The cost of such alternative Accommodations, together with all other costs and expenses, including reasonable attorneys' fees, incurred by the Association due to the Holdover Occupant's failure to vacate any Club Accommodation, as well as an administrative fee which, unless and until adjusted by the Manager, shall be in the amount determined from time to time by the Manager in its sole discretion, shall be assessed to the Owner who wrongfully occupied or permitted or otherwise allowed the Holdover Occupant to occupy such Club Accommodation. Such administrative fee shall be charged for each day or part of a day, including the day of surrender, during which the Holdover Occupant wrongfully occupies a Club Accommodation. The Manager shall submit a bill to such Owner or Exchange User for any amounts payable to the Association pursuant to this Section, which amounts shall be enforceable as a claim for money damages against such Owner or Exchange User and, in the case of an Owner, shall constitute an Individual Charge to such Owner.

6.8 **Owner Easements.** Subject to the Declarant easements described in Section 6.9 below, the Association's easements described in Section 6.12 below, the External Exchange Program Operator's easements described in Section 6.13 below, the External Exchange Program/Exchange User easements described in Section 6.14 below, and to the Club Property Instruments for each Club Property, each Person who becomes an Owner shall have the non-exclusive, as among all Owners, easement and right to use, possess and enjoy all Club Accommodations in all Club Properties, on the terms and conditions set forth in this Declaration, including the following:

(a) Owners may only use a Club Accommodation and a Club Property's amenities and other facilities during their reserved Use Period;

(b) During an Owner's reserved Use Period, the Owner (and the members of his/her family and his/her guest(s), tenants, licensees or invitees) shall have the exclusive right to occupy and/or use his/her Assigned Club Accommodation and all Furnishings located in such Assigned Club Accommodation, together with non-exclusive right to use the applicable Club Property's amenities and other facilities; the Declarant, the Association, and any External Exchange Program Operator who is expressly granted such rights shall have the same use rights during all Use Periods they reserve or have the right to use as set forth in Sections 6.10, 6.12 and 6.13 below;

(c) The Manager and/or the Board may, in addition to those set forth in the Club Property Instruments and in the Regulations, adopt, publish and enforce rules (i) regulating the use by Owners of the Club Property in which an Assigned Club Accommodation is located during their reserved Use Period in that Assigned Club Accommodation, and (ii) regulating or prohibiting the use of Points and Club Accommodations in a commercial manner; and

(d) Each Owner's easement rights described in this Section 6.8 (i) are appurtenant to his Ownership, (ii) cannot be separated from that Ownership and exist only during his/her reserved Use Period, (iii) automatically pass with ownership of such Ownership to such Owner's transferees, heirs, successors and assigns; (iv) terminate when his Ownership expires, is cancelled or terminated; and (v) are suspended whenever such Owner's reservation and use rights are suspended by the Association in accordance with the Club Instruments.

6.9 **Declarant Easements.** In addition to any easements described in the Club Property Declaration, any Supplemental Declaration or otherwise of record, all of the Real Property Interests and all rights of the Association and each Owner therein shall be subject to the following easements and/or rights:

(a) Subject to any Club Property Instruments, the Declarant shall have and hereby retains for itself and its Permitted Club Developers, successors and assigns, an exclusive easement with respect to each Club Property, (i) to market and sell Ownerships in any and all manners throughout such Club Property, both within and outside of the Club Accommodations at such Club Property and/or in connection with such sales and marketing activities, to subject such Club Property to a marketing declaration (granting to

the Declarant and/or its affiliates certain rights); (ii) to maintain one (1) or more model Club Accommodations; (iii) to construct, maintain and operate one or more business and sales offices, whether in Club Accommodations or elsewhere at such Club Property, to enable the Declarant or its designee(s) to market and sell Ownerships; (iv) to display signs; (v) to show Club Accommodations and that Club Property's amenities and other facilities to prospective purchasers; (vi) in accordance with the provisions of Section 6.10 below, but subject to any expressly granted rights of an External Exchange Program Operator under Section 6.13 below and the applicable External Exchange Program Instruments, to rent out or otherwise use Club Accommodations that remain unreserved, and (vii) to conduct and/or maintain any other activities on such Club Property;

(b) Subject to any Club Property Instruments, the Declarant shall have and hereby retains for itself, its Permitted Club Developers, successors and assigns, a non-exclusive easement and right of ingress and egress in and to those portions of each Club Accommodation and each Club Property which are reasonably necessary for the Declarant to construct additions and improvements to any Club Accommodation or to adjacent portions of such Club Property;

(c) Subject to any Club Property Instruments, the Declarant shall have and hereby retains for itself, its Permitted Club Developers, successors and assigns, including the Association and all Owners, such non-exclusive easements (i) for ingress and egress in and to each Club Accommodation as may be necessary to enable the Declarant, the Association and the Manager to implement any reservation procedures which may be set forth in the Regulations and (ii) for the operation of a front desk and check-in facility for Owners, Exchange Users and guests; and

(d) Subject to any Club Property Instruments, the Declarant further reserves for itself, its Permitted Club Developers, successors and assigns, the right to establish such additional easements, reservations, exceptions, and exclusions or to relocate any existing easements, as the Declarant, in its sole discretion, deems necessary or appropriate and in the best interests of the Owners and the Association in order to serve the entire Club Property; provided, however, that no such reservation, without the written consent of the Board, shall materially reduce any existing benefit of the Owners or impose any additional financial burden upon the Owners or the Association.

Declarant hereby covenants that in each exercise of its foregoing easement rights Declarant shall use commercially reasonable efforts to minimize any adverse impact on the use and enjoyment of Club Accommodations affected by such exercise (or other Club Accommodations adjacent to the Club Accommodations affected by such exercise, as the case may be) by Owners, Exchange Users, and any other Occupant and their guests and invitees.

6.10 The Declarant's Use of Club Accommodations. Notwithstanding any provision of this Declaration to the contrary, the Declarant shall have the right to use its Declarant's Points to reserve Use Periods on the same basis as any other Owner, including the rights to rent any Club Accommodation on a transient basis to members of the general public or to make any other use thereof which is permitted by law for the Use Periods to which it is entitled. In addition, at any point in time (a) when the Association is not affiliated with an External Exchange Program to

which such right has, subject to Section 13.9 below, been expressly granted, the Declarant shall have the right to reserve, without using any of Declarant's Points, any Club Accommodation that has not been reserved on or before fifty-nine (59) days prior to the first day of the applicable Use Period and use that reserved Club Accommodation for any purpose, including marketing, sales, or rental and (b) when the Association is affiliated with an External Exchange Program to which such right has, subject to Section 13.9 below, been expressly granted, the Declarant shall have the right to reserve, without using any of Declarant's Points, any Club Accommodation that has not been reserved either by an Owner or the External Exchange Program, forty-nine (49) days prior to the first day of the applicable Use Period and use that reserved Club Accommodation for any purpose, including marketing, sales or rental. Any revenues generated or other monies received by the Declarant from any such rentals or other uses shall, subject to applicable law, inure solely to the benefit of the Declarant. All guests, licensees, invitees, and tenants of the Declarant shall have the same rights and be subject to the same use restrictions, as the guests, licensees, invitees, and tenants of other Owners hereunder and pursuant to the other Club Instruments.

6.11 Protection of the Declarant. Notwithstanding any provision of the Club Instruments to the contrary, for so long as the Declarant holds for sale in the ordinary course of its business one (1) or more Ownerships, the Association shall not take any action which would be detrimental to the sale by the Declarant of Ownerships; provided, however, that an increase in the Regular Assessment without discriminating against the Declarant shall not be deemed to be detrimental to the sale of Ownerships.

6.12 Association's Easement. Subject to the Declarant's easements described in Section 6.9 above, to the External Exchange Program/Exchange User Easements described in Section 6.14 below, to the rights, if any, of an External Exchange Program Operator under Section 6.13 below and to the Club Property Instruments for each Club Property, the Association shall have the right and easement to use, possess and enjoy each Club Property and Club Accommodation on the terms and conditions of this Declaration, including the following:

(a) As administration and management of the Owners' participation in the Club is vested in the Association, the Association shall have the right to use and possess the Club Accommodations to the extent necessary or useful to perform its administrative and management duties only;

(b) To the extent Declarant exercises its easement rights to designate certain areas of a Club Property for its purposes (such as a front desk, management office, or supplies area), and any of such designated areas can also serve for functions to be performed by the Association, the Association shall have the right and easement to use such areas so long as this does not interfere with the Declarant's own use;

(c) Subject to the Club Property Instruments and the rights and obligations of the applicable Club Property Owners Association to do any of the following, the Association has the right, (i) at any time, to enter any Club Accommodation or any other part of a Club Property (A) to make emergency repairs or for other emergency purposes, whether or not such Club Accommodation or other Club Property is then occupied, (B) to prohibit or stop a violation of any law or of any provisions of the Club Instruments or any activity which is harmful, offensive or potentially dangerous to others or to property,

(C) to close down parts of the Club Property not containing Club Accommodations to do needed maintenance or repair work or to remodel or upgrade such parts, and (D) to protect the property, rights and welfare of others; and (ii) between reserved Use Periods (A) to do cleaning and housekeeping services, (B) to do maintenance and repairs, and (C) to remodel or upgrade such Club Accommodation;

(d) To the extent there is no Club Property Owners Association for a particular Club Property or, because of the amount of Real Property Interests that the Association owns or controls in a Club Property, the Association has the power to cause the Club Property Owners Association to do so, the Association has the right to (and to cause a Club Property Owners Association to) accept, change, move and end easements and rights of way to government agencies or utility or service companies for public purposes, as well as to join in and consent (or cause the applicable Club Property Owners Association to join in and consent) to the grant or change of easements or rights of way by anyone else who may have the right to do so by law or under any of the instruments to which the Association's title to Real Property Interests may be subject; provided, however, that the Association, in the exercise of its rights and powers under this Section 6.12(d) may not take away the rights of Owners to use Club Accommodations in accordance with the terms of this Declaration and the other Club Instruments; and

(e) The Association shall have the right to reserve (without using any Points that it may own or have the use of) any Club Accommodations which, for any reason, are not reserved fourteen (14) days prior to the first day of the applicable Use Period and in connection therewith, to rent such Club Accommodation on a transient rental basis or to make any other use thereof which is permitted by the applicable Club Property Instruments. Any revenues generated or other monies received by the Association from any such rentals or other uses shall, subject to applicable law, inure solely to the benefit of the Association. All guests, licensees, invitees, and tenants of the Association shall have the same rights and be subject to the same use restrictions, as the guests, licensees, invitees, and tenants of other Owners hereunder and pursuant to the other Club Instruments.

6.13 External Exchange Program Operator's Easement.

(a) Description of the External Exchange Program Operator's Easement/Rights. If the External Exchange Program Instruments so provide (and the Association, with the approval of the Declarant, is hereby authorized to enter into External Exchange Program Instruments that grant such rights), an External Exchange Program Operator may have the right to reserve (without using any Points that it may own or have the use of) any Club Accommodations which, for any reason, are not reserved fifty nine (59) days prior to the first day of the applicable Use Period and in connection therewith, (i) such External Exchange Program Operator may use any reserved Use Periods in an Assigned Club Accommodation for any purpose permitted by the applicable Club Property Instruments or the Club Instruments; (ii) such External Exchange Program Operator and its guests shall have the same rights to use an Assigned Club Accommodation during a reserved Use Period as any Owner would have if such Owner has that reserved Use Period in such Assigned Club Accommodation; (iii) if such External Exchange Program Operator

should rent out a Use Period reserved in an Assigned Club Accommodation, such External Exchange Program Operator shall be entitled to keep and retain all rentals collected therefrom; and (iv) so long as the Association is affiliated with such External Exchange Program, its External Exchange Program Operator may use the amenities and other facilities of each Club Property for any purpose permitted by the applicable Club Property Instruments.

(b) **Terms and Conditions Regarding the External Exchange Program Operator's Easements/Rights.** The External Exchange Program Operator's exercise of any of its easements and rights must be done in such a fashion as to minimize any unreasonable interference with the rights of Owners to occupy Club Accommodations. In no event will the exercise by an External Exchange Program Operator of any of its rights or easements have the effect or result of preventing an Owner or other Person with a confirmed reserved Use Period in an Assigned Club Accommodation from using that Assigned Club Accommodation during such confirmed reserved Use Period. The External Exchange Program Operator's easements and rights will terminate if and when the Association is no longer affiliated with its External Exchange Program and all reservations made through the External Exchange Program Operator in Club Accommodations have been used, cancelled or expired. The External Exchange Program Operator's agents, employees, contractors and other authorized persons may use the External Exchange Program Operator's easements and rights to the extent expressly authorized by the External Exchange Program Operator.

6.14 **External Exchange Program(s) / Exchange User Easements.**

(a) Exchange Users shall have the right to reserve Club Accommodations subject to the External Exchange Program Instruments. Once a Exchange User obtains a reservation to use a Club Accommodation, the Exchange Users and the members of his/her family and his/her guests, tenants, and/or invitees shall have the same rights to use the Assigned Club Accommodation and other portions of the subject Club Property during his/her Use Period as Owners have under the Club Instruments.

(b) Exchange Users' rights to use, possess and enjoy Assigned Club Accommodations during the Use Periods they obtain in accordance with the External Exchange Program Instruments are derivative of that applicable External Exchange Program's easements and rights under this Declaration. Exchange Users do not have their own easements or rights. Exchange Users may only use Club Accommodations through the easements and rights granted to the applicable External Exchange Program.

(c) The easements granted under this Section 6.14 will remain in effect only so long as the Association is affiliated with the applicable External Exchange Program and will terminate when (i) the Association is no longer affiliated with the applicable External Exchange Program and (ii) all reservations for Use Periods in Assigned Club Accommodations obtained by the applicable External Exchange Program on behalf of its Exchange Users have been used, have expired, or have been cancelled.

ARTICLE VII
THE ASSOCIATION AND OWNERSHIPS

7.1 **Ownerships.** In return for transferring Real Property Interests to the Association or to a Trustee, (a) the Association will cause Ownerships to be registered in the name of any Person(s) so instructed by the Declarant and (b) the Declarant and Permitted Club Developers alone will have the right to sell Ownerships and to receive amounts paid for such Ownerships. Ownerships may be issued in the name of the Declarant, a Permitted Club Developer or a Lender of Record who acquires an Ownership by enforcement of its security interest or otherwise.

Any Person who is entered into the Club Ownership Register as an Owner at the instruction of the Declarant shall automatically become a member of the Association in accordance with the provisions of the Club Instruments and shall receive an Ownership Certificate. If an Owner has lost or is unable to find his/her Ownership Certificate(s), such Owner will nevertheless be able to transfer his/her Ownership so long as such Owner completes, executes and submits to the Association a form either approved or provided by the Board for each Ownership Certificate that is so lost or missing, as set forth in the Bylaws. Except as otherwise provided in this Declaration or in the other Club Instruments, the Declarant and each Permitted Club Developer shall be deemed to be an Owner based on the Declarant's Points.

An Owner shall have only one (1) Ownership regardless of the number and type(s) of Points owned, number of Ownership Certificates held, or the number of times that such Owner acquires Points.

7.2 **Voting.** Owners shall vote in accordance with the By-Laws. Until there occurs such record date (being a date upon which Owners entitled to vote on a matter is determined) when Declarant owns less than ten percent (10%) of the Total Points, there shall, for purposes of voting, be two classes of Ownership in the Association with all Owners other than Declarant being Class A Owners who shall have one vote for each Point owned (except that each Class A Owner who owns Biennial Points will have only 1 vote for every 2 Biennial Points owned) and with Declarant being the sole Class B Owner who shall also have one vote for each Declarant Point (except that Declarant will only have 1 vote for every 2 Biennial Points owned). Thereafter, each Owner, including the Declarant, shall have one (1) vote for each Point owned, except that each Owner, including Declarant, who has Biennial Points shall have one (1) vote for every two (2) Biennial Points owned. All other provisions concerning voting are set forth in the By-Laws. For each Ownership registered in the names of more than one Person, or in the name of a Person who is not an individual, the Principal Contact (as defined in Section 7.3 below) shall be the only Person entitled to vote in respect of such Ownership.

7.3 **Principal Contact/Permitted Users.** Each Ownership will have one individual to be the principal contact for that Ownership for all purposes (the "**Principal Contact**"). If a single individual holds an Ownership, such individual shall be the Principal Contact for his/her Ownership. If an Ownership is held by more than one individual, or if the Owner is a partnership, corporation, trust, limited liability company or other entity, such Owner must designate in the Purchase Agreement or in a notice or other instrument given to the Association at the time the name(s) of the Owner of an Ownership is/are first entered into the Club Ownership Register, an individual to be the Principal Contact. The Principal Contact for each Ownership shall be

identified in the Club Ownership Register and the current Principal Contact shall not be removed from the Club Ownership Register until the Ownership is transferred, or until a successor Principal Contact is properly appointed by the applicable Owner, or by operation of law, and communicated to the Association. The Principal Contact shall exercise all of the rights of Ownership as provided by the Club Instruments, including voting and together with any other Permitted Users, using Points to obtain Club Accommodations. The Principal Contact also has the right to change the one or more individuals who are Permitted Users for an Ownership from time to time by giving written notice to the Association and paying to the Association such administrative fee as the Association has established for making such a change. Owners may change the designated Principal Contact from time to time by giving written notice to the Association and paying to the Association such administrative fee as the Board has or may establish from time to time. Upon receipt of each such notice designating or changing Principal Contact and/or Permitted Users, the Association will cause the Club Ownership Register to be appropriately modified. In the event of a dispute or contradictory directions, the directions of the Principal Contact shall be final.

7.4 **Club Ownership Register.** The Association shall cause to be maintained the Club Ownership Register in accordance with the Bylaws. As the Declarant instructs the Association to issue each Ownership, the Association shall cause the appropriate information to be entered in the Club Ownership Register at the same time as the Ownership Certificate is being issued. The Club Ownership Register may be maintained in paper or electronic format.

(a) Ownerships and Points shall be transferable only as entered in the Club Ownership Register in accordance with the terms of the Club Instruments.

(b) No issuance of an Ownership or transfer of an Ownership shall be effective or binding on the Association, unless and until it has been entered in the Club Ownership Register.

(c) Among other things, the Club Ownership Register shall be the definitive list for purposes of determining those Owners entitled to notice of meetings of Owners and to vote on matters which are to be determined by the Owners, as well as those Owners entitled to distribution of funds upon any dissolution or liquidation of the Association in accordance with the By-Laws.

(d) The Association shall not publish, or allow the inspection of, the Club Ownership Register, or any part thereof, or provide a copy of the same to any Owner (although an Owner may, to the extent and under the terms expressly provided in the other Club Instruments, have the Association send a mailing to all Owners on such Owner's behalf), or to any third-party; provided such mailing is reasonably related to the affairs of the Association.

7.5 **Power of Attorney.** The power to direct the Trustee as to all matters shall be exercised solely by the Association and by the Declarant acting in accordance with the Club Instruments. The Association and the Declarant may exercise that power of direction without the consent of any Owner. To the extent that the joinder of the Owners may be required to validate any act or thing done by the Association or the Declarant pursuant to this power of direction, each

Owner, by entry into the Club Ownership Register, grants to the Association and to the Declarant a special power of attorney for these purposes, coupled with an interest that cannot be revoked.

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ARTICLE VIII
POINTS AND SPECIAL FEATURES

8.1 Definitions.

(a) Points are the currency of use in the Club through which Owners reserve the use and occupancy of Club Accommodations in accordance with the Club Instruments. Each Ownership will be ascribed a specific number of Points which information shall be entered in the Club Ownership Register. As matter of convenience, on each ascription of Points to an Ownership, the Association will issue an Ownership Certificate detailing, among other things, the number of Points associated with the particular Points transaction of an Owner. In the event of any conflict between the Club Ownership Register and the information contained in the Ownership Certificate(s) held by an Owner, the Club Ownership Register shall in all instances control and prevail.

(b) Special Features are reservation, use or some other right which right, in certain instances, is attributable to a Real Property Interest that exists and the Declarant defines, or which right the Declarant creates and/or establishes, whether or not attributable to a Real Property Interest, but in all cases, the Declarant reserves for itself. Special Features attributable to Real Property Interests are defined, established and/or created at the time such Real Property Interests are subjected to this Declaration. The Declarant is under no obligation to create Special Features. Certain types of Special Features (such as a fixed Use Period or a fixed Club Accommodation) may only be established if the Club Property Instruments for the Club Property containing the Real Property Interests to which such Special Feature relates permit the existence of such special right. Other types of Special Features may not require the applicable Club Property Instruments to enable such special right. For those Special Features which are attributable to Real Property Interests, each such Special Feature is a separate, distinct aspect of a Real Property Interest and has no relation to the Points ascribed to such Real Property Interest. Only the Declarant (or a Permitted Club Developer whose Permitted Club Developer Agreement specifically grants to it the right to so) shall have the right to define, create and/or establish Special Features and the right to sell Special Features pursuant to the Special Features Contract. An Owner who purchases a Special Feature may also be required to use his Points in order to exercise his Special Feature all as more particularly described in his Special Features Contract. Except to the extent expressly limited in this Section, the Declarant may create Special Features that have such reservation and/or use rights and/or other special rights as the Declarant may elect, including, without limitation, a recurring option to reserve a certain Club Accommodation for a certain Use Period or a priority reservation right in a specific Club Accommodation, in a specific Club Property or group of Club Properties or in a group of Club Accommodations in one or more Club Properties.

(i) In order to create, or establish the existence of, Special Features, a Club Property Declaration, a Supplemental Declaration, an Active Real Property Interest Declaration or comparable instrument shall be used. It shall be sufficient, however, for the Club Property Declaration, Supplemental Declaration or other

instrument to state that Special Features are being created in some or all of the Real Property Interests subject thereto without specifying exactly what the nature is of such Special Features.

(ii) The Declarant may not create a type of Special Features that would change the rights of existing Owners to reserve and use Club Accommodations then in the Club. In other words, those Special Features which are attributable to a Real Property Interest or a Club Accommodation can only be created when such Real Property Interest/Club Accommodation is first subjected to this Declaration and the other Club Instruments.

(iii) The Declarant may only define, create and/or establish Special Features attributable to Real Property Interests when the Declarant is subjecting such Real Property Interests to this Declaration or when converting such Real Property Interests from Inactive Real Property Interest to Active Real Property Interests, in which case (A) the special rights must be attributable solely to some or all of the applicable Real Property Interests then being subjected pursuant to a Club Property Declaration, a Supplemental Declaration or converted by a Active Real Property Interest Declaration (as defined in Section 13.6 below); (B) the Special Features attributable to such Real Property Interests may (but the Declarant shall not be obligated to cause to) be specified in such Club Property Declaration, Supplemental Declaration or Active Real Property Interest Declaration; and (C) such Club Property Declaration, Supplemental Declaration or Active Real Property Interest Declaration may (but the Declarant shall not be obligated to cause to) describe the special rights attributable to those Special Features.

(iv) The Club Property Declaration, Supplemental Declaration or Active Real Property Interest Declaration defining, creating and/or establishing Special Features may provide that more than one type of Special Feature is being created with respect to the Real Property Interests covered thereby.

(v) In addition to the other restrictions set forth in this Section, the Association shall not reflect in the Club Ownership Register that any Owner has any Special Feature, except as instructed in writing by the Declarant pursuant to this Declaration.

(vi) As noted above, Special Features may only be acquired from the Declarant (or an expressly authorized Permitted Club Developer) pursuant to a Special Features Contract. At the time of expiration of an Owner's right to use his Special Features pursuant to his Special Features Contract, such Owner will continue to have the right to use his Points in the same fashion as any other Owner who does not have any Special Features.

(vii) Special Features that affect occupancy or usage may not be created, defined and/or established in more than thirty-five percent (35%) of the Real Property Interests being added to the Club pursuant to a Club Property Declaration, a Supplemental Declaration, an Active Real Property Interest Declaration, or any

other instrument. In addition, no more than 35% of the available Club Accommodations in any given seven day period at a particular Club Property may be subject to a Special Feature. For example, at any one time, no more than 35% of all Club Accommodations at a particular Club Property may be subject to a Special Feature whereby Owners who have that Special Feature have the right to occupy Club Accommodations during the week of Thanksgiving.

8.2 Establishing Points Valuations.

(a) The Declarant will establish a basis upon which to value in Points individual Real Property Interests and their associated Club Accommodations, and thereby establish reservation rates applicable to the associated Club Accommodations for the operation of the Club. In establishing such Points valuation basis, the Declarant, will exercise reasonable business judgment, and will have regard to such various factors as are reasonably considered to be indicators of value, including, without limitation, the factors described in Recital A of this Declaration.

(b) Having thus established a suitable basis for valuing Real Property Interests and the use of their associated Club Accommodations, the Declarant will determine the Points Value for each of the fifty-two (52) contiguous weekly Use Periods in each type of Club Accommodation at each Club Property for which Real Property Interests are to be subjected to the Club Instruments. The Declarant will also determine the Points Value for Use Periods other than weekly. The Manager will distribute to Owners annually, in such form as it may from time to time determine, a calendar, chart or other format which identifies the Points Value for all permissible Use Periods in Club Accommodations.

8.3 Types of Points. There are several forms of Points in the Club, which vary in their duration and in the type of use rights that are attributable to them.

(a) A Person may acquire Points (i) which will only terminate if the Club itself is terminated in accordance with the By-Laws ("**Perpetual Points**") or (ii) which will be for a defined term ("**Term Points**"). All Points will have the same, uniform reservation and use rights. In addition, there can be Biennial Points, as more particularly described in Section 8.3(b) below. Therefore, all Points will have a temporal component (being either Perpetual or Term); and a Use Year component [being either every year or every other year (i.e., Biennial)]. Nothing in this Declaration shall preclude the Declarant from amending the Club Instruments to create Points having other temporal or Use Right components including, without limitation, triennial Points. To effectuate this, as each portion of each Real Property Interest is subjected to this Declaration, the Points assigned to such portion will be designated as either Perpetual or Term, depending, in part, upon the nature of the underlying real estate interest transferred to the Association or to a Trustee for the benefit of the Association. As noted in Section 8.3(b) below, nothing need be done at the time any Real Property Interest is subjected to this Declaration in order to establish Biennial Points. Nothing in this Declaration shall preclude Declarant from ascribing either Term Points or Perpetual Points to fee Real Property Interests conveyed to the Association or to a Trustee.

(b) As noted above, Declarant may create and sell Biennial Points. The Owners with a certain number of Biennial Points will have the same right to use those Points to make a reservation as an Owner with the same number of "non-Biennial Points", the only differences being that the Owner with the Biennial Points (i) will only be able to use those Points every other Use Year, (ii) will have a Use Year that corresponds to a calendar year with such Use Year being designated as either "odd" or "even" on his Ownership Certificate and (iii) will pay during every year, as such Owner's Regular Assessment with respect to those Biennial Points, fifty percent (50%) of the Regular Assessment for that year based upon the number of Biennial Points owned and if such Owner owns both Biennial Points and non-Biennial Points, he would owe the Regular Assessment for all non-Biennial Points owned and fifty percent (50%) of the Regular Assessment for all Biennial Points owned. Biennial Points will be established solely at the direction of the Declarant (or a Permitted Club Developer) by the Declarant (or Permitted Club Developer) so instructing the Association in connection with its issuance of Ownerships, but nothing need be set forth in any Club Property Declaration, Supplemental Declaration or Active Real Property Interest Declaration in order to create or establish Biennial Points. Declarant is under no obligation to create or sell Biennial Points. Nevertheless, Declarant (and if Declarant expressly consents, Permitted Club Developers) is/are the only party or parties who has/have the right to create and sell Ownerships with Biennial Points. An Owner can own (and acquire in one transaction) both Biennial and non-Biennial Points. An Owner with Biennial Points may acquire a Special Feature that can be used with his Biennial Points. Although an Owner with more Points than the Minimum Points Requirement (as defined in Section 8.5 below) may sell or transfer a portion of his Points, no Owner (other than the Declarant and Permitted Club Developers) has the right to "subdivide" or partition his Ownership in a fashion so as to create Biennial Points (and the Association shall not recognize any such transfer nor issue Ownership Certificates in response to any Owner request to "subdivide" the non-Biennial Points attributable to his Ownership into two Ownerships, each with Biennial Points).

8.4 Limitations on the Issuance of Points and Sale of Special Features and One-to-One Compliance.

(a) **Basic Rule for Points.** Neither the Declarant nor the Association will permit the ascription of a number of Points to any Ownership, such that the total number of Points ascribed to all Ownerships, including Declarant's Points, which are eligible to be used in any one Use Year would thereby exceed the total number of Points that have been assigned to Real Property Interests that have been subjected to the Club Instruments at that time.

(b) **Perpetual and Term Points.** If the Declarant has included in the Club any Real Property Interests that are assigned Term Points, then the following shall apply:

(i) Neither the Declarant nor the Association will permit the ascription of a number of Perpetual Points to any Ownership, such that the total number of Perpetual Points ascribed to all Ownerships, including the Declarant's Perpetual Points, which are eligible to be used in any one Use Year would thereby exceed the

total number of Perpetual Points that have been assigned to all Real Property Interests that have been subjected to the Club Instruments at that time;

(ii) For each separate group or set of Real Property Interests that has been assigned Term Points with the same expiration date, neither the Declarant nor the Association will permit the ascription to any Ownership of a number of Term Points with that expiration date such that the total number of Term Points with that expiration date and ascribed to Ownerships, including the Declarant's Term Points with that expiration date, which are eligible to be used in any one Use Year would thereby exceed the total number of Term Points with that expiration date assigned to all Real Property Interests that have been subjected to the Club Instruments at that time;

(iii) Each Club Ownership Register entry and each Ownership Certificate that includes any Term Points must show the expiration date or dates for each type of Term Points covered thereby; and

(iv) If an Ownership has been ascribed Term Points with different expiration dates or Term Points and Perpetual Points, and if on any expiration date, such Ownership does not have ascribed to it a total number of Points equal to or greater than the Minimum Points Requirement then in force, such Ownership will continue to be valid in the Club and the Owner thereof shall continue to be able to use his remaining Points in any manner then permitted under the Club Instruments, but such Owner will be responsible to pay the then minimum Regular Assessment which may be based, in part, on the Minimum Points Requirement then in force even though he does not then own a total number of Points equal to such Minimum Points Requirement.

(c) **Special Features.** If the Declarant has included in the Club any Real Property Interests to which Special Features are attributable, then for each separate group or set of Real Property Interests to which Special Features with the exact same rights are attributable, the Declarant shall not sell, and the Association shall not reflect in the Club Ownership Register, a number of Special Features of that particular type such that the total number of Special Features of that particular type ascribed to all Ownerships, including the Special Features of that particular type then owned by the Declarant, which are eligible to be used in any one Use Year would thereby exceed the total number of such Special Features of that particular type attributed to Real Property Interests that have been subjected to the Club Instruments at that time.

(i) The Declarant has the right to define, create and/or establish more than one type of Special Features with respect to Real Property Interests in a specific Club Property and, if such occurs, then the Special Features counted to satisfy the requirements of Section 8.4(c) above for one type of Special Features cannot also be used to satisfy the requirements of Section 8.4(c) above for any other type of Special Features.

(ii) This Section 8.4(c) does not prohibit the Declarant from selling two (2) or more different types of Special Features to the same Owner and such Special Features may be covered by one Special Features Contract or by two (2) or more such Special Features Contract.

(d) **General Rules Applying to Calculations.** When making the determinations required under this Section, neither the Declarant nor the Association shall include in any calculation (i) Points or Special Features attributable to Inactive Real Property Interests (defined below); (ii) Points assigned to, or Special Features attributable to, Real Property Interests whose associated Club Accommodations are subject to a reserved right of the Declarant for exclusive use that has been exercised (such as Club Accommodations being used by the Declarant as a model or for sales and marketing purposes); or (iii) Points assigned to, or Special Features attributable to, Real Property Interests that are subject to Blanket Liens where there is not a Non-Disturbance Agreement in place for each such Blanket Lien.

8.5 Minimum Number of Points. The Declarant has the right to establish minimum numbers of Points a Person needs to purchase in order to establish a new valid Ownership (the "**Minimum Points Requirement**"). The Declarant has the right to change the Minimum Points Requirement at any time and from time to time upon notice to the Association and Manager. When a new Ownership is issued, it must have ascribed to it an aggregate number of Points of one or more types that at least meets the Minimum Points Requirement then in force. After an Ownership has been issued, an Owner may not reduce his/her Points below the Minimum Points Requirement (whether, by gift, sale or otherwise) in effect at the time of such transfer. If the Minimum Points Requirement is raised, a Person whose existing Ownership has been ascribed an aggregate number of Points that is less than the newly-increased Minimum Points Requirement will remain a valid Owner with the right to use his Points in the Club in the same manner as any other Owner. As noted in Section 8.4(b)(iv) above, the same is also true of an Owner whose Term Points expire and at that time such Owner has other Points, but the number of such other Points does not meet the Minimum Points Requirement then in effect. No sale, transfer or conveyance of a portion of the Points owned by an Owner will be permitted or entered into the Club Ownership Register if either the transferor or the transferee will, after such sale, transfer or conveyance, have less Points than the Minimum Points Requirement then in effect. While the Declarant is marketing and selling Points and Ownerships, an Owner may always increase the number of Points ascribed to his/her Ownership by purchasing Points from the Declarant. In addition, subject to the other terms and conditions of the Club Instruments, an Owner can always purchase Points from another Owner.

8.6 Use of Points and Special Features.

(a) **By Owners.**

(i) Subject to the Regulations, an Owner may use his or her Points allocated to a Use Year (A) to reserve a Use Period in a Club Accommodation at a Club Property during that Use Year, (B) if such Owner also has a Special Feature which is attributable to one or more Real Property Interests, to exercise his Special Feature rights to obtain the Use Period and/or Club Accommodation contemplated

by such Special Feature and (C) to obtain any other benefit available to Owners through the Club, subject always to availability. An Owner may request and obtain as many Use Periods in a Use Year as his/her available Points allocated to that Use Year will allow. An Owner shall be deemed to have used his Points upon making a reservation for a Use Period in an Assigned Club Accommodation or obtaining any other benefit available through the Club. Should an Owner with a Special Feature attributable to one or more Real Property Interests fail to use his Special Feature for any reason, he may or may not be entitled to use his Points in the same manner as any Owner who did not have any Special Features, depending upon the terms of the Owner's Special Features Contract.

(ii) Each Owner's right to reserve and occupy Club Accommodations using his/her Points allocated for a Use Year, and/or his right to use his Special Feature(s) available under the terms of his Special Features Contract for use during that Use Year, shall expire at the end of that Use Year. At the beginning of the Owner's next Use Year, the Owner's Points and any Special Features applicable to such Use Year shall again be allocated and available, and he/she shall have the right to use such Points and any such Special Feature(s) to reserve a Use Period in a Club Accommodation during that Use Year, as provided in the Regulations and, if applicable, his Special Features Contract.

(iii) An Owner with Special Features must comply with the stipulations relating to the use of such Special Features as set forth in his Special Features Contract or elsewhere, including, where applicable, a requirement to notify the Association that the Owner does or does not intend to use his/her Special Features in any particular Use Year. If, during a Use Year, an Owner with a Special Feature attributable to Real Property Interests makes a request for occupancy of a Club Accommodation that does not use the special rights attributable to his/her Special Feature, and the Owner thereafter has fewer Points available than the number of Points required in order to be able to use the Special Feature of the type owned by him, that Owner shall be deemed to have waived the special rights attributable to his/her Special Feature of that type for that Use Year.

(b) **By the Declarant.** Declarant's rights to use Points that it owns from time to time and to make reservations of Club Accommodations are set forth in Sections 6.9 and 6.10 above. In addition, the Declarant may use any Special Features that it owns and is not subject to a Special Features Contract.

(c) **First Use Year.** Each Owner's first Use Year shall be designated by Declarant or the applicable Permitted Club Developer in his/her Purchase Agreement and noted in the Club Ownership Register. The first Use Year will be as soon as the first day of the first calendar year after the date of the Purchase Agreement and as late as the first day of the second calendar year after the date of his/her Purchase Agreement, all as determined by Declarant or the applicable Permitted Club Developer, in their sole discretion.

8.7 Additional Matters.

(a) As more particularly described in Article XI below, a portion of the Regular Assessment to be paid by each Owner shall be based on the number of Points owned by such Owner;

(b) As described in Section 7.2 above, the number of votes each Owner is entitled to cast on any matter is based on the number of Points he/she owns; and

(c) As more particularly described in Section 19.2 below, each Owner's participation in the net asset value of the Association on wind-up is based on the number and type of Points ascribed to his Ownership as recorded in the Club Ownership Register.

8.8 Adjustments to Points for a Club Accommodation.

(a) In order to meet the needs of the Owners and of the Club generally, and to reflect changes in the demand for Club Accommodations over time, the Manager may adjust the Points Value for a Club Accommodation for any particular Use Period. Any such adjustments made by the Manager shall be such that an increase or decrease in the Points required to reserve occupancy in a Club Accommodation for any seven (7) consecutive day period in a Season shall not exceed 10% of the Points required to reserve the same seven (7) consecutive day period in the same Season for the same Club Accommodation in the previous Use Year. If the Manager desires to make an adjustment that would result in the number of Points required to reserve occupancy in a Club Accommodation for a seven (7) consecutive day period in a Season to be 10% more or less than the number of the Points required to reserve the same seven (7) consecutive day period in the same Season for the same Club Accommodation in the previous Use Year, then such adjustment shall require the approval of 25% of the Voting Power of the Class A Owners (if there are two classes) or of the Owners other than Declarant (if there is only one class) present, in person or by proxy, at a duly held meeting of the Association at which there is a quorum. Nothing herein shall preclude the Manager from increasing or decreasing by more than 10% the Points required to reserve a Club Accommodation for any particular day; provided the Points required to reserve the seven (7) consecutive day period which includes the particular day does not increase or decrease by more than 10% compared to the same seven (7) consecutive day period for the same Club Accommodation in the previous Use Year.

(b) Any adjustment pursuant to Section 8.8(a) above shall (i) also be subject to the requirement that the total number of Points required to reserve all Use Periods for a Use Year attributable to all Club Accommodations shall not change, and (ii) not affect the ability of an Owner with a Special Feature attributable to Real Property Interests to utilize his/her Special Feature to obtain the special rights in the applicable Club Accommodation, if that Club Accommodation is one of the Club Accommodations to which such Owner's Special Features relate (in other words, no adjustment of Points pursuant to Section 8.8(a) above shall change the number of Points that an Owner with a Special Feature must use in order to be able to use that Special Feature).

(c) The foregoing provisions shall not apply in the case of the annual adjustment of the tables of Points Values to reflect moveable holiday periods.

8.9 **Seasons.** The Declarant may create initial Seasons for Club Accommodations at each Club Property when determining the Points Value in accordance with Section 8.2. Thereafter, the Manager may reclassify the Points Value for a particular Use Period in a particular Club Accommodation from one Season to another, or to establish a new Season, or to delete an existing Season, subject always to the provisions of Section 8.8.

ARTICLE IX
TRANSFER AND ENCUMBRANCE OF
OWNERSHIPS AND SPECIAL FEATURES

9.1 **Transfer of Ownerships and Special Features.**

(a) **Ownerships.**

(i) Except for a transfer by Declarant or a Permitted Club Developer or any transfer to Declarant or a Permitted Club Developer, no Owner may transfer an entire Ownership, nor any portion of an Ownership, without the consent of the Association.

(ii) Any transfer to which the Association has consented shall be undertaken in accordance with the applicable terms of the Club Instruments, whether such transfer is for the whole or part of an Ownership.

(iii) A transfer of a portion of an Ownership to any other Person, including the Owner's spouse, to which the Association has consented shall require both (A) that such transferee has ascribed to his/her Ownership not less than the Minimum Points Requirement then in force and (B) that, on conclusion of the transfer, the Owner retains for his/her own use not less than the Minimum Points Requirement then in force.

(iv) Any attempt by an Owner to sell convey, devise or otherwise transfer an Ownership in any other fashion, except as provided in this Section, shall be null and void.

(v) Subject to sub-section 9.1(a)(viii) below, transfer of an Ownership shall be prohibited and the Association shall not be obligated to enter the change of ownership in the Club Ownership Register, unless and until the proposed transferor has paid in full all Assessments and Individual Charges due to the Association. A purported transfer of an Ownership upon which any Assessment or Individual Charge is then owing shall be null and void. Upon request and upon the payment to the Association of a reasonable fee, as determined from time to time by the Board of Directors, the Association shall issue a written statement setting forth the amounts, if any, which the proposed transferor of an Ownership owes the Association. Such statement shall be conclusive upon the Association in favor of

all Persons (except the transferor) who rely thereon in good faith as to the amount of such indebtedness as of the date of such statement.

(vi) The applicable instrument of conveyance shall provide that the Ownership conveyed thereby shall be held by the transferee subject to each of the provisions of the Club Instruments. No transfer of any kind, including a transfer to a Lender of Record which acquires an Ownership as a result of enforcement of its Security Interest thereon or otherwise, shall be valid or effective, unless and until a true and correct copy of such instrument has been provided by the transferee to the Association and the transfer has been entered in the Club Ownership Register (provided, however, that a Lender of Record who acquires an Ownership through enforcement of its Security Interest need not furnish an instrument of transfer, but shall provide the Association with its affidavit certifying as to its enforcement of its Security Interest). In connection with each transfer, the Association shall have the right to charge the transferee a reasonable administrative fee for processing the transfer, entering the name of the transferee in the Club Ownership Register, and issuing a new Ownership Certificate or Certificates; provided, however, that no fee shall be charged for any transfer of an Ownership to Declarant or to a Permitted Club Developer (whether as a result of the foreclosure or deed-in-lieu of foreclosure of Declarant's or a Permitted Club Developer's Security Interest, or otherwise) or for any transfer of an Ownership to a Lender of Record in connection with the enforcement of its Security Interest therein.

(vii) Notwithstanding the foregoing, a Lender of Record which acquires an Ownership by enforcement of its Security Interest thereon shall not be liable for the pre-acquisition Assessments and Individual Charges attributable to such Ownership while owned by the applicable former Owner. Any Assessments or other amounts attributable to such Ownership for which a Lender of Record is not liable pursuant to this sub-section, shall be deemed a Club Cost, collectible from all of the Owners in the manner provided in the Club Instruments.

(viii) If a Lender of Record has given the Association notice of its Security Interest in an Ownership, the Association shall not accept a transfer of that Ownership nor enter such transfer in the Club Ownership Register without the Lender of Record's consent and any transfer without such consent shall be null and void.

(ix) No provision contained in this Section shall be interpreted so as to prevent an Owner from leasing, renting, or otherwise making his or her Assigned Club Accommodation available for occupancy during his or her reserved or scheduled Use Period(s) to members of his or her family, his or her guests, tenants, licensees, invitees, or Exchange Users, subject to the provisions of the Club Instruments.

(b) **Special Features.**

(i) The Owner of a Special Feature may not sell, assign, convey, encumber or otherwise transfer his Special Feature or any right or interest in or to his Special Feature or in, to or under the Special Features Contract applicable to that Special Feature. The foregoing shall not be deemed to preclude an Owner from using his Special Feature attributable to Real Property Interests to obtain a reservation for a Use Period in an Assigned Club Accommodation and then allowing members of his family, his guests, tenants, licensees, invitees or Exchange Users to use such Assigned Club Accommodation. As noted elsewhere, only the Declarant (or a Permitted Club Developer) can instruct the Association as to which Owner holds a Special Feature.

(ii) The Declarant (or a Permitted Club Developer) may only enter into Special Features Contracts with Owners and only the Declarant, a Permitted Club Developer or an Owner in good standing may own any Special Feature.

(iii) Should an Owner who has a Special Feature sell his Ownership or have his Ownership foreclosed upon by a Lender of Record, and as a consequence thereof, no longer own any Points, then his Special Features Contract shall automatically terminate and the Declarant (or the applicable Permitted Club Developer) shall thereafter be deemed to be the sole holder of such Special Feature.

9.2 **Effective Transfer.** No transfer of an Ownership, other than a transfer by a Lender of Record, shall be effective unless and until (i) the Association has notified the transferee that all of the conditions established by the Board have been met, and (ii) the transferee's name has been entered in the Club Ownership Register. The Board may establish such conditions for the transfer of an Ownership as it deems appropriate from time to time.

9.3 **Encumbrance of Ownerships.** Each Owner shall have the right to encumber his or her Ownership; provided, however, that, no Owner may encumber or hypothecate any portion of his or her Ownership without encumbering or hypothecating the entire Ownership and all rights related or appurtenant thereto, and any attempt by an Owner to encumber less than all of his or her Ownership shall be null and void. Any security agreement or other encumbrance of an Ownership shall be subject and subordinate to all of the provisions of the Club Instruments.

9.4 **Waiver of Partition.** No Owner shall have, and each Owner, by his/her acceptance of an Ownership Certificate, shall be deemed to have waived, the right to seek or obtain, through any legal proceeding, judicial partition or sale in lieu thereof of any Club Accommodation or other portion of a Club Property, unless and until the Club is terminated in accordance with this Declaration and the By-Laws. The foregoing shall not be deemed to prohibit the removal of a Club Accommodation from the jurisdiction of this Declaration in accordance with Section, 5.9, Section 13.6, Section 13.7 or Section 13.8, or upon the occurrence of a condemnation or fire or other casualty where the Club Accommodation is not rebuilt or reconstructed in accordance with this Declaration.

ARTICLE X
MANAGEMENT, MAINTENANCE, AND REPAIRS

10.1 **Administration of the Club Accommodations.** Subject to any Club Property Instruments and the Club Instruments, responsibility for the maintenance, repair, replacement, restoration, and administration of the Club Accommodations shall be vested in the Association. The Association shall act as the agent of all of the Owners in collecting Assessments and in paying taxes, utility costs, and other Club Costs. The Association, through its Board of Directors, officers, the Manager, and other duly authorized agents, may exercise any and all rights and powers granted to it by law or by the Club Instruments, as amended or supplemented from time to time. The Board of Directors shall have the exclusive power to promulgate and amend the Regulations. The Manager shall review the Regulations periodically and recommend to the Board of Directors additions, deletions and/or revisions to the Regulations.

10.2 **Management.** The Board, on behalf of the Association shall engage a Manager or Managers to carry out the duties and obligations of the Association other than the provision of reservation services under a Management Agreement. To the extent necessary or desirable, the Manager shall be entitled to employ subagents.

In addition to any other rights granted by the Regulations, the Manager is authorized to manage the use of the Club Accommodations, using those processes, analyses, procedures and methods that the Manager reasonably expects to yield results that are beneficial to the Club as a whole so as to operate efficiently the Association's participation in the Club and encourage the maximum use and enjoyment of the Club Accommodations and other benefits made available through the Club. In addition to benefiting the Club as a whole, an action taken by the Manager pursuant to the previous sentence may also benefit others including, but not limited to, the Board, the Declarant, or the Manager.

The Manager, utilizing the information supplied by the Reservation Services Provider, shall have the right to forecast anticipated reservation and use of the Club Accommodations, including the right to take into account current and previous reservation and use of the Club Accommodations, information about events that are scheduled to occur, seasonal use patterns and other pertinent factors that affect the reservation or use of Club Accommodations. In furtherance of the foregoing, the Manager is authorized to reserve Club Accommodations in the best interests of the Owners as a whole for purposes of depositing such reserved Use Periods with an affiliated External Exchange Program or renting such reserved Use Periods in order to facilitate the use or future use of the Club Accommodations or other benefits made available through the Club.

Any Management Agreement shall not exceed a term of three (3) years with automatic renewals every year for successive three year periods, unless either party to the Management Agreement gives written notice of its election not to renew to the other party not less than ninety (90) days prior to the next renewal date, in which event the Management Agreement will terminate upon the last day of the then current three (3) year term. Unless otherwise required by law, the Association may not elect to not renew unless such election is approved by the affirmative vote or written assent of those Owners who own a majority of the Total Points owned by all Owners other than the Declarant. Any such Management Agreement shall provide (i) that

the Association may, upon written notice to the Manager describing specifically the nature of the default and Manager's failure to cure that default within sixty (60) days [or one hundred twenty (120) days if such default cannot reasonably be cured within sixty (60) days], terminate the Manager for default, and (ii) for mediation, if requested by or on behalf of the Manager. The Management Agreement shall be subject to any further limitations imposed by the By-Laws.

The Board is expressly authorized to contract with the Declarant or one of its affiliates to provide management services or to perform other duties of the Association or the Board, subject to the above conditions.

10.3 Club Accommodations and Furnishings. Subject to any Club Property Instruments and the rights and duties of the applicable Club Property Owners Association to perform any or all of the following described duties, (a) exclusive control and responsibility over the maintenance, repair, modification, and alteration of all Club Accommodations and the Furnishings therein is vested in the Association, as agents for the Owners; (b) the Association shall at all times maintain the Club Accommodations in good condition and repair; and (c) in the event of any disruption in service, the Association shall immediately make such repairs as may be necessary to restore such services. If the Declarant believes in good faith that the Association cannot or will not immediately make such repairs, the Declarant may, but shall not be obligated to, immediately arrange for and make such repairs in order to restore service, and the Association shall be liable to the Declarant for the cost of such repairs. The Board shall, subject to the applicable Club Property Instruments and the rights and duties of the applicable Club Property Owners Association to be responsible for any of the following, have complete discretion to determine the interior color scheme, decor and furnishings of all Club Accommodations, as well as the timing, extent, and nature of all redecoration, repairs, and replacements thereof.

No Owner shall make any repairs, modifications, alterations, additions, redecoration, or replacements to any Club Accommodation or to any Furnishings therein, without the prior written approval of the Board. Each Owner, during his or her reserved or scheduled Use Period(s), shall keep the interior of his or her Assigned Club Accommodation, including, without limitation, the interior walls, windows, glass, ceilings, floors, fixtures, and appurtenances thereto, and all Furnishings contained therein, in a clean, sanitary, and attractive condition, and shall be personally liable for any damage or destruction thereto caused by such Owner, members of his or her family, and his or her guests, tenants, invitees, and licensees as provided in Section 6.3 hereof.

10.4 Right of Access. Subject to any Club Property Instruments and the rights of the applicable Club Property Owners Association to be responsible therefor, the Association, acting through the Board, the Manager, or such other Person or Persons as they shall designate, shall have an irrevocable right of access to each Club Accommodation, without liability for trespass, during reasonable hours, as may be necessary to perform and carry out their respective rights, duties, and responsibilities as set forth in the Club Instruments and the Management Agreement, including but not limited to:

- (a) Making emergency repairs therein;

(b) Abating any nuisance or dangerous, unauthorized, prohibited, or unlawful activity in such Club Accommodation;

(c) Protecting the property rights and general welfare of the Owners and Occupants; and

(d) Any other purpose reasonably related to the performance by the Association, the Board, and the Manager of their respective duties and responsibilities under the Club Instruments and the Management Agreement.

Such right and authority to enter any Club Accommodation shall be exercised in such manner as to avoid any unreasonable or unnecessary interference with the possession, use, and enjoyment of any Club Accommodation by any Occupant thereof, and shall be preceded by reasonable notice to the Occupant(s) whenever the circumstances reasonably permit. No Owner or Occupant may at any time change a lock on the entrance to any Club Accommodation. If an Owner or Occupant changes any such lock, the Association may replace such lock and assess the cost thereof as an Individual Charge to the responsible Owner.

10.5 Relocation to Permit Maintenance and Repairs. If it becomes necessary, in the judgment of the Board or the Manager, to perform maintenance or repairs within a Club Accommodation for which the Association has the maintenance and repair obligations under the Club Instruments in order to prevent foreseeable personal injury or imminent damage to such Club Accommodation, to any other Club Accommodation, to the Furnishings or to the personal belongings of any Owner or Occupant and such maintenance or repairs cannot reasonably be performed while such Club Accommodation is occupied, then the Occupants of such Club Accommodation shall vacate such Club Accommodation upon the request of the Board or the Manager in order to permit such maintenance or repairs. In such event the Manager, on behalf of the Association, shall use reasonable efforts to relocate the displaced Occupants for the duration of such period of displacement first to another comparable Club Accommodation or other Accommodation located within the same Club Property and if no such Accommodation is available, then to such reasonably comparable nearby Accommodation as possible, at the Association's expense. Any such expense shall be a Club Cost, unless the damage or destruction was caused by the intentional or negligent act or omission of an Owner, a member of his or her family, or his or her guests, tenants, invitees, or licensees, in which case the cost of such "alternative" Accommodation, as well as that any required maintenance or repairs, shall be assessed against the responsible Owner as an Individual Charge.

Notwithstanding the foregoing, the Association shall not incur any liability in the event that it is unable to secure "alternative" Accommodations nor shall it be liable for any loss or damage to such "alternative" Accommodations caused by an Owner or Occupant. The decision of the Board or the Manager as to whether a Club Accommodation is habitable and whether relocation to permit maintenance or repairs is necessary shall be conclusive as to all affected persons.

10.6 Maintenance Periods. For those Club Accommodations where the Association is responsible for maintenance and repair, the Board may establish up to seven (7) days and nights (not necessarily consecutive) in each calendar year as the Maintenance Period(s) for each such

Club Accommodation. The Board and its agents shall have free access to each such Club Accommodation during its reserved or designated Maintenance Period(s) for the purpose of effecting any necessary or appropriate maintenance, repairs, modifications, alterations, replacements, and additions to such Club Accommodation and to the Furnishings therein. The Maintenance Period(s) for a particular Club Accommodation may vary from time to time in the Board's sole discretion, and need not occur at the same times for each Club Accommodation. The Association shall use its best efforts to reserve Maintenance Periods so as to maximize the use and enjoyment thereof by Owners and minimize any scheduling problems under the Reservation System. If needed to maintain or upgrade any Club Accommodation and if the Club Property's vacancy rate is high enough to permit it (that is, so as to not materially impact the Owners' ability to reserve Club Accommodations at such Club Property), the Association may reserve more than seven (7) days for maintenance, etc. of such Club Accommodation.

ARTICLE XI **ASSESSMENTS**

11.1 Creation of Security Interest and Personal Obligation for Assessments and Individual Charges. The Declarant for each Club Accommodation hereinafter transferred to the Association or Trustee, hereby covenants and agrees, and each Owner by being entered into the Club Ownership Register is deemed to covenant and agree, to pay to the Association Regular Assessments, Special Assessments for capital improvements or other extraordinary expenses or costs, and Individual Charges, all such Assessments and Individual Charges to be established and collected as provided in this Article XI and as hereinafter provided. Each Assessment, all Individual Charges, and any late fees and interest thereon and costs of collection thereof, including reasonable attorneys' fees, shall be a personal debt of the Owner against whom they are assessed. Except as otherwise provided by law, each Person by becoming an Owner is deemed to have granted a Security Interest to the Association in his/her Ownership for the payment of all such amounts, effective as of the date upon which each such Assessment and/or Individual Charge becomes payable and shall continue to be a Security Interest against such Ownership until paid. The Association is hereby granted a power of sale as to each and every Ownership for the purpose of collecting delinquent Assessments and unpaid Individual Charges.

11.2 Regular Assessments. Each Owner, including the Declarant, each Permitted Club Developer and a Lender of Record acquiring an Ownership as a result of enforcement of its Security Interest shall pay a Regular Assessment for each Ownership owned. Subject to the following, as a general rule, each Owner's Regular Assessment will be the product of the number of Points owned by such Owner (except that in the case of Biennial Points, it would be fifty percent (50%) of the of the number of Biennial Points owned) multiplied by a fraction whose numerator is the Board's determination of the aggregate amount of Club Costs reasonably expected to be incurred during the applicable Assessment Period and whose denominator is the number of Total Points that the Board reasonably expects to be attributable to Active Real Property Interests that will be subject to the Club Instruments during that Assessment Period.

(a) Notwithstanding the foregoing, the Board may, if the Board determines that the circumstances warrant taking such an approach, calculate and levy the Regular Assessment in any other fair and equitable fashion. For example and not by way of limitation, the Board may determine that all Owners would owe a set amount for a certain

or minimum number of Points and an amount per Point for all Points owned in excess of that certain/minimum number. Another approach the Board could take would be to assess each Owner a set amount regardless of the number of Points owned plus a per Point amount. If the Board should elect to change the method of calculating and levying the Regular Assessment, the Board may utilize any methodology that it determines, in the exercise of commercially reasonable judgment, to be fair and equitable and will result in Regular Assessments that, in overall terms, appropriately reflects the ability of Owners to participate in the Club and that promotes the growth, development and enhancement of the benefits that can be obtained by the Owners from their participation in the Club.

(b) In addition, the Board may adopt differing methods of assessment for Owners with Special Features, in addition to a Regular Assessment. The Board may classify certain expenses within Club Costs as relating solely to Special Features and so assess the Owners with those Special Features.

(c) Where any Owner has elected to participate in an optional additional program, whether offered by the Association, by the Manager, by the Declarant, by an External Exchange Program, or by any other party, the Board shall, if the terms of membership and participation in the additional program so provide, assess any related additional fees within the Regular Assessment of those Owners who have chosen to participate in the program.

11.3 Club Costs. The Club Costs shall include, but shall not be limited to, the costs of the following items:

(a) The maintenance, repair, modification, alteration, redecoration or replacement of each Club Accommodation for which the Association has such responsibility;

(b) The maintenance, repair, modification, alteration, redecoration, replacement, and rental of those Furnishings for which the Association has such responsibility;

(c) Insurance coverage;

(d) A capital contribution for reserves for those items which are either not covered by the reserves established by the applicable Club Property Owners Association or are for traditional capital items where the Association has the responsibility for the maintenance and repair of the Club Accommodations at such Club Property;

(e) Front-desk services and domestic services, including cleaning and maid service, the frequency of which shall be determined from time to time by the Board, furnished to or on behalf of Owners at those Club Properties for which the Association has such responsibility;

(f) The assessments levied against Club Accommodations by a Club Property Owners Association or pursuant to the Club Property Instruments for a Club Property;

(g) Costs to rent or lease alternative temporary Accommodations which the Association is authorized to rent or lease pursuant to the express terms of this Declaration, in the event Club Accommodations are not available for occupancy for any reason including, but not limited to, condemnation, casualty, construction, renovation, rehabilitation, repair, or replacement;

(h) Any other costs incurred by the Association in connection with the maintenance, repair, replacement, restoration, redecoration, improvement, operation, or management of the Club Accommodations or the operation, management and/or administration of the Association or the Association's participation in, or relationship with, the Club, which are directly attributable to the provisions hereof; and

(i) The costs of operating the Association and administering and managing its participation in the Club, including, but not limited to, the provision of the Reservation System, the costs of maintaining one or more Trusts that are holding title to any of the Real Property Interests for the benefit of the Association, Owner publications and collateral materials, other benefits of Ownership, including participation in any External Exchange Program, the invoicing of assessments, accounting, and other administrative services.

11.4 **Other Budget Considerations.** In preparing the budget, the Board may consult with the Declarant and may take into consideration estimated Club Property Owners Association Assessments which will be levied against Real Property Interests which the Declarant or a Permitted Club Developer indicates is planned for being subjected to the Club Instruments during the applicable Assessment Period and the estimated Assessment revenue to be generated during the period to be covered by the budget.

11.5 **Levying of Regular Assessment.**

(a) The Board shall assess each Owner, including the Declarant (and, if applicable, each Permitted Club Developer) (but subject to Declarant's rights under Section 11.7 below), a Regular Assessment, as described in Section 11.2 above, for each fiscal year. The amount of the Regular Assessment shall be in the sole discretion of the Board provided, however, that if the amount of the Regular Assessment for any fiscal year is more than twenty percent (20%) greater than the Regular Assessment for the immediately preceding fiscal year (for reasons other than increases attributable to adding Real Property Interests, increases in assessments levied by one or more Club Property Owners Associations and increases in utilities, insurance and/or real estate taxes levied against the Real Property Interests in the Club), then such increased Regular Assessment may not be levied without the vote or written assent of a majority of the Voting Power residing in Owners other than the Declarant present, in person or by proxy, at a duly held meeting of the Association at which there is a quorum.

(b) In the event the Declarant transfers or causes a Permitted Club Developer to transfer additional Real Property Interests to the Association or to a Trustee for the benefit of the Association during the year, the Board may prepare a revised budget and recalculate the Regular Assessments (based on the additional expenses to be incurred by the

Association resulting from the transfer and maintenance of the additional Real Property Interests and also reflecting the additional Points the Association will cause to be issued on the transfer of the additional Real Property Interests) and the Board may adjust the Regular Assessments for the year, accordingly.

11.6 **Payment of Regular Assessments.** Regular Assessments may be collected in advance on a monthly, quarterly, annually or other basis as determined from time to time by the Board. The initial Regular Assessment shall be due and payable not later than 75 days after escrow closes as set forth in the Owner's Purchase Agreement. With regard to an Owner's acquisition of an Ownership by any means from any Person other than the Declarant or a Permitted Club Developer, the Regular Assessment shall continue to be collected on the same basis as it is then being collected (subject to the right of the Board to make a change) and it shall be the responsibility of the transferor and transferee to adjust between themselves for any prepaid and/or accrued but unpaid Regular Assessment that should exist as of the date of transfer. With the exception of the initial Regular Assessment due from an Owner who acquires an Ownership from the Declarant or a Permitted Club Developer, Regular Assessments shall be due and payable by each Owner, within 30 days of the receipt of an invoice, or at such other time as the Board may determine. Owners (including, without limitation, Owners with Biennial Points) shall be required to pay a Regular Assessment for every Assessment Period regardless of whether said Owner is entitled to use and occupy a Club Accommodation during such Assessment Period.

11.7 **Declarant's Obligation for Assessments.** Unless Declarant subsidizes the financial operations of the Association as provided below, and except as provided in Section 5.1 with respect to additional Real Property Interests, Declarant shall pay the Regular Assessments attributable to the Declarant's Points on the same basis as all other Owners. Such obligation shall be computed based on the number of Declarant's Points and as of the first day of each month.

In lieu of the payment of an annual Regular Assessment, the Declarant may elect, upon written notice given to the Association not less than ten (10) days prior to the date of the meeting of the Board at which the Regular Assessment for a fiscal year is to be established, to subsidize the financial operations of the Association in the event that the sum of all Assessments levied against Owners other than the Declarant plus every other revenue source (income) received by the Association fails to equal or exceed the actual expenses incurred during the fiscal year. The terms and conditions of the subsidy shall be established by written agreement between the Declarant and the Association, and shall be in compliance with all applicable laws. The Declarant shall have no obligation for expenditures for capital improvements, unless the same has been previously approved in writing by the Declarant.

11.8 **Special Assessments.** The Board may, from time to time, levy a Special Assessment applicable to that period only, as may be necessary for the purpose of defraying, in whole or in part, the cost of any acquisition, construction, reconstruction, repair or replacement of any Club Accommodation, including the Furnishings related thereto, for which the Association has such responsibility under the terms of the Club Instruments and for which there are either no reserves established or deficiencies in such reserves, or for the purpose of defraying other extraordinary expenses relating to the mutual health, benefit, safety and welfare of the Owners and the Association. The Association may levy Special Assessments against less than all Owners and less than all Points based on the purpose of the Special Assessment and the Owners benefited

thereby. No vote or written assent of the Owners to a Board resolution imposing a Special Assessment shall be required.

Notwithstanding the above, the Board shall, to the extent necessary, levy a Special Assessment to replace Club Accommodations whose use rights are lost because the timeshare and/or condominium plan for the Club Property containing those Club Accommodations has terminated or expired, either voluntarily or involuntarily. The Board shall, to the extent necessary, levy a Special Assessment as soon as reasonably practical after receipt of any proceeds resulting from the liquidation of the lost Club Accommodations. In no event shall the such proceeds from liquidation be distributed, directly or indirectly to the Owners.

Special Assessments may be collected as specified by the Board. Except as otherwise provided in the Club Instruments, any Special Assessment shall be due and payable on a date designated in the written notice of such Special Assessment which designated date shall be not less than thirty (30) nor more than sixty (60) days after the date upon which such written notice of such Special Assessment is mailed to the Owners, unless the Board determines that installment payments shall be permitted and provides each Owner with an approved payment schedule, in which case each Owner's payments shall be made no later than the time specified in such payment schedule. In the event that the Board authorizes the payment of any Special Assessment in installments, no notice of the due date of each individual installment payment shall be required to be given, other than the aforesaid Special Assessment notice. If the Declarant subjects additional Real Property Interests to the Club Instruments during the Assessment Period, then the Board may, without any Owner approval, recalculate the Special Assessment based on said additional Real Property Interests and the Board may adjust the Special Assessments levied against the Owners accordingly.

11.9 **Basis for Special Assessments.** The basis for computing the amount of any Special Assessment levied against each Owner shall be determined by the Board in its sole discretion, but the Board will generally follow the same allocation concepts as are used in levying the Regular Assessment (that is, if the expense for which the Special Assessment is being levied relates to repair or replacement of a Club Accommodation that is available to all Owners, then the Board will, absent some compelling reason not to do so, levy such Special Assessment in the same manner as the Regular Assessment).

11.10 **Individual Charges.**

(a) Each Owner shall be responsible for paying to the Association any and all expenses incurred as a result of the act or omission to act of that Owner or of any other Person(s) occupying such Owner's Assigned Club Accommodation during his or her reserved or scheduled Use Period(s), including but not limited to the cost of:

(i) Local and long distance telephone charges;

(ii) Additional cleaning and maid services as reasonably may be requested by an Owner or Occupant;

(iii) Video rental, mini-bar use, food and beverage charges, and any other special services or supplies attributable to the occupancy of the Assigned Club Accommodation during such Use Period(s);

(iv) Repair or replacement of any Furnishings located in a Club Accommodation due to loss or damage occurring during such Owner's Use Period(s) other than from ordinary wear and tear;

(v) Satisfying any expenses arising from an intentional or negligent act or omission of an Owner, a member of his or her family, his or her guests, tenants, invitees, or licensees (to the extent not covered by insurance) or resulting from his or her or their breach of any of the provisions of the Club Instruments; and

(vi) Any late fees (not to exceed the maximum amount, if any, allowed by applicable law), fines assessed under Section 12.2(c) below, attorneys' fees, and other amounts which the Club Instruments permit to be assessed upon a particular Owner.

(b) The Manager, on behalf of the Association, may require each Owner or Occupant to surrender, upon check-in, some form of deposit or credit card imprint to guarantee such Owner's or Occupant's payment of any and all Individual Charges incurred by him during the Use Period(s) in question. Such Individual Charges shall be paid by each Owner or Occupant as follows:

(i) If the Manager, on behalf of the Association, is able to ascertain the amount of Individual Charges due from the Owner or Occupant at or prior to the time of check-out and issue a statement therefor, such Individual Charges shall be payable at or before check-out; and

(ii) Individual Charges due from an Owner or Occupant which are not ascertainable as provided in sub-section (i) above shall be due and payable within thirty (30) days from the date upon which a written notice of such Individual Charges is mailed to the responsible Owner or Occupant.

11.11 **Liability for Assessments.** Except for Declarant's rights under Section 11.7 above, no other Owner may exempt himself, herself, or his or her successors or assigns from his or her obligation to pay any Assessment(s) (a) by his or her waiver of the use and enjoyment of an Assigned Club Accommodation and Furnishings or of any of the amenities and other facilities at a Club Property, (b) by his or her failure to use any or all of his or her Points (i) to reserve an Assigned Club Accommodation for one (1) or more Use Periods and/or (ii) to obtain any other benefits from the Club, all in accordance with the procedures established therefor in the Regulations, (c) by his or her failure to use and occupy an Assigned Club Accommodation, or (d) by the abandonment of his or her Ownership(s).

11.12 **Reserves.** The Board shall from time to time establish one (1) or more reserves as are necessary for the operation and improvement and replacement of those Club Accommodations for which the Association has such responsibility. Such reserves may include, but not be limited to, a working capital reserve, a reserve for the maintenance, repair, and replacement of the

Furnishings, and a Club Accommodation replacement reserve. Such reserves shall be included in the Association's budget established as a portion of the Club Costs covered by the Regular Assessment and/or by levying Special Assessments upon all of the Owners in such amounts as the Board determines to be necessary or appropriate. The amounts of said reserves shall be allocated among Owners in the manner set forth in the Club Instruments and this Article.

11.13 Surplus Funds/Deficits. The Association, through its Board of Directors, shall from time to time, fix and determine the sum or sums which are necessary and adequate to provide for Club Costs and such other Assessments as are specified in the Club Instruments. In the event that the Board determines at any time during an Assessment Period that the aggregate amount of Assessments is, or will be, in excess of the amounts needed to meet Club Costs, the Board shall cause the Owners to vote at the annual meeting occurring during that Assessment Period on whether to refund such excess to the Owners or to apply such excess to Club Costs for the immediately succeeding Assessment Period. If those Owners who own a majority of the Total Points vote at such annual meeting to have such excess refunded to them, the Board shall cause to be refunded to each Owner that portion of such Owner's Assessment that exceeds such Owner's pro rata share of Club Costs for that Assessment Period (such excess is referred to as such Owner's "**Excess Assessment**"). If those Owners who own a majority of the Total Points do not vote for such refund, then the Owners shall be deemed to have elected to have such excess applied to the Assessments due for the next Assessment Period in order to reduce the amount of the Assessment otherwise due for such immediately succeeding Assessment Period, and each Owner's Excess Assessment shall be applied to reduce such Owner's Assessment for the immediately succeeding Assessment Period. Any such excess shall not relieve any Owner from his or her obligation to pay any delinquent amounts which he or she owes to the Association. In the event that the Board determines, at any time, during the Assessment Period that the aggregate amount of the Assessment is or will be less than the amount needed to meet Club Costs and there no longer is a Declarant subsidy, such shortfall amount shall, subject to the Board's right to impose a Special Assessment or increase the Regular Assessment in the then current Assessment Period to re-coup such shortfall, appear as a line item on the budget for the immediately succeeding Assessment Period and the funds collected as a consequence thereof shall be applied to pay the shortfall incurred by the Association for the preceding Assessment Period.

11.14 Default Interest Rate; Late Fees. Except as otherwise expressly provided by law or the Club Instruments, any Assessment levied upon, and all Individual Charges due from, an Owner which are not paid within thirty (30) days after the date upon which such amount is due shall be deemed delinquent and may thereafter bear interest at the lesser of (a) eighteen percent (18%) per annum and (b) the maximum rate of interest permissible under applicable laws. In addition, the Association may charge the delinquent Owner an administrative late fee as established in the Regulations for each installment and all Individual Charges due the Association which is/are delinquent, together with the costs of collection of any delinquency. Any payment received by the Association shall be applied first to any interest accrued on the late installment or Individual Charges, then to any administrative late fee, then to the Association's reasonable attorneys' fees and other costs of collection, and then to the delinquent Assessment and/or Individual Charges.

11.15 Default in Payment of Assessments and Individual Charges, Suspension of Rights and Privileges, Security Interests. Except as otherwise provided by law, no Owner or

any Person authorized by such Owner to occupy his or her Assigned Club Accommodation (with the exception of a Lender of Record acquiring such Ownership pursuant to a valid transfer) shall be entitled to reserve or occupy such Club Accommodation, so long as any Assessments or Individual Charges owed by such Owner are delinquent; provided, however, that an Exchange User whose occupancy has been scheduled prior to the sending of the below-described notice of default shall be permitted to occupy such Club Accommodation.

The Association shall send a written notice to any Owner who is delinquent in the payment of any Assessment or any installment thereof or any Individual Charges (that is, has not made payment thereof within thirty (30) days of the due date for such payment), which notice shall advise such Owner, (1) of the Association's intention to accelerate all Assessments and Individual Charges due from such Owner and enforce its Security Interest (as described above) to collect such unpaid Assessments and Individual Charges, together with late fees, interest, collection costs, and reasonable attorneys' fees, if not paid in accordance with such written notice, and (2) of such Owner's right to cure such default (and avoid enforcement) by remitting all delinquent amounts, plus late charges, interest, collection costs and attorneys' fees, within ten (10) days after the date of such notice. Upon written request, a Lender of Record with respect to such Ownership shall be furnished by the Board or the Manager, on behalf of the Association, with a copy of such written notice of default. If full payment of all such amounts is not received within said ten (10) day period, the unpaid balance of such Owner's remaining obligations for the applicable Use Year, if any, may at the election of the Board at any time thereafter become accelerated and due and the Board may take any of the following actions:

- (a) Enforce the Association's Security Interest upon the Ownership of such Owner as provided in Section 12.1 hereof;
- (b) Subject to applicable law, bring an action to recover a money judgment for the amount of any unpaid Assessments and Individual Charges without waiving any Security Interest or the right to enforce the Association's lien against an Ownership for unpaid Assessments and Individual Charges;
- (c) If the Owner has not, as of the expiration of such ten (10) day cure period, used his or her Points to reserve or schedule a Use Period in a Club Accommodation, then the Association, the Board or the Manager shall have the right to use such delinquent Owner's Points to schedule or reserve a Use Period in a Club Accommodation and then rent out that Assigned Club Accommodation and apply any rents received first to the Association's costs and expenses in effecting such rental, second to all other costs and expenses owed by such Owner to the Association (including any then due "current" Assessments, but excluding the delinquent Assessments and Individual Charges), third to the delinquent Assessments and Individual Charges and last, any remainder would be paid to such Owner; and
- (d) Subject to the procedures identified in the By-Laws, suspend some or all of such Owner's rights and privileges hereunder and under the other Club Instruments, including, but not limited to, the right to use his/her Points and Special Features to reserve the use and occupancy of a Club Accommodation and/or to obtain any other Club benefits or to exercise his/her rights under any External Exchange Program; to the extent permitted

under applicable law, the right to vote in Association matters; the right to use (or allow others, including such Owner's guests, tenants, licensees, and invitees, to use) an Assigned Club Accommodation during his or her reserved or scheduled Use Period(s), and the right to rent such Club Accommodation during such time; provided that, if, prior to such delinquency, the Owner has reserved or scheduled a Use Period in an Assigned Club Accommodation, then the Association, the Board or the Manager shall, no less than thirty (30) days prior to the first day of such Owner's reserved or scheduled Use Period(s), notify such Owner in writing of the total amount of any delinquency which then exists or which will exist as of the first day of such Use Period, including any accrued interest and late charges permitted to be imposed hereunder. Such notice shall also clearly state that the Owner will not be permitted to use an Assigned Club Accommodation during his or her reserved or scheduled Use Period(s) unless the total amount of all Assessments, Individual Charges, and other amounts due and owing the Association has been paid in full not less than ten (10) days prior to the first day of occupancy of such Use Period. The suspended rights and privileges of such Owner shall automatically be reinstated at such time as such Owner shall have paid to the Association or the Manager, in cash or by cashier's or certified check, all amounts past due.

11.16 **Statement of Unpaid Assessments.** Within ten (10) days following its receipt of a written request therefor and the payment of a reasonable fee as determined by the Board, the Manager, on behalf of the Association, shall furnish to the Owner, his or her authorized agent, or the holder of a Security Interest in his or her Ownership, a statement setting forth the amount of unpaid Assessments, Individual Charges and other amounts, if any, currently levied against his Ownership. Said statement shall be binding upon the Association, the Board, and every other Owner.

11.17 **Escrow of Regular Assessments.** To the extent required by law, that portion of Regular Assessments attributable to assessments levied by Club Property Owners Associations pursuant to Club Property Instruments shall be placed in a special escrow account to ensure payment of such assessments.

ARTICLE XII **ENFORCEMENT PROVISIONS**

12.1 **Enforcement of Security Interest for Assessments and Individual Charges.** All Security Interests, Assessments and Individual Charges provided for herein shall be automatically enforceable in any manner authorized by law, including, but not limited to a suit at law or power of sale or enforcement of a Security Interest in the manner provided for under applicable state law, including under the Uniform Commercial Code as adopted in the applicable state or any comparable law as adopted in any applicable jurisdiction outside of the United States. The Board, acting on behalf of the Owners, shall have the discretion to enforce such Security Interests, to sue to enforce the personal obligations and covenants, or to accept transfer of the applicable Ownership in-lieu thereof.

In the event an Ownership is terminated pursuant to this Article XII, the Association shall be deemed to have acquired the applicable Owner's Points, the use of any Special Features shall revert to the Declarant, and the Declarant, in exchange for payment of the lesser of (a) all

delinquent amounts owing to the Association by such Owner and interest thereon and (b) an amount equal to the most recent year's Regular Assessment on the applicable Ownership, shall have the option of (i) requiring the Association to transfer to Declarant all Points attributable to such terminated Ownership, or (ii) acting as the exclusive agent of the Association for the re-sale of the Points attributable to such terminated Ownership and in either case, the Declarant shall be entitled to receive and retain for its own account all proceeds from the sale of all Points attributable to such terminated Ownership. If the Declarant does not exercise either option, then the Association may cause such Ownership to be resold upon such terms as the Association deems appropriate and retain all proceeds therefrom.

12.2 Enforcement of Club Instruments. In addition to, and to the extent not inconsistent with, the provisions of the Club Instruments and any provision of law, any violation of any provision of the Club Instruments (other than a failure to pay Assessments or Individual Charges) by an Owner, members of his or her family, his or her guests, tenants, licensees, or invitees, or an Exchange User, shall be grounds for an action to recover sums due and damages, for injunctive relief, or both, and for the reimbursement of all costs and attorneys' fees incurred in connection therewith. All such amounts, along with any other costs incurred by the Association to obtain the services of an attorney to enforce any provision of any Club Instrument, shall constitute an Individual Charge against the Owner who committed or who is responsible for such violation or who caused the Association to take such action; shall promptly be reimbursed by such Owner to the Association, upon demand therefor; and if not promptly reimbursed, shall be subject to the Association's right to enforce its Security Interest in such Owner's Ownership. In addition to the foregoing, upon any non-monetary violation of any Club Instrument which is not cured within thirty (30) days of written notice thereof from the Association, the Association shall have the right, but not the obligation, to do any one or more of the following to the extent appropriate based on the nature of the violation:

(a) To enter the Club Accommodation or area in which, or as to which, such violation or breach exists, and summarily to abate and remove, at the expense of the Owner or Exchange User who caused or permitted such violation, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions of the Club Instruments and neither the Board, the Association, the Manager, the Declarant, nor any authorized agent thereof shall thereby be deemed guilty in any manner for trespass;

(b) To engage the services of an attorney to initiate such action as is deemed necessary by the Board, the Association, the Manager, or the Declarant to enforce such provision of the Club Instruments, including the initiation of a suit for damages or to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach;

(c) To impose a reasonable monetary fine or penalty upon such Owner or Exchange User in an amount to be determined by the Board of Directors in accordance with the Club Instruments;

(d) Subject to the procedures identified in the By-Laws, to suspend some or all of such Owner's rights and privileges hereunder and under the other Club Instruments, including, but not limited to, to the extent permitted under applicable law, the right to vote;

the right to use his Points to reserve the use and occupancy of a Club Accommodation, to obtain any other Club benefits and/or to exercise his rights under any External Exchange Program; the right to use (or allow others, including such Owner's guests, tenants, licensees, and invitees, to use) an Assigned Club Accommodation or Furnishings during his or her reserved or scheduled Use Period(s); and the right to rent such Assigned Club Accommodation during such time. The Owner in question shall be notified in writing of any such suspension of rights and privileges, including the reason(s) therefor and the length thereof immediately after such enforcement decision has been made and shall be given the opportunity to present a written or oral defense to the charges. The Board shall decide whether the Owner's defense shall be oral or written and shall notify the Owner of the decision of the Board before disciplinary actions is taken. The suspended rights and privileges shall automatically be reinstated upon the expiration of the suspension period stated in the notice of suspension. Except as otherwise provided by law, any costs reasonably incurred by the Association and the Manager in connection with their actions under this sub-section (d) shall be assessed against the delinquent Owner as an Individual Charge;

(e) To cause the absolute forfeiture of an Ownership for a failure to comply with the Club Instruments only upon (i) the judgment of a court; or (ii) the enforcement of the Association's lien for failure to pay Assessments or Individual Charges levied by the Association; and

(f) As to Owners, to demand and receive from any Occupant during the defaulting Owner's reserved or scheduled Use Period(s), the rent due from any Occupant to such Owner, up to an amount sufficient to pay all sums due from the Owner, including costs, attorneys' fees, and interest. The Occupant shall be discharged from the payment of rent to such Owner to the extent of the amount so paid. If the Association, the Board or the Manager makes a demand upon an Occupant for the payment of rent, the Occupant shall have no right to question the authority of such party to make such demand, and shall be obligated promptly to pay the amount demanded by such party, with the effect as aforesaid.

12.3 **Remedies Are Cumulative.** All of the remedies granted by the Club Instruments are cumulative, and the exercise of one right or remedy shall not impair the right to exercise any other remedy. The Association, the Board, the Manager, and the Declarant shall not be limited to the remedies set forth in this Declaration, and may invoke any other or additional remedies provided for or allowed by law or in equity.

12.4 **Preservation of Remedies.** The Board's election to pursue one remedy shall not obviate its right to pursue other remedies against the same Owner. The failure of the Association, the Board, the Manager, or the Declarant to enforce any provision of the Club Instruments shall not be construed as a waiver of any such provision or right. Rather, such provision shall continue and remain in full force and effect.

ARTICLE XIII
DECLARANT'S RIGHTS AND OBLIGATIONS

In consideration for transferring, or causing the transfer of, the Real Property Interests to the Association or to a Trustee for the benefit of the Association, the Declarant shall have and hereby retains for itself, the following rights:

13.1 **Exclusive Right to Sell Ownerships, Points and Special Features.** Except as expressly provided in Section 12.1 above or Sections 13.5 and 17.1 below, the Declarant shall have the option of (a) requiring the Association to transfer to the Declarant all Ownerships and Points attributable to Real Property Interests that are subject to this Declaration, or (b) acting as exclusive agent of the Association for the sale of such Ownerships based upon those Points, and the Declarant may exercise its option in a different manner as to each Real Property Interest that is subjected to this Declaration. In addition, the Declarant shall have the exclusive right to sell any and all Special Features. With respect to the sale of Ownerships, Points and Special Features, the Declarant shall have the exclusive right (i) to establish the purchase price for Ownerships, Points and Special Features, (ii) to receive and retain all proceeds from the sale of Ownerships, Points and Special Features and (iii) with respect to Ownerships and Points, to instruct the Association as to whom each Ownership Certificate is to be issued and whose name is to be entered into the Club Ownership Register with respect to such Ownership Certificate.

13.2 **Declarant as Agent.** In the event the Declarant acts as an agent only with respect to particular Real Property Interests, the Declarant shall be deemed to have been issued the number of Points that have been allocated to such Real Property Interests at the time of the transfer of such Real Property Interests to the Association or to a Trustee.

The Association hereby grants to the Declarant a Security Interest in all of the rights, title and interest of the Association to the proceeds from the sale of Ownerships and Points and to the extent necessary or requested by Declarant, the Association shall execute a security agreement in favor of the Declarant.

13.3 **Reservation System.** The Association shall engage a Reservation Service Provider (an "**Reservation Services Provider**") to provide reservation services for the Owner's use of Club Accommodations pursuant to a Reservation Services Agreement. The Association shall, and is expressly authorized to, contract with the Declarant or one of its affiliates to provide reservation services or to be the Reservation Services Provider so long as one of them is willing to provide reservation services. The Association hereby acknowledges that it will have no legal or beneficial interest in the Reservation System provided by the Declarant or its affiliates under such Reservation Services Agreement. If the Declarant or one of its affiliates no longer desires to provide the reservation services to the Owners, such Reservation Services Provider must continue to operate the Reservation System for the benefit of the Association and the Owners until a replacement is secured. In addition, upon such termination, such Reservation Services Provider shall turn over to the Association the data necessary to ensure the orderly continuation of reservation services.

13.4 **Name.** The names "Wyndham" and "ClubWyndham" (collectively, "**Wyndham**") are the intellectual property of affiliates of the Declarant and the use of such names is pursuant to

a license agreement under which the licensor has the right to terminate the right to use the "Wyndham" name at any time and for any reason. In the event that the Declarant or its affiliate is terminated as Manager for any reason whatsoever or in the event that the licensor exercises its right to terminate the right to use the "Wyndham" name, then, at the request of the Manager and without any action by the Board, (a) the Association shall immediately take all action necessary to remove the word "Wyndham" from written materials used, issued or prepared by the Association or the Board and the Association and the Board shall refrain from using the word "Wyndham" in connection with the Club, and (b) all Owners shall be prohibited from using the name "Wyndham" with respect to the Association, their Ownership, the Club Accommodations or the Club in any manner in the future. Such steps shall include, but are not limited to, amending all documentation, including, all Club Instruments, and all other documents, and changing all signs, stationary, forms, advertisements and other publications to eliminate the name of "Wyndham". In furtherance of the foregoing, the Association hereby reserves the right, without having to obtain the vote or consent of any Owner, to enter into, file and to the extent necessary, record all documents, instruments, amendments and the like so as to satisfy its obligations under this Section 13.4. The provisions of this paragraph may be enforced by any remedy available under applicable law, including injunctions.

13.5 **Permitted Club Developers.** The Declarant reserves the right to appoint one or more Persons to act as Permitted Club Developers, provided always that the Declarant shall continue to have the overall responsibility and control for all Persons it appoints as Permitted Club Developers. The Declarant may unilaterally cancel the appointment of a Person as a Permitted Club Developer and upon such cancellation, the Declarant shall provide the Association written notice of the cancellation within a reasonable period of time. Upon receipt of written notice from the Declarant that it has designated a Person to be a Permitted Club Developer for such purpose, the Association shall (a) accept a transfer of Real Property Interests from such Person (which, if the notice from the Declarant so specifically states, would include the right to transfer in Real Property Interest that are to be Inactive Real Property Interests and the right to define, create and/or establish Special Features in all or some portion of the Real Property Interests that it causes to be subjected to this Declaration and conveyed to the Association or a Trustee for the benefit of the Association) in exchange for the right of that Person, as a Permitted Club Developer, to market and sell Ownerships based upon the Points and Special Features attributable to such Active Real Property Interests and/or (b) issue Ownerships in the names of such Persons as are designated by such Permitted Club Developer, all in accordance with this Declaration.

13.6 **Active/Inactive Real Property Interests.** The Declarant reserves on behalf of itself and one or more Permitted Club Declarants, the right to include in the Club more Real Property Interests than are, in the Declarant's sole opinion, necessary for proper use and functioning. All Real Property Interests subjected to this Declaration shall be deemed to be "Active Real Property Interests", unless the Declarant declares in an exhibit to the Club Property Declaration or in an exhibit to any Supplemental Declaration that some portion of the Real Property Interests described in the exhibit to said document are to be "Inactive Real Property Interests", which Inactive Real Property Interests and the Points assigned thereto and the Special Features, if any, attributable thereto are specified on said exhibits to the Club Property Declaration or Supplemental Declaration, as the case may be. With respect to all Inactive Real Property Interests, the following shall apply:

(a) Until such time, if ever, as the Declarant or the applicable Permitted Club Developer, as the case may be, causes an Inactive Real Property Interest either to be withdrawn from the Club as provided in Section 13.6(b) below or to become active as provided in Section 13.6(c) below (and, therefore, become "**Active Real Property Interests**"), (i) the Points assigned to Inactive Real Property Interests may not be utilized to issue Ownerships; (ii) the Special Features, if any, attributable thereto may not be sold, (iii) the Association shall have no responsibility for repair, maintenance, etc. thereof and shall have no easement or other rights either granted hereunder or granted to the owner thereof under the applicable Club Property Instruments and as a consequence, all costs of maintenance, ownership, operation, repair, etc. of the Inactive Real Property Interests shall not be included in Club Costs and shall be borne entirely by the Declarant or the applicable Permitted Club Developer, as the case may be; (iv) only the Declarant or the applicable Permitted Club Developer, as the case may be, shall be entitled to reserve and use the Club Accommodations resulting from, and the Special Features, if any, attributable to, the Inactive Real Property Interests; (v) Points assigned, and Special Features, if any, attributable, to Inactive Real Property Interests shall not be included in making any of the calculations set forth in Section 8.4 above; and (vi) for all purposes of the applicable Club Property Instruments, the Declarant or the applicable Permitted Club Developer, as the case may be, shall be deemed to be the owner thereof and shall be entitled to exercise all of the rights, subject to all of the duties and obligations, of the owner thereof under said Club Property Instruments.

(b) The Declarant or the applicable Permitted Club Developer, as the case may be, has the right, without the consent of any Person, upon giving notice thereof to the Association and to the applicable Trustee, if title to such Inactive Real Property Interests is then held by a Trustee for the benefit of the Association, at any time and from time to time, to have all or any designated portion of the Inactive Real Property Interests withdrawn from this Declaration and re-conveyed to the Declarant, such Permitted Club Developer or any Person designated by the Declarant or the applicable Permitted Club Developer, as the case may be. Each time the Declarant or the applicable Permitted Club Developer, as the case may be, gives such notice of withdrawal, (i) the Association, the Declarant or applicable Permitted Club Developer, as the case may be, and if applicable, the Trustee or other Person holding title to the designated Inactive Real Property Interests will enter into a Declaration of Withdrawal indicating that the Inactive Real Property Interests described therein are released of and from all of the terms, covenants, conditions, restrictions and easements set forth in this Declaration (identifying specifically, by date and recording data, the Club Property Declaration and/or Supplemental Declaration(s) pursuant to which said Inactive Real Property Interests were subjected to this Declaration), and (ii) the Association and if applicable, the Trustee or other Person holding title to said Inactive Real Property Interests will execute and deliver to Declarant or the applicable Permitted Club Developer, as the case may be, a deed conveying title to said Inactive Real Property Interests to such Person as the Declarant or the applicable Permitted Club Developer, as the case may be, designated in its notice of withdrawal. Upon completion of the foregoing, the withdrawn Inactive Real Property Interests shall no longer be subject to this Declaration for any purpose and neither the Association nor the Owners shall have any right, title or interest in or to the same. All costs and taxes attributable to such withdrawal

shall be borne by the Declarant or the applicable Permitted Club Developer, as the case may be.

(c) Declarant or the applicable Permitted Club Developer, as the case may be, shall have the right, without the consent of any Person, at any time and from time to time, to cause all or any portion of the Inactive Real Property Interests to become "**Active Real Property Interests**" and thereby the Points associated with, and any Special Features attributable to, such Inactive Real Property Interests would become available for sale. To so activate such Inactive Real Property Interests, the Declarant or the applicable Permitted Club Developer, as the case may be, shall cause to be recorded an instrument called an "**Active Real Property Interests Declaration**" which (i) identifies, by date and recording information, the Club Property Declaration and/or Supplemental Declaration(s) that subjected the portion of then Inactive Real Property Interests which are then to be activated (the "**Converted Real Property Interests**") to this Declaration; (ii) identifies specifically the Converted Real Property Interests; (iii) states that the Converted Real Property Interests are declared thereafter to be "active" and, therefore, subject to all of the terms, conditions, covenants, easements and restrictions of this Declaration and the Points assigned to said Converted Real Property Interests are now available for assignment to Ownerships then being sold and any Special Features attributable to said Converted Real Property Interests are now available for sale; and (iv) if the Declarant or the applicable Permitted Club Developer so elects, defines, creates and/or establishes Special Features with respect to some or all of said Converted Real Property Interests (whether or not Special Features had been defined, created or established in some of such Converted Real Property Interests when first subjected to this Declaration).

(d) The Declarant or the applicable Permitted Club Developer, as the case may be, in its sole discretion, has the right to designate Real Property Interests as Inactive Real Property Interests, as well as the order in which, and the timing by which, Inactive Real Property Interests are converted to active Real Property Interests or withdrawn from this Declaration.

13.7 Declarant's Right upon Dissolution/Liquidation of the Association. Upon the occurrence of any event which results in the dissolution and/or liquidation of the Association, including, without limitation, termination of the Association's participation in the Club or termination of this Declaration, in accordance with the terms and provisions of the By-Laws and the other Club Instruments, the Declarant shall have the right, but not the obligation, to cause the Association to convey to Declarant those Real Property Interests last added to the Club whose assigned Points equals or is less than the then number of the Declarant's Points. To exercise this right, the Declarant must give written notice thereof (the "**Reconveyance Notice**") to the Association within ninety (90) days after the date that the determination to dissolve or liquidate is made or the event occurs which gives rise to such dissolution or liquidation. The Reconveyance Notice shall state exactly which Real Property Interests the Declarant wants conveyed to it, it being understood that the Declarant need not use all of the Declarant's Points to so re-acquire Real Property Interests so long as the Real Property Interests being so re-acquired are the last Real Property Interests that were subjected to the Club Instruments. If the Declarant does give the Reconveyance Notice, then prior to the Association liquidating the Real Property Interests subject to the Club Instruments as part of the dissolution/liquidation, the Association will cause those

Real Property Interests identified in the Reconveyance Notice to be conveyed to the Declarant, said Real Property Interests to be conveyed to the Declarant or its designee free and clear of the Club Instruments (the Association hereby reserving the right, without any notice to, or consent or vote of, any other Person, to execute and cause to be recorded such documentation as is necessary to release such Real Property Interests from the Club Instruments) and subject only to real estate taxes and any assessments under the applicable Club Property Instruments which are not then due or payable and those other matters to which said Real Property Interests were subject when conveyed to the Association or to a Trustee for the benefit of the Association. All costs for such conveyance, including any title insurance required or desired by the Declarant, shall be borne by the Declarant.

13.8 **Declarant's Right to Substitute for a Club Property.** To the extent permitted by applicable law, Declarant shall have the right, in its sole and absolute discretion and without the consent of any Owner, to replace any Club Property (and all of the Real Property Interests therein) with a substitute Club Property or Club Properties; provided, however, that the Declarant may not remove any Club Property in which the Declarant has created Special Features unless the Declarant has not sold any of those Special Features or has reacquired all previously sold Special Features in such Club Property. The consent of the Owners is not required for the substitution of a new Club Property for an existing Club Property.

- (a) In order to make such a substitution, the following conditions must be met:
 - (i) No substitution may be made during the first Use Year of the first Owner who acquires an Ownership whose Points are based upon Real Property Interests subjected to this Declaration.
 - (ii) The Declarant must give the Owners written notice of its intention to delete Club Accommodations at a Club Property and to substitute them with other specifically identified Accommodations, which notice must be given at least six (6) months prior to the date of substitution and must inform the Owners that they have the right to reserve the use of the Club Accommodations during this six (6) month period.
 - (iii) The replacement Club Property shall provide the Owners the opportunity to enjoy substantially the same or a better experience than was available at the Club Property being replaced. In determining whether the replacement Club Property provides the opportunity for the same or a better experience, all factors deemed relevant by Declarant shall be considered, including, but not limited to, size, capacity, furnishings, maintenance, location (geographic, topographic and scenic), demand and availability for Owner use, quality, and amenities.
 - (iv) The number of Points to be assigned to the Real Property Interests in the new Club Property must equal or exceed the number of Points assigned to the Real Property Interests in the Club Property being replaced.

(v) Declarant may only make the substitution if the requirements of Section 8.4 will continue to be met after the substitution is completed.

(b) Provided all of the conditions set forth in Section 13.8(a) above are satisfied, then, in order to accomplish the substitution, upon expiration of the six (6) month period described in Section 13.8(a)(ii) above, the following must occur:

(i) Declarant must cause Real Property Interests in the new Club Property to be subjected to this Declaration by use of a Club Property Declaration and thereafter to be conveyed to the Association or a Trustee for the benefit of the Association in accordance with the applicable requirements of Articles IV and V.

(ii) Once the Real Property Interests in the new Club Property have been added to the Club, as provided above, then the following shall occur:

(A) Declarant will give the Association written notice containing a legal description of the Real Property Interests in the Club Property to be replaced and requesting that the Association cancel the Points attributable to said Real Property Interests, remove said Real Property Interests from this Declaration and convey or cause the applicable Trustee to convey said Real Property Interests to (i) a Person other than the Declarant or a direct or indirect subsidiary or parent of the Declarant; or (ii) if requested by the Declarant, to the Declarant or other Person as directed by the Declarant, provided the conveyance is approved by (a) a majority of the Total Points held by the Class A Owners where there are two classes of Owners, present in person or by proxy at a duly noticed meeting of the Owners at which a quorum is present, or (b) where there is only one class of Owner, by the affirmative vote of a majority of the Board at a duly noticed meeting at which a quorum is present.

(B) Upon receipt of said notice from Declarant, the Association will (1) cancel the Points attributable to said Real Property Interests, (2) execute, have notarized and deliver to Declarant an instrument that states that the Real Property Interests legally described therein are no longer subject to this Declaration and identifies by recording information and other relevant data the Club Property Declaration and/or Supplemental Declaration(s) by which said Real Property Interests were subjected to this Declaration and (3) execute, have notarized and deliver, or cause the applicable Trustee(s) to execute, have notarized and deliver, to Declarant a deed by which title to said Real Property Interests are conveyed to a Person other than the Declarant or a direct or indirect subsidiary or parent (as designated to the Association in Declarant's notice requesting cancellation, removal and conveyance). It shall be Declarant's responsibility to cause the removal instrument and the deed to be recorded in the appropriate office and to pay all taxes attributable to such transfer. It shall be the Association's responsibility to cause any encumbrances which it caused or

permitted to be created against said Real Property Interests to be released or removed of record.

13.9 **Declarant's Right to Approve Certain External Exchange Programs.**

Declarant hereby retains the right, in its sole discretion, to approve the entering into any affiliation arrangement by the Association whereby the External Exchange Program Operator would have the easement rights described in Section 6.13 above. There is no obligation on the part of the Association to enter into agreements only with External Exchange Programs that Declarant has approved. In addition, the Association may enter into affiliation agreements with any External Exchange Program, but the Association may not grant any such External Exchange Program the rights and easements described in Section 6.13 above (whether or not the Association are then affiliated with any Declarant approved External Exchange Program) without the prior written approval of the Declarant, which approval can be withheld or granted in the sole and absolute discretion of the Declarant.

13.10 **The Declarant's Right to Provide Alternate Accommodations.** In the event that any Club Accommodations are not available for usage for any reason, the Declarant shall have the right (but not the obligation) to provide alternative Accommodations for the time period the Club Accommodations are unavailable. For this purpose, the Declarant shall assign Point Values to such alternative Accommodations to enable the Club to continue to comply with the requirements of Section 8.4.

13.11 **Assignment of Declarant's Rights.** At any time and from time to time, the Declarant may assign to the Association or any other Person any or all of the Declarant's Rights set forth in this Article, in whole or in part, permanently or for a term of years. In connection with this assignment, the Declarant may establish limits or other guidelines for the use of such rights. Any such assignment shall be accomplished by a document entitled "(Partial) Assignment of Declarant's Rights", which document shall identify by recording information and other relevant data the Club Property Declarations pursuant to which this Declaration was recorded and shall be recorded in each jurisdiction where the assignee intends to exercise any of the assigned rights.

13.12 **Banking, Borrowing, Etc.** At the current time, no Owner may bank or borrow any of his Points or defer or accelerate the usage of any Special Feature that he may own. The Declarant hereby reserves the right, in its sole discretion and without the consent of the Association or any Owner, to add to the Club programs (hereinafter called a "Program Change") that would permit such banking, borrowing, deferral and/or acceleration. The terms and conditions under which any such Program Change would work shall be determined by the Declarant in its sole discretion. The Declarant can make a Program Change for banking or banking and borrowing of Points without having to make any Program Change applicable to Special Features or vice versa. Additionally, the Declarant can make one Program Change at one time and another Program Change later. Once the Declarant implements a Program Change, the Declarant cannot withdraw or terminate that Program Change nor can the Declarant amend or change any of the terms or conditions of such Program Change without the consent of the Board of Directors of the Association. Any such Program Change may, in the Declarant's sole discretion, only apply to Persons who become Owners after the effective date of such change or apply to all existing Owners, as well as all Persons who thereafter become Owners. Each Program

Change shall be implemented through an amendment to this Declaration made by the Declarant in accordance with Section 19.3(d) below.

ARTICLE XIV
CONDEMNATION OR EMINENT DOMAIN

14.1 **Proceedings.** The procedures to be followed in the event of any taking in condemnation or by eminent domain of all or any portion of a Club Property shall be governed by the Club Property Instruments, if any, and if there are no Club Property Instruments for such Club Property or the Club Property Instruments do not address what happens upon the occurrence of such event, then governed by the Club Instruments. Notwithstanding the above, because of the unique nature of the Club, any taking of a portion of a Club Accommodation shall be deemed to be a taking of the entire Club Accommodation. All Special Features attributable to any Real Property Interests that are affected by any condemnation or eminent domain proceedings shall terminate upon the taking of the related Club Accommodation.

14.2 **Awards or Settlements.** Any award or settlement to the Association as a result of the taking of a Club Accommodation shall be deposited in a special reserve account for the replacement of Club Accommodations. Any award or settlement for the taking of Real Property Interests (other than Club Accommodations) shall be applied to reduce the Regular Assessment for the next Assessment Period.

14.3 **Board's Options Upon Loss of Club Accommodations.** In order to maintain the ability of all Owners to reserve Use Period(s) in Club Accommodations according to the Regulations, in the event of the taking of a Club Accommodation, the Board shall, at its sole election, (a) if permitted under applicable law, delete from the Points then owned by the Owners other than Declarant a number of Points equal to the number of Points ascribed to the Club Accommodation(s) lost (such reduction to be done in such fashion as the Board shall determine so long as it is permissible under applicable law) and thereafter the Club Ownership Register will be amended accordingly, (b) replace such Club Accommodation with a substitute Accommodation which must provide the Owners with an opportunity to enjoy a substantially similar vacation experience as was available with the Club Accommodation being removed [such determination to be based on all relevant factors, including, but not limited to, some or all of the following: site, capacity, furnishings, maintenance, location (geographic, topographic and scenic) demand and availability for Owner use, and recreational capabilities] and shall cause title to such substitute Accommodation to be conveyed to the Association or to a Trustee for the benefit of the Association and subjected to this Declaration as provided in Section 5.2 hereof (it being understood that, if a Special Feature was attributable to the lost Club Accommodation, then the same Special Feature shall be attributable to the substitute/replacement Accommodation), or (c) take any other action permitted under applicable law in order to continue to meet the requirements of Section 8.4 above. Except for Club Accommodations so affected, the Board shall be under no obligation to replace other Real Property Interests taken by condemnation or eminent domain proceedings. If the Board elects to replace Club Accommodations, then, so long as Declarant is still active and willing to accommodate the Board's request, the Board shall engage the Declarant to acquire said substitute Accommodation and the Declarant agrees to take all necessary action to do so. If the amount of any award or settlement and reserves for replacement is not sufficient to pay the costs to replace the Club Accommodation, the Board shall levy a Special

Assessment pursuant to Section 11.8 above. If the Special Assessment is not approved by the majority of the Board, then the Board shall not to complete the purchase of the proposed substitute Accommodation and shall continue its search for a suitable substitute Accommodation as to which either no Special Assessment is required or the approval of a majority of the Board as provided in Section 11.8 is obtained. The Board may, and the Declarant shall have the right to, provide alternative Accommodations meeting the replacement standard described in clause (b) above for the time period when the Association is in the process of obtaining replacement Accommodations and during the time period such alternative Accommodations are available to the Owners, the Association shall be responsible for, and Club Costs shall include, all assessments levied against such Accommodations and to the extent not covered thereby, all other costs of maintenance and use (including taxes and utilities). For this purpose, the Board shall assign Point Values to such alternative Accommodations to enable the Club to continue to comply with the requirements of Section 8.4.

ARTICLE XV **DAMAGE OR DESTRUCTION**

15.1 **Proceedings.** The procedures to be followed in the event of any damage or destruction of all or any portion of a Club Property shall be governed by the Club Property Instruments for that Club Property, if any, and if there are no Club Property Instruments for such Club Property or the Club Property Instruments do not address what happens upon the occurrence of such event, then governed by the Club Instruments. All Special Features attributable to any Real Property Interests in any Club Accommodation which is rendered uninhabitable by such damage or destruction and which is not restored or reconstructed after such damage or destruction shall terminate as of the date of such damage or destruction.

15.2 **Board's Options Upon Damage to a Club Accommodation.** In order to maintain the ability of all Owners to reserve Use Period(s) in Club Accommodations according to the Regulations, if a Club Accommodation is not repaired or restored pursuant to Club Property Instruments and the Association has no right thereunder either to force such repair or restoration or to undertake such repair or restoration directly, the Board shall at its sole election, (a) if permitted under applicable law, delete from the Points then owned by Owners other than Declarant a number of Points equal to the number of Points ascribed to the Club Accommodation(s) which are not being repaired or replaced (such reduction to be done in such fashion as the Board shall determine so long as it is permissible under applicable law) and thereafter the Club Ownership Register will be amended accordingly, (b) replace such Club Accommodation with a replacement Accommodation which must provide the Owners with an opportunity to enjoy a substantially similar vacation experience as was available with the Club Accommodation being replaced [such determination to be based on all relevant factors, including, but not limited to, some or all of the following: site, capacity, furnishing, maintenance, location (geographic, topographic and scenic), demand and availability for Owner use and recreational capabilities] and shall cause title to such replacement Accommodation to be conveyed to the Association or to a Trustee for the benefit of the Association and subjected to this Declaration as provided in Section 5.2 hereof (it being understood that, if a Special Feature was attributable to the lost Club Accommodation, then the same Special Feature shall be attributable to the substitute/replacement Accommodation), or (c) take any other action permitted under applicable law in order to continue to meet the requirements of Section 8.4 above. If the Board elects to

replace, then, so long as Declarant is still active and willing to accommodate the Board's request, the Board shall engage the Declarant to acquire all replacement real property interests and the Declarant agrees to take all necessary action to do so. If the amount of any insurance proceeds and reserves for replacement are not sufficient to pay the costs to replace the Real Property Interests, the Board shall levy a Special Assessment pursuant to Section 11.8 above. If the Special Assessment is not approved by the majority of the Board, then the Board shall not complete the purchase of the proposed replacement real property interests and shall continue its search for suitable replacement real property interests as to which no Special Assessment is required in order to acquire such replacement or the approval of a majority of the Board, as provided in Section 11.8 above, is obtained. The Board may, and the Declarant shall have the right to, provide alternative Accommodations meeting the replacement standard described in subparagraph (b) above for the time period the Real Property Interests are unavailable (being both the time period when the Real Property Interests is being restored and/or repaired and the time period when the Association is in the process of obtaining replacement real property interests) and during the time period that such alternative Accommodations are available to the Owners, the Association shall be responsible for, and Club Costs shall include, all assessments levied against such Accommodations and to the extent not covered thereby, all other costs of maintenance and use (including taxes and utilities). For this purpose, the Board shall assign Point Values to such alternative Accommodations to enable the Club to maintain at the ratio required by Section 8.4.

15.3 **Damage or Destruction to Furnishing.** In the event of any damage or destruction to the Furnishings other than by ordinary wear and tear under a situation not covered by Sections 15.1 and 15.2 above, the Association shall, if it has the right to do so under the applicable Club Property Instruments, promptly cause such damage to be repaired and/or the Furnishings replaced and shall use any available insurance proceeds for such purpose. If the damage is not covered by insurance, or if the available insurance proceeds are insufficient to pay the costs to replace such Furnishings, the Association shall levy a Special Assessment upon each of the Owners, to be allocated in the manner set forth in Section 11.8 hereof, provided, however, that in the event that the damage or destruction was caused by the intentional or negligent act or omission of an Owner, a member of his or her family or his or her guests, tenants, invitees, or licensees, then the cost of such repair or the amount of such deficiency shall be an Individual Charge to such Owner, to be paid in the manner provided in Section 11.10 hereof. If the damage or destruction occurs under a situation where the Club Accommodation is not replaced under Sections 15.1 and 15.2 above, but the Association does not have the right under the Club Property Instruments to effectuate the repair and/or replacement pursuant to the foregoing provisions of this Section 15.3, then such damage or destruction shall be deemed to require the Association to elect one of its options under Section 15.2 above.

15.4 **Liability.**

(a) To the extent that any damage or loss is covered by insurance, neither the Board, the Declarant, the Manager, the Association, nor any Owner shall have a claim or cause of action for damage or loss against any responsible Owner or Occupant, provided that this waiver of claim shall in no way prevent the Board from obtaining similar insurance coverage at similar premium cost in the future. To the extent that any damage or loss to the personal property of any Owner or Occupant is covered by insurance, such Owner or Occupant shall have no claim or cause of action for such damage or loss against

the Board, the Manager, the Declarant, any Trustee, any Person holding title to any Real Property Interests for the benefit of the Association, the Association, or any other Owner.

(b) No damage to, or loss of, all or any portion of a Club Accommodation shall relieve any Owner of his or her obligation to pay his or her Regular Assessment and all other impositions becoming due, except as otherwise expressly provided herein.

ARTICLE XVI **INSURANCE**

16.1 **Generally.** Insurance coverage for each Club Property shall be governed by the Club Property Instruments for that Club Property, if any, and if there are no Club Property Instruments for that Club Property or they do not require any one or more of the following described insurance coverages, then the Club Instruments, including the provisions set forth in this Article XVI, shall govern insurance coverage or the missing insurance coverage(s) for that Club Property. Notwithstanding the above, to the extent that the Association may have exposure for liability or property loss for any real or personal property owned or administered by the Association, or for activities of the Association and its employees and agents, the Association shall, to the extent not covered by insurance required to be maintained under the Club Property Instruments for that Club Property, obtain the following types of insurance at its sole cost and expense (provided, however, that the Association shall, notwithstanding the fact that such insurance may be maintained under the Club Property Instruments for a Club Property, procure and maintain, at the Association's expense, the insurance described in subsections (c) and (d) below):

(a) **Building Property Insurance.** Building property insurance for each Club Accommodation shall be in a total amount, after application of deductibles, of the maximum insurable replacement value thereof, without deduction for depreciation, but not less than one hundred percent (100%) of the full replacement value of such Club Accommodation, as determined by the Board, in its sole discretion. Such determination shall be made by the Board, or at the option of the Board, by an appraiser, architect, or contractor chosen by the Board. If title to any Club Accommodation is held by a Trustee for the benefit of the Association, then any such policy shall name the applicable Trustee as an additional insured.

(b) **Furnishings/Content Property Insurance.** The Furnishings and contents shall be insured for the benefit of all Owners and the Association against all risks of direct physical loss commonly insured against with respect to such property in a total amount, after application of deductibles, of the maximum insurable replacement value thereof, without deduction for depreciation. Replacement value shall be determined periodically by the Board, in its sole discretion, or at the option of the Board, by an appraiser or contractor chosen by the Board.

(c) **General Liability Insurance.** The Board shall obtain comprehensive general liability insurance for death, bodily injury and third party property damage resulting from the use, ownership or maintenance of Club Accommodations in amounts and on terms reasonably determined by the Board and its insurance advisors to sufficiently

protect the Association, the Board, the Declarant, the Manager, any Trustee and Owners, but not less than Five Million and no/100 United States Dollars (\$5,000,000.00) per occurrence for personal injury and property damage. Any liability policy obtained by the Association shall provide that the insurer waives its right to subrogation under the policy against the Association, the Board, the Declarant, the Manager and their respective officers, directors, managers, employees and agents.

(d) **Fidelity Crime Insurance.** The Board shall obtain a fidelity bond, crime insurance or other similar insurance covering the Manager and employees of the Association having control of, or access to, the funds of the Association with loss coverage not less than the maximum amount of funds of the Association over which the parties under the bond may reasonably be expected to have control of, or access to, at any time.

(e) **Directors and Officers Insurance.** The Board shall obtain Director's and Officer's insurance covering the Association's Director and Officers, and any committee members, with loss coverage not less than Three Million and no/100 United States Dollars (\$3,000,000.00).

16.2 **Insurance Against Additional Risks.** The Association may also procure insurance at its sole cost and expense against such additional risks as the Board deems advisable for the protection of the Directors, Officers, the Declarant, Manager, any Trustee, Owners or the Club Accommodations.

16.3 **General Insurance Requirements.** All insurance provided for in this Article XVI shall be effected under valid and enforceable policies in forms which are reasonably satisfactory to the Board, issued by insurers of recognized responsibility which are duly authorized to transact business in the jurisdiction in which the Club Accommodation is located and distributed among such insurers in amounts reasonably satisfactory to the Association. All policies of insurance referred to in this Article XVI shall contain appropriate waivers of subrogation for the benefit of the Association, the Declarant, and their respective officers, directors, managers, employees and agents. Owners may obtain insurance coverage at their own expense upon their personal property and for their personal liability.

In addition, to the extent permissible under applicable law, the Association and the Manager shall take into consideration, among other things, those of the following factors which are relevant in respect of any insurance to be obtained under this Declaration:

- (a) Available insurance coverages and related premiums in the marketplace;
- (b) Amounts of any related deductibles, types of exclusions and coverage limitations;
- (c) The probable maximum loss relating to the Club Accommodations to be insured during the policy term;
- (d) The extent to which each peril is insurable under commercially reasonable terms;

(e) Amounts, as of the time of the purchase of such insurance, of any deferred maintenance or replacement reserves;

(f) Geography and any special risks associated with the location of the Club Accommodations; and

(g) The age and type of construction of the Club Accommodations.

16.4 **Proceeds.** With respect to insurance proceeds paid in connection with a loss of a Club Accommodation or Furnishings, any excess insurance proceeds shall be deposited in a special reserve account for the replacement of any Club Accommodations or Furnishings.

16.5 **Owner Required Insurance.** Each Owner is required to maintain liability and property damage insurance in connection with any motor vehicle(s) brought onto any Club Property, in amounts customarily carried on such vehicle(s).

ARTICLE XVII

PROTECTION OF LENDERS OF RECORD

17.1 **Priority of Security Interests.** The Association's Security Interest upon any Ownership for delinquent Assessments and Individual Charges shall be prior to all other liens and encumbrances upon such Ownership except for:

(a) The Security Interest of any Lender of Record upon such Ownership made in good faith and for value; provided, however, that a Security Interest may be created on the interest of a Person in his/her Ownership who acquired that Ownership through enforcement of a Security Interest on that Ownership, to secure all amounts assessed to such Person, as an Owner, after the date of such acquisition;

(b) Liens and encumbrances recorded before the recordation of the Club Property Declaration to which this Declaration is attached as an exhibit; and

(c) Liens for taxes and other governmental assessments or charges against the Ownership that are superior to the Association's Security Interest to the extent mandated by law.

17.2 **Status of Liens.** In the event a Lender of Record enforces its Security Interest through a power of sale, the purchaser at any sale, together with its successors and assigns, shall be liable for any Assessments levied by the Association upon such Ownership prior to such acquisition of the Ownership. Notwithstanding the foregoing, if the Lender of Record itself is the purchaser at such sale, then it shall not be liable for any Assessments or Individual Charges levied by the Association upon such Ownership prior to such acquisition. The unpaid share of Assessments and Individual Charges shall be a Club Cost which may be collected from all of the Owners, including such Lender of Record, as part of the Regular Assessment. The Association shall remain entitled to recover any unpaid Assessments and Individual Charges from the Owner whose Ownership was foreclosed upon. The applicable Lender of Record may cause such Ownership to be resold upon such terms as the such Lender of Record deems appropriate.

ARTICLE XVIII
THIRD PARTY LIENS

18.1 **Limitation on Scope of Liens.** Any liens against an Owner's interest in the Association shall be limited to the interest of such Owner in his or her Ownership only, and shall not entitle any lien holder to assert any claim against the Ownership of any other Owner, any Real Property Interests, any Club Accommodations or any Furnishings.

18.2 **Notice of Liens.** Each Owner shall give written notice to the Association of every lien upon his or her Ownership, other than liens for the nonpayment of Assessments and/or Individual Charges held by the Association, within seven (7) days after the Owner receives notice thereof. Upon receipt of such notice, the Association shall cause such information to be entered into the Club Ownership Register.

18.3 **Covenant Not to Encumber.** The Declarant hereby covenants that it will not encumber any Real Property Interest with any financial charge after it has been submitted to this Declaration. In addition, the Association hereby covenants that it will not encumber any Real Property Interest after it is submitted to this Declaration with any finance charge without the affirmative vote or written consent of not less than two-thirds (2/3) of the Voting Power residing in Owners other than the Declarant. Under the terms of each Trust Declaration, the Trustee shall covenant that it will not encumber any Real Property Interest conveyed to it unless the Association directs such encumbrance pursuant to the preceding sentence and such encumbrance is permitted under applicable law.

ARTICLE XIX
TERM AND AMENDMENT

19.1 **Term.** This Declaration shall be effective upon the date of execution hereof and, as amended from time to time, shall continue in full force and effect until the Association is liquidated or dissolved. Upon such dissolution or liquidation, the Board shall cause a Certificate of Termination of Declaration to be recorded in the appropriate recording office(s). Thereupon, this Declaration shall have no further force and effect.

19.2 **Dissolution or Liquidation of the Association.** In the event of the liquidation, dissolution, or winding up of the affairs of the Association, whether voluntary, involuntary, or by operation of law, the Board of Directors shall, except as may be otherwise provided by law and subject to Section 13.7 above, transfer all of the assets of the Association in such manner as provided in the By-Laws. Notwithstanding the foregoing, upon any dissolution or liquidation of the Association, the Declarant, at its option, shall be entitled, upon giving the Association the written notice thereof, to cause the Association or the applicable Trustee or Trustees to convey to the Declarant all or any designated portion of all Inactive Real Property Interests and some, all or any portion of those Real Property Interests then most recently conveyed to the Association or to a Trustee for the benefit of the Association to the extent that the Points assigned to such Real Property Interests are then Declarant's Points, all as more particularly described in Section 13.7 above.

19.3 **Amendment.** This Declaration may be amended as follows:

(a) **By Owners.** Except as otherwise provided by law or in this Declaration, this Declaration may be amended or rescinded only by the affirmative vote or written assent of: (i) not less than twenty five percent (25%) of the Voting Power of each class of Owners, if there is more than one class present, in person or by proxy, at a duly held meeting of the Association at which there is a quorum; or (ii) if there is only one class of Owner, not less than twenty five percent (25%) of the Voting Power residing in Owners other than the Declarant, or its successor present, in person or by proxy, at a duly held meeting of the Association at which a quorum is present, plus not less than twenty five percent (25%) of the total Voting Power of the Association present, in person or by proxy, at the same meeting of the Association; provided, however, that no specific provision hereof may be amended by a vote which is less than the prescribed percentage of affirmative votes or written assents required for action to be taken pursuant to the express terms of that provision. Each such amendment to this Declaration shall be evidenced by an instrument in writing, signed and acknowledged by two (2) Officers of the Association, setting forth in full the text of such amendment, the appropriate recording data of the Club Property Declaration pursuant to the express terms of which this Declaration was recorded, and certifying that such amendment has been approved by the affirmative vote or written consent as set forth above. Said amendment shall become effective upon the recording of said instrument as an amendment to this Declaration and, if applicable, to any recorded Trust Declaration in the appropriate recording office and any other public office(s) in which the Club Property Declaration pursuant to which this Declaration was recorded or any applicable Trust Declaration has been filed and/or recorded.

Notwithstanding the above, no amendment of Articles V, VIII or XIII, or of Sections 6.9, 6.10, 6.11, 11.7, 19.2, 19.3, 21.12, 21.13, 21.16 or 21.17 of this Declaration, or any of the definitions in Article I used in any such provisions, shall be effective without the written consent of the Declarant, so long as the Declarant has fully performed all of its obligations pursuant to this Declaration.

(b) **By Board of Directors.** Notwithstanding any provision hereof to the contrary, the Board expressly reserves the right to amend this Declaration, (i) to correct any scrivener's error or erroneous legal descriptions contained herein or in any Supplemental Declaration, which legal description or descriptions may have been incorrect by reason of a scrivener's or surveyor's error; or (ii) as may be required by any lending institution, title insurance company, public body or as may be necessary, to comply with the lawful requirements of any jurisdiction in which Ownerships are offered for sale, sold or used, or in which any Club Accommodation is located. Each such amendment of this Declaration shall be evidenced by an instrument in writing, signed and acknowledged by any two (2) Officers of the Association, without the need for any Owner's consent thereto, setting forth in full the text of such amendment, and the appropriate recording data of the Club Property Declaration pursuant to which this Declaration was recorded. Said amendment shall become effective upon the recording of said instrument as an amendment to this Declaration and, if applicable, to any recorded Trust Declaration in the appropriate land title office and any other recording office in which the Club Property Declaration

pursuant to which this Declaration was recorded or any applicable Trust Declaration has been filed and/or recorded.

Notwithstanding the above, no amendment of Articles V, VIII or XIII, or of Sections 6.9, 6.10, 6.11, 11.7, 19.2, 19.3, 21.12, 21.13, 21.16 or 21.17 of this Declaration, or any of the definitions in Article I used in any such provisions, shall be effective without the written consent of the Declarant, so long as the Declarant has fully performed all of its obligations pursuant to this Declaration.

(c) **By a Permitted Club Developer.** A Permitted Club Developer has no right to amend this Declaration.

(d) **By the Declarant.** The Declarant reserves the unilateral right, prior to the sale of the first Ownership from the Declarant to an Owner, to amend or withdraw this Declaration in any manner or fashion. After the sale of the first Ownership, the Declarant reserves the unilateral right to amend any of the following listed provisions of this Declaration (i) as may be required by any lending institution, title insurance company, public body, or as may be necessary to comply with the lawful requirements of any jurisdiction in which Ownerships are offered for sale, sold or used or in which any Club Accommodation is located or as may be necessary in order to enable the Declarant to be able to register the Club for sale in any jurisdiction, (ii) to facilitate the operation and management of the Club Accommodations or the sale of Ownerships; provided, however, that no such amendment shall decrease any Owner's voting rights, (iii) to remove the "Wyndham" name in accordance with Section 13.4 above, (iv) to add a Program Change as contemplated by Section 13.12 above, or (v) to establish changes which apply only to future members of the Association. The provisions of this Declaration which are covered by this Section 19.3(d) are as follows: Articles I, II, V, VIII, IX, XI, XII, XIII, XIV, XV, XVI, XVII and XVIII.

Any such amendment to this Declaration shall be executed solely by the Declarant without the need for the Association's or any Owner's consent thereto, setting forth in full the text of such amendment and the appropriate recording data of the Club Property Declaration pursuant to which this Declaration was recorded. Such amendment shall become effective upon the recording of such instrument as an amendment to this Declaration and if applicable, to any recorded Trust Declaration in the appropriate land title office and any other recording office in which the Club Property Declaration pursuant to which this Declaration was recorded or any applicable Trust Declaration has been recorded and/or filed.

ARTICLE XX **DISPUTE RESOLUTION**

20.1 **Mandatory Mediation.** Except in actions to enforce the payment of Assessments or Individual Charges and the enforcement of Security Interest by the Association, the Declarant or any Lender of Record, any controversy or claim arising out of or relating to this Declaration or the making, performance or interpretation hereof, shall be submitted to mediation in accordance with this Section 20.1 as a condition precedent to a party's ability to utilize the Arbitration Procedure described in Section 20.2 below. The parties to any such controversy or claim shall

attend a mediation in order to try to resolve such controversy or claim. Unless the parties to such mediation agree otherwise, the mediation shall be conducted in accordance with CAMCA Rules of the American Arbitration Association ("AAA") in effect at the time of the mediation. Request for mediation can be filed by any party to the controversy or claim and shall be initiated by any party sending a written notice to that effect to the other party or parties and the AAA. The mediation must be held prior to the Arbitration Procedure, if available, and prior to the institution of judicial proceedings and should a party to a controversy or claim attempt to institute the Arbitration Procedure or institute judicial proceedings prior to the institution or completion of the mediation, any other party affected thereby may thereafter send the request for mediation to all other parties, the AAA and either the Administrator (as defined below) for the Arbitration Procedure or the court in which such judicial proceedings had been initiated and thereupon, the Arbitration Procedure or the judicial proceedings, as the case may be, shall be stayed for 75 days after the date of the notice requesting mediation, unless stayed for a longer period by agreement of the parties or order of the Administrator or the court, as the case may be. If the parties do not resolve the controversy or claim at mediation, the parties shall be considered to have reached an impasse on such controversy or claim and either party may thereafter initiate the Arbitration or if the Arbitration Procedure is not available, initiate such other process as deemed necessary or appropriate.

The Declarant (or the Association, if the Declarant is not a party to the controversy or claim) shall pay all of the fees and expenses to initiate and conduct the mediation proceedings, including the AAA's and the mediator's fees and costs, but each party shall solely be responsible for all fees and costs of its legal counsel. The mediation shall be held in the county where the principal office of the Association is located.

Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction over the parties.

20.2 **Arbitration Procedure.**

(a) **Arbitration Terms Defined.** The following capitalized words, phrases or terms used in this Section 20.2 shall have the meanings set forth below:

(i) **"Arbitration Procedure"** means the arbitration procedure set forth in this Section 20.2, as it may be amended from time to time.

(ii) **"Bound Party"** means the Association, the Declarant, the Manager, affiliates of the Declarant, and any Manager; and the successors and assigns of such parties; the Owners and their heirs, successors and assigns; and all other Persons subject to this Declaration. **"Bound Party"** also includes any Person not otherwise subject to this Declaration who agrees to submit to the Arbitration Procedure and the agents, representatives, members, employees, officers and/or directors of the foregoing Bound Parties, if a Claim is also asserted at the same time against another Bound Party and/or another Bound Party may have a financial obligation for any recovery of the party asserting the Claim. **"Institutional Party"** means each Bound Party except an Owner.

(iii) "**Claim**" means any claim, dispute or controversy of one or more Bound Parties against one or more other Bound Parties arising out of or relating to the Club Properties, the Ownerships, this Declaration or any other Club Instruments, including any such claim, dispute or controversy regarding or arising over the design, specifications, surveying, planning, supervision, testing or observation of construction or construction of an improvement to, or survey of, the Club Properties. This includes, without limitation, disputes concerning the validity, enforceability, arbitrability or scope of this Section 20.2 of this Declaration; disputes involving tort claims (intentional or otherwise), alleged fraud or misrepresentation, breach of contract, negligence or violation of statute, regulation or common law; disputes involving claims for breach of fiduciary duties; disputes involving claims pertaining to the governance or operation of any aspect of the Association or the Club (including External Exchange Programs); and disputes involving requests for injunctions or other equitable relief.

(iv) "**Exempt Claim**" means any of the following Claims, which will not be subject to the Arbitration Procedure: (1) any individual action brought by an Owner in small claims court or such Owner's state's equivalent court, unless such action is transferred, removed, or appealed to a different court; (2) any action to effect a judicial or non-judicial foreclosure; (3) any eviction or other summary proceeding to secure possession of a Club Accommodation or an interest therein; (4) any action in any bankruptcy proceeding to assert, collect, protect, realize upon or obtain possession of the collateral for any amount owed; (5) any action to quiet title; (6) any action insofar as it seeks provisional or ancillary remedies in connection with any of the foregoing; and (7) any dispute concerning the validity and effect of the ban set forth in Section 20.2(f) below on class actions and private attorney general proceedings. Notwithstanding the prior sentence, at an Owner's request the Institutional Parties will agree to arbitrate under the Arbitration Procedure any matter covered by items (2)-(7) above if arbitration will afford the parties substantially the same rights and remedies as a court action. Any dispute regarding the question of whether arbitration will afford the parties substantially the same rights and remedies as a court action is also an Exempt Claim and shall be determined exclusively by the court and not by an arbitrator. If one or more Institutional Parties are allowed to proceed outside arbitration with respect to any of the matters covered by items (2)-(7) above, an Owner may assert in court on an individual basis any related defenses or Claims such Owner may have.

(v) "**Administrator**" means either of the following companies selected by the party initiating the arbitration: National Arbitration Forum ("**NAF**"), P.O. Box 50191, Minneapolis, MN 55405, <http://www.arb-forum.com>, or the American Arbitration Association ("**AAA**"), 335 Madison Avenue, New York, NY 10017, <http://www.adr.org>. However, neither NAF nor AAA may serve as Administrator, without the consent of all Bound Parties asserting or defending a Claim, if it adopts or has in place any formal or informal policy that is inconsistent with and purports to override the terms of this Section 20.2. In the event that neither NAF or AA can or will administer the Claim, the Bound Parties will confer in good faith to select and agree upon another party to act as "Administrator" or "arbitrator" hereunder

and failing that, any Bound Party may petition a court to select a party to act as "Administrator" or "arbitrator" hereunder.

(b) **Claims by Bound Parties.** Each Bound Party agrees that, upon the election of any Bound Party asserting or defending a Claim (other than an Exempt Claim), such Claim shall, if not resolved under the mandatory mediation described in Section 20.1 above, be resolved by binding individual (and not class) arbitration. A notice of an election to arbitrate a Claim may not be given until an impasse has been reached in the mandatory mediation described in Section 20.1 above. A notice of election to arbitrate may be given after a lawsuit begins and may be given in papers filed in the lawsuit. Any arbitration will be conducted in accordance with this Section 20.2 and, to the extent consistent with this Section 20.2, the rules of the Administrator in effect at the time the Claim is filed.

(c) **Arbitration Fees.** If an Owner cannot obtain a waiver of any arbitration fees, the Institutional Parties will consider in good faith any request that an Owner submits to them to pay fees for such Owner. In any event, if applicable law requires an Institutional Party to pay or reimburse an Owner for any such fees, such law will control. Each Bound Party shall bear the expense of that party's attorneys, experts, and witnesses, regardless of which party prevails in the arbitration, unless applicable law and/or this Section 20.2 gives a party the right to recover any of those fees from another party. If a participatory hearing is requested, it will take place in Orlando, Florida or, if the Administrator determines that such location would be unfair to an Owner, at a location reasonably convenient to such Owner and the other Bound Parties.

(d) **Governing Law.** The Bound Parties contract, select, agree and acknowledge that the Arbitration Procedure shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16 ("FAA") and not state arbitration laws. The arbitrator shall be obligated to follow applicable substantive laws, statutes of limitations and privilege rules related to any dispute. The arbitrator shall award the remedies, if any, that would be available in an individual court proceeding if arbitration had not been elected. This includes, without limitation, compensatory, statutory and punitive damages (which shall be governed by the constitutional standards applicable in judicial proceedings); declaratory, injunctive and other equitable relief; and attorneys' fees and costs. In addition to the parties' rights to obtain information under the Administrator's rules, either party may ask the arbitrator for more information from any other party.

(e) **Appeal of Arbitrator's Decision.** Any court with jurisdiction may enter judgment upon the arbitrator's award. The arbitrator's decision will be final and binding, except for any appeal right under the FAA. However, for Claims involving more than \$100,000, any party may appeal the award to a three-arbitrator panel appointed by the Administrator, which will reconsider from the start any aspect of the initial award that is appealed. The panel's decision will be final and binding, except for any appeal right under the FAA. Unless applicable law provides otherwise, the appealing party will pay the appeal's costs, regardless of its outcome. However, the Institutional Parties to an arbitration will consider in good faith any reasonable written request for them to bear the cost if the Owner is the appealing party.

(f) **Binding Individual Arbitration.** IF A BOUND PARTY ELECTS TO ARBITRATE A CLAIM: (A) NO PARTY WILL HAVE THE RIGHT TO PURSUE THAT CLAIM IN COURT OR HAVE A JURY DECIDE THE CLAIM; (B) NO PARTY MAY PARTICIPATE IN A CLASS ACTION IN COURT OR IN CLASS-WIDE ARBITRATION, EITHER AS A REPRESENTATIVE, CLASS MEMBER OR OTHERWISE; (C) NO PARTY MAY PARTICIPATE IN A PRIVATE ATTORNEY GENERAL PROCEEDING IN COURT OR IN THE ARBITRATION; AND (D) THE ARBITRATOR SHALL HAVE NO AUTHORITY TO CONDUCT EITHER A CLASS-WIDE OR CONSOLIDATED ARBITRATION OR PRIVATE ATTORNEY GENERAL ARBITRATION UNLESS THE BOUND PARTIES CONSENT THERETO. Notwithstanding any language in this Section 20.2 to the contrary, any dispute about the validity or effect of the prohibitions against class proceedings and private attorney general proceedings shall be resolved by a court and not an arbitrator or the Administrator.

(g) **Severability.** If a determination is made that any part of this Section 20.2 is unenforceable (other than the prohibition against class proceedings and private attorney general proceedings) or that the Arbitration Procedure is unenforceable as to any party or parties, this provision shall nonetheless remain enforceable in all other respects and as to all other parties. If after all available appeals a determination is made that the prohibition against class proceedings or private attorney general proceedings is unenforceable in connection with any Claim brought on such basis, this Section 20.2 (other than this sentence) shall be null and void in such proceeding.

ARTICLE XXI

MISCELLANEOUS PROVISIONS

21.1 **Incorporation of Recitals.** All of the recitals first set forth in this Declaration are true and correct and are hereby incorporated herein by this reference.

21.2 **Compliance With Club Property Instruments and Club Instruments.** Each Owner and any other Person who in any way uses a Club Accommodation shall comply strictly with the provisions of the Club Property Instruments for such Club Accommodation and the Club Instruments, as amended or supplemented from time to time, as well as the decisions and resolutions of the Board, the Manager and the Association adopted pursuant thereto, and hereby acknowledges that time is of the essence with respect to his or her compliance with each of the provisions of the Club Instruments.

21.3 **Violation of Laws.** Any violation by an Owner of laws, ordinances or regulations of any country, province, state, county or other local authority having jurisdiction over the Association or the Club Accommodations is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth in this Declaration.

21.4 **Notices.** Any notice or other documents relating to or required by this Declaration shall be in writing and may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to an Owner at the current address

in the Club Ownership Register, or to any other address last furnished by an Owner to the Association.

21.5 **No Right to Participate in Profits.** Neither the Club Instruments, nor any other document shall be deemed to evidence a joint venture, partnership, or any other similar arrangement, and no party shall have the right to participate in the individual profits, if any, of any other party arising out of the management or operation of the Association, the Club Accommodations, the Association's participation in the Club or any other aspect of the Club.

21.6 **Liberal Interpretation.** The provisions of the Club Instruments shall be liberally construed to effectuate the purpose of ensuring that the Club Accommodations shall at all times be operated and maintained in a manner so as to optimize and maximize their enjoyment and utilization by each Owner, members of his or her family and his or her guests, tenants, licensees, and invitees, as vacation accommodations.

21.7 **Rule Against Perpetuities.** If any of the options, privileges, covenants, rights or other interests purported to be created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or any related rule or analogous statutory provision, (b) the rule restricting restraints on alienation or (c) any other statutory or common law rules imposing time limits, then such option, privilege, covenant, right or other interest shall continue only until the expiration of any time period expressly made applicable to such rule and if there is no express time period, then until twenty-one (21) years after the death of the survivor of the now living lawful descendants of George Herbert Walker Bush, former President and Vice President of the United States of America.

21.8 **Successors and Assigns of Declarant.** Any reference in this Declaration to the Declarant shall include any successors or assignees of Declarant's rights and powers hereunder.

21.9 **Conflict with Other Club Instruments.** In the event of a conflict between the provisions of the Club Instruments, the following, as each may be amended from time to time, shall control in order of priority: the Articles of Incorporation; this Declaration; any applicable Club Property Declarations; any applicable Trust Declaration(s); any applicable Supplemental Declarations; Active Real Property Interest Declarations; the By-Laws; and then the Regulations.

21.10 **Severability.** The provisions hereof shall be deemed to be independent and several, and the invalidity or partial invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision hereof.

21.11 **Waiver.** No restriction, condition, obligation, or provision contained in the Club Instruments shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur. Failure to enforce any violation of the Club Instruments shall not give rise to any liability on the part of the Declarant, the Association, the Board, or the Manager with respect to parties aggrieved by, such failure.

21.12 **Binding Effect.** The provisions of the Club Instruments shall be binding upon all parties having or acquiring any Ownership(s) or any right, title, or interest therein, and shall be for the benefit of each Owner, his or her heirs, legal representatives, successors, and assigns. Each

Owner (including the Declarant) shall be fully discharged and relieved of liability on the covenants contained in the Club Instruments, in his or her capacity as an Owner, upon ceasing to own such Ownership(s) and upon paying all sums and performing all obligations thereunder, up to the time all of his or her interest terminates, as provided herein.

21.13 **Latent Conditions**. Neither the Declarant, the Manager, nor the Association shall be liable for injury or damage caused by any latent condition existing at any Club Accommodation.

21.14 **Choice of Law**. This Declaration shall be governed by and construed in accordance with the laws of the State of Delaware.

21.15 **Consent of the Board**. When used in this Declaration, the term "consent" when referring to the Board shall mean the consent of the Board by any action or procedure permitted under the Club Instruments, which consent may not be unreasonably withheld or delayed. Failure to consent will be deemed to be unreasonable if the matter or change to which the Board is requested to consent is required by applicable law, by any judgment or order of any judicial or governmental body with jurisdiction thereof or which is necessary to avoid the loss or dilution of any right of any Owner provided for under the Club Instruments.

21.16 **Title to Real Property Interests**. Although this Declaration contemplates that all Real Property Interests will be conveyed to the Association or to one Trustee for the benefit of the Association and for the benefit of the Declarant with respect to the Declarant's rights under Sections 13.6, 13.7 and 13.8, it is expressly understood and agreed that Real Property Interests may be conveyed to one or more Trustees, or to another Person for the benefit of the Association and for the benefit of the Declarant with respect to the Declarant's rights under Sections 13.6, 13.7 and 13.8, all as determined by the owner of the Real Property Interests and the Declarant. In addition, subject to the Association continuing to comply with all applicable laws, the Association may cause some or all of the Real Property Interests held by one or more of the Trustees to be conveyed to another Trustee or other Trustees, to the Association itself, or to any other Person for the benefit of the Association and for the benefit of the Declarant with respect to the Declarant's rights under Sections 13.6, 13.7 and 13.8. Consequently, the phrase "convey to a Trustee" or words of similar import as used in the Club Instruments shall be construed to mean "convey to one or more Trustees, to the Association or to another Person for the benefit of the Association."

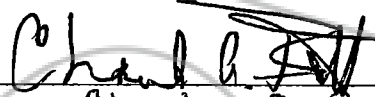
21.17 **Termination of Declarant**. If at any time the entity acting as Declarant should not exist and there does not exist any successor (such as, resulting from a merger) or assignee (pursuant to a specific absolute assignment transferring to such assignee all of the Declarant rights hereunder), then all of the rights and decisions to be exercised or made by Declarant will be exercised or made, as the case may be, by the Association.

[signatures appear on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Amended and Restated Declaration of Covenants, Conditions and Restrictions and Grant and Reservation of Easements for the ClubWyndham Access Vacation Ownership Plan on the date first set forth above.

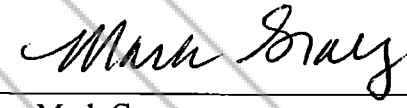
DECLARANT:

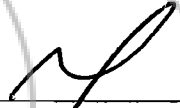
WYNDHAM VACATION RESORTS, INC., a Delaware corporation

By: 
Name: Charles A. Boh
Title: Sr. Vice President

THE ASSOCIATION:

PTVO OWNERS ASSOCIATION, INC., a non-stock, non-profit Delaware corporation

By: 
Name: Mark Gray
Title: President

By: 
Name: Peter Hernandez
Title: Secretary/Treasurer

ACKNOWLEDGMENT

STATE OF FLORIDA)
) SS
COUNTY OF ORANGE)

On MAY 3, 2012, before me,
Julie Kisha, personally appeared Charles A. Bott, the
S. V. P. of WYNDHAM VACATION RESORTS, INC., a
Delaware corporation, personally known to me or proven to me on the basis of satisfactory
evidence to be the person whose name is subscribed to the within instrument and acknowledged
to me that he or she executed the same in his or her authorized capacity, and that by his or her
signature on the instrument said company executed the instrument.

WITNESS my hand and official seal.

Signature:

Julie Kisha



JULIE KISHA
MY COMMISSION # EE 112361
EXPIRES: July 14, 2015
Bonded Thru Budget Notary Services

[Seal]

ACKNOWLEDGMENT

STATE OF FLORIDA)
) SS
COUNTY OF ORANGE)

On MAY 2, 2012, before me,
Julie Kisha, personally appeared MARK GRAY, the
President of PTVO OWNERS ASSOCIATION, INC., a
non-stock, non-profit Delaware corporation, personally known to me or proven to me on the
basis of satisfactory evidence to be the person whose name is subscribed to the within instrument
and acknowledged to me that he or she executed the same in his or her authorized capacity, and
that by his or her signature on the instrument said Association executed the instrument.

WITNESS my hand and official seal.

Signature: Julie Kisha



JULIE KISHA
MY COMMISSION # EE 112361
EXPIRES: July 14, 2015
Bonded Thru Budget Notary Services

[Seal]

ACKNOWLEDGMENT

STATE OF FLORIDA)
)
COUNTY OF ORANGE) SS

On MAY 2, 2012, before me,
Julie Kisha, personally appeared Peter Hernandez, the
Secretary of **PTVO OWNERS ASSOCIATION, INC.**, a
non-stock, non-profit Delaware corporation, personally known to me or proven to me on the
basis of satisfactory evidence to be the person whose name is subscribed to the within instrument
and acknowledged to me that he or she executed the same in his or her authorized capacity, and
that by his or her signature on the instrument said Association executed the instrument.

WITNESS my hand and official seal.

Signature: Julie Kisha



JULIE KISHA
MY COMMISSION # EE 112361
EXPIRES: July 14, 2015
Bonded Thru Budget Notary Services

[Seal]

AB/jk/4-25-12

FCI95-70-1-3a