



Declaration of Covenants, Conditions and Restrictions

of

Tahoe Seasons Resort

***Note: These Declaration of Covenants, Conditions and Restrictions have been retyped from the original document. Due to many copies being made and the original not being on the computer system, we wanted to put a clean copy on the Association website. We cannot be held liable for typographical errors that may have been made.**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
TAHOE SEASONS RESORT**

This Declaration is made this 28th day of November 1983 by Heavenly Valley Resort Hotel, a California limited partnership ("Declarant"), with reference to the following

RECITALS

- A. Declarant is the owner of certain real property (the "Property") located in the City of South Lake Tahoe, County of El Dorado, State of California, comprised of one hundred sixty (160) separate living units, ten of which will be initially dedicated to this Declaration (each of the dedicated units is hereinafter referred to as a "Unit"), together with related "Common Area", "Commercial Area", "Support Area", "Club Area" and the "Adjacent Property" (as the quoted terms are hereinafter defined). The Property together with certain easements (the "Easements") appurtenant thereto is more particularly described in Exhibit A and Exhibit B which are attached hereto and made a part hereof by this reference. The Adjacent Property may later be dedicated to the Time Interval Plan (as hereinafter defined) pursuant to Article VIII of this Declaration.

- B. Declarant proposes to convey individual undivided interests in the Property providing in each deed thereof that the grantee or grantees named therein shall have certain defined rights to occupy a Unit Type and to use the Common Area, the "Common Furnishings" (as hereinafter defined) and the Easements during certain specified time periods and reserving to Declarant and its respective successors and assigns an undivided interest in the Property and the exclusive right to use and occupy the Adjacent Property, Commercial Area and Support Area and to the nonexclusive use of the Common Areas, the Common Furnishings and the Easements during all other periods of time, subject to the declarations, limitations, covenants, conditions, and restrictions set forth in this Declaration. Until such time as Declarant annexes the Adjacent Property to the Time Interval Plan, Declarant will use the units within the Adjacent Property for hotel purposes.

- C. By this Declaration, Declarant intends to establish a common scheme and plan for the use, enjoyment, repair, maintenance, restoration and improvement of the Property and the interests therein conveyed or reserved, and for the payment of taxes, assessments, insurance premiums and other expenses pertaining thereto.

NOW, THEREFORE, in furtherance of such intent, Declarant hereby declares that the Property is and shall be held, conveyed, hypothecated, mortgaged, encumbered, leased, rented, used, occupied and improved subject to the declarations, limitations, covenants, conditions and restrictions set forth in this Declaration, as this Declaration

may from time to time be further amended, and in such other rules and regulations as are instituted pursuant to the provisions of this Declaration and all of which declarations, limitations, covenants, conditions and restrictions and rules and regulations are declared to be in furtherance of a plan established for the purpose of enhancing and perfecting the value, desirability and enjoyment of the Property and the interest or interest therein to be conveyed or reserved. All such declarations, limitations, covenants, conditions and restrictions and rules and regulations shall constitute covenants running with the land and equitable servitude's and liens, and shall be binding upon and for the benefit of Declarant and each such interest conveyed, to wit, each "interval" (as hereinafter defined), and shall be binding upon and for the benefit of all parties having or acquiring any right, title, interest or estate in the Property including, without limitation, the heirs, executors, administrators, successors and assigns of any such parties and all subsequent owners and lessees of all or any part of the Property

ARTICLE I DEFINITIONS

In addition to other definitions provided herein, as used herein the following terms shall have the following meanings:

- 1.1 "Adjacent Property"** means that certain improved real property consisting of One Hundred Fifty (150) additional Units which are not being initially dedicated to the Time Interval Plan; the Adjacent Property is more particularly described in Exhibit B attached hereto.
- 1.2 "Annexed Units"** means any Unit(s) within the Adjacent Property annexed to this Declaration pursuant to Article VIII below.
- 1.3 "Articles"** means the Articles of Incorporation of the Association which are, or shall be, filed in California, as the same may be amended from time to time.
- 1.4 "Association"** means The Tahoe Seasons Resort Time Interval Owners Association, a California Nonprofit Mutual Benefit Corporation, whose members consist of Interval Owners.
- 1.5 "Board"** means the Board of Directors of the Association.
- 1.6 "By-Laws"** means the By-Laws of the Association adopted by the Board, as the same may be amended from time to time.
- 1.7 "Check-In-Time" and "Check-Out-Time"** mean the times designated as such in the then current Rules and Regulations.
- 1.8 "Club Area"** means that certain portion of the Property in which the Association shall have the exclusive right of use and occupancy and which is more particularly described in Exhibit B attached hereto and made a part thereof.

- 1.9 “Commercial Area”** means that certain improved real property which is subject to the right of exclusive use and occupancy reserved to the Declarant and includes the restaurant, bar, and retail stores which will not be dedicated to the Time Interval Plan, all of which are more particularly described in Exhibit B attached hereto.
- 1.10 “Common Areas”** means all portions of the Property other than (a) the interiors of the Units and, where applicable, patio or balcony areas appurtenant thereto, (b) the Support Area, (c) the Commercial Area, (d) Club Area, and (e) Adjacent Property, which is more particularly described in Exhibit B attached thereto.
- 1.11 “Common Furnishings”** means all furniture, furnishings, appliances, fixtures and equipment, telephone system and all other personal property from time to time owned, leased or held by Interval Owners or the Association for use by such Interval Owners or the Association and which are located in or upon the Property.
- 1.12 “Declarant”** means the Heavenly Valley Resort Hotel, a California limited partnership, or any successor-in-interest by merger or by express assignment of the rights of Declarant hereunder by an instrument executed by Declarant and (a) recorder in the Office of the County Recorder, County of El Dorado, or (b) filed with the Secretary of the Association.
- 1.13 “Declaration”** means this instrument, as this instrument may be amended from time to time in the manner herein provided.
- 1.14 “Exchange Program”** means a service provided by an independent organization whereby Interval Owners and owners of time periods in other timesharing programs may exchange Use Periods in the Property for time periods in projects in other locations.
- 1.15 “Exchange User”** means an owner of a time period in another timesharing program who occupies a Unit and uses the Common areas pursuant to an Exchange Program.
- 1.16 “Fiscal Year”** means the one year period set forth from time to time in the By-Laws as the fiscal year for the Association
- 1.17 “Holiday Interval”** means a one week period commencing on Sunday and ending on the Sunday thereafter which includes one of the following nationally recognized holidays: New Years, President’s Day, Easter, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving, and Christmas (hereinafter referred to as a “Holiday” or Holidays”). Notwithstanding the foregoing, if one of the Holidays falls on a Sunday or a Monday the Holiday Interval shall commence on the Friday prior to the Holiday and shall end on the Friday thereafter.

- 1.18 “Holiday Interval Owner”** means a Purchaser of an Interval where such Purchaser receives the right to the use and occupancy of an unspecified Unit of a specific Unit Type, the Common Area and Common Furnishings during a Use Period within the Season in which the Holiday Interval falls, with the preferential right to reserve a Use Period of no more than seven (7) days and no fewer than (2) days during the Holiday Interval designated in such Holiday Interval Owner’s Original Deed, provided such use is reserved in accordance with the applicable provisions of the Rules and Regulations. Except where otherwise expressly stated, Holiday Interval Owners and Interval Owners shall be collectively referred to as “Interval Owners”
- 1.19 ”Interval”** means a Purchaser’s undivided interest in the Property entitling the Purchaser to the use and occupancy of an unspecified Unit of the Interval Owner’s Unit Type the Common Area and the Common Furnishings during a Use Period within such Interval Owner’s designated Seasons, provided such use is reserved in accordance with the applicable provision of the Rules and Regulations.
- 1.20 “Interval Owner”** means and includes (a) the Purchaser or Purchasers named in each Original Deed and its and their successor(s), (b) Declarant with respect to any Interval not subject to a Purchase Agreement, and (c) Holiday Interval Owners when not specifically referred to as such.
- 1.21 “Interval Owner’s Unit Type”** means the Unit Type designated in the Purchase Agreement naming such Interval Owner, or his predecessor-in-interest, as the named grantee or buyer.
- 1.22 “Interval Owner’s Seasons”** means the Season designated in the Original Deed naming an Interval Owner as grantee or buyer.
- 1.23 “Managing Agent”** means the agent engaged by the board pursuant to and in the manner provided in Paragraph 4.3 hereof.
- 1.24 “Mortgagee”** means the beneficiary of a recorded deed of trust or the holder of a recorded mortgage encumbering any Interval. “Mortgage” means a mortgage or deed of trust.
- 1.25 “Original Deed”** means each grant deed from Declarant recorded after the recordation date hereof which conveys each Interval to each Purchaser or grantee.
- 1.26 “Permitted User”** means any person, other than an Exchange User, occupying a Unit in the Property by or under any Owner, including, but not limited to, members of such Owner’s family, his guests, licensees or invitees.

- 1.27 “Property”** means that certain real property located in the City of South Lake Tahoe, County of El Dorado, State of California described in Exhibit A together with the improvements and easements described in Exhibit B.
- 1.28 “Purchase Agreement”** means an Application, an Agreement of Purchase and Sale or other purchase agreement between Declarant and the person, firm or entity named therein as “Buyer” providing for the sale by Declarant and the purchase by Buyer of one or more Intervals.
- 1.29 “Purchaser”** means the person, firm or entity named as “Buyer” in a Purchase Agreement accepted by Declarant prior to the date of recordation of the first Original Deed (the “Recordation Date”) which Purchase Agreement has not been terminated or canceled. The status of a person as Purchaser shall commence upon payment of the full down payment toward the purchase price of his Interval and shall terminate upon (i) the termination or cancellation of the Purchase Agreement for any reason, including Purchaser’s breach, or (ii) upon recordation of an Original Deed naming such person as a grantee.
- 1.30 “Rules and Regulations”** means the rules and regulations adopted and promulgated from time to time pursuant to subparagraph 4.2 (d) of this Declaration relating to the possession, use and enjoyment of the Property.
- 1.31 “Season”** means either of two Seasons designated in this Declaration, being the “Prime Season” and “High Season” which quoted terms are defined with reference to the Unit Week Number(s) set forth in Exhibit C as follows:
- a) **“Prime Season”** means Unit Week Numbers 1 through 16, 21 through 37, 45, 47, 51 and 52 (and 53 when applicable) and the Easter Holiday Interval; and
 - b) **“High Season”** means Unit Week Numbers 17 through 20, 38 through 44, 46, and 48 through 50.

Notwithstanding anything to the contrary in this Declaration, all Holiday Intervals, as defined in Paragraph 1.17 above, shall be deemed to be in the Prime Season.

- 1.32 “Service Period”** means, with respect to each Unit, a period of seven (7) days and nights, not necessarily consecutive, during each Use Year, reserved by the Association as a service period. The Association shall determine which days and nights will comprise the Service Period for each Unit, which determination may be changed from time to time, provided, however, the Service Period for any Unit shall not be during any Holiday Interval nor during any properly reserved Use Period.
- 1.33 “Starting Date”** means the date on which the first Purchase Agreement is accepted by Declarant.

- 1.34 “Support Area”** means the following portions of the Property subject to the non-exclusive rights of use and occupancy of the association and Declarant as set forth herein: the service and maintenance area, and the registration desk area, which are more particularly described in Exhibit B attached hereto.
- 1.35 “Time Interval Plan”** means the entire timeshare plan as set forth in this Declaration including the Units within the Property dedicated by a declaration of annexation, or similar instrument, for the development, improvement and sale of Intervals in such Units and the operation of the timeshare program as set forth in this Declaration.
- 1.36 “Unit”** means one of the dwelling spaces in the Property shown in Exhibit B for which the interior spaces of the perimeter walls, floors, ceilings, windows and doors of such dwelling spaces are the boundaries, and which include the airspace encompassed within such boundaries.
- 1.37 “Unit Type”** means any one of the various types of Units within the Property, which may be interchangeably referred to by the “Unit Names” or “Unit Type Numbers” (the Unit Type Numbers are those numbers shown in Exhibit B as “Type 1” through “Type12”) as set forth below:

Unit Name	Unit Type Number
Chalet	1 or 5
Chateau	2 or 3
Chamonix	4
Cambridge	9
Fontainbleu	8
Fairmont	7
Regency	10
Royal	11 or 12

- 1.38 “Use Period”** means the time period or periods during which an Interval Owner is entitled to use and occupy a Unit as set forth in Paragraph 2.1 of this declaration and which the Interval Owner has reserved the use of a Unit in accordance with the provisions of this Declaration and the Rules and Regulations.
- 1.39 “Use Week or Unit Week Number(s)”** means those specific seven day periods more particularly described in Exhibit C attached to this declaration.
- 1.40 “Use Year”** means each one-year period commencing on the first Sunday of each calendar year and ending on the Sunday at the end of the fifty-second week thereafter, except for years with 53 weeks, in which case the year shall end on the Sunday at the end of the fifty-third week thereafter.

**ARTICLE II
RESERVATION RIGHTS, USE RIGHTS
AND USE RESTRICTIONS**

2.1 Reservation and Use Rights of Interval Owners

Subject to all the terms and conditions contained elsewhere in this Declaration, and Interval Owner shall have the right, for each Interval owned (and in the case of Declarant, during all periods not properly reserved by other Interval Owners), to use and occupy a Unit of the Interval Owner's Unit Type, as assigned by the Association, and the Common Furnishings contained within such Unit, and the non-exclusive right to use and enjoy the Common Area and Club Area for seven (7) days and nights during such Interval Owner's designated Season each Use Year; provided, however, that such Interval Owner shall have reserved such Use and occupancy in accordance with the requirements and procedures for the making of reservations set forth in the then current Rules and Regulations. No use or occupancy by any Interval Owner will be permitted if such Interval Owner is delinquent in the payment of any amounts owed to the Association at Check-In-Time at the commencement of his Use Period(s).

2.2 Reservation and Use Rights of Holiday Interval Owners

Subject to all the terms and conditions contained elsewhere in the Declaration, a Holiday Interval Owner shall have the right for each Holiday Interval owned, to use and occupy a Unit of the Holiday Interval Owner's Unit Type, as assigned by the Association, and the Common Furnishings contained within such Unit, and the non-exclusive right to use and enjoy the Common Area and Club Area for seven (7) days and nights during such Holiday Interval Owner's designated Season each Use Year with the preferential right to reserve a Use Period of no more than seven (7) days and no fewer than two (2) days during the Holiday Interval specified in such Holiday Interval Owner's Original Deed during each Use Year; provided however, that such Holiday Interval Owner shall have reserved such use and occupancy in accordance with the requirements and procedures for the making of reservations set forth in the then current Rules and Regulations. The right of a Holiday Interval Owner to reserve the Holiday Interval specified in his Original Deed shall supersede and be superior to the right of any other Interval Owner who is not a Holiday Interval Owner to reserve such Holiday Interval. If a Holiday Interval Owner fails to reserve the Holiday Interval specified in such Owner's Original Deed, then such Holiday Interval Owner shall have the use rights granted to Interval Owners under Paragraph 2.1 of this Declaration for a period of seven days and nights within the Prime Season. No use or occupancy by any Holiday Interval Owner will be permitted if such Holiday Interval Owner is delinquent in the payment of any amounts owed to the Association at Check-In-Time at the commencement of his Use Period(s).

2.3 Occupancy

No interval Owner shall occupy a Unit, the Support Area, Common Area, Commercial Area, Club Area, or Adjacent Property or exercise any other rights of

ownership with respect to such areas of the Property other than the rights provided to him in this Article II during any time period other than his Use Period(s) unless expressly authorized by the Interval Owner entitled to such use rights during such time period. Each Interval Owner shall keep the Unit occupied by him and the Common Furnishing therein in good condition and repair during his Use Period(s), vacate the Unit at the expiration of his Use Period(s) removal all persons and property therefrom, excluding only the Common furnishings, leave the Unit and the Common Furnishings therein in good and sanitary condition and repair and otherwise comply with such Check-Out and other procedures and regulations as may from time to time be contained in the Rules and Regulations. Any Interval Owner may permit a Unit which he is entitled to occupy to be occupied by other persons (not in excess of the number of occupants permitted by the Rules and Regulations) for the purposes permitted by this Declaration during his Use Period(s), but such Interval Owner shall be responsible for any loss, damage, destruction or violation of this Declaration, By-Laws, Articles of Incorporation or the Rules and Regulations (except on the part of an Exchange User) which occurs during such occupancy as if such Interval Owner were occupying the Unit.

2.4 Failure to Vacate

If an Interval Owner of any Permitted User fails to vacate a Unit at the end of his Use Period, or otherwise makes unauthorized use or occupancy of a Unit during a period other than his Use Period, or prevents another Interval Owner, Permitted User or Exchange User (the "Detained Owner" or "Detained User") from using or occupying an Interval Unit during such other Interval Owner's Use Period, such Interval Owner (the "Detaining Owner") and/or permitted User (the "detaining User") shall: (a) be subject to immediate removal, eviction or ejection from the Unit wrongfully used or occupied; (b) be deemed to have waived any notice required by law with respect to any legal proceedings regarding removal, eviction or ejection (to the extent that such notices may be waived under California law); (c) reimburse the Association and the Detained Owner or Detained User for all costs and expenses incurred by him as a result of such conduct, including, but not limited to costs of alternate accommodations, travel costs, court costs and reasonable attorneys' fees incurred in connection with removing, evicting or ejecting the Detaining Owner and/or Detaining User from such Units, and costs (including reasonable attorneys' fees) incurred in collecting such reimbursement(s); and (d) pay to the Detained Owner and/or the Detained User entitled to use and occupy the Unit during such wrongful occupancy, as liquidated damages (in addition to the costs and expenses set forth in subparagraph 2.4(c) above), a sum equal to two hundred percent (200%) of the fair rental value per day of the Unit for each day or portion thereof, including the day of surrender, during which the Detaining Owner and/or Detaining User prevents use and occupancy of the Unit; provided, however, that if the Detaining User is an Exchange User, the Interval Owner whose Use Period was used by the Exchange User shall have no liability pursuant to the provisions of clauses (c) and (d) above, such liability shall be governed by the terms of the agreement

establishing the Exchange Program. The Association shall be responsible for determining the "fair rental value" of a Unit. "Fair rental value" for a Unit shall be based upon the costs of renting comparable accommodations located in the vicinity of the Property. The association shall use reasonable efforts to attempt to remove such Detaining Owner and/or Detaining User from the Unit, and/or to assist the Detained Owner or Detained User in finding alternate accommodations during such holdover period; to secure, at the expense of the Association, alternate accommodations for any Detained Owner or Detained User which alternate accommodation shall be as near in value to the Detained Owner's or Detained User's Unit as possible and the cost thereof shall be assessed to the Detaining Owner (unless Detaining User is an Exchange User) as a "Personal Charge" (as hereinafter defined). In the event that the Association, in its sole discretion, deems it necessary to contract for a period greater than the actual period for which the use is prevented in order to secure alternate accommodations as set forth above, the cost of the entire period shall be assessed to the Detaining Owner as a Personal Charge. By accepting any conveyance of an Interval, each Interval Owner agrees that, in the event of a wrongful occupancy or use by him or any Permitted User, damages would be impracticable or extremely difficult to ascertain and that the measure of liquidated damages provided for herein constitutes a fair compensation to those who are deprived of occupancy. If an Interval Owner or his Permitted User by intentional or negligent act renders a Unit uninhabitable for the successive Use Period (s), then (i) such Interval Owner shall be deemed a Detaining Owner, (ii) the foregoing provisions of this Paragraph 2.4 shall apply and (iii) such Interval Owner shall be liable to the Interval Owner(s) and/or Permitted User(s) of successive Use Period(s) just as if such Interval Owner had refused to vacate the Unit at the end of his Use Period(s). For the purposes of the Paragraph 2.4, the act or negligence of a Permitted User shall be deemed to be the act of the Interval Owner. If a Unit can not be made available for the period of use to which the Interval Owner is entitled under the operative Rules and Regulations because of an error by the Association or Managing Agent, the Association shall assist such Interval Owner in finding alternate accommodations during such period, and shall secure at the expense of the Association, alternate accommodations for such Interval Owner which shall be as near in value to the Owner's unit type as possible. If the Association fails to provide alternative accommodations as described above, the Interval Owner shall be entitled to "fair rental value" as defined in this Paragraph. Any disciplinary action taken by the Association under this Paragraph shall comply with the procedural requirements set forth in Article IV, Section 3 of the By-Laws.

2.5 Use Restrictions – Interval Owners

Except as required to prevent damage or injury to persons or property in an emergency, no Interval Owner shall: make or authorize any alterations, additions or improvements to the Property; repaint, tile, paper or otherwise refinish or redecorate the inner surfaces of the walls, ceilings, floor, windows or doors bounding the Property; or remove, alter or replace any portion of the Common

Furnishing or use his Unit in any way which will jeopardize the safety or security of the Property, or which will interfere with, or unreasonably disturb the rights of the other Interval Owners without the prior written consent of the Association. The right to perform all of the foregoing acts has been delegated to the Association by this Declaration. The foregoing prohibitions, however, shall not modify or affect the obligation of each Interval Owner for the prudent care and ordinary maintenance and upkeep of all property subject to his use. No animals shall be allowed or kept in or upon any of the Property.

2.6 Use Restrictions - Declarant

Except as otherwise provided in this Declaration, Declarant shall have no right to use or occupy the Units or Club area, apart from Declarant's use rights as an Interval Owner.

2.7 Easement for Sales, Customer Service and Related Purposes

Declarant, on behalf of itself, its successors and assigns, and its and their respective agents, employees, contractors, subcontractors, invitees and other authorized personnel, reserves, for a period of ten (10) years following the Starting Date, a non-exclusive easement in gross, in, over and through the Units, Club Area, the Common Area and the Support Area, for the purposes of: (1) marketing and selling the Intervals; (2) maintaining customer relations and providing post-sale service to Interval Owners; (3) displaying signs and erecting, maintaining and operating, for sales and administrative purposes, model Units and a customer relations, customer service and sales office complex in the Property; and (4) showing the Units and Common Areas and arranging for the use of any recreational facilities within the Common Areas by prospective purchasers. The use of such easement shall not interfere with or diminish the rights of Interval Owners to use and occupy Units in accordance with this Declaration and the Rules and Regulations, nor interfere with the Association's use of the Support Areas as necessary to perform its duties and obligations pursuant to the Declaration and the Rules and Regulations.

2.8 Use of Units by Declarant

Declarant shall, during all times not included in any Use Period not properly reserved as set forth in the Declaration (including Use Periods granted Holiday Interval Owners), have the exclusive right to occupy any Unit not properly reserved and to rent said Unit to the general public. Any rentals received by Declarant shall inure to the benefit of Declarant. Declarant shall have the right, in its sole discretion, upon the sale of all or substantially all of the intervals, to assign its right under this Paragraph to the Association. The revenue derived from the rental of unreserved Units to the public pursuant to this Paragraph shall inure to the benefit of Declarant only for so long as Declarant or an entity controlled by Declarant is the managing agent for the Project. Upon the expiration of the prescribed time for making reservations contained in the Rules and Regulations of the Association, but in no case earlier than 14 days before the first day of said Use Period, Declarant may rent to the general public those

Units not timely reserved for occupancy by an Interval Owner. The Declarant shall reimburse the Association for expenses incurred by and allocated to the Association in connection with the aforementioned commercial occupancy of the Units. The Declarant shall honor an untimely request for occupancy by an Interval Owner during his Season unless all Units of that Owner's Unit Type have been reserved by other Interval Owners or rented to a member of the public before the Managing agent's receipt of the Interval Owner's request for occupancy. Declarant shall submit to the Association not less than thirty (30) days before the scheduled mailing of the annual report referred to in Article IV, Section 4.2 (h)(ii) a report for the preceding Fiscal Year setting forth the amount of revenues derived by the Declarant from the rental of unreserved Units and the amount of money paid by the Declarant to the Association for expenses incurred by and allocated to the Association in connection with the rental to the public of unreserved Units. There shall be an annual special vote pursuant to the procedures set forth in the By-Laws on the question of continued rental of Units to the public and for such rentals to the public to inure to the benefit of the Declarant. The first such special vote shall be conducted at the earlier of (i) the annual meeting of the Association following the sale of the timeshare interest representing the 66-2/3 percentile interest of the total number authorized for sale under the subdivision public report issued by the Department of Real Estate for the project or (ii) the annual meeting of the Association immediately preceding the expiration date of the management contract period. The vote on the question of a rental of Units to the public shall be conducted annually for so long as revenues from the rental to the public of unreserved Units inure to the benefit of the Declarant or an affiliate of the Declarant. A vote of the Interval Owners on the above question may be conducted without a meeting pursuant to the By-Laws and all contract documents shall be brought into conformance with changes effected at such meeting.

No rental (whether by Declarant or the Association) shall interfere with or diminish the rights of the Interval Owners to use and occupy Units in accordance with this Declaration or the Rules and Regulations. The cost of repair or replacement incurred by reason of damage or destruction to a Unit and/or the Common Furnishings therein, which damage or destruction occurs during the rental of such Unit pursuant to this Paragraph while the rental of such Unit shall inure to the benefit of the Declarant, shall be borne by the Declarant. In no event shall any rental be made by the Declarant or the Association for the account of any individual Interval Owner.

2.9 Easement for Rental to Public

Declarant, on behalf of itself, its successors and assigns, its and their agents, employees, and contractors, subcontractors and other authorized personnel, reserves a non-exclusive easement in gross in, over and through the Property for the purpose of conducting rental activities, as provided for in Paragraph 2.8, until such time, if at all, as Declarant shall assign to the Association its rights to rent Units or such rights are transferred to the Association pursuant to the terms of

this Paragraph. The use of such easement shall not unreasonably interfere with the use rights of any Interval Owner or the Association with regard to the Property or Adjacent Property, if annexed, as provided for in this Declaration and the Rules and Regulations.

2.10 Adjacent property and Commercial Area Use

Declarant, on behalf of itself, its successors and assigns, its and their agents, employees, contractors, subcontractors and other authorized personnel, reserves, appurtenant to the Declarant's undivided interest in the Property, the right to exclusively use, operate and occupy the Adjacent Property and the Commercial Area for the purposes of conducting the operation of a transient hotel and other purposes incident to the conduct of such hotel, including but not limited to the operation of a restaurant, bar and retail stores. Declarant's exclusive use and control of the Adjacent Property and the Commercial Area shall include, without limitation, the right to establish operating procedures and hours for the restaurant, bar and retail stores.

2.11 Common Area Use

Declarant reserves the non-exclusive right to enter in, over and through the Common Areas appurtenant to Declarant's undivided interest in the Property for the purpose of providing the Adjacent Property and Commercial Area with access to and use of the Common Area for such purposes as may be reasonably necessary for the management and operation of the Commercial Area and Adjacent Property; provided, however, that the use and enjoyment of the aforementioned easement shall not interfere with the use of the Common Areas reasonably required by the Association in order to administer the Time Interval Plan.

2.12 Club Area Use

The Association is hereby granted the exclusive right to use and occupy the Club Area for purposes of the operation of club facilities for the benefit of each member of the Association.

2.13 Support Area Use

The Association is hereby granted a non-exclusive easement in, over and through the Support Area for the purpose of conducting the reservation system provided for in this Declaration and the operative Rules and Regulations. However, the use and enjoyment of the aforementioned easement shall not interfere with the use of the Support Area similarly required by the Declarant in order to administer the transient hotel operation provided for in this Declaration, and the Declarant shall have the right to reasonably regulate the Association's use of the Support Area and the personal property located on such property. Declarant reserves a non-exclusive easement appurtenant to and in favor of the Commercial Area and the Adjacent Property in, over and through the Support Area for the purpose of providing the Adjacent Property and the Commercial Area with access to and use of the Support Area for purposes as may be

reasonably necessary for the management and operation of the Commercial Area and Adjacent property, including the operation of a transient hotel bar and retail stores; provided, however, that the use and enjoyment of the aforementioned easement shall not interfere with the use of the Support Area reasonably required by the Association in order to administer the Time Interval Plan.

2.14 Separate Mortgages

Each Interval Owner shall have the right to mortgage or otherwise encumber all but not less than all, of his Interval. Any Mortgage shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure, the provisions of this Declaration shall be binding upon any Interval Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, assignment in lieu of foreclosure or otherwise. Notwithstanding any other provision of this Declaration, no breach of the provisions herein contained, nor the enforcement of any lien created pursuant to the provisions hereof shall defeat or render invalid the lien of any Mortgage of any Interval Owner's Interval if such mortgage is recorded in the Office of the County Recorder of El Dorado County, California, and is given in good faith and for value.

2.15 Transfer of Interest

No Interval Owner shall sell, convey, hypothecate or encumber less than all of his interest in his Interval. Any sale, conveyance, hypothecation or encumbrance by any Interval Owner of less than all of his interest in his Interval shall be null, void and of no effect. The transfer of any Interval shall operate to transfer to the new owner of the Interval the interest of the prior Interval Owner in all funds in the hands of the Association even though not expressly mentioned or described in the instrument of transfer and without further instrument of transfer.

2.16 Waiver of Right of Partition and Subordination of Tenancy-In-Common Attributes

- (a) It is intended that this Declaration shall govern all rights with respect to the use, possession, enjoyment management and disposition of the Intervals. Accordingly, all rights with respect to the use, possession, enjoyment, management or disposition of an Interval which an Interval Owner might otherwise have as a tenant-in-common (including, but not limited to, any common law or statutory right jointly to use, possess or manage commonly owned property) are hereby unconditionally and irrevocably waived and subordinated to this Declaration for so long as this Declaration shall remain in effect; provided, however, that in the event that an election to terminate this Declaration is made pursuant to Paragraph 11.2, an Interval Owner shall have the rights specified in Paragraph 11.2.
- (b) Except as provided in subparagraph 2.16 (a) above and Paragraph 11.2 below, every Interval Owner or other person or entity acquiring any right,

lien or interest in any of the Property hereby waives any and all right as a concurrent owner to any common law or statutory right of partition and no such party shall seek or obtain, through any legal procedures, judicial partition of the Property or the sale thereof in lieu of partition. If, however, any Interval is owned by two or more persons as tenants-in-common, joint tenants or community property, nothing herein contained shall prohibit a judicial sale of the Interval in lieu of partition as between such co-tenants or joint tenants.

2.17 Protection of Interest

Except as provided in Paragraph 2.14, no interval Owner shall permit his Interval to be subject to any lien (other than the liens of current real property taxes), claim or charge, the enforcement of which may result in a sale or threatened sale of the Interval of any other Interval Owner or any part thereof or may result in any interference in the use or enjoyment thereof by any other Interval Owner. In the event of a threatened sale of the Property or the Interval of any Interval Owner or any part thereof, or should the use and enjoyment of any portion thereof by any Interval Owner be threatened by reason of any lien, claim or charge against the Interval of any other Interval Owner, or should proceedings be instituted to effect any such sale or interference, any Interval Owner acting on his behalf or through the Association or the Association acting on behalf of any one or more Interval Owners (if promptly indemnified to his or its satisfaction) may, but shall not be required to, pay or compromise the lien, claim or charge without inquiry into the proper amount or validity thereof and, in such event, the Interval Owner whose interest was subjected to such lien, claim or charge shall forthwith pay the amount so paid or expended to the Interval Owner or the Association, whomsoever shall have paid or compromised the lien, claim or charge, together with such reasonable attorneys' fees and related costs as he or it may have incurred. No Interval Owner shall permit his interest in any funds from time to time in possessions of the Association to be subjected to any attachment, lien claim or charge or other legal process and each Interval Owner shall promptly restore any funds held by the Association in respect of his Interval to the extent depleted by the reason of the assertion of any such attachment, lien, claim, charge or other legal process and shall reimburse the Association for all reasonable attorneys' fees or other costs incurred in respect thereof.

ARTICLE III THE ASSOCIATION

3.1 Association

The Tahoe Seasons Resort Time Interval Owners Association, a California Nonprofit Mutual benefit Corporation, shall be the Association.

3.2 Membership in Association

Each Interval Owner (including Declarant as to all Intervals not conveyed by Declarant to third parties) shall be a member of the Association and shall remain a member thereof until he ceases to be an Interval Owner.

3.3 Transfer of Membership

The membership of each Interval Owner in the Association is appurtenant to and inseparable from his ownership of an Interval and shall be automatically transferred upon any authorized transfer or conveyance of the ownership of his Interval to any transferee or grantee, and said membership apart from the ownership of an Interval shall be non-transferable whether by gift, bequest, assignment or otherwise.

3.4 Voting

In accordance with the provisions of the By-Laws, the Association shall have two (2) classes of voting membership:

(a) Class A Memberships

Class A Members shall be all Interval Owners, except Declarant, and shall be entitled to one (1) vote for each Interval owned; provided, when more than one person or entity owns an Interval, all such persons and entities shall be members and the vote for such Interval shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Interval.

(b) Class B Memberships

Class B Member shall be Declarant, who shall be entitled to one (1) vote for each Interval owned. Said Class B Membership shall cease and be converted to Class A Membership when the total votes outstanding in the Class B Membership falls below twenty percent (20%) of the total voting power of the Association.

3.5 Approval of Actions of the Association

So long as there are two (2) classes of membership in the Association, any action by the Association which, pursuant to this Declaration, requires the approval of the Association membership before being undertaken shall require the vote or written consent of the percentage of the votes of each class of membership prescribed in the provision hereof requiring such approval, except that the election of the Board shall be governed by the provisions of Paragraph 3.6.

3.6 Board of Directors

The Board shall initially consist of the persons appointed by Declarant. At the time of the first annual meeting of the members, the members (including Declarant) shall elect, in accordance with the By-Laws, a Board replacing the initial Board as defined in the preceding sentence. From and after the first election of the Board by the members of the Association and for so long as (i) a

majority of the voting power of the Association resides in Declarant, or (ii) there are two (2) outstanding classes of membership in the Association pursuant to Paragraph 3.4 hereof, not less than twenty percent (20%) of the directors shall be elected solely by the votes of members of the Association other than Declarant, pursuant to the special election procedures set forth in the By-Laws.

ARTICLE IV MANAGEMENT

4.1 Powers and Duties Generally

Administration of the Time Interval Plan, operation, maintenance, repair and restoration of the Property (other than those areas of the Property subject to exclusive easements in favor of the Declarant) and the Common Furnishings, and any alterations and additions thereto, shall be vested in the Association. The Association, acting alone (through its Board, its officers, or other duly authorized representatives) may, subject to the provisions of the Articles, the By-Laws and this Declaration, exercise any and all rights and powers herein enumerated and, except as specifically limited herein, all the rights and powers of a Nonprofit Mutual Benefit Corporation under the laws of the State of California.

4.2 Specific Powers and Duties of the Association

The management, operation, maintenance and repair of the units, Club Area and Common Area, the acquisition (by purchase or lease), maintenance, repair and replacement of the Common Furnishings and the administration of the affairs of Interval Owners, the use and occupancy of the Units and payment, as agent, of expenses and costs enumerated in this Declaration shall be under the direction and control of the Association. The Association shall have the duty to maintain and repair the Units, Club Area and Common Area, to acquire (by lease or purchase), maintain, repair and replace Common Furnishings as needed, to administer the timeshare operations provided herein and to levy, collect and enforce the "Assessments" (as hereinafter defined) enumerated in this Declaration. The Association shall have the exclusive possession of each Unit during the Service Periods for the performance of maintenance and repairs on such Unit. The Association shall have the power to do all things that are required to be done by it pursuant to this Declaration. Without limitation of the foregoing powers and duties, the Association is expressly authorized in its discretion and on behalf of the interval Owners to do any or all of the following:

(a) Maintenance and Repair

To repair, maintain, repaint, furnish or refurnish the Units, Club Area and Common Area, or any part thereof; to establish reserves for anticipated costs, including the costs of acquisition and replacement of Common Furnishings; and to acquire and pay for materials, supplies, furniture, furnishings, labor or services which the Association deems necessary or

proper for the operation, maintenance and repair of the Property and the Common Furnishings.

(b) Taxes and Assessments

As agent and not as principal, to pay all taxes and assessments, and other costs affecting or relating to the Property or the Common Furnishings; and to discharge, contest or protest liens or charges affecting the Property.

(c) Utilities

To Obtain and pay the costs of electrical, telephone, gas and other utility services for the Property.

(d) Rules and Regulations

To adopt, publish and enforce, from time to time, Rules and Regulations relating to the possession, use and enjoyment of the Property, which Rules and Regulations shall be consistent with the provisions of this Declaration.

(e) Legal and Accounting

To obtain and pay the cost of legal and accounting services necessary or proper in the operation, maintenance and repair of the Property and the enforcement of this Declaration, the By-Laws and the Rules and Regulations.

(f) Insurance

To obtain and pay the cost of:

- (1) Insurance against property damage as a result of fire and other hazards commonly insured against, covering all real and personal property comprising the Property in an amount not less than eighty percent (80%) of the full replacement value of the Property, naming the association, as agent for each of the Interval Owners, as a co-insured party under such policy;
- (2) Liability insurance against death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Units. Such insurance shall not be less than \$500,000/\$1,000,000 for personal injury and \$100,000 for property damage. Such insurance policy shall provide that all Interval Owners are named as co-insured with the Association. The policy shall also include a waiver by the insurer of its right to subrogation under the policy against any Interval Owner or member of an Interval Owners household. Lastly, the policy shall provide that no act of an individual Interval Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or

operate as a condition to the recovery under the policy by any other person; and

- (3) Any other insurance, including but not limited to workmen's compensation insurance, deemed necessary or desirable by the Association.

(g) Levy and Collection of Assessment

To levy, collect and enforce Assessments against the Interval Owners in the manner provided in Articles V and VI hereof in order to pay the expenses of the timeshare operation including the fee of the Managing Agent; and to do all things necessary to enforce each Interval Owner's obligations hereunder.

(h) Financial Statements and Audit

To Cause financial statements for the Association to be regularly prepared and copies thereof distributed to all members as follows:

- (1) A pro forma operating statement (the "Budget") of "Basic Expenses" (as that term is defined in subparagraph 5.3 below) for the Property for each Fiscal Year which operating statement shall be distributed to Interval Owners not less than sixty (60) days before the beginning of each Fiscal Year, except the first Fiscal Year with respect to which the Budget shall be distributed as soon as reasonably possible.
- (2) An annual report shall be distributed, within one hundred twenty (120) days after the end of each Fiscal Year, consisting of the following: (a) a balance sheet as of the last day of each Fiscal Year, (b) an operating (income) statement for such Fiscal Year, and (c) a statement of (net) changes in financial position for the Fiscal Year, (d) a list of the names and mailing addresses and telephone numbers of the Board of the Association (e) any information required to be reported by Section 8322 of the California Corporations Code

Ordinarily, the annual report shall be prepared by an independent accountant in any Fiscal Year in which the gross income to the association exceeds Twenty-Five Thousand Dollars (\$25,000). If the annual report shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association.

- (3) Minutes of the Board of the Association shall be distributed to the Members within sixty (60) days of such meeting.

- (4) Not less than thirty (30) days prior to the annual meeting of the Members of the Association a list of the orders of business, which shall include name, address and brief biographical description of each Member of the Association who intends to stand for election to the Board.

(i) Bank accounts

To deposit: (a) all funds collected from Interval Owners pursuant to Article V hereof and Paragraph 2.4, and (b) all other amounts collected by the Association in connection with its rights and duties provided herein, as follows:

- (1) All funds shall be deposited in a separate bank account or accounts (The "General Account") with a bank or savings and loan association located in the State of California selected by the Association. Funds deposited in the General Account(s) may be used by the Association only for the purposes for which such funds have been collected.
- (2) Funds which the Association shall collect for "Reserve Expenses" (as defined in and collected pursuant to subparagraph 5.3) shall, within ten (10) days after deposit in the General Account, be deposited in an interest bearing account with a bank or savings and loan association selected by the Association or invested in Treasury Bills or Certificates of Deposit (said interest bearing bank or saving and loan account or Treasury Bills or Certificates of Deposit are all herein collectively referred to as the "Reserve Account"), and the Association shall keep accurate books and records reflecting the amount in the Reserve Account attributable to each Interval Owner. Funds deposited in the Reserve Account shall be held in trust and may be used by the Association only for the specific purposes for which such funds have been collected.

(j) Statements of Status

Upon the request of any Interval Owner, purchaser or other prospective transferee of an Interval, to issue a written statement setting forth any amounts unpaid with respect to the Interval, the use entitlement for the remainder of the Use Year and the reservation status respecting such Interval. Such statement, for which a reasonable fee may be charged, shall be binding upon the Association in favor of any person who may rely thereon in good faith.

(k) Cleaning and Maid Service

To provide for cleaning and maid service upon the departure of each Interval Owner or other occupant of the Unit and during Service Periods

so that the Units are maintained in good order and repair. In addition to cleaning and maid service that is normally provided to each Unit, to provide such cleaning and maid services as shall reasonably be requested by an Interval Owner.

(l) Right of Entry

During Service Periods and at any other reasonable time, upon giving reasonable notice, if a Unit is occupied, to enter the Unit for purpose of cleaning, maid service, painting, maintenance and repair, and whether or not in the presence of an Interval Owner, for the purpose of (i) making emergency repairs therein, (ii) abating any nuisance or any dangerous, unauthorized, prohibited or unlawful activity being conducted or maintained in such Unit, (iii) protecting property rights and welfare of the other Interval Owners, or (iv) for any other purpose reasonably related to the performance by the Association of its responsibilities under the terms of this Declaration. Such right of entry shall be exercised in such a manner as to avoid any unreasonable or unnecessary interference with the possession, use and/or enjoyment of the Interval Owner, his permitted User or other occupant of such Unit and shall be preceded by reasonable notice to the Interval Owner or occupant thereof whenever the circumstances permit.

(m) Enforcement of Bonded Obligations and Letter Agreement

(1) The Board shall vote on the question of action by the Association to enforce the obligations under the "Construction and Completion Bond," if any, to which the Association is a co-obligee, with respect to any improvement for which a "Notice of Completion" has not been filed within sixty (60) days after the completion date specified for each improvement specified in any "Planned Construction Statement" appended to the above-referenced bond. If the Association has granted an extension in writing for the completion of any common area improvement, the Board shall vote on the issue of enforcing the bonded obligation if a Notice of Completion has not been filed within thirty (30) days after the expiration of the extension.

(2) The Board shall vote on the question of action by the Association to enforce the obligations under that certain letter agreement to the Department of Real Estate by and between Declarant and Broadview Savings and Loan Association dated _____, 1983, ("Letter Agreement") creating a Two Million Dollar (\$2,000,000) fund for the payment of costs incurred in the construction, installation and completion of the common area improvements with respect to any improvement for which a "Notice of Completion" has not been filed within sixty (60) days after the

completion date specified for each improvement specified in the construction contract appended to the Letter Agreement as Exhibit B. If the Association has granted an extension in writing for the completion of any common area improvement, the Board shall vote on the issue of enforcing the Letter Agreement if a Notice of Completion has not been filed within thirty (30) days after the expiration of the extension.

- (3) A special meeting of the members of the Association shall be held in the Board receives a petition signed by Members of the Association representing five percent (5%) or more of the total voting power of the Association requesting a special meeting of Members of the Association to consider an override of a decision by the Board not to initiate action to enforce the obligations under the Construction and Completion Bond, if any, or the Letter Agreement. The meeting shall be held forty-five (45) days after the receipt by the Board of the above-referenced petition.
- (4) A vote of the majority of the voting power of the Association residing in members other than the Declarant shall govern a decision regarding the enforcement of the bonded obligations or the Letter Agreement. Upon the vote by a majority of the voting power of the Association residing in members other than the Declarant to enforce the obligations under the Construction and Completion Bond, if any, or the Letter Agreement, the Board shall initiate and pursue all appropriate action in the name of the Association to enforce such bonded obligation or Letter Agreement.

4.3 Authority and Duty to Engage Managing Agent

The association shall have the authority to engage and the obligation to use its best efforts to engage and maintain a reputable firm or individual as the Managing Agent for the Time Interval Plan pursuant to a written agreement (the "Management Agreement") meeting the requirements of this Paragraph 4.3. Each Management Agreement shall:

- (1) The Board Authorize and obligate the Managing Agent to perform all the duties and obligations of the Association specified in Paragraph 4.2 above; provided, however, that the Managing Agent may delegate its authority and responsibilities to one or more sub-agents for such periods and upon such terms as the Managing Agent deems proper, subject to the limitations set forth in Paragraph 4.4 below.
- (2) Provide for a term of not more than three (3) years, except that the Management Agreement may provide that the term will be automatically renewed for successive annual terms unless notice of

non-renewal is given no later than ninety (90) days prior to the end of any annual term by either party; provided, however, the Association may not give notice of non-renewal unless authorized by the vote or written consent of a majority of the members of the Association other than the Declarant. The Management Agreement shall be subject to termination by the Association as follows:

- i. At any time, for cause. In the event that the Managing Agent shall dispute a termination by the Association pursuant to this subparagraph, the dispute shall be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association.
 - ii. Upon the request to do so by the vote or written request of seventy-five percent (75%) of the members of the Association.
- (3) Provide that the Managing Agent may resign only upon compliance with the following conditions:
- i. The Managing Agent shall have given at least ninety (90) days prior written notice to the Association.
 - ii. Prior to or at the expiration of the period of such a notice (not less than 90 days) the Association shall have entered into a management agreement with another management firm meeting the requirements of this Paragraph 4.3 of the Declaration or shall have made a determination to discharge the duties delegated to the Managing Agent hereunder with its own personnel; provided, however, that if the Association shall fail to make reasonable efforts to meet the foregoing requirements during such ninety (90) day period, Managing Agent's resignation shall be effective at the end of such ninety (90) day period. If the Association has made reasonable efforts during such ninety (90) day period to satisfy such requirements and has not entered into such a management agreement or determined to discharge the duties delegated to Managing Agent hereunder with its own personnel, and thereafter continues to use reasonable efforts to discharge such requirements, the resignation of the Managing agent shall not be effective until such a new management agreement is entered into between the Association and a new management firm or the Association has determined to discharge such duties with its own personnel.

- (4) On or before the effective date of the Managing Agent's resignation, the Managing Agent shall turn over all books and records relating to the management and operation to the Time Interval Plan and the timeshare operation to the successor Managing Agent.
- (5) Provide for compensation to be paid to the Managing Agent. Such compensation may be increased if authorized by the vote or written consent of a majority of the members or, if, despite the failure to obtain the vote or written consent of a majority of the members of the Association after requesting the same, the Association is unable to procure a reputable and experienced real estate management firm to act as Managing Agent without increasing such compensation.

The first Managing Agent (the "Manager") shall be appointed by Declarant and may be Declarant or an affiliate of Declarant.

The Association shall cause the Managing Agent and any employee of either the Managing Agent or the Association who has charge of the association funds to be bonded. The Managing Agent shall also obtain errors and omissions insurance if the same is available.

4.3 Limitation on Powers of the Association and the Managing Agent

Notwithstanding the powers of the Association as set forth in Paragraphs 4.1 and 4.2, neither the Association nor the Managing Agent as the delegee of the Association's powers and duties shall enter into a contract with a third person or entity whereby such person or entity will furnish goods or services for the timeshare operation for a term longer than one (1) year unless authorized by the vote of written consent of a majority of the voting power residing in Members of the Association other than the Declarant, except for:

- (1) The Management Agreement.
- (2) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.
- (3) Prepaid casualty and/or liability insurance policies not to exceed three (3) years duration provided that the policy permits short-rate cancellation by the insured.
- (4) A lease or leases of Common Furnishings.

4.4 Limited Liability

Neither the Association nor the Managing Agent shall be responsible for the acts, omissions or conduct of any of the Interval Owners or for the breach of any of the obligations of any of the Interval Owners.

ARTICLE V ASSESSMENTS

5.1 Creation of Personal Obligations for Assessments

Declarant, for each Interval owned by it (for purposes of this Article V, Declarant shall be considered to be the owner of that number of Intervals equal to the difference between the total number of Intervals dedicated to the Time Interval Plan pursuant to this Declarant and the number of Intervals conveyed to third parties by Original Deed; provided, however, that said number is subject to change as provided by Article VIII below), hereby covenants and each Interval Owner accepting the conveyance of an Interval, whether or not it shall be so expressed in the Original Deed, shall be deemed to have covenanted and agree, for each Interval owned, to pay to the Association the Common and Unit Assessments (collectively referred to as ("Basic Assessment"), all Special Assessments and Personal Charges, as hereinafter described in Paragraphs 5.3 and 5.7, respectively (all of which are sometimes herein individually and collectively referred to as "Assessment(s)"), which shall be established, made and collected as hereinafter provided. The Assessments, together with interest, costs and reasonable attorneys' fees shall be the personal obligation of each Interval Owner at the time the Assessment becomes due and payable and shall be a lien and charge upon the Interval against which the Assessment is made. The personal obligation for delinquent Assessments shall not pass to successors-in-title unless expressly assumed by them. No Interval Owner may waive or otherwise avoid liability for the Assessments by non-use of his Interval or any part thereof or any abandonment thereof.

5.2 Purpose of Assessments

Assessments shall be used exclusively to promote the recreation, health, safety and welfare of the Interval Owners, the operation, maintenance and improvement of the Property, to pay for the administration of the timeshare operation and reimbursement of expenses incurred by the Association and other expenditures incurred in the performance of the duties of the Association as set forth in this Declaration.

5.3 Additional Definitions related to assessments

"Common Expenses" mean the portion of the Basic Expenses which the Association designates in its annual budget as those expenses most equitably allocated to Interval Owners on a pro rata basis notwithstanding the size of such Interval Owner's designated Unit Type. Designation of an expense as a Common Expense shall be in the sole discretion of the Association. "Unit

Expenses” mean that portion of the Basic Expenses which the Association designates in its annual budget as those expenses most equitably allocated to Interval Owners on the basis of the square footage of such Interval Owner’s designated Unit Type. The manner of determining an Interval Owner’s allocation of Unit Expenses is set forth in Paragraph 5.4 below. Designation of an expense as a Unit Expense shall be in the sole discretion of the Association. The assessment to an Interval Owner of Unit Expenses shall be referred to as “Unit Assessments” and the assessment to an Interval Owner of Common Expenses shall be referred to as “Common Assessments.” The assessment to an Interval Owner of unit and Common Expenses shall be collectively referred to as “Basic assessments”.

As used herein, “Basic Expenses” means the estimated aggregate amount of expenses, as set forth in the Budget, to be incurred by the Association during the applicable Fiscal Year (i) to operate, manage, maintain, improve and repair the Property and Adjacent Property, if annexed, including the Units, the common Areas and the Common Furnishings, and to administer the timeshare operation; (ii) to provide for reserves to endure payment when due of the cost of capital expenditures relating to the repair or restoration of the Units, the Common Areas, and the repair and replacement of Common Furnishings, and for such other purposes as are required by good business practice (the “Reserve Expenses”); (iii) to provide for a fund to account for the possibility that some Assessments may not be paid on a current basis; and (iv) to provide for the payment of the fee of the Managing Agent. Without limiting the generality of the foregoing, Basic Expenses shall include: all charges, costs and expenses whatsoever incurred by the Association for or in connection with the administration and operation of the Units; real property taxes and other taxes assessed against the Property and adjacent Property, if annexed, or the common Furnishings or any other interests of the Interval Owners (except as and to the extent that such taxes are separately assessed to the individual Interval Owners); assessments and other similar governmental charges levied on or attributable to the Property and Adjacent Property, if annexed, including, without limitation, any hotel or bed tax or any governmental charge levied in lieu of such hotel or bed tax; insurance, including fire and other casualty and liability insurance, obtained pursuant to this Declaration; any liability whatsoever for loss or damage arising out of or in connection with the Property, Adjacent Property in annexed, or any fire, accident, or nuisance therein; cost of repair, reinstatement, rebuilding and replacement of the Property and Adjacent Property, if annexed, or the Common Furnishings therein; the cost of all basic utility services, including, water, electricity, garbage disposal, telephone and any other similar service attributable to the Units and the Common Areas; the unpaid share of any Assessments levied during the previous Fiscal Year against any Interval Owner who has defaulted in payment thereof to the extent that the same becomes uncollectable; wages, accounting and legal fees, management fees, maid service, and cleaning fees, and other necessary expenses of upkeep, maintenance, management and operation actually incurred with respect to the Property. Basic Expenses shall not include any expense constituting a Personal charge. Basic Expenses for any applicable Fiscal Year subsequent to the 1983 Fiscal Year without regard to (i) any reduction pursuant to Paragraph 5.4 or (ii) any increase in Basic

Expenses attributable to an increase in real property taxes based upon a change in the method of assessment by the County Assessor, unless a majority of the members of the Association shall consent thereto by vote or written assent. The Reserve Expenses portion of the Budget shall consist of specific terms and amounts for which such Reserve Expenses are being collected.

5.4 Unit and Common Assessments

On a Fiscal Year basis, Assessments for each individual Interval, of a particular Unit Type, shall be determined as follows:

- (a) For common Assessments, by dividing the total Common Expenses attributable to such Fiscal Year by the total number of Intervals dedicated to the Time Interval Plan.
- (b) Unit Assessments shall be determined by multiplying the Unit Expenses attributable to such Fiscal Year by the fraction in which the total square footage of all Units dedicated to the Time Interval Plan is the denominator and the square footage of each respective Unit Type is the numerator, and then dividing such sum by 51.

5.5 Payment of Basic Assessments

Basic Assessments shall commence on the first day of the month following the close of the escrow of the first sale of an Interval in the Time Interval Plan or the date of commencement of the first Interval Owner's occupancy rights, whichever is later. The Basic Assessment shall be paid as follows:

- (a) For Fiscal Year 1982 and any subsequent Fiscal Year in which an Interval Owner becomes such, as provided in the Purchase Agreement.
- (b) For each Fiscal Year thereafter, the Basic Assessment shall be payable in one lump sum due on or before the date determined by the Association or, if the Association shall elect, in periodic installments payable not more frequently than monthly.
- (c) For each Fiscal Year in which there is no subsidy agreement between Declarant and the Association, Declarant shall pay the Basic Assessment to the Association in twelve (12) equal monthly installments, commencing on the first day of the first month of each Fiscal Year and continuing on the first day of each month thereafter until paid.
- (d) That portion of the Basic Assessment which is attributable to Reserve Expenses shall be deposited in the Reserve Account provided for in subparagraph 4.2(i).

ARTICLE VI ENFORCEMENT OF RESTRICTIONS

6.1 In General.

In the event that any Interval Owner or his Permitted User(s) fail to comply with any of the provisions of this Declaration, the By-Laws and the Rules and Regulations, the Association or any other Interval Owner(s) shall have full power and authority to enforce compliance with this Declaration, the By-Laws and the Rules and Regulations in any manner provided for herein, by law or in equity, including, without limitation, the right to enforce the Declaration, the By-Laws and the Rules and Regulations by bringing an action for damages, an action to enjoin the violation, or to specifically enforce the provisions, of this Declaration, the By-laws and the Rules and Regulations. In the event the Association fails to comply with any of the provisions of this Declaration, the Interval Owners and Declarant (as holder of the exclusive right to use, operate and occupy the Adjacent Property and Commercial Area) shall have the authority to enforce compliance of this Declaration by law or in equity including, without limitations, bringing an action for damages, an action to enjoin the violation or to specifically enforce the provisions of this Declaration. In the event the Association or any Interval Owner(s) shall employ an attorney to enforce the provisions of this Declaration, the By-laws or the Rules and Regulations against any Interval Owner, the party engaging the attorney shall be entitled to recover from the Interval Owner violating any such provisions reasonable attorneys' fees and costs in addition to any other amounts due as provided herein. All sums payable hereunder by an Interval Owner shall bear interest at ten percent (10%) per annum from the due date, or if advanced or incurred by the Association, or any other Interval Owner pursuant to authorization contained in this Declaration, commencing ten (10) days after repayment is requested. All enforcement powers of this Association shall be cumulative. Each Interval Owner by accepting the conveyance of an Interval shall be deemed to have covenanted and agreed that the Association shall have all of the rights, powers and remedies set forth in this Article VI and elsewhere in the Declaration.

6.2 Certain Specific Enforcement Powers.

In amplification of, and not in limitation of, the general powers specified in Paragraph 6.1 above, the Association shall have the following rights and powers:

- (a) Suspension of Privileges, Imposition of Monetary Penalties.

If any Interval Owner or his Permitted User shall be in breach of this Declaration, the By-Laws or the Rules and Regulations, subject to the limitations hereinafter in this subparagraph 6.2(a), the Association may suspend the right of such Interval Owner and his Permitted User(s) to reserve and/or occupy any Unit and the right of such Interval Owner to participate in any vote or other determination provided for herein, impose a monetary penalty or take such other disciplinary

action as is appropriate. No such action, except for the failure of such Interval Owner to pay any Assessment or other amount(s) owed to the Association on or before the due date therefor, shall be made except after a meeting of the Board at which a quorum of the Board is present, duly called and held for such purpose in the same manner as provided in the By-Laws for the noticing, calling and holding of a meeting of the Board. Written notice of such meeting and the purpose thereof, including the reasons for the suspension sought, shall be given to the Interval Owner whose privileges are being sought to be suspended at least fifteen (15) days prior to the holding of such meeting. The notice and hearing requirements for all disciplinary actions taken under this subparagraph shall be governed by Article IV, Section 3(b) of the By-Laws. The failure of an Interval Owner to pay all Assessments owed by such Owner, shall subject the Owner to suspension of ownership rights as described in article IV, Section 3(b) of the By-Laws. If such suspension of privileges is based on the failure of an Interval Owner to pay Assessments or any other amount(s) due under the Rules and Regulations or hereunder, when due, the suspended privileges of such Interval Owner shall be reinstated automatically at such time as the Interval Owner shall have paid to the Association, in cash or by cashier's or certified check, all amounts past due as of the date of such reinstatement. If such suspension of privileges is based on any act or omission other than the failure of an Interval Owner to pay Assessments or any other amount(s) due hereunder when due, the suspended privileges shall be automatically reinstated upon the expiration of the suspension period stated in the suspension notice.

(b) Enforcement by Lien.

There is hereby created a claim of lien, with power of sale, on each and every Interval to secure the prompt and faithful performance of each Interval Owner's assessment obligations under this Declaration, the By-Laws and the Rules and Regulations and the payment to the Association of an and all Assessments levied against any and all Intervals under this Declaration, together with interest thereon at ten percent (10%) per annum from the date of delinquency, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time within ninety (90) days after the occurrence of any default in the payment of such Assessment or performance secured, the Association or any authorized representative may, but shall not be required to make a written demand for payment or performance to the defaulting Interval Owner. Said demand shall state the date and amount of the delinquency or the particular performance with respect to which the Interval Owner is in default. Each default shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid or default is not cured within ten (10) days after the delivery of such demand, within one hundred (100) days after the date of delinquency or default if no written demand is made, the Association may elect to file and record a notice

of default and claim of lien (with a copy to the Mortgagee of such defaulting Interval Owner if such Mortgagee has requested a copy and furnished its name and address to the Association) on behalf of the Association against the Interval of the defaulting Interval Owner in the Office of the County recorder of El Dorado County. Such a notice of default and claim of lien shall be executed and acknowledged by any officer of the Association and shall contain substantially the following information:

- A. the name of the defaulting Interval Owner;
- B. the total amount of the delinquency, interest thereon, collection costs and reasonable attorneys' fees;
- C. a statement that the notice of default and claim of lien is made by the Association pursuant to this Declaration; and
- D. a statement that a lien is claimed and will be foreclosed against the Interval in an amount equal to the amount stated.

Upon such recordation of a duly executed original or copy of such notice of default and claim of lien, and mailing a copy thereof to the defaulting Interval Owner, the lien claimed therein shall immediately attach and become effective. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a deed of trust by exercise of a power of sale contained therein or in the manner provided by law for the enforcement of a judgment as the laws of the State of California may from time to time be changed or amended. The Association shall have the power to bid at any foreclosure sale, trustee's sale or judgment sale and to purchase, acquire, lease, hold, mortgage and convey any Interval acquire at such sale, subject to the provisions of the Declaration. Reasonable attorney's fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law.

The proceeds of any foreclosure, trustee's or judgment sale provided for in this Declaration shall first be paid to discharge court costs, court reporter charges, reasonable attorney's fees, title costs and costs of the sale, and all other expenses of the proceedings and sale, and the balance of the proceeds after satisfaction of such charges and unpaid Assessments hereunder or any liens, shall be paid to the defaulting Interval Owner. The purchaser at any such sale shall obtain title to the Interval free from the sums or performance claimed (except as stated in this subparagraph) but otherwise subject to the provisions of this Declaration, the By-Laws and the Rules and Regulations; and no such sale or transfer shall relieve such Interval or the purchaser thereof from liability for any Assessments, other payments or performance thereafter becoming due or from the lien therefore as provided for in this subparagraph. All sums assessed hereunder but still unpaid shall remain the obligation of and shall be payable by

the person foreclosed upon; but if such sum should prove uncollectable, then it shall be deemed to be a Basic Expense, collectable from all of the other Interval Owners, including the purchaser thereof at foreclosure, and shall be shared among such Interval Owners, in the same manner as other Basic Expenses are shared.

Upon the timely curing of any default for which a notice or claim of lien was filed by the Association, the officers of the Association are hereby authorized to record an appropriate release of such lien in the Office of the Recorder of El Dorado County.

6.3 Subordination to Certain Mortgages.

The lien provided for herein shall be prior to all encumbrances made by an Interval Owner or imposed by legal process upon any Interval Owner except taxes, bonds, assessments and other levies, which by law are prior thereto, whether the notice of lien is recorded prior or subsequent to any such encumbrances, except that the lien provided for herein shall be subordinate to the lien of any first Mortgage made in good faith and for the value or any Mortgage executed in connection with a Lease of the Common Furnishings or other personal property in the Property by an Interval Owner and recorded in the Office of the Recorder of El Dorado County, California prior to the recordation of a notice of lien hereunder (the "Prior Mortgage"). The sale or transfer of any Interval shall not defeat or affect the lien provided for herein; provided, however, that the sale or transfer of any Interval which is subject to any Prior Mortgage pursuant to a foreclosure or any proceeding in lieu of foreclosure under such Prior Mortgage shall extinguish the lien provided for herein as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Interval or the purchaser thereof from liability for any Assessment(s) thereafter becoming due or from the lien thereof.

ARTICLE VII DAMAGE, DESTRUCTION, CONDEMNATION

7.1 In General.

In the event of any damage or destruction, whether resulting from an insured casualty, uninsured casualty or a partial taking in eminent domain proceedings to the Property and/or the Common Furnishings other than by ordinary wear and tear, the Association shall, subject to the provisions of Paragraph 7.2, forthwith cause such damage or destruction to be repaired and shall use any available insurance or condemnation proceeds for such purpose. If the damage is not covered by condemnation proceeds or by insurance proceeds, or if the available insurance or condemnation proceeds are insufficient, the Association shall, subject to the provisions of Paragraph 7.2, levy a Special Assessment at a uniform rate against all Interval Owners for the amount required to meet the cost of such repair or restoration. In the event the damage or destruction was caused

by the intentional or negligent act or omission of an Interval Owner or his Permitted User(s), the cost of such repair or the amount of such deficiency shall be a Personal Charge and paid by such Interval Owner as provided in Paragraph 5.7 above.

7.2 Extensive Damage or Destruction.

In the event the amount of the special Assessment which is required to be levied pursuant to Paragraph 7.1 above, is not so approved or if no action is taken with respect to such Special Assessment within one hundred eighty (180) days following the date of such damage or destruction, such disapproval or inaction shall be deemed to be an election to terminate this Declaration, in which event this Declaration shall terminate upon the consummation of the sale of the Property, pursuant to subparagraph 11.2(a) below, and the recordation of an amendment stating that the Declaration has been terminated in accordance with the provisions of Paragraph 11.2. The proceeds arising from such sale, together with any insurance proceeds or condemnation proceeds received as a result of such damage or destruction, shall be distributed by the Association to each Interval Owner (subject to the rights of each Interval Owner's Mortgagee) in accordance with the undivided percentage interest in the Property owned by each Interval Owner; provided, however, that there shall be deducted from the amount due any Interval Owner the amount, if any, of all sums due to the Association from such Interval Owner.

7.3 Excess Insurance Proceeds.

Any excess insurance or condemnation proceeds over the cost of repair or restoration or any insurance or condemnation proceeds available in the event the Property or the Common Furnishings are not rebuilt, restored, repaired or replaced pursuant to the provisions of the Declaration, shall be distributed to the Interval Owners (subject to the rights of such Interval Owner's Mortgagees) in accordance with the undivided percentage interest in the Property owned by each Interval Owner, provided, however, that there shall be deducted from the amount due any Interval Owner, the amount, if any, of all sums due to the Association from such Interval Owner.

**ARTICLE VIII
ANNEXATION**

8.1 Annexation of Adjacent Units.

Declarant may annex to this Declaration up to one hundred fifty (150) additional Units which Unit(s) when annexed as herein provided are called Annexed Unit(s) without the consent of any Owner at any time and from time to time within ten (10) years after the date of the original issuance by the California Department of Real Estate of the most recent Final Subdivision Public Report with respect to the Intervals, provided that such Units are located on or within the Adjacent Property.

8.2 Governing Restrictions.

Upon any such annexation and at all times thereafter, this Declaration shall govern the use, enjoyment, repair, maintenance, restoration and improvement of the Annexed Units, the Intervals therein conveyed and the interest therein conveyed or reserved. Any monetary encumbrances or liens existing on the date of any such annexation shall be subordinate to this Declaration and the lien rights conferred hereby.

8.3 Procedure for Annexation of the Adjacent Units.

The annexation of the Units in the Adjacent Property to the scheme of this Declaration shall be effected by recording in the Office of the Recorder of El Dorado County a "Declaration of Annexation" which shall contain the following:

- (a) A description of the Annexed Unit(s).
- (b) A statement submitting the Annexed Units to this Declaration, which Declaration, shall be referred to by title, date of recording and instrument number.

**ARTICLE IX
INSPECTION AND COPYING OF
ASSOCIATION'S BOOKS AND RECORDS AND PROPERTIES**

9.1 Membership Register.

The membership register including mailing addresses and telephone numbers, books of account, minutes of meetings of the members and of the governing body, and all other records of timeshare project maintained by the Association or the Managing Agent shall be made available for inspection and copying by any member or by his duly appointed representative, at any reasonable time for purpose reasonably related to membership in the Association. Each member of the Board has an absolute right to inspect the books, records and documents of the Association at any time.

9.2 Records.

The records shall be made available for inspection at the office where the records are maintained. Upon receipt of an authenticated written request from a member along with a fee prescribed by the Board to defray the cost of reproduction, the Managing Agent or other custodian of records of the Association shall prepare and transmit to the member a copy of any and all records requested.

9.3 Inspection Rights.

The Association may, as a condition to permitting a member to inspect the membership register or to its furnishing information from the register, require that the member agree in writing not to use, or allow to use, the information from the

membership register for commercial or other purposes not reasonably related to the regular business of the Association and the member's interest in the Association.

ARTICLE X CONCURRENT TIMESHARE AND COMMERCIAL OPERATION

In the event that the Commercial Areas and Adjacent Property not dedicated to the timeshare project are concurrently used by or on behalf of the Declarant for transient accommodations, the following shall apply:

The management of the timeshare project shall be independent of the management of the commercial operation of the Support Area, Commercial Area and Adjacent Property to the greatest extent practically and economically feasible. The books and records for the timeshare project shall be kept separate from the books and records for the commercial operations of the Support Area, Commercial Area and Adjacent Property. Arrangements for temporary use for commercial operations of living units in the timeshare project and for temporary use by timeshare owners of living units regularly used in commercial operations may be established by separate written contract.

The cost of the management and operation incurred for the joint benefit of Time Interval Plan and the Adjacent Property and Commercial Area shall be apportioned pursuant to the manner set for the in that certain Allocation of Cost Agreement between Declarant and Association.

ARTICLE XI MISCELLANEOUS PROVISIONS

11.1 Amendment.

This Declaration may be amended as follows:

- (a) For so long as there is a Class B Member, by both (i) the vote or written assent of seventy-five percent (75%) of Class A Members and (ii) Declarant;
- (b) After there ceases to be a Class B Member, by the vote or written assent of seventy-five percent (75%) of the members of the Association.
- (c) For so long as the Declarant holds Twenty-Five percent (25%) of the total voting power of the Association, all proposed amendments hereto which would materially change the rights of Interval Owners, shall be approved by the California Department of Real Estate.

Any amendment shall be binding upon every Interval Owner and every Interval whether the burdens thereon are increased or decreased. No amendment shall require the consent or approval of any Mortgagee. Any amendment authorized hereby shall be evidenced by an instrument in writing, signed and acknowledged by Declarant or by any two officers of the Association, which amendment shall be effective upon filing in the Office of the Recorder of El Dorado County.

11.2 Termination.

Subject to the provisions of Paragraph 7.2 and subparagraphs 11.2(a) and (b), this Declaration shall remain in effect for a period of thirty (30) years from the date of recordation hereof and thereafter shall remain in effect for successive periods of then (10) years each. This Declaration may be terminated:

- (a) By Declarant, if Declarant so elects, in the event that Declarant is unable to convey or shall determine, in its sole discretion, that it shall be unable to convey, as required by the California Department of Real Estate (hereinafter the "DRE") the DRE presale number of Intervals. In the event of such termination the Units shall be sold as prescribed under subparagraph 11.2(b).
- (b) At any time after thirty (30) years after the date of recordation of this Declaration, by the vote or written assent of seventy-five percent (75%) of the members of the Association electing to terminate the Declaration and authorizing the Association to sell the Property and the Adjacent Property, if annexed; in which event, this Declaration shall terminate upon the consummation of such sale and the recordation of an amendment stating that this Declaration is terminated pursuant to this subparagraph 11.2(b). Each Interval Owner, by accepting the conveyance of an Interval, whether or not it shall be so expressed in the Purchase and Sale Agreement, hereby constitutes and appoints the Association as his attorney-in-fact in his name, place and stead, and for his use and benefit, to execute, acknowledge and deliver on behalf of each Interval Owner any instrument or document which is required in order to effect a sale, conveyance or transfer of the Property pursuant to this subparagraph 11.2(b). Each Interval Owner does further give and grant unto the Association, as his attorney-in-fact, full power and authority to do and perform any act necessary and proper to be done in the exercise of the foregoing power including, without limitation, the power and authority to sell and convey, to petition for sale in lieu of partition if necessary to effect such conveyance, as fully as each Interval Owner might or could do. The power of attorney is coupled with an interest, irrevocable and binding on the successors and assigns of each Interval Owner (subject to the rights of each Interval Owner's Mortgagee) in the same proportion as the undivided interest of each Interval Owner bears to the aggregate of all undivided interests in the Property; provided, however, that there shall be deducted from the

amount due any Interval Owner, the amount, if any, of all sums due to the Association from such Interval Owner.

11.3 Notices.

Notices provided for in this Declaration shall be in writing and shall be deemed sufficiently given when delivered personally at the appropriate address set forth below (in which event such notice shall be deemed effective only upon such delivery) or forty-eight (48) hours after deposit of same in any United States post office box in the state to which the notice is addressed or seventy-two (72) hours after deposit of same in any such post office box other than in the state to which the notice is addressed, postage prepaid, addressed as set forth below. Any notice to an Interval Owner required under this Declaration shall be addressed to the Interval Owner at the last address for such Interval Owner appearing in the records of the Association or, if there be none, at the address of the Property. Notices to the Association shall be addressed to the address designated by the Association by the Association by written notice to all Interval Owners. Notices to the Managing Agent shall be addressed to the address designated by the Managing Agent by written notice to all Interval Owners. Notices to Declarant shall be addressed c/o Robert W. Fairburn, General Partner, at 4450 N. Central Avenue, Phoenix, Arizona 85012. The addresses and addressees for purposes of this Paragraph 11.3 may be changed by giving written change in the manner herein provided for giving notice. Unless and until such written notice is received, the last address and addressee as stated by written notice or as provided herein, if no written notice of change has been sent or received, shall be deemed to continue in effect for all purposes hereunder.

11.4 Notification of Sale of Interval.

No later than thirty (30) days prior to the sale or transfer of any Interval under circumstances whereby the transferee becomes the Interval Owner thereof, the transferor shall notify the Association in writing and in whatever form, if any, required by the Association of such pending sale or transfer. Such notice shall set forth the name and address of the transferee and transferor, and the date on which such sale or transfer is to be consummated. Unless and until such notice is given, the Association shall not be required to recognize the transferee for any purpose, and any action taken by the transferor as an Interval Owner may be recognized by the Association. Prior to receipt of any such notification by the Association or the Managing Agent, any and all communications required or permitted to be given by the Association shall be deemed duly given and made to the transferee if duly and timely made and given to such transferee's transferor.

11.5 Severability and the Rule Against Perpetuities.

If any provision of this Declaration, or any section, sentence, clause, phrase or word or the application thereof in any circumstances, shall be held invalid, the validity of the remainder of this Declaration and of the application of such provision, sentence, clause, phrase or word under any other circumstances shall not be affected thereby. If any provision of this Declaration would violate the

Rule Against Perpetuities or any other limitation on the duration of the provisions contained herein imposed by law, then such provision shall be deemed to remain in effect only for the maximum permissible period permitted by law or until twenty-one (21) years after the death of the last survivor of the now living descendants or former President James E. Carter and of President Ronald Reagan, whichever is later.

11.6 Successors.

The provisions of this Declaration shall be binding upon all parties having or acquiring any Interval or any right, title or interest therein and shall be for the benefit of each Interval Owner and his heirs, successors and assigns. Each Interval Owner (including Declarant) shall be fully discharged and relieved of liability on the covenants herein insofar as such covenants relate to each Interval upon ceasing to own such Interval and paying all sums and performing all obligations hereunder insofar as the same relate to each Interval up to the time his ownership interest terminated.

11.7 Violation or nuisance.

Every act or omission whereby any provision of this Declaration, the By-Laws or the Rules and Regulations is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated whether or not the relief sought is for negative or affirmative action, by Declarant, the Association or any Interval Owner.

11.8 Interpretation.

The captions of the Articles, Paragraphs and subparagraphs hereof are for convenience only and shall not be considered to expand, modify or aid in the interpretation, construction or meaning of this Declaration. As used herein the singular shall include the plural and the masculine shall include the feminine and neuter.

11.9 No Waiver.

The failure to enforce any provision of this Declaration shall not constitute a waiver thereof or of the right to enforce such provision thereafter.

11.10 Valet Parking.

The Association shall maintain for the duration of the Time Interval Plan and for the benefit of the Association members and transient guests of the commercial facilities on the Property, a full-time valet parking system.

11.11 Shuttle Service.

The Association shall maintain for the duration of the Time Interval Plan and for the benefit of the Association members and transient guests of the commercial facilities on the Property, a shuttle service to the major commercial facilities within the City of South Lake Tahoe. This shuttle service shall be available on a prearranged regular schedule and on an on-demand basis from December

EXHIBIT "A"

LEGAL DESCRIPTION

All that certain real property situate in the City of South Lake Tahoe, County of El Dorado, State of California, more particularly described as follows:

Parcel 1:

Parcel B, as shown on the Official Map of Heavenly Valley Hotel and Townhouses, Unit No. 2, filed in the office of the County Recorder of said County, on November 24, 1970 in Map Book E, Map No. 77.

Parcel 2:

Those certain easements as described in deed dated July 24, 1979, recorded July 26, 1979 in Book 1785 Page 253 Official Records, set forth as follows:

The perpetual, exclusive, irrevocable and unlimited right, privilege and easement for pedestrian and vehicular ingress and egress and to construct, install, erect, maintain, repair, replace, expand and reconstruct any and all building, structures, paving, parking areas, roads, driveways and landscaping that Grantee, or its successors and assigns, may at any time and from time to time desire to construct, install, erect, maintain, repair replace, expand or reconstruct on, over, through, under or across that certain parcel of real property situate in the County of El Dorado, State of California, described as follows:

All that portion of Parcel A, as shown on the Official Map of Heavenly Valley Hotel and Townhouses Unit No. 1, filed in the office of the County Recorder of said County, on November 7, 1969 in Map Book E, Map No. 48 more particularly described as follows:

Commencing at the most Westerly terminus of the lands herein described, from which point the Southwest corner of said Lot A bears North 78° 04' 15" West 4.02 feet and South 43° 16' 05" West 180.31 feet; thence from said point of beginning North 68° 25' 50" East 51.66 feet; thence South 14° 05' 25" East 8.66 feet; thence South 78° 04' 15" West 51.26 feet to the point of beginning.

Parcel 3:

Those certain easements as described in deed dated January 26, 1981, recorded January 29, 1981 in Book 1949 Page 181 Official Records, set forth as follows:

The perpetual, exclusive, irrevocable and unlimited right, privilege and easement for pedestrian and vehicular ingress and egress and to construct, install, erect, maintain, repair, replace, expand and reconstruct any and all building, structures, paving, parking areas, roads, driveways and landscaping that Grantee, or its successors and assigns, may at time and from time to time desire to construct, install, erect, maintain, repair replace, expand or reconstruct on, over, through, under or across that certain parcel of

real property situate in the County of El Dorado, State of California, described as follows:

All that portion of Parcel E of Heavenly Valley Hotel Townhouses, Unit No. 2, filed in the office of the County Recorder, of El Dorado County, on November 24, 1970, in Map Book E, Map No. 77, described as follows:

Beginning at the most Southerly corner of Parcel C, as said parcel is delineated on the map of said Heavenly Valley Hotel and Townhouses, Unit No. 2, which is the point of intersection of the Easterly line of Keller Road and the Northerly line of Saddle Road; thence along the Northerly line of Saddle Road, Northerly $59^{\circ} 22' 00''$ East 259.79 feet; thence continuing along said Northerly property line of Saddle Road along a curve to the left concave to the North with a central angle of $08^{\circ} 34' 40''$ and a radius of 401.73 feet with an arc length of 60.14 feet to the most Easterly point of subsequently recorded Parcel B; thence leaving said Northerly property line of Saddle Road along the Easterly boundary of said Parcel B North $23^{\circ} 41' 00''$ West 52.71 feet to the TRUE POINT OF BEGINNING; thence leaving said Easterly boundary North $14^{\circ} 30' 47''$ West 72.15 feet; thence South $75^{\circ} 55' 33''$ West 12.07 feet to the aforesaid Easterly boundary of Parcel B; thence along said Easterly boundary along a non-tangent curve to the right with a tangent bearing of South $37^{\circ} 00' 28''$ East and concave to the West with a central angle of $13^{\circ} 19' 28''$ and a radius of 15.00 feet with an arc length of 3.49 feet, thence continuing along said Easterly boundary South $25^{\circ} 41' 00''$ East 69.79 feet to the TRUE POINT OF BEGINNING.

SAVING AND EXCEPTING there from any portion of Lots 26, 27 and 42 of said Heavenly Valley Hotel and Townhouses Unit No. 2, filed for record on November 24, 1970 in the County Recorders Office of El Dorado County, in Map Book E, at page 77, that may lie within the exterior boundaries of said easement.

Together with the right, privilege and easement at any time and from time to time to change or alter the grade or slope thereof so long as the remaining real property of Grantor adjacent thereto is not thereby materially changed.

Parcel 4:

Those certain easements as described in deed dated June 3, 1982 recorded June 3, 1982 in Book 2079, Page 333 Official Records, set forth as follows:

The perpetual, exclusive, irrevocable and unlimited right, privilege and easement for pedestrian and vehicular ingress and egress and to construct, install, erect, maintain, repair, replace, expand and reconstruct any and all building, structures, paving, parking areas, roads, driveways and landscaping that Grantee, or its successors and assigns, may at any time and from time to time desire to construct, install, erect, maintain, repair, replace, expand or reconstruct on, over, through, under or across that certain parcel of real property situate in the County of El Dorado, State of California, described as follows:

All that portion of Parcel A, as shown on the Official Map of Heavenly Valley Hotel and Townhouses Unit No. 1, filed in the office of the County Recorder of said County, on November 7, 1969 in Map Book E, Map No. 48 and all that portion of Parcel E of Heavenly Valley Hotel and Townhouses, Unit No. 2, filed in the office of the county Recorder, of El Dorado County, on November 24, 1970, in Map Book E, Map No. 77, described as follows:

Commencing at the most Southerly corner of Lot 12, Block 1, of Lakeview Tahoe Unit No. 1, filed in the office of the County Recorder, El Dorado County, on June 12, 1957, in Map Book B, Map No. 72, which is the point of intersection of property lines on the corner of Keller and Saddle Roads, thence along the Easterly property line of Keller Road North 29° 56' 00" West 142.75 feet to the most Westerly point of subsequently recorded Parcel B; thence along the Northerly boundary of said Parcel B North 43° 16' 05" East 180.31 feet and South 76° 04' 15" East 55.28 feet to the TRUE POINT OF BEGINNING; thence North 14° 05' 00" West 8.66 feet; thence North 78° 04' 15" East 127.73 feet; thence South 14° 30' 47" East 16.91 feet; thence South 75° 55' 33" West 12.07 feet to a point on the curve of the Northeasterly boundary of said Parcel B, the radius point of which bears South 53° 11' 20" West 15.00 feet distant; thence Northwesterly along said curve to the left an arc length of 17.05 feet, a central angle of 65° 07' 05" thence South 78° 04' 15" West 102.52 feet to the TRUE POINT OF BEGINNING.

SAVING AND EXCEPTING there from any portion of Lots 26 and 27 of said Heavenly Valley Hotel and Townhouses Unit No. 2, filed for record on November 24, 1970 in the County Recorders Office of El Dorado County, in Map Book E, at page 77, that may lie within the exterior boundaries of said easement.

Together with the right, privilege and easement at any time and from time to time to change or alter the grade or slope thereof so long as the remaining real property of Grantor adjacent thereto is not thereby materially changed.

Parcel 5:

Those certain easements as described in deed dated June 3, 1982 recorded June 3, 1982 in Book 2079, Page 333 Official Record, set forth as follows:

The perpetual, exclusive, irrevocable and unlimited right, privilege and easement for pedestrian and vehicular ingress and egress and to construct, install, erect, maintain, repair, replace, expand and reconstruct any and all building, structures, paving, parking areas, roads, driveways and landscaping that Grantee, or its successors and assigns, may at any time and from time to time desire to construct, install, erect, maintain, repair replace, expand or reconstruct on, over, through, under or across that certain parcel of real property situate in the County of El Dorado, State of California, described as follows:

All that portion of Lot A of Heavenly Valley Hotel and Townhouses, Unit No. 1, filed in the office of the County Recorder of El Dorado County on November 7, 1969, in Map

Book E, Map No. 48, and all that portion of Parcels B and E of Heavenly Valley Hotel and Townhouses, Unit No. 2, filed in the Office of the County Recorder of El Dorado County on November 24, 1970, in Map Book E, Map No. 77 lying 20 feet Northerly of, Easterly of, adjacent to and parallel with the following described line:

Commencing at the most Southerly corner of Lot 12, Block 1, Lakeview Tahoe Unit No. 1, filed in the Office of the County Recorder of El Dorado County on June 12, 1957, in Map Book B, Map No. 72, which is the point of intersection of property lines on the corner of Keller and Saddle Roads; thence along the Easterly property line of Keller Road North $29^{\circ} 56' 00''$ West 137.97 feet to a point on the Westerly line of Parcel B and the Southwesterly corner of this 20 foot wide easement; thence along the Southerly edge of this 20 foot wide easement the following courses; North $42^{\circ} 09' 29''$ East, 161.88 feet; thence along a non-tangent curve to the right with a chord bearing of North $52^{\circ} 13' 00''$, East 33.66 feet, a radius of 96.59 feet, a central angle of $20^{\circ} 04' 00''$ an curve length of 33.83 feet; thence along a compound curve to the right with a chord bearing of North $68^{\circ} 57' 07''$ East, 38.06 feet, a radius of 162.53 feet, a central angle of $13^{\circ} 26' 48''$, and a curve length of 38.14 feet; thence North $79^{\circ} 23' 48''$ East 111.70 feet; thence along a tangent curve to the right with a radius of 15.00 feet, a central angle of $86^{\circ} 50' 42''$ and a curve length of 22.74 feet; thence South $14^{\circ} 19' 29''$ East 84.74 feet; thence South $05^{\circ} 31' 33''$ East, 48.61 feet to the Southerly line of Parcel B and the termination of this 20 foot wide easement.

SAVING AND EXCEPTING there from any portion of Lots 26, 27 and 42 of said Heavenly Valley Hotel and Townhouses Unit No. 2, filed for record on November 24, 1970 in the County Records Office of El Dorado County, in Map Book E, at page 77, that may lie within the exterior boundaries of said easement.

Together with the right, privilege and easement at any time and from time to time to change or alter the grade or slope thereof so long as the remaining real property of Grantor adjacent thereto is not thereby materially changed.

VACATION RESORTS INTERNATIONAL

VACATION OWNERSHIP MANAGEMENT AGREEMENT

THIS AGREEMENT, made this First day of March, 1990, by and between Tahoe Seasons Resort Time Interval Owners Association, a California nonprofit mutual benefit corporation (the "Association") and Vacation Resorts International, a California corporation (the "Manager") relates to the following facts and circumstances and is as follows:

Recitals

- A. The Tahoe Seasons Resort vacation ownership project (the "Project") was created by the recordation in the official records of El Dorado County, State of California, of that certain Declaration of Condominium establishing The Tahoe Seasons Resort, a vacation ownership real estate project, initially recorded on December 7, 1983, Book 2232, Page 431 (the "Declaration").
- B. Pursuant to the provisions of the Declaration, the Association is responsible for the maintenance, control, operation, and management of the Project, and for cleaning, maintenance, furniture repair and replacement, maid service, and general care of the residential units and associated common areas. The Association is authorized to retain a professional management organization and to delegate to such organization certain of the Association's powers and responsibilities.
- C. Manager is a professional property management entity, fully qualified to provide total management services to vacation ownership projects such as this Project.
- D. Since 1986 Manager has provided management and operation services to the Project pursuant to written contract with Tahoe Seasons Resort Hotel, inc. ("TSRH"). Effective January 1, 1990, by virtue of that certain Hotel Operations Agreement by and between Association and TSRH, Association is responsible for all operations of the Project other than commercial areas. As of the effective date hereof, this Agreement supersedes the contract by an between TSRH and Manager as to all non-commercial aspects of the Project.
- E. The Board of Directors (the "Board") of the Association desires to engage Manager to manage and operate the Project under the supervision and at the direction of the Board of Directors as contemplated by the Declaration,

and Manager desires to accept such engagement, all on the terms and conditions set forth below.

Terms and Conditions

1. Engagement of Manager.

Association hereby engages Manager as the exclusive managing and servicing agent of the Project contemplated by the Declaration, and Manager hereby accepts said appointment and undertakes to perform all of the services and responsibilities set forth herein in such capacity and to comply with all of the provisions of this agreement.

2. Term.

The term and termination provisions of this management agreement are set forth in Addendum A entitled "Term and Termination" attached hereto and incorporated herein by this reference.

3. Duties and Obligations of Manager.

3.1 General

- (a) Counseling and Advice. It shall be the duty of Manager during the period of this agreement to provide counseling and advice to the Association and its Board of Directors, and its committees, and to provide all the services contemplated herein in accordance with generally accepted industry standards in the area of vacation ownership management.
- (b) Implementation of Board decisions. Manager shall undertake reasonable efforts to implement the decisions of the Board of Directors, subject to the limitations contained in the management agreement.
- (c) Industry Standards. It shall be the duty of Manager, during the term of this agreement, to operate and maintain the property according to prevailing vacation management industry standards consistent with the overall plan of the Association and in accordance with the instructions of the Board of Directors.
- (d) Confer with Board of Directors. Manager agrees to confer fully and freely with the Board of Directors in the performance of its duties as herein set forth and to follow the directions of the Board of Directors given from time-to-time.

- (e) Change. The authority and duties of the Manager as defined herein may be subject to change as the Board of Directors may reasonable direct.
- (f) Delegation. Subject to the provisions of Paragraph 3.6 below, Manager may delegate its authority and responsibilities to one or more sub-agents for such periods and upon such terms as Manager deems proper.

3.2 Administrative Services. Not in limitation of the provisions of Paragraph 3.1, Manager shall at the sole expense of the Association (other than the salaries of its personnel and the personnel of its subagents required to perform its duties hereunder) provide the following services of an administrative nature:

- (a) Association Meetings. Manager shall assist the Board of Directors to organize the meetings of the Board and of the Association, which assistance shall include the preparation and deliver of notices of meetings, in accordance with the provisions of the bylaws. Manager shall coordinate the preparation and approval of agendas for all meetings and assist in the conduct of the meetings and oversee the election of directors, as the Board of Directors may from time-to-time direct. Within sixty (60) days following any formal meeting of either the Board of Directors or the Association, Manager shall circulate minutes to all members as prepared by the secretary of the Association.
- (b) Association Records. Manager shall keep all records of the affairs of the Association, including, but not limited to, minutes of meetings, correspondence, modification of bylaws and rules and regulations.
- (c) Modification of Project Documents. Manager shall, from time-to-time as necessary or desirable, recommend to the Board of Directors that it amend, modify or supplement one or more of the basic project documents.
- (d) Roster of Owners. Manager shall annually compile a complete and accurate list of owners (the "Roster") setting forth the name and mailing address of each owner. Manager shall, upon written request from an owner, furnish a copy of the Roster to owner, provided that the Manager may charge a reasonable fee to such owner for the cost of preparation of the Roster and that such owner agrees in writing not to make commercial use of the Roster or to provide, in whole or part, the Roster, or copy thereof, to any third party.

- (e) Exchange Services. The Manager shall have no authority with respect to the administration of any third-party exchange program (the "Exchange Program") that may from time –to-time be available at the Project other than to communicate with the representatives of the Exchange Program regarding the reservations processed by such Exchange Program at the Project. Notwithstanding the foregoing, Manager has developed suitable software and procedures pursuant to which Manager may be able to offer members of the Association an opportunity to exchange their regular use weeks for the regular use weeks of vacation owners at other vacation ownership resorts managed by Manager (the "VRI*ety Program"). Nothing contained herein shall prohibit or limit Manager's ability or right to offer VRI*ety Program to Association members, except that any contract between Manager and the Association regarding the VRI*ety Program and the form of any contract proposed to be entered into between Manager and any individual members of the Association must be approved by the Board of Directors prior to its use. (NOTE: The VRI*ety Program is owned and administered exclusively by Vacation Resorts International, 23212 Mill Creek Drive, Laguna Hills, CA 92653.)

- (f) Communications. Manager shall initiate and develop effective communication with the Board of Directors and all owners by use of regular written, telephonic and personal contact. Manager shall have the right to obtain reimbursement from the Association for the actual long-distance telephone charges incurred in the conduct of business in the Association's behalf. At the direction of the Board of Directors, Manager shall also assist in the formation of special committees or owner councils for the purpose of encouraging general membership input and participation.

- (g) Legal Assistance. Although Manager is not obligated to provide legal advice or services to the Association as part of this agreement, Manager does have a licensed California attorney on staff and will be available to assist Association legal counsel's efforts by identifying issues, conducting limited research, and gathering information.

3.3 Fiscal Services. Not in limitation of the provisions of Paragraph 3.1 above, Manager shall at the sole expense of the Association, subject to the supervision to the Association through its Board of Directors, provide the following services of a fiscal nature:

- (a) Budgets. Manager shall prepare and submit to the Board of Directors for approval, not less than ninety (90) days prior to the

end of succeeding Association fiscal years, a budget meeting the requirements of the Declaration. Each budget approved by the Board of Directors is called the "Budget". Manager shall on behalf of the Association and at the Association's expense, cause a copy of the budget to be distributed to all Association members not more than sixty (60) days nor less than forty-five (45) days before the beginning of each Association fiscal year.

- (b) Special Assessments. Manager shall, promptly upon making a determination that a special assessment is required, submit a recommendation to the Board that a special assessment be levied. Manager shall implement an expense control system designed to reduce unnecessary expenditures and to improve operation efficiencies so as to minimize the need for a special assessment.
- (c) Collection of Assessment. Manager shall on behalf of the Association and at Association's expense, cause the assessments to be billed, collected and enforce payment of assessments by all Association members as follows:
 - (i) Manager shall cause to be prepared and mailed to all Association members periodic statements setting forth the amount of all assessments then due from each Association member; and
 - (ii) Manager shall cause to be prepared and mailed to any delinquent Association member a notice of delinquency and shall use every effort to collect delinquent assessments as provided in the Declaration, including the sending of letters, the making of telephone calls, and effecting personal contact when possible. In the event such efforts fail, however, Manager shall refer the delinquent account to the Board of Directors for disposition. The cost of mailing and telephone expense pursuant to this paragraph shall be borne by the Association. Therefore, Association shall make available to Manager such sums as are allocated for this purpose in the association annual operating budget.
- (d) Bank Accounts. Manager shall establish the bank accounts provided for in the Declaration and shall deposit or invest funds collected from Association members and all other mounts collected by Manager in connection with the performance of its duties hereunder in the accounts designated for such purpose as set forth in the Declaration. The Manager shall keep accurate books and records reflecting the amount of such accounts attributable to each Association member.

- (e) Disbursement. Manager shall disburse from the aforesaid bank accounts of the Association any and all amounts required for the payment of all Association expenses incurred consistent with the applicable Budget and as otherwise permitted by the Declaration.
- (f) Financial Statements and Audit. Manager shall cause an audit to be conducted as provided for in the Declaration. Manager shall cause the financial statements provided for in the Declaration to be prepared and copies thereof distributed to each Association member in the manner and at the time provided for in the Declaration. The costs incurred with the outside accounting firm, including distribution, employed by the Association in connection with said audit and preparation of financial statements shall be borne by the Associations.
- (g) Books and Records. Manager shall keep and maintain or cause to be kept and maintained full and adequate books and records reflecting the results of the operation of the Project in accordance with generally-accepted accounting principles. The books and accounts and other records relating to the operation of the Project shall be available to the Association and its representatives at all reasonable times for examination, inspection and transcription or, at the Association's expense, distribution to all Association members as may be directed by the Board.
- (h) Reporting. Manager shall provide the following information to the Board of Directors at the frequency indicated:
 - 1. Quarterly.
 - a. current reconciliation of the Association operating accounts.
 - b. current reconciliation of the Association reserve accounts.
 - c. latest account statement prepared by the financial institutions where the Association has its operating and reserve accounts.
 - 2. Monthly. (no later than 25th day)
 - a. current year's actual reserve revenues and expenses.
 - b. income and expense statement for the Association's operating and reserve accounts (comparative income statement).
 - c. balance sheet.

- d. utilization report reflecting property usage by guest source.

In addition to the foregoing, the Manager shall provide to the Association's Chief Financial Officer on a monthly basis the following:

1. Budget
2. Reserve Analysis Worksheet

All reports provided by Manager pursuant to this paragraph shall be organized pursuant to normally accepted accounting principles. Manager shall provide to the Board of Directors such training and direction as may be appropriate to assist the Board of Directors in interpreting and understanding the financial reports.

3.4 Physical Services. Not in limitation of the provisions of Paragraph 3.1 above, Manager shall, at the sole expense of the Association, provide the following services of a physical nature:

- (a) Inspections. Manager shall make regular inspections of the residential units within the Project and render reports and make recommendations concerning such units and the Project to the Board of Directors. In addition, but not by way of limitation, after each Association member or permitted user, exchange user, user pursuant to the Vacation Tyme Program, or renter has checked out of a residential unit within the Project, the written inventory of the common furnishings completed by such Association member or permitted user, exchange user, Vacation Tyme Program user, or renter who has just vacated the residential unit (or, if such occupant failed to complete a written inventory, the master written inventory for each such residential unit) shall be compared with an inventory actually made by the Manager or the Manager's agent subsequent to such occupant's departure and both such inventories shall be retained for a period of at least one year. In addition, a general check shall be made of the physical condition of the residential unit and any damage thereto (other than normal wear and tear) shall be noted. In the event any item is missing or damage to the residential unit has been done, Manager shall, at the expense of the Association, replace the missing item(s) and/or cause the damage to be repaired and shall bill the Association member for the missing item(s) and/or the damage, as a personal charge, according to the terms of the Declaration.
- (b) Insurance. Manager shall procure and keep in force all required insurance and bonds. Manager shall administer all insurance and

claims under such insurance policies or bonds and shall make regular and timely reports to the Board of Directors in connection therewith.

- (c) Repairs and Maintenance of Residential Units and Related Common furnishings. Manager shall cause the residential units and the common furnishings within the project to be repaired, maintained, repainted, furnished and refurbished in accordance with the Declaration, in the manner consistent with the reserves established for such purpose, and as the Board may from time-to-time direct.
- (d) Check-in and Check-out. Manager shall cause on site personnel to be available at all required times in order to check-in and check-out Association members and/or their permitted users, exchange users, Vacation Tyme Program users, and renters.
- (e) Maid Service. Manager shall cause maid service to be provided to the residential units within the Project in the manner provided for in the Declaration, rules and regulations and the current year's budget.
- (f) Major Clean-up. Manager shall cause each residential unit within the Project to be thoroughly cleaned, serviced and maintained during all service periods.
- (g) Reservations. Manager shall establish and operate a reservation system implementing the reservation procedures set forth in the Association rules and regulations. The reservation system shall include the books and records required to reflect reservations made, occupancy periods actually used by Association members, and such other information as shall be necessary to coordinate efficiently the Project operation.
- (h) Right to Entry. During service periods and at any other reasonable time, upon giving reasonable notice, if a residential unit is occupied, to enter a residential unit for the purpose of cleaning, maid service, painting, maintenance and repair, and to enter upon and within any such residential unit, at any reasonable time, whether or not during a service period and whether or not in the presence of an Association member, for the purpose of (i) making emergency repairs therein, (ii) abating any nuisance or any dangerous, unauthorized, prohibited or unlawful activity being conducted or maintained in such residential unit, (iii) protecting property rights and welfare of other Association members, or (iv) for any other purpose reasonably related to the performance by the

Association of its responsibilities under the terms of the Declaration. Such right of entry shall be exercised in such a manner as to avoid unreasonable or unnecessary interference with the possession, use and/or enjoyment of the Association member, his permitted user or other occupant of such residential unit and shall be preceded by reasonable notice to the Association member or other occupant thereof whenever the circumstances permit.

- (i) Utilization Report. Manager shall provide not less than monthly to the Board of Directors a written report which sets forth in detail the usage of the residential units within the Project (the "Utilization Report"). The Utilization Report shall contain a summary of total occupancies and/or vacancies within the reporting period by residential unit type, the source of the guest, and such other information as either the Board of Directors may request or that Manager deems appropriate.

3.5 Insurance. Manager shall furnish satisfactory evidence of the following insurance coverages, written by such carrier or carriers as shall be acceptable to the Association:

- (a) Workers Compensation. A policy of insurance, at Association expense, showing the Association as the named insured, evidencing that the Association is insured under the Workers Compensation Laws of the state of California, in accordance with the provisions of the applicable statutes.
- (b) Fidelity. A bond or policy of insurance, at the Association's expense, provided such bond or insurance is generally available at a reasonable rate, evidencing liability of the carrier to pay to the Association in the event monies, securities or other properties are stolen, converted, or misappropriated by Manager or any of its directors, officers or employees, in an amount equal to the estimated amount of funds of the Association over which Manager may exert control at any time.
- (c) Personal Injury and Property Damage. A policy or policies of insurance evidencing that Manager is adequately insured against loss or damage resulting from injury or death to any person or persons and against loss or damage resulting from damage to property.

If possible, all such policies or bonds shall name Manager and the Association as co-insured and shall provide that such policies are cancelable only upon the

giving to both Manager and the Association not less than thirty (30) days prior to written notice of intent to cancel.

3.6 Limitation on Powers of Manager. Notwithstanding the powers of the Manager as set forth in Paragraph 3.1 through 3.5 above, Manager shall not:

- (a) Enter into a contract with a third person or entity whereby such person or entity will furnish goods or services to the Project for a term longer than one (1) year or enter into a contract that contains a termination notice requirement of longer than thirty (30) days, unless authorized by the Board of Directors.
- (b) Enter into any contract in the name of the Association for goods or services not contemplated by the Budget or for amounts in excess of those specified in the budget, unless the Board of Directors shall consent thereto in writing.
- (c) Remove the on-site general Manager at the Project without first providing notice to the Board of Directors clearly stating the reasons for such removal and outlining the transition plan.

3.7 Limited Liability. Manager shall not be responsible for the acts, omissions to act or conduct of any of the Association members, their permitted users, exchange users, Vacation Tyme Program users, renters, or for the breach of any of the obligations of any of the Association members, their permitted users, exchange users, Vacation Tyme Program users (as defined elsewhere herein), or renters.

3.8 Indemnification. Each party hereto agrees to indemnify and hold the other harmless against, and in respect of, any and all claims, losses, expenses, costs, obligations, and liabilities, and attorneys' fees and costs of defense, the other may incur by reason of its breach of or failure to perform any of its obligations under the terms of this agreement and from any claims, losses, expenses, costs, obligations, and liabilities, including attorneys' fees and costs of defense, arising from claims against the other by any member of the Association, or any other party, arising from its performance under the terms of this agreement.

4. Compensation of Manager.

4.1 Monthly Compensation. For the full and faithful performance of the duties provided for herein during the term hereof, Manager shall be entitled to receive the compensation (the "Compensation") set forth in Addendum B, attached hereto and incorporated herein.

- 4.2 Advances and Reimbursements. Manager shall not be required to perform any act or duty hereunder involving an expenditure of money unless there shall be sufficient funds therefore in the bank accounts of the Association; if at any time the funds in the bank accounts of the Association are not sufficient to pay the charges incident to this agreement, Manager, although not obligated to do so, may advance such sums as it deems necessary, and in such event, Manager shall be entitled to reimburse itself from Association funds for the amount of such advances, together with interest at the maximum rate permitted by law commencing from and after twenty (20) days from the date of such advance by Manager.
- 4.3 Payment of Compensation. Manager is hereby authorized to pay itself the Compensation out of the general operating account of the Association.
- 4.4 Discounts. All discounts, rebates or commissions or like items shall inure to the benefit of the Association.
- 4.5 Employees. Each and every person performing on-site services at the Project in connection with the agreement (the "Management Employee") shall be the employee of the Association, and not of Manager. The salary and other related expenses (including, without limitation, payroll taxes and the cost of employee benefits) or other compensation for any Management Employee allocable to the Association shall be an Association expense but may be paid by Manager on behalf of the Association. Manager shall be entitled to monthly reimbursement from available funds of the Association for all such expenditures, which reimbursement shall be in addition to and separate from the amount paid to Manager pursuant to Paragraph 4.1 above.
- 4.6 Status. Subject to the above provisions for the Management Employee, Manager shall act hereunder as an independent contractor and shall not be, or be deemed for any purpose (with the exception of fidelity bonding) to be, an employee of the Association. Manager shall select its own employees, agents and servants, and such employees, agents or servants shall be and act under the exclusive supervision and control of Manager. Manger hereby acknowledges its responsibility for the full payment of the wages, other compensation and related expenses (including, without limitation, payroll taxes and employee benefits) for all employees, agents, or servants engaged by it in the performance of this agreement.
- 4.7 Single Contracts. Manager and the Association agree that Manger may enter into single contracts for operation and maintenance services covering the Project provided that (a) the amount payable by the Association pursuant thereto shall exceed the amount for such items set

forth in the Budget for such Association fiscal year, and (b) that such contracts provide that the persons or entities with whom such contracts are made shall have no claim against the Association for any amount whatsoever in excess of the amount for such service as is set forth in the Budget for such Association fiscal year, and are subject to the limitations set forth in Paragraph 3.6 above.

5. Notices.

Any notice, request, demand, instruction or other document to be given hereunder to any party shall be in writing and shall either be personally delivered to the person at the appropriate address set forth below (in which event such notice shall be deemed to be effective only upon such delivery) or delivered by mail, sent by registered or certified mail, return receipt requested, as follows:

If to the Association:	Edwin Van Eckhardt Chief Financial Officer Tahoe Seasons Association 916 Pomona Avenue Albany, CA 94706
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If to the Manager	Juanita Presley Chief Financial Officer Vacation Resorts International 23212 Mill Creek Drive
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Copy to Association Legal Counsel:	Ken Rollston, Esq. P.O. Box 14525 South Lake Tahoe, CA 96151
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Notices so mailed shall be deemed to have been given forty-eight (48) hours after the deposit of same in any United States mail post office box in the state to which the notice is addressed or seventy-two (72) hours after deposit in any such post office box other than in the state to which the notice is addressed, postage prepaid, addressed as set forth above. The addressees and addresses for the purpose of this paragraph may be changed by giving written notice of such change in the manner herein provided for giving notice. Unless and until such written notice is received, the last addressee and address stated by written notice, or as provided herein if no written notice of change has been sent or received, shall be deemed to continue in effect for all purposes hereunder.

6. Waiver.

The waiver or failure to enforce any provision of this agreement shall not operate as a waiver or failure to enforce any future breach of such provision or of any other provisions hereof.

7. **Merger.**

All understandings and agreements heretofore had between the parties respecting the employment contemplated by this agreement are merged by this agreement which fully and completely expresses the agreement of the parties. There are no agreements except as specifically set forth in this agreement or to be set forth in the instruments or other documents delivered or to be delivered hereunder.

8. **Amendments.**

No change in or addition to, or waiver or termination of this agreement or any part thereof shall be valid unless in writing and signed by or on behalf of each of the parties hereto.

9. **Paragraph Headings.**

The paragraph headings herein contained are for the purposes of identification only and shall not be considered in construing this agreement.

10. **Successors and Assigns.**

All of the terms and provisions of this agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and each of their respective successors and assigns. In no event shall the obligations or duties of Manager be assigned without the prior written consent of the Board of Directors.

11. **Attorneys Fees.**

In the event that a controversy, claim or dispute between the parties hereto arising out of or relating to this agreement or the breach thereof results in arbitration or litigation, the prevailing party in such proceedings shall be entitled to recover from the losing party reasonable expenses, attorneys fees and costs.

12. **Severability.**

Every provision of this agreement is intended to be several. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality shall not affect the validity of the remainder of the within agreement.

13. **Choice of Law.**

This agreement is made pursuant to and shall be construed in accordance with and governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date and year first-above written.

The "Association"

Tahoe Seasons Resort Time Interval Owners
Association
A California nonprofit mutual benefit
Association
An Arizona nonprofit corporation

By:

Edwin Van Eckhardt
ITS: Chief Financial Officer

The "Manager"

Vacation Resorts International
A California corporation

By:

Juanita Presley
ITS: Chief Financial Officer

Vacation Resorts International

ADDENDUM A

"Term and Termination"

TAHOE SEASONS RESORT

1. Term. The term of this agreement shall be for an initial period of three (3) years (the "Initial Term"), commencing on March 1, 1990 and subject, to early termination as provided in Paragraph 2 below, shall expire at the end of the last day of February 1993.
2. Early Termination. This agreement may be terminated at any time as follows:
 - (a) Termination By the Board of Directors. This agreement may be terminated by the Board of Directors either:
 - (i) for cause, upon the vote or written assent of a majority of the Board of Directors; provided, that if the cause constitutes a breach of or a failure to perform any term, covenant, or condition contained in the agreement which is capable of being cured, such breach or failure to perform shall not have been cured, or commencement and diligent pursuance of all reasonable efforts to effect such cure shall not have been cured, or commencement and diligent pursuance of all reasonable efforts to effect such cure shall not have been undertaken, within thirty (30) days following notice of such default or breach from the Association. In the event Manager shall dispute a termination of the agreement pursuant to this subsection, the dispute shall be submitted to arbitration in accordance with the then current Commercial Arbitration Rules of the American arbitration Association at its nearest office to the Project. Judgment upon the award may be entered in any court having jurisdiction thereof.
 - (ii) without cause, upon thirty (30) days prior notice to Manager authorized by vote or written consent of a majority of non-developer owners.
 - (b) Termination by Manager. Except as expressly provided in this paragraph, Manager may terminate this agreement, at any time, upon ninety (90) days prior notice to the Association. In the event (i) the Association shall fail to keep, observe or perform any material covenant, agreement, term or provision of this agreement to be kept, observed, or performed by the Association and such default shall continue for a period of thirty (30) days after notice hereof by Manager, or (ii) the Project or any portion thereof shall be damaged or destroyed by fire or other casualty and the Association shall fail to undertake to repair, restore, rebuild or

replace any such damage or destruction within ninety (90) days after receipt of insurance proceeds therefore, if such loss was insured, or within ninety (90) days after such fire or casualty, if such loss was not insured, then and in either event his agreement, subject to the provisions of the following paragraph, shall terminate at Manager's option, upon five (5) days notice to the Association.

(c) Condemnation. If the whole of the Project shall be taken or condemned in any eminent domain, condemnation, compulsory acquisition or like proceeding by any competent authority for any public or quasi-public use or purpose, or if such a portion thereof shall be taken or condemned as to make it imprudent or unreasonable, in the reasonable opinion of the Board of Directors, to use the remaining portion as a vacation resort project of the type and class immediately preceding such taking or condemnation, then in either of such events, the term of this agreement shall cease and terminate as of the date of such condemnation. To the extent (and only to the extent) any award for such taking or condemnation includes compensation to Manager for any loss of its income resulting from such taking or condemnation, such award shall be fairly and equitably apportioned between the association and Manger as to compensate Manager for any such loss of income. Manger shall continue to supervise and direct the management and operation of the Project until such time as Manager shall be required to surrender possession of the Project as a consequence of such taking or condemnation.

(d) Extended Term. Manager may extend the term of this agreement, at its election, for additional and successive one (1) year terms upon the same terms and conditions as those set forth for the Initial Term of this Agreement. The Initial Term and any extension thereof shall be automatically extended unless Manager delivers, to the Board of Directors, written notice of its election not to extend not less than sixty (60) days prior to the expiration of the Initial or extended term, as applicable. If no such notice of nonrenewal is delivered, this agreement shall be automatically extended for additional one (1) year periods unless (a) Manager is in default under any of the terms of this agreement or (b) not less than thirty (30) days prior to the expiration of the then current term, the Association, with the prior approval of a majority of the non-developer owners, determines not to extend the term and gives notice of that determination to Manager

Association _____

INITIALS:

Manager _____

END<<<<<

**ARTICLES OF INCORPORATION
OF
THE TAHOE SEASONS RESORT**

TIME INTERVAL OWNERS ASSOCIATION

- FIRST: The name of this corporation is THE TAHOE SEASONS RESORT TIME INTERVAL OWNERS ASSOCIATION.
- SECOND: This Corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this Corporation is to engage in any lawful act or activity for which a corporation may be organized under such law. The following purpose is included within the foregoing purpose: To further and promote the interest and welfare of the owners of timeshare intervals situated in the project located in the County of El Dorado, State of California, commonly known as The Tahoe Seasons Resort.
- THIRD: This Corporation shall have no capital stock and shares therein shall not be issued. This Corporation shall have two classes of members, the qualifications for each of which shall be those prescribed in this Corporations Bylaws. The interest of each member shall be evidenced by a certificate or other written documentation issued by this Corporation under terms to be fixed by its Bylaws. Failure to issue such certificate or other written documentation shall in no event affect the rights, privileges or liabilities of membership.
- FOURTH: This Corporation is one which does not contemplate pecuniary gain or profit to the members thereof, and is organized solely for nonprofit purposes. In no event shall the net earnings, income or assets of this Corporation be distributed to, or inure to the benefit of, any member, director, or officer of this Corporation or other private individual, either directly or indirectly, except upon winding up and dissolution. Upon the winding up and dissolution of this Corporation, after paying or adequately providing for the debts and obligations of this Corporation, the remaining assets may be distributed to the members of this Corporation as provided in the Corporations Bylaws.

FIFTH: The name and address in this state of this Corporation's initial agent for service of process is:

Robert W. Fairburn
3901 Saddle Road
South Lake Tahoe, California 95729

Date: 06/02/83

ROBERT W. FAIRBURN, Incorporator

I declare that I am the person who executed the above Articles of Incorporation and that this instrument is my act and deed.

ROBERT W. FAIRBURN