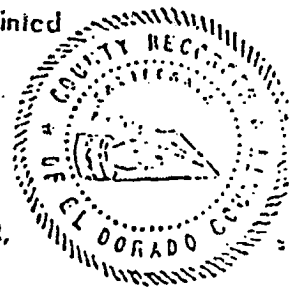


This is a true certified copy of the record if it bears the seal, imprinted in purple ink, of the Recorder.



JUL 7 1987

*Bandy Carr*, RECORDER,  
EL DORADO COUNTY, CALIFORNIA

**CERTIFIED COPY**

045055

*Declarator*

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Janice L. Thurston  
Bolling, Walter & Gawthrop  
A Professional Corporation  
P.O. Box 255200  
Sacramento, California 95865-5200

*27/100*  
COUNTY RECORDER *(24)*

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This Declaration amends and restates in its entirety that certain Declaration of Purposes, Powers and Duties for the Beachcomber Inn Resort at the Beachcomber Inn, recorded December 21, 1981, in Book 2041, page 470, Official Records, County of El Dorado, State of California.

AMENDED AND RESTATED

DECLARATION OF

PURPOSES, POWERS AND DUTIES

FOR

THE BEACHCOMBER INN RESORT .

CERTIFIED COPY

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AMENDED AND RESTATED DECLARATION  
OF PURPOSES, POWERS AND DUTIES  
FOR THE BEACHCOMBER INN RESORT

THIS AMENDED AND RESTATED DECLARATION made this 2nd day of August, 1986 by Beachcomber Inn, Marina & Ski Resort, a California limited partnership ("Developer"), and by Beachcomber Inn Vacation Membership Association, a nonprofit mutual benefit corporation, as trustee under Second Amended and Restated Agreement and Declaration of Trust (Beachcomber Vacation Trust) (hereinafter collectively referred to as "Declarant") is made with reference to the following recitals and is as follows:

R E C I T A L S

A. Declarant is the owner of certain improved real property, commonly known as The Beachcomber Inn, located in the City of South Lake Tahoe, County of El Dorado, State of California, comprised of twenty (20) separate units (the "Units") together with related Common Area, as more particularly described in Exhibit A attached hereto and made a part hereof (the "Property").

B. Developer is the declarant under that certain Declaration of Purposes, Powers and Duties for the Beachcomber Inn Resort, dated May 1, 1981. Pursuant to that Declaration, Developer caused to be created upon the Property formerly owned by Developer, a "time share project" [as defined in Business and Professions Code Section 11003.5(a)] consisting of "time share uses" [as defined in Business and Professions Code Section 11003.5(c)] known as "Vacation Memberships" (as hereinafter defined).

C. Declarant desires and intends to create a "time-share project" as that term is defined in Section 11003.5(a) of the California Business and Professions Code, and to sell and convey Time Share Estates (as hereinafter defined) in said real property to various persons subject to basic and protective restrictions, limitations, easements, reservations, liens, leases, and charges between it and the acquirers or users of said real property, as hereinafter set forth.

D. Developer is one of the general partners of Beachcomber Resort, a California general partnership ("Seller"). Seller has obtained from Declarant a license to offer for sale and sell "time share estates" (as the quoted term is defined in Business & Professions Code Section 11003.5(b)) and retain the proceeds therefrom.

E. Seller intends to offer for sale and sell Time Share Estates consisting of an undivided fee interest in the

Property and of the right to use and occupy a certain type of accommodation upon the Property and to the common areas during certain specified time periods, subject to all of the provisions contained in the "Membership Application and Agreement," the "Rules and Regulations" (as the quoted terms are hereinafter defined), and this Declaration.

F. Developer has caused to be incorporated a non-profit mutual benefit corporation comprised of all "Owners" (as the quoted term is hereinafter defined) held by it, known as the Beachcomber Inn Vacation Membership Association (the "Association"), with all rights and powers of a non-profit mutual benefit corporation under the laws of the State of California. Declarant intends that the management and operation of the Time Share Estate program shall be under the direction and control of the Association. Owners of Time Share Estates also will be members of the Association.

G. NOW, THEREFORE, in furtherance of such intent, Declarant hereby declares that the Association is and shall be vested with the sole and exclusive right of administration and operation of the Time Share Estate program pursuant to the declarations, limitations, covenants, conditions and restrictions set forth in this amended Declaration, as this Declaration may from time to time be further amended.

H. Declarant desires and intends by the execution and recording of this Declaration, to amend in its entirety and restate the Plan of Vacation Membership created by that certain Declaration of Purposes, Power and Duties for the Beachcomber Inn Resort at Beachcomber Inn, recorded December 24, 1981, in Book 2041, page 470, Official Records, in the Office of the County Recorder of El Dorado County, State of California.

I. NOW, THEREFORE, Declarant hereby declares that all of the property described above, is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following protective restrictions, limitations, conditions, covenants, reservations, liens and charges, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of Time Share Estates within the Property, and for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project and every part thereof. Each and all of the restrictions herein contained shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in the described property, or any part thereof. The provisions of this Declaration shall be enforceable by any of the Owners of an interest in the real property above described, against any other Owner or Owners thereof, and shall also be enforceable by the Association through its Board of Directors, which has been created for the purpose of governing this project.

## ARTICLE I

### DEFINITIONS

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

1.1 "Articles" means the Articles of Incorporation of the Association which have been or shall be filed in the office of the California Secretary of State, as the same shall be amended from time to time.

1.2 "Board" means the Board of Directors of the Association.

1.3 "Bylaws" means the Bylaws of the Association as the same may be amended from time to time.

1.4 "Association" means the Owner's association called the Beachcomber Inn Vacation Membership Association, a California non-profit mutual benefit corporation the members of which are Owners of Time Share Estates and Vacation Memberships and Developer, only as to Time Share Estates or Vacation Memberships owned by Developer. Each Owner shall be and become a Member of the Association contemporaneously with his or her acquisition of a Time Share Estate or Vacation Membership without further documentation of any kind. Transfer of a membership shall be only by conveyance of a Time Share Estate or Vacation Membership.

1.5 "Common Areas" means the entire Property excepting therefrom the twenty (20) Units.

1.6 "Common Furnishings" means all furniture, furnishings, appliances, fixtures and equipment and all other personal property from time to time subject to use by the Association and which are located in or upon the Property.

1.7 "Declarant" means Beachcomber Inn Vacation Membership Association, a California mutual benefit corporation, and Beachcomber Inn, Marina & Ski Resort, a California limited partnership, or any successor-in-interest by express assignment of the rights of Declarant hereunder by any instrument executed by Declarant and filed with the Secretary of the Association.

1.8 "Declaration" means this instrument, as this instrument may be amended from time to time in the manner herein provided.

1.9 "Dedicated Accommodations(s)" means each of the 20 Units designated as such by Declarant by recordation in the Office of the County Recorder of El Dorado County, California, of a Certificate of Dedication.

"Fiscal Year" means each one-year period commencing on January 1 of each calendar year, which one-year period shall be the fiscal year of the Association.

1.11 "Managing Agent" means the agent engaged by the Board pursuant to and in the manner provided in Paragraph 4.3 hereof.

1.12 "Member" means an Owner with a membership in the Association.

1.13 "Membership Application and Agreement" means the contract between Seller and the person(s) or entity(ies) named therein as "Member" or "Buyer" for the purchase and sale of a Vacation Membership or for the purchase and sale of a Time Share Estate. The contract for the purchase and sale of a Time Share Estate also may be referred to as a "Purchase and Sale Agreement" or "Purchase and Sale Agreement and Escrow Instructions."

1.14 "Owner" means the record Owner or Owners, if more than one, of a Time Share Estate in the Property, including Declarant, so long as any Time Share Estates remain unsold. The term Owner shall also include a Vacation Membership Owner as that term is hereinafter defined, for the unexpired term of such Vacation Membership.

1.15 "Original Deed" means each grant deed from Declarant first recorded after the date hereof which conveys each Time Share Estate.

1.16 "Permitted User" means any person occupying a Dedicated Accommodation by or under any Owner, including, but not limited to, members of such Owner's family, his or her guests, licensees, or invitees. "Permitted User" does not mean or include a person who occupies a Dedicated Accommodation and uses the Common Area at the Property pursuant to a service provided by an independent organization whereby Owners may exchange time periods in the Property with owners of time periods in other timesharing programs for such time periods in other locations.

1.17 "Property" means the Beachcomber Inn, comprised of twenty (20) units and all other improvements and amenities located upon the real property, more particularly described in Exhibit A hereto.

1.18 "Rules and Regulations" means the rules and regulations adopted and promulgated from time to time pursuant to subparagraph 4.2(c) of this Declaration relating to the possession, use and enjoyment of the Property.

1.19 "Seller" means Beachcomber Resort, a California general partnership, or any successor-in-interest by express assignment of the rights of Seller under the license referred to in Recital D by any instrument executed by Seller.

1.20 "Starting Date" means the date on which the first Membership Application and Agreement was accepted by Seller.

1.21 "Time Share Estate" means a 1/1020th undivided fractional fee interest in and to the Project, together with the right to use and occupy a Dedicated Accommodation within the Property, and the Common Furnishings therein, and the Common Areas during one Use Week as provided in this Declaration.

1.22 "Undivided Interest" means a 1/1020th undivided fractional fee interest in and to the Project. Said interest shall be inseparably coupled with a membership in the Association.

1.23 "Unit" means one (1) of the twenty (20) residential units within the Project.

1.24 "Use Week" means any of one of the numbered Use Weeks identified and described on Exhibit B, attached hereto and by this reference made a part hereof.

1.25 "Time Share Payment" means the installment payment required by note secured by the deed of trust for the Time Share Estate payable by Owner to Seller or its assignee.

1.26 "Vacation Membership" means the right of a Vacation Membership Owner to use and occupy a specific Dedicated Accommodation within the Property, the Common Areas, and the Common furnishings during a specific Use Week pursuant to the Membership Application and Agreement, for a term of thirty (30) years beginning on the date such Vacation Membership Owner executed a Membership Application and Agreement. The specific Dedicated Accommodation and Use Week was designated in the Membership Application and Agreement. As to Developer, Developer shall at any applicable time be deemed to be the owner of that number of Vacation Memberships equal to the number of Vacation Memberships sold under or subject to Membership Applications and Agreements which have been terminated by Seller for non-payment of amounts due thereunder.

1.27 "Vacation Membership Owner" means the Owner of an unrevoked Vacation Membership created by that certain Declaration of Purposes, Powers and Duties for the Beachcomber Inn Resort at Beachcomber Inn, recorded December 21, 1981, as Instrument No. 50233 in the Office of the County Recorder of El Dorado County, who after the recordation of this Amended Declaration will remain the owner of a Vacation Membership.

1.28 "Vacation Membership Payment" means the installment payment for the Vacation Membership called for under the Membership Application and Agreement payable to Seller or its assignee by the Vacation Membership Owner.

## ARTICLE II

### OWNERS' PROPERTY RIGHTS

2.1 Each Owner of each Time Share Estate shall be conveyed an undivided 1/1020th fractional fee interest in and to the Property, together with the exclusive right to occupy a specified Dedicated Accommodation within the Property during a specified Use Week, subject to all the provisions contained in the Membership Application and Agreement and the Rules and Regulations and this Declaration.

2.2 The Declarant, its successors and assigns, and all future Owners of the Time Share Estates by the acceptance of their respective deeds, covenant and agree that no Owner shall have the right, or seek to partition his or her Time Share Estate and there shall be no judicial partition of the Project, or any part thereof. If any Time Share Estate shall be owned by two (2) or more persons as tenants in common or as joint tenants, nothing herein contained shall prohibit a judicial sale of the Time Share Estate in lieu of partition as between such co-tenants or joint tenants.

## ARTICLE III

### THE ASSOCIATION

3.1 Association: The Beachcomber Inn Vacation Membership Association, a California nonprofit mutual benefit corporation, shall be the Association.

3.2 Membership. There shall be one membership in the Association for each Owner of a Vacation Membership and each Owner of a Time Share Estate.

3.3 Transfer of Membership. The membership of each Owner in the Association is appurtenant to and inseparable from his or her ownership of a Vacation Membership or Time Share Estate and shall be automatically transferred upon any authorized transfer or assignment of the ownership of his or her Vacation Membership or Time Share Estate interest to any transferee or assignee and, except as provided herein, the Association membership shall be nontransferable whether by gift, bequest, assignment or otherwise.

3.4 Voting Memberships. In accordance with the provisions of its Bylaws, the Association initially had two (2) classes of voting membership, as follows:

(i) Class A Membership. Class A Members shall be all Owners, and, subject to the provisions of the following sentences, shall be entitled to one (1) vote for each Time Share Estate, or Vacation Membership, owned. However, when more than one person or entity owns a Vacation Membership (or a

Time Share Estate), all such persons and entities shall be members, and the vote for such Vacation Membership (or Time Share Estate) shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Vacation Membership, (or any Time Share Estate.) The Owners of Vacation Memberships shall vote their interest for the duration of the terms of their respective Vacation Memberships. During the terms of such Vacation Membership, the voting rights of the Time Share Estates subject to Vacation Memberships, shall be exercised by Vacation Membership Owners and not by the Owner of the Time Share Estate.

(ii) Class B Membership. The Class B Member was the Developer, who was entitled to one (1) vote for each Time Share Estate deemed owned by it. Class B membership ceased and was converted automatically to Class A Membership when the total outstanding votes held by the Class B Member equaled less than 20% of the total voting power of the Association.

3.5 Voting. Except as otherwise provided herein, all votes required for action of the Association as set forth in this Declaration shall require: (A) the vote or written assent of a prescribed percentage of the total voting power of the Association and (B) the vote or written assent of the prescribed percentage of the total voting power of Members other than Developer.

3.6 Board of Directors. The Board initially consisted of the persons appointed by Declarant. At the time of the first annual meeting of the members, the members (including Declarant) elected, in accordance with the By-laws, a Board replacing the initial Board as defined in the preceding sentence. From and after, but including, the first election of the Board by the Members, not less than one (1) member of the Board was elected solely by the votes of Members of the Association other than Developer, pursuant to the special election procedures set forth in the Bylaws.

#### ARTICLE IV

##### MANAGEMENT-POWERS OF ASSOCIATION

4.1 Powers and Duties Generally. Administration of the Time Share Estate and Vacation Membership program, operation, maintenance, repair and restoration of the Property 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 Bylaws 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 and operation of the Property, the maintenance and repair of the Property, the acquisition (by purchase or lease), maintenance, repair and replacement of the Common Furnishings and the administration of the affairs of Owners, the use and occupancy of the Dedicated Accommodations 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 Property; to acquire (by lease or purchase), maintain, repair and replace Common Furnishings as needed; to administer the Time Share Estate and Vacation Membership program as provided herein; and to levy, collect and enforce the "Assessments" (as the quoted term is hereinafter defined) enumerated in this Declaration. The Association shall have the exclusive possession of each Dedicated Accommodation during the period designated by the Association (herein sometimes referred to as the "service period(s)") for the performance of maintenance and repairs on such Dedicated Accommodation. The Association shall annually compile a roster of the names and addresses of each of the Owners (the "Roster"). Upon the written request of an Owner, the Association shall furnish such Owner with a copy of the Roster and may charge such Owner a reasonable fee therefor. Each Owner who requests and receives a copy of the Roster hereby agrees that he or she will not make any commercial use of the same and will not distribute a copy of the Roster to any person who is not an Owner. 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 Owners to do any or all of the following:

(a) Maintenance and Repair. To repair, maintain, repaint, furnish or refurnish the Property or any part thereof; to establish reserves for anticipated costs, including the costs of acquisition and replacement of Common Furnishings; 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) Utilities. To obtain and pay the costs of electrical, telephone, gas, cable television and other utility services for the Property.

(c) Rules and Regulations. To adopt, publish and enforce, from time to time, Rules and Regulations relating to the possession, use and enjoyment of the Dedicated Accommodations, which Rules and Regulations shall be consistent with the provisions of this Declaration and the Membership Application and Agreement.

(d) 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 Bylaws, the Rules and Regulations and the Membership Application and Agreement.

(e) Insurance. To obtain and pay the cost of:

(i) Insurance covering the Property and the Common Furnishings therein against loss or damage by fire and other hazards customarily covered by fire insurance policies written with extended coverage, the amount of such insurance to be not less than eighty percent (80%) of the aggregate replacement value and which insurance shall name Beachcomber Inn Vacation Membership Association, a California mutual benefit corporation, as Trustee or any successor Trustee as a co-insured, and if title to the Property is not owned by such trustee, such insurance shall name the Association as a co-insured, for itself and as agent for each Owner;

(ii) general comprehensive public liability insurance against claims for personal or bodily injury, death or property damage arising from the use and maintenance of the Property with limits of not less than (A) \$500,000.00 per person and \$1,000,000.00 per occurrence with respect to injury or death and (B) \$100,000.00 per occurrence with respect to property damage. Such liability insurance shall contain appropriate waivers of subrogation against any Owner or member of such Owner's household, and a provision that no act of omission by an Owner, unless acting within the scope of his or her authority on behalf of the Association, will void the policy or operate as a condition to recovery by any other person under such policy; and,

(iii) any other insurance, including, but not limited to, directors' and officers' liability insurance and workers' compensation insurance, deemed necessary or desirable by the Association.

The policies of insurance shall name Declarant and the Association as insureds, as their respective interests appear, cover such risks, be written by such insurers, and, subject to the limits set forth in clauses (i) and (ii) above, be in such amounts as the Association shall deem proper under the circumstances. The Association shall cause the Managing Agent and any employee of either the Managing Agent or the Association who has charge of the Association's funds to be bonded and shall cause errors and omissions insurance coverage for the Managing Agent, if available, to be obtained and maintained.

(f) Levy and Collection of Assessments. To levy, collect and enforce Assessments against the Owners in the manner provided in Articles V and VI hereof in order to pay the expenses of the Time Share Estate and Vacation Membership program including the fee of the Managing Agent; and to do all

things necessary to enforce each Owner's obligations hereunder.

(g) Financial Statements and Audit; Minutes and Annual Meeting; Statement of Policies. To cause to be regularly prepared financial information, minutes, and agenda of annual meeting for the Association and copies thereof distributed to all members as follows:

(i)(1) A budget for each fiscal year consisting of at least the following information shall be distributed to Owners not less than 45 days prior to the beginning of the fiscal year to which the budget applies:

(A) Estimated revenue and expenses on an accrual basis.

(B) The amount of the total cash reserves of the Association currently available for replacement or major repair of common facilities and for contingencies.

(C) An itemized estimate of the remaining life of, and the methods of funding to defray the costs of repair, replacement or additions to, major components of the common areas and facilities for which the Association is responsible.

(D) A general statement setting forth the procedures used by the governing body in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the common areas and facilities for which the Association is responsible.

(ii) 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 end of the Fiscal Year, (b) an operating (income) statement for such Fiscal Year, (c) a statement of the net changes in financial position for the Fiscal Year, (d) any information required to be reported under Section 8322 of the California Corporations Code, (e) a list of the names, mailing addresses and telephone numbers of the members of the Board and, (f) for any fiscal year which the gross income to the Association exceeds \$75,000, a copy of the review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy. If the annual report is not prepared by an independent accountant, the annual report shall be prepared by the Managing Agent or by an officer of the Association and shall be accompanied by the certificate of the person preparing the report that the statements were prepared without independent audit or review from the books and records of the Association.

(iii) Minutes of a governing body meeting shall be distributed within 60 days after the meeting.

(iv) A list of the orders of business to be considered at the annual meeting of Members of the Association shall be distributed not less than 30 days prior to the meeting date. This list shall include the name, address and a brief biographical sketch if available of each Member of the Association who has announced his or her intention to stand for election to the Board.

(iv) The Board shall annually distribute within 60 days prior to the beginning of the fiscal year a statement of the Association's policies and practices in enforcing its remedies against Members for defaults in the payment of regular and special assessments including the recording and foreclosing of liens against Members' interests in the project. Mailing of the information specified in (i)-(iv) above may be combined where appropriate.

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

(i) All funds shall be deposited in a separate bank account or accounts (the "General Account") with a bank or savings and loan association selected by the Association and located in the State of California. Funds deposited in the General Account(s) may be used by the Association only for the purposes for which such funds have been collected.

(ii) Funds which the Association shall collect for "Reserve Expenses" (as defined in and collected pursuant to Paragraph 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 savings and loan account or Treasury Bills or Certificates of Deposit are all herein collectively referred to as the "Reserve Account"). 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.

(i) Statement of Status. Upon the request of any Owner, purchaser or other prospective transferee of a Owner's Time Share Estate or a Vacation Membership, to issue a written statement setting forth any amounts unpaid with respect to the Time Share Estate or Vacation Membership, the use entitlement for the remainder of the calendar year and regarding Vacation Memberships, the remaining term respecting such Vacation Memberships. 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.

(j) Cleaning and Maid Service. To provide for cleaning and maid service and maintenance and repairs upon the

departure of each Owner or other occupant of a Dedicated Accommodation and during service periods so that the Dedicated Accommodations are maintained in good order and repair. In addition to cleaning and maid service that is normally provided to each Dedicated Accommodation to provide such cleaning and maid services as shall be requested by an Owner. The Association shall charge for such special cleaning and maid service and such charges shall be a Personal Charge, payable by the Owner when he or she checks out of the Dedicated Accommodation.

(k) Right of Entry. During service periods and at any other reasonable time, upon giving reasonable notice if a Dedicated Accommodation is occupied, to enter the Dedicated Accommodation for the purpose of cleaning, maid service, painting, maintenance and repair, and to enter upon and within any Dedicated Accommodation, at any reasonable time, whether or not during a service period and whether or not in the presence of an 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 Dedicated Accommodation, (iii) protecting property rights and welfare of the other 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 Owner or occupant of such Dedicated Accommodation and shall be preceded by reasonable notice to the Owner or occupant thereof whenever the circumstances permit.

(l) Authorization and Duty to Liquidate Assets and Distribute Proceeds. Upon termination as set forth in Paragraph 8.2, to terminate the Association's ongoing activities, to liquidate whatever assets and property the Association does then hold and, after the payment of all expenses and obligations of the Association, to distribute to each Owner the remaining proceeds in accordance with the provisions of paragraph 8.2 below.

(m) Minutes and Agenda. To provide each Owner (i) with a list of the orders of business to be considered at the annual meeting of members not later than thirty (30) days prior to the date for such meeting, which list shall contain the name, address and brief biographical sketch (if available) of each member of the Association nominated to stand for election to the Board and (ii) upon written request of such Owner, a copy of the minutes of Board meetings within sixty (60) days following the date of such meeting and for which copy the Association may charge a reasonable fee.

(n) Calendar. Exhibit B attached hereto identifies the commencement day of each Use Week for the twenty (20) year period commencing with January 2, 1981. Not later than five (5) years prior to the expiration of such calendar,

and any supplemental or replacement calendar provided by the Association pursuant to this subparagraph 4.2(n), the Association shall supplement the then-effective calendar by identifying the commencement days for all Use Weeks for an additional fifteen (15) year period. The Association shall supplement that calendar and any later calendar according to the provisions of the preceding sentence.

(o) Other Necessary Acts. To do all other things or acts deemed by the Association to be necessary, desirable or appropriate for the operation and maintenance of the Time Share Estate and Vacation Membership operation.

(p) Delegation. To delegate the authority and responsibilities of the Association hereunder to one or more agents, including, without limitation, the Managing Agent provided for in Paragraph 4.3 below.

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 as the Managing Agent for the Property and the Time Share Estate and Vacation Membership Lease program pursuant to a written agreement (the "Management Agreement") meeting the requirements of this Paragraph 4.3. Each Management Agreement shall:

(a) 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.

(b) 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 one (1) year terms unless notice of non-renewal is given no later than ninety (90) days prior to the end of the term by either party not then in default thereunder; provided, however, that the Association may not give notice of non-renewal unless authorized by the vote or written assent of at least a majority of all voting rights in the Association other than Developer. The Management Agreement shall be subject to termination by the Association at any time, (i) for cause or (ii) if requested to do so by at least a majority of all voting rights in the Association other than Developer. In the event that the Managing Agent shall dispute a termination for cause, the dispute shall be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

(c) 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) 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 of the Property and the Time Share Estate and Vacation Membership program to the successor Managing Agent.

(d) Provide for compensation to be paid to the Managing Agent not to exceed twenty percent (20%) of Basic Expenses, exclusive of the fee to the Managing Agent. Such compensation may be increased if authorized by at least a majority of all voting rights in the Association if, despite the failure to obtain such an authorization after requesting the same, the Association is unable to procure a reputable management firm to act as Managing Agent without increasing such compensation.

The first Managing Agent (the "Manager") was an affiliate of Declarant.

4.4 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 delegatee 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 Time Share Estate and Vacation Membership program for a term longer than one (1) year unless authorized by at least a majority of all voting rights in the Association, except for:

(a) The Management Agreement.

(b) 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.

(c) 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.

(d) A lease of Common Furnishings.

4.5 Limited Liability. Neither the Association nor the Managing Agent shall be responsible for the acts, omissions or conduct of any of the Owners or for the breach of any of the obligation of any of the Owners.

4.6 Rental of Units by Developer. Developer shall have the exclusive right to rent to the general public the Units

and, during all Use Weeks deemed owned by Developer, the Dedicated Accommodations. Any proceeds received by Developer from such rentals shall be the sole property of Developer. Notwithstanding the foregoing provisions of this Paragraph 4.6, in the event Developer (a) becomes in excess of sixty (60) days delinquent with respect to any Assessment or subsidy agreement payment owned by it under the provisions of this Declaration, and (b) thereafter fails to pay any such delinquent Assessment or subsidy agreement payment within thirty (30) days following receipt from the Association of written notice to pay, the Association shall thereafter, and until all such delinquent amounts owed by Developer are paid in full, have the exclusive right, during all Use Weeks not sold by Declarant deemed owned by Developer, to rent the Dedicated Accommodations to the general public. No rental (whether by Developer or the Association) shall interfere with or diminish the rights of Owners to use and occupy the Dedicated Accommodations in accordance with the Rules and Regulations. The cost of repair or replacement incurred by reason of damage or destruction to a Dedicated Accommodation or to the Common Furnishings therein, which damage or destruction occurs during the rental of such Dedicated Accommodation by Developer, pursuant to this Paragraph 4.6, shall be borne by Developer. In no event shall any rental be made by Developer or the Association for the account of any individual Owner.

#### ARTICLE V ASSESSMENTS

5.1 Creation of Personal Obligations for Assessments.  
Declarant, for each Time Share Estate or Vacation Membership deemed owned by it, hereby covenants and each Owner of a Time Share Estate by acceptance of a deed therefor, and each Vacation Membership Owner by entering into a Membership Application and Agreement or accepting the transfer or assignment of a Vacation Membership or deed, shall be deemed to have covenanted and agreed to pay to the Association the Annual Maintenance Fee, all Special Assessments and Personal Charges, as hereinafter described in Paragraphs 5.5, 5.7 and 5.8, 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; however, Assessments other than property tax assessments against Time Share Estates subject to a Vacation Membership be the obligation of the Vacation Membership Owner, only for the duration of the Vacation Membership. Developer may, in lieu of payment of the Annual Maintenance Fee, enter into a subsidy agreement with the Association pursuant to which Developer agrees to pay to the Association the difference between the actual costs incurred by the Association and the Assessments paid or payable by Owners other than Developer; provided, however, that any such subsidy agreement shall be in a form acceptable to the California Department of Real Estate and shall be secured as required pursuant to the regulations of the California Department of Real Estate. The Assessments, together with interest, costs and reasonable

attorneys' fees shall be the personal obligation of each Owner at the time the Assessment becomes due and payable and each Owner hereby grants to the Association a security interest in his or her Vacation Membership or Time Share Estate securing the prompt payment of the Assessments and the performance of all other obligations of the Owners as set forth in this Declaration, the Bylaws, the Rules and Regulations and the Membership Application and Agreement (exclusive of the payment obligation to Declarant). The personal obligation for delinquent Assessments shall not pass to successors-in-interest unless expressly assumed by them. No Owner may waive or otherwise avoid liability for the Assessments by non-use of his or her Vacation Membership or Time Share Estate or any part or abandonment thereof. Assessments shall not pass to successors-in-interest unless expressly assumed by them. No Owner may waive or otherwise avoid liability for the Assessments by non-use of his Time Share Estate or Vacation Membership or any part or abandonment thereof.

5.2 Purpose of Assessments. Assessments shall be used exclusively to promote the recreation, health, safety and welfare of the Owners, the operation, maintenance and improvement of the Property, to pay for the administration of the Time Share Estate and Vacation Membership program 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. 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 the Common Furnishings and to administer the Time Share Estate and Vacation Membership program; (ii) to provide for reserves to ensure payment when due of the cost of capital expenditures relating to the repair or restoration of the Property, the Common Area 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 Property; real property taxes and other taxes assessed against the Property or the Common Furnishings or any other interests of the Owners (except as and to the extent that such taxes are separately assessed to the individual Owners); assessments and other similar governmental charges levied on or attributable to the Property including, without limitation, any transient occupancy tax or any governmental charge levied in lieu of such transient occupancy 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 or any fire, accident, or nuisance therein; cost of repair, reinstatement, rebuilding and replacement of the Property 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 Assessment levied during the previous Fiscal Year against any 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 Fiscal Year subsequent to Fiscal Year 1986 shall not exceed one hundred twenty percent (120%) of Basic Expenses for the preceding Fiscal Year without regard to any increase or reduction pursuant to Paragraph 5.4 or to any increase in Basic Expenses attributable to an increase in real property taxes levied against the Property, unless at least a majority of all voting rights in the Association other than Developer shall consent thereto by vote or written assent. The Reserve Expenses portion of the Budget shall consist of specific items and amounts for which such Reserve Expenses are being collected.

5.4 Increase and Reduction of Budget. In the event the Department of Real Estate, State of California, shall determine at any time that the Budget for Fiscal Year 1986 is or will be inadequate to meet all expenses incurred by the Association (other than for items constituting Personal Charges) for such Fiscal Year, the Board shall have the authority to cause to be prepared and distributed to each Owner a supplemental Budget and levy, at a uniform rate against each Owner, a supplemental assessment in an amount sufficient to provide for such inadequacy. Each Owner hereby agrees that in the event the Board shall determine at any time during the Fiscal Year that the Budget is, or will be, in excess of the amounts needed to meet the Basic Expenses (other than Reserve Expenses) for such Fiscal Year, the Board shall have the authority, exercisable in its sole discretion, to cause to be prepared an estimate of the amount of such excess, which excess shall then be subtracted from the previously prepared Budget for the Fiscal Year to which such excess is applicable. The Basic Expenses reflected in the reduced total Budget shall then be allocated among the Owners as provided in Paragraph 5.5. No Owner shall, by reason of such reduction, be entitled to a refund of all or any portion of the Annual Maintenance Fee previously paid. Each Owner hereby agrees that any amount assessed and collected in excess of the amount required to meet the Basic Expenses (other than Reserve Expenses) shall be applied to reduce the amount assessed to meet the Basic Expenses for the next succeeding fiscal year. Any reduction in the Budget, as provided herein, shall not relieve any Owner from his or her obligation to pay any past-due Annual Maintenance Fee.

5.5 Annual Maintenance Fee. On a Fiscal Year basis, an assessment for each Time Share Estate having a current possessory interest or a Vacation Membership shall be determined by dividing the Basic Expenses attributable to such fiscal year by 1020 (the "Annual Maintenance Fee"); provided, however, that real property taxes attributable to the sale of a Time Share Estate shall not be included within the Basic Expense, but shall be separately assessed to each Time Share Estate Owner.

5.6 Payment of Annual Maintenance Fee. Subject to the provisions contained in the Membership Application and Agreement with respect to the payment of the Annual Maintenance Fee, the Annual Maintenance Fee of each Owner having a current or possessory interest in a Unit and Use Week 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. The portion of the Basic Assessment which is attributable to Reserve Expense shall be deposited in the Reserve Account provided for in subparagraph 4.2(h)(ii).

5.7 Special Assessments. If the Annual Maintenance Fee with respect to any Time Share Estate or Vacation Membership is, or will become, inadequate to meet all expenses incurred by the Association hereunder (other than for items constituting Personal Charges) for any reason, including nonpayment by any Owner of the Assessments on a current basis, the Association shall immediately determine the approximate amount of such inadequacy, prepare and distribute a supplemental budget and levy, at a uniform rate, against each Owner a special assessment (the "Special Assessment") in an amount sufficient to provide for such inadequacy; provided, however, that without the vote or written assent of at least a majority of all voting rights in the Association, Special Assessments shall not, in the aggregate, exceed five percent (5%) of Basic Expenses for the applicable Fiscal Year. No such vote or written assent shall be required in order for the Association to levy a Special Assessment in excess of the limitation set forth in the preceding sentence where the reason for such Special Assessment is an increase in the real property taxes levied against the property or the imposition of or increase in the transient occupancy tax applicable to the Time Share Estates or Vacation Memberships. Any Special Assessment shall be payable in one lump sum or periodically, as determined by the Association and shall be payable within fifteen (15) days after receipt of a statement therefor.

5.8 Personal Charges. The term "Personal Charges" means: (1) any expense resulting from the act or omission of any Owner or Permitted User, including, without limitation: the cost of long distance telephone charges or telephone message unit charges, optional maid service and other special services or supplies attributable to the occupancy of the Dedicated Accommodation during such Owner's Use Week; the cost to repair any damage to the Dedicated Accommodation, the Common Area, or

to repair or replace any Common Furnishings located herein on account of loss or damage occurring during such Owner's Use Week; and the cost to satisfy any expense to any other Owner(s) or to the Association due to any intentional or negligent act or omission of such Owner or Permitted User or resulting from the breach by such Owner or Permitted User of any provisions of this Declaration, the Bylaws or the Rules and Regulations; and (ii) any transient occupancy tax levied by the City of South Lake Tahoe pursuant to Section 7280 of the California Revenue and Taxation Code or any similar authorizing statute hereafter enacted payable by any Owner which the Association is or may be required or entitled to collect on behalf of the City of South Lake Tahoe. For purpose of this Paragraph 5.8, the act or negligence of a Permitted User shall be deemed to be the act of the Owner. Such Personal Charges shall be paid by each Owner as follows:

(a) If the Association is able to determine the amount of Personal Charges at check-out-time (for example, Personal Charges constituting optional maid service), such Personal Charges shall be payable at the termination of the Owner's Use Week.

(b) Personal Charges constituting a transient occupancy tax shall be payable in periodic installments, not more frequently than monthly, or in one lump sum, as the Association may from time to time determine, and shall be payable within fifteen (15) days after receipt of a statement therefor.

(c) Other Personal Charges shall be payable within thirty (30) days after receipt of a statement therefor.

Personal Charges are an assessment which is not subject to the lien enforcement provisions of Paragraphs 6.2(b) and (c). The failure to pay Personal Charges may subject an Owner to the penalties described in Paragraph 6.2(a).

## ARTICLE VI

### ENFORCEMENT OF RESTRICTIONS

6.1 In General. In the event that any Owner or his or her Permitted User should fail to comply with any of the provisions of this Declaration, the Bylaws, the Rules and Regulations and the Membership Application and Agreement, except as provided in subparagraph 6.2(b), the Association shall have full power and authority to enforce compliance with this Declaration, the Bylaws, the Rules and Regulations and the Membership Application and Agreement in any manner provided for herein, by law or in equity, including, without limitation, the right to enforce the Declaration, Bylaws, Rules and Regulations and Membership Application and Agreement by bringing an action for damages, an action to enjoin the violation or specifically enforce the provisions of this Declaration, the Bylaws, the

Rules and Regulations and the Membership Application and Agreement to enforce the liens and security interests provided for herein. In the event the Association shall employ an attorney to enforce the provisions of this Declaration, the Bylaws, the Rules and Regulations and the Membership Application and Agreement against any Owner, the party engaging the attorney shall be entitled to recover from the Owner violating any such provisions reasonable attorneys' fees and costs in addition to any other amounts due as provided for herein. All sums payable hereunder by an Owner shall bear interest at ten percent (10%) per annum from the due date or if advanced or incurred by the Association, pursuant to authorization contained in this Declaration. All enforcement powers of the Association shall be cumulative. Each Owner by entering into a Membership Application and Agreement or accepting the transfer or assignment of a Time Share Estate or Vacation Membership 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 this Declaration. Anything in the foregoing to the contrary notwithstanding, the Association shall have no right or authority to enforce the Time Share Estate or Vacation Membership payment obligation, except that the Association may suspend the privileges of a defaulting Owner as provided in subparagraph 6.2(a), below.

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. If any Owner or his or her Permitted User shall be in breach of this Declaration, the Bylaws, the Rules and Regulations or the Membership Application and Agreement (including, without limitation, failure to make any Time Share Estate or Vacation Membership payment), the Association may suspend, subject to the limitations hereinafter in this subparagraph 6.2(a) set forth, the right of each Owner (and his or her Permitted User) to occupy any Dedicated Accommodation and the right of such Owner to participate in any vote or other determination provided for herein. If any Owner shall be in default with respect to any installment owed to Developer in payment for the Time Share Estate or Vacation Membership, then the Board shall, upon receipt of written notice to that effect from Developer, suspend the right of such Owner (and his or her Permitted User) to occupy any Dedicated Accommodation. No suspension under this subparagraph 6.2(a), except a suspension of privileges for the failure of such Owner to pay any Assessments, any portion thereof in any other amount(s) due hereunder 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 Bylaws 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 Owner whose privileges

are being sought to be suspended at least fifteen (15) days prior to the holding of such meeting. Such notice shall be given in the manner provided for in the Bylaws. Such Owner shall be entitled to appear at such meeting and present his or her case as to why his or her privileges should not be suspended. The decision as to whether such privileges should be suspended shall be made by a majority of the members of the Board present at such meeting. Written notice of suspension, the reasons therefor and the length thereof shall be given to the suspended Owner and the suspension shall become effective on the date such notice is given. If such suspension of privileges is based on the failure of an Owner to pay Assessments (or any other amount(s) due hereunder) or any Time Share Estate or Vacation Membership Payment when due, the suspended privileges of such Owner shall be reinstated automatically at such time as the Owner shall have paid to the Association (or to Developer in the case of a Vacation Membership or Time Share Estate Payment), 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 Owner to pay Assessments or any other amount(s) due hereunder or a Vacation Membership or Time Share Estate Payment when due, the suspended privileges shall be automatically reinstated upon the expiration of the suspension period stated in the suspension notice.

(b) Enforcement by Security Interest - Vacation Membership. There is hereby created a security interest on each and every Vacation Membership to secure the prompt and faithful performance of each Vacation Membership Owner's obligations under this Declaration, the Bylaws, the Rules and Regulations and the Membership Application and Agreement (exclusive of the Vacation Membership Payment obligation), including, but not limited to, the payment to the Association of any and all Assessments levied against any and all Vacation Memberships 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 after the occurrence of any default in the payment of such Assessment or performance secured, the Association or its authorized representative may, but shall not be required to make a written demand for payment or performance to the defaulting Vacation Membership Owner. Each default shall constitute a separate basis for a demand, but any number of defaults may be included within a single demand. Said demand shall state the due date and amount of the delinquency or the particular performance with respect to which the Vacation Membership Owner is in default and that the membership certificate or other evidence of Vacation Membership held by the Vacation Membership Owner shall, in the event the Vacation Membership Owner fails to cure the default, be returned to the Association within thirty (30) days after delivery of the demand. If the Vacation Membership Owner returns the membership certificate or other evidence of Vacation Membership to the Association, the

Vacation Membership Owner shall thereafter have no further rights or interests in the Vacation Membership, the Association may retain the Vacation Membership in satisfaction of the obligation and the Association may sell or otherwise dispose of the Vacation Membership as the Association, in its sole discretion, deems appropriate; provided, however, that any such sale or disposition of a Vacation Membership with respect to which there is outstanding any Vacation Membership Payment shall not have been made without the prior written consent of the Developer or the holder of the right to receive the Vacation Membership Payment.

If such delinquency is not paid or default is not cured or membership certificate or other evidence of Vacation Membership is not delivered to the Association within ten (10) days after delivery of such demand, the Association may elect, by written notice to the Vacation Membership Owner, to sell or otherwise dispose of the Vacation Membership. Such notice shall be delivered personally or be deposited in the United States mail postage prepaid addressed to the Vacation Membership Owner at his or her address as set forth in the Membership Application and Agreement or at the last known address of such Vacation Membership Owner as set forth in the records of the Association; shall state the time and place of any public sale or of the time on or after any private sale or other intended disposition of the Vacation Membership is to be made; and shall be given at least five (5) days before the date fixed for any public sale or before the day on or after which any private sale or other disposition of the Vacation Membership is to be made. Notice of the time and place of a public sale shall also be given at least five (5) days before the date of sale by publication once in a newspaper of general circulation published in the county in which the sale is to be held.

Any public sale pursuant to this subparagraph 6.2(b) shall be held in the County of El Dorado, State of California. The Association may purchase at any public sale or at any private sale. Any sale of which notice is delivered or mailed and published as herein provided and which is held as herein provided is a public sale. The sale or other disposition of the Vacation Membership by the Association after default transfers to a purchaser for value all of the predecessor Vacation Membership Owner's rights therein and discharges the security interest under which it is made. The purchaser takes the Vacation Membership free from the sums or performance claimed (except as otherwise stated in this subparagraph) but otherwise subject to the provisions of this Declaration, the Bylaws, the Rules and Regulations and the Membership Application and Agreement.

No such sale or other disposition shall relieve such Vacation Membership or the purchaser thereof from liability for any Assessments, other payments or performance thereafter becoming due or from the security interest therein; 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 Owners, including the purchaser thereof, and shall be shared among such Owners in the same manner as other Basic Expenses are shared.

The proceeds of any sale or other disposition provided for in this Declaration shall be paid, first, to Developer or the holder of the right to receive the Vacation Membership Payment, to satisfy the Vacation Membership Payment indebtedness, if any, remaining at the time of such sale or other disposition; second, to discharge all reasonable expenses of retaking, holding, preparing for sale or disposition, sale, disposition, the reasonable attorneys' fees and legal expenses of the Association; third, to satisfy the indebtedness or performance secured by the security interest under which the sale or disposition is made; and fourth, the balance of such proceeds, if any, shall be paid to the defaulting Vacation Membership Owner.

(c) Lien Enforcement - Time Share Estate. The amount of any delinquent Assessment, together with interest, costs and reasonable attorneys' fees in the event enforcement is commenced, shall be and become a lien upon that Owner's Time Share Estate where the Association causes to be recorded with the County Recorder of El Dorado County, a Notice of Claim. The Association may, at its option, bring an action at law, against the Owner personally obligated to pay the same, or it may foreclose the lien provided for hereinabove upon compliance with the notice provisions set forth in Paragraph 6.2 hereof. In either event, there shall be added to the amount of such assessment, the late charge, the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include said interest and reasonable attorneys' fees, together with the costs of the action. Each Owner vests in the Association or its assigns, the right and power to bring all actions at law or lien foreclosure proceedings against such Owner or other Owners for the collection of such delinquent assessments.

No action shall be brought to foreclose said assessment lien or to proceed under the power of sale herein provided until thirty (30) days after the date a Notice of Claim of lien is deposited in the United States Mail, certified or registered, postage prepaid, to the Owner of said Time Share Estate, and a copy thereof is recorded by the Association in the office of the County Recorder of El Dorado County. Said Notice of Claim must recite a good and sufficient legal description of such Time Share Estate, the record Owner or reputed Owner thereof, the amount claimed (which may at the Association's option include interest on the unpaid assessment at the legal rate, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the claimant.

Any such sale provided for above is to be conducted in accordance with the provisions of Sections 2924, 2924b and 2924c of the Civil Code of the State of California, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. The Association after a vote by at least a majority of the voting power, excluding the vote of the Developer, may, through its duly authorized agents, have the power to bid on the Time Share Estate at the foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same.

Upon the timely curing of any default for which a Notice of Claim of lien was filed by the Association, the Board of Directors shall file or record, as the case may be, an appropriate release of such notice, upon payment of the defaulting Owner of a fee, to be determined by the Association, but not to exceed Fifteen Dollars (\$15.00), to cover the cost of preparing and filing or recording such release.

The assessment lien and the rights to foreclose and sale shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including, but not limited to, a suit to recover a money judgment for unpaid Assessments.

#### ARTICLE VII

#### VACATION MEMBERSHIP PROVISIONS

7.1 This Declaration amends in its entirety and restates that certain Declaration of Purposes, Powers and Duties for the Beachcomber Inn Resort and the Beachcomber Inn recorded December 24, 1981, Book 2041, Page 470, Official Records of El Dorado County, California (hereinafter the "Superseded Declaration"). The Superseded Declaration created a scheme of regulation similar to that created herein. The following terms are added and shall apply to any Vacation Membership Owner whose Vacation Membership under the Superseded Declaration is presently in good standing and has neither expired nor been terminated:

(a) Each Vacation Membership Owner not in default on his or her respective obligations under the Superseded Declaration or Vacation Membership Payment shall be given the opportunity to purchase the Time Share Estate of the same Unit and Use Week as his or her Vacation Membership. In the event that a Vacation Membership Owner chooses to exercise his or her right to purchase as hereinabove described, said Vacation Membership Owner shall become the Owner of a Time Share Estate with all the rights and obligations set forth in this Declaration. Should any Vacation Membership Owner decide against such a purchase as hereinafter described, said Vacation Membership Owner may continue to exercise his rights of occupancy in the Property under the terms of this Declaration as a Vacation

Membership Owner. Each such Vacation Membership Owner shall be obligated to pay regular and special assessments under the procedures hereinbefore set forth and subject to each and every provision of this Declaration.

## ARTICLE VIII

### MISCELLANEOUS PROVISIONS

8.1 Amendment. This Declaration may be amended as follows:

(a) By Developer, at any time, and in any manner as may be necessary to comply with the then existing requirements of the Department of Real Estate, State of California.

(b) By at least a majority of the voting rights of the Association residing in Owners other than Developer; provided that any such amendment under this subparagraph 8.1(b) shall not violate the time-share project regulations of the Department of Real Estate, State of California or the Tahoe Regional Planning Agency.

No amendment made pursuant to this Paragraph 8.1 shall be binding on any Owner if such amendment has the effect of either materially increasing the burdens or decreasing the benefits under this Declaration or the Membership Application and Agreement upon then existing Owners, except as such amendment may be required by the Department of Real Estate, State of California, pursuant to subparagraph 8.1(a). Any other amendment shall be binding upon every Owner whether the burdens thereon are increased or decreased. Any amendment authorized hereby shall be evidenced by an instrument in writing signed and acknowledged by Declarant, which amendment shall be effective upon filing with the Secretary of the Association.

8.2 Termination. Subject to the provisions of subparagraphs 8.2(a) through (d), inclusive, below, this Declaration shall remain in effect for a period of fifty (50) years from the date of recordation hereof and thereafter shall remain in effect for successive periods of ten (10) years each.

(a) This Declaration may be terminated at any time (i) after thirty (30) years from the date of recordation of this Declaration, by the vote or written assent of Owners holding at least a majority of the voting power of the Association electing to terminate the Declaration and authorizing the Association, as trustee for all Owners, to sell the Property. In such event, Owner, by accepting the conveyance of a Time Share Estate, whether or not it shall be so expressed in the original deed, hereby confers upon the Association, as trustee, the power and authority, as more particularly described in subparagraph 8.2(b) below, to sell, convey or otherwise transfer the Property, together with any improvements thereon.

This Declaration shall terminate upon the consummation of such sale and the recordation of an instrument stating that this Declaration is terminated pursuant to subparagraph 8.2(a). Notwithstanding the termination of this Declaration as provided in this subparagraph 8.2(a) and the termination thereof of all of the covenants, conditions, restrictions, easements, rules and regulations, liens and equitable servitudes created by this Declaration, the existence of the Association shall continue for so long as reasonably required to provide for the collection and disbursement of the proceeds from the sale, conveyance or transfer of the Property.

(b) Each Owner, by accepting the conveyance of a Time Share Estate, whether or not it shall be so expressed in the deed, hereby constitutes and appoints the Association, as trustee, as his attorney-in-fact for his name, place and stead, and for his use and benefit, to execute, acknowledge and deliver on behalf of each Owner any instrument or document which is required in order to effect a sale, conveyance or transfer of the Property, together with any improvements thereon, pursuant to this subparagraph 8.2(b), including, but not limited to, (i) a trust agreement pursuant to which the Association, as trustee, may acquire title to the Property for the purpose of disposing of the same as provided in subparagraph 8.2(a) above, and pursuant to which trust agreement each Owner shall be a beneficiary, and (ii) such documents of conveyance as may be reasonably required to convey title to the Time Share Estate(s) of each Owner to the Association, as trustee. Each Owner does further give and grant unto the Association, as trustee, 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 petition for sale in lieu of partition, if necessary to effect such conveyance, as fully as each Owner might or could do. The power of attorney provided for in this subparagraph 8.2(b) are coupled with an interest and are irrevocable. Notwithstanding anything to the contrary contained in this Paragraph 8.2, the Association, as trustee for all Owners, shall act in a commercially reasonable manner regarding the terms of sale of the Property.

(c) In the event that the Association shall be unable to effect the conveyance, sale or transfer of the Property within four (4) months after the date upon which the Owners shall elect to terminate this Declaration as provided in subparagraph 8.2(a) above, the Association shall have the authority and obligation to petition a court of competent jurisdiction for the sale of the Property in lieu of partition thereof. In any such action, the court shall be entitled to authorize the Association, on behalf of all owners, to execute any and all agreements, documents and/or instruments necessary to convey the Property to the purchaser thereof and to accept payment therefor.

(d) In the event that no conveyance, sale or transfer of the Property shall have been effected by the Association, as trustee for all Owners, within nine (9) months after the date upon which the Owners shall elect to terminate this Declaration as provided in subparagraph 8.2(a) above, and no sale of the Property shall have been approved by a court of competent jurisdiction in any action commenced by the Association under subparagraph 8.2(c), above, each Owner shall have the right to petition a court of competent jurisdiction for the sale of the Property in lieu of partition thereof.

(e) The proceeds from a sale of the Property conducted pursuant to judicial action or the power of sale conferred upon the Association as set forth in subparagraph 8.2(a) above, shall be distributed by the Association, as trustee, to each Owner (subject to the rights of each Owner's lienholders) in accordance with the respective interest of each Owner in the Property, including Developer as to the Developer Time Share Estates; provided, however, that there shall be deducted from the amount due any Owner, the amount, if any, of all sums due to the Association from such Owner.

8.3 Severability. 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 effected thereby.

8.4 Successors. The provisions of this Declaration shall be binding upon all parties having or acquiring any Vacation Membership or Time Share Estate or any right, title or interest therein and shall be for the benefit of each Owner, Seller, Developer and Declarant and their respective heirs, successors and assigns. Each Owner and Declarant shall be fully discharged and relieved of liability on the covenant herein insofar as such covenants relate to each Vacation Membership or Time Share Estate upon ceasing to own such Vacation Membership or Time Share Estate and paying all sums and performing all obligations hereunder insofar as the same relate to each Vacation Membership or Time Share Estate up to the time the ownership interests terminated.

8.5 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.

8.6 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.

IN WITNESS WHEREOF, the Declarant has hereunto caused this Declaration to be executed as of the day and year first above written.

"DECLARANT"

BEACHCOMBER INN MARINA & SKI RESORT,  
a California limited partnership

By: BCP Development Corp.,  
a California corporation, as  
general partner

By: Robert Plumanns  
Robert Plumanns, President

By: Paul J. Murphy  
Paul Murphy, Secretary

BEACHCOMBER INN VACATION MEMBERSHIP  
ASSOCIATION, a California nonprofit  
mutual benefit corporation, as Trustee

By: John A. Thompson  
Its President

By: William L. Freeman  
Its Secretary

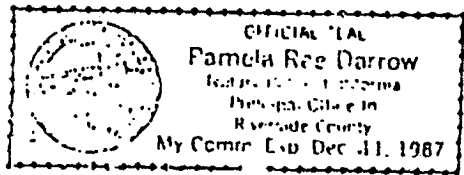
STATE OF CALIFORNIA )  
COUNTY OF Riverside )

SS:

On August 5, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert Plumanns, known to me to be the President, and Paul Murphy, known to me to be the Secretary of BCP Development Corp., the corporation that executed the within instrument and known and proved to me to be the persons who executed the within instrument on behalf of said corporation pursuant to a resolution of the Board of Directors of said corporation or said corporation's Bylaws, said corporation being known to me to be the general partner of Beachcomber Inn Marina & Ski Resort, a California limited partnership, the limited partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such general partner and that such limited partnership executed the same.

WITNESS my hand and official seal.

Pamela Rae Darrow  
Notary Public



STATE OF CALIFORNIA )  
COUNTY OF El Dorado )

SS:

On August 2, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared John P. Thompson, William R. Fairbank, Sr. (known to me) (or proved to me on the basis of satisfactory evidence) to be the President, and William R. Fairbank (known to me) (or proved to me on the basis of satisfactory evidence) to be the Secretary of the Corporation that executed the within instrument, (known to me) (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument on behalf of the Corporation herein named, and acknowledged to me that such Corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.



Susanne B. Hoy  
Notary Public

EL DORADO COUNTY - CALIF.  
RECORDS REQUESTED BY

Floor Title Company

SEP 26 12 45 PM '86

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When Recorded Mail To:  
Janice L. Davidson  
Rolling, Walter & Cowthup  
P. O. Box 255200  
Sacramento, CA 95865-5200

201216-70

SUBORDINATION AGREEMENT

SECURITY PACIFIC FINANCE CORP., a Delaware corporation, as beneficiary under that certain Deed of Trust recorded September 15, 1982 in Book 2105, page 211 of the Official Records of the County of El Dorado, State of California, hereby declares that the lien and charge of said Deed of Trust hereby is and shall be subordinate to and inferior to the Amended and Restated Declaration of Purposes, Powers and Duties for the Beachcomber Inn Resort, recorded concurrently herewith.

DATED: 9/24/86

SECURITY PACIFIC FINANCE CORP.,  
A Delaware Corporation

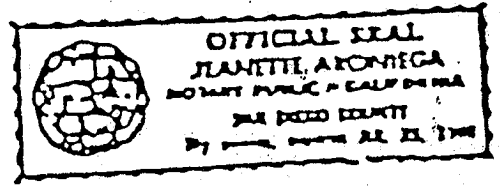
By Kenneth C. Mead

STATE OF California )  
COUNTY OF Sacramento ) ss.

On 9/24/86, before me, the undersigned, a Notary Public in and for said State, personally appeared Kenneth C. Mead, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

WITNESS my hand and official seal.

Juanita Aroniga



2633 400

END DOCUMENT