

ARTICLE 12 - DECLARANT'S RIGHTS AND OBLIGATIONS

In exchange for transferring the Initial Resort Accommodation and any Additional Resort Accommodations to the Trustee, the Declarant shall have and hereby retains for itself, the following rights:

12.1 Exclusive Right to Sell Memberships and Resort Points. The Declarant shall have the option of, 1) requiring the Club to transfer ownership to it of all Resort Points attributable to Resort Accommodations that are subject to this Declaration, or 2) acting as exclusive agent of the Club for the sale of such Resort Points. The Declarant may exercise its option in a different manner as to each Resort Accommodation that is subjected to this Declaration. In either event, the Declarant shall have the exclusive right to establish the purchase price for Resort Points and shall have the right to receive and retain all proceeds from the sale of Memberships and Resort Points.

12.2 Declarant as Agent. In the event the Declarant acts as an agent only with respect to a particular Resort Accommodation, the Declarant shall be deemed to have been issued the number of Resort Points per Resort Accommodation that has been allocated to such Resort Accommodation at the time of the transfer of such Resort Accommodation to the Trustee.

The Club shall grant a Security Interest over all the rights, title and interest of the Club to the proceeds from the sale of Memberships and Resort Points to the Declarant, and shall execute the Security Agreement in favour of the Declarant.

12.3 Re-acquired Resort Points. With respect to any Resort Points reacquired by the Club, whether by enforcement of its lien or otherwise, the Declarant shall have the option (but not the obligation), in its sole discretion, of requiring the Club to issue such reacquired Resort Points to the Declarant or to permit the Declarant, as exclusive agent, to sell such reacquired Resort Points. If the Declarant exercises said option, any such reacquired Resort Points shall be deemed to be Declarant's Resort Points.

12.4 Reservation System. The Club hereby acknowledges that the Declarant shall own and operate and have exclusive control over the Reservation System and that the Club shall have no legal or beneficial interest in the Reservation System, provided that, in the event the Declarant is terminated as Manager, the Club shall be entitled to the data required to operate a reservation system for its members subsequent to such termination, as shall be further provided in the Management Agreement.

12.5 Name. In the event that the Declarant is terminated as Manager, the Club, at the request of the Manager, and without any action by the Board, shall immediately take all action necessary to change its name so that the word "Intrawest" is deleted from the name and usage by the Club and the Board and all Members shall be prohibited from using the name "Intrawest" with respect to the Club in any manner in the future. Such steps shall include, but are not limited to, amending all documentation, including, but not limited to the Certificate of Incorporation and all other Club Instruments, and all other documents, and changing all signs, stationary, forms, advertisements and other publications to eliminate the name of "Intrawest." The provisions of this paragraph may be enforced by any remedy available under British Columbia law, including injunction.

12.6 Declarant's Obligations.

(a) The Declarant shall, within thirty (30) days after the end of each quarter of the Club's fiscal year, furnish to each member of the Board at his or her residence address a statement containing the following information when applicable:

- (i) A status report covering each improvement included in the offering which was scheduled for completion during the quarter according to any planned construction statement for a Resort Accommodation and each still-uncompleted improvement that was scheduled for completion during an earlier quarter;
- (ii) The number of Resort Points owned by the Declarant, or that the Declarant is permitted to sell under Section 12.1 hereof, as of the first and last day of the quarter;

- (iii) The total Resort Fees and Special Assessments which the Declarant became obligated to pay during the quarter;
- (iv) The total Resort Fees and Special Assessments paid by the Declarant to the Club during the quarter;
- (v) The amount of any delinquency of the Declarant in the payment of Resort Fees and Special Assessments that has not been cured as of the date of the report to the Board members;
- (vi) An itemized report of funds, goods and services furnished, or caused to be furnished, to the Club under a subsidization program, including monetary contributions to the reserves of the Club for replacement or major repairs of common facilities, and an itemized monetary valuation of goods and services furnished; and
- (vii) The terms and conditions of any contract that the Declarant or the Manager has entered into with an entity in which the Declarant or the Manager has a direct or indirect interest of ten percent (10%) or more).

(b) If the statement of the Declarant referred to in sub-section (a) is not received by the Board members within forty-five (45) days after the end of a quarter, or if the statement as received evidences a failure by the Declarant to fulfil an obligation to the Club to complete improvements, to pay Assessments as provided in Section 10.7 hereof or to subsidize the costs of operating the Club and maintaining the Resort Accommodations, the Board shall meet specially, together or by conference telephone call, to discuss and to vote on the question of initiating action against the Declarant and/or the Declarant's surety to enforce the Declarant's unfulfilled obligations.

(c) The Director of the Club elected solely by the votes of Members of the Club other than the Declarant, as set forth in the By-laws, is hereby empowered to initiate an action in the name of the Club and at the Club's expense to enforce the Declarant's unfulfilled obligation if the Board fails to meet to consider and vote on the question of enforcing the Declarant's obligation within seventy-five (75) days after the end of the quarter or if the Board refuses to initiate such action after having met for that purpose. If the Director elected solely by the votes of Members other than the Declarant determines that it is in the best interest of the Members to initiate an action under the special authority provided in this sub-section (c), he or she shall do so in the name of the Club within ninety (90) days after the end of the quarter and the Board shall thereafter take such steps as are necessary and appropriate in furtherance of the purpose of the action.

(d) Any disagreement or controversy between the Declarant and the Club with respect to the question of the fulfilment of the Declarant's obligations to complete and pay for improvements included in the offering, to pay for Resort Fees and Special Assessments or to pay the costs of operating the Club program and maintaining the Resort Accommodations under a subsidization agreement shall, at the request of either party, be submitted to arbitration under the Commercial Arbitration Act of British Columbia.

12.7 Appointees. The Declarant reserves the right to appoint one or more Persons to act as Appointees of the Declarant at one or more Club locations, provided always that the Declarant shall continue to have the overall responsibility and control for all Persons it appoints as Appointees. The Declarant may unilaterally cancel the appointment of a Person as an Appointee and upon such cancellation, the Declarant shall provide the Club written notice of the cancellation within a reasonable period of time.

ARTICLE 13 - EXPROPRIATION OR CONDEMNATION

13.1 Proceedings. The procedures to be followed in the event of any expropriation or taking in condemnation or by eminent domain of all or any portion of a Resort Accommodation shall be governed by the Project Instruments, if any, and the Supplemental Declaration for the Resort Accommodation. Notwithstanding the above, because of the unique nature of the Club, any expropriation or taking of a portion of a Resort Accommodation shall be deemed to be a taking of the entire Resort Accommodation.

13.2 Awards or Settlements. Any award or settlement to the Club as a result of an expropriation or taking of a Resort Accommodation shall be deposited in a special reserve account for the replacement of Resort Accommodations.

13.3 Replacement of Resort Accommodations. In order to maintain the ability of all members to reserve Use Period(s) in the Resort Accommodation according to the Guidelines, in the event of an expropriation or taking of a Resort Accommodation, the Board shall replace such Resort Accommodation with a substitute Resort Accommodation which is consistent with the high standards and quality exhibited by the then-current Resort Accommodations and shall add such Resort Accommodation to the Trust Agreement and this Declaration as provided in Section 4.6 hereof. The Board shall engage the Declarant to acquire the substitute Resort Accommodations and the Declarant agrees to take all necessary action to do so. If the amount of any award or settlement and reserves for replacement is insufficient to replace the Resort Accommodation, the Board shall levy a Special Assessment pursuant to Section 13.4 hereof. If the Special Assessment is not approved by the majority of the Board and the Members, as provided in Section 13.4, then the Board shall instruct the Declarant not to complete the purchase of the substitute Resort Accommodation and to continue its search for suitable substitute Resort Accommodation.

13.4 Special Assessment for Replacement of Resort Accommodations. Any Special Assessment required pursuant to Section 13.3 or 14.2 hereof shall require, (1) a resolution of a majority of the entire Board at a meeting called for that purpose, and (2) approval of such resolution by the affirmative vote or written assent of at least two-thirds (2/3) of the Voting Power residing in Members other than the Declarant.

ARTICLE 14 - DAMAGE OR DESTRUCTION

14.1 Proceedings. The procedures to be followed in the event of any damage or destruction of all or any portion of a Resort Accommodation shall be governed by the Project Instruments, if any, and the Supplemental Declaration for the Resort Accommodation.

14.2 Replacement of Resort Accommodations. In order to maintain the ability of all members to reserve Use Period(s) in the Resort Accommodation according to the Guidelines, if a Resort Accommodation is not repaired or restored pursuant to the Project Instruments and/or the Supplemental Declaration, the Board shall replace such Resort Accommodation with a substitute Resort Accommodation which is consistent with the high standards and quality exhibited by the then-current Resort Accommodations and shall add such Resort Accommodation to the Trust Agreement and this Declaration as provided in Section 4.6 hereof. The Board shall engage the Declarant to acquire all substitute Resort Accommodations and the Declarant agrees to take all necessary action to do so. If the amount of any insurance proceeds and reserves for replacement is insufficient to replace the Resort Accommodation, the Board shall levy a Special Assessment pursuant to Section 13.4 hereof. If the Special Assessment is not approved by the majority of the Board and the Members, as provided in Section 13.4, then the Board shall instruct the Declarant not to complete the purchase of the replacement Resort Accommodation and to continue its search for suitable replacement Resort Accommodation.

14.3 Damage or Destruction to Equipment. In the event of any damage or destruction to the Equipment other than by ordinary wear and tear, the Club shall promptly cause such damage to be repaired and shall use any available insurance proceeds for such purpose. If the damage is not covered by insurance, or if the available insurance proceeds are insufficient, the Club shall levy a Special Assessment upon each of the Members, to be allocated in the manner set forth in Section 10.8 hereof; provided, however, that in the event that the damage or destruction was caused by the intentional or negligent act or omission of a Member, a member of his family, his guests, tenants, invitees, or licensees, then the cost of such repair or the amount of such deficiency shall be a Personal Charge to such Member, to be paid in the manner provided in Section 10.10 hereof.