

NINETEENTH AMENDED AND RESTATED

MASTER DECLARATION

FOR

CLUB INTRAWEST

Effective as of the 30<sup>th</sup> day of May, 2012

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**THIS NINETEENTH AMENDED AND RESTATED MASTER DECLARATION** is executed and effective the 30<sup>th</sup> day of May, 2012, by **INTRAWEST ULC**, a corporation amalgamated and existing under the laws of Alberta, (hereinafter referred to as “Intrawest”), and **CLUB INTRAWEST**, a nonstock, nonprofit Delaware corporation.

**RECITALS:**

A. The Declarant has established a uniform plan for the development and ownership of the Resort Accommodations as a Club and for Memberships in the Club, by imposing upon the Resort Accommodations and Memberships mutual and beneficial restrictions, covenants, conditions, obligations, and easements to apply uniformly to the use, enjoyment, repair, maintenance, restoration, improvement, transfer, and encumbrance of all of the Resort Accommodations and for the payment of all taxes, assessments, insurance premiums, and other expenses relating thereto, for the mutual enjoyment, convenience, protection, and benefit of all of the Resort Accommodations and all current and future Members.

B. Intrawest Resort Ownership Corporation transferred title to the Initial Resort Accommodations to the Trustee who holds the same in trust for the Club, pursuant to the Trust Agreement.

C. Intrawest Resort Ownership Corporation was the original Declarant and assigned all of its right, title and interest as Declarant to Intrawest Corporation, effective May 31, 2004. Intrawest Corporation assigned all of its right, title and interest as Declarant to Intrawest, effective October 27, 2006.

D. On October 27, 2006, Intrawest Corporation was continued into Alberta and amalgamated with Wintergames Acquisition LLC under the name “Intrawest ULC”.

E. Following the amalgamation, Intrawest ULC is the Declarant for the purposes of this Declaration and all Club Instruments.

F. The Declarant may, in the future, transfer Additional Resort Accommodation to the Club in exchange for the transfer of additional Resort Points and Advantage Interest to the Declarant

G. On November 24, 1993, Intrawest Resort Ownership Corporation and the Club entered into a Master Declaration to set out the relationship between the Club and the Declarant, the conditions of transfer of Resort Accommodations to the Club, and the rights and responsibilities of the Declarant, the Members and the Club. The Master Declaration was subsequently amended on the 20th day of January, 1994, the 1st day of March, 1995, the 16th day of November, 1995, the 25th day of February, 1997, the 20th day of November, 1997, the 1st day of May, 1998, the 27th day of October, 1998, the 1<sup>st</sup> day of January, 2002, the 28<sup>th</sup> day of January, 2002, the 1st day of June, 2004, the 21<sup>st</sup> day of March, 2005, the 9<sup>th</sup> day of November, 2005, the 23<sup>rd</sup> day of October, 2006, the 27<sup>th</sup> day of October, 2006, the 20<sup>th</sup> day of January, 2007, the 17<sup>th</sup> day of November, 2008, the 26<sup>th</sup> day of March, 2009, the 10<sup>th</sup> day of August 2010 and the 30<sup>th</sup> day of May 2012.

H. The Parties wish to restate the Master Declaration as provided herein to accomplish the purposes set forth above.

NOW THEREFORE WITNESSETH that in consideration of the mutual covenants contained herein and other good and valuable consideration, the Parties covenant and agree as follows:

The Declarant hereby declares that the Initial Resort Accommodations and all Upgrades thereon, any Additional Resort Accommodations, all Memberships in the Club, and all appurtenances thereto are and shall be held, sold, conveyed, encumbered, leased, occupied, improved, and used subject to the covenants, conditions, reservations, restrictions, easements, and limitations of record contained or incorporated by reference herein, as the same from time to time may lawfully be amended or supplemented, all of which are established, declared, and agreed to be for the purpose of enhancing and protecting the value, desirability, and enjoyment of the Resort Accommodations and any Memberships in the Club. All such covenants, conditions, reservations, restrictions, easements, and limitations shall constitute equitable servitudes upon the Resort Accommodations, shall perpetually run with the Resort Accommodation, shall be binding upon and inure to the benefit of the Declarant, the Trustee, the Club, all Members, any other Persons (as herein defined) having or acquiring any right, title, or interest therein and thereto, each of their respective heirs, legal representatives, successors, and assigns, and all other Persons who are present within or use the Resort Accommodations for any purpose whatsoever.

By the acceptance of a Membership Certificate or any other instrument of transfer conveying a Membership in the Club, whether from the Declarant, its successors or assigns, or from any Member, each Member for him/herself, the Member's heirs, legal representatives, successors, assigns, and any other Person or Persons holding or occupying by, through, or under such Member, and whether or not expressly stated therein, covenants, consents, and agrees to and with the Declarant and with all other Members, to have ratified and to be bound by, observe, comply with, and perform the covenants, conditions, reservations, restrictions, easements, and limitations contained in this Declaration and in the Certificate of Incorporation, the By-Laws, the Guidelines, and any other Club Instruments (as such terms are hereinafter defined) as each of the aforesaid documents may lawfully be amended or supplemented from time to time.

## ARTICLE 1 - DEFINITIONS

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

- 1.1. "Additional Resort Accommodation" means the Resort Accommodation(s) which may be added to the Club or substituted into the Club, pursuant to the transfer method described in Article 4 hereof.
- 1.2. "Advantage Calendar" means the calendar used by the Declarant to identify the Calendar Week that is assigned by the Declarant to an Advantage Member for his or her exclusive use of a specific Resort Accommodation in a Project. A copy of the Advantage Calendar is attached to this Declaration as Schedule A.
- 1.3. "Advantage Interest" has the meaning assigned to it in Section 7.3(a).
- 1.4. "Advantage Member" means any Person in whose name a Membership Certificate has been issued with respect to the acquisition by said Person of an Advantage Interest.
- 1.5. "Ancillary Document" means any written document issued by the Club, a subsidiary of the Club or a trustee to the Club which licenses, leases or assigns use rights in a specific Resort Accommodation in a Project to an Advantage Member for the Calendar Week identified in the Advantage Member's Membership Certificate.
- 1.6. "Appointee" means Intrawest Resort Ownership U.S. Corporation, Resort Ventures, L.P. and any Person which the Declarant in the future appoints in accordance with Section 12.7 of this Declaration to carry out the responsibilities of the Declarant in the operation of the Club at a particular Project.
- 1.7. "Appointment Agreement" means an agreement between the Declarant and an Appointee.
- 1.8. "Assessment" means any amount, which, from time to time, is levied by the Board of Directors upon one (1) or more Members, including, but not limited to, Resort Fees and Special Assessments, but excluding Personal Charges.
- 1.9. "Assessment Period" means the period for which the annual Resort Fee is to be levied.
- 1.10. "Assigned Resort Accommodation" means any Resort Accommodation, the use and occupancy of which has been assigned to a particular Member or Occupant by the Manager for one (1) or more Use Period(s) in accordance with the provisions of this Declaration and the Guidelines.
- 1.11. "Associate Member" means a Member's spouse who is appointed by the Member

to enjoy the privileges and to assume the responsibilities of an Associate Member of the Club as set forth in the Guidelines.

- 1.12. "Board of Directors" or "Board" means the board of directors of the Club.
- 1.13. "By-Laws" means the third amended and restated By-Laws of Club Intrawest, as they may lawfully be amended from time to time, pursuant to the provisions thereof.
- 1.14. "Calendar Week" means one of the 53 weeks identified in the first column of the Advantage Calendar. Each Calendar Week commences on a Saturday on the date in each year set out on the Calendar Week grid for the corresponding Calendar Week.
- 1.15. "Certificate of Incorporation" means the Articles of Incorporation of Club Intrawest, as it may lawfully be amended from time to time.
- 1.16. "Club" means Club Intrawest (formerly, Intrawest Resort Club), a Delaware non-stock, nonprofit corporation, together with its successors and assigns.
- 1.17. "Club Instruments" means this Declaration, the Certificate of Incorporation, the By-Laws, the Trust Agreement, and the Guidelines together with each Member's Purchase and Membership Agreement, Membership Certificates, as each may lawfully be amended or supplemented from time to time.
- 1.18. "Declarant" means Intrawest Resort Ownership Corporation prior to May 31, 2004, Intrawest Corporation, from and after May 31, 2004 to and including October 26, 2006 and Intrawest together with its respective successors, assigns and Appointees from and after October 27, 2006.
- 1.19. "Declarant's Advantage Interest" means the total of:
  - (a) Advantage Interests for which no current Membership Certificates have been issued, or any unsold Advantage Interests which are deemed to have been issued to Declarant pursuant to Section 12.1 hereof or to an Appointee pursuant to Section 12.7;
  - (b) any Advantage Interests that have been reacquired by the Declarant in any manner; and
  - (c) any Advantage Interests permanently converted from any of Declarant's Resort Points pursuant to the Club Instruments.
- 1.20. "Declarant's Resort Points" means the total of:
  - (a) the unsold Resort Points for which no current Membership Certificates have been issued, or the unsold Resort Points which are deemed to have been issued

to the Declarant pursuant to Section 12.1 hereof or to an Appointee pursuant to Section 12.7;

- (b) any Resort Points that have been reacquired by the Declarant in any manner; and
- (c) any Resort Points permanently converted from any Declarant's Advantage Interest pursuant to the Club Instruments.

1.21. "Declaration" means this Nineteenth Amended and Restated Master Declaration for the Club Intrawest, together with all Exhibits attached hereto and any Supplemental Declarations, as they may lawfully be amended or supplemented from time to time, pursuant to the provisions hereof.

1.22. "Delaware Corporate Law" means the General Corporation Law of the State of Delaware, as it may be amended from time to time.

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

1.24. "Equipment" means all furnishings, fixtures and chattels in or appurtenant to a Resort Accommodation purchased or supplied by the Club for use by Members during a Use Period.

1.25. "Exchange User" means any person who occupies a Resort Accommodation pursuant to a reciprocal exchange program approved by the Board of Directors.

1.26. "Gateway Resort Points" means Resort Points which have special rights as set out in Section 6.2, 7.2, and 10.4.

1.27. "Getaway Time" means any unreserved Use Period purchased with cash by a Member in accordance with the Guidelines in addition to the Use Period(s) permitted by such Member's current Resort Points or Advantage Interest.

1.28. "Guidelines" mean the rules applicable to Resort Point Members and Advantage Members, including but not limited to the terms and conditions of Membership, the use of Resort Points, use of Advantage Interests and conversion thereof to Resort Points, the utilization of the Reservation System and general use of Resort Accommodations. The Guidelines may be divided into one or more sets of Guidelines applicable to Resort Point Members or Advantage Members.

1.29. "Holdover Occupant" means any Member or Occupant who fails to vacate his or her Assigned Resort Accommodation at the end of his or her reserved or scheduled Use Period(s), or at such earlier time as may be established by the Guidelines, or otherwise uses or occupies a Resort Accommodation during any period other than his or her reserved or scheduled Use Period(s), other than Getaway Time, without written authorization from

the Member entitled to occupy such Resort Accommodation at that time, or who prevents another Member from using or occupying such Resort Accommodation during such Member's Use Period(s).

- 1.30. "Initial Resort Accommodations" means the Resort Accommodations which have been transferred to the Club prior to October 1, 2006.
- 1.31. "Intrawest" means Intrawest ULC, a company amalgamated under the laws of Alberta.
- 1.32. "Lender of Record" means any Person which holds a Security Interest in a Membership, including but not limited to the beneficiary of a security agreement and its successors and assigns, provided that such security is evidenced by a written instrument which has been perfected according to applicable law, and notice of which has been provided to the Manager for the Club's records.
- 1.33. "Maintenance Period" means, with respect to each Resort Accommodation, up to seven (7) days and nights, not necessarily consecutive, during each calendar year, which are reserved by the Club to perform maintenance of Resort Accommodations.
- 1.34. "Manager" means the Person, its successors and assigns, engaged from time to time by the Club to undertake the duties, responsibilities, and obligations of managing the Club, pursuant to the Restated Management Agreement.
- 1.35. "Member" means Resort Point Members and Advantage Members, together with the Declarant, with respect to the Declarant's Resort Points and the Declarant's Advantage Interests.
- 1.36. "Membership" means the membership in the Club and the Resort Points, Gateway Resort Points or Advantage Interest purchased by a Member, as evidenced by one or more Membership Certificates.
- 1.37. "Membership Certificate" means the certificate issued by the Club to a Member certifying that the Person named in the certificate is a Member of the Club and specifying the number of Resort Points, Gateway Resort Points or Advantage Interests held by that Member. The Membership Certificates collectively evidence and represent the rights and privileges held by the Member named therein. A Member has only one Membership in the Club which is evidenced by one or more Membership Certificates. For all purposes of this Declaration, including the sale of a Membership, the splitting of a Membership and voting, all Membership Certificates will be treated as a single Membership Certificate. The Club reserves the right to cancel a Member's Membership Certificates and replace the same with a single Membership Certificate for all of the Resort Points or Advantage Interests acquired by the Member. If an Ancillary Document has been issued to an Advantage Member, then the Ancillary Document is deemed to form part of the Advantage Member's Membership Certificate and will be annexed to the Membership

Certificate as a schedule.

- 1.38. "Membership Costs" means and includes all costs incurred by the Club for and on behalf of the Members as provided in Section 10.3 hereof.
- 1.39. "Occupancy Rate" means, for any calendar year, the number of Resort Points required to occupy a Resort Accommodation for each day of the calendar year.
- 1.40. "Occupant" means any person occupying or permitted to occupy a Resort Accommodation, including but not limited to any Member, members of the Member's family, the Member's guests, tenants, licensees, and invitees, together with Exchange Users.
- 1.41. "Officer" means any person elected or appointed by the Board of Directors, pursuant to the By-Laws to serve as an officer of the Club.
- 1.42. "Parties" means the Declarant and the Club.
- 1.43. "Person" includes any individual, corporation, partnership, association, governmental body, society, or mutual benefit corporation.
- 1.44. "Personal Charge" means an Assessment levied by the Board upon a particular Member for one or more of the reasons permitted hereunder.
- 1.45. "Project" means, collectively, the property in a particular location, in which a Resort Accommodation is physically situated.
- 1.46. "Project Instruments" means any declaration, articles of incorporation, by-laws, rules and regulations or other documentation pertaining to a Project, excluding the Club Instruments.
- 1.47. "Project Property" means the real and personal property that constitutes a Project, including, but not limited to recreational facilities and any Resort Accommodations therein.
- 1.48. "Purchase and Membership Agreement" means any instrument pursuant to which the Declarant agrees to convey one (1) or more Memberships in the Club to a purchaser.
- 1.49. "Reserves" mean the Club reserves referred to in Section 10.12.
- 1.50. "Reservation System" means the master system owned and exclusively controlled by the Declarant, as Manager, by which Members may reserve the use of Resort Accommodations pursuant to the terms of the Guidelines.



- 1.51. “Resort Accommodation” means a portion of a Project (including the Equipment), consisting of either personal property (such as a motor home or a houseboat), or a leasehold, fee simple or other interest in real property, including a condominium suite or unit, a hotel suite, a cabin, a house or other facility or interest, including a timeshare interval or interest, which is owned or leased by the Club or by the Trustee on behalf of the Club for the use of the Members and all rights and privileges belonging or in any manner appertaining thereto, now or hereafter submitted to this Declaration, as it may lawfully be amended or supplemented from time to time.
- 1.52. “Resort Fees” means the annual assessment levied by the Board upon all Members for their proportionate share of the annual Membership Costs in accordance with Section 10.5 hereof.
- 1.53. “Resort Points” has the meaning assigned to it in Section 7.2 and includes Gateway Resort Points and Upgrade Points.
- 1.54. “Resort Point Member” means any Person in whose name a Membership Certificate has been issued with respect to the acquisition by said Person of Resort Points.
- 1.55. “Restated Management Agreement” means the agreement between the Club and the Manager which provides for management of the daily operations of the Club.
- 1.56. “Seasons” means the days of each calendar year which are configured by the Declarant into groups of time so that each like day in each week in each Season is allotted a consistent Resort Point/Resort Points value for occupancy purposes.
- 1.57. “Security Interest” has the meaning as provided in the Personal Property Security Act (British Columbia) or any applicable U.S. state law.
- 1.58. “Special Assessment” means an Assessment levied by the Board upon all Members as provided in Section 10.8 hereof.
- 1.59. “Subsequent Resort Accommodation” means Resort Accommodation that is leased or transferred to the Club on or after May 31, 2001, excluding the Resort Accommodation which is leased or transferred after May 31, 2001 and which is dedicated exclusively for the holders of Advantage Interests.
- 1.60. “Supplemental Declaration” means any declaration annexing Additional Resort Accommodations to this Declaration, or setting out the terms of the supply of an Upgrade by the Declarant as provided in Article 4 hereof.
- 1.61. “Total Advantage Interests” means the total number of Advantage Interests that exist from time to time.
- 1.62. “Total Occupancy Rate” means the sum of all Occupancy Rates for the Resort

Accommodation for a calendar year.

- 1.63. “Total Resort Points” means the total number of Resort Points that exist from time to time.
- 1.64. “Trustee” means Computershare Trust Company of Canada, FNTC America Trust Company and City Bank National or such other Person as may be appointed to act as a trustee to the Club pursuant to the terms of a trust agreement.
- 1.65. “Trust Agreement” means each agreement under which title to the Resort Accommodations is transferred to the Trustee for the benefit of the Club.
- 1.66. “Upgrade” means any thing or matter which the Club wishes to acquire and which has not been provided for in the Reserves including:
- (a) Equipment;
  - (b) An improvement or alteration to a Vacation Home;
  - (c) An improvement or alteration to a Project Property;
  - (d) An amenity or use rights to a sports or recreational activity acquired for the use or benefit of Members.
- 1.67. “Upgrade Points” means the number of Resort Points issued by the Club in exchange for the supply of an Upgrade by the Declarant.
- 1.68. “Use Period” means the period of time during which a Member is entitled to use and occupy an Assigned Resort Accommodation pursuant to the Guidelines and the provisions hereof.
- 1.69. “Use Year” means the 12-month period of time in which a Resort Point Member has the right to reserve occupancy of Resort Accommodation using Resort Points, Gateway Resort Points or in which an Advantage Member has the right to occupy assigned Resort Accommodation using his or her Advantage Interest.
- 1.70. “Use Year Commencement Date” means the date on which a Member’s Use Year commences, as set forth on each Membership Certificate.
- 1.71. “Vacation Home” means Resort Accommodation.
- 1.72. “Voting Power” means the aggregate vote or written assent of Members entitled to vote, in person or by proxy, including, if there is more than one class of Members, the aggregate vote or written assent of all classes of Members.
- 1.73. “Website” means [www.clubintrawest.com](http://www.clubintrawest.com) or such other website as may be designated by

the Declarant as the website for the Club.

## ARTICLE 2 - INTERPRETATION

2.1 General. For the purposes of this Declaration except as otherwise expressed or provided:

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

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

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

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

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

(f) Words importing the singular will include the plural and vice versa. Words importing the masculine gender will include the feminine and neuter genders;

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

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

2.2 Rounding and Calendar Adjustments: The Declarant, without the prior consent of the Board, may (a) adjust the Total Occupancy Rate by an amount not exceeding one (1%) percent of

the Total Occupancy Rate when making adjustments to the Resort Points for Resort Accommodations in accordance with Section 7.5, or (b) increase or decrease the number of days in a Season due to changes in the calendar date on which any holiday initially included in a Season falls when making adjustments to Seasons under Section 7.8, so long as such adjustment, in accordance with this Section 2.2, does not reduce the ability of a Member to occupy a Resort Accommodation during a Use Year from that existing prior to the adjustment. Any other adjustment or change shall be made only in accordance with Sections 7.5 and 7.8.

### ARTICLE 3 - TRANSFER OF THE INITIAL RESORT ACCOMMODATIONS

Intrawest Resort Ownership Corporation and Intrawest Corporation have transferred the Initial Resort Accommodations to the Trustee, free and clear of all encumbrances, to be held in trust, by the Trustee for the benefit of the Club, pursuant to the Trust Agreement.

## ARTICLE 4 - ADDITION AND REMOVAL OF RESORT ACCOMMODATIONS AND THE SUPPLY OF UPGRADES

4.1 Transfer of Additional Resort Accommodations. The Declarant hereby reserves the right (but not the obligation), in its sole and absolute discretion, without the consent of the Board or any Member, to transfer or cause an Appointee to transfer Additional Resort Accommodations directly to the Club, to the Trustee or to any other Person for the sole benefit of the Club, in any order and at any time, and the Club and each Member, by acceptance of a Membership Certificate, hereby grants the Declarant the exclusive right to transfer such Additional Resort Accommodations to the Club, the Trustee, or to any other Person for the sole benefit of the Club and the Members provided that the Declarant pays or causes an Appointee to pay, all appropriate taxes (if any) charged in connection with the transfer of the Resort Accommodation to the Trustee or to any other Person for the sole benefit of the Club and the issuance of Resort Points or Advantage Interests for or on behalf of the Declarant or an Appointee. The Declarant, however, may not transfer Additional Resort Accommodations, without the affirmative vote or written assent of a majority of the Voting Power residing in Members other than the Declarant which would (a) cause an increase in the Resort Fees per Resort Point in excess of that permitted by Section 10.5 of the Declaration or, (b) otherwise materially adversely affect the rights of Members. Prior to the transfer of any Additional Resort Accommodation, the Board shall adopt findings that (a) the proposed Resort Accommodation is not encumbered by financial charges or that other protection is in place to assure that the Club will not lose the Resort Accommodation due to foreclosure of any monetary lien on the proposed Resort Accommodation; (b) the proposed Resort Accommodation is complete or that financial arrangements have been made to assure completion; (c) acquisition of the proposed Resort Accommodation is in accordance with local law; (d) use of the proposed Resort Accommodation and any related common facilities is available to all members without discrimination on the basis of race, color, religion, ancestry, physical handicap, sex, sexual orientation, marital status or national origin; and (e) either title insurance or an opinion of legal counsel will be issued to the Club assuring that the Trustee obtains a legal interest in the proposed Resort Accommodations.

### 4.2 Method of Transfer.

(a) The transfer of any Additional Resort Accommodations hereto shall be effected by the Parties' execution and recordation of a Supplemental Declaration or equivalent document under applicable law which document shall provide for the addition to this Declaration of the Resort Accommodation(s) described in such document and the transfer of the Additional Resort Accommodations directly to the Club, to the Trustee or to any other Person for the sole benefit of the Club free and clear from all financial charges, to be held in trust for the benefit of the Club. Unless otherwise directed by the Board, the Supplemental Declaration, together with a counterpart of this Declaration, shall be recorded in the official records of the jurisdiction in which the Resort Accommodation(s) is located and any other recording office in which the Declaration has been filed.

(b) The Club shall amend the Trust Agreement to reflect the transfer of the Additional Resort Accommodations and, unless otherwise directed by the Board, shall record such

amendment in the appropriate land title office and any other recording office in which the Trust Agreement has been filed. The terms of the Trust Agreement (as amended) shall apply to any Additional Resort Accommodation.

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

4.4 Effect of Transfer to the Club. Upon the transfer of Additional Resort Accommodations to the Club, the Trustee or to any other Person for the sole benefit of the Club, the Additional Resort Accommodations shall be deemed part of the Club and shall be subject to the terms of this Declaration and the other Club Instruments. All provisions of this Declaration, including, but not limited to, the Declarant's rights as set forth in Article 12 hereof and those provisions regarding Members' obligations to pay Assessments, shall apply to the Additional Resort Accommodations immediately upon recording the Supplemental Declaration with respect thereto as aforesaid. The Club will hold title to all Resort Accommodation registered in its name, and to all beneficial interests in the Trust or other similar holding vehicle to which title to Resort Accommodation may be transferred, in trust, for the benefit of the Members and the value of each Member's beneficial interest in the Resort Accommodation shall be paid out and distributed to each Member of the Club in accordance with Article X of the Bylaws of the Club. Declarant reserves the right to require the Trustee to execute and record one or more instruments from time to time to evidence the rights of the Club and the Members.

4.5 No Obligation by the Declarant. This Declaration does not impose any obligation on the Declarant to transfer Additional Resort Accommodations to or for the benefit of the Club and specifically, the Declarant makes no representation, covenant or warranty to the Club, the Members or to any other Person that it will, at any time in the future, transfer Additional Resort Accommodations to the Club. If the Declarant elects to transfer or cause an Appointee to transfer Additional Resort Accommodations to the Club, then subject to the provisions of this Declaration, there is no limit to the number of Resort Accommodations which may be transferred to or for the benefit of the Club. The Declarant may transfer Additional Resort Accommodations in one or more transactions during the term of this Declaration. The Declarant covenants to the Club to transfer only such Additional Resort Accommodations to the Club as are consistent with the high standards and quality exhibited by the Initial Resort Accommodations.

4.6 Transfer of Replacement Resort Accommodations. In the event a Resort Accommodation is required to be replaced pursuant to Section 13.3 or 14.2 hereof, the same method of transfer as provided in Section 4.2 above shall be followed.

4.7 Removal of a Resort Accommodation. Except in the event of damage or destruction of a Resort Accommodation as provided in Section 14.2 hereof, or expropriation or taking of a Resort Accommodation as provided in Section 13.3 hereof, no Resort Accommodation may be removed

from the Trust Agreement or the Club. In the event of a removal of a Resort Accommodation pursuant to Section 13.3 or 14.2 hereof, the Club shall amend any applicable Trust Agreement and this Declaration to remove such Resort Accommodation from the Trust Agreement and this Declaration and shall record such amendments and other instruments in the appropriate land title office and any other recording office in which this Declaration or the Trust Agreement have been filed.

4.8 Substitution. The Declarant, with the consent of a majority of the Board, may implement a plan to substitute Resort Accommodations for existing Resort Accommodations, on such terms and conditions as the Declarant and the Board may agree, provided that:

- (a) Substitutions may only occur in up to ten (10) Resort Accommodations in each of the following locations; Kauai, Hawaii and Vancouver, British Columbia, Canada; provided that such substitutions occur on or before December 31, 2007;
- (b) Any such substituted Resort Accommodation meets the criteria for Additional Resort Accommodations set forth in Section 4.1 hereof;
- (c) Approximately the same number of Resort Points shall be assigned to the substituted Resort Accommodation(s);
- (d) Any substituted Resort Accommodations shall be consistent with the high standards and quality exhibited by the then-current Resort Accommodations;
- (e) All Members shall be notified of the deletion of a given Resort Accommodation and substitution with specific Resort Accommodation(s). Such notice must inform the purchasers that the Resort Accommodation deleted will no longer be available for use.

In the event of such substitution, the Club shall amend the Trust Agreement to remove the original Resort Accommodation from the Trust Agreement and shall record such amendment in the appropriate land title office and any other recording office in which the Trust Agreement has been filed. The transfer of the substituted Resort Accommodation shall be accomplished by the same method of transfer as provided in Section 4.2(b) above.

THE DECLARANT, THE APPOINTEE, OR THE CLUB SHALL NOT MAKE ANY REPRESENTATIONS WHATSOEVER REGARDING THE ADDITION OR SUBSTITUTION OF RESORT ACCOMMODATIONS AND THE DECLARANT, THE BOARD OR THE CLUB SHALL NOT HAVE ANY OBLIGATION TO ADD ADDITIONAL RESORT ACCOMMODATIONS OR SUBSTITUTE RESORT ACCOMMODATIONS.

4.9 Upgrades. If a majority of the Board approves an Upgrade then the Board may either:

- (a) Levy a Special Assessment to pay for the cost of the Upgrade; or

- (b) Request that the Declarant supply the Upgrade to the Club in exchange for Upgrade Points and in that event:
  - (i) The Club will provide the Declarant with a description of the Upgrade in such detail as the Declarant may require;
  - (ii) If the Declarant offers to supply the Upgrade it will advise the Club of the number of Upgrade Points required to be issued by the Club.

4.10 Supplemental Declaration. If all the directors of the Club who are not employed by the Declarant accept the Declarant's offer then the parties will execute a Supplemental Declaration which will set out the terms and conditions of the supply of the Upgrade. The Declarant will be solely responsible for the cost of the Upgrade including all applicable taxes. The Declarant will transfer the Upgrade, free and clear of all encumbrances to the Club, its Trustee or such other Person (as directed by the Club) who will hold the Upgrade in trust for the Club.

4.11 Effect of the supply of an Upgrade. On the supply of Upgrade to the Club, its Trustee or other Person (as directed by the Club) the Upgrade shall be deemed to be part of the Club and shall be subject to this Declaration and the Club Instruments. The Club will hold title to the Upgrade registered in its name and to all beneficial interests in the Upgrade in trust for the benefit of the Members and the value of each Member's beneficial interest in the Upgrade shall be paid out and distributed to each Member in accordance with Article X of the Bylaws of the Club. The Declarant reserves the right to require the Trustee to execute and record one or more instruments from time to time to evidence the rights of the Members.

4.12 Upgrade Points. The Club will issue the Upgrade Points concurrently with the supply of the Upgrade and satisfaction of all conditions set out in the Supplemental Declaration. Prior to selling the Upgrade Points the Declarant may elect to convert some or all of the Resort Points comprising the Upgrade Points to Gateway Resort Points in which case the Club will issue 2 Gateway Resort Points for each Resort Point converted by the Declarant.

4.13 Adjustments to Occupancy Rates. The issuance of the Upgrade Points will result in an increase of the Total Resort Points without a corresponding addition of Resort Accommodation. The Declarant, shall adjust the Occupancy Rates of selected Resort Accommodation so that the Total Resort Points do not exceed the Total Occupancy Rate and the Declarant shall notify the Members and the Board of the changes in the Occupancy Rates. The restrictions contained in Sections 7.5 and 2.2 shall not apply to an adjustment to the Occupancy Rates made pursuant to this Section, **provided that if the Total Occupancy Rate shall increase more than ten percent (10%) per annum, the change shall not be effective without the assent of at least twenty-five percent (25%) of the Voting Power of the Association other than Declarant.**

## ARTICLE 5 - USE AND OCCUPANCY RIGHTS AND RESTRICTIONS



5.1 Club Instruments. In addition to the provisions of this Declaration, the use and occupancy of the Resort Accommodations shall be subject to the By-Laws and to such Guidelines as may be promulgated from time to time.

5.2 Care of Resort Accommodations. Each Occupant shall exercise reasonable care in the use of the Resort Accommodations, the Equipment, any property of the Club or Project Property, whether or not such property is part of the Resort Accommodations.

5.3 Responsibility for Damage. Each Occupant shall be liable for the cost and expense of any maintenance, repair, or replacement of a Resort Accommodation, Equipment or Project Property necessary as a result of such Occupant's negligent or intentional acts or omissions. The negligent or intentional act or omission of a Member's family members, guests, tenants, licensees or invitees shall be deemed to be the act of the Member, and the Member shall be held jointly and severally liable with all such Persons. If the Club maintains insurance on the Resort Accommodation, Equipment or Project Property, files an insurance claim and receives payment on the claim, then the liability of the Occupant shall be decreased by the amount of the paid insurance claim.

In the event that a Resort Accommodation is rendered uninhabitable due to the intentional or negligent act or omission of an Occupant, the Club shall use reasonable efforts to find, and shall initially pay for, alternative accommodations of reasonably comparable quality and location for any Person(s) authorized to occupy such uninhabitable Resort Accommodation. The responsible Member or Exchange User shall be assessed a Personal Charge by the Club for the uninsured cost of such alternative accommodations which shall include an administrative fee payable to the Club which, unless and until adjusted by the Board shall be in the amount equal to a percentage of the fair rental value of the Resort Accommodation rendered uninhabitable, as such fair rental value is determined from time to time by the Manager, in its sole discretion, for each day or any portion thereof during which the Resort Accommodation remains uninhabitable.

The Manager shall submit a bill to the responsible Member or Exchange User for all amounts payable to the Club under this Section, which amounts shall be enforceable as a claim for money damages against such Member or Exchange User and shall constitute a Personal Charge to such Member. The Manager shall make all reasonable efforts to collect such amounts from Occupants other than Members; however, Manager has no obligation to pursue collection from Occupants other than a Member and Members shall remain primarily liable for any loss, damage or destruction caused by any Person who occupies a Resort Accommodation with a Member's permission other than an Exchange User.

Any loss, damage, or destruction caused by an Exchange User, or guests, licensees or invitees of an Exchange User, to Project Property, Resort Accommodations, Equipment, or any property of the Club, or any violation of the Club Instruments by the Exchange User, shall be remedied by the Club, and the cost thereof, to the extent not covered by insurance or recovered from the Exchange User, shall be a Membership Expense and shall be shared by all Members as a part of their Resort Fee; provided, however, that if an Exchange User is also a Member, such costs shall constitute a Personal Charge to such Member and shall be borne by such Member

exclusively.

5.4 Offensive Use. No Occupant shall cause or permit any unlawful, improper, or offensive use of any Project Property, Resort Accommodation or Equipment nor shall any Occupant permit any portion of the Club property to be used in any manner contrary to, or not in accordance with, the provisions of the Club Instruments. Furthermore, no Occupant shall cause or permit anything to be done or kept in a Resort Accommodation or Project Property which might adversely affect the safety or soundness thereof or which is reasonably likely to increase the rate of any of the Club's insurance coverage or obstruct or interfere with the rights of other Occupants or annoy them by unreasonable noises or otherwise, nor shall any Occupant commit or permit any nuisance, objectionable or disruptive behavior, or illegal acts in or about the Resort Accommodations or Project Property.

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

5.6 Maximum Occupancy Restriction. No Occupant shall cause or permit his or her Assigned Resort Accommodation to be occupied overnight by a number of persons in excess of such occupancy limits as are imposed by law or set forth in the Guidelines.

5.7 Vacating Resort Accommodations. Each Occupant shall vacate his or her Assigned Resort Accommodation on the final day of his or her reserved or scheduled Use Period at the time specified in the then-current Guidelines. At such time, each Occupant shall take all such steps as are necessary to ensure the removal of all Persons occupying his or her Assigned Resort Accommodation during his or her reserved or scheduled Use Period or Getaway Time, along with all of the personal property of such Persons. If any Occupant fails to vacate his or her Assigned Resort Accommodation at the end of his or her reserved or scheduled Use Period(s) or at such earlier time as may be fixed by the then-current Guidelines, or otherwise uses or occupies a Resort Accommodation during any period other than his or her reserved or scheduled Use Period(s) or any Getaway Time without written authorization from the Member entitled to occupy such Resort Accommodation at that time, or prevents another Member from using or occupying such Resort Accommodation during such Member's reserved or scheduled Use Period(s), then he shall be deemed a Holdover Occupant and shall be subject to immediate removal, eviction, or ejection from the Resort Accommodation wrongfully used or occupied and shall be deemed to have waived any notice required by law with respect to any legal proceedings regarding removal, eviction, or ejection (to the extent that such notice may be waived under the law of the jurisdiction in which the Resort Accommodation is located).

The Club, acting through the Manager, shall take such prompt and immediate steps as may be necessary to remove such Holdover Occupant and his or her personal property from the Resort Accommodation wrongfully occupied, to the extent permitted by law. The Club shall use its best efforts to secure, at its own expense, alternative accommodations for any Member or Occupant who is unable to occupy his or her Assigned Resort Accommodation due to the failure of any

Holdover Occupant to vacate such Resort Accommodation. Such alternative accommodations shall be comparable in quality and location to such Member's or Occupant's Assigned Resort Accommodation, to the extent reasonably possible, and the cost of such alternative accommodations shall initially be borne by the Club. Notwithstanding the above, the Club shall not incur any liability in the event it is unable to secure alternative accommodations nor shall it be liable for any loss or damage to such accommodations caused by a Member or Occupant.

The cost of such alternative accommodations, together with all other costs and expenses, including reasonable attorneys' fees, incurred by the Club due to the Holdover Occupant's failure to vacate any Resort Accommodation, as well as an administrative fee which, unless and until adjusted by the Manager, shall be in the amount equal to 100% percent of the fair rental value per day of the Resort Accommodation wrongfully occupied, as such fair rental value is determined from time to time by the Manager, in its sole discretion, based upon the cost of renting comparable accommodations located in the vicinity of the Resort Accommodation in question, shall be assessed to the Member who wrongfully occupied or permitted or otherwise allowed the Holdover Occupant to occupy such Resort Accommodation. Such administrative fee shall be charged for each day or portion thereof, including the day of surrender, during which the Holdover Occupant wrongfully occupies a Resort Accommodation. The Manager shall submit a bill to such Member or Exchange User for any amounts payable to the Club pursuant to this Section which amounts shall be enforceable as a claim for money damages against such Member or Exchange User, and shall constitute a Personal Charge to such Member.

5.8 Easements. In addition to any easements described in any Supplemental Declaration or otherwise of record, the Club shall be subject to the following easements:

(a) Subject to any Project Instruments, the Declarant shall have and hereby retains for itself, its successors and assigns, together with its guests, tenants, licensees, and invitees, an easement to maintain one (1) or more model Resort Accommodations and business and sales offices to enable the Declarant or its designee(s) to market and sell Memberships, display signs, and show Resort Accommodations, common areas and amenity centers at all Projects to prospective purchasers, to rent available Resort Accommodations on a transient basis to members of the general public in accordance with the provisions of Section 5.9 below;

(b) The Declarant shall have and hereby retains for itself, its successors and assigns, an easement and right of ingress and egress in and to those portions of a Resort Accommodation which are reasonably necessary to the Declarant for the construction of additions and improvements to any Resort Accommodation;

(c) The Declarant shall have and hereby retains for itself, its successors and assigns, including the Club and all Members, such easements for ingress and egress in and to each Resort Accommodation as may be necessary to enable the Club and the Manager to implement any reservation procedures which may be set forth in the Guidelines and to operate a front desk and check-in facility for Club Members, Exchange Users and guests, pursuant to the provisions hereof;

(d) The Declarant further reserves for itself, its successors and assigns, the right

to establish such additional easements, reservations, exceptions, and exclusions or to relocate any existing easements, as the Declarant, in its sole discretion, deems necessary or appropriate and in the best interests of the Members and the Club in order to serve the entire Resort Accommodation, provided, however, that no such reservation, without the written consent of the Board and approval by the Members, shall materially reduce any existing benefit of the Members or impose any additional financial burden upon the Members and the Club;

5.9 Rentals by the Declarant. Notwithstanding any provision of this Declaration to the contrary, the Declarant shall have the right to rent any Resort Accommodation on a transient basis to members of the general public or to make any other use thereof which is permitted by law for the Use Periods to which it is entitled based on the Declarant's Resort Points and the Declarant's Advantage Interests at that time. Any revenues generated or other monies received by the Declarant from any such rentals or other uses shall inure solely to the benefit of the Declarant. All guests, licensees, invitees, and tenants of the Declarant shall be subject to the same use restrictions, as the guests, licensees, invitees, and tenants of other Members hereunder and pursuant to the Club Instruments. Except as provided in Section 5.11, revenue derived from the rental of the Resort Accommodation for the Use Periods, other than those to which the Declarant is entitled based on the Declarant's Resort Points and the Declarant's Advantage Interests, shall be for the benefit of the Club.

5.10 Protection of the Declarant. Notwithstanding any provision of the Club Instruments to the contrary, for so long as the Declarant holds for sale in the ordinary course of its business one (1) or more Memberships, the Club shall not take any action which would be detrimental to the sale by the Declarant of Memberships so long as the Declarant is in compliance with all provisions of the Club Instruments; provided, however, that an increase in Resort Fees without discriminating against the Declarant shall not be deemed to be detrimental to the sale of Memberships.

5.11 Rental of Unreserved Time. If a Member does not reserve occupancy at Resort Accommodation fourteen (14) days prior to an occupancy date, then the Manager may offer the Resort Accommodation for rent to the general public and the rental proceeds received after deduction of the Manager's fee shall be paid at the direction of the Declarant either to the Club or to the Declarant, provided, however, that the following additional conditions shall apply to the payment of such proceeds to the Declarant:

(a) if rental proceeds are paid to the Declarant as provided hereunder, the provision herein permitting payment of such proceeds to the Declarant shall be effective only if and for so long as the Declarant, or any entity owned or controlled by the Declarant or under common management and control with the Declarant is the manager for the Project;

(b) the Declarant shall not reserve any occupancy period earlier than forty-five (45) days before the first day of that period;

(c) the Declarant shall reimburse the Club for expenses incurred by or allocated to the applicable Resort Accommodation in connection with the commercial occupancy of the Resort Accommodation;

(d) a Member's untimely request for occupancy shall be honoured unless the Resort Accommodation that the Member requested has been previously reserved by a Member or has been rented to the general public, before the Manager's receipt of the Member's untimely request for occupancy;

(e) the Declarant shall submit to the Board, not less than thirty (30) days before the scheduled mailing of the annual report a report for the preceding fiscal year, setting forth the amount of revenues derived by the Declarant from the commercial rental of the unreserved occupancy periods and the amount of money paid by the Declarant to the Club for the expenses incurred by or allocated to all the Resort Accommodations in connection with the commercial occupancy of such Resort Accommodation;

(f) an annual special vote of the Members other than the Declarant on the question of retaining the provision permitting payment of such proceeds to the Declarant as permitted hereunder shall be conducted in conformance with the Club Instruments as follows:

- (i) the first such special vote shall be conducted at the annual meeting of the Club in the year 2000;
- (ii) the vote on this question shall be conducted annually thereafter for so long as the revenues from the rental to the public of the unreserved occupancy periods inure to the benefit of the Declarant or an affiliate of the Declarant;
- (iii) the provisions of this Section 5.11 permitting payment of such proceeds to the Declarant shall no longer be effective if a majority of the Voting Power of the Club votes against retaining the provisions of this Section, provided, however, that the other provisions of this Section 5.11 permitting payment of such proceeds to the Club shall remain in effect.

## ARTICLE 6 - THE CLUB

6.1 Member. After November 27, 1994, the Club shall only issue a Membership Certificate to:

- (a) an individual;
- (b) an individual and his or her spouse;
- (c) an Appointee;
- (d) the Declarant; or

- (e) a Lender of Record who acquires a Membership by enforcement of its security or otherwise.

Any person who is issued a Membership Certificate shall automatically be a Member of the Club in accordance with the provisions of the Club Instruments. Except as otherwise provided in this Declaration or in other Club Instruments, the Declarant and each Appointee shall be deemed to be a Member based on the Declarant's Resort Points and Advantage Interests.

6.2 Voting. Each Member, other than a Member who owns Gateway Resort Points, shall be entitled to vote as provided in the By-Laws. A Resort Point Member who owns Gateway Resort Points shall be entitled to vote on the basis that two (2) Gateway Resort Points are equal to one (1) Resort Point and the voting entitlement shall be calculated on the basis that the Resort Point Member shall be entitled to one vote for the first 30 (thirty) Gateway Resort Points shown on the Member's Membership Certificate and one additional vote for each additional 30 (thirty) Gateway Resort Points shown on the Member's Membership Certificate. For example:

<u>Membership Certificate</u>	<u># of Votes</u>
30-59 Gateway Resort Points	1
60-89 Gateway Resort Points	2
90-119 Gateway Resort Points	3

6.3 Joint Membership. If a Membership Certificate is issued to an individual and his or her spouse, then both parties shall jointly own a single Membership in the Club.

6.4 Associate Member. A Member may appoint his or her spouse to be an Associate Member of the Club in accordance with the Guidelines.

## ARTICLE 7 - RESORT POINTS, GATEWAY RESORT POINTS AND ADVANTAGE INTERESTS

### 7.1 Total Resort Points and Total Advantage Interests.

(a) Initial Occupancy Rates. Prior to the transfer of any Resort Accommodation to the Trustee, the Declarant:

(i) in its sole discretion, shall allocate the initial Occupancy Rates for each such Resort Accommodation being transferred to the Trustee;

(ii) shall advise the Board of the initial Occupancy Rates for each Resort Accommodation being transferred to the Trustee; and

(b) Advising the Board. The Declarant shall advise the Board of the number of Resort Points and Advantage Interests, to be issued to the Declarant or the Appointee from

time to time in consideration of the transfer of the Resort Accommodation to the Trustee, the number of Resort Points to be converted to Gateway Resort Points pursuant to Section 7.1(c) and the number of Resort Points to be converted into Advantage Interests pursuant to Section 7.3(c), provided that the sum of the number of Resort Points issued to Declarant in exchange for the transfer of the Resort Accommodation to the Trustee and the number of Resort Points allocated to the Advantage Interests created by a Supplemental Declaration, may be less than but shall not exceed the sum of the Occupancy Rates for each Resort Accommodation for each day of the year. When calculating the sum of the Occupancy Rates, if the Declarant has elected to convert some or all of the Resort Points to Gateway Resort Points, then two (2) Gateway Resort Points shall be counted as one (1) Resort Point. The Declarant shall elect to receive either Resort Points or Advantage Interests for each unit transferred and may receive a combination of Resort Points and Advantage Interests in consideration for transfer of any individual Resort Accommodation.

(c) Conversion to Gateway Resort Points. If the Declarant elects to receive Resort Points pursuant to Section 7.1(b), it may, prior to offering the same for sale to the public, convert some or all of the Resort Points to Gateway Resort Points and the Declarant shall instruct the Club and the Club will issue Gateway Resort Points instead of Resort Points on a ratio of two (2) Gateway Resort Points for each Resort Point converted by the Declarant.

## 7.2 Resort Points

(a) Definition. Resort Points are the currency of use at the Club through which Resort Point Members reserve occupancy of Resort Accommodation in accordance with the Club Instruments. Each Resort Point Member receives a Membership Certificate which evidences the number of Resort Points owned by the Resort Points Member.

(b) Additional Uses. Resort Points are also used for the following purposes:

- (i) The Declarant allocates Resort Points for each day of the year, for each Resort Accommodation in order to determine the Occupancy Rate of each Resort Accommodation;
- (ii) The Club divides each Assessment by the Total Resort Points in order to calculate the Assessment Per Resort Point and assesses each Member a fee equal to the Assessment Per Resort Point, multiplied by the number of Resort Points shown on each Member's Membership Certificate;
- (iii) Each Member's entitlement to participation in Getaway Time is determined by the number of Resort Points shown on the Member's Membership Certificate;
- (iv) Each Resort Point Member and each Advantage Member is entitled to vote at any Club meeting and cast one vote for each fifteen (15) Resort Points, as shown on their respective Membership

Certificates;

- (v) Each Member's participation in the net asset value of the Club on wind up is determined solely on the number of Resort Points set forth on each Member's Membership Certificate.

(c) Expiry and Renewal of the Benefit of Resort Points and Gateway Resort Points. Each Resort Point Member acquires the right, in perpetuity, to reserve a proportionate share of the right to occupy the Resort Accommodation. Each Resort Point Member's right to use his or her Resort Points or Gateway Resort Points as provided herein shall expire at the end of the Resort Point Member's Use Year, unless "banked" pursuant to the terms of the Guidelines. At the beginning of the next Use Year, the Resort Point Member's Resort Points or Gateway Resort Points shall be renewed together with the right to use Resort Points as provided herein.

(d) Gateway Resort Points. Gateway Resort Points are a type of Resort Point which allow a Resort Points Member to reserve occupancy at Club Intrawest resorts every other Use Year. When making a reservation every other Use Year, one Gateway Resort Point has the reservation power of one Resort Point. For all other purposes, including voting, the wind up of Club Intrawest and the assessment, collection and payment of Resort Fees and Special Assessments, two (2) Gateway Resort Points will be equivalent to one (1) Resort Point.

(e) Use of Resort Points and Gateway Resort Points. Subject to the provisions of the Guidelines, a Resort Point Member may use his or her Resort Points or Gateway Resort Points within the current Use Year to reserve vacation time on an exclusive basis at a Resort Accommodation in a specific geographic location for a fixed period of time. The type of Resort Accommodation, its geographic location and the length of time which a Resort Point Member is able to reserve by utilizing his or her Resort Points or Gateway Resort Points is subject to:

- (i) the number of Resort Points or Gateway Resort Points which are owned by the Resort Point Member;
- (ii) the number of Resort Points or Gateway Resort Points which have previously been used by the Resort Point Member within the current Use Year; and
- (iii) any prior reservations of specific Resort Accommodations by other Members.

Subject to the provisions of any Project Instrument, a Member will be entitled to use, enjoy and occupy the recreational facilities appurtenant to the Resort Accommodation, on a non-exclusive basis during the Use Period.

(f) Banking, Borrowing and Transfer of Resort Points and Gateway Resort Points. The ability of a Resort Point Member to bank, borrow or transfer Resort Points or Gateway Resort Points shall be subject to the terms and conditions of the Guidelines.



### 7.3 Advantage Interests.

#### (a) Definition and Creation.

- (i) An Advantage Interest entitles an Advantage Member to occupy a specific Resort Accommodation at a particular Project for a specific Calendar Week each year, in perpetuity, all of which are set out in the Advantage Member's Membership Certificate. The Membership Certificate evidences the Advantage Interest. The number of Resort Points allocated to each Advantage Interest is equal to the Resort Points initially allocated by the Declarant to the Use Period specified in the Advantage Member's Membership Certificate. The Resort Points are used by the Advantage Member for the purposes set forth in Section 7.2(b)(ii), (iii), (iv) and (v). Each Advantage Member may convert his or her Advantage Interest into Resort Points in accordance with Section 7.3(c).
- (ii) Advantage Interests that were issued to the Declarant in exchange for the transfer of a Subsequent Resort Accommodation to the Club, the Trustee or to any other Person for the benefit of the Club, may be converted by the Declarant to Resort Points by executing and recording a Supplemental Declaration setting forth the conversion of the Advantage Interests to Resort Points. Resort Points issued to the Declarant in exchange for the transfer of Subsequent Resort Accommodation to the Club, the Trustee or any other Person for the sole benefit of the Club may be converted to Advantage Interests, by recording a Supplemental Declaration setting forth the conversion of the Resort Points to Advantage Interests. If the Declarant or an Appointee converts Resort Points to Advantage Interests, then, the Advantage Interests must comply with the provisions of Section 7.4.

(b) Advantage Members. An Advantage Member's Advantage Interest is created and evidenced by the issuance of a Membership Certificate which identifies the Advantage Interest and the number of Resort Points allocated to it for purposes of voting, Resort Fees, and conversion into Resort Point use pursuant to the Club Instruments.

#### (c) Conversion to Resort Points.

- (i) The Declarant shall set forth at the time of sale of the Advantage Interest in each Membership Certificate for an Advantage Interest, the number of Resort Points into which the Advantage Interest may be converted. As more fully set forth in the Guidelines, an Advantage Member may elect to convert the Member's Advantage

Interest for any Use Year into Resort Points and thereafter use the Resort Points in the same manner as Resort Point Members. The amount of Resort Points allocated to a Member's Advantage Interest on such Member's Membership Certificate is a fixed amount which shall not change over time.

- (ii) Notwithstanding the above, or any other provision of the Club Instruments, if the Declarant is still offering Resort Points for sale to the general public, then, an Advantage Member may give notice to the Declarant to exchange the Advantage Member's Advantage Interest for the number of Resort Points set forth on the Advantage Member's Membership Certificate. In order to complete the exchange of an Advantage Interest for Resort Points, the Advantage Member must be current in payment of all Resort Fees, and, own the Advantage Interest free and clear of all financial charges and Security Agreements. Upon tender of the original of the Advantage Membership and payment of an administrative fee, the Declarant shall issue or cause to be issued a new Membership Certificate for the Resort Points in exchange for the transfer to the Declarant of the Advantage Member's Advantage Interest. An Advantage Member cannot convert an Advantage Membership to a Resort Point Membership with Gateway Resort Points.

(d) Banking and Transfer of Converted Resort Points. The ability of an Advantage Member to bank or transfer Resort Points created by conversion from an Advantage Interest shall be subject to the terms and conditions of the Guidelines. An Advantage Member may not borrow Resort Points from a subsequent Use Year.

7.4 Restrictions on Advantage Interests. In addition to the restrictions in Section 7.3, the Declarant shall comply with the following restrictions when creating or issuing Advantage Interests: (i) the total of all Use Periods represented by all Advantage Interests then existing in units of Subsequent Resort Accommodation located in a Project shall not constitute more than forty-six (46) days per unit of Subsequent Resort Accommodation located in a Project, (ii) the Use Periods represented by all Advantage Interests then existing in units of Subsequent Resort Accommodation shall not constitute more than twenty percent (20.0%) of the otherwise available Use Periods in all Subsequent Resort Accommodation in any single month, rounded up to the next full month, at any single Project, and (iii) the Declarant may designate all Use Periods of a Resort Accommodation specifically identified in a Supplemental Declaration as allocated to Advantage Interests in which case any such Resort Accommodation shall not be subject to the limitations of subsection (i) and (ii) above and will not be considered Subsequent Resort Accommodation. The Club is hereby prohibited from issuing any Resort Points or Advantage Interests except as instructed in writing by the Declarant pursuant to this Section.

7.5 Adjustments to Resort Points for a Resort Accommodation. In order to meet the Members' needs and expectations caused by an increase or decrease in the demand for Resort

Accommodations, the Declarant, with the consent of the Board except as otherwise provided in Section 2.2, may adjust the Total Occupancy Rate for a Resort Accommodation, provided that any increase in the Resort Points required to reserve occupancy at a Resort Accommodation for any seven (7) consecutive day period in a Season does not exceed ten percent (10%) of the Resort Points required to reserve the same seven (7) consecutive day period in the same Season for the same Resort Accommodation in the previous calendar year and provided that; the Total Resort Points are not changed except as permitted pursuant to Section 2.2. The adjustments will not affect the ability of an Advantage Member to occupy the Resort Accommodation during his or her Use Period.

7.6 Price. The Declarant may increase, decrease, bonus or discount the purchase price for Memberships at its absolute discretion.

7.7 Getaway Time. The ability of a Member to reserve and use Getaway Time shall be subject to the terms and conditions of the Guidelines.

7.8 Seasons. The Declarant may create initial Seasons for Resort Accommodation at each Project when determining the Occupancy Rate in accordance with Section 7.1 and thereafter, in order to meet the Members' needs and expectations caused by an increase or decrease in the demand for Resort Accommodations, with the consent of the Board except as otherwise provided in Section 2.2, the Declarant may: (a) increase or decrease the number of days in a Season; or (b) create one or more new Seasons; or (c) delete existing Seasons.

## ARTICLE 8 - TRANSFER AND ENCUMBRANCE OF MEMBERSHIPS

### 8.1 Transfer of Memberships.

(a) Subject to the Declarant's right of first refusal in Section 8.2 hereof:

- (i) any Member may transfer an entire Membership and all rights related or appurtenant thereto, to any other individual, and his or her spouse;
- (ii) a Resort Point Member (but not an Advantage Member) may transfer a portion of the Membership and the rights related or appurtenant thereto to any other individual and his or her spouse, provided that the individual and his or her spouse purchases not less than one hundred twenty (120) Resort Points from the Member and, on conclusion of the sale, the Member retains not less than one hundred twenty (120) Resort Points for his or her own use; or
- (iii) a Resort Point Member who holds Gateway Resort Points may transfer a portion of the Membership and the rights related or appurtenant thereto to any other individual and his or her spouse,

provided that the individual and his or her spouse purchases not less than 160 Gateway Resort Points from the Member and on conclusion of the sale, the Member retains not less than 160 Gateway Resort Points for his or her own use.

Any attempt by a Member to sell, convey, devise or otherwise transfer a Membership in any other fashion, save and except as herein set out shall be null and void.

(b) Each Membership in the Club shall automatically terminate upon any valid transfer of all or a portion of a Membership to any transferee, whether voluntary or by operation of law, except to the extent that such transferor retains a portion of a Membership. The transferee of a Membership shall, immediately and automatically upon the valid transfer of a transferor's Membership as provided herein, become a Member of the Club.

(c) Subject to sub-section (e) below, transfer of a Membership shall be prohibited unless and until the proposed transferor has paid all Assessments due to the Club, and the purported transfer of a Membership upon which any Assessment is then owing shall be null and void. Upon request, and upon the payment to the Club of a reasonable fee, as determined from time to time by the Board of Directors, the Club shall issue a written statement setting forth the amounts, if any, which the proposed transferor of a Membership owes the Club. Such statement shall be conclusive upon the Club in favour of all Persons (except the transferor) who rely thereon in good faith as to the amount of such indebtedness as of the date of the statement.

(d) Each Member shall be free to transfer his or her Membership, subject to the restrictions contained herein. The applicable instrument of conveyance shall provide that the Membership conveyed thereby shall be held by the transferee subject to each of the provisions of the Club Instruments. No transfer of any kind, including a transfer to a Lender of Record which acquires a Membership as a result of enforcement of its security interest thereon or otherwise, shall be valid or effective unless and until a true and correct copy of such instrument is provided by the transferee to the Manager for the Club's records. The Club shall have the right to charge the transferee a reasonable administrative fee for processing the transfer and the Club shall issue new Membership Certificates to evidence the sale of the Membership and Resort Points or Advantage Interest, as appropriate.

(e) No one who acquires a Membership shall be entitled to occupy or rent a Resort Accommodation, use and enjoy the Resort Accommodations or resell such Membership until such time as all unpaid Assessments due and owing from the transferor have been paid in full. Notwithstanding the foregoing, a Lender of Record which acquires a Membership by enforcement of its security interest thereon shall not be liable for the Resort Fees attributable to such Membership or to the former Member thereof, which have accrued prior to such acquisition of the Membership by the Lender of Record. Any Assessments or other amounts attributable to such Membership, for which a Lender of Record is not liable, pursuant to this sub-section, shall be deemed a Membership expense, as appropriate, collectible from all of the Members in the manner provided herein.

(f) If a Lender of Record has given the Manager notice of its security interest in a Membership, the Club shall not accept a transfer of that Membership without the Lender of Record's consent and any transfer without such consent shall be null and void.

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

8.2 Declarant's Right of First Refusal. The Declarant hereby reserves a right of first refusal to repurchase all Memberships. Prior to a Member reselling his or her Membership to a third party, a Member must:

(a) Give the Declarant written notice of his or her intention to sell the Membership to the third party;

(b) Deliver a copy of the written notice and a copy of the purchase agreement with the third party to the Declarant at least thirty (30) days prior to the closing;

(c) Offer the Membership to the Declarant on the same terms and conditions (including financing, if applicable) as set out in the purchase agreement; and

(d) Provide confirmation to the Declarant that it has given notice to the third party that the Declarant shall continue to have a right of first refusal to purchase the Membership from the third party in the event that the Declarant declines to exercise its right of first refusal to purchase the Membership from the Member.

Within ten (10) business days of receipt of the notice and the copy of the purchase agreement and copy of confirmation, the Declarant shall determine whether it wishes to exercise its right of first refusal. If the Declarant elects to exercise its right of first refusal, the Declarant shall give written notice to the Member within said ten (10) business day period of its election and the purchase by the Declarant shall be on the same terms and conditions as set forth in the proposed purchase agreement and the transaction shall be closed on or before the closing date set forth in the proposed purchase agreement. If the Declarant fails to notify the Member of its election to exercise its right of first refusal within said ten (10) business day period, the Member may proceed to close the transaction with the third party on the terms and conditions set forth in the purchase agreement. Any resale of a Membership by the Member or by any subsequent purchaser, will be subject to a perpetual right of first refusal of the Declarant on any subsequent resale of the Membership and the terms of this Section shall apply to any resold Membership.

8.3 Effective Transfer. No transfer of a Membership, other than a transfer by a Lender of Record, shall be effective unless and until, (a) the Declarant has been given written notice of such transfer and the Declarant's right of first refusal has been waived or has expired pursuant to Section 8.2 hereof; (b) any Lender of Record has consented, in writing, to such transfer; (c) all

Assessments due the Club have been paid in full; (d) a true and correct copy of the instrument transferring such Membership is provided by the transferee to the Manager for the Club's records, together with the full name and address of such transferee; (e) the Club has notified the transferee that all of the above conditions have been met and that the transferee's name has been entered on the Membership records; and (f) the original of the Membership Certificate and, if applicable, the Ancillary Document has been surrendered to the Club, endorsed by the transferor, and a replacement Membership Certificate and, if applicable, a replacement Ancillary Document has been issued by the Club to the transferee. An Ancillary Document may only be transferred, encumbered, sold or forfeited as part of a Membership Certificate.

8.4 Encumbrance of Memberships. Each Member shall have the right to encumber his or her Membership; provided, however, that, no Member may encumber or hypothecate any portion of his or her Membership without encumbering or hypothecating the entire Membership and all rights related or appurtenant thereto, and any attempt by a Member to do so shall be null and void. No Member shall have the right to take any action which will encumber a Membership of any other Member or any Resort Accommodation or portion of the Resort Accommodation, and any attempt by a Member to do so shall be null and void. Any security agreement or other encumbrance of a Membership shall be subject and subordinate to all of the provisions of the Club Instruments. If permitted under applicable law, a Member may encumber or grant a security interest in the Member's Membership by delivery of the original Member's Membership Certificate to the secured party.

8.5 Waiver of Partition. No Member shall have the right to seek or obtain, through any legal proceeding, judicial partition or sale in lieu thereof of any Resort Accommodation or other portion of the Resort Accommodations, unless and until the Club is terminated in accordance with this Declaration and the By-Laws. The foregoing shall not be deemed to prohibit the removal of a Resort Accommodation from the jurisdiction of this Declaration in accordance with Section 4.7 hereof.

8.6 Joint Membership. If a Membership is held jointly by an individual and his or her spouse, then, unless there is a contrary intention, the Membership shall be deemed to be held by both individuals as joint tenants and:

(a) on the death of one spouse, the Membership shall be transferred to the surviving spouse;

(b) the Declarant, on written request, shall waive its right of first refusal set out in Section 8.2; and

(c) any resale of a Membership by a Member or any subsequent purchaser will be subject to a perpetual right of first refusal of the Declarant on any subsequent resale of the Membership and the terms of Section 8.2 shall apply to any resold Membership.

8.7 Death of a Member. On the death of a Resort Points Member, his or her personal representative shall be entitled to transfer the Resort Points Membership to the deceased Member's

beneficiaries provided that each beneficiary complies with the provisions of Section 8.3 and each beneficiary shall individually own not less than ninety eight (98) Resort Points or one hundred and sixty (160) Gateway Resort Points. If an individual holds an Advantage Interest, then on his or her death, the Advantage Member's personal representative shall only be entitled to transfer the entire Advantage Interest (without division) to a party eligible under Section 6.1(a) and (b). The Declarant shall, on written request, waive its right of first refusal set out in Section 8.2 but any resale of a Membership by the Member or any subsequent purchaser will be subject to a perpetual right of first refusal of the Declarant and the terms of Section 8.2 shall apply to any resold Membership.

## ARTICLE 9 - MANAGEMENT, MAINTENANCE, AND REPAIRS

9.1 Administration of the Resort Accommodations. Subject to any Project Instruments and the Club Instruments, responsibility for the maintenance, repair, replacement, restoration, improvement, operation, and administration of the Resort Accommodations shall be vested in the Club. The Club shall act as the agent of all of the Members in collecting Assessments and in paying taxes, utility costs, and other Membership Costs. The Club, through its Board of Directors, Officers, the Manager, and other duly authorized agent(s) may exercise any and all rights and powers granted to it by law or by the Club Instruments, as amended or supplemented from time to time. Pursuant to the provisions of the Certificate of Incorporation, the exclusive power to promulgate and amend the Guidelines shall be vested in the Declarant as long as the Declarant is retained as Manager and the Board shall have no power with respect to such Guidelines except as to the enforcement thereof.

9.2 Management. All powers, duties and rights of the Club or the Board, as provided by law and herein, may be delegated to a Manager under a Restated Management Agreement. Any Restated Management Agreement shall not exceed a term of three (3) years with automatic renewals annually after expiration of the first term unless the Club by the affirmative vote or written assent of a majority of the Voting Power residing in the Members other than the Declarant determines not to renew the Restated Management Agreement and gives appropriate notice of that determination. Any such Restated Management Agreement shall provide for termination of the managing agent by the Club, for cause, upon ninety (90) days' written notice to the managing agent; provided, however, that any such provision shall provide for arbitration, if requested by or on behalf of the managing agent. The Restated Management Agreement shall be subject to any further limitations, if any, imposed by the By-Laws.

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

9.3 Resort Accommodations, Upgrades and Equipment. Subject to any Project Instruments, exclusive control and responsibility over the maintenance, repair, modification, and alteration of all Resort Accommodations, Upgrades and the Equipment therein is vested in the Club, as agents for the Members. The Club shall at all times maintain the Resort Accommodations and Upgrades in good condition and repair. In the event of any disruption in service, the Club shall immediately make such repairs as may be necessary to restore such services. If the Declarant

believes in good faith that the Club cannot or will not immediately make such repairs, the Declarant may, but shall not be obligated to, immediately arrange for and make such repairs in order to restore service, and the Club shall be liable to the Declarant for the cost of such repairs. The Club shall have complete discretion to determine the interior color scheme, decor and furnishings of all Resort Accommodations, as well as the timing, extent, and nature of all redecoration, repairs, and replacements thereof.

No Member shall make any repairs, modifications, alterations, additions, redecoration, or replacements to any Resort Accommodation, Upgrades or to any Equipment therein, without the prior written approval of the Club. Each Member, during his or her reserved or scheduled Use Period(s), shall keep the interior of his or her Assigned Resort Accommodation, including, without limitation, the interior walls, windows, glass, ceilings, floors, fixtures, and appurtenances thereto, and all Equipment contained therein, in a clean, sanitary, and attractive condition, and shall be personally liable for any damage or destruction thereto caused by such Member, members of his or her family, his or her guests, tenants, invitees, or licensees as provided in Section 5.3 hereof.

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

- (a) Making emergency repairs therein;
- (b) Abating any nuisance or any dangerous, unauthorized, prohibited, or unlawful activity in such Resort Accommodation;
- (c) Protecting the property rights and general welfare of the Members and Occupants; and
- (d) Any other purpose reasonably related to the performance by the Club, the Board, and the Manager of their respective duties and responsibilities under the Club Instruments and the Restated Management Agreement.

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

9.5 Relocation to Permit Maintenance and Repairs. If it becomes necessary, in the judgment of the Club or the Manager, to perform maintenance or repairs within a Resort



Accommodation in order to prevent foreseeable personal injury or imminent damage to such Resort Accommodation, to any other Resort Accommodation, to the Equipment, or to the personal belongings of any Member or Occupant, and such maintenance or repairs cannot reasonably be performed while such Resort Accommodation is occupied, then the Occupant(s) of such Resort Accommodation shall vacate the Resort Accommodation upon the request of the Club or the Manager in order to permit such maintenance or repairs. In such event, the Manager, on behalf of the Club, shall use reasonable efforts to relocate the displaced Occupant(s) for the duration of such period of displacement to such reasonably comparable nearby accommodations as possible, at the Club's expense. Any such expense shall be a Membership expense unless the damage or destruction was caused by the intentional or negligent act or omission of a Member, a member of his or her family, his or her guests, tenants, invitees, or licensees, in which case the cost of such alternative accommodations as well as that of any required maintenance or repairs shall be assessed against the responsible Member as a Personal Charge.

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

9.6 Maintenance Periods. The Club may reserve up to a total of seven (7) days and nights (not necessarily consecutive) in each calendar year as the Maintenance Period(s) for each Resort Accommodation. The Board and its agents shall have free access to each Resort Accommodation during its reserved or designated Maintenance Period(s) for the purpose of effecting any necessary or appropriate maintenance, repairs, modifications, alterations, replacements, and additions to such Resort Accommodation and to the Equipment therein. The Maintenance Period(s) for a particular Resort Accommodation may vary from time to time in the Board's sole discretion, and need not occur at the same time for each Resort Accommodation. The Club shall use its best efforts to reserve Maintenance Periods so as to maximize the use and enjoyment thereof by Members and minimize any scheduling problems under the Reservation System.

## ARTICLE 10 - ASSESSMENTS

10.1 Creation of Lien and Personal Obligation for Assessments. The Declarant, for each Resort Accommodation hereinafter transferred to the Club, hereby covenants and agrees, and each Member by acceptance of a Membership Certificate (whether from Declarant or a subsequent owner of a Membership and whether or not it shall be so expressed in such certificate) is deemed to covenant and agree to pay to the Club an annual Resort Fee, Special Assessments for capital improvements or other extraordinary expenses or costs, and Personal Charges, all such Assessments to be established and collected as provided in this Article 10 and as hereinafter provided. Each Assessment and any late fees, interest, and costs of collection, including reasonable attorneys' fees, shall be a personal debt of the Member against whom they are assessed. Except as otherwise provided by law, a lien as security for the payment of all such amounts shall attach to the Membership of such Member, effective as of the date upon which Assessment becomes payable and shall continue to be a lien against such Membership until paid. The Club shall have a Security Interest in a Membership in order to secure payment of any unpaid Assessments. The Club is hereby granted a power of sale as to each and every Membership for the purpose of collecting delinquent Assessments. The costs and expenses for filing any notice of lien shall be added to the Assessment for the Membership against which it is filed and collected as part and parcel thereof.

10.2 Resort Fees. Each Member, including the Declarant and each Appointee and a Lender of Record acquiring a Membership as a result of enforcement of its security interest, shall be required to pay a Resort Fee for each Membership owned. The Resort Fee shall be levied by the Club, through the Board of Directors, to meet the Membership Costs.

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

- (a) The maintenance, repair, modification, alteration, redecoration or replacement of any Resort Accommodation;
- (b) The maintenance, repair, modification, alteration, redecoration, replacement, and rental of the Equipment;
- (c) Insurance coverage;
- (d) A capital contribution for reserves;
- (e) Domestic services, including cleaning and maid service, the frequency of which shall be determined from time to time by the Board, furnished to or on behalf of Members;
- (f) Assessments levied against Resort Accommodations by a Project or association for a Project; and

(g) Any other costs incurred by the Club in connection with the maintenance, repair, replacement, restoration, redecoration, improvement, operation, and administration of the Resort Accommodations, or in connection with the operation or administration of the Club, which are directly attributable to the commitment of one (1) or more Resort Accommodations in accordance with the provisions hereof.

10.4 Computation of Resort Fee. For the purposes of computing and assessing Resort Fees, two (2) Gateway Resort Points will be equal to one (1) Resort Point. The Club shall levy against each Membership an annual Resort Fee per Resort Point, based on the total Membership Costs budgeted for the calendar year (as determined by the Board) divided by the total number of Resort Points issued by the Club (including the Resort Points allocated to Advantage Interests) as of the first day of September of the preceding year. The Board shall assess each Member, including the Declarant (and, if applicable, an Appointee), a Resort Fee based on the number of Resort Points issued to the Member and the number of Resort Points allocated to each Advantage Interest as of the first day of September of the year prior to the new budget year for which Resort Fees are assessed. The amount of the annual Resort Fee shall be in the sole discretion of the Board. If the Declarant transfers or causes and Appointee to transfer Additional Resort Accommodation to the Club during the year, then the Board may prepare a revised budget and recalculate the Resort Fees based on the additional expenses incurred by the Club resulting from the transfer and maintenance of the Additional Resort Accommodation and also reflecting the additional Resort Points issued by the Club (including the Resort Points allocated to Advantage Interests) on the transfer of the Additional Resort Accommodation and the Board may adjust the Resort Fees for the year, accordingly. Each Member shall reimburse the Club for the Member's share of the Membership Costs.

10.5 Maximum Resort Fee. The annual Resort Fee per Resort Point to be established by the Board may not exceed a certain amount, hereinafter referred to as the "Maximum Resort Fee", which Maximum Resort Fee shall be determined and shall vary in accordance with the following provisions:

(a) The Maximum Resort Fee during each fiscal year may be increased by the Board during the same fiscal year without the vote or written assent of the Membership by a maximum of five percent (5%) of the budgeted gross expenses for that fiscal year;

(b) The Maximum Resort Fee for each new fiscal year may be increased by the Board without the vote or written assent of the Membership by a maximum of twenty percent (20%) of the total Resort Fees for the previous fiscal year. Any such increase shall be effective at the beginning of each fiscal year; and

(c) The Maximum Resort Fee may be increased above the limits set forth under subsections (a) and (b) above, provided that any such increase shall have the affirmative vote or written assent of a majority of the Voting Power of the Club residing in Members other than the Declarant; provided, however, that in no event shall the Maximum Resort Fee for each new fiscal year exceed one hundred and twenty five percent (125%) of the Maximum Resort Fee for the previous fiscal year;

(d) Notwithstanding anything to contrary herein, the Maximum Resort Fee during a fiscal year or for a new fiscal year may be increased above the limitations in subsections (a) and (b) above, respectively, without the consent of the Membership if such addition is due to (i) a change in the exchange rate between the currency of the location in which certain Resort Accommodations are located and U.S. currency, or (ii) an increase in the assessments levied against a Resort Accommodation by a Project or Project association, or as a result of an increase in the property or municipal taxes against Resort Accommodation or an increase in utility charges imposed by any public or private utility.

10.6 Payment of Resort Fees. Resort Fees may be collected in advance on a monthly, quarterly or annual basis as determined by the Board. The initial Resort Fee shall be due and payable by each Member, other than the Declarant, at the time and in the manner set forth in such Member's Purchase and Membership Agreement, to be prorated for the calendar year in question. Subsequent Resort Fees shall be due and payable by a Member, on or before November 30 of each year, or such other time as the Board may determine, commencing with the first calendar year immediately succeeding the calendar year in which a Membership was purchased, unless and until the Board institutes a different payment schedule by providing written notice thereof to each Member. Members shall be required to pay a Resort Fee for every calendar year, regardless of whether said Member is entitled to use and occupy a Resort Accommodation during such calendar year.

10.7 Declarant's Obligation for Assessments. The Declarant may pay the Resort Fees attributable to the Declarant's Resort Points and the Declarant's Advantage Interests on a monthly basis. Such obligation shall be computed based on the number of Declarant's Resort Points and the Resort Points allocated to the Declarant's Advantage Interest as of the first day of each month.

In lieu of the payment of an annual Resort Fee, the Declarant may elect to subsidize the financial operations of the Club in the event all Assessments and every other revenue source (income) received by the Club fails to equal or exceed the actual expenses incurred during the fiscal year. The terms and conditions of the subsidy shall be established by written agreement between the Declarant and the Club, which shall be deposited in escrow with the Trustee. The Declarant shall have no obligation for any such shortfall caused by any decrease in Assessments resulting from the levying of any Assessment in an amount less than the maximum authorized for that Assessment Period, or by expenditures for capital improvements, unless the same has been previously approved in writing by the Declarant.

10.8 Special Assessments. The Club may, in any Assessment Period, levy a Special Assessment applicable to that period only, as may be necessary for the purpose of paying for an Upgrade, defraying, in whole or in part, the cost of any acquisition, construction, reconstruction, repair or replacement of any Resort Accommodation, including fixtures and personal property related thereto, for which no reserves have been established or for deficiencies in such reserves, or for the purpose of defraying other extraordinary expenses relating to the mutual health, benefit, safety and welfare of the Members and the Club, provided that any such Special Assessment shall require the affirmative vote or written assent of a majority of the Voting Power residing in Members other than the Declarant. No vote or written assent of the Members shall be required for the following:

(a) Special Assessments that do not, in the aggregate, exceed five percent (5%) of the budgeted gross expenses of the Club for that fiscal year;

(b) A Special Assessment for the repair, rebuilding or replacement of a Resort Accommodation(s) which does not exceed ten percent (10%) of the budgeted gross expenses for the Club for that fiscal year in which the assessment is levied; and

(c) Special Assessments against a Member(s) for the purpose of reimbursing the Club for costs incurred in bringing the Member(s) into compliance with this Declaration, the By-Laws or the Guidelines.

(d) A Special Assessment due to an expense of any type levied against a Resort Accommodation by a Project or Project association over which the Declarant has no control.

Notwithstanding the above, a Special Assessment to replace a Resort Accommodation as provided in Section 13.3 or 14.2 hereof shall require the consent of Members as provided in Section 13.4 hereof.

Every Special Assessment shall be levied upon the same basis as that prescribed for the levying of the annual Resort Fee. The Club will levy Special Assessments to Resort Point Members who own Gateway Resort Points on the basis that two Gateway Resort Points are equal to one Resort Point. Special Assessments may be collected as specified by the Board unless otherwise determined by a resolution of the Members of the Club approving the Special Assessment. Except as otherwise provided in the Club Instruments, any Special Assessment shall be due and payable within thirty (30) days after the date upon which a written notice of such Special Assessment is mailed to the Member, unless the Board determines that installment payments shall be permitted and provides each Member with an approved payment schedule, in which case each Member's payments must be made no later than is specified in such payment schedule. In the event that the Board authorizes the payment of any Special Assessment in installments, no notice of the due date of each individual installment payment shall be required to be given, other than the aforesaid Special Assessment notice. If the Declarant transfers Additional Resort Accommodation to the Club during the Assessment Period, then, the Board may recalculate the Special Assessment based on the additional Resort Points issued or allocated to Advantage

Interests by the Club on the transfer of the Additional Resort Accommodation and the Board may adjust the Special Assessments levied against the Members accordingly.

10.9 Uniform Rate of Assessments. The amount of any Resort Fee or Special Assessment against each Membership shall be fixed at a uniform rate per Resort Point.

10.10 Personal Charges.

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

(i) Local and long distance telephone charges;

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

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

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

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

(vi) Any late fees, fines, attorneys' fees, and other amounts which the Club Instruments permit to be assessed upon a particular Member.

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

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

(ii) Personal Charges due from a Member or Occupant which are not ascertainable as provided in sub-section (i) above shall be due and payable within thirty (30) days from the date

upon which a written notice of such Personal Charges is mailed to the responsible Member or Occupant.

10.11 Liability for Assessments. No Member may exempt himself, his or her successors or assigns, from his or her obligation to pay any Assessment(s) by his or her waiver of the use and enjoyment of an Assigned Resort Accommodation, Equipment or of any of the recreational facilities at a Project, by his or her failure to reserve an Assigned Resort Accommodation for one (1) or more Use Periods in accordance with the procedures established therefor in the Guidelines, by his or her failure to use and occupy an Assigned Resort Accommodation or by the abandonment of his or her Membership(s).

10.12 Reserves. The Board shall from time to time establish one (1) or more reserves as are necessary for the operation and improvement and replacement of the Resort Accommodations. Such Reserves may include, but are not limited to, a working capital reserve, an equipment reserve for the maintenance, repair, and replacement of the Equipment, and a Resort Accommodation replacement reserve. Such Reserves shall be included in the Club's budget as a capital contribution or established by levying Special Assessments upon all of the Members in such amount(s) as the Board determines to be necessary or appropriate. The amounts of said Reserves shall be allocated among Members in the manner set forth in the Club Instruments and this Article.

10.13 Surplus Funds. The Club, through its Board of Directors, shall, from time to time, fix and determine the sum or sums which are necessary and adequate to provide for Membership Costs and such other Assessments as are specified in the Club Instruments and herein. In the event that the Board determines at any time during the Club's fiscal year that the aggregate amount of Assessments is, or will be, in excess of the amounts needed to meet Membership Costs, such excess amount shall appear as a line item on the budget for the immediately succeeding fiscal year and shall be applied to reduce the amount assessed to meet the Membership Costs for such fiscal year. In the event that the Board determines, at any time, during the Club's fiscal year that the aggregate amount of the Assessment is or will be less than the amount needed to meet Membership Costs, such shortfall amount shall appear as a line item on the budget for the immediately succeeding fiscal year and shall be applied to pay the shortfall incurred by the Club for the preceding fiscal year. Any such excess shall not relieve any Member from his or her obligation to pay any delinquent amounts which he or she owes to the Club nor shall any Member be entitled to a refund of all or any portion of any Assessment previously paid on account of such excess.

10.14 Default Interest Rate; Late Fees. Except as otherwise expressly provided by law or the Club Instruments, any Assessment levied upon a Member which is not paid within ten (10) days after the date upon which it is due shall bear interest at the lesser of (a) the rate established in the Guidelines; or (b) the maximum rate of interest permissible under the laws of the province of British Columbia. In addition, the Club may charge the delinquent Member an administrative late fee as established in the Guidelines for each installment due the Club which is delinquent. Any payment received by the Club shall be applied first to any interest accrued on the late installment, then to any administrative late fee, then to the Club's reasonable attorneys' fees and other costs of collection, and then to the delinquent Assessment.

10.15 Default in Payment of Assessments; Suspension of Rights and Privileges; Liens. Except as otherwise provided by law, no Member or any Person authorized by such Member to occupy his or her Assigned Resort Accommodation (with the exception of a Lender of Record acquiring such Membership pursuant to a valid transfer) shall be entitled to occupy such Resort Accommodation unless and until all Assessments owed by such Member are paid in full; provided, however, that an Exchange User whose occupancy has been scheduled with the Manager prior to the sending of the below-described notice of default shall be permitted to occupy such Resort Accommodation.

The Manager shall send a written notice to any Member who fails to pay any Assessment or any installment thereof when due, which notice shall advise such Member, (i) of the Club's intention to accelerate all Assessments due from the Member and enforce its lien (as hereinabove described) to collect such unpaid Assessments, together with late fees, interest, collection costs, and reasonable attorneys' fees, if not paid in accordance with such written notice, and (ii) of the Member's right to cure such default (and avoid enforcement) by remitting all delinquent amounts, plus late charges and interest, within thirty (30) days from the date of such notice. Upon written request, a Lender of Record with respect to such Membership shall be furnished by the Board or the Manager, on behalf of the Club, with a copy of such written notice of default in the payment of any Assessment due hereunder. If full payment of all such amounts is not received within the specified period, the unpaid balance of such Member's remaining obligations for such fiscal year, if any, may at the election of the Club at any time thereafter become accelerated and due and the Club may take any of the following actions:

(a) Enforce its lien upon such Member's Membership as provided in Section 11.1 hereof;

(b) Subject to applicable law, bring an action to recover a money judgment for the amount of any unpaid Assessments without waiving any claim of lien or to enforce the Club's lien against a Membership for unpaid Assessments; and

(c) Suspend some or all of such Member's rights and privileges hereunder and pursuant to his or her Purchase and Membership Agreement and Membership Certificate, including, but not limited to, the right to vote and the right to use (or allow others, including such Member's guests, tenants, licensees, and invitees, to use) an Assigned Resort Accommodation or Equipment during his or her reserved or scheduled Use Period(s), and to rent such Resort Accommodation during such time; provided that the Club, the Board or the Manager shall, no less than thirty (30) days prior to the first day of such Member's reserved or scheduled Use Period(s), notify such Member in writing of the total amount of any delinquency which then exists or which will exist as of the first day of such Use Period, including any accrued interest and late charges permitted to be imposed hereunder. Said notice shall also clearly state that the Member will not be permitted to use an Assigned Resort Accommodation during his or her reserved or scheduled Use Period(s) until the total amount of all Assessments and other amounts due and owing the Club has been paid in full. The suspended rights and privileges of such Member shall automatically be reinstated at such time as such Member shall have paid to the Club or the Manager, in cash or by cashier's or certified check, all amounts past due.



(d) Section 10.6 requires each Member to pay his or her Resort Fees for any calendar year by November 1<sup>st</sup> of the preceding calendar year or such other time as the Board may determine. If a Member fails to pay all or any part of his or her Resort Fees, interest or legal fees (the “Unpaid Balance”) within 18 months of the due date, then the Board may pass a resolution (the “Absolute Forfeiture Resolution”) confirming the Unpaid Balance and absolutely forfeiting the defaulting Member’s Membership unless the Unpaid Balance is paid within one hundred and twenty (120) days following the date of the Absolute Forfeiture Resolution (the “Forfeiture Date”). Within ten (10) days of the Board passing an Absolute Forfeiture Resolution, the manager shall mail the defaulting Member a copy of the Absolute Forfeiture Resolution by registered mail addressed to the defaulting Member’s last known address. If the Unpaid Balance is paid to the Club on or before the Forfeiture Date, then the Member’s Membership shall be reinstated and the Absolute Forfeiture Resolution shall be rescinded and shall be of no further effect. If the Unpaid Balance is not paid by the Forfeiture Date, then defaulting Member’s Membership shall be absolutely forfeited on the Forfeiture Date.

10.16 Statement of Unpaid Assessments. Within ten (10) days following its receipt of a written request therefor and the payment of a reasonable fee as determined by the Board, the Manager, on behalf of the Club, shall furnish to the Member, his or her authorized agent, or the holder of a Security Interest thereof, a statement setting forth the amount of unpaid Assessments and other amounts, if any, currently levied against such Member’s Membership. Said statement shall be binding upon the Club, the Board, and every other Member.

10.17 Escrow of Resort Fees. That portion of Resort Fees attributable to assessments levied on Resort Accommodations by a Project or association for a Project shall be placed in a special escrow account to ensure payment of such fees to the Project.

## ARTICLE 11 - ENFORCEMENT PROVISIONS

11.1 Enforcement of Lien for Assessments. All liens, Assessments and charges provided for herein shall be automatically enforceable in any manner authorized by law, including, but not limited to, suit at law or power of sale or enforcement of a Security Interest in the manner provided for under applicable state law, or the British Columbia Personal Property Security Act, as applicable. The Board, acting on behalf of the Members, shall have the discretion to enforce such liens, to sue to enforce the personal obligations and covenants or to exercise the power of sale to collect delinquent Assessments; provided, however, that except for late charges, interest or costs and attorneys’ fees for the collection of delinquent Assessments, the power of sale shall not be utilized to enforce collection of a fine, a penalty, an individual charge levied against a Member to bring such Member into compliance with the Club Instruments or a damage reimbursement for damage to a Resort Accommodation.

In the event a Member’s Membership is terminated pursuant to this Section, the Club shall reacquire such Member’s Resort Points or Advantage Interest and the Declarant, in exchange for payment of all delinquent accounts owing to the Club by such Member, shall have the option of, 1)

requiring the Club to transfer ownership to it of all Resort Points or Advantage Interests attributable to Resort Accommodations that are subjected to this Declaration, or 2) acting as exclusive agent of the Club for the sale of such Resort Points or Advantage Interests.

11.2 Enforcement of Club Instruments. In addition to, and to the extent not inconsistent with, the provisions of the Club Instruments and any provision of law, any violation of any provision of the Club Instruments (other than a failure to pay Assessments) by a Member, members of his or her family, his or her guests, tenants, licensees, or invitees, or an Exchange User, shall be grounds for an action to recover sums due and damages, for injunctive relief, or both, and for the reimbursement of all costs and attorneys' fees incurred in connection therewith. Such action shall be maintainable by the Board or the Manager, in the name of the Club, or, in a proper case, by an aggrieved Member. All such amounts, along with any other costs incurred by the Club to obtain the services of an attorney to enforce any provision of any Club Instruments, shall constitute a Personal Charge against the Member who committed or who is responsible for such violation or who caused the Club to take such action, and shall promptly be reimbursed by such Member to the Club, upon demand therefor.

To the extent permitted by law, the violation of any provision of the Club Instruments shall give the Board and the Manager, on behalf of the Club, and the Declarant (to the extent of its rights hereunder) the right, in addition to any other rights set forth in the Club Instruments:

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

(b) To engage the services of an attorney to initiate such action as is deemed necessary by the Board, the Club, the Manager, or the Declarant to enforce such provision, including the initiation of a suit for damages or to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach, or to seize or recover possession of or retain the Member's Membership Certificate.

(c) Following notice and an opportunity to be heard, to impose a reasonable monetary fine or penalty upon such Member or Exchange User in an amount to be determined by the Board of Directors;

(d) To suspend some or all of such Member's rights and privileges hereunder and pursuant to his or her Purchase and Membership Agreement and Membership Certificate, including, but not limited to, the right to vote and the right to use (or allow others, including such Member's guests, tenants, licensees, and invitees, to use) an Assigned Resort Accommodation or Equipment during his or her reserved or scheduled Use Period(s), and to rent such Resort Accommodation during such time. The Member in question shall be notified in writing of any such suspension of rights and privileges, including the reason(s) therefor and the length thereof,

immediately after such enforcement decision has been made and shall be given the opportunity to present a written or oral defense to the charges. The Board shall decide whether the owner's defense shall be oral or written and shall notify the Member of the decision of the Board before disciplinary actions is taken. The suspended rights and privileges shall automatically be reinstated upon the expiration of the suspension period stated in the notice of suspension.

Except as otherwise provided by law, any costs reasonably incurred by the Club and the Manager in connection with their actions under this sub-section (d) shall be assessed against the delinquent Member as a Personal Charge; and

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

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

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

## ARTICLE 12 - DECLARANT'S RIGHTS AND OBLIGATIONS

In exchange for transferring the Resort Accommodation to the Trustee or supplying an Upgrade to the Club, the Declarant shall have and hereby retains for itself, the following rights:

12.1 Exclusive Right to Sell Memberships, Resort Points and Advantage Interests. The Declarant shall have the option of, 1) requiring the Club to transfer ownership to it of all Resort Points and Advantage Interests attributable to Resort Accommodations or Upgrade that are subject to this Declaration, or 2) acting as exclusive agent of the Club for the sale of such Resort Points and Advantage Interests. 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 Advantage Interests shall have the right to receive and retain all proceeds from the sale of Memberships, Resort Points

and Advantage Interests.

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

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, Resort Points and Advantage Interests to the Declarant, and shall execute the Security Agreement in favour of the Declarant.

12.3 Re-acquired Resort Points and Advantage Interests. With respect to any Resort Points and Advantage Interests 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 and Advantage Interests to the Declarant or to permit the Declarant, as exclusive agent, to sell such reacquired Resort Points and Advantage Interests. If the Declarant exercises said option, any such reacquired Resort Points shall be deemed to be Declarant's Resort Points and any such reacquired Advantage Interests shall be deemed to be Declarant's Advantage Interests.

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 Restated Management Agreement.

12.5 Name. The Club acknowledges that the rights of the Club to use the "Club Intrawest" trade-mark and various other trade-marks used in association with the operation of the Club are governed by a Trade-mark License Confirmation Agreement dated March 1, 2004 between Intrawest Corporation and the Club (the "Trade-mark License"). In the event the Declarant is terminated as Manager, subject to the terms of the Trade-mark License, the Club shall immediately take all action necessary to change its name so that the word "Intrawest" is deleted from the name of the Club, and the Club, the Board and all Members will no longer use "Intrawest" as part of the Club's name or as part of any trade-mark. Such steps shall include, but are not limited to, amending all documentation, including, but not limited to the Certificate of Incorporation and all 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 and Advantage Interests 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 fulfill 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 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 fulfillment 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 Projects, 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. The Club acknowledges that the Declarant has appointed Resort Ventures, L.P. and Intrawest Resort Ownership U.S. Corporation as Appointees pursuant to the Appointment Agreement. The Club, shall on written notice from the Declarant, accept a transfer of Resort Accommodation in exchange for the issuance of Resort Points or Advantage Interests, issued to an Appointee, all in accordance with Section 7.1 of this Agreement.

## 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 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 or her family, his or her 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.

#### 14.4 Liability.

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

(b) No damage to, or loss of, all or any portion of a Resort Accommodation shall relieve any Member of his or her obligation to pay his or her proportionate share of the Membership Costs and all other impositions becoming due, except as otherwise expressly provided herein.

### ARTICLE 15 - INSURANCE

15.1 Generally. Insurance coverage for each Resort Accommodation shall be governed by the Project Instruments, if any, and the Supplemental Declaration for the Resort Accommodation. Notwithstanding the above, to the extent that the Club may have exposure for liability or property loss for any real or personal property owned or administered by the Club, activities of the Club and its employees and agents, to the extent not covered by the Project Instruments, shall obtain the following types of insurance at its sole cost and expense:

(a) Fire and Casualty. Fire and casualty insurance for each Resort Accommodation shall be in a total amount, after application of deductibles, of the maximum insurable replacement value thereof, without deduction for depreciation, but not less than one hundred percent (100%) of the full replacement value of the property. Replacement value shall be determined periodically by the Board, in its sole discretion. Such determination shall be made by one of the insurers, or at the option of the Board, by an appraiser, architect, or contractor chosen by the Board. Any such policy shall name the Trustee as a co-insured;

(b) Upgrades and Equipment. The Upgrades and Equipment shall be insured for the benefit of all Members and the Club, against all risks of direct physical loss commonly insured against with respect to such property in a total amount, after application of deductibles, of the maximum insurable replacement value thereof, without deduction for depreciation. Replacement value shall be determined periodically by the Board, in its sole discretion;

(c) Liability. The Board shall obtain comprehensive general liability insurance for death, bodily injury and property damage resulting from the use, ownership or maintenance of Resort Accommodations in amounts and on terms reasonably determined by the Board and its insurance advisors to sufficiently protect the Club, the Board, the Manager and Members but not



less than Five Hundred Thousand United States Dollars (\$500,000) per person and One Million United States Dollars (\$1,000,000) per occurrence for personal injury and One Hundred Thousand United States Dollars (\$100,000) for property damage. Any liability policy obtained by the Club shall contain the following provisions:

- (i) All Members as a class are named as additional insureds in any policy issued to the Club;
- (ii) If available, the insurer waives its right to subrogation under the policy against any Member or member of his or her household; and
- (iii) No act or omission by a Member, unless acting within the scope of his or her authority on behalf of the Club, will void the policy or operate as a condition to recover under the policy by any other person.

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

15.2 Insurance Against Additional Risks. The Club may also procure insurance at its sole cost and expense against such additional risks as the Board deems advisable for the protection of the Directors, Officers, Manager, Members or the Resort Accommodations.

15.3 General Insurance Requirements. All insurance provided for in this Article 15 shall be affected under valid and enforceable policies in forms which are reasonably satisfactory to the Club, issued by insurers of recognized responsibility which are duly authorized to transact business in the jurisdiction in which the Resort Accommodation is located and distributed among such insurers in amounts reasonably satisfactory to the Club. All policies of insurance referred to in this Article 15 shall contain appropriate waivers of subrogation for the benefit of the Club, the Declarant and all Members, if available. Members may obtain insurance coverage at their own expense upon their personal property and for their personal liability.

15.4 Proceeds. With respect to insurance proceeds paid in connection with a loss of Club property, any excess insurance proceeds shall be deposited in a special reserve account for the replacement of any Resort Accommodations.

15.5 Inspection of Policies. A copy of each policy of insurance in effect shall be made available for inspection by Members and their authorized agents during business hours at the office of the Manager.

## ARTICLE 16 - PROTECTION OF LENDERS OF RECORD

16.1 Priority of Lien. The Club's lien upon any Membership for delinquent Assessments shall be prior to all other liens and encumbrances upon such Membership except for:

(a) The lien of any Lender of Record upon such Membership made in good faith and for value; provided, however, that a lien may be created after the enforcement of any such security on the interest of the Person acquiring a Membership to secure all amounts assessed to such Person, as a Member, after the date of such acquisition;

(b) Liens and encumbrances recorded before the recordation of this Declaration; and

(c) Liens for real estate taxes and other governmental assessments or charges against the Membership.

16.2 Status of Liens. In the event a Lender of Record enforces its security interest through a power of sale, the purchaser at any sale, together with its successors and assigns, shall be liable for any Assessments levied by the Club upon such Membership prior to such acquisition of the Membership. Notwithstanding the foregoing, if the Lender of Record itself is the purchaser at such sale, then it shall not be liable for any Assessments levied by the Club upon such Membership prior to such acquisition. The unpaid share of Assessments shall be a Membership Expense which may be collected proportionately from all of the Members according to the number of Resort Points owned or allocated to Advantage Interests owned by each Member including such Lender of Record. The Club shall remain entitled to recover any unpaid Assessments from the Member whose Membership was foreclosed upon.

## ARTICLE 17 - THIRD PARTY LIENS

17.1 Limitation on Scope of Liens. Any liens against a Member's interest in the Club shall be limited to the interest of such Member in his or her Membership only, and shall not entitle any lienholder to assert any claim against the Membership of any other Member, the Resort Accommodations or the Equipment.

17.2 Notice of Liens. Each Member shall give written notice to the Club of every lien upon his or her Membership, other than liens for the non-payment of Assessments held by the Club, within seven (7) days after the Member receives notice thereof.

17.3 Covenant Not to Encumber. The Declarant hereby covenants that it will not encumber any Resort Accommodation with any financial charge after it has been submitted to this Declaration. In addition, the Club hereby covenants that it will not encumber any Resort Accommodation after it is submitted to this Declaration with any finance charge without the affirmative vote or written consent of not less than two-thirds (2/3) of the Voting Power residing in Members other than the Declarant.

## ARTICLE 18 - BOOKS AND RECORDS

18.1 Accounting. The Club shall keep, or cause to be kept, true and correct books and records of the accounts of the Club at the sole cost and expense of the Club. Financial statements for the Club shall be regularly prepared and distributed to all Members as follows:

(a) A budget for each fiscal year containing the following information shall be distributed not less than forty-five (45) days and not more than sixty (60) days before the beginning of the fiscal year to which the budget applies:

- (i) Estimated revenue and expenses on an accrual basis;
- (ii) The amount of the total cash reserves of the Club currently available for replacement or major repair of the Resort Accommodations and for contingencies;
- (iii) 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 Resort Accommodations for which the Club is responsible; and
- (iv) A general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Resort Accommodations for which the Club is responsible.

(b) An annual report consisting of the following shall be distributed within one hundred fifty (150) days after the close of the fiscal year:

- (i) A balance sheet as of the end of the fiscal year;
- (ii) An operating (income) statement for the fiscal year;
- (iii) A statement of the net changes in financial position for the fiscal year;
- (iv) A list of the names, mailing addresses and telephone numbers of the members of the Board of Directors.

For any fiscal year in which the gross receipts to the Club exceed Seventy-Five Thousand United States Dollars (\$75,000), audited financial statements shall be prepared in accordance with generally accepted accounting principles by an independent certified public accountant; otherwise, the annual report shall be prepared by the Manager or by an Officer of the Club and shall be accompanied by a certificate of the person preparing the report that the statement was prepared from the books and records of the Club without independent audit or review.

18.2 Other Information to be Distributed to Members. The following information shall be distributed to all Members as provided below:

(a) Minutes of the meetings of the Board of Directors shall be distributed to the Members within ninety (90) days after the meeting by posting the minutes on the Website or mailing the minutes of the meeting to those Members who have requested delivery by mail;

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

(c) Within sixty (60) days prior to the beginning of the fiscal year, a statement of the Club's policies and practices in enforcing its remedies against Members for defaults in the payment of Assessments including the recording and enforcement of liens against Memberships shall be posted on the Website or mailed to those Members who have requested delivery by mail.

18.3 Inspection of Books and Records. The Membership register, books of account, and minutes of meetings of the Members, of the Board of Directors and of Committees of the Board of Directors shall be made available for inspection and copying by any Member of the Club, or by his or her duly appointed representative, at any reasonable time and for a proper purpose reasonably related to his or her interest as a Member, at the office of the Club or at such other place as the Board shall prescribe. The Board may restrict the use of information from the Membership register by requiring Members to sign a written agreement not to use or allow use of Membership information for commercial or other purposes not reasonably related to the affairs of the Club. The Board shall establish reasonable rules with respect to, i) notice to be given to the custodian of the records by the Member desiring to make the inspection, ii) hours and days of the week when such an inspection may be made, and iii) payment of the cost of copying documents requested by a Member. Every Director shall have the absolute right at any reasonable time for a proper purpose to inspect all books, records, and documents of the Club and the physical properties owned or controlled by the Club.

## ARTICLE 19 - TERM AND AMENDMENT

19.1 Term. This Declaration shall be effective upon the date of execution hereof and, as amended from time to time, shall continue in full force and effect until the Club is liquidated or dissolved. Upon termination, the Members shall cause a Certificate of Termination to be amended to the Trust Agreement, which shall be filed in the appropriate land title office. Thereupon this Declaration shall have no further force and effect.

19.2 Dissolution of Club. In the event of the liquidation, dissolution, or winding up of the affairs of the Club, whether voluntary, involuntary, or by operation of law, the Board of Directors shall, except as may be otherwise provided by law, transfer all of the assets of the Club in such manner provided in the By-Laws.

19.3 Amendment. This Declaration and other Club Instruments may be amended as follows:

(a) By Members. Except as otherwise provided by law or in this Declaration, this Declaration may be amended or rescinded only by the affirmative vote or written assent of, (1) a majority of the Voting Power of each class of Members, if there is more than one class, or (2) if there is only one class of Members, a majority of the Voting Power residing in Members other than the Declarant, or its successor, plus a majority of the total Voting Power of the Club, provided, however, that no specific provision hereof may be amended by a vote which is less than the prescribed percentage of affirmative votes or written assents required for action to be taken pursuant to that provision. Each such amendment of this Declaration shall be evidenced by an instrument in writing, signed and acknowledged by any two (2) Officers of the Club, setting forth in full the text of such amendment, the appropriate recording data of this Declaration, and certifying that such amendment has been approved by the affirmative vote or written consent as set forth above. Said amendment shall become effective upon the recording of said instrument as an amendment to this Declaration and the Trust Agreement in the appropriate land title office and any other recording office in which this Declaration or the Trust Agreement have been filed.

Notwithstanding the above, no amendment of Articles 4, 7 (except Sections 7.2(e), 7.3(d), 7.7, and 7.8) and 12, and of Sections 5.8, 5.9, 5.10, 8.2, 10.7 or 19.1 of this Declaration, or any of the definitions in Article 1 used in any such provisions, shall be effective without the written consent of the Declarant, so long as the Declarant has fully performed all of its obligations pursuant to this Declaration.

(b) By Board of Directors. Notwithstanding any provision hereof to the contrary, the Board expressly reserves the right to amend this Declaration and the By-Laws, (i) to correct any scrivener's error or erroneous legal description contained herein, which legal description or descriptions may have been incorrect by reason of a scrivener's or surveyor's error, (ii) as may be required by any lending institution, title insurance company, public body or as may be necessary, to comply with the lawful requirements of any jurisdiction in which Resort Points are offered for sale, sold or used, or in which any Resort Accommodation is located, or (iii) to facilitate the operation and management of any Resort Accommodation or the sale of Memberships in the Club. Each such amendment of this Declaration and the By-Laws shall be evidenced by an instrument in writing, signed and acknowledged by any two (2) Officers of the Club, without the need for any Member's consent thereto, setting forth in full the text of such amendment, and the appropriate recording data of this Declaration. Said amendment shall become effective upon the recording of said instrument as an amendment to this Declaration and the Trust Agreement in the appropriate land title office and any other recording office in which this Declaration or the Trust Agreement have been filed and upon the execution of any amendments to the By-Laws in the manner described above.

Notwithstanding the above, no amendment of Articles 4, 7 (except Sections 7.2(e), 7.3(d), 7.7, and 7.8) and 12, and of Sections 5.8, 5.9, 5.10, 8.2, 10.7 or 19.1 of this Declaration, or any of the definitions in Article 1 used in any such provisions, shall be effective

without the written consent of the Declarant, so long as the Declarant has fully performed all of its obligations pursuant to this Declaration.

(c) By the Appointee. An Appointee has no right to amend the Master Declaration.

(d) By the Declarant. The Declarant reserves the right, prior to the sale of the first Membership in the Club conveying a Membership from the Declarant to a Member to unilaterally amend this Declaration. After the sale of the first Membership in the Club, the Declarant reserves the right to unilaterally amend any of the following listed provisions of this Declaration (i) as may be required by any lending institution, title insurance company, public body, or as may be necessary to comply with the lawful requirements of any jurisdiction in which Resort Points and Memberships are offered for sale, sold or used or in which any Resort Accommodation is located, or (ii) to facilitate the operation and management of the Resort Accommodations or the sale of Memberships in the Club; provided, however, that no such amendment shall increase the proportion of Membership Costs to be borne by Members, or decrease any Member's voting rights, or impose any increased burden on the Members or the Club. The provisions of the Declaration which are covered by this Section are as follows: Articles 1, 4, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17 and 18.

Any such amendment to this Declaration shall be executed solely by the Declarant, without the need for the Club's or any Member's consent thereto, setting forth in full the text of such amendment, and the appropriate recording data of this Declaration. Said amendment shall become effective upon the recording of said instrument as an amendment to this Agreement and the Trust Agreement in the appropriate land title office and any other recording office in which this Declaration or the Trust Agreement have been filed.

## ARTICLE 20 - MISCELLANEOUS PROVISIONS

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

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

20.3 Notices. Any notice or other documents relating to or required by this Declaration shall be in writing and may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the

Canadian mail, postage prepaid, addressed to a Member at the current address in the Club records, or to any other address last furnished by a Member to the Manager. Any notice required by the By-Laws shall be governed by the provisions of the By-Laws.

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

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

20.6 Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under any rule against perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest, then the “lives in being” for computing the period of perpetuities shall be: i) those which would be used in determining the validity of the challenged interest; plus ii) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

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

20.8 Conflict with Other Club Instruments. In the event of a conflict between the provisions of the Club Instruments, the following shall control in order of priority: the Certificate of Incorporation, this Declaration, the Trust Agreement, the By-Laws; and then the Guidelines. In the event of any conflict between the provisions of this Declaration, including all exhibits hereto, and the provisions of the Project Instruments, with respect to a Resort Accommodation, this Declaration shall supersede the provisions of the Project Instruments and control, except to the extent inconsistent with the provisions of applicable law.

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

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

20.11 Binding Effect. The provisions of the Club Instruments shall be binding upon all

parties having or acquiring any Membership(s) or any right, title, or interest therein, and shall be for the benefit of each Member, his or her heirs, legal representatives, successors, and assigns. Each Member (including the Declarant) shall be fully discharged and relieved of liability on the covenants contained therein, in his or her capacity as a Member, upon ceasing to own such Membership(s) and upon paying all sums and performing all obligations thereunder, up to the time his or her ownership interest terminates, as provided herein.

20.12 Arbitration. Any controversy or claim arising out of or relating to this Agreement or the making, performance or interpretation thereof, shall be settled by an arbitration in Vancouver, British Columbia, Canada, in accordance with the *Commercial Arbitration Act*, British Columbia, Canada, which is then existing in judgement and the arbitration award may be entered in any court having jurisdiction over the subject matter of the controversy.

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

20.14 Choice of Law. This Declaration shall be governed by and construed in accordance with the laws of the Province of British Columbia.

20.15 Consent of the Board. When used in this Declaration, the term “consent” when referring to the Board shall mean the consent of the Board by any action or procedure permitted under the Club Instruments which consent may not be unreasonably withheld or delayed. Consent of the Board as used in various provisions defined to mean consent of the Board by any action permitted under the Club Instruments governing the action of the Board which action cannot be unreasonably withheld or delayed. Failure to consent will be deemed to be unreasonable if the matter or change to which the Board is requested to consent is required by applicable law, by any judgement or order of any judicial or governmental body with jurisdiction thereof or which is necessary to avoid the loss or dilution of any right of any member provided for under the Club Instruments.


**[signatures appear on following page]**



IN WITNESS WHEREOF, the parties hereto have executed this NINETEENTH Amended and Restated Master Declaration for Club Intrawest dated for reference the 30<sup>th</sup> day of May,2012.

**Declarant:**

INTRAWEST ULC,  
a corporation amalgamated and existing under the  
laws of Alberta

By:   
Execution Date: \_\_\_\_\_

**The Club:**

CLUB INTRAWEST, a nonstock, nonprofit  
Delaware corporation

By: \_\_\_\_\_  
Trevor Bruno

Execution Date: \_\_\_\_\_

By: \_\_\_\_\_  
Robert Reyes

Execution Date: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this NINETEENTH Amended and Restated Master Declaration for Club Intrawest dated for reference the 30<sup>th</sup> day of May, 2012.


**Declarant:**

INTRAWEST ULC,  
a corporation amalgamated and existing under the  
laws of Alberta

By: \_\_\_\_\_  
Execution Date: \_\_\_\_\_

**The Club:**

CLUB INTRAWEST, a nonstock, nonprofit  
Delaware corporation

By:   
Trevor Bruno

Execution Date: June 5, 2012

By: \_\_\_\_\_  
Robert Reyes

Execution Date: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this NINETEENTH Amended and Restated Master Declaration for Club Intrawest dated for reference the 30<sup>th</sup> day of May, 2012.


**Declarant:**  
INTRAWEST ULC,  
a corporation amalgamated and existing under the  
laws of Alberta

By: \_\_\_\_\_  
Execution Date: \_\_\_\_\_

**The Club:**  
CLUB INTRAWEST, a nonstock, nonprofit  
Delaware corporation

By: \_\_\_\_\_  
Trevor Bruno

Execution Date: \_\_\_\_\_

By:  \_\_\_\_\_  
Robert Reyes

Execution Date: JUNE 5, 2012

SCHEDULE A

**Advantage Calendar**

**Advantage Calendar**

**Saturday Arrival**

Week #	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
1	Sat, Jan 06 07	Sat, Jan 05 08	Sat, Jan 03 09	Sat, Jan 03 10	Sat, Jan 01 11	Sat, Jan 07 12	Sat, Jan 05 13	Sat, Jan 04 14	Sat, Jan 03 15	Sat, Jan 02 16	Sat, Jan 07 17	Sat, Jan 06 18
2	Sat, Jan 13 07	Sat, Jan 12 08	Sat, Jan 10 09	Sat, Jan 10 10	Sat, Jan 08 11	Sat, Jan 14 12	Sat, Jan 12 13	Sat, Jan 11 14	Sat, Jan 10 15	Sat, Jan 09 16	Sat, Jan 14 17	Sat, Jan 13 18
3	Sat, Jan 20 07	Sat, Jan 19 08	Sat, Jan 17 09	Sat, Jan 17 10	Sat, Jan 15 11	Sat, Jan 21 12	Sat, Jan 19 13	Sat, Jan 18 14	Sat, Jan 17 15	Sat, Jan 16 16	Sat, Jan 21 17	Sat, Jan 20 18
4	Sat, Jan 27 07	Sat, Jan 26 08	Sat, Jan 24 09	Sat, Jan 24 10	Sat, Jan 22 11	Sat, Jan 28 12	Sat, Jan 26 13	Sat, Jan 25 14	Sat, Jan 24 15	Sat, Jan 23 16	Sat, Jan 28 17	Sat, Jan 27 18
5	Sat, Feb 03 07	Sat, Feb 02 08	Sat, Jan 31 09	Sat, Jan 31 10	Sat, Jan 29 11	Sat, Feb 04 12	Sat, Feb 02 13	Sat, Feb 01 14	Sat, Jan 31 15	Sat, Jan 30 16	Sat, Feb 04 17	Sat, Feb 03 18
6	Sat, Feb 10 07	Sat, Feb 09 08	Sat, Feb 07 09	Sat, Feb 07 10	Sat, Feb 05 11	Sat, Feb 11 12	Sat, Feb 09 13	Sat, Feb 08 14	Sat, Feb 07 15	Sat, Feb 06 16	Sat, Feb 11 17	Sat, Feb 10 18
7	Sat, Feb 17 07	Sat, Feb 16 08	Sat, Feb 14 09	Sat, Feb 14 10	Sat, Feb 12 11	Sat, Feb 18 12	Sat, Feb 16 13	Sat, Feb 15 14	Sat, Feb 14 15	Sat, Feb 13 16	Sat, Feb 18 17	Sat, Feb 17 18
8	Sat, Feb 24 07	Sat, Feb 23 08	Sat, Feb 21 09	Sat, Feb 21 10	Sat, Feb 19 11	Sat, Feb 25 12	Sat, Feb 23 13	Sat, Feb 22 14	Sat, Feb 21 15	Sat, Feb 20 16	Sat, Feb 25 17	Sat, Feb 24 18
9	Sat, Mar 03 07	Sat, Mar 01 08	Sat, Feb 28 09	Sat, Feb 28 10	Sat, Feb 26 11	Sat, Mar 03 12	Sat, Mar 02 13	Sat, Mar 01 14	Sat, Feb 28 15	Sat, Feb 27 16	Sat, Mar 04 17	Sat, Mar 03 18
10	Sat, Mar 10 07	Sat, Mar 08 08	Sat, Mar 07 09	Sat, Mar 07 10	Sat, Mar 05 11	Sat, Mar 10 12	Sat, Mar 09 13	Sat, Mar 08 14	Sat, Mar 07 15	Sat, Mar 05 16	Sat, Mar 11 17	Sat, Mar 10 18
11	Sat, Mar 17 07	Sat, Mar 15 08	Sat, Mar 14 09	Sat, Mar 14 10	Sat, Mar 12 11	Sat, Mar 17 12	Sat, Mar 16 13	Sat, Mar 15 14	Sat, Mar 14 15	Sat, Mar 12 16	Sat, Mar 18 17	Sat, Mar 17 18
12	Sat, Mar 24 07	Sat, Mar 22 08	Sat, Mar 21 09	Sat, Mar 21 10	Sat, Mar 19 11	Sat, Mar 24 12	Sat, Mar 23 13	Sat, Mar 22 14	Sat, Mar 21 15	Sat, Mar 19 16	Sat, Mar 25 17	Sat, Mar 24 18
13	Sat, Mar 31 07	Sat, Mar 29 08	Sat, Mar 28 09	Sat, Mar 28 10	Sat, Mar 26 11	Sat, Mar 31 12	Sat, Mar 30 13	Sat, Mar 29 14	Sat, Mar 28 15	Sat, Mar 26 16	Sat, Apr 01 17	Sat, Mar 31 18
14	Sat, Apr 07 07	Sat, Apr 05 08	Sat, Apr 04 09	Sat, Apr 04 10	Sat, Apr 02 11	Sat, Apr 07 12	Sat, Apr 06 13	Sat, Apr 05 14	Sat, Apr 04 15	Sat, Apr 02 16	Sat, Apr 08 17	Sat, Apr 07 18
15	Sat, Apr 14 07	Sat, Apr 12 08	Sat, Apr 11 09	Sat, Apr 11 10	Sat, Apr 09 11	Sat, Apr 14 12	Sat, Apr 13 13	Sat, Apr 12 14	Sat, Apr 11 15	Sat, Apr 09 16	Sat, Apr 15 17	Sat, Apr 14 18
16	Sat, Apr 21 07	Sat, Apr 19 08	Sat, Apr 18 09	Sat, Apr 18 10	Sat, Apr 16 11	Sat, Apr 21 12	Sat, Apr 20 13	Sat, Apr 19 14	Sat, Apr 18 15	Sat, Apr 16 16	Sat, Apr 22 17	Sat, Apr 21 18
17	Sat, Apr 28 07	Sat, Apr 26 08	Sat, Apr 25 09	Sat, Apr 25 10	Sat, Apr 23 11	Sat, Apr 28 12	Sat, Apr 27 13	Sat, Apr 26 14	Sat, Apr 25 15	Sat, Apr 23 16	Sat, Apr 29 17	Sat, Apr 28 18
18	Sat, May 05 07	Sat, May 03 08	Sat, May 02 09	Sat, May 02 10	Sat, Apr 30 11	Sat, May 05 12	Sat, May 04 13	Sat, May 03 14	Sat, May 02 15	Sat, Apr 30 16	Sat, May 06 17	Sat, May 05 18
19	Sat, May 12 07	Sat, May 10 08	Sat, May 09 09	Sat, May 09 10	Sat, May 07 11	Sat, May 12 12	Sat, May 11 13	Sat, May 10 14	Sat, May 09 15	Sat, May 07 16	Sat, May 13 17	Sat, May 12 18
20	Sat, May 19 07	Sat, May 17 08	Sat, May 16 09	Sat, May 16 10	Sat, May 14 11	Sat, May 19 12	Sat, May 18 13	Sat, May 17 14	Sat, May 16 15	Sat, May 14 16	Sat, May 20 17	Sat, May 19 18
21	Sat, May 26 07	Sat, May 24 08	Sat, May 23 09	Sat, May 23 10	Sat, May 21 11	Sat, May 26 12	Sat, May 25 13	Sat, May 24 14	Sat, May 23 15	Sat, May 21 16	Sat, May 27 17	Sat, May 26 18
22	Sat, Jun 02 07	Sat, May 31 08	Sat, May 30 09	Sat, May 30 10	Sat, May 28 11	Sat, Jun 02 12	Sat, Jun 01 13	Sat, May 31 14	Sat, May 30 15	Sat, May 28 16	Sat, Jun 03 17	Sat, Jun 02 18
23	Sat, Jun 09 07	Sat, Jun 07 08	Sat, Jun 06 09	Sat, Jun 06 10	Sat, Jun 04 11	Sat, Jun 09 12	Sat, Jun 08 13	Sat, Jun 07 14	Sat, Jun 06 15	Sat, Jun 04 16	Sat, Jun 10 17	Sat, Jun 09 18
24	Sat, Jun 16 07	Sat, Jun 14 08	Sat, Jun 13 09	Sat, Jun 13 10	Sat, Jun 11 11	Sat, Jun 16 12	Sat, Jun 15 13	Sat, Jun 14 14	Sat, Jun 13 15	Sat, Jun 11 16	Sat, Jun 17 17	Sat, Jun 16 18
25	Sat, Jun 23 07	Sat, Jun 21 08	Sat, Jun 20 09	Sat, Jun 20 10	Sat, Jun 18 11	Sat, Jun 23 12	Sat, Jun 22 13	Sat, Jun 21 14	Sat, Jun 20 15	Sat, Jun 18 16	Sat, Jun 24 17	Sat, Jun 23 18
26	Sat, Jun 30 07	Sat, Jun 28 08	Sat, Jun 27 09	Sat, Jun 27 10	Sat, Jun 25 11	Sat, Jun 30 12	Sat, Jun 29 13	Sat, Jun 28 14	Sat, Jun 27 15	Sat, Jun 25 16	Sat, Jul 01 17	Sat, Jun 30 18
27	Sat, Jul 07 07	Sat, Jul 05 08	Sat, Jul 04 09	Sat, Jul 04 10	Sat, Jul 02 11	Sat, Jul 07 12	Sat, Jul 06 13	Sat, Jul 05 14	Sat, Jul 04 15	Sat, Jul 02 16	Sat, Jul 08 17	Sat, Jul 07 18
28	Sat, Jul 14 07	Sat, Jul 12 08	Sat, Jul 11 09	Sat, Jul 11 10	Sat, Jul 09 11	Sat, Jul 14 12	Sat, Jul 13 13	Sat, Jul 12 14	Sat, Jul 11 15	Sat, Jul 09 16	Sat, Jul 15 17	Sat, Jul 14 18
29	Sat, Jul 21 07	Sat, Jul 19 08	Sat, Jul 18 09	Sat, Jul 18 10	Sat, Jul 16 11	Sat, Jul 21 12	Sat, Jul 20 13	Sat, Jul 19 14	Sat, Jul 18 15	Sat, Jul 16 16	Sat, Jul 22 17	Sat, Jul 21 18
30	Sat, Jul 28 07	Sat, Jul 26 08	Sat, Jul 25 09	Sat, Jul 25 10	Sat, Jul 23 11	Sat, Jul 28 12	Sat, Jul 27 13	Sat, Jul 26 14	Sat, Jul 25 15	Sat, Jul 23 16	Sat, Jul 29 17	Sat, Jul 28 18
31	Sat, Aug 04 07	Sat, Aug 02 08	Sat, Aug 01 09	Sat, Aug 01 10	Sat, Jul 30 11	Sat, Aug 04 12	Sat, Aug 03 13	Sat, Aug 02 14	Sat, Aug 01 15	Sat, Jul 30 16	Sat, Aug 05 17	Sat, Aug 04 18
32	Sat, Aug 11 07	Sat, Aug 09 08	Sat, Aug 08 09	Sat, Aug 08 10	Sat, Aug 06 11	Sat, Aug 11 12	Sat, Aug 10 13	Sat, Aug 09 14	Sat, Aug 08 15	Sat, Aug 06 16	Sat, Aug 12 17	Sat, Aug 11 18
33	Sat, Aug 18 07	Sat, Aug 16 08	Sat, Aug 15 09	Sat, Aug 15 10	Sat, Aug 13 11	Sat, Aug 18 12	Sat, Aug 17 13	Sat, Aug 16 14	Sat, Aug 15 15	Sat, Aug 13 16	Sat, Aug 19 17	Sat, Aug 18 18
34	Sat, Aug 25 07	Sat, Aug 23 08	Sat, Aug 22 09	Sat, Aug 22 10	Sat, Aug 20 11	Sat, Aug 25 12	Sat, Aug 24 13	Sat, Aug 23 14	Sat, Aug 22 15	Sat, Aug 20 16	Sat, Aug 26 17	Sat, Aug 25 18
35	Sat, Sep 01 07	Sat, Sep 00 08	Sat, Aug 29 09	Sat, Aug 29 10	Sat, Aug 27 11	Sat, Sep 01 12	Sat, Aug 31 13	Sat, Aug 30 14	Sat, Aug 29 15	Sat, Aug 27 16	Sat, Sep 02 17	Sat, Sep 01 18
36	Sat, Sep 08 07	Sat, Sep 06 08	Sat, Sep 05 09	Sat, Sep 05 10	Sat, Sep 03 11	Sat, Sep 08 12	Sat, Sep 07 13	Sat, Sep 06 14	Sat, Sep 05 15	Sat, Sep 03 16	Sat, Sep 09 17	Sat, Sep 08 18
37	Sat, Sep 15 07	Sat, Sep 13 08	Sat, Sep 12 09	Sat, Sep 12 10	Sat, Sep 10 11	Sat, Sep 15 12	Sat, Sep 14 13	Sat, Sep 13 14	Sat, Sep 12 15	Sat, Sep 10 16	Sat, Sep 16 17	Sat, Sep 15 18
38	Sat, Sep 22 07	Sat, Sep 20 08	Sat, Sep 19 09	Sat, Sep 19 10	Sat, Sep 17 11	Sat, Sep 22 12	Sat, Sep 21 13	Sat, Sep 20 14	Sat, Sep 19 15	Sat, Sep 17 16	Sat, Sep 23 17	Sat, Sep 22 18
39	Sat, Sep 29 07	Sat, Sep 27 08	Sat, Sep 26 09	Sat, Sep 26 10	Sat, Sep 24 11	Sat, Sep 29 12	Sat, Sep 28 13	Sat, Sep 27 14	Sat, Sep 26 15	Sat, Sep 24 16	Sat, Sep 30 17	Sat, Sep 29 18
40	Sat, Oct 06 07	Sat, Oct 04 08	Sat, Oct 03 09	Sat, Oct 03 10	Sat, Oct 01 11	Sat, Oct 06 12	Sat, Oct 05 13	Sat, Oct 04 14	Sat, Oct 03 15	Sat, Oct 01 16	Sat, Oct 07 17	Sat, Oct 06 18
41	Sat, Oct 13 07	Sat, Oct 11 08	Sat, Oct 10 09	Sat, Oct 10 10	Sat, Oct 08 11	Sat, Oct 13 12	Sat, Oct 12 13	Sat, Oct 11 14	Sat, Oct 10 15	Sat, Oct 08 16	Sat, Oct 14 17	Sat, Oct 13 18
42	Sat, Oct 20 07	Sat, Oct 18 08	Sat, Oct 17 09	Sat, Oct 17 10	Sat, Oct 15 11	Sat, Oct 20 12	Sat, Oct 19 13	Sat, Oct 18 14	Sat, Oct 17 15	Sat, Oct 15 16	Sat, Oct 21 17	Sat, Oct 20 18
43	Sat, Oct 27 07	Sat, Oct 25 08	Sat, Oct 24 09	Sat, Oct 24 10	Sat, Oct 22 11	Sat, Oct 27 12	Sat, Oct 26 13	Sat, Oct 25 14	Sat, Oct 24 15	Sat, Oct 22 16	Sat, Oct 28 17	Sat, Oct 27 18
44	Sat, Nov 03 07	Sat, Nov 01 08	Sat, Oct 31 09	Sat, Oct 31 10	Sat, Oct 29 11	Sat, Nov 03 12	Sat, Nov 02 13	Sat, Nov 01 14	Sat, Oct 31 15	Sat, Oct 29 16	Sat, Nov 04 17	Sat, Nov 03 18
45	Sat, Nov 10 07	Sat, Nov 08 08	Sat, Nov 07 09	Sat, Nov 07 10	Sat, Nov 05 11	Sat, Nov 10 12	Sat, Nov 09 13	Sat, Nov 08 14	Sat, Nov 07 15	Sat, Nov 05 16	Sat, Nov 11 17	Sat, Nov 10 18
46	Sat, Nov 17 07	Sat, Nov 15 08	Sat, Nov 14 09	Sat, Nov 14 10	Sat, Nov 12 11	Sat, Nov 17 12	Sat, Nov 16 13	Sat, Nov 15 14	Sat, Nov 14 15	Sat, Nov 12 16	Sat, Nov 18 17	Sat, Nov 17 18
47	Sat, Nov 24 07	Sat, Nov 22 08	Sat, Nov 21 09	Sat, Nov 21 10	Sat, Nov 19 11	Sat, Nov 24 12	Sat, Nov 23 13	Sat, Nov 22 14	Sat, Nov 21 15	Sat, Nov 19 16	Sat, Nov 25 17	Sat, Nov 24 18
48	Sat, Dec 01 07	Sat, Nov 29 08	Sat, Nov 28 09	Sat, Nov 28 10	Sat, Nov 27 11	Sat, Dec 01 12	Sat, Nov 30 13	Sat, Nov 29 14	Sat, Nov 28 15	Sat, Nov 26 16	Sat, Dec 02 17	Sat, Dec 01 18
49	Sat, Dec 08 07	Sat, Dec 06 08	Sat, Dec 05 09	Sat, Dec 05 10	Sat, Dec 04 11	Sat, Dec 08 12	Sat, Dec 07 13	Sat, Dec 06 14	Sat, Dec 05 15	Sat, Dec 03 16	Sat, Dec 09 17	Sat, Dec 08 18
50	Sat, Dec 15 07	Sat, Dec 13 08	Sat, Dec 12 09	Sat, Dec 12 10	Sat, Dec 11 11	Sat, Dec 15 12	Sat, Dec 14 13	Sat, Dec 13 14	Sat, Dec 12 15	Sat, Dec 10 16	Sat, Dec 16 17	Sat, Dec 15 18
51	Sat, Dec 22 07	Sat, Dec 20 08	Sat, Dec 19 09	Sat, Dec 19 10	Sat, Dec 18 11	Sat, Dec 22 12	Sat, Dec 21 13	Sat, Dec 20 14	Sat, Dec 19 15	Sat, Dec 17 16	Sat, Dec 23 17	Sat, Dec 22 18
52	Sat, Dec 29 07	Sat, Dec 27 08	Sat, Dec 26 09	Sat, Dec 26 10	Sat, Dec 25 11	Sat, Dec 29 12	Sat, Dec 28 13	Sat, Dec 27 14	Sat, Dec 26 15	Sat, Dec 24 16	Sat, Dec 30 17	Sat, Dec 29 18
53										Sat, Dec 31 16		