



Real Estate Ownership Agreement

[Example Property]

This agreement details all aspects of the relationship between owners of a shared vacation home and the relevant property manager

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This Ownership agreement is entered into its Effective date by and among the Owners detailed in Appendix "A", "Owners". Each may hereinafter be referred to as a "Party" and collectively as the "Parties."

The Owners own or intend to purchase real property commonly known as

(the "Property") and now desire to clarify the terms and conditions of their Ownership.

The Owners hereby agree to and hereby do appoint a property manager known as

(the "Property Manager") to facilitate all operations of the Property on their behalf

The effective date of this agreement is _____



"Appraised Value" means the value as determined by a registered real estate agent or property valuer

"Association" means the group of Owners described in this Agreement and does not connote any formal legal meaning

"Booking" shall mean any party reserving dates for the Property, including Owners and Guests

"Booking Fee" means a fee paid by all Guests or Owners in the event he / she exceeds the permitted 45 days per Calendar Year.

"Declaration of Trust" means a memorialization of each Owners' contribution to the property

"Effective Date" means the date determined above

"Guest" means a non-owner person booking a stay at ther Property

"Guest Booking" means a reservation for use of the Property by non-Owners

"Group" means more than one individual who together constitute one (1) Owner and who together hold one (1) or more Ownership Shares.

"Jurisdiction" means that country in which the Property exists and the PHC is established

"Majority Approval" means the affirmative approval of more than fifty percent (50%) of the attending Owners, subject to there being no less than four (4) Shares represented

"Mandatory Expenditure" is any one of the expenses described as such in Section 5.1

"Membership Interest" means an Owners' right to receive distributions of the PHC's assets and allocations of income, gain, loss, deduction, credit and similar items from the PHC pursuant to this Agreement together with an Owners' right to vote on PHC matters.

"Notice" means a writing prepared and transmitted in accordance with Section 10.2

"Operating Agreement" shall mean that agreement as to the business and affairs of the PHC

"Owner Booking" means an Owner reserving the Property for his / her, friends and family, own Usage.

"Priority Calendar" means a booking system provided by the Property Manager for Owners to use when booking their own onsite stays

"Property Holding Company" or "PHC" means the company that owns the Property

"Property Manager" means the party identified above.



"Property Year" means each 12 months beginning on the 1st of the month immediately following the Property purchase settlement - e.g. if the property settles on 23 January, the Property Year begins on the 1st of February

"Proprietors in Common" or similar term depending on the jurisdiction means the type of ownership all Parties shall hold in the Property for the purposes of the local beneficial ownership regime

"Share" means a Owners' percentage ownership of the PHC and therefore, effectively of the Property.

"Share Transfer Fee" means a fee paid to the Property Manager to manage a change in ownership or control

"Short Term Rental Sites" means Airbnb, HomeAway, Expedia and other similar platforms providing similar services which may be chosen by the Property Manager in its sole discretion

"Super Majority Approval" means the affirmative approval of no less than seventy-five percent (75%) of the Owners

"Use" or "Property Usage" means an Owner's right to occupy and enjoy the benefits of the Property for a defined duration

2.1 Ownership Shares

- A. The Parties wish to allocate ownership and control of the Property into exactly 8 shares (12.5% each) which they shall accomplish by allocating Membership Interests in the PHC in these same 8 shares
- B. For the purposes of this Agreement wherever herein reference is made to ownership, control and / or rights in the Property by an Owner, such shall mean an Owners' Membership Interests in the PHC in accordance with this Agreement resulting in the effective control and / or rights in the Property
- C. A Party may own more than 1 share, but not more than 4

2.2 Group Ownership

- A. If a Group owns an Ownership Share, the following provisions shall apply: (i) The Group, collectively, shall be referred to as one Owner; (ii) Each person within the group shall be jointly and severally liable for all obligations and responsibilities associated with the Ownership Share; (iii) All rights associated with the Ownership Share shall be deemed jointly held by the persons within the Group and, absent a written agreement or provision of law to the contrary, all such persons shall be deemed to have equal control of such rights; and (iv) Any act or omission by one (1) of the persons within the Group shall be deemed the act or omission of the Group
- B. At all times, each Owner shall have exactly one (1) Party who is a natural person acting as the Designated Party for his/her Ownership Share. The initial Designated Party for each Ownership Share shall be specified in writing by the Owner at the time s/he first acquires the Ownership Share. Thereafter, the identity of the Designated Party may be changed (i) for a period of thirty (30) days following a transfer of any part of the Ownership Share, and (ii) on one (1) occasion during each calendar year.
- C. Any Group must (i) within ten (10) days of a Notice from the Manager or any Owner so requesting, disclose to all Owners the full legal names of each person or entity with any ownership interest in the Group or entity, (ii) provide Notice to the other Owners within ten (10) days of the date on which there is an addition, subtraction or other change to the list of full legal names of each person or entity with any interest in the Group or entity, and (iii) upon the request of any Party, obtain the signature of any such person or entity on a document guaranteeing the obligations of such Group or entity under the terms of this Agreement.
- D. No Party shall transfer an ownership interest in the PHC which does not include all obligations, benefits and rights associated with an entire Ownership Share. Any transfer in violation of this Agreement is void.
- E. In the event of a change in ownership or control in Member Interests, the Parties agree that a Share Transfer Fee will be payable to the Property Manager, in accordance with the Property Manager's then current fee structure
- F. In the event of a change in ownership or control, the Parties acknowledge that a stamp duty may be due and payable to the local jurisdiction.

2.3 Organizational Structure

- A. A PHC located in the same jurisdiction as the property shall be formed to hold the interests of all Owner shares.
- B. The Owners hereby agree that the PHC will enter into an exclusive agreement for the leasing, managing and operating agent for the Property and the day to day decisions of PCH and, subject to the terms and conditions of the agreement will authorize Property Manager to exercise such powers with respect to the Property as may be necessary for the performance of Property Manager's obligations thereunder.
- C. The Property Manager will establish and hold an operating bank account to hold all funds required to facilitate operational expenses, long term maintenance and other expenses as the case may be. The balance and transactions of this account will be provided to all Owners as part of the yearly financial statements
- D. Nothing contained in this Agreement shall be deemed to create an employer/employee, principal/agent, partnership or joint venture relationship between the Owners. Each Owner shall have the obligation to supervise, manage, contract, direct, procure, pay, perform or cause to be performed all obligations to be performed by such Party pursuant to the terms of this Agreement



2.4 Ownership

- A. The Parties wish to allocate all costs, obligations, benefits and rights associated with ownership of the Property as provided in this Agreement.
- B. The Parties agree that these allocations supersede any presumptions regarding such matters which might otherwise arise as a result of (i) the price paid by a Party for his/her interest in the Property, (ii) the manner in which title to the Property is held, (iii) the acts or omissions of the Parties in relation to the Property, or (iv) the provisions of any other document signed by the Parties.
- C. The title for this property shall be held by the PHC and shall be physically maintained by the Property Manager at its office. An Owner may request a copy of this information at any time upon ten (10) days' written notice but no more than one (1) time per Property Year

2.5 Usage Rights

- A. An Owner of one (1) Share is entitled to Use the Property for up to forty-five (45) days per Property Year with no Booking Fee. Owners who own more than one (1) Share shall be entitled to this Usage for each Share owned
- B. There is no minimum Usage period required
- C. Owner Usage is solely determined by the shared booking calendar (see below)



3.1 General Bookings

- A. All bookings, including Owners for themselves and friends and family, are to be made via the Property Managers' online booking system
- B. Bookings must be made no later than 24 hours prior to the requested dates and are subject to availability
- C. Bookings cannot be for a partial day, and are for a minimum 2 night stay
- D. Unless otherwise agreed, usual check-in time is 3PM and check-out time is 10AM
- E. Owners may make bookings on behalf of family / friends
- F. All parties staying at the Property shall be responsible for any damage or costs arising from a stay at the Property, excluding minor wear / tear that may be expected from regular stays.

3.2 Priority Calendar Bookings

- A. Three (3) months prior to the start of each Property Year, and for a period of two (2) weeks, Owners will be permitted to book stays for themselves and family and friends via the Priority Calendar provided by the Property Manager
- B. During the 2 week period, Owners will be able to choose up to 2 priority weeks during the Property Year they wish to stay at the Property
- C. Each Property Year the Booking calendar will randomly assign a priority order among the Owners, which shall be displayed in the Owners portal. To ensure fairness among the priority order Owners who had previously been granted first choice shall be removed for consideration for first priority from each of the following 7 years so all Owners shall have priority choice once during that period
- D. Owners may negotiate to 'trade' their weeks with other owners via the Owners forum, however no Owner is required to give up a week unless they volunteer to do so

3.3 Short Term Rentals

- A. The Owners agree that the Property Manager shall make the Property available for short term rentals via the Short Term Rental Sites during periods the Property is not being used by an Owner
- B. Short Term Rentals shall be restricted to a rolling 90 day window, to ensure availability of the Property to Owners
- C. Owners agree to only use the internal booking system for their stays (not the external booking sites such as Airbnb, VRBO)
- D. The Property Manager will co-ordinate and manage all aspects of guest stays including cleaning and preparing the Property for the next guest



4.1 Earnings

- A. The Owners hereby acknowledge and agree that the Property Manager shall receive and account for all revenue generated from the Short Term Rentals, on behalf of Owners for guest stays booked via the Short Term Rental sites
- B. Net income generated by the Property shall be distributed by the Property Manager to the PHC, for further distribution to the Owners, no later than ninety (90) days after the end of a Property Year; subject to reasonable holdback of necessary funds for operating expenses. The Property Manager shall have no reporting requirements related to any distribution of net income and such shall be the exclusive responsibility of each owner in accordance with his / her jurisdictional requirements

4.2 Allocation of Income

- A. Net Income shall be calculated and distributed based on an Owners Usage of the Property
- B. A formula is used to calculate the "Income per Unused Day" rate - the formula for this is: Net Income / Days Available for Short Term
- C. Each owner is paid based on the number of Unused Days that they have for the year - this formula is: Unused Days * Income Per Unused Day
- D. In the event that the income for an owner exceeds the shared expense figure, the owner will receive a payment at the end of the year
- E. Owners will be responsible for any tax considerations relating to any income received
- F. Any projected income is not guaranteed, and will vary depending on occupancy rates

Working Example

Expenses		Days Available for Short Term		Net Income for Short Term		Income per Unused Day	
\$25,000.00		214 Days		\$30,000.00		\$140.19	
	Days Allocated	Days Used	Days Unused	Income Share	Expenses	Income Paid to Owner	Expense Payment from Owner
Owner A	45	0	45	\$6,308.41	\$3,125.00	\$3,183.41	
Owner B	45	22	23	\$3,224.30	\$3,125.00	\$99.30	
Owner C	45	41	4	\$560.75	\$3,125.00		\$2,564.25
Owner D	45	35	10	\$1,401.87	\$3,125.00		\$1,723.13
Owner E	45	21	24	\$3,084.11	\$3,125.00		\$40.89
Owner F	45	14	31	\$4,345.79	\$3,125.00	\$1,220.79	
Owner G	45	7	38	\$5,327.10	\$3,125.00	\$2,202.10	
Owner H	45	4	41	\$5,747.66	\$3,125.00	\$2,622.66	
Maintenance Days	5						
Totals	365	144	214				



4.3 Responsibility

The Property Manager agreement shall under no circumstances impose any liability upon Property Manager for damage caused by any Short Term Stay Owners or guests. The Property Manager shall be instructed to explore all avenues to pursue any and all persons, or insurance, for a remedy to any damage incurred. In the event that none of these options are available, the cost will be added to the annual Property budget

4.4 Refunds

In the event of a poor guest experience, based on the Property Managers Guest satisfaction team's experience, Owners will authorize Property Manager, in its sole discretion, to arrange for a partial or full refund to a Guest when the Property Manager believes there is a potential damage of reputation to the Property listing or to the Owners.

4.5 Nominated Bank Account

Each Owner shall supply a nominated bank account for the payment of any Income Share and collection of expenses



5.1 Overview

The Property Manager shall be instructed to track and record all expenses related to the property which it will be required to report to Owners twice per year via the Owner portal

5.2 Mandatory Expenditures

- A. Necessary Repairs:** The Property Manager shall be required to perform Necessary Repairs as soon as possible, and in no event more than thirty (30) days following discovery of the condition requiring action. "Necessary Repairs" shall refer to all work required to: (i) maintain the Property in a condition equivalent to its condition on the Purchase Date, subject to standard wear and tear; (ii) correct conditions which immediately endanger the integrity of Property, or the safety or health of the occupants, guests or public; (iii) comply with the requirements of the local jurisdiction including responding to any enforcement action by a governmental agency
- B. Utility Charges:** The Property Manager shall pay all utility charges.
- C. Mortgage / Lending:** There is no mortgage or any lending / lien against the property. Owners may not enter into any mortgage or otherwise encumber the Property.
- D. Insurance:** The Property Manager shall maintain a policy insuring all Parties against public liability incident to the ownership and use of the Property with a limit of liability of not less than two million dollars (\$2,000,000) per occurrence and five million dollars (\$5,000,000) in aggregate for injury, death and property damage. The Property Manager shall also maintain a policy of fire and casualty insurance covering those elements of the Property, and its contents, that are not covered by a policy maintained by the condominium homeowners association of which the Property is part (if applicable). Such coverage shall provide a multi-peril endorsement and coverage for such other risks as are commonly covered with respect to Properties similar to the Property in construction, location and use. Coverage shall be in an amount equal to the full replacement value of the insured elements of the Property and the estimated value of the insured personal property. Each policy described in this Subsection shall name the holding company as the insured.
- E. Property Tax:** The Property Manager shall pay all taxes and fees assessed against the Property by governmental agencies.
- F. Management Fee:** The Owners shall pay to the Property Manager an annual maintenance fee for the services contained in a separate Property Management Agreement. The Management Fee shall be deducted from the annual expense fund on the first day of each Property Year. The Management Fee shall be due and payable from the PHC which shall charge each Owner in proportion to his / her Member Interests

5.3 Discretionary Repairs and Improvements

"Discretionary Repairs and Improvements" shall include all maintenance, repairs and improvements to the Property that do not fall within the definition of Necessary Repairs above. Prior to undertaking Discretionary Repairs and Improvements, the Owners shall agree in writing on the scope of work, budget, and allocation of expenses. Unless otherwise agreed in writing, an Owner's contribution of labor or services in connection with the operation or improvement of the Property shall not be considered when determining whether that Owner has fulfilled his obligations to share costs as described in this Agreement.

5.4 Partial Damage

In the event the Property is partially damaged in an event (e.g. weather event), the Property Manager shall make a claim on the insurance coverage and arrange for the damage to be repaired. If the excess exceeds available funds in the long term maintenance fund or insurance coverage is not provided, the Property Manager shall request additional funds via a special assessment, which the Owners shall be obligated to pay *pari passu*

5.5 Total Destruction

In the event the Property is completely destroyed in an event (e.g. weather, fire etc), the Property manager will advise all owners of the insurance settlement amount, the value of the land, and the cost to rebuild. Owners will be asked to vote on whether to enact a rebuild of the property, or to sell of the remainder and divide up the proceeds of the insurance funds.



5.6 Nominated Bank Account

Each owner must supply a bank account with an ACH authority to the Property Manager in order for them to deduct any regular or special assessments

5.7 Operating Budget

The Operating Budget shall consist of a reasonable estimate of all expenses described in this section, and of any projected short term rental income, with each item allocated as described in this Agreement.

5.8 Computation and allocation of Income / Expenses

The Manager shall estimate the projected short term rental income and the annual cost of each of the Expenditures, and allocate each component as described in this Agreement. The result shall be the Operating Budget and the basis for Regular Assessments. Any Owner may challenge the validity of the Property Manager-established Operating Budget by convening an Owner Meeting, during which the Owners may adopt a different Operating Budget subject to Majority Approval. In the event the Owners are unable to achieve Majority Approval, the Operating Budget as put forth shall be adopted and Owners shall make such contributions in accordance with such

5.9 Regular Assessments

In the event that an Owner's allocated share of expenses exceeds his/her allocated share of short term rental income, the excess shall be assessed as an annual payments (the "Regular Assessments"). The Property Manager will provide Notice to each Owner of (i) the amount and due date(s) the Regular Assessment for the upcoming year at the same time he/she distributes the Operating Budget, and (ii) any change in the Regular Assessment not less than thirty (30) calendar days before the due date of such changed Assessment. Owners shall pay his/her monthly Regular Assessment, without offset or deduction of any kind, by its due date, through automated electronic transfer. The intention of an Owner to challenge an Operating Budget shall not provide a legitimate basis for not paying any Regular Assessment based on such budget; rather, the Regular Assessment shall be payable in full until the date (if any) when the Operating Budget is altered through arbitration.

5.10 Special Assessments

- A. The Property manager may impose "**Special Assessments**" to defray any expenses that were not anticipated in the Operating Budget. Each Owner shall pay any Special Assessment, without offset or deduction of any kind, by its due date.
- B. A "**Mandatory Special Assessment**" is a Special Assessment for a Mandatory Expenditure or to establish or maintain the minimum balance in the Operating Account. The Property Manager may impose a Mandatory Special Assessment at any time without Owner approval. The Property Manager shall provide verifiable documentation showing the amount due with the Notice of the Special Assessment at least sixty (60) days before the due date of the Special Assessment, along with a Notice showing the amount and due date of the Assessment. Any Owner may challenge the validity of a Mandatory Special Assessment imposed under this Section by convening an Owner Meeting, during which the Owners may (i) with approval of [what percent][of the Owners, overrule the decision of the Property Manager, or (ii) determine whether a compromise can be reached regarding the decision of the Property Manager. In the latter case, if there is no compromise, the Owners who disagrees with the decision may initiate binding arbitration as described in this Agreement provided he/she pays the Special Assessment in full pending the decision of the arbitrator. The arbitrator shall reverse the decision of the Property Manager only if it reflects gross negligence or fraud in its calculation of estimated rental income or Mandatory Expenditures. The intention of an Owner to challenge the validity of a Mandatory Special Assessment shall not provide a legitimate basis for not paying the Mandatory Special Assessment; rather, if the due date of the Mandatory Special Assessment arrives before the Property Manager's decision is overruled, the Mandatory Special Assessment is payable in full, and failure to pay it in full will constitute a violation of this Agreement. If a Mandatory Special Assessment is changed through arbitration, the change shall be retroactive to the date the Assessment was made, and the Property Manager shall reconcile any payments Owner payments that were based upon the Assessment and provide a refund if required.
- C. "**Share**" means an Owners' percentage ownership of the PHC and as a result of the Property.



5.11 Operating Surplus

In the event that the Operating Budget shows that an Owner's allocated share of income has exceeded his/her allocated share of Mandatory Expenditures, the Property Manager shall distribute the excess to such an Owner on an annual basis. The intention of an Owner to challenge an Operating Budget shall not provide a legitimate basis for not paying a distribution based upon it; rather, the distribution shall be payable in full until the date (if any) when the Operating Budget is altered through arbitration. If an Operating Budget is changed through arbitration, the change shall be retroactive to the date the Operating Budget first became effective, the Property Manager shall reconcile any Owner distributions based upon it, and the recipient Owner shall refund to the Property Manager Operating Account any overpayments. If a surplus shown in the Operating Budget turns out to be inaccurate, the Manager shall adjust the Operating Budget as provided in Subsection 4.2D, and adjust any distributions based upon it accordingly. If an Owner otherwise entitled to such a distribution has outstanding monetary obligations to the PHC or to another Owner under the terms of this Agreement, the amounts of such obligations shall be withheld from such Owner's distribution and paid directly to the party or parties to whom they are owed.

5.12 Operating Account

- A. Establishment.** The "Operating Account" shall be the depository for all Property Manager funds relating to the Property. No later than thirty (30) calendar days from the Effective Date of this Agreement, the Property Manager shall open an Operating Account at a federally insured banking institution and deposit each Owner's initial Regular Assessment. A minimum balance of one thousand dollars (\$1,000) shall be maintained in the Operating Account at all times.
- B. Disbursements.** The Property Manager shall be permitted to make "Expense Disbursements" from the Operating Account without Owner approval. These expenses shall be defined as payments due for Regular Expenditures. Any other disbursement must be approved in writing by the Owners in accordance with the voting provisions outlined below
- C. Withdrawals From Operating Account.** Funds may be withdrawn from the Operating Account only for disbursements authorized under this Section. Owners shall not be entitled to withdraw any funds from the Operating Account for any reason, including without limitation, in connection with a transfer of his/her Ownership Share

5.13 Late Fees

Any expenses due from Owners not paid within 30 days from the due date shall incur a penalty interest rate of 3% per overdue month.

5.14 Unpaid Fees

In the event of an Owner unpaid amount due that exceeds 90 days, the Property Manager shall be provided with the authority to suspend that Owners' ability to book new stays and any then existing Owner bookings may be cancelled with no refunds provided and any associated fees being the responsibility of said Owner. Overdue fees will be deducted from ongoing Owner net income until all past due amounts have been brought current



6.1 Meetings and Agenda

- A. In the first instance, an Owner shall raise a question / issue on the Owner Portal section of the website offered by the Property Manager for discussion.
- B. If an Owner is unsatisfied with the result of the above, an Owner Meeting may be called by the Property Manager or by any Owner at any reasonable weekend or evening time provided he/she provides Notice and an agenda to each Owner at least fourteen (14) calendar days before the Owner Meeting. Matters not described on the agenda provided with the Owner Meeting Notice shall not be decided at the Owner Meeting unless the Owner Meeting is attended by the Designated Party of each Owner. The Property Manager shall prepare minutes of each Owner Meeting or if the Property Manager is not present, minutes may be prepared by any Party attending. Any attending Party who disputes the accuracy of minutes prepared by the Property Manager or another Party shall note his/her disagreement, along with the specific reasons underlying such disagreement, in such minutes.

6.2 Voting

- A. All voting will be managed via the Owner Portal section of the website offered by the Property Manager
- B. **Voting shall take place in accordance with the following:**
- i. Voting will be open for a 1 week period and Owners will be notified and reminded via email using the contact details on record
 - ii. Votes will require a Qorum of at least 4 Share Owners (50% of the property owners) to be binding
 - iii. Except as noted below for Super Majority Vote requirements, all other matters shall require majority vote approval

6.3 Super Majority Vote

- A. **A Super Majority vote is required for**
- i. Voting on the sale of the property
 - ii. Voting to accept a lower offer on the sale of the property
 - iii. Voting on the removal of the property manager
- B. All Owners who are comprised of a Group acknowledge and agree that only the Designated Party for an Group shall be permitted to vote on behalf of such Group, and it shall be conclusively presumed for all purposes that the Designated Party is acting with the authority and consent of all other Parties comprising that Group. Any disputes shall be resolved among the Group and shall not involve the other Owners or the PHC.

6.4 Proxies

Parties may vote in person or by proxy. All proxies shall be in writing, dated, signed by the Party, and filed with the Property Manager before the Owner Meeting. Every proxy shall be revocable and shall automatically cease upon any of the following events: (i) conveyance by the Party of his/her Ownership Share; (ii) receipt of Notice by the Property Manager of the death or judicially declared incompetence of the Party; or (iii) the expiration of eleven (11) months from the date of the proxy or the time specified in the proxy for expiration, not to exceed three years.



7.1 Property Maintenance, Repairs, Replacements & Improvements

The Property Manager shall facilitate all maintenance, repair, replacement and improvement undertaken by the Owners in accordance with a Property Manager Agreement.

7.2 Accounting

The Property Manager shall (i) use his/her best efforts to collect all funds owed to by all individuals including Owners, and to immediately provide Notice to all Owners when any funds owed to the Property Manager are thirty (30) calendar days overdue, (ii) timely pay all debts to others from funds in the Operating Account (regardless of whether all Owners are current in their payments under this Agreement) and immediately provide Notice to all Owners when it becomes evident that funds in the Operating Account will be insufficient to satisfy current obligations, and (iii) maintain proper and complete books of account of the place of business which shall be open to inspection by any representative of any Owner at any reasonable time. To the extent possible, the Property Manager shall schedule all routine payments to be made automatically via electronic banking, including payment of the routing distributions of operating surplus to Owners. No later than the last day of February each year, the Manager shall distribute as a Notice to all Owners: (i) an income statement and a cash flow statement for the year ended the immediately preceding December 31; and (ii) a balance sheet and a copy of the bank statement for each PHC deposit account as of the immediately preceding December 31.

7.3 Assessments and Disbursements

Acting without Owner approval, the Property Manager may, or under certain circumstances shall, as described in this Agreement: (i) establish and adjust the Operating Budget and/or impose Assessments; or (ii) make Mandatory Disbursements of PHC funds.

7.4 Roles & Responsibilities - Co-Owner Mediation

- A. The Property Manager will maintain and monitor the Owners Forum channel to assist with any owner issues
- B. In addition to those duties listed above, the Manager shall perform other duties as described elsewhere in this Agreement.

7.5 Termination

- A. The Property Manager may be removed for cause by a Super Majority Vote, and may resign at any time by providing Notice to all Owners at least thirty (90) days before the date of resignation. Immediately following removal or resignation of the Property Manager, the PHC shall retain a replacement Property Manager.
- B. In the event of resignation or termination, the Co-Owners shall retain an outside person or entity to act as Manager. An entity shall serve as Manager at all times unless both Co-Owners agree that there shall be no Manager. In the event of such unanimous agreement not to have no Manager, the absence of a Manager shall continue only until any one (1) Co-Owner wishes to reverse the decision, in which case, following Notice by such one (1) Co-Owner to the others, the Association shall immediately hire an individual or entity to serve as Manager (at Association expense). The Manager's duties shall be as provided below.

7.6 Regular Assessment Initial Fund

- A. A reserve expense fund equivalent to the projected annual first year regular assessments shall be established as part of the initial calculated part price. This will be held by the Property Manager in a separated bank account on behalf of owners to be utilised towards usual expenses that occur in the operation of the property (Cleaning, Electricity, Management Fees)
- B. In the event of a property sale, or that the property manager is removed by the owner, the balance of this fund shall be passed back over to owners



8.1 General Transfer Restriction

Any voluntarily transfer of any portion of an Owners interest in the Property can only proceed with the approval of the Property Manager. In most cases, this approval will be given unless the Property Manager has a specific reason after conducting due diligence that the new Co-Owner would not be satisfactory or in the best interests of other Co-Owners. Any purported transfer without the required approval is void.

8.2 Prohibition against Encumbrances

No Owner may incur any obligation in the name of the PHC or individually, which obligation shall be secured either intentionally or unintentionally by a lien or encumbrance of any kind on any Property without the approval of all Owners.

8.3 Transferee and successor Obligation

For the purposes of this Section, the term “transferee” shall be deemed to include any successor, assign or personal representative of any Party. Each “transferee”, whether voluntary or involuntary, shall immediately be deemed to assume all obligations and liabilities of the Party whose ownership interest he/she obtained. Nothing in this Section or in this Agreement shall be interpreted to alter a former Party's obligations, responsibilities or liabilities under this Agreement up to and including the date of any transfer.

8.4 Property Sale

The full sale of the Property shall require Super Majority Approval. In this event, the Property Manager will arrange with a registered local real estate agent for a valuation to be provided, and for the Property to be listed for sale. The Property shall be sold at or above the valuation provided, or at a lower value only upon Super Majority Approval. All Owners shall first be offered the opportunity to purchase the entire Property at the valuation provided before it is opened to the market. Owners will be responsible for any real estate agent sales fees, stamp duties, Property Manager fees applicable in the sales process.

8.5 Share Sale

At any time, a party may arrange for the Property Manager to list and arrange a sale of only their interest in the PHC. The Property Manager may charge a fee for this service.

9.1 Actionable Violation

- A. An “Actionable Violation”** shall be any of the following: (i) failure to timely fulfill any obligation stated in this Agreement, or any amendment or supplement to this Agreement; (ii) any act or omission (not authorized by this Agreement) which results in the creation of a lien or encumbrance of any kind on the Property; and (iii) any act which makes the performance of the obligations described in this Agreement impossible.
- B. Consequences of Actionable Violation.** When an Owner (the “Violating Co-Owner”) commits an Actionable Violation, the Violating Owner shall be liable for all damages or losses that result from the Actionable Violation including late charges, penalties, fines, attorney’s fees and court or arbitration costs.
- C. Notice of Actionable Violation.** A “Notice of Actionable Violation” shall include (i) a description of the Actionable Violation and (ii) a statement of all acts and/or omissions required to negate the Actionable Violation (if negation is possible), including but not limited to the payment of damages as required under the preceding Subsection. The Property Manager may provide a Notice of Actionable Violation on behalf of the PHC to any Party. In addition, any Party may provide a Notice of Actionable Violation to any other Party.
- D. Cure of Actionable Violation.** Upon Notice of an Actionable Violation the Violating Owner shall have fifteen (15) calendar days from the Effective Date of a Notice of Actionable Violation to “Cure” the Actionable Violation by (i) performing all acts and/or omissions described in the Notice of Actionable Violation, and (ii) providing Notice of such performance with supporting documentation to the Property Manager and the other Owners. A Party who fails to cure an Actionable Violation has committed a Default.

9.2 Default

“**Default**” means failure to Cure an Actionable Violation. When a Party Defaults, any Owner shall be deemed a “Defaulting Owner”. Following Default, the Property Manager, PHC and other Owners (the “Non-Defaulting Parties”) shall be immediately entitled to any remedy described below, or available at law or equity, serially or concurrently. The pursuit of any of these remedies is not a waiver of the right to subsequently elect any other remedy. The “Stay” and/or “Cure” procedures described in connection with Actionable Violations are intended to be the exclusive means for a Party to contest or suspend an alleged Actionable Violation. If a Party fails to avail him/herself of these procedures, he/she shall not be entitled to dispute or contest the occurrence of the Actionable Violation, or to suspend or challenge the imposition of the Default remedies permitted by this Agreement.

9.3 Property Manager Advances

Following a Default, the Property Manager may advance all funds owed by the Defaulting Owner. Any such advance shall bear interest at the maximum rate allowed by law, compounded daily, with repayment due within three (3) days of a written demand. Any such advance, along with all accrued but unpaid interest shall be deemed a lien on the Defaulting Owner’s Ownership Share, and shall be automatically (and without demand) paid from any funds otherwise distributable to the Defaulting Owner.

9.4 Conversion to Property Interest

Property Manager Membership Interest. Notwithstanding anything to the contrary herein and for the avoidance of doubt, In the event an Owner defaults as a result of a failure to make payments due under this Agreement and in accordance with subsection 9.3 herein, the non-defaulting Owners hereby grant the Property Manager the right to convert all of any unpaid portion of an advance and/or accrued but unpaid interest to a Membership interest in the Property. The resulting Property Manager Membership Interest, and the corresponding decrease in the Defaulting Owner’s Membership Interest, shall be equal to the fraction with (i) the numerator equal to the amount the Property Manager is electing to convert to Membership Interest, and (ii) the denominator equal to the Defaulting Owner’s then-current “Equity Balance”.

The Defaulting Owner’s Equity Balance shall be calculated as follows:

- i. Determine the Appraised Value of the Property shall be determined as provided in Section 10.1;
- ii. Deduct six percent (6.00%) of the Appraised Value as a reasonable estimate of the eventual costs of sale;
- iii. Calculate the Defaulting Co-Owner’s then-current Percentage Interest of the remaining amount; and



10.1 Valuation

Whenever this Agreement requires a determination of the Appraised Value of the Property, the value shall be determined through an appraisal process as follows:

- A. Not later than the date on which this Agreement requires or allows an Owner to initiate determination of Appraised Value (the "Appraisal Initiation Date"), any interested Party may retain up to two (2) people meeting the following requirements (a "Qualified Valuer"): (i) having at least two (2) years experience estimating the value of real estate similar to the Property in the area where the Property is located, (ii) holding a valid real estate sales, brokerage or appraisal license, (iii) having no prior business or personal relationship with any Owner, and (iv) agreeing in writing to complete his/her valuation within fourteen (14) calendar days of retention. Each Party shall pay the fees (if any) charged by of the Qualified Valuer that he/she retains.
- B. The Parties shall instruct each Qualified Valuer to determine a fair market value for the Property based upon the conditions that exist at the time of the appraisal. Within fourteen (14) calendar days of the Appraisal Initiation Date, any Party who retains one or more Qualified Valuer shall provide a complete and unaltered copy of each of his/her valuation to one (1) representative of the other Owners. A Party waives the right to retain a Qualified Valuer if he fails to timely fulfill the requirements of this Subsection.
- C. Upon expiration of fourteen (14) calendar days following the Appraisal Initiation Date, the Owners shall determine Appraised Value as follows: (i) If only one (1) valuation from a Qualified Valuer is received, the Appraised Value shall be the value stated in that valuation; (ii) If two (2) or three (3) valuations from Qualified Valuers are received, the Appraised Value shall be the average of the values stated in the valuations; (iii) If four (4) or more valuations from Qualified Valuers are received, the Owners shall disregard the lowest and highest valuations, and the Appraised Value shall be the average of the remaining valuations.

10.2 Notices

Except where expressly prohibited by law, whenever "Notice" is required to be given hereunder to a Party, Property Manager, Owner, or the PHC, such Notice shall be deemed properly given if such notice is delivered to the address as stated below with proof of delivery, except that if delivered via email, the effective date of such notice shall be seven (7) days after emailing.

10.3 Termination of Agreement

This Agreement shall bind the Parties for ninety (90) years or until such time as one (1) of the following events occurs: (i) One hundred percent (100%) of the Property is resold in a single transaction; (ii) The Owners explicitly agree in writing to no longer be bound by this Agreement; or (iii) This Agreement is superseded or lapses by operation of law.

10.4 Dispute Resolution

Meet and Confer. Disputing Parties, consisting of Owners or an Owner or Owners and the PHC, shall first make a reasonable attempt to resolve any dispute by themselves before employing the mechanisms described in the Subsections below. For the purposes of this Subsection, a reasonable attempt shall constitute, at a minimum, an attempt by each Party to schedule a telephone discussion with the other, and participation in good faith in such a telephone discussion within fourteen (14) days of the first scheduling attempt. Failure of a Party to participate in this Subsection shall constitute a breach of this Agreement.

10.5 Jurisdiction, Venue

This Agreement and matters related to the PHC shall in all respects be construed in accordance with and governed by the laws of <<Jurisdiction>> without regard to its conflict of law principles. All Parties consent to the exercise of personal jurisdiction by the state and federal courts in this jurisdiction. IN ANY CLAIM, ACTION OR PROCEEDING TO ENFORCE ANY RIGHT OR OBLIGATION OF THE PARTIES UNDER THE TERMS OF THIS AGREEMENT THE PARTIES HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY.



10.6 Arbitration

- A. Except as otherwise provided in this Agreement, any dispute related to the Property or the PHC shall be resolved through mandatory arbitration by the American Arbitration Association, or another private arbitration service or individual acceptable to all parties, under its commercial rules. Any Party affected by a dispute may initiate arbitration by Notice. All Parties shall pursue arbitration to a conclusion as quickly as possible and conclude every case within six (6) months from the date of the initial Notice demanding for arbitration. Arbitrators shall have discretion to allow the Parties reasonable and necessary discovery in accordance with applicable law, but shall exercise that discretion mindful of the need to promptly and inexpensively resolve the dispute. If a Party refuses to proceed with or unduly delays the arbitration process, any other Party may petition a court for an order compelling arbitration or other related act, and shall recover all related expenses, including attorney's fees, unless the court finds that the Party against whom the petition is filed acted with substantial justification or that other circumstances make the recovery of such expenses unjust. An arbitration award may be entered as a court judgment and enforced accordingly. The arbitration award shall be binding in every case.
- B. Each party agrees to have any dispute related to the property, the phc and / or this agreement decided by binding arbitration and hereby forgoes any rights he/she might possess to have the dispute litigated in a court and / or jury trial.
- C. The following matters need not be submitted to binding arbitration: (i) An action or proceeding to compel arbitration, including an action to impose sanctions for frivolous or bad faith activity designed to delay or frustrate arbitration; (ii) An action or proceeding which is within the jurisdiction of a probate or domestic relations court; or (iii) An action to record a notice of pending action, or for an order of attachment, receivership, injunction or other provisional remedy which action shall not constitute a waiver of the right to compel arbitration.

10.7 Attorney Fees

In the event that any dispute between the Parties related to this Agreement or to the Property should result in litigation or arbitration, the prevailing Party in such dispute shall be entitled to recover from the other Party all reasonable fees, costs and expenses of enforcing any right of the prevailing Party, including without limitation, reasonable attorneys fees and expenses, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorney fees and costs incurred in enforcing such judgment and an award of prejudgment interest from the date of the breach at the maximum rate allowed by law.

10.8 Amendments

This Agreement may be amended at any time and from time to time, but any amendment must be in writing and signed by one (1) representative of each Co-Owner.



A. Owners

Owner "A" _____	Membership Interest % _____
Owner "B" _____	Membership Interest % _____
Owner "C" _____	Membership Interest % _____
Owner "D" _____	Membership Interest % _____
Owner "E" _____	Membership Interest % _____
Owner "F" _____	Membership Interest % _____
Owner "G" _____	Membership Interest % _____
Owner "H" _____	Membership Interest % _____

B. Property Details



Full Address: _____

Legal Description: _____

C. Property Holding Company Details



Company Full Name: _____

Company Number: _____

Attorney Firm: _____

Attorney Address: _____

Attorney Ph: _____

Attorney Email: _____

D. Property Manager Details



Property Manager Company: _____

Property Manager Contact Person: _____

Property Manager Phone: _____

Property Manager Email: _____