

PROJECT MANAGEMENT AGREEMENT

This Management Agreement (the "Agreement") is entered into effective as of _____, by and between Imperial Hotel and Private Residences Owners Association, Inc., a Colorado nonprofit corporation (the "Association"), and Peak Resorts Management, LLC, d/b/a Breckenridge Grand Vacations ("Manager").

RECITALS

a. The Association is the duly constituted governing body responsible for maintenance of the Common Elements at Imperial Hotel and Private Residences (the "Project") in the Town of Breckenridge, Summit County, Colorado.

b. Pursuant to the provisions of the Condominium Declaration and Plan of Vacation Ownership for Imperial Hotel and Private Residences recorded on _____ at Reception No. _____ in the Office of the Clerk & Recorder of Summit County, Colorado (the "Declaration"), the Association is responsible for maintenance of the Common Elements. The Association is authorized to retain professional management and to delegate to such Manager certain of the Association's powers and responsibilities.

c. The Board of Directors of the Association (the "Board") desires to engage Manager to manage and operate the Project, excluding management of the Plan of Vacation Ownership, as contemplated by the Declaration; and Manager desires to accept such engagement, all on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, the parties agree as follows:

TERMS AND CONDITIONS

1. **Engagement of Manager.** Association hereby engages Manager as the exclusive managing agent of the Project, and Manager hereby accepts said appointment and undertakes to perform all of the services and responsibilities set forth herein in such capacity and to comply with all provisions of this Agreement. Manager's performance hereunder shall be as an independent contractor and not as an employee of the Association.

2. **Definitions.** In addition to other definitions provided for herein, the capitalized terms in this Agreement shall have the same meanings as attributed to them in the Declaration.

3. **Term.**

3.1 Initial Term and Renewal. Unless terminated earlier pursuant to Paragraph 3.2 below, the Initial Term and any renewal term for this Agreement shall be as follows:

a. The initial term ("Initial Term") of this Agreement shall be for a period of ten (10) years commencing as of January 1, ____ and continuing until December 31, ____.

b. This Agreement shall be automatically renewed for successive periods of five (5) years each, on the same terms and conditions, unless this Agreement is cancelled by either party by giving written notice of cancellation to the other party at least one hundred eighty (180) days prior to the expiration of the then current Agreement.

3.2 Termination. This Agreement may be terminated by the Association prior to the expiration of the Initial Term hereof only for Cause, as defined herein. For purposes of this Agreement, the term "Cause" means the following conduct or acts on the part of the Manager:

a. Insolvency, filing a petition in bankruptcy, or for reorganization, or for the adoption of an arrangement under the Bankruptcy Act, or an answer or other pleading admitting the material allegations of such a petition or seeking, consenting to, or acquiescing in the relief provided under such Act, making an assignment of all or a substantial part of its property for the benefit of its creditors, or being adjudicated bankrupt or insolvent;

b. Any material default in the performance of this Agreement; or

c. Mismanagement, performance of any dishonest act, performance of any material act which exceeds the authority provided in this Agreement, or failure to operate the Project within the approved budgets, as revisions to those budgets are approved and within a standard for material deviations which allows for an increase of up to 10 percent (10%) of the overall budget amount.

Prior to any such termination for Cause, the Association shall provide the Manager with notice in writing of its failure to perform hereunder, and the Manager shall have fifteen (15) days to cure such failure. If the Manager shall fail to cure such failure within said fifteen (15) days, or if such failure cannot be cured within fifteen (15) days, and the Manager shall fail to commence and diligently and continuously prosecute the completion of the curing of such failure, the Association may terminate this Agreement. If the Association shall default in the performance of its obligations hereunder, the Manager shall provide the Association with notice of such default, and the Association shall have fifteen (15) days to cure the same. If the Association shall fail to cure such default within fifteen (15) days, or if such default cannot be cured within fifteen (15) days and the Association fails to commence and diligently and continuously prosecute the curing of such default, then the Manager may terminate this Agreement. Notwithstanding any provisions of this Section 3.2 to the contrary, this Agreement shall not be terminated by the Association, absent a showing of gross negligence or willful misconduct on the part of the Manager, unless a successor Manager has been selected, has executed a management agreement and is ready and able immediately to assume and execute its duties and responsibilities thereunder. Any violation of items (a), (b) or (c) above shall be deemed gross negligence or willful misconduct for purposes of termination for Cause.

3.3 Arbitration. In the event that either party shall dispute a termination by the other pursuant to the provisions of Subparagraph 3.2, the dispute shall be submitted to arbitration in accordance with the commercial arbitration rules of the American Arbitration Association. The party initiating the arbitration shall remit the fee payable to the American Arbitration Association to initiate the arbitration; the cost of arbitration, including such fee, shall ultimately be borne as determined by the arbitrator under the aforesaid roles.

3.4 Actions Upon Termination. Upon any termination or expiration of this Agreement, the Manager shall promptly account for and deliver to the Association all funds arising out of or in any way connected with this Agreement and all monies received by the Manager subsequent to the termination of this Agreement and arising out of this Agreement. In addition, the Manager shall deliver to the Association, or to such other person as they shall designate in writing, a list of all materials, contracts, books, and records and any and all other documents pertaining to the Project. The Manager shall also furnish all such information, take all such action, and cooperate with the Association as the Association shall reasonably require in order to effectuate an orderly and systematic conclusion of the Manager's duties and activities hereunder.

3.5 Release. Upon the termination or expiration of this Agreement, the Association and the Manager shall be released from further performance hereunder; provided, however, that all rights and obligations of the Association and the Manager accruing to such date, including without

limitation any rights to receive payments and the indemnification provisions contained herein, shall survive the termination or expiration of this Agreement.

3.6 **Resignation.** Manager may resign only upon compliance with the following conditions:

a. On or before the effective date of the resignation (the "Effective Date"), or upon such later date that the Association may successfully obtain the services of a substitute managing agent not to exceed one hundred eighty (180) days following Effective Date, Manager shall turn over all books and records relating to the management and operation of the Project to the successor managing agent or to such other person or entity as the Board may direct and otherwise comply with the requirements of Paragraph 3.4 above.

b. In the event that Manager's resignation shall be authorized as provided hereinabove, the Association shall use its best efforts to obtain the services of a responsible management company to provide the Association with services consistent with industry-recognized standards so that Manager may accomplish the resignation in a timely manner.

c. Such conditions as may be subsequently negotiated and established by and between Association and Manager pursuant to a properly executed written document intended to govern an event of resignation without cause by Manager.

4. **Duties of Association.** The Association shall furnish the Manager with copies of any and all documents connected with the Project which may assist Manager in carrying out its duties hereunder, including without limitation the Declaration, the Articles of Incorporation (if applicable) and Bylaws of the Association, any notices received by the Association, any rules and regulations promulgated by the Association, and any written instruments executed by or on behalf of the Association. The Association shall timely provide Manager with any information not known to Manager which may be relevant to Manager's performance under this Agreement. The Association shall fully cooperate with the Manager in connection with Manager's performance hereunder.

5. **Duties of Manager.**

5.1 **In General.** Manager shall provide or cause to be provided all services and personnel required to administer the affairs of the Association and to manage and operate the Project, excluding the Plan, as contemplated by the Declaration, at all times in the manner consistent with the provisions of the Declaration and the Bylaws of the Association and subject to the terms and conditions set forth herein. Manager shall have all the powers that the Association has pursuant to the Declaration, to the extent necessary to perform its duties and obligations hereunder. Subject to the provisions of Paragraph 5.5 below, Manager may delegate its authority and responsibilities to one or more subagents for such periods and upon such terms as Manager deems proper. Subject only to the provisions of this Section 5 below, the Association agrees to reimburse the Manager for any and all costs incurred by the Manager in connection with the performance of its duties hereunder including, but not limited to, the cost of the salaries, benefits, fees, taxes and other costs incurred in connection with all persons employed at the Project, whether employees of the Manager, the Association, or any other providers of services. Such services shall include, but not be limited to, human resources, information technology, security operations, accounting, general resort operations, and any other services provided by or through the Manager, including, without limitation, those services expressly set forth in this Section 5.

However, to the extent that any reimbursement sought by Manager is not contemplated by, or exceeds the amounts contemplated by, the approved Association annual budget pursuant to paragraph 5.3

below, such reimbursement may not exceed an amount (the "Maximum Reimbursement Amount") equal to \$50,000 in the initial calendar year of this Contract, subject to an adjustment annually as outlined below, or 10% of the applicable budget line item, whichever is greater, without the approval of the Board. Further, the aggregate amount of reimbursements sought by Manager in a given year may not exceed 10% of the approved Association annual budget pursuant to paragraph 5.3 below, without the approval of the Board. The Maximum Reimbursement Amount will be adjusted in subsequent calendar years for any cost of living increase equal to the Maximum Reimbursement Amount for the prior calendar year multiplied by the sum of one plus any percentage increase in the National Consumer Price Index published by the United States Bureau of Labor Statistics (all items) over the level of that Index in the previous calendar year.

Notwithstanding the foregoing paragraph, Manager shall not be required to obtain the prior approval of the Board with respect to, and Manager shall be entitled to reimbursement, without regard to the limitations of the Maximum Reimbursement Amount, for any costs and expenses incurred by the Manager relating to utility charges, real estate taxes, insurance, emergency situations, changes in rates or pricing under contracts for services provided by independent third parties to the Project, and any other matters that are not within Manager's reasonable control and which if not incurred, would or might, in Manager's reasonable business judgment, adversely and materially affect the operation and maintenance of the Association or the Project, or the safety and security of the Association, the Project, its inhabitants, and the property located within the Project.

5.2 Administrative Services. In addition to and not in limitation of the provisions of Paragraph 5.1 above, Manager shall provide the following services of an administrative nature:

a. Association Meetings. Manager shall provide assistance to the Board, as the Board may from time to time request or direct, with the organizing and coordinating of the meetings of the Board and of the Association, which assistance shall include the preparation and delivery of notices of meetings consistent with the requirements of the Association's Bylaws. Manager shall coordinate the preparation and approval of agendas with the Board and shall be available, as the Board may direct, to assist in the conduct of meetings and to oversee the election of Board members.

b. Association Records. Manager shall hold or cause to be held all records of the affairs of the Association, including but limited to, minutes of meetings, correspondence and amendments of Bylaws and Rules and Regulations.

c. IT/Communications. Manager shall initiate, develop, and establish effective intellectual technology and communications systems for communication with the Board, owners, guests, committee members, and project lenders by use of websites, newsletters, meetings, electronic, telephonic or other forms of effectual communication.

d. Association Documents. Manager shall, from time to time as necessary or desirable, recommend to the Board that it amend, modify, or supplement the Rules and Regulations or other documents to comply with statutes and operational requirements.

e. Roster of Owners. Manager shall maintain a complete and accurate list of Owners (the "Roster") setting forth the name of each Owner and the mailing address of such Owner. Manager shall thereafter cause the Roster to be maintained on a current basis.

f. Legal Issues. Manager will work, communicate, and assist legal counsel in any activities that affect the Association.

5.3 Fiscal Services. In addition to and not in limitation of the provisions of Paragraph 5.1 above, Manager shall provide the following services of a fiscal nature:

a. Budgets. Manager shall prepare and submit to the Board for approval, not less than sixty (60) days prior to the end of the succeeding Fiscal Years, a budget and a management plan meeting the requirements of the Declaration. Each budget approved by the Board is called the "Budget."

b. Reserve Program. Manager shall recommend to the Board an appropriate replacement reserve program as required by the Declaration and the Association's guidelines. The program shall include an annual capital expenditure projection for the replacement of items as well as overall upgrading of the Project and an annual review of the adequacy of the Association's capital reserve funding.

c. Special Assessments. Manager shall, promptly upon making a determination that a Special Assessment is required, submit a recommendation to the Board that a Special Assessment be considered.

d. Collection of Assessments. Manager shall cause the assessments for Common Expenses and the Common Timeshare Assessments to be timely billed and shall enforce collection thereof.

e. Bank Accounts. Manager shall establish such bank accounts as the Board may direct and shall deposit or invest funds collect from Owners and all other amounts collected by Manager in connection with the performance of its duties hereunder in interest-bearing accounts designated for such purpose. Manager shall keep accurate books and records reflecting the amount of such accounts.

f. Disbursements. Manager shall cause disbursement from the operating bank account of the Association and any and all amounts required for the payment of all Association expenses incurred consistent with the applicable Budget and as otherwise permitted by the Declaration and as may be directed by the Board.

g. Financial Statements and Audit. Manager shall cause an audit to be conducted as provided for in the Declaration. Manager shall cause the financial statements provided for in the Declaration to be prepared.

h. Books and Records. Manager shall cause to be kept and maintained full and adequate books and records reflecting the results of operation of the Project in accordance with generally accepted accounting principles. The books and accounts and other records relating to the operation of the Project shall be available to the Association and its representatives at all reasonable times for examination, inspection, and transcription, or, at the Association's expense, distribution to all members as may be directed by the Board.

i. Expense Control. Manager shall oversee an operating expense control system to reduce unnecessary expenses and initiate cost-cutting measures to maximize the Association's fiscal efficiency.

j. Building Manager. Manager shall provide the following information to the Board at regularly scheduled Board of Directors meetings:

- (i) Current reconciliation of the Association's operating accounts;

- (ii) Current reconciliation of the Association's reserve accounts;
- (iii) Current year's actual reserve revenues and expenses;
- (iv) Income and expense statement for the Association's operating and reserve accounts (comparative income statement);
- (v) Balance sheet;
- (vi) Utilization report reflecting property usage by guest;
- (vii) Delinquent assessment status.

In addition to the foregoing, Manager shall also prepare and provide such other periodic reports and schedules as the Board may from time to time direct.

5.4 Physical Services. In addition to and not in limitation of the provisions of Paragraph 5.1 above, Manager shall provide the following services of a physical nature:

a. Emergency Procedures. Manager shall oversee establishment and implementation of emergency and disaster procedures to enhance Owner safety and reduce potential Association liability.

b. Engineering/Inspections. Manager shall provide required engineering services, including, without limitation, the performance of timely inspections of the Common Elements and render reports and make recommendations to the Board concerning the repair, restoration, and maintenance of the Common Elements.

c. Insurance. Manager shall obtain and keep in force all insurance required by the provisions of the Declaration. Manager shall administer all such insurance and claims under such insurance policies and bonds.

d. Repair and Maintenance of the Project and Common Elements. Manager shall, pursuant to and consistent with a plan established by the Board, cause the Project and the Common Elements to be repaired, maintained, cleaned, repainted, furnished, and refinished in accordance with the provisions of the Declaration and in the manner consistent with the reserves established for such purpose.

e. Utility and Other Services. Manager shall negotiate on behalf of the Association a contract for certain services including, but not limited to, trash and rubbish removal, utilities, cable or other TV services, snow removal, heating and plumbing repairs, elevator maintenance, laundry and dry cleaning, pest control, and any other services as may be necessary or desirable in connection with the Project.

f. Equipment. Manager shall lease and/or purchase office equipment including but not limited to calculators, telephone equipment, typewrites, computers, and any other office items, equipment, supplies, and facilities which may be necessary or desirable in connection with management of the Project.

g. Activities. Manager shall provide activities programs, personnel, equipment and facilities in the Project for the benefit of Owners and Guests.

h. Security. Manager shall provide required security services for the Project.

5.5 Specific Authority of Manager. Pursuant to the performance of Manager's obligations and duties under this Section 5, the Association hereby grants Manager, without limitation of any authority otherwise granted to Manager pursuant to this Agreement, the following authority:

a. Right to Entry. During maintenance periods and at any other reasonable time upon giving reasonable notice, to enter the Unit, whether or not in the presence of an Owner and Occupants, for the purpose of (i) making emergency repairs therein; (ii) abating any nuisance or any dangerous, unauthorized, prohibited or unlawful activity being conducted or maintained in such unit; (iii) protecting property rights and welfare of other Owners and Occupants, or (iv) for any other purpose reasonably related to the performance by the Association of its responsibilities under the terms of the Declaration. Such right of entry shall be exercised in such a manner as to avoid any unreasonable or unnecessary interference with the possession, use, and/or enjoyment by the Owner, rental guest, exchange user, or other Occupant of such Unit and shall be preceded by reasonable notice to the Owner or Occupant thereof, or Manager of the Plan of Vacation Ownership, if necessary, whenever the circumstances permit.

b. Personnel/Human Resource Services. Manager is authorized to hire, pay, supervise, and discharge, or cause to be hired, paid, supervised, and discharged all employees and independent contractors that may be required for the proper maintenance and operation of the Project and the Association. Such human resource services may be performed by in-house personnel rather than on a contracted basis. Compensation, payroll taxes, and employees' benefits of such employees shall be the responsibility of the Association. Manager shall also conduct on-going staff training, conduct reviews and evaluation of management level personnel, and maintain morale and consistency throughout the Project.

c. Rental Management. Manager may provide rental management services and any other ancillary services not required by this Agreement for individual Owners in the Project on terms that the parties to that agreement might agree. This Agreement provides no rental management services.

5.6 Limitation on Powers of Manager. Notwithstanding the powers of the Manager as set forth in Paragraphs 5.1 through 5.5 above, Manager shall not, without the prior written approval of the Board:

a. Make the final determination of estimated expenses, annual budgets and assessments based thereon;

b. Promulgate rules and regulations;

c. Enter into any contract involving more than \$50,000 in any one fiscal year;

d. Purchase, hold, sell, convey, or mortgage any interest in the Project;

e. Bring, prosecute, and settle litigation;

f. Enter into any contract in the name of the Association for goods or services not contemplated by the Budget or for amounts in excess of those specified in the Budget, unless the Board shall consent thereto in writing;

g. Make a contract with a public utility company at the rates charged for the materials or services regulated by the Public Utilities Commission; provided, however, that the terms of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

h. Prepay casualty and/or liability insurance policies not to exceed three (3) years' duration, provided that the policy permits short-rate cancellation by the insured; or

i. Disburse Association funds in an amount in excess of Ten Thousand Dollars (\$10,000.00) without the counter signatures specified in the banking resolutions from time to time adopted by the Board.

5.7 Limited Liability. Manager shall not be responsible for the acts, omissions to act, or conduct of any of the Owners, exchange users, or rental guests, or for the breach of any of the obligations of any of the Owners, exchange users, or rental guests.

5.8 Miscellaneous. Manager is further authorized to do all things reasonably deemed necessary or desirable for the proper maintenance and operation of the Project.

6. Compensation of Manager.

6.1 Management Fee. Manager shall provide the services required of it hereunder, for which services the Association shall pay to the Manager an annual management fee equal to ten percent (10%) of the Association annual budget during the initial year of the Initial Term and shall thereafter increase by up to five percent (5%) of the Association annual budget at the beginning of each following annual budget year; provided, however, in no event shall the management fee exceed fifteen percent (15%) of the Association annual budget during the Initial Term or any renewal term of this Agreement. Payment of the annual management fee shall be in addition to any other reimbursable expenses paid to the Manager by the Association pursuant to the terms of this Agreement.

Notwithstanding the provisions of the foregoing, the parties understand and agree that the provisions of this paragraph which, subject to its terms, fix the fees hereunder for a specified time, are made in recognition of the fact that all of the active functions of the Association have been delegated to the Manager hereunder. However, if the Association undertakes any action or incurs any expense in addition to those actions or expenses incurred by the Manager, or as set forth in the budget prepared by the Manager, the same shall be paid by the Association.

6.2 Collection Fee. Manager shall be entitled to a Collection Fee of \$10.00 per notice, or such other amount as Manager reasonably determines, sent to a delinquent Owner that shall be paid by such Owner.

6.3 Advances and Reimbursements. Manager shall not be required to perform any act or duty hereunder involving an expenditure of money unless there shall be sufficient funds therefor in the bank accounts of the Association. If at any time the funds in the bank accounts of the Association are not sufficient to pay the charges incident to this Agreement, Manager shall, under no circumstances, be required to advance such necessary sums.

6.4 Discounts. All discounts, rebates, commissions, or like items shall inure to the benefit of the Association.

7. Indemnification.

7.1 Manager's Indemnification. Manager shall protect, indemnify, and hold the Association harmless from and against any and all losses, costs, expenses, damages, or liabilities (including,

without limitation, the cost of litigation and attorneys' fees) arising out of any gross negligence or willful misconduct of Manager or related in any way to the failure or refusal of Manager to comply timely and fully with each of its obligations, promises, and covenants set forth in this Agreement.

7.2. Association's Indemnification and Insurance. The Association shall protect, indemnify, and hold Manager harmless from and against any and all losses, costs, expenses, damages, or liabilities (including, without limitation, the cost of litigation and attorneys' fees) arising out of any litigation in which Manager is named as a party solely by virtue of Manager's position as Manager of the Project. The Association agrees to obtain and provide, at their own expense, a policy of public liability insurance with the limits of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage, and to name Manager as an additional insured under that policy.

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

If to the Association:
Imperial Hotel and Private Residences Owners Association, Inc.
PO Box 6879
Breckenridge, CO 80424

If to the Manager:
c/o Breckenridge Grand Vacations
PO Box 6879
Breckenridge, CO 80424

Notices so mailed shall be deemed to have been given forty-eight (48) hours after the deposit of same in any United States Post Office box in the state to which the notice is addressed, or seventy-two (72) hours after deposit in any such post office box other than in the state to which the notice is addressed, postage prepaid, addressed as set forth above. The addresses and addressees for the purpose of this Paragraph may be changed by giving written notice of such change in the manner herein provided for giving notice. Unless and until such written notice is received, the last address and addressee stated by written notice, or as provided herein if no written notice of change has been sent or received, shall be deemed to continue in effect for all purposes hereunder.

9. **Waiver.** The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of such provision or of any other provision hereof.

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

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

12. **Paragraph Headings.** The paragraph headings herein contained are for the purposes of identification only and shall not be considered in construing this Agreement.

13. **Successors and Assigns.** All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and each of their respective successors and assigns.

14. **Attorneys' Fees.** In the event of any controversy, claim, or dispute between the parties hereto arising out of or relating to this Agreement, or the breach thereof, resulting in arbitration or litigation, the prevailing party in such proceedings shall be entitled to recover from the losing party reasonable expenses, attorneys' fees, and costs.

15. **Severability.** Every provision of this Agreement is intended to be separate. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

ASSOCIATION:

IMPERIAL HOTEL AND PRIVATE RESIDENCES
OWNERS ASSOCIATION, INC.
a Colorado non-profit corporation

MANAGER:

PEAK RESORTS MANAGEMENT, LLC
a Colorado limited liability company

By: _____

By: _____

Name: _____

Name: _____

Title: President

Title: Manager

