

**RESPONSIBLE GOVERNANCE POLICIES**

**FOR**

**IMPERIAL HOTEL AND PRIVATE RESIDENCES OWNERS ASSOCIATION, INC.,  
A COLORADO NONPROFIT CORPORATION**

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Exhibit A      Notice of Intent to Inspect and Copy Association Records

**IMPERIAL HOTEL AND PRIVATE RESIDENCES OWNERS ASSOCIATION, INC.,  
A COLORADO NONPROFIT CORPORATION**

**Adopted** \_\_\_\_\_

THESE RESPONSIBLE GOVERNANCE POLICIES (these “**Governance Policies**”), are promulgated and adopted by the Board of Directors (“**Board**”) as of the date set forth above, for the benefit of the Imperial Hotel and Private Residences Owners Association, Inc., a Colorado non-profit corporation (the “**Association**”), and pursuant to the provisions of C.R.S. Section 38-33.3-209.5 and C.R.S. Section 38-33.3-317.

**I. Introduction**

These Governance Policies are adopted to promote the responsible governance of the Imperial Hotel and Private Residences (the “**Project**”). The Governance Policies shall remain in effect until amended by the Board, and shall apply to and be binding upon all Owners of Units within the Project. Owners are also subject to and governed by the Condominium Documents, including but not limited to: (i) the Declaration for Imperial Hotel and Private Residences (the “**Declaration**”), which created the Project and governs all Units and (ii) and the Articles of Incorporation and Bylaws of the Association. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Declaration.

**II. Records Inspection Policy**

Section 2.1 **Purpose**. The purpose of the Records Inspection Policy is to establish the type of records kept by the Association or its agents and to establish reasonable procedures for the inspection and copying of Association records.

Section 2.2 **Current Records**. The following records, being the sole records of the Association for purposes of document retention and production to Owners, shall be kept at the Association’s office or the office of Managing Agent:

(A) An account for each Owner, the amount of each Assessment, the dates on which each comes due, any other fees payable by the Owner as Assessments, the amounts paid on the account and the balance due;

(B) An account for each Owner showing personal charges and any other fees payable by the Owner;

(C) In connection with a meeting of the Owners, a list of the names and notice addresses of the Owners entitled to vote or cast a ballot at a meeting, which also shows the number of votes or ballots each Owner is entitled to cast (which is called the “**Roster**” in these Governance Policies and in the Bylaws);

(D) A list of the names and (both physical and electronic) mailing addresses of the current members of the Board and officers of the Association;

(E) Financial statements of the Association prepared for periods ending during the previous three years, if any, and the most recent financial audit or review, if any;

(F) The current operating Budget;

(G) Current written contracts to which the Association is a party and contracts for work performed for the Association within the immediately preceding two years;

(H) Detailed records of receipts and expenditures affecting the operation and administration of the Association, including settlement of claims for construction defect unless those settlements are, by their terms, required to be kept confidential;

(I) Records of Board or committee actions to approve or deny design or architectural approval requests, excluding all architectural drawings, designs or plans unless released upon written consent of the legal owner of the designs, drawings or plans;

(J) The most recent reserve study, if any;

(K) A record of any unsatisfied judgments against the Association and the existence of any pending suits in which the Association is a defendant;

(L) A record of insurance coverage provided for the benefit of Owners and the Association including company names, policy limits, policy deductibles, additional insureds, and expiration dates of the policies listed;

(M) Tax returns for state and federal income taxation for the past seven years, if any;

(N) Minutes of all meetings of the Owners and members of the Board, a record of all actions taken by Owners or the Board without a meeting, and a record of all actions taken by a committee of the Board;

(O) Ballots, proxies, and other records related to voting by Owners for one year after the election, action or vote to which they relate;

(P) Written communications among and the votes cast by the Board that are directly related to an action taken by the Board without a meeting;

(Q) Copies of at least the three most recent years' written correspondence between the Association and Owners generally as Owners;

(R) Copy of most recent annual report, if any; and

(S) Copies of the most current versions of the Condominium Documents, along with Board resolutions and Board policy statements, if any.

Section 2.3 **Inspection of Association Books and Records by Owners.** An Owner or their authorized agent is entitled to inspect and copy, at the Owner's expense and during regular

business hours at a reasonable location specified by the Association, any of the records of the Association described herein, subject to the terms hereof.

(A) The Owner must submit a written request, describing with reasonable particularity the records sought, at least ten (10) days prior to inspection or production of the documents. A sample form of Notice of Intent to Inspect and Copy Association Records, is attached hereto as Exhibit A.

(B) The Association may limit examination and copying times to normal business hours or the next regularly scheduled Board meeting if the meeting occurs within thirty (30) days of the request.

Section 2.4 ***Exclusions***. The following records and documents may be withheld from inspection and copying to the extent that they are or concern:

(A) Contracts, leases, bids, or records related to other similar commercial transactions to purchase or provide goods or services that are currently in or under negotiation;

(B) Pending, potential, or threatened litigation, mediation, or arbitration;

(C) Pending or potential matters involving federal, state, or local administrative tribunal or enforcement of the Condominium Documents;

(D) Communications with legal counsel and all attorney created documents, including, but without limitation, memos, opinion letters, and draft documents prepared at the behest of the Board;

(E) Any documents that are confidential, privileged or required to be withheld under constitutional, statutory or judicially imposed requirements;

(F) Records of an executive session of the Board, including records that may give rise to an executive session of the Board;

(G) Records of individual Owners other than those of the requesting Owner;

(H) Personnel, salary, or medical records relating to a specific individual; or

(I) Personal identification and account information of Owners, including bank account information, telephone numbers, electronic email addresses, driver's license numbers, and social security numbers.

The Association is not obligated to compile or synthesize information.

Section 2.5 ***Copy and other Document Fees***. The Association will impose a reasonable charge, covering the actual costs of labor and materials for production and reproduction of any documents the Association provides to an Owner. The Association may collect an estimated charge in advance. If an Owner requests copies of Condominium Documents or records that are not in the possession of the Association, the Owner is responsible for whatever fees and costs are

imposed by the entity (CPA, attorney, etc.) holding such records for copy and related costs, including but not limited to labor, materials and postage.

Section 2.6 **Membership List.** Without the consent of the Board, the Roster or any part thereof may not be obtained or used by any person: (A) to solicit money or property unless such money or property will be used solely to solicit the votes of the Owners in an election to be held by the Association; (B) for any commercial purpose; or (C) to be sold to or purchased by any person. The Roster shall not be used to interfere with other members' rights of privacy, to harass or annoy the Association, its Managing Agent, or their respective agents, staff or members, or to share the Roster with a competitor of the Declarant or the Association. An Owner shall not further copy or distribute the Roster. If permitted by applicable law, the Association will not be obligated to maintain the Roster with respect to Owners of Vacation Estates.

Section 2.7 **Damages.** The Association reserves the right to pursue any individual for damages or injunctive relief or both, including reasonable attorneys' fees, for abuse of these rights, including, but not limited to, use of any records for a purpose other than as permitted in this policy or under the Act.

### **III. Meetings Policy**

Section 3.1 **Purpose.** The purpose of the Meetings Policy is to adopt procedures to be followed at meetings of the Owners and meetings of the Board to facilitate the efficient operation of the Association.

#### **Section 3.2 Meetings of the Owners.**

##### **(A) Notice.**

(i) Meetings of the Owners shall be called, and notice provided for, pursuant to the Association's Bylaws.

(ii) In addition to the notice requirements of the Bylaws, notice of any meeting of the Owners shall be posted in a designated place within the Project and on the Association's website, if any, at least ten (10) days prior to such meeting. If any Owner has requested that the Association provide notice via email and has provided the Association with an email address, the Association shall send notice of all meetings of the Owners to such Owner at the email address provided at least twenty four (24) hours prior to any such meeting.

(iii) In addition to the notice requirements of the Bylaws, the notice shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes, and any proposal to remove an Officer or Director.

##### **(B) Proceedings.**

All meetings of the Owners shall proceed on issues generally set forth in the notice of meeting or otherwise in accordance with the order of business determined by the Board. All meetings of the Owners shall be conducted in accordance with Roberts Rules of Order Newly

Revised or such other parliamentary procedures as may be designated by the Board from time to time. At the commencement of each meeting, the secretary shall state how notice of the meeting was given and include such evidence of notice in the minutes of the meeting.

(C) Open Meetings.

All meetings of the Owners shall be open to every Owner, or to any person designated by an Owner in writing, in such form as the Board or the Association may reasonably require, as the Owner's representative. At an appropriate time determined by the individual presiding over the meeting, but before the Owners vote on an issue under discussion, Owners and their designated representatives shall be permitted to speak regarding that issue. The individual presiding over the meeting may place reasonable time restrictions on persons speaking during the meeting. If more than one person desires to address an issue and there are opposing views, the individual presiding over the meeting shall provide for a reasonable number of persons to speak on each side of the issue.

(D) Voting, Quorums, Secret Ballots and Proxies.

Procedures related to voting, quorums, secret balloting and proxies are governed by the Condominium Documents and Colorado law.

Section 3.3 **Meetings of the Board**

(A) Notice.

Meetings of the Board shall be called, and notice provided for, pursuant to the Association's Bylaws.

(B) Content of Meetings.

Meetings of the Board shall proceed on issues as generally set forth in the agenda distributed for each meeting. The agenda will be made reasonably available to Owners and their representatives for their examination at, or prior to, the meeting of the Board.

(C) Open Meetings.

Unless the Board is in an executive session pursuant to C.R.S. Section 38-33.3-308, all meetings of the Board or a committee thereof shall be open to attendance by all Owners and their designated representatives. At an appropriate time determined by the Board, but before the Board votes on an issue under discussion, Owners and their designated representatives shall be permitted to speak regarding that issue. The Board may place reasonable time restrictions on persons speaking during the meeting. If more than one person desires to address an issue and there are opposing views, the Board shall provide for a reasonable number of persons to speak on each side of the issue.

(D) Executive Sessions.

Notwithstanding the foregoing, the Board or a committee thereof may hold an executive or closed door session and may restrict attendance to Board members or the members of such committee, as appropriate, and other persons specified by the Board or committee, as appropriate; provided that any such executive or closed door session may only be held in accordance with the provisions and requirements of C.R.S. Section 38-33.3-308, or other applicable law. Pursuant to C.R.S. Section 38-33.3-308, the matters to be discussed at such an executive session are limited to:

(i) Matters pertaining to employees of the Association or the managing agent's contract or involving the employment, promotion, discipline, or dismissal of an Officer, agent, or employee of the Association;

(ii) Consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;

(iii) Investigative proceedings concerning possible or actual criminal misconduct;

(iv) Matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;

(v) Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy, including a disciplinary hearing regarding a Unit owner and any referral of delinquency (except that a Unit owner who is the subject of a disciplinary hearing or delinquency referral may request and receive the results of any vote taken at the relevant meeting); and

(vi) Review of or discussion relating to any written or oral communication from legal counsel.

Prior to the time the members of the Board or committee convene in executive session, the President or acting chair shall announce the general matter of discussion as enumerated in subsections (i) through (vi) above.

Notwithstanding the foregoing, no rule or regulation of the Board or committee shall be adopted during an executive session. A rule or regulation may be validly adopted only during a regular or special meeting or after the Board or committee goes back into regular session following an executive session.

Upon the final resolution of any matter for which the Board or committee received legal advice or that concerned pending or contemplated litigation, the Board or committee may elect to preserve the attorney-client privilege in any appropriate manner, or it may elect to disclose such information, as it deems appropriate, about such matter in an open meeting.

#### **IV. Collection Policy**

The following policy and procedure has been adopted by the Board for collection of unpaid assessments, default assessments, fees and fines. This policy shall supersede and replace any collections policy previously adopted by the Association. The Colorado Common Interest Ownership Act (“CCIOA”) and this policy will control over any conflicting provisions in the Association governing documents.

Section 4.1 **Due Date.** Assessments for Vacation Owners shall be due annually on February 1st each year and Assessments for all other Owners shall be due in four, quarterly installments, unless otherwise determined by the Managing Agent. The Association shall bill each Owner annually, however, failure to receive an invoice shall not eliminate or delay Owner’s obligation to timely pay any Assessments. Assessments and other charges not received by the Association by the 30th day following initial date of billing, or other date(s) as established by a current assessment payment policy, shall be considered past due and delinquent. Payments will be deemed received on the date the payment is received in the Association’s office or the Association’s payment processor’s office; provided, however, if the Owner’s name or the Unit address for which payment is made is not identified on or with the payment, payment will not be deemed received until such time as the Owner and Unit to which payment should be credited are determined.

Section 4.2 **Interest and Late Charges.** The Association may impose a late charge for any assessment, fine, or other charge not paid within 30 days of the due date without further notice to the Owner. The late charge is a personal obligation of the Owner and a lien on the Unit. The Association is entitled, but is not required, to impose interest on any delinquent assessment, fine or other charge at rate of 8% per annum (or such greater rate as determined by the Association and permitted by Colorado law) from the due date without further notice to the Owner. Interest may be added to the Owner’s account thirty (30) days following the due date. Interest is a personal obligation of the Owner and a lien on the Unit.

Section 4.3 **Lien.** Under Colorado law and the terms of the Declaration, there is a lien for any unpaid assessment. The lien may include late charges, interest, attorney fees, and a \$50 administrative fee to cover the cost of recording the lien. The Association reserves the right to record a notice of lien in the county records at any time after an assessment becomes delinquent. The Association may delegate authority to the Association’s attorney to sign and acknowledge the notice of assessment lien. This delegation may be withdrawn at any time by sending written notice to the Association’s attorney of the withdrawal.

Section 4.4 **Administrative Expenses.** Collection costs imposed by the Association or its managing agent for delinquent accounts will be the obligation of the Owner and may be posted to the Owner’s account. Examples include, but are not limited to, certified mailings and costs to translate a notice to a language other than English.

Section 4.5 **Return Check Charges.**

(A) If any check or other instrument payable to or for the benefit of the Association is not honored by the bank or is returned by the bank for any reason, including, but

not limited to insufficient funds, the Owner is liable to the Association for one of the following amounts, at the option of the Association:

(i) An amount equal to the face amount of the check, draft, or money order and a return check charge of: (a) \$20.00; or (b) 20% of the face amount of the check, draft, or money order, but not less than \$20.00, if it has been assigned to a collection agency for collection; or (c) an amount equal to the actual charges incurred by the Association levied by the party returning the check, whichever is greater; or

(ii) If notice has been sent as provided in C.R.S. § 13-21-109 and the total amount due as set forth in the notice is not paid within 15 days after such notice is given, the person issuing the check, draft, or money order will be liable to the Association for three times the face amount of the check, but not less than \$100.00.

(B) If two or more of an Owner's checks are returned within any fiscal year, the Association may require that future payments, for a period of one year, be made by certified check or money order.

Section 4.6 **Attorney Fees on Delinquent Accounts.** As an additional expense permitted (collectible as a Default Assessment) under the Declaration and Colorado statutes, the Association shall be entitled to recover its reasonable attorney fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent Owner. The reasonable attorney fees incurred by the Association shall be due and payable immediately when incurred, upon demand.

Section 4.7 **Application of Payments made to the Association.** If an Owner who has both unpaid assessments and unpaid fines, fees, or other charges makes a payment to the Association, the Association will apply the payment first to assessments and any remaining amount of the payment to the fines, fees, or other charges owed.

Section 4.8 **Monthly Statements Required.** On a monthly basis, the Association will send to each Owner who has any outstanding balance an itemized list of all assessments, fines, fees, and charges that the Owner owes to the Association (i.e., an account ledger). The monthly statement will be sent by first-class mail to the Owner's registered address, and if the Association has a relevant email address, by email. If the account has been referred to a collection agency or to any attorney, the statement will also specify that the balance may not include all attorney's fees and costs that have been incurred as of the statement date but not yet invoiced to the Association and posted to the account. No fees or other charges will be assessed for providing statements required under this Section.

Section 4.9 **Collection Procedures/Time Frames.**

(A) Solely with respect Owners of Vacation Estates and Vacation Estates, the following time frames shall be used in the collection of monthly installments of the annual assessment and other charges:

- Due Date (date payment due): the first (1st) day of February of each calendar year;
- Past Due Date (date payment is late if not received on or before that date, interest and late fees added): after the 30th day following the initial date of billing;
- First Notice (notice of (i) delinquent amount due, (ii) determination of amount, (iii) accrued late charges and interest, (iv) availability of a payment plan, if applicable, (v) contact information to obtain Owner ledger, and (vi) notice that failure to cure delinquency within 30 days may result in Owner's account being turned over to collection agency, a lawsuit being filed against Owner, the filing and foreclosure of lien against the Owner's Unit, or other remedies available under Colorado law): Any time after 30 days after due date;
- Second Notice (notice that late charges and interest have accrued): Any time after 45 days after due date;
- Notice of Intent to Lien: Any time after 60 days after due date;
- Third Notice (notice that late charges and interest have accrued): Any time after 70 days after due date;
- Delinquent account turned over to Association's attorney; Lien filed; Demand letter sent to Owner; commencement of foreclosure notice and proceedings: Any time after 90 days after due date.

(B) For all Units other than Vacation Estates, in the event an Owner fails to time pay Assessments, Fines or other charges as provided herein, the Owner's delinquent account may ultimately be turned over to an attorney or a collection agent for legal action. However, prior to commencement of legal action as set forth below, the Association, by or through its Managing Agent if applicable, may send such reminders, notices, re-billing statements or other communications to an Owner regarding the status of the Owner's account as the Association determines.

(i) Delinquency Notice. If payment in full is not received within thirty (30) days of the due date, the Association will send a notice of delinquency to the Owner who is delinquent in payment.

(ii) Notice of Intent to Record Lien. If payment in full is not received within sixty (60) days of the due date, the Association will send a notice to the Owner that a lien will be filed if the delinquency is not promptly cured. No such notice is a prerequisite either to the filing of a notice of lien or to the effectiveness of the lien itself and all Association rights are expressly reserved.

(iii) Lien. If payment in full is not received within ninety (90) days of the due date, the Association is entitled to record a notice of lien against the Unit of the delinquent Owner.

Section 4.10 **Notice of Delinquency Prior to Referral to Attorney or Collection Agency**. For all Units other than Vacation Estates, before the Association turns over a delinquent account of an Owner to a collection agency or refers it to an attorney for legal action, the Association must send the Owner a notice of delinquency specifying:

(A) The total amount due, with an accounting of how the total was determined;

(B) Whether the opportunity to enter into a payment plan exists as provided in this collection policy, and instructions for contacting the Association to enter into a payment plan, if available;

(C) The name and contact information for the individual the Owner may contact to request a copy of the Owner's ledger to verify the amount of the debt;

(D) A statement that action is required to cure the delinquency, and that failure to do so within 30 days may result in the Owner's delinquent account being turned over to a collection agency, a lawsuit being filed against the Owner, the filing and foreclosure of a lien against the Owner's property, or other remedies available under Colorado law;

(E) Whether the delinquency concerns unpaid Assessments; unpaid Fines, fees, or charges; or both unpaid Assessments and unpaid Fines, fees, or charges; and if the notice of delinquency concerns unpaid Assessments, the notice of delinquency must notify the Owner that the unpaid Assessments may lead to foreclosure;

(F) The steps the Association must take before the Association may take legal action against the Owner, including a description of the Association's cure process; and

(G) A description of what legal action the Association may take against the Owner, including a description of the types of matters that the Association or Owner may take to small claims court, including injunctive matters for which the Association seeks an order requiring the Owner to comply with the Declaration, Bylaws, covenants, or other Condominium Documents of the Association.

Section 4.11 **Owner Contact and Delivery of Notice**. For all Units other than Vacation Estates, before the Association turns over a delinquent account of an Owner to a collection agency or refers it to an attorney for legal action, the Association will:

(A) Send a copy of the delinquency notice described in Section 4.10 by certified mail, return receipt requested, and

(B) Contact the Owner by two (2) of the following means, or otherwise in accordance with all applicable laws:

(i). Text message to a cellular number that the Association has on file that the Owner has provided to the Association; or

(ii). Email to an email address that the Association has on file that the Owner provided to the Association; or

(iii). Telephone call to a phone number that the Association has on file that the Owner provided to the Association. A voicemail will be left if the Owner is unable to be reached by telephone call.

(C) Notices from the Association will be sent in English; provided, however, that the Owner may send written notice to the Association with an alternate language preference. The Association will attempt to provide an accurate translation of the original English version, but due to nuances in translating to a foreign language, slight differences may exist.

(D) An Owner may send written notice to the Association identifying another person to serve as a designated contact for the Owner for notices and correspondence. The Association will send the same written communications to the designated contact that it sends to the Owner. If the Owner wishes to change or cease the designated contact, the Owner must send the Association written notice.

Section 4.12 **Record of Notification**. The Association will maintain a record of the contact(s) it has made with an Owner regarding a delinquency, including the type of communication used to contact the Owner and the date and time the contact was made. As this record relates to a particular Unit, it will not be deemed to be a record available to all Owners under Colorado law.

Section 4.13 **Payment Plans**.

(A) Before the Association turns over a delinquent account of an Owner to a collection agency or refers it to an attorney for legal action, it will make a good faith effort to coordinate with the Owner to set up a payment plan. An Owner may enter into a payment plan to pay off a deficiency in equal installments over a minimum period of 18 months or such other longer period as authorized by the Board.

(B) If the Owner fails to comply with the terms of the payment plan (fails to remit payment of three or more agreed-upon installments during the payment plan term), the Association may pursue legal action subject to the notice requirements above.

(C) The Association is not obligated to negotiate a payment plan with:

(i) an Owner who has previously entered into a payment plan pursuant to this policy, or

(ii) an Owner who does not occupy the Unit and acquired the Unit because of a default of a security interest encumbering the Unit or a foreclosure of the Association's lien.

(D) Before the Association initiates a foreclosure proceeding based on the Owner's unpaid assessments, it will provide the Owner with a written offer to enter into a repayment plan of at least 18 months. Under the repayment plan, the Owner may choose the amount to be paid each month, so long as each payment must be in an amount of at least \$25.00. The Owner may elect to pay the remaining balance under the repayment plan at any time during the duration of the repayment plan.

(E) All payment plans involving accounts referred to an attorney for collection will be set up and monitored through the attorney in consultation with the President of the Board or other person designated by the Board.

Section 4.14 **Board Action to Refer Delinquent Account**. For all Units other than Vacation Estates, before a delinquent account is referred to a collection agency or attorney, a majority of the Board must vote to refer the matter by recorded vote conducted in executive or closed session.

Section 4.15 **Referral of Delinquent Accounts to Attorneys**. After an account has been referred to the Association's attorney, the account remains with the attorney until it is settled, has a zero balance, or is otherwise resolved. Once accounts are turned over to the Association's attorney, Owners will make payments to the Association at the attorney's address. The Association's attorney is authorized to take whatever action is necessary, in consultation with the Board President or other person designated by the Board, believed to be in the Association's best interest.

After a delinquent account has been referred to the Association's attorney, all communication with the delinquent Owner will be handled through the Association's attorney. Neither the manager, if any, nor any member of the Board may discuss the collection of the account directly with an Owner after it has been turned over to the Association's attorney unless the attorney is present or has consented to the contact. Action by the Association's attorney may include the following:

(A) Notice of Lien. If not already recorded, a notice of lien may be recorded against the delinquent Owner's property to provide record notice of the Association's claim against the property.

(B) Filing Lawsuit. The Association may file a lawsuit against the delinquent Owner seeking a money judgment. If a personal judgment is entered against the delinquent Owner, the Association may pursue remedies such as garnishing the Owner's wages or bank account to collect judgment amounts.

(C) Judicial Foreclosure. The Association may foreclose on its lien in lieu of or in addition to suing an Owner for a money judgment. The purpose of foreclosing is to obtain

payment of all assessments owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful or in other circumstances that may favor such action. If the Association forecloses on its lien, the Owner will lose the Owner's Unit, having the same effect as if a first mortgagee institutes a foreclosure action against the property (though the procedure is different).

The Association will not commence a judicial foreclosure action unless the balance of the assessments and charges secured by its lien (which may include late fees, fines, and other charges as well as other assessments) equals or exceeds 6 months of common expense assessments based on the Association's periodic budget. Additionally, the Association will not pursue foreclosure against an Owner solely based on fines owed to the Association and/or collection costs or attorney's fees the Association incurred that are only associated with such fines. Prior to filing a foreclosure action, the Board will resolve by a recorded vote in executive session to authorize the filing of the foreclosure action against the particular Unit against which the foreclosure action will be filed.

(D) **Receivership.** A receiver is a disinterested person, appointed by the court, who manages rental of the Owner's property and collects the rents according to the court's order. The purpose of a receivership for the Association is to obtain payment of current assessments, reduce past-due assessments, and prevent waste deterioration of the property.

(E) **Bankruptcy Filings.** Filing necessary claims, documents, and motions in Bankruptcy Court to protect the Association's claim.

Section 4.16 **Certificate of Status of Assessment/Estoppel Letter.** The Association will furnish to an Owner, or such Owner's designee, upon written request delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against the Owner's Unit. The statement will be delivered within 14 calendar days after receipt of the request personally or by certified mail, first-class postage prepaid, return receipt requested. If the Owner's account has been turned over to the Association's attorney, the statement will include any attorney's fees incurred in providing the statement.

Section 4.17 **Limit of Services.** The Board may elect to limit Owner's access to a Unit and Project amenities or any other service, the cost of which is covered by assessments, for an Owner's failure to pay assessments.

Section 4.18 **Bankruptcies and Public Trustee Foreclosures.** Upon receipt of any bankruptcy notice or a foreclosure notice by any holder of an encumbrance against any Unit within the Association, the Association may advise the Association's attorney of the same and turn the account over to the Association's attorney.

Section 4.19 **Severability.** Whenever possible, each provision of this policy shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this policy is held to be prohibited by or invalid under applicable law, such

provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this policy.

Section 4.20 **Waivers**. The Association may modify these procedures as the Association determines appropriate under the circumstances. Any accommodation may be documented in the Association's files. Failure to require strict compliance with this policy is not deemed a waiver of the Association's right to require strict compliance and will not be deemed a defense to payment of assessment fees or other charges, late charges, return check charges, attorney's fees, and/or costs as described and imposed by this policy.

## V. **Policy for the Investment of Reserve Funds**

Section 5.1 **Purpose of Reserve Fund Policy**. The purpose of the Policy for the Investment of Reserve Funds is to adopt a policy for the investment of reserve funds.

Section 5.2 **Purpose of the Reserve Funds**. In accordance with Section 8.1 of the Declaration, the Association has the right to maintain a general operating reserve fund and a capital reserve fund (collectively the "**Reserve Funds**"). The purpose of the Reserve Funds shall be to responsibly fund and finance the operation of the Project and the repair, restoration and replacement of the Project's Common Elements and in connection with the Plan of Vacation Ownership.

Section 5.3 **Investment of Reserve Funds**. The Board shall invest funds, if any, held in the Reserve Funds accounts to generate revenue that will accrue to the Reserve Funds accounts pursuant to the following goals, criteria and policies:

(A) Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital with the objective of mitigating credit risk and interest rate risk.

(B) Maturities should be structured to ensure availability of assets for projected expenditures.

(C) Investments costs (redemption fees, commissions, and other transactional costs) should be minimized.

(D) Appropriate diversification should mitigate the effects of interest rate volatility upon Reserve Funds assets.

(E) Funds should be invested to seek the highest level of return after giving reasonable weight to the preceding investment criteria.

Section 5.4 **Limitation on Investments**. Unless otherwise approved by the Board, all investments will be FDIC (Federal Deposit Insurance Corporation) insured and/or guaranteed by the United States Government.

Section 5.5 **Independent Professional Investment Assistance.** The Board may hire a qualified investment counselor to assist in formulating a specific investment strategy.

Section 5.6 **Review and Control.** The Board, or a committee thereof (the “**Financial Committee**”), shall review the Reserve Funds investments no less than annually to ensure that the funds are receiving competitive yields and are timed appropriately for the needs of the project and shall make prudent adjustments as needed.

In addition, any withdrawal from the reserve account will require one signature by an authorized signor, and no such withdrawal will be made without approval by the Board.

Section 5.7 **Reserve Study.** In order to determine appropriate funding for the Reserve Funds, the Board shall determine through a physical analysis the life expectancy of those portions of the Project to be maintained by the Association, determine through a financial analysis the anticipated costs of maintaining, replacing and improving those identified areas, and determine a funding plan for any work recommended in such analysis (hereinafter referred to as a “**Reserve Study**”). The Association may, but is not obligated to, solicit the assistance and advice of professionals in preparing the Reserve Study.

Section 5.8 **Review of Reserve Study.** The Board shall cause the Reserve Study and funding plans to be reviewed and updated periodically, at least once every five (5) years, to allow for adjustments and changes in costs, inflation and interest yield on invested funds, and modifications, additions or deletions of components.

Section 5.9 **Reporting.** On an annual basis, an investment report shall be prepared and submitted by the treasurer, the Financial Committee, if any, and/or any independent advisor selected by the Board or the Financial Committee, if any, to the Board in a timely manner, listing the Reserve Funds investments held by the Association and the current market valuation of the investments. The report shall include a summary of investment earnings during the prior fiscal year and a comparison of the Reserve Funds and other projected funding sources to any funding plan adopted by the Board in connection with a Reserve Study.

Section 5.10 **Standard of Care.** The Officers and Directors shall make investment decisions in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the Officer or Director reasonably believes to be in the best interests of the Association in accordance with the Colorado Revised Nonprofit Corporation Act (C.R.S. Sections 7-121-101 et seq.).

## **VI. Procedures for the Adoption and Amendment of Policies, Procedures and Rules Policy**

Section 6.1 **Purpose.** The purpose of the Procedures for the Adoption and Amendment of Policies, Procedures and Rules Policy is to set of procedures to be followed when adopting, amending or repealing Rules and Regulations (as used herein, the “**Rules**”) regarding the operation of the Association.

Section 6.2 **Authority.** The authority to create, adopt, enforce, amend and repeal Rules lies with the Board.

Section 6.3 **Basis for Rules.** In making its determination the Board may evaluate the scope and importance of the issue, determine whether or not the Rule already exists, certify that the existing documents are inadequate to address the issue and evaluate the immediate impact and long-term implications of adopting the Rule. In addition, pursuant to Colorado law the Board may rely upon information, opinions, reports or statements of its professional advisors in making its determination of the need for the Rule.

Section 6.4 **Input.** Prior to adopting any Rule, the Board has the right, but not the obligation, to solicit input regarding the Rule from the Owners. Input may be gathered by distributing draft policies, forming a committee, conducting an informational meeting or any other method determined by the Board.

Section 6.5 **Adoption.** When the Board, in the exercise of its discretion, determines that a Rule is appropriate, it shall adopt the Rule either at a meeting of the Board or by written consent in lieu of a meeting, or by any other method authorized by the Condominium Documents or pursuant to Colorado law.

Section 6.6 **Publication.** The Board shall then publish the Rule by any means available including, but not limited to, posting the Rule in the Project at a site designated by the Board, on the web site, by e-mail, mail, newsletter, or personal delivery. The Rule shall become effective on the date specified by the Board; if the Board does not specify an effective date, then the rule shall become effective ten (10) days after being published. The Rule shall be available for inspection and copying in accordance with the Association's Records Inspection Policy.

Section 6.7 **Failure to Receive the Rule.** Any Owner's failure to receive the Rule or failure of an Owner to have actual knowledge of a Rule shall not be a defense to any attempt by the Association to enforce the Rule or to levy Fines, expenses, or attorneys' fees as a result of a violation of the Rule.

## **VII. Conflicts Policy**

Section 7.1 **Purpose.** The purpose of the Conflicts Policy is to protect the interests of the Association by adopting procedures to be followed when a member of the Board of Directors (as used herein, each a "**Director**") has a conflict of interest.

Section 7.2 **General Duty.** The Board shall use its good-faith efforts at all times to make decisions that are consistent with sound principles, and to protect and enhance the value of properties of the Owners and Association. All Directors shall exercise their power and duties in good faith and in a manner that he or she reasonably believes to be in the best interests of the Association. All Directors shall comply with all lawful provisions of the Condominium Documents.

Section 7.3 **Conflicting Interest Transactions.**

(A) A conflicting interest transaction is one involving a contract, transaction, or other financial relationship between the Association and a Director, or between the Association and a party related to a Director, or between the Association and an entity in which a Director or

a party related to a Director is a shareholder, partner, member, manager, director or officer or otherwise has a financial interest.

(B) No conflicting interest transaction shall be void or voidable or be enjoined, set aside, or give rise to an award of damages or other sanctions in a proceeding by an Owner or by or in the right of the Association, solely because the conflicting interest transaction involves a Director or a party related to a Director or an entity in which a Director or a party related to a Director is a shareholder, partner, member, manager, director or officer or otherwise has a financial interest or solely because the Director is present at or participates in the meeting of the Association's Board or of the committee of the Board that authorizes, approves, or ratifies the conflicting interest transaction or solely because the Director's vote is counted for such purpose if:

(i) The material facts as to the Director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board or the committee, and the Board or committee in good faith authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested Directors, even though the disinterested directors are less than a quorum; or

(ii) The material facts as to the Director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Owners entitled to vote thereon, and the conflicting interest transaction is specifically authorized, approved, or ratified in good faith by a vote of the Owners entitled to vote thereon; or

(iii) The conflicting interest transaction is fair as to the Association, as determined by a majority of disinterested Directors or a majority of the Owners entitled to vote thereon.

(C) Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or of a committee which authorizes, approves, or ratifies the conflicting interest transaction.

(D) For purposes of this policy, a "party related to a Director" shall mean a spouse, a descendent, an ancestor, a sibling, the spouse or descendent of a sibling, an estate or trust in which the Director or a party related to a Director has a beneficial interest, or an entity in which a party related to a Director is a shareholder, partner, member, manager, director or officer or otherwise has a financial interest.

#### Section 7.4 **Loans.**

(A) No loans shall be made by the Association to any of its Directors or Officers. Any Director or Officer who assents to or participates in the making of any such loan shall be liable to the Association for the amount of such loan until the repayment thereof.

(B) For the purposes of this policy, an "**Officer**" shall mean any person designated as an Officer of the Association and any person to whom the Board delegates responsibilities under the Act, including, without limitation, a managing agent, attorney, or accountant employed by the Board.

## **VIII. Enforcement Policy**

The following Policy for Enforcement has been adopted by the Board pursuant to the requirements set forth in C.R.S. §38-33.3-209.5, for the enforcement of the Association's Condominium Documents. The purpose of the Enforcement Policy is to adopt procedures to be followed when enforcing covenants, Bylaws, and rules to facilitate the efficient operation of the Association.

Section 8.1 **Enforcement Procedure.** The Association will not impose Fines, suspend voting, suspend any rights of an Owner, or commence legal action for violations of the Condominium Documents unless and until the Association has followed the procedures set forth below. The procedures described herein are not required in order for the Board to impose any sanction or penalty for nonpayment of Assessments. In addition, all Claims (as defined in Section 21.3.1 of the Declaration), as well as all Defects Claims (as defined in Section 21.3.2 of the Declaration) will be governed by the mandatory mediation and arbitration Claims Procedures set forth in Article 21 of the Declaration and not by this Enforcement Policy.

### Section 8.2 **Complaints.**

(A) Any Owner or Occupant may send the Association a written complaint. Complaints must be in writing and submitted to the Board or Hearing Committee through the Association's Managing Agent or directly to an officer of the Association. The complaint must identify the complainant, the alleged violation (if known), and set forth a statement describing the violation, referencing the specific provisions which are alleged to have been violated, when the violation was observed, and any other pertinent information. Non-written complaints or written complaints failing to include any information required by this provision may not be investigated or prosecuted at the discretion of the Association.

(B) Complaints may also be initiated by the Managing Agent, any member of the Board, or committee members. Complaints by a member of the Board, a committee member, or the Managing Agent, if any, may be made in writing or by any other means deemed appropriate by the Board if such violation was observed by a Board member or Managing Agent.

### Section 8.3 **Notice of Violation.**

(A) The Association will send a written notice of any asserted violation of any provisions of the Condominium Documents to the Owner in accordance with this policy. The Board may also, at its option, provide a copy of the notice to any non-Owner violator. The notice will describe: (i) the nature of the violation; (ii) the action or actions required to cure (abate) the violation; (iii) a time period of not less than thirty (30) days during which the violation may be cured without further sanction; (iv) any Fines that may be imposed; (v) the right to request a hearing to contest the violation or possible Fine, and (vi) if a hearing is requested, a date by which such request must be received and a timeline for the hearing process ("Notice of Violation").

(B) Notices from the Association will be sent in English; provided, however, that the Owner may send written notice to the Association with an alternate language preference. The Association will attempt to provide an accurate translation of the original English version, but due to nuances in translating to a foreign language, slight differences may exist.

(C) An Owner may send written notice to the Association identifying another person to serve as a designated contact for the Owner for notices and correspondence. The Association will send the same written communications to the designated contact that it sends to the Owner. If the Owner wishes to change or cease the designated contact, the Owner must send the Association written notice.

(D) For the purpose of this policy to comply with Colorado law, a notice is deemed received when sent by and according to the following timelines:

(i) Email or text – Upon successful transmission of electronic mail or text;

(ii) Certified Mail/First-Class Mail – three (3) business days after deposit for delivery; or

(iii) Actual Notice – Upon hand-delivery.

Section 8.4 **Violations That Threaten Public Safety or Health.**

(A) If the Association reasonably determines that a violation threatens the public safety or health, the Association will send the Owner a written Notice of Violation informing the Owner that the Owner has seventy-two (72) hours to cure the violation, or the Association may impose a Fine. The written Notice of Violation must be sent by first-class, registered or certified mail, but the Association may send additional notice by email; text message; or hand-delivery.

(B) After seventy-two (72) hours from receipt of notice, the Association will inspect the Unit and determine whether the violation has been cured. If the Owner has not cured the violation, the Association may impose Fines on the Unit Owner every other day in accordance with the Fine schedule below and/or commence legal action to enforce the Condominium Documents and cure the violation.

Section 8.5 **Violations That DO NOT Threaten Public Safety or Health.**

(A) If the Association reasonably determines that a violation occurred, other than a violation that threatens the public safety or health, the Association will send the Owner a Notice of Violation informing the Owner that the Owner has thirty (30) days to cure the violation, or the Association, after conducting an inspection and determining that the violation has not been cured, may impose a Fine. The Notice of Violation must be sent by certified mail, return receipt requested. The Association may send additional copies of the notice by first-class mail, email, text message to a cellular number that the Association has on file because the Owner has provided the number to the Association, and/or hand-delivery.

(B) After thirty (30) days, if the Association has not received notice from the Owner that the violation has been cured, the Association will inspect the Unit within seven (7) days of the initial 30-day cure period. After inspection, if the Association determines that the violation has not been cured, the Association may impose the Fine stated in the Notice of Violation and will send a second Notice of Violation with a second 30-day cure period.

(C) After the second 30-day cure period, if the Association has not received notice from the Owner that the violation has been cured, the Association will inspect the Unit within seven (7) days of the second 30-day cure period. After inspection, if the Association determines that the violation has not been cured, the Association may impose a second Fine in accordance with Fine schedule below, send additional notices and opportunity to cure, and/or commence legal action. The Association may not commence legal action until the second 30-day cure period has elapsed.

(D) If an Owner cures the violation within the required cure period, the Owner may notify the Association in writing, including visual evidence that the violation has been corrected. If the Owner provides visual evidence of the cure, the violation will be deemed cured on the date the Owner sends the notice. If the Owner does not provide visual evidence of the cure, the Association will inspect the Unit as soon as practicable to determine if the violation has been cured. If the visual evidence provided is insufficient for the Association to determine if a violation has been cured, at the Association's sole discretion, the Association can provide notice to the Owner that it intends to inspect the Unit to verify the violation has been cured.

Section 8.6 **Additional Required Notices**. If an Owner cures a violation, the Association will notify the Owner: (i) of any outstanding Fine balance owed to the Association, and (ii) that the Owner will not be further fined with regard to the violation.

Section 8.7 **Request for Hearing**. If an Owner desires a hearing to contest any alleged violation and possible Fine or to discuss any mitigating circumstances, the Owner must request the hearing, in writing, prior to the deadline stated in the Notice of Violation. The request for hearing should describe the grounds and basis for challenging the alleged violation or the mitigating circumstances. If a timely request for a hearing is not made, the right to a hearing is deemed forever waived. If a hearing is not requested by the deadline, the Board will determine if there was a violation based upon the information available to it, and if so, assess a Fine as set forth in the Fine schedule upon expiration of any applicable cure period(s).

Section 8.8 **Board to Conduct Hearing**. The Board will hear and decide cases set for hearing pursuant to the procedures set forth in this policy. The Board may appoint an officer or other Owner to preside at any hearing.

Section 8.9 **Conflicts**. Any Owner who desires a hearing will be afforded a fair and impartial fact-finding process by "impartial decision makers" (persons with authority to make a decision on a claimed covenant, rule, or architectural violation and without a direct personal or financial interest in the outcome of the hearing). Any decision-maker who is incapable of objective and disinterested consideration will disclose this to the presiding officer prior to the hearing, if possible. If advance notice is not possible, the disclosure will be made at the hearing, and the decision-maker will be disqualified from all proceedings related to the hearing. If disqualification of any decision-maker results in an even number of individuals eligible to hear a case, the presiding officer may appoint an Association member, in good standing, to serve as a voting member of the hearing panel.

Section 8.10 **Hearings**.



Second violation:	\$150
Third violation:	\$300

A Notice of Violation may be sent for any first violation. Additional or subsequent violations of the same covenant or rule occurring within one year from the date of the first Notice of Violation will be considered repeat or recurring violations, subject to additional Fines as set forth above. After the one-year period, any subsequent occurrence of the same violation will be treated as a new first violation.

(C) Continuing Violation Fine Schedule. For any violation that does not threaten public safety or health and is continuing in nature, the Association may impose Fines in accordance with the general Fine schedule or the Association may impose Fines on a weekly or monthly basis in the amount of \$25 per week or \$100 per month up to a maximum of \$500.00. The Association may impose a Fine every other day in the amount of \$100 for violations that threaten public safety or health until the violation is cured.

For purposes of this policy, a violation is considered “continuing in nature” if the violation is uninterrupted by time or, by the nature of the violation, it occurs at such frequency to create a continuous pattern of occurrence.

Section 8.14 **Waiver of Fines**. The Board may waive all, or any portion, of the Fines if, in its sole discretion, such waiver is appropriate under the circumstances. Additionally, the Board may condition waiver of the entire Fine, or any portion thereof, upon the violator coming into and staying in compliance with the Condominium Documents.

Section 8.15 **Other Enforcement Means**. This Fine schedule and the enforcement process is adopted in addition to all other enforcement means which are available to the Association through the Declaration, Articles of Incorporation, Bylaws and Colorado law. The use of this process does not preclude the Association from using any other enforcement means.

Section 8.16 **Exceptions**. Notwithstanding any provision of this policy to the contrary, the Board and the Managing Agent may:

(A) summarily evict Owners and Occupants for violation of the Rules and Regulations in order to protect the health, safety and quiet enjoyment of the Project by the Owners, Occupants, Association officers, employees and representatives;

(B) use any legal means available at any time to enforce the terms of the Condominium Documents. All Fines imposed by the Association shall become an obligation of the Owner in the same manner as Assessments for Common Expense Liability, as provided by Colorado statute.

(C) recover reasonable costs and attorneys' fees in the event it prevails in an action brought against an Owner to enforce the Rules and Regulations. Owners and Occupants will be responsible for all damages to the Unit, Common Elements, and their furnishings, or to other areas of the Project as a result of their actions.

Section 8.17 **Failure to Enforce**. The Association's failure to enforce the Condominium Documents is not a waiver of the right to enforce for any subsequent violations.

Section 8.18 **Severability**. Whenever possible, each provision of this policy shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this policy is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this policy.

Section 8.19 **Administrative Expenses**. Costs of Enforcement imposed by the Association or its Managing Agent, related to covenant and rule enforcement will be the obligation of the Owner and may be posted to the Owner's account. Examples include but are not limited to, certified mailings or costs to translate a notice to a language other than English.

## IX. Miscellaneous

Section 9.1 **Waiver**. Failure by the Association to enforce any provision of these Governance Policies shall in no event be deemed to be a waiver of the right to do so thereafter.

Section 9.2 **Severability**. In the event a court of competent jurisdiction finds any provision of these Governance Policies void or otherwise unenforceable, the other provisions shall remain in full effect.

Section 9.3 **Supplement to Law**. The provisions of these Governance Policies shall be in addition to and in supplement of the terms and provisions of the Declaration and the applicable law of the State of Colorado.

Section 9.4 **Deviations**. The Board may deviate from the procedures set forth in these Governance Policies if in its sole discretion such deviation is reasonable under the circumstances or such deviation is permitted under applicable law, as amended from time to time.

*[End of Responsible Governance Policies]*

**EXHIBIT A**

**NOTICE OF INTENT TO INSPECT AND COPY ASSOCIATION RECORDS**

This Notice of Intent to Inspect and Copy Association Records form shall be completed pursuant to the Association's Records Inspection Policy

*Date of Request:* \_\_\_\_\_

*Date you would like to review the records:* \_\_\_\_\_

*Person(s) Requesting Association Records:* \_\_\_\_\_

*Unit Number of Person(s) Requesting Association Records:* \_\_\_\_\_

**If the Person(s) requesting Association Records is not a member of the Imperial Hotel and Private Residences Owners Association, Inc., please attach appropriate documentation showing that the Person requesting Association Records is authorized to inspect and copy such records.**

**Please note that all costs of inspection and any authorized copies must be paid in advance by the person requesting them.**

**Review of Records. Please include type of record, date of record, any specifics that will identify the information you would like.**

<b><u>Record</u></b>	<b><u>Date</u></b>
_____	_____
_____	_____
_____	_____
_____	_____

**Copies of Records. Please indicate those records for which you request copies.**

<b><u>Record</u></b>	<b><u>Date</u></b>
_____	_____
_____	_____
_____	_____
_____	_____

**Please state the reason you wish to review or obtain copies of the above Association's records.**

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*Name:* \_\_\_\_\_

*Date:* \_\_\_\_\_

*Address:* \_\_\_\_\_

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*Authorized by:* \_\_\_\_\_