

ATHOC

CODE OF PRACTICE

This Code of Practice establishes fair trading standards for the Timeshare Industry and for the Members of ATHOC. This Code of Practice is endorsed by the following:

- Australian Securities Commission
- Australian Competition & Consumer Commission
- Victorian Office of Fair Trading and Business Affairs, a Division of the Department of Justice

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AUSTRALIAN TIMESHARE & HOLIDAY OWNERSHIP COUNCIL LIMITED

A.C.N. 065 260 095

("ATHOC")

CODE OF PRACTICE

- 1.0 PURPOSE OF THIS CODE OF PRACTICE
- 1.1 This Code of Practice has been developed by ATHOC in consultation with the Australian Securities Commission, the Australian Competition & Consumer Commission and other regulatory and consumer affairs agencies and bodies to enhance the objects for which ATHOC was established and in particular to promote and maintain the highest standards of conduct by all participants in the Industry and to maintain and enhance public confidence in the Industry.
- 1.2 Membership of ATHOC is divided into the following categories:
 - 1.2.1 Promoters and Developers;
 - 1.2.2 Resort Committees and Trust Managers;
 - 1.2.3 Resident Managers and Resort Management Companies;
 - 1.2.4 Exchange Companies;
 - 1.2.5 Sales and Marketing Companies; and
 - 1.2.6 Professional Advisors.
- 1.3 This Code of Practice sets out the minimum standards of conduct and practice for all participants in the Industry with the intent that, at the earliest possible date, all participants in the Industry will become Members.
- 1.4 Acceptance and observance of both this Code of Practice and the Code of Ethics is a condition of membership of ATHOC and each Member agrees to submit to and to comply with both the letter and the spirit of each of this Code of Practice and the Code of Ethics and to ensure that their dealings are consistent both with the highest standards in and the best practice of the Industry.
- 1.5 Members must ensure that all their Representatives are fully conversant with the provisions of both this Code of Practice and the Code of Ethics. In the absence of exceptional circumstances, Members shall be fully responsible for the actions of their Representatives in the marketing and sale of timeshares.
- 1.6 Specifically, this Code of Practice is to assist Members to:
 - 1.6.1 ensure that they possess a thorough knowledge of and have due regard for the requirements of the Public by responsibly informing them about the Product and the Industry; and
 - 1.6.2 ensure that all information is presented in a clear, accurate and balanced way and is based upon adequate data; and
 - 1.6.3 ensure that the highest standards consistent with best practice in the Industry are employed in dealings and relationships; and
 - 1.6.4 ensure that they are aware that commercially significant sanctions will apply

for Members who are in breach of this Code of Practice; and

- 1.6.5 ensure that whenever a Promotional Claim is made for a Product, it must be accompanied by appropriate Product Information.
- 1.7 This Code of Practice shall be supervised and administered by the Code Administration Committee which may issue determinations from time to time relating to the interpretation of certain parts of this Code of Practice.
- 1.8 This Code of Practice deals also with complaint and dispute resolution procedures.
- 1.9 Failure to comply with either this Code of Practice or with the Code of Ethics will result in sanctions being applied under either or both of the Articles of Association of ATHOC and/or this Code of Practice. Compliance with this Code of Practice in no way diminishes Members' responsibilities to comply with relevant Commonwealth, State and Territory legislation.
- 1.10 In Australia, timesharing schemes are primarily regulated as "prescribed interests" under the Corporations Law and the Corporations Regulations. The ASC also issues Practice Notes and Policy Statements from time to time, some of which are also relevant to timesharing schemes as are the provisions of various Credit Codes and consumer and trade practices legislation at Commonwealth, State and Territory level.
- 1.11 Types of timesharing schemes include real property timesharing schemes and personal property timesharing schemes. Whilst the latter generally include pleasure cruisers or houseboats, the former may include the following:
 - 1.11.1 title-based timesharing schemes where a Purchaser becomes a tenant in common with the right to a share of the real property and ownership is evident by a certificate of title to the real property and share in or membership of a Club; and
 - 1.11.2 company structured timesharing schemes where the Purchaser holds a share in the company that owns and operates the Resort; and
 - 1.11.3 "right to use" timesharing schemes where the Purchaser acquires the right to occupy the Resort (under a lease, licence, share or by some other means) and the developer retains ownership of the property; and
 - 1.11.4 unit-trust or other trust based timesharing schemes where a property is acquired by a trustee and held on behalf of participants for a defined period; and
 - 1.11.5 other types of timesharing schemes.

Point-based schemes, even though they may not be referred to as timesharing schemes are generally considered to be subject to regulation as timesharing schemes.

2.0 GENERAL PRINCIPLES OF CONDUCT

- 2.1 Members shall not engage in any unfair commercial practice or unconscionable conduct.
- 2.2 Members shall at all times ensure that they and their respective Representatives are familiar with and comply with the Memorandum and Articles of Association of ATHOC, this Code of Practice, the Code of Ethics and the relevant provisions of Commonwealth, State and Territory legislation which relate to the Industry and that their respective Representatives are and continue to be trained on all matters relevant to that part of the Industry in which that Member is involved.

- 2.3 Members shall comply at all times with the provisions of such other codes as may from time to time be developed and/or endorsed by ATHOC.
- 2.4 Members will at no time make statements that may lead the Public to forego appropriate legal, financial or other appropriate advice with respect to the Product or the Industry.
- 2.5 Members shall refrain from any unfair, misleading or deceptive criticism of the practices of other Members.
- 2.6 Members shall fully co-operate with ATHOC in supplying to or on behalf of ATHOC factual, statistical or other information relating to the Product or the Industry when so requested by ATHOC or by any person duly authorised by ATHOC.
- 2.7 Members shall not write, speak or act in such a way as to lead any person to reasonably believe that the Member is officially representing ATHOC, unless the Member has been duly authorised so to do by ATHOC.
- 2.8 Members or applicants for membership (to the extent bound) shall not misrepresent the credentials or affiliations which they purport to hold.
- 2.9 Members may advertise that they are Members of ATHOC and that they are bound by this Code of Practice and by the Code of Ethics.
- 2.10 Members agree to maintain adequate stocks of this Code of Practice and the Code of Ethics and to make copies available to any member of the Public upon request.
- 2.11 ATHOC may, by reasonable notice to a Member and at reasonable times so as not to cause undue interference to the Member's business, by such person or persons as ATHOC may nominate, inspect the Member's premises, records and equipment in order to ascertain whether such Member is complying with the provisions of this Code of Practice and the provisions of the Code of Ethics. In any such inspection, the Member shall afford to ATHOC and its nominee or nominees, such assistance as ATHOC and its nominee or nominees may reasonably require. If the Member denies ATHOC and its nominee or nominees inspection of any part of the Member's premises, records and equipment for reasons relating to confidentiality or privilege and this is not proved by the Member to the reasonable satisfaction of ATHOC, ATHOC may take such denial to be non-compliance by that Member with the provisions of this Code of Practice or with the provisions of the Code of Ethics.

3.0 ADVERTISING, PROMOTION, SALES AND MARKETING

- 3.1 Members must ensure that any primary offer of Timeshares is accompanied by all the information which Purchasers and their professional advisors would reasonably require for the purpose of making an informed decision, taking into account the merits and risks of participation in the scheme and the general nature of the Timeshares being offered and in particular:
 - 3.1.1 a description of the legal mechanism whereby Purchasers' rights are secured; and
 - 3.1.2 disclosure of matters relating to a developer, operator of the scheme or Club, including their financial position, whether or not they are parties to any relevant trust deed; and
 - 3.1.3 the final date for completion of the development or stage of development.

- 3.2 Advertising and promotional material and all Product Information and promotional claims must be presented in a clear, accurate and balanced way and must be based upon adequate data. To the greatest degree possible, all such material must clearly identify the source of that material by specifying the Member's (or other relevant person's) name, address, telephone number and facsimile number.
- 3.3 Members shall not knowingly misrepresent the benefit, costs, limitations or suitability of any Product or of the Industry, whether the Product is offered by that Member or by any other person.
- 3.4 In recommending any Product or any part of the Industry to another person, Members shall not knowingly misrepresent or conceal any material limitations on the perceived ability of the Product to meet the expressed or implied needs of that person.
- 3.5 Any offer documents for Timeshares (whether intended to be Primary Sales or Secondary Sales) shall include a provision allowing Purchasers to cancel the Contract by written notice to the offeror within a period of 5 business days from the later of the date of signing the Contract or the date of receipt of the signed Contract or such other period as the Law may from time to time require, and such provision shall be brought to the attention of Purchasers at the time of purchase.
- 3.6 Members involved in the sale of Timeshares (whether Primary Sales or Secondary Sales) shall disclose or ensure disclosure of any listing fee and the amount of any such listing fee which is payable by the vendor and any commission and the amount of any such commission which is payable to a proper authority holder in respect of the sale of a Timeshare.
- 3.7 Marketing by Members or their Representatives that includes an offer of Incentives to the Public must comply with the following requirements, to the extent that such requirements are not otherwise inconsistent with, adverse to or in breach of any Commonwealth, State or Territory law:
 - 3.7.1 disclosure of:
 - 3.7.1.1 the purpose of the promotion;
 - 3.7.1.2 the eligibility requirements to obtain the Incentive;
 - 3.7.1.3 any restrictions on the right to receive the Incentive;
 - 3.7.1.4 whether the purchase of a Timeshare or other product is necessary to receive the Incentive;
 - 3.7.1.5 whether participation in a sales presentation or tour of a Resort is necessary to receive the Incentive and the approximate duration of any such sales presentation or tour;
 - 3.7.1.6 the full name, address and contact particulars of both the Member and the promoter;
 - 3.7.1.7 any relevant permit number and condition of the permit as applicable in the relevant State or Territory of Australia;
 - 3.7.1.8 any other relevant disclosures reasonably required to fully inform the Public;
 - 3.7.2 if Incentives are offered:
 - 3.7.2.1 such Incentives shall not be offered in any manner that tends to mislead or deceive the Public as to the true nature, value, size or kind

- of the Incentives;
- 3.7.2.2 if Incentives are substituted, this fact shall be disclosed and substitution shall be of an Incentive of equal or greater value;
- 3.7.2.3 if the Incentives or their substitutes cannot be delivered at the time represented, they must be delivered within 30 days thereafter without any additional cost or obligation to the Public;
- 3.7.2.4 Incentives must include at least one of each type of Incentive offered;
- 3.7.2.5 if Incentives include trading stamps or coupons, any local law relating to the use of trading stamps and coupons must be complied with;
- 3.7.3 fictitious contests or similar schemes shall not be used for marketing purposes.
- 3.8 Marketing by Members or their Representatives, whether or not including an offer of Incentives to the Public, must comply with at least the following requirements:
 - 3.8.1 if a sales presentation is to be made to proposing Purchasers, this fact should be disclosed to the proposing Purchasers at the point of contact together with important details regarding the sales presentation. Such details must include particulars as to the duration of the sales presentation and any tour, the location of the sales presentation and any tour and whether the proposing Purchaser is able to leave the sales presentation or the Resort at any time;
 - 3.8.2 in the event that the proposing Purchaser indicates an unwillingness to proceed with the sales presentation or the tour of the Resort, such unwilling proposing Purchaser is to be afforded a reasonable opportunity to take no further part in the sales presentation or the tour of the Resort;
 - 3.8.3 proposing Purchasers shall be advised that the Member is a Member of ATHOC and is bound by this Code of Practice, a copy of which the Member shall provide to the proposing Purchaser if so requested.
- 3.9 All lead generation and promotional material for the marketing of Timeshares and all Promotional Claims must state that the Resort in which Timeshares are being promoted is a Timeshare Resort or is identified by some alternative words which indicate holiday ownership or a variation approved by ATHOC.
- 3.10 In connection with the advertising, promotion, sales and marketing of Timeshares and related products, Members shall ensure that Timeshares are not referred to either expressly or impliedly as financial investments. Members shall also ensure that any representations made about the potential resale price or rental income of a Timeshare is clear, accurate and based on adequate and substantiated data.
- 3.11 Members shall make accurate disclosure of Levies or anticipated Levies payable on the relevant Timeshare.
- 3.12 Members offering Timeshares for sale (whether Primary Sales or Secondary Sales) shall ensure that any purchase moneys are held in a trust account until such time as the Purchaser receives documents sufficient to pass good title to the Purchaser.
- 3.13 Members or their Representatives associated with the promotion of a Resort or Timeshares relating to that Resort shall observe the following guidelines with respect to Off Premises Contact ("OPC"). Such Members or such Representatives shall:

- 3.13.1 have positive identification in badge form showing their name, their employer and/or the name of the Resort;
 - 3.13.2 be well mannered and courteous;
 - 3.13.3 be limited to a reasonable number per Resort in the area;
 - 3.13.4 not solicit in non-public areas uninvited, nor stop cars;
 - 3.13.5 not harass or follow members of the Public;
 - 3.13.6 obey local authority ordinances.
- 3.14 Members shall not make representations that there is a limited time for the Public to accept the terms of an offer when this is not the case in practice.
- 3.15 Members shall ensure that all their advertising, promotion and Promotional Claims are not false and are not misleading or deceptive nor are they likely to mislead or deceive.
- 3.16 No advertisement, promotion or Promotional Claim shall denigrate or unfairly attack any other Products or other sectors of the Industry.

4.0 CLUB COMMITTEES

- 4.1 Club Committees shall provide within 14 days of a request by a member (or such other period prescribed by Law) such information required by Law to facilitate Secondary Sales. The Club Committee may charge that member a reasonable fee for the information which must not exceed the amount which may from time to time be prescribed by the Law.
- 4.2 Club Committees shall ensure that their members are fully informed of the rules and regulations relating to the Resort and changes to those rules and regulations, as well as changes to articles of association or trust deeds.
- 4.3 Club Committees shall not unfairly discriminate between members of the same class in the articles of association or trust deed, or in the rules and regulations of a Resort.
- 4.4 Club Committees should allocate sufficient funds to maintain the quality and level of amenity of a Resort, unless the contrary is approved by a majority of members. Resort budgets or Levies should include adequate provisions for refurbishment and capital replacement to maintain the standard of the Resort, and where there is a policy not to provide for refurbishment and capital replacement, this fact shall be disclosed by the Club Committee to members by way of written notice in a newsletter or by such further or other means as the Club Committee may determine.
- 4.5 Club Committees should make provisions in the articles of association or the trust deed or any other constituent document of a Resort for the recovery of unpaid moneys from non-financial members and, where appropriate, for the resale of the interest of a non-financial member and the accounting to that member for the proceeds of sale after deduction of the amount owing and any other deductions authorised under any of the constituent documents.
- 4.6 Club Committees shall:
- 4.6.1 perform their role in accordance with Industry best practice and in the interests of members;
 - 4.6.2 maintain record keeping and disclosure procedures in accordance with Industry best practice; and

4.6.3 ensure that, with respect to the management and operation of the Resort and the Resort property, there is compliance with all relevant and applicable laws, rules and regulations including, but without limitation, rules, regulations and by-laws of any relevant and competent local authority.

5.0 RESIDENT MANAGERS & RESORT MANAGEMENT COMPANIES

5.1 Resident Managers and Resort Management Companies shall conduct themselves in a professional manner and at all times work in the best interests of the Resort and the Resort members. Where a conflict between the interests of the Resort or Resort members and the Resident Manager or Resort Management Company arises, the Resident Manager or the Resort Management Company shall disclose the conflict to the Club Committee responsible for the Resort and the Club Committee, having regard to the constituent documents of the Resort and any binding agreement between the Club Committee and the Resident Manager or the Resort Management Company, shall resolve the issue and if such constituent documents or such agreements are silent as to the issue, the Club Committee shall determine the issue having regard primarily to the interests of the Resort or Resort members.

5.2 Resident Managers and Resort Management Companies shall:

5.2.1 perform their role in accordance with Industry best practice and in the interests of members; and

5.2.2 maintain record keeping and disclosure procedures in accordance with Industry best practice.

6.0 EXCHANGES

6.1 Exchange programmes in which other location usage rights or privileges are offered as a secondary benefit to the Public in the advertising, promotion, marketing or sale of a Timeshare or Exchange programmes which are presented to the Public or to any other person by an Exchange Organisation must be presented in a clear, accurate and balanced way, based upon adequate data and all material information provided.

6.2 Members must not represent opportunities in respect of Exchanges which are greater than those capable of being delivered.

6.3 Members making representations to the Public relating to an Exchange programme shall ensure that the Public are provided with information on the Exchange programme material to the purchase by the Public of a Timeshare or other entitlement to the Exchange programme with such information being provided by the Exchange Organisation and which information shall include at least the following and be otherwise presented in a clear, accurate and balanced way, based upon adequate data:

6.3.1 name and address of the Exchange Organisation;

6.3.2 a statement as to whether the Purchaser's contract with the Exchange Organisation is separate and distinct from the contract for purchase of the Timeshare;

6.3.3 disclosure as to whether the Purchaser's participation in the Exchange programme is dependent upon continued affiliation of the Resort with the Exchange Organisation;

- 6.3.4 a statement as to whether the Purchaser's participation in the Exchange programme is voluntary or mandatory;
 - 6.3.5 a description of the qualification procedure for Exchanges;
 - 6.3.6 a description of limitations, restrictions or priorities used in the operation of the Exchange programme including limitations based upon seasonality, unit size and occupancy level;
 - 6.3.7 whether Exchanges are arranged on a space-available basis and whether any guarantees of fulfilment of specific requests are made by the Exchange Organisation;
 - 6.3.8 the fees for participation by Purchaser in the Exchange programme;
 - 6.3.9 whether and under what circumstances a Purchaser may lose that Purchaser's occupancy rights in the home Resort without receiving the Exchange or reasonable substitute accommodation from the Exchange Organisation;
 - 6.3.10 a clear, accurate and balanced description of other material terms and conditions of the Purchaser's contractual relationship with the Exchange Organisation based upon accurate data and information.
- 6.4 An Exchange Organisation shall ensure at all times that it can meet its liability to supply the Exchange in accordance with its representations.
- 6.5 Exchange Organisations shall ensure that their members or clients are fully informed on a timely basis of the rules and regulations relating to the Exchange programme and changes to those rules and regulations and of any changes in membership or other fees and charges.
- 7.0 COMPLAINTS
- 7.1 Members will appoint a responsible person within their organisation to ensure that the provisions of this Code of Practice are complied with. This person will also bring to the attention of the Member any complaints received by that Member about the Product or the Industry and the Member shall maintain a register of such complaints ("the Complaints Register").
- 7.2 Members shall complete and lodge annually with ATHOC on such date or dates as may be determined by ATHOC from time to time on the form from time to time prescribed by ATHOC ("the Complaints Return") containing a summary of all complaints received by that Member in the immediately preceding year and which have been recorded in the Complaints Register and also containing such further or other information as ATHOC may from time to time prescribe. The Complaints return shall be fully completed and shall include a description of each complaint received by that Member and a statement as to whether or not each complaint has been resolved to the satisfaction of each complainant and if not, particulars as to the action taken or being taken to resolve the complaint or complaints.
- 7.3 Any complaint made against a Member which alleges a breach of this Code of Practice or of the Code of Ethics must be reported by that Member in writing to the Code Administration Committee within fourteen (14) days of that Member becoming aware of that complaint.
- 7.4 Members will co-operate with ATHOC, to the extent from time to time required by ATHOC, in the investigation of complaints relating to the Product, the Industry or

another Member or any problems which may from time to time arise with respect to the provisions of this Code of Practice and the Code of Ethics or any further or other investigations from time to time conducted by or on behalf of ATHOC.

- 7.5 Members shall report in writing to the Code Administration Committee any act allegedly prohibited by this Code of Practice within fourteen (14) days of becoming aware of such alleged act.
- 8.0 CODE ADMINISTRATION COMMITTEE
- 8.1 ATHOC shall establish the Code Administration Committee to administer this Code of Practice and which will comprise three (3) members, two of whom shall be members of the Board appointed by the Board and the third of whom shall also be appointed by the Board and shall be a representative of a Regulatory Agency or a Consumer Agency or a suitably qualified and experienced member of the public who is not a Member. The chairperson of the Code Administration Committee shall be the member who is not a Member.
- 8.2 Code Administration Committee members shall hold office for a period of one (1) year or such other period as the Board may determine and shall each be eligible for re-appointment.
- 8.3 Members of the Code Administration Committee are eligible for appointment to the Complaint Resolution Committee.
- 8.4 The Code Administration Committee shall meet at least twice in each year or so often as the occasion may require.
- 8.5 The Code Administration Committee shall be responsible for at least the following:
- 8.5.1 to monitor the operation and effectiveness of the Code of Practice and to develop guidelines, policies and procedures for the promotion and application of this Code of Practice throughout the Industry and to establish and enhance recognition by the Public of this Code of Practice;
 - 8.5.1 to monitor the operation, administration and effectiveness of the complaints handling procedures in consultation with Complaints Resolution Committee;
 - 8.5.3 to prepare and publish an annual Compliance Report as to the operation of this Code of Practice with particular emphasis on the Industry's response to complaints and complaint handling;
 - 8.5.4 to the extent from time to time directed by the Board, to conduct a regular review of complaints and other issues raised within the Industry concerning advertising, marketing, promotion and selling practice and such further or other issues as may be raised from time to time by Members, the Public, any Regulatory Agency or Consumer Agency;
 - 8.5.5 to collect and collate statistical and other data and information relating to complaints. With respect to complaints, the data kept and maintained by the Code Administration Committee shall include at least the following:
 - 8.5.5.1 the number of complaints lodged directly with ATHOC, by and against whom; and
 - 8.5.5.2 a summary of the complaints referred to in the Complaints Returns lodged by Members; and

- 8.5.5.3 the subject matter, Member class, seriousness of complaint and current status of each complaint; and
 - 8.5.5.4 details of any action taken by ATHOC or by any other person; and
 - 8.5.5.5 the number and percentage of complaints found not to be in breach of this Code of Practice or the Code of Ethics and the reason for this; and
 - 8.5.5.6 the time taken to deal with complaints against Members; and
 - 8.5.5.7 the number of items monitored under each category; and
 - 8.5.5.8 the number of breaches found through monitoring; and
 - 8.5.5.9 the number and type of sanctions imposed;
- 8.5.6 to prepare at least annually, for submission to and consideration by the Board, an operating budget for this Code of Practice and for the Complaint Resolution Committee to embrace at least the cost of operation and promotion of this Code of Practice with the intent that the Industry shall fully fund or cause to be fully funded the cost of operation and promotion of this Code of Practice.
- 8.6 The Code Administration Committee shall report in writing to the Board at least annually on the nature, extent and effectiveness of its operation and activities by way of a Compliance Report. Such Compliance Report will include at least the following information:
- 8.6.1 particulars of all persons who have agreed to comply with this Code of Practice and with the Code of Ethics and have been registered in the Register of Compliance; and
 - 8.6.2 the names of persons who have been removed from the Register of Compliance and the date and nature of such removal; and
 - 8.6.3 particulars as to the administration, operation and effectiveness of this Code of Practice and of the Code of Ethics; and
 - 8.6.4 the number and general nature of all complaints received, whether the complaints were substantiated and the outcome of such complaints.
- 8.7 With respect to the Compliance Report prepared by the Code Administration Committee, the Board shall:
- 8.7.1 include a copy of the Compliance Report either at the time of lodging its annual return with the ASC or so soon thereafter as may be practicable in all the circumstances; and
 - 8.7.2 provide a copy of the Compliance Report to each Member, whether by publication in a newsletter or by such other means and at such time as the Board may determine; and
 - 8.7.3 provide a copy of the Compliance Report to such Regulatory Agencies, Consumer Agencies or members of the Public as the Board may determine and at such time as the Board may determine with the intent that a copy of the Compliance Report be distributed widely to interested parties.
- 8.8 In complying with its obligations under this Code of Practice, the Code Administration Committee may appoint such persons (whether or not Members), delegate such of its

functions and responsibilities and obtain such advice and assistance as it, from time to time, deems reasonably necessary in all the circumstances.

- 8.9 If a member of the Code Administration Committee retires or is removed from office or is prevented either temporarily or permanently, by reason of ill health, conflict of interests, or howsoever otherwise from acting or continuing to act as a member, a substitute member shall be appointed by the Board either from other Board members (if the office vacated was by a member of the Board) or from a Regulatory Agency or a Consumer Agency in any other case, either temporarily or permanently or otherwise as the Board may determine.
- 8.10 The Code Administration Committee shall establish and maintain Registers of Members divided into the following categories or such further or other categories as the Board may from time to time determine:
- 8.10.1 Promoters and Developers;
 - 8.10.2 Resort Committees and Trust Managers;
 - 8.10.3 Resident Managers and Resort Management Companies;
 - 8.10.4 Exchange Companies;
 - 8.10.5 Sales and Marketing Companies; and
 - 8.10.6 Professional Advisors.

Such Registers of Members divided by categories shall be made available by ATHOC to its Members and any other person within a reasonable time after request.

9.0 COMPLAINT RESOLUTION COMMITTEE

- 9.1 ATHOC shall establish the Complaint Resolution Committee to administer the complaint resolution procedures in this Code of Practice and which will comprise three (3) members, two of whom shall be members of the Board appointed by the Board and the third of whom shall also be appointed by the Board and shall be a representative of a Regulatory Agency or a Consumer Agency or a suitably qualified and experienced member of the public who is not a Member. The chairperson of the Complaint Administration Committee shall be the member who is not a Member.
- 9.2 Complaint Resolution Committee members shall hold office for a period of one (1) year or such other period as the Board may determine and shall each be eligible for re-appointment.
- 9.3 Members of the Complaint Resolution Committee are eligible for appointment to the Code Administration Committee.
- 9.4 The Complaint Resolution Committee shall meet so often as the occasion requires to deal with complaints or appeals (as the case may require) under this Code of Practice or for any other necessary purpose.
- 9.5 All complaints made or referred to ATHOC by any person (other than be a Member about another Member) relevant to the Industry or any complaints made or referred by any member of the Public or any Regulatory Agency or any Consumer Agency about or involving any Member or any other person in the Industry shall be referred to the Complaint Resolution Committee as soon as practicable.
- 9.6 All complaints made or referred to ATHOC by a Member about another Member shall

be referred to the Board for determination and any appeal from the determination of the Board shall be heard and decided by the Complaint Resolution Committee. Any current member of the Complaint Resolution Committee shall be disqualified for the purpose of hearing or deciding the complaint made or referred to the Board other than for the purposes of hearing or deciding any appeal from the determination of the Board.

- 9.7 In complying with its obligations under this Code of Practice, the Complaint Resolution Committee may appoint such persons (whether or not Members), delegate such of its functions and responsibilities and obtain such advice and assistance as it, from time to time, deems reasonably necessary in all the circumstances.
- 9.8 If a member of the Complaint Resolution Committee retires or is removed from office or is prevented either temporarily or permanently, by reason of ill health, conflict of interests, or howsoever otherwise from acting or continuing to act as a member, a substitute member shall be appointed by the Board either from other Board Members (if the office vacated was by a member of the Board) or from a Regulatory Agency or a Consumer Agency in any other case, either temporarily or permanently or otherwise as the Board may determine.
- 9.9 The Complaint Resolution Committee shall establish guidelines and policies for its own operation and these guidelines and policies (as amended and enforced from time to time) shall be provided to the Board, made available to Members and other participants in the Industry and to such Regulatory Agencies, Consumer Agencies and other persons as the Complaint Resolution Committee determines with the intent that such guidelines and policies be circulated widely to inform Members and the Public about the availability of complaints resolution and to encourage the use of the complaint handling procedures established.
- 9.10 The Complaint Resolution Committee and the Board, in addition to dealing with complaints made after the adoption of this Code of Practice, may deal with complaints which arose within two (2) years of the adoption of this Code of Practice or earlier with the agreement of the complainant and the Member against whom the complaint has been made.
- 10.0 COMPLAINT HANDLING PROCEDURES
- 10.1 All complaints, whether concerning Members or non-Members will be dealt with expeditiously.
- 10.2 All complaints received from any source and by whatever means or mode of communication must be recorded promptly and full details provided and recorded, in each case making use of the Guidelines for Complaints ("Annexure 1").
- 10.3 Complainants are encouraged to initially refer any complaint relating to a Member to that Member. Upon receipt of any such complaint, the Member shall promptly refer the complaint to the nominated complaints officer of that Member who is familiar with this Code of Practice. Such complaints officer must make every effort to deal both promptly and fairly with the complaint and to seek to resolve the complaint by negotiation with the complainant. If within fourteen (14) days of the date of receipt of the complaint by the Member, the complaint has not been resolved to the satisfaction of the complainant, the Member must provide to the complainant a copy of the Guidelines for Complaints.
- 10.4 Should a complaint not have been resolved to the satisfaction of the complainant within

the fourteen (14) day period, the complainant may send written details of the complaint together with all relevant documentation to ATHOC which shall acknowledge receipt of the written complaint to the complainant within fourteen (14) days of receipt of the complaint and which shall provide to the complainant a copy of the Guidelines for Complaints.

- 10.5 All complaints by Members against other Members must be referred to ATHOC for determination by the Board. Appeals from any such determination by the Board must be referred to the Complaint Resolution Committee for determination. All other complaints must be referred to the Complaint Resolution Committee for determination.
- 10.6 The Member that is the subject of the complaint ("Subject Member") shall be provided with full details of all information and documents provided to the Complaint Resolution Committee or the Board, as the case may require. The Subject Member must provide to the Complaint Resolution Committee or the Board, as the case may require, within fourteen (14) days of request, such documents and information as is relevant to the complaint or is otherwise required by the Complaint Resolution Committee or the Board, as the case may require.
- 10.7 Both the complainant and the Subject Member shall provide to the Complaint Resolution Committee or the Board, as the case may require, or any of their respective members or their respective nominees, within fourteen (14) days of a request, such further or other information, documents or materials as is considered necessary or desirable for the full investigation of the complaint.
- 10.8 If the Complaint Resolution Committee or the Board, as the case may require, after making such further enquiry as it deems necessary or desirable, determines that a breach of this Code of Practice or the Code of Ethics has occurred, it shall specify the provision of this Code of Practice or of the Code of Ethics found to be breached and shall provide reasons for its determination and shall also specify the form of sanction to be applied to the Subject Member.
- 10.9 The Complaint Resolution Committee or the Board, as the case may require, shall forthwith notify ATHOC of the determination of the Complaint Resolution Committee or the Board, as the case may require and shall provide a copy of the minutes of the proceedings and the Secretary of ATHOC shall, by no later than seven (7) days thereafter, notify in writing to the Subject Member and the complainant of the determination of the Complaint Resolution Committee or the Board, as the case may require, the reasons for that determination and the form of sanction (if any) to be applied to the Subject Member. ATHOC may provide to any other persons with a direct interest in the outcome of the complaint such particulars as ATHOC may determine with respect to the complaint and its outcome.
- 10.10 If the Complaint Resolution Committee or the Board, as the case may require, determines that no breach of this Code of Practice or the Code of Ethics has occurred, it will notify ATHOC who will, within seven (7) days, notify the parties concerned and also supply them with the minutes of the proceedings of the Complaint Resolution Committee or the Board, as the case may require.
- 10.11 A Subject Member who has been found to be in breach of this Code of Practice or of the Code of Ethics and/or has had a sanction imposed in accordance with the provisions of this Code of Practice may lodge an appeal in writing against the determination of the Complaint Resolution Committee or the Board, as the case may require, and/or the sanction that has been imposed. An appeal, in writing, must be lodged by the Subject Member within seven (7) days of receipt by that Member of written notice of the

determination of the Complaint Resolution Committee or the Board, as the case may require, and/or the sanction, addressed to ATHOC and accompanied by a bond of \$1,000.00 in the case of a Member and \$100.00 in the case of any other person.

- 10.12 All complaints by a Member against another Member shall be determined by the Board. If the complainant feels aggrieved by the determination of the Board and/or the sanction imposed on the Subject Member, the complainant may appeal in writing against the determination and/or sanctions imposed. Such an appeal, in writing, must be lodged by the complainant within seven (7) days of receipt by that complainant of written notice of the determination of the Board and/or the sanction, addressed to ATHOC. Any appeals against any determination by the Board must be heard by the Complaint Resolution Committee.
- 10.13 For any complaint other than a complaint by a Member against another Member, such complaints shall be determined by the Complaint Resolution Committee and any and all appeals against any such determination will be heard by the Board together with a nominee of a Regulatory Agency or a Consumer Agency or a suitably qualified and experienced member of the public who is not a Member with those members of the Board and that nominee of a Regulatory Agency or a Consumer Agency or a suitably qualified and experienced member of the public who is not a Member being members of the Complaint Resolution Committee having made the determination and/or sanctions appealed against being disqualified for the purposes of hearing or deciding the appeal.
- 10.14 Any and all such appeals will be heard expeditiously by the Complaint Resolution Committee or the Board, as the case may require.
- 10.15 If the appeal is allowed either in whole or in part, the bond paid by the successful or partially successful party will be refunded as soon as practicable. If the appeal is rejected in whole, the bond paid by the unsuccessful party is to be forfeited in whole to partially defray the costs of the complaint and the appeal.
- 10.16 ATHOC shall notify the parties in writing within seven (7) days of the hearing and determination of the appeal.
- 10.17 With respect to all appeals, the complainant and the Subject Member may be afforded an opportunity to present submissions whether personally or in writing.
- 10.18 The Complaint Resolution Committee or the Board, as the case may require in dealing with complaints and appeals must have regard to procedures which accord with the principles of natural justice, make decisions by reference to what is fair and reasonable in all the circumstances and act in good faith and without bias and shall deal with all matters as expeditiously as is possible in the circumstances and shall treat all matters in confidence.

11.0 SANCTIONS

11.1 One or more of the following sanctions may be applied by the Complaint Resolution Committee or the Board, as the case may require, with respect both to complaints and appeals, if breaches of this Code of Practice or of the Code of Ethics have been established:

11.1.1 censuring of the Subject Member;

11.1.2 a requirement that the Subject Member give an undertaking in writing to discontinue or modify any practice which is determined to constitute a breach

of this Code of Practice or of the Code of Ethics, within fourteen (14) days of being notified of this sanction;

- 11.1.3 the publication or issue of retraction statements or advertisements by the Subject Member. The format, size, wording, mode of publication and method of distribution of such a retraction statement or advertisement shall be subject to the approval of the Complaint Resolution Committee or the Board, as the case may require, prior to publication or issue and evidence of such publication or issue must be forthwith provided to the Complaint Resolution Committee or the Board, as the case may require;
 - 11.1.4 a requirement to remove or change any offending material;
 - 11.1.5 a requirement to have future advertising, promotion or marketing material pre- vetted by ATHOC or its nominee at the cost in all respects of the Subject Member;
 - 11.1.6 a requirement to lodge a bond determined by the Complaint Resolution Committee;
 - 11.1.7 forfeiture of a lodged bond determined by the Complaint Resolution Committee or the Board, as the case may require;
 - 11.1.8 the imposition of a fine of a quantum to reflect the damage done by the breach or negate the commercial advantage gained by the offending material or by the Subject Member. Such fine is to be paid within 30 days of the advice as to imposition, subject to any appeal that may be lodged under this Code of Practice;
 - 11.1.9 suspension or exclusion or expulsion from membership of ATHOC as provided for in the Articles of Association of ATHOC;
 - 11.1.10 suspension or exclusion from accreditation status;
 - 11.1.11 a requirement, within any time limit prescribed, for the Subject Member to remedy the loss or damage suffered by the complainant as a result of the subject matter of the complaint. Such remedies may include, but are not limited to, payments, rebates, contract variation and compensation for the complainant;
 - 11.1.12 such other sanction or sanctions as the Complaint Resolution Committee or the Board, as the case may require, may determine.
- 11.2 If a Subject Member fails or refuses to comply with the sanction imposed by the Complaint Resolution Committee or the Board, as the case may require, or refuses to have a complaint heard by the Complaint Resolution Committee or the Board, as the case may require, then the Complaint Resolution Committee or the Board, as the case may require may:
- 11.2.1 refer the matter to an appropriate Regulatory Agency; or
 - 11.2.2 commence legal proceedings against the Subject Member on behalf of ATHOC.

12.0 REVIEW AND AMENDMENT OF CODE

- 12.1 This Code of Practice and the Code of Ethics shall each be reviewed and amended (if necessary) after the first two (2) years of operation and three (3) yearly thereafter

provided that this Code of Practice and the Code of Ethics appear to be operating satisfactory.

- 12.2 In any such review and amendment (if necessary), ATHOC shall seek and take into account comments from Members, other participants in the Industry, Regulatory Agencies, Consumer Agencies and other interested parties and shall also take into account the following in any such review and amendment (if necessary):
 - 12.2.1 the effectiveness of this Code of Practice and the Code of Ethics;
 - 12.2.2 necessary resources;
 - 12.2.3 benefits;
 - 12.2.4 visibility;
 - 12.2.5 accessibility;
 - 12.2.6 participant awareness;
 - 12.2.7 complaints handling;
 - 12.2.8 independence;
 - 12.2.9 sanctions;
 - 12.2.10 effect on competition;
 - 12.2.11 outside representation;
 - 12.2.12 monitoring;
 - 12.2.13 coverage;
 - 12.2.14 consultation; and
 - 12.2.15 accountability.
- 12.3 The Code Administration Committee shall be primarily responsible for the review and amendment (if necessary) of this Code of Practice and the Code of Ethics.
- 12.4 The Articles of Association of ATHOC and in particular, Article 45 confers on the Board the right to exercise certain powers of ATHOC including the right for the Board to make by-laws, rules or regulations which are not inconsistent with the Memorandum and Articles of Association of ATHOC which are in the opinion of the Board necessary or desirable for, amongst other things, the proper control and administration and management of the finances, affairs, interests, effects and property of ATHOC and which are desirable in the interests of Members and also to amend or rescind from time to time any such by-laws, rules or regulations and to enforce the observance of all such by-laws, rules or regulations by suspension from enjoyment of the privileges of ATHOC or any of them or otherwise as the Board thinks fit. In reliance upon such power and any other powers available to the Board and to ATHOC, this Code of Practice has been adopted by the Board and by ATHOC and has therefore become effective to bind Members. Any amendments to either this Code of Practice or to the Code of Ethics will be adopted by the Board and by ATHOC and will become effective on the date or dates prescribed by the Board.
- 12.5 A breach or non-observance or non-performance of any provision of this Code of Practice or the Code of Ethics shall be deemed to constitute a breach or non-performance or non-observance of the Articles of Association of ATHOC and vice-versa respectively.

13.0 USE OF LOGO

13.1 Only Members who are so registered on the Register of Compliance may use the ATHOC Logo on business stationery and promotional material.

13.2 ATHOC may from time to time regulate and impose conditions upon the manner in which the ATHOC Logo is used by Members.

14.0 DEFINITIONS AND INTERPRETATIONS

14.1 In this Code of Practice, unless there be something in the subject matter or context inconsistent therewith, the following words and expressions shall have the meanings respectively assigned to them, namely :-

14.1.1 "ASC" means the Australian Securities Commission;

14.1.2 "ATHOC" means Australian Timeshare & Holiday Ownership Council Limited A.C.N. 065 260 095 the registered office of which is situate at the offices of Clayton Utz, 215 Adelaide Street, Brisbane, Queensland, 4000;

14.1.3 "Board" means the Board of Directors of ATHOC;

14.1.4 "Club" means any incorporated entity membership of which carries the right to use a Timeshare in a Resort;

14.1.5 "Club Committee" means the board of directors of the Club and includes a Trustee of a continuing Trust or its authorised delegates;

14.1.6 "Code Administration Committee" means the Code Administration Committee as constituted under this Code of Practice;

14.1.7 "Code of Ethics" means the Code of Ethics as amended from time to time and adopted by the Board;

14.1.8 "Code of Practice" means this Code of Practice as amended from time to time and adopted by the Board;

14.1.9 "Complaint Resolution Committee" means the Complaint Resolution Committee as constituted under this Code of Practice;

14.1.10 "Consumer Agency" means any one or more of the Australian Consumers Association, the Consumer's Federation of Australia, the Public Interests Advocacy Centre or other consumer representatives or consumers or suitable qualified and experienced members of the public determined by the Board from time to time as relevant or appropriate for the purposes of this Code of Practice;

14.1.11 "Contract" means a contract for the purchase of a Timeshare;

14.1.12 "Corporations Regulations" means the regulations made under the Corporations Law and for the time being in force;

14.1.13 "Developer" means any person or incorporated entity engaged in the development or promotion of a Resort or scheme;

14.1.14 "Disclosure" or "disclosure" means unless otherwise stated, disclosure to the Public;

14.1.15 "Exchange" means the exchange of one Owner's holiday entitlements with another Owner's holiday entitlements, or the provision of alternative holiday

accommodation, directly or indirectly through an Exchange Organisation;

- 14.1.16 "Exchange Organisation" means a person which provides Exchanges;
- 14.1.17 "Incentive" means any oral or written statement or representation which may induce a member of the public to acquire a Timeshare;
- 14.1.18 "Industry" means the Australian Timeshare Industry made up of any and all persons and organisations actively engaged in or interested in the Timeshare Industry;
- 14.1.19 "Interval" means a week or other such period as is set out in the Articles of the Club or the Trust Deed as the case may be;
- 14.1.20 "Law" or "Corporations Law" means the provision applying by reason of Section 82 of the Corporations Act 1989 (Commonwealth) as in force from time to time and made applicable in each State and Territory of Australia by their relevant Application of Laws Statutes and which provisions are in relation to corporations, securities and the futures industry and for other purposes;
- 14.1.21 "Levies" means the annual levy (or maintenance fee) levied by the Club or Trust Manager on each owner calculated in accordance with the Articles of the Club or the Trust Deed establishing the Timeshare scheme and includes any special levies pursuant to the Articles of the Club or the Trust Deed as the case may be;
- 14.1.22 "Logo" means the Logo of ATHOC;
- 14.1.23 "Marketer" means any person or incorporated entity engaged in marketing of a Resort or scheme;
- 14.1.24 "Member" means any person or incorporated entity registered or entitled to be registered on the Register of Members of ATHOC;
- 14.1.25 "OPC" means Off-Premises Contact as applied under a dealers licence issued by the ASC;
- 14.1.26 "Owner" means a person or incorporated entity who has purchased a Timeshare at a Resort or in a Timeshare scheme;
- 14.1.27 "person" includes a company, a body corporate, firms or body of persons;
- 14.1.28 "Primary Sale" means any sale of a Timeshare made under the original offer by a Developer or his Representative;
- 14.1.29 "Product" means a Timeshare and any and all goods and services offered or available in connection thereto or in association therewith;
- 14.1.30 "Product Information" means a document containing information about a Timeshare circulated or made available in the context of the advertising, promotion or marketing of Timeshares;
- 14.1.31 "Promotional Claim" means any statement made by a Member or a Representative, whether verbal or in writing, which conveys the positive attributes of a Product which extends beyond a simple qualitative or quantitative description of the Product for the purpose of advertising, marketing, sale or promotion of a Timeshare;
- 14.1.32 "Public" means any person or incorporated entity;

- 14.1.33 "Purchaser" means a person or incorporated entity who has applied to become and has become a member of a Club or a unit holder under a Trust Deed establishing a Timeshare scheme;
 - 14.1.34 "Register of Compliance" means the Register of Compliance of ATHOC which is the Register of Members;
 - 14.1.35 "Register of Members" means the Register of Members of ATHOC;
 - 14.1.36 "Regulatory Agency" means any one or more of the ASC, the Australian Competition & Consumer Commission, State consumer affairs agency and/or any further or other regulatory body or agency determined by the Board from time to time as relevant or appropriate for the purposes of this Code of Practice;
 - 14.1.37 "Rental" means money received by a Owner for the rental of his Timeshare either by private rental or by the use of a rental pool established under the Timeshare documentation;
 - 14.1.38 "Representative" means any employee, contractor, agent or servant of a Member;
 - 14.1.39 "Resident Manager" means any person or incorporated entity which carries out the day to day management of a Resort;
 - 14.1.40 "Resort" means the land including improvements upon which a Timeshare scheme operates;
 - 14.1.41 "Resort Management Company" means any person or incorporated entity which provides professional management services to a Resort or number of Resorts;
 - 14.1.42 "Secondary Sale" means any sale of a Timeshare other than a Primary Sale;
 - 14.1.43 "Subject Member" means a Member against whom a complaint has been made;
 - 14.1.44 "Timeshare" means a right or interest to participate in a "timesharing scheme" as defined in Section 9 of the Corporations Law and means any scheme (including points based systems) which adopts the timeshare policy of the ASC and includes an Interval;
 - 14.1.45 "Trust Deed" means the trust deed establishing a Timeshare scheme;
- 14.2 In this Code of Practice, unless there be something in the subject matter or context inconsistent therewith:
- 14.2.1 expressions in or importing the singular number shall include the plural and vice versa;
 - 14.2.2 expressions in or importing the masculine gender shall include the feminine gender and neuter gender and vice versa respectively;
 - 14.2.3 expressions denoting persons include corporations and other entities recognised by law and vice versa respectively;
 - 14.2.4 all references to any period of time prescribed or allowed under any provisions of this Agreement for the giving of any notice, for the doing of any act or the occurrence of any event shall be deemed not to include the day or date of the act or event, or of giving of any such notice, from or after which

such period of time is to be calculated, but to include the last day of which such notice is to be given or such act is to be done or event occurs, as the case may be;

- 14.2.5 reference to an Act of Parliament or Code or any Rules or Regulations made subsidiary or pursuant thereto include that Act or Code or those Rules or Regulations respectively as amended, consolidated, modified or re-enacted from time to time and any Act, Code, Rules or Regulations intended to replace any of them, whether or not passed by the same Parliament and whether or not incorporating or adopting any Act, Code, Rules or Regulations passed by another Parliament.
- 14.3 Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings and any and all derivatives thereof respectively.

ANNEXURE 1

AUSTRALIAN TIMESHARE & HOLIDAY OWNERSHIP COUNCIL LIMITED

A.C.N. 065 260 095

("ATHOC")

GUIDELINES FOR COMPLAINTS

- 1.1 These Guidelines are intended to assist both complainants and Subject Members to ensure that a fair and full review is conducted of all complaints. If these general criteria are not met, the complaint may be returned for more information or the complaint may be heard or the appeal conducted in the absence of complete information and documents.
- 1.2 Complainants are encouraged to contact the Subject Member prior to lodging a complaint with ATHOC as a satisfactory explanation or resolution may be immediately available. Dialogue or contact with the Subject Member is not absolutely essential however unless an adequate reason for not undertaking such dialogue or making such contact is given by the complainant to the ATHOC, the complaint may not be accepted for evaluation until reasonable attempts at dialogue or contact with the Subject Member are made.
- 1.3 Complaints between Members should not be used as a competitive tool.
- 1.4 Complaints as between Members are to be made or referred to the Board of ATHOC for determination and on appeal, to the Complaint Resolution Committee.
- 1.5 All other complaints involving Members are to be made or referred to the Complaint Resolution Committee for determination and on appeal, to the Board of ATHOC.
- 1.6 Complaints made to the Complaint Resolution Committee or to the Board, as the case may require, regarding a Subject Member should include the following information and documents to ensure that the Complaint Handling Procedures are commenced:
 - 1.6.1 a typed or neatly written summary page containing at least the following:
 - 1.6.1.1 a full description of the Product and the Subject Member;
 - 1.6.1.2 a description of the nature of the complaint specifying the issue or issues and the person or persons alleged to have made any representations or misrepresentations together with particulars of the alleged representation or misrepresentation;
 - 1.6.1.3 copies of all documents and materials relied upon;
 - 1.6.1.4 the provision of the Code of Practice or the Code of Ethics alleged to have been breached;
 - 1.6.1.5 details of all attempts made to resolve the matter with the Subject Member;
 - 1.6.1.6 full particulars of the complainant including the complainant's address and telephone number and facsimile number;
 - 1.6.2 for all complaints relating to advertising marketing or promotional practices, particulars of the alleged consequences (including alleged loss and damage of the complainant) together with supporting data and material;

- 1.6.3 a detailed written and signed statement relating to the complaint and the issues raised;
 - 1.6.4 if legal, accounting, financial or other advice has been obtained, a copy of such advice or full particulars of the advice provided together with full particulars of the advisor including the advisor's full name, address, telephone number and facsimile number.
- 1.7 If the ATHOC accepts a complaint for evaluation, the Subject Member must provide to the Complaint Resolution Committee or to the Board, as the case may require, all information and documents requested by the Complaint Resolution Committee or the Board, as the case may require, in relation to the complaint and to co-operate with the enquiries of the Complaint Resolution Committee or the Board, as the case may require, with respect to the complaint.
- 1.8 The Subject Member, in addition to co-operating with and providing to the Complaint Resolution Committee or the Board, as the case may require, the information and documents requested, should provide to the Complaint Resolution Committee or the Board, as the case may require, the following:
- 1.8.1 all particulars of all attempts made by the Subject Member to resolve the complaint with the complainant; and
 - 1.8.2 a detailed signed and typed statement of the response of the Subject Member to the complaint; and
 - 1.8.3 detailed substantiation of the specific claims in issue with full supporting documents and material; and
 - 1.8.4 a statement to the effect that no further information or documents exist or are then available which in any way relate to the complaint.

