

# GLOSSARY OF TERMS

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## A

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**ACCOMMODATION** - Any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room, campground, cruise ship cabin, houseboat or other vessel, recreational or other motor vehicle, or any private or commercial structure which is real or personal property and designed for overnight occupancy by one or more individuals. The term does not include an incidental benefit.

**AGREEMENT FOR DEED** - Any written contract utilized in the sale of timeshare estates which provides that legal title will not be conveyed to the purchaser until the contract price has been paid in full and the terms of payment of which extend for a period in excess of 180 days after either the date of execution of the contract or completion of construction, whichever occurs later.

**APPLICABLE LAW** - The law of the jurisdiction where the accommodations and facilities are located.

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**COMMISSIONER OF DEEDS** - Takes acknowledgments, proofs of execution, and oaths outside the United States and its possessions, territories, or commonwealths, in connection with the execution of any deed, mortgage, deed of trust, contract, power of attorney, or any other agreement, instrument or writing concerning, relating to, or to be used or recorded in connection with a timeshare estate, personal property timeshare interest, timeshare license, any property subject to a timeshare plan, or the operation of a timeshare plan located within this state. A Commissioner of Deeds is appointed by the Governor for a four-year term.

### COMMON EXPENSES -

- Those expenses, fees, or taxes properly incurred for the maintenance, operation, and repair of the accommodations or facilities, or both, constituting the timeshare plan.
- Any other expenses, fees, or taxes designated as common expenses in a timeshare instrument.
- Any past due and uncollected ad valorem taxes assessed against a timeshare development

**COMPONENT SITE** - A specific geographic site where a portion of the accommodations and facilities of the multisite timeshare plan are located. If permitted under applicable law, separate phases operated as a single development located at a specific geographic site under common management shall be deemed a single component site for purposes of this part.

### CONSUMER RESALE TIMESHARE INTEREST -

- A timeshare interest owned by a purchaser
- One or more reserved occupancy rights relating to a timeshare interest owned by a purchaser or
- One or more reserved occupancy rights relating to, or arranged through, an exchange program in which a purchaser is a member

**CONSUMER TIMESHARE RESELLER** - A purchaser who acquires a timeshare interest for their own use and occupancy and later offers the timeshare interest for resale or rental.

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**DEVELOPER GUARANTEE** - A legally binding promise from the developer to maintain purchasers (owner) assessments at no more than a specific level, for a stated time frame. The developer agrees to pay all common expenses in excess of total revenues from purchasers during the guarantee period.

## E

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**ENROLLED** - Paid membership in an exchange program or membership in an exchange program evidenced by written acceptance or confirmation of membership.

**EXCHANGE PROGRAM** - Any method, arrangement, or procedure for the voluntary exchange of the right to use and occupy accommodations and facilities among purchasers. Affiliated exchange program is any exchange program which has a contractual relationship with the creating developer or the managing entity of the timeshare plan, or any exchange program that notifies the managing entity in writing that it has members that are purchasers of the timeshare plan.

**F**

**FACILITY** - Any permanent amenity, including any structure, furnishing, fixture, equipment, service, improvement, or real or personal property, improved or unimproved, other than an accommodation of the timeshare plan, which is made available to the purchasers of a timeshare plan.

**FIXED-WEEK OWNERSHIP** - A time period that is fixed for each calendar year, either by date or by calendar weeks; most in numerical sequence 1-52. With a week number, your actual start date may vary slightly from year to year. A purchaser may own a deed to use a unit for a single specified week. For example, week 26 normally includes the Fourth of July holiday; week 51, Christmas and so on. If an owner owned week 26 at a resort, they will always vacation in the same physical unit each if they vacation at that resort.

**FLOATING-WEEK OWNERSHIP** - The time period is a non-specified week within a specific season. Owners of a floating unit at a resort might not vacation in the same physical unit each year. The ownership will be specific on how many weeks the owner owns and from which weeks the owner may select for the owner's stay. Some floating contracts exclude major holidays (those weeks may be sold as fixed weeks)

**Example:** A floating summer week where the owner may request any week during the summer season, generally weeks 22 through 36.

In this example, there would be competition for prime holidays such as the weeks of Memorial Day, Fourth of July, and Labor Day. The weeks when schools may still be in session would not be so high in demand.

**FLORIDA TIMESHARING, VACATION CLUB, AND HOSPITALITY PROGRAM** - Created by the Legislature primarily to provide the opportunity for a public-private partnership between the state and the timeshare, vacation club, hospitality, and tourism industries affecting this state. Its functions are -

- Solicit research and educational projects and proposals from the timeshare, vacation club, hospitality, and tourism industries
- Consult with the Florida chapter of the American Resort Development Association (ARDA-Florida), the Chancellor of the State University System, or the chancellor's designee; and
- Assist in the preparation of appropriate reports produced by the program partnership.

**FRACTIONAL OWNERSHIP** - Leisure real estate sold in intervals of more than one week and less than whole ownership. *Fractionals* are usually associated

with the luxury segment of vacation ownership, offering greater services and amenities.

**I**

**INCIDENTAL BENEFIT** - An accommodation, product, service, discount, or other benefit which is offered to a prospective purchaser or a purchaser of a timeshare plan prior to the expiration of their initial 10-day voidability period, which is not an exchange program and which complies with the provisions of the statute. The term shall not include an offer of the use of the accommodations and facilities of the timeshare plan on a free or discounted one-time basis.

**INTERESTHOLDER** - A developer, an owner of the underlying fee or owner of the underlying personal property, a mortgagee, judgment creditor, or other lienor, or any other person having an interest in or lien or encumbrance against the accommodations or facilities of the timeshare plan. With respect to a multisite timeshare plan which contains a component site that is also part of a single-site timeshare plan or condominium or other property regime, the term, except as to any timeshare interest, timeshare unit, or other unit that is specifically subject to, or otherwise dedicated to, the multisite timeshare plan, does not include a developer; an owner of the underlying fee or owner of the underlying personal property; a mortgagee, judgment creditor, or other lienor; or any other person having an interest in or lien or encumbrance against a timeshare interest in such single-site timeshare plan, or an interest in or lien or encumbrance against a timeshare unit or other unit in such condominium or property regime.

**INTERVAL** (also referred to as **WEEKLY INTERVAL**) - Vacation ownership as measured by a set number of days and nights of annual use, usually one week.

**INVENTORY** - The accommodations and facilities located at a particular component site or sites owned, leased, licensed, or otherwise acquired for use by a developer and offered as part of the multisite timeshare plan.

**M**

**MANAGING ENTITY** - The person or entity who operates or maintains the timeshare plan.

**MEMORANDUM OF AGREEMENT** - A written document, in a form sufficient to permit the document to be recorded or otherwise filed in the appropriate public records and to provide constructive notice of its contents under applicable law, which includes the names of the seller and the purchasers, a legal

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description of the timeshare property or other sufficient description for a personal property timeshare plan, and all timeshare interests to be included in such document, and a description of the type of timeshare interest sold by the seller.

MULTISITE TIMESHARE PLAN - Any method, arrangement, or procedure with respect to which a purchaser obtains, by any means, a recurring right to use and occupy accommodations or facilities of more than one component site, only through use of a reservation system, whether or not the purchaser is able to elect to cease participating in the plan. However, the term multisite timeshare plan does not include any method, arrangement, or procedure wherein:

- The contractually specified maximum total financial obligation on the purchaser's part is \$3,000 or less, during the entire term of the plan;
- The term is for a period of 3 years or less.
  - Excluded from the term, the period of any optional renewals which a purchaser, in their sole discretion, may elect to exercise, whether or not for additional consideration.
  - Included in the term, the period of any automatic renewals unless a purchaser has the right to terminate the membership at any time and receive a pro rata refund or the purchaser receives a notice no less than 30 days and no more than 60 days prior to the date of renewal informing the purchaser of the right to terminate at any time prior to the date of automatic renewal.

NONSPECIFIC MULTISITE TIMESHARE PLAN - A multisite timeshare plan in which a purchaser receives a right to use all of the accommodations and facilities of the multisite timeshare plan through the reservation system, but no specific right to use any particular accommodations and facilities for the remaining term of the multisite timeshare plan in the event that the reservation system is terminated for any reason prior to the expiration of the term of the multisite timeshare plan.

NOTICE ADDRESS -

- As to an *assessment lien* - the address of the owner of a timeshare interest as reflected by the books and records of the timeshare plan under F.S. 721.13(4) and F.S. 721.15(7).
- As to a *mortgage lien* - The address of the mortgagor as set forth in the mortgage, the promissory note or a separate document executed by the mortgagor at the time the mortgage lien was created, or the most current address of the mortgagor according to the records of the mortgagee; and if the owner of the timeshare interest is different from the mortgagor, the address of the owner of the timeshare interest as

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reflected by the books and records of the mortgagee.

- As to a *junior interest holder*, the address as set forth in the recorded instrument creating the junior lien or interest, or in any recorded amendment thereto changing the address, or in any written notification by the junior interest holder to the foreclosing lienholder changing the address.
- As to an *owner of a timeshare interest*, mortgagor, or junior interest holder whose current address is not the address as determined above, such address as is known to be the current address.

## O

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OFFER TO SELL, OFFER FOR SALE, OFFERED FOR SALE, OR OFFER - The solicitation, advertisement, or inducement, or any other method or attempt, to encourage any person to acquire the opportunity to participate in a timeshare plan.

ONE-TO-ONE USE RIGHT TO USE NIGHT REQUIREMENT RATIO - That the sum of the nights that owners are entitled to use in a given 12-month period shall not exceed the number of nights available for use by those owners during the same 12-month period. No individual timeshare unit may be counted as providing more than 365 use nights per 12-month period or more than 366 use nights per 12-month period that includes February 29. The use rights of each owner shall be counted without regard to whether the owner's use rights have been suspended for failure to pay assessments or otherwise.

Example: Mary has week 10 at Critter Creek Timeshare. She arrives on Sunday, October 3rd, and departs on Sunday, October 10th. Oscar arrives October 10th and departs Sunday October 17th. Mary may be charged for the nights of October 3rd through the 9th (7 nights). Oscar is charged for nights October 10th through October 16th. They cannot both be charged for Sunday, October 10th, as that would double count the usage of the unit.

OWNER - Any person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a timeshare plan other than as security for an obligation. Note - purchaser and owner are frequently used interchangeable in F.S. 721.

OWNERS' ASSOCIATION - An association made up of all owners of timeshare interests in a timeshare plan, including developers and purchasers of such timeshare plan.

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**PERMITTED DELIVERY SERVICE** - Any nationally recognized common carrier delivery service, international airmail service that allows for return receipt service, or a service recognized by an international jurisdiction as the equivalent of certified, registered mail for that jurisdiction.

**PERSONAL PROPERTY TIMESHARE INTEREST** - A right to occupy an accommodation located on or in or comprised of personal property that is not permanently affixed to real property, whether or not coupled with a beneficial or ownership interest in the accommodations or personal property.

**POINTS** - A “currency” that represents timeshare ownership and is used to establish value for seasons, unit sizes, and resort locations. Points are used by some developers for both internal and external exchange.

**POINTS CONVERSION PROGRAM** - An offering whereby owners of a timeshare interval(s) pay(s) a fee to convert their interval for the equivalent in points.

**PUBLIC OFFERING STATEMENT** - Written materials describing a single-site timeshare plan or a multisite timeshare plan, including a text and any exhibits attached thereto as required by F.S. 721.07, 721.55, and 721.551. The term “public offering statement” shall refer to both a filed public offering statement with the DFCTSMH and a public offering statement given to a purchaser.

**PURCHASER** - Any person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a timeshare plan other than as security for an obligation. Note - purchaser and owner are frequently used interchangeably in F.S. 721.

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**RESALE TRANSFER AGREEMENT** - A contract or other agreement between a person offering timeshare interest transfer services and a consumer timeshare reseller, in which the person offering timeshare interest transfer services agrees to provide such services as described in F.S. 721.17(3).

**RESERVATION SYSTEM** - The method, arrangement, or procedure by which a purchaser, in order to preserve the use and occupancy of any accommodation or facility of the multisite timeshare plan for one or more use periods, is required to compete with other purchasers in the same multisite timeshare plan. In the event that a purchaser is

required to use an exchange program as the purchaser’s principal means of obtaining the right to use and occupy a multisite timeshare plan’s accommodations and facilities, such arrangement shall be deemed a reservation system. When an exchange company utilizes a mechanism for the exchange of use of timeshare periods among members of an exchange program, such utilization is not a reservation system of a multisite timeshare plan.

**ROTATING OR FLEX-WEEK OWNERSHIP** - A form of timeshare ownership in which some timeshare units are sold as rotating or flex weeks. This form of ownership provides all owners the right to use different weeks in different calendar years. As a result, owners are able to use more desirable or prime weeks during specific calendar years. The system is structured to provide an owner with a specific week in one year, for example, week 25, then the next year the owner may have use of week 26, the year after, week 27, and so forth.

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**SELLER** - Any developer or any other person, or any agent or employee thereof, who offers timeshare interests in the ordinary course of business. The term does not include -

- An owner of a timeshare interest who has acquired the timeshare interest for their own use and occupancy and who later offers it for resale; provided that a rebuttable presumption shall exist that an owner who has acquired more than seven timeshare interests did not acquire them for their own use and occupancy
- A managing entity, not otherwise a seller, that offers, or engages a third party to offer on its behalf, timeshare interests in a timeshare plan which it manages, provided that such offer complies with the provisions of F.S. 721.065
- A person who owns or is conveyed, assigned, or transferred more than seven timeshare interests and who subsequently conveys, assigns, or transfers all acquired timeshare interests to a single purchaser in a single transaction, which transaction may occur in stages or
- A person who has acquired or has the right to acquire more than seven timeshare interests from a developer or other interestholder in connection with a loan, securitization, conduit, or similar financing arrangement and who subsequently arranges for all or a portion of the timeshare interests to be offered by one or more developers in the ordinary course of business on their own behalves or on behalf of such person.

**SPECIFIC MULTISITE TIMESHARE PLAN** - A multisite timeshare plan with respect to which a purchaser receives a specific right to use accommodations and facilities at one component site of a multisite timeshare plan, together with use rights in the other accommodations and facilities of the multisite timeshare plan created by or acquired through the reservation system.

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### **TIMESHARE ESTATE** -

- A right to occupy a timeshare unit, coupled with a freehold estate or an estate for years with a future interest in a timeshare property or a specified portion thereof, or coupled with an ownership interest in a condominium or cooperative unit
- An ownership interest in a cooperative unit or a direct or indirect beneficial interest in a trust that complies with F.S. 721, provided that the trust does not contain any personal property timeshare interests
- A timeshare estate is a parcel of real property under the laws of this state.

**TIMESHARE INSTRUMENT** - One or more documents, by whatever name, creating or governing the operation of a timeshare plan.

**TIMESHARE INTEREST** - A timeshare estate, a personal property timeshare interest, or a timeshare license.

**TIMESHARE LICENSE** - A right to occupy a timeshare unit, which right is not a personal property timeshare interest or a timeshare estate. This includes the number of periods that a developer can sell to purchasers. A timeshare period also includes the period an owner can use their unit, or exchange or trade for use under an exchange program. Example - Misty Lakes has 100 units. The developer will sell 50 weeks of the 100 units (it holds out two weeks a year for major maintenance). There are 5,000 weeks the developer can sell.

**TIMESHARE PERIOD** - The period or periods of time when a purchaser of a timeshare interest is afforded the opportunity to use the accommodations of a timeshare plan.

**TIMESHARE PLAN** - Any arrangement, plan, scheme, or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right-to-use agreement or by any other means, whereby a purchaser, for consideration, receives ownership rights in or a right to use accommodations, and facilities, if any, for a period of time less than a full

year during any given year, but not necessarily for consecutive years. The term timeshare plan includes -

- A personal property timeshare plan, which means a timeshare plan in which the accommodations are comprised of personal property that is not permanently affixed to real property and
- A real property timeshare plan, which means a timeshare plan in which the accommodations of the timeshare plan are comprised of or permanently affixed to real property.

**TIMESHARE PROPERTY** - One or more timeshare units subject to the same timeshare instrument, together with any other property or rights to property appurtenant to those timeshare units. This does not include properties available via an exchange program.

**TIMESHARE UNIT** - An accommodation of a timeshare plan which is divided into timeshare periods. Any timeshare unit in which a door or doors connecting two or more separate rooms are capable of being locked to create two or more private dwellings shall only constitute one timeshare unit for purposes of F.S. 721, unless the timeshare instrument provides that timeshare interests may be separately conveyed in such locked-off portions.

**TIMESHARE INTEREST TRANSFER SERVICES** - Any good or service relating to an offer or agreement to transfer ownership of a consumer resale timeshare interest, or assistance with or a promise of assistance in connection with the transfer of ownership of a consumer resale timeshare interest, as described in s. 721.17(3). The term does not include resale advertising services.

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**VACATION CLUB** (also called a **VACATION PLAN**) - Multisite timeshare. All multisite timeshare plans are governed by both Part I and Part II of F.S. 721 with some exceptions. In the event of a conflict between the provisions of Part I and Part II, the provisions of Part II shall prevail.