

The Alternative “WAY FORWARD”

Following the so-called “way forward” that has been promoted by MRL and accepted by many other clubs within the MRL structure, and the clear dissatisfaction of many members who have eventually realised that what they voted for as a “yes” supporter, really does not meet their expectations, we have drawn up an alternative “way forward” that would create a stronger foundation for the redevelopment of our club on which we can all look forward to a brighter and clearer future, safe in the knowledge that what we are proposing redesigns the traditional timeshare model.

- I. The club would cease to be an “unincorporated body” and would immediately be re-established as an “incorporated Cooperative” whereby each existing owner shall become a member of the Cooperative.
 - a. The Cooperative shall be known as the “Villacana Cooperative” and the membership of the Cooperative shall comprise exclusively of those persons who hold holiday certificates related to the Villacana resort in Estepona, Spain.
 - b. The Cooperative shall be formed within the jurisdiction of the country where the property is located and shall be subject to the laws of that country. If it is not permissible for a Cooperative to be so formed in the country where the property is located, then the Cooperative shall be formed and be subject to the laws of another country located within the European Union at the time of incorporation, decided upon by the majority will of the pre-existing members of the club.
 - c. Membership of the Cooperative will exist on an equal basis irrespective of the number of weeks owned. This condition is specifically intended to prevent block ownership of shares swaying votes at general meetings against the interests of individual owners and the legal requirement that Cooperative’s have ‘members’ not ‘shareholders’.
 - d. There would be one membership issued to both the Management Company and any institutional investor in the Cooperative. In the case of these being the one in the same, then that business would hold two memberships.
 - e. The Cooperative would be managed by a Board of Directors that would comprise of **THREE** elected members of the independent owners, one member from each an Institutional Investor (elected in the event of there being two or more institutional investors, otherwise appointed) and Management Company (appointed).
 - f. The Chairman of the Board of Directors shall always be one of the elected members of the independent owners, who shall hold full voting rights at board meetings. If through absenteeism a vote is tied, the chairman shall have an additional casting vote in order to pass resolutions.
 - g. Membership of the Board of Directors shall be honorary and no payment made for services rendered in the role of Director, although reasonable expenses may be paid.
 - h. The Chairman and Board of Directors shall be protected by personal liability insurance that shall be paid for by the Cooperative.

- i. The assets of the Cooperative will continue to be held in trust for the collective members of the Cooperative and these assets may be varied at any time in accordance with directions of the Board of Directors of the Cooperative.
 - a. In the event that the assets of the Cooperative are wholly disposed as a result of the Cooperative being wound-up or becoming insolvent, then any residue after settling of the Cooperative's debts will be shared amongst the members based on the number of ownership certificates held, the size of the unit(s) owned, and the length(s) of term of the ownership certificate(s).
2. The constitution would be amended to remove any notion of 'perpetuity'. Existing certificates would be recalled and would be reissued as the shares within the Cooperative, with the time limitation as specified below substituted.
 - a. A fixed certificate term will be created at ten (10), fifteen (15), twenty (20), or fifty (50) at the discretion of the existing owner.

It is the belief of the Cooperative that a compulsory maximum duration of 50 years will be placed on timeshare contracts in the future and this is why the maximum term that can be acquired through the Cooperative meets that time restriction; if, however, legislators determine to introduce a compulsory maximum duration of less than 50 years, then those holding 50 year terms will have their contracts amended accordingly at no additional cost.

It is the specific intention of the Cooperative that it will always achieve and better the industry's minimum standard on "best practice".

- b. Each membership shall entitle the owner to a right of occupancy of a specific week or specific weeks in a specified unit as determined on the ownership certificate(s). It is a condition of membership of the cooperative that the member shall also be the holder of at least one ownership certificate, and vice versa.
- c. A new category of membership will be created that will be known as T3 or T5, indicating a trial period of 3 or 5 years, which will be sold based upon the prepayment of either three or five years management fee (maintenance fee plus wet leisure charge)
 - a. In the case of T3 or T5 membership, an 'associate membership' would be issued and members in these categories would be considered as fixed term associates of the Cooperative. Associate Members would not have a vote in the Cooperative.
 - b. It would be the intention of the Cooperative to convert as many T3 or T5 associates to full members during their trial period and procedures would be implemented to ensure that this could be achieved seamlessly and without detriment to the associate member.
- d. All new sales of existing weeks would be sold on a ten (10), fifteen (15), twenty (20) or fifty (50) year terms, with the option to extend the term embedded in the constitution. Shares in the Cooperative will be surrendered on expiry of the term of issue.
- e. Should a certificate holder wish to dispose of their right of occupancy, the right of occupancy is what will be sold on the open market, or relinquished to the club on payment of an exit fee determined by 3(a) and 5 below. The membership of the Cooperative will

lapse when no holiday certificate is held by a former member and new owners will be given a new membership.

a. Any disposal of the right of occupancy or certificate is conditional on the owner being in good standing with the Cooperative.

3. **Relinquishing of existing liabilities.** We recognise that many owners wish to exit the agreements that had been entered into previously. Existing owners shall be given an option of exit routes, as follows:

a. Those members that have died, become medically incapacitated or bankrupt who do not have the ability to assign their shareholding may, on the payment of the current year's management fee, relinquish their shareholding in the company.

a. Those members that have died or become incapacitated and do have a successor or assignee who is willing to take over the rights and responsibilities of ownership until the end of the agreed term, may have their rights reassigned at 'cost price'.

b. This facility is provided from the date of the Cooperative's incorporation, and is not retrospectively applicable.

b. Members who wish to leave the Cooperative and are not prepared to sell their ownership certificates on the open market, may do so either by giving **TWO** years notice of intent to terminate the agreement between themselves and the Cooperative during which time they would be able to use their apartment, or by making a payment of **TWO** times the current management fee (maintenance fee plus wet leisure charge), that shall be paid directly to the Cooperative in lieu of notice.

c. Conversion to **T3** or **T5** membership whereby three or five year's management fee (maintenance fee plus wet leisure charge) shall be paid to the Cooperative and the ownership certificate surrendered; this may be funded through a separate credit agreement. This gives existing owners the opportunity of three or five years continued holidaying at the resort.

4. **Consolidation of the estate.** It is recognised that in order to be viable in the future, the current estate may, from time to time, need to be reduced or enlarged as market forces determine. We propose that:

a. The Board of Directors of the Cooperative shall have the right to acquire or relinquish control of individual units contained within the estate by purchasing from freehold owners or offering to lease units on the open market at the commercial value of the short-term lease, that shall be paid from or into the Cooperative's accounts for the benefit of club members (in the form of increased or reduced management fees).

a. Upon successful purchase, the new units will be added to the Deed of Trust for the overall benefit of the members.

b. Upon successful lease sale, the consolidated units shall be retained on the Deed of Trust as properties over which there is a lien and held in respect of the Cooperative assets.

c. A percentage of the leasehold value realised not exceeding 20% shall be paid to the existing Management Company (if applicable) as compensation for loss of amenity and in the event of acquisitions, an institutional investor shall contribute

a minimum of 20% of the purchase fee in exchange for a balanced 20% right to occupancy.

d. It is to be written into any lease agreement that any commercial organisation or private individual that holds a lease for a property within the estate, shall not use that property in direct competition with the objects of the Cooperative inasmuch that they shall not reassign the lease on a fractional basis, except on the express written permission of the Cooperative. Commercial organisations and private individuals holding leased properties may, however, rent them for periods when they are not being used by themselves, at their own risk and liability.

- Where property is rented out by a commercial organisation or private individual, they shall be held liable for all costs incurred by the Management Company/the Cooperative in the managing of that property, under a separate agreement by and between these two parties.

e. A minimum of 12 months' notice of any consolidation would be given to any affected member to enable them to accept the consolidation plan or to raise an objection. This includes notifying third-party exchange agencies of any changes applicable.

f. The Cooperative would under no circumstance forcibly dispossess any owner as a result of estate consolidation, however the Cooperative would hope that any member/owner that could be dispossessed as a result of estate consolidation, would accept a free transfer to another unit of a similar or better standard, at the same time or at a time that is mutually convenient for both the Cooperative and the dispossessed member/owner, for the remaining period of the term of ownership, for the overall good of the business in which they are a member.

- In compensation for becoming a dispossessed member/owner, one year's free management fee in the new unit, will be offered.

g. In the event of a pre-existing member/owner wishing to purchase additional weeks, they shall be entitled to a discount on the published purchase price of 7½%

5. **Management fees.** The Cooperative recognises that one of the major problems with selling timeshare in the current market is the cost of ongoing management fees, that are often more expensive than renting a similar sized unit in a similar resort at the same time. The exchange rate GBP – EURO on 1st January 2000 stood at £1.00 = €1.60, meaning that at current figures, the average Management Fee of £500 per week would be charged at about £395; one of the main objectives of these proposals is to reduce management fees to a level that is affordable and are realistic when compared with the rental market and it is the intention to reduce Management fees by 20% and this average will form the “basic” management fee levied on each property in the estate.

- a. The maintenance fee year will run from 1st January to 31st December, with members paying pro-rata in respect of the initial year.

- b. A restructuring of management fees will be necessary based upon the time of year and the size of the unit. It is envisaged that those in “high” season will pay a premium not exceeding 15% more than the standard management fee, whereas those in “low” season will pay a discount representing 15% less than the standard management fee. By means of illustration:
 - i. Those occupying ‘red’ weeks (high-season) who currently pay £500 per week for management fees per week owned, will now pay £460, whilst those occupying “yellow” weeks (off-season) will pay £340. Those occupying in “green” weeks (mid-season) will pay the standard management fee of £400 per week owned. NB. This is for illustration purposes only and individual fees will apply depending on size of unit and weeks owned.
 - ii. The 30% bandwidth centring on the standard management fee is calculated to encourage members that no longer have a need to vacation at the resort during “high” season, to consider moving their weeks to a less popular period, ensuring a better spread of occupancy throughout the year.
 - c. The Cooperative shall aim to operate profitably within these financial constraints, and will be economical in the operation of the resort by renegotiating the management charge levied by the Management Company.
 - d. Increases (or decreases) to the management fee will be governed by the average inflation/deflation percentage applicable in the country where the property is situated, factored by the average fluctuation in exchange rates GBP - €uro, in the preceding twelve months (Sep-Aug) levied on the ensuing year.
6. **Transfer of units.** Members whose circumstances have changed and who wish to transfer their weeks to either a different sized unit at the same time, or a different sized unit at another time, or a similar sized unit at another time, or even a similar sized unit of different configuration at the same time, shall be entitled to do so (subject to availability) upon payment of a small fee that shall cover the cost of transfer, that may be waived at the discretion of the Board of Directors in respect of transfers under 5(b)(i) above.
- a. Should the only suitable available unit be owned by another member who has put their unit/week on the market, then the club shall seek to negotiate between both parties to reach a compromise whereby both members are happy to exchange or reach a resolution.
7. **Sale of units.** The Cooperative shall work with the existing Management Company to facilitate the sale of existing vacant units/weeks/shares through their network at a realistic price. The Cooperative shall also work with external agencies to facilitate the same of existing vacant units/weeks/shares through their clientele, at realistic prices. It benefits neither the Cooperative nor the members for the value of a unit/week/shares to be negligible. It is anticipated that by having fixed term ownership and an entirely open Cooperative structure, then the value of units/shares at our Cooperative will be re-established.
8. **Management Company.** The Cooperative is pleased to continue working with Macdonald Resorts Ltd as the Management Company for the management of the resort and agree that they should continue to have representation on the Board of Directors under the revised terms, as previously stated. In the event that Macdonald Resorts Ltd no longer being the Management

Company of the resort, then they shall cede their representation on the Board of Directors to a representative of the new Management Company.

The cooperative will enter into a new management agreement with the Management Company and will retain the right to vary that agreement as market circumstances determine, either increasing or decreasing responsibilities assigned thereunder. The term of any management agreement shall be such as to be considered reasonable to both parties, but shall have and incorporated "break clause" at five yearly intervals, should the term of the agreement exceed a five years. Both parties shall be liable to the other for a compensatory payment up to the next "break", unless it can be shown that the Management Company has not acted in the best interests of the owners, in which case the Management Company may be summarily dismissed.

The factorial fee that is currently charged by the Management Company, on the expenditure that they incur in the running of the resort, shall be reformed to become a percentage charged against revenue. The Management Company shall also be entitled to claim a percentage of the retained profits of the Cooperative, as an incentive to ensure that the resort achieves optimal profitability.

Recognising that the timeshare industry is in a depressed state, this factorial fee and profit share shall initially be set at a level and so as to achieve a similar level of revenue that currently exists; thereby ensuring that the future growth of the Cooperative will benefit the Management Company commensurately.

9. **Cooperative Annual General Meeting.** The purpose of the annual general meeting of the Cooperative shall be to encourage participation by all members in the running of the company and as such all members shall be encouraged to attend the annual general meeting of the Cooperative that shall be held at a time and a place agreed the previous year. The Annual General Meeting shall analyse the business of the previous year and make proposals for the future development of the company, which shall have been circulated prior to the meeting to all members who shall have the opportunity to vote on resolutions proposed and the vote shall be conducted by a responsible third-party. A full set of audited accounts shall be made available to the members prior to the meeting and the financial director of the Cooperative shall attend and answer questions raised.