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9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

10 **IN AND FOR THE COUNTY OF MARICOPA**

11 In the Matter of

12 **DIAMOND RESORTS CORPORATION,**

13 Respondents.

Case No:

ASSURANCE OF DISCONTINUANCE

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16 The Attorney General of the State of Arizona ("State" or "Attorney General") and
17 Respondent Diamond Resorts Corporation, agree to the entry of the following Assurance of
18 Discontinuance ("Assurance" or "Agreement") pursuant to Arizona Revised Statutes ("A.R.S.")
19 § 44-1530 of the Arizona Consumer Fraud Act, *i.e.*, A.R.S. §§ 44-1521 to 44-1534 ("ACFA").

20 References in this Assurance made to any act of Diamond shall be deemed to include the
21 acts of Diamond's corporate members, managers, employees, agents, or other representatives,
22 acting within the scope of their employment or authority. The Attorney General, acting on
23 behalf of the State of Arizona, has the authority to enforce the ACFA. The Attorney General
24 conducted an investigation pursuant to the ACFA into the acts and practices of Diamond
25 relating to its Business. This Assurance is entered into without adjudication on the merits of
26 the assertions or allegations made by the State below. Diamond denies that it has violated the

1 ACFA and enters into this Assurance solely for purposes of efficient resolution of the matter.
2 The State and Diamond have agreed to execute this Assurance solely for the purposes of
3 settlement.

4 **I. DEFINITIONS**

5 1. "Association" means a member owner association for a Collection.

6 2. "Assurance" means this Assurance of Discontinuance.

7 3. "Business" means the marketing and sale of Points at Sales Centers.

8 4. "Consumer" means a person who both: (i) attends a Sales Presentation in Arizona
9 or, alternatively, is domiciled in Arizona and attends a Sales Presentation outside of Arizona;
10 and (ii) purchases or has purchased Points, THE Sampler, or has purchased a Diamond
11 predecessor's timeshare product.

12 5. "Court" means a court of competent jurisdiction.

13 6. "Diamond" means and includes DRI, its predecessor companies, successor
14 companies, direct or indirect wholly and partially owned subsidiaries, and each of their
15 divisions, employees, officers, directors, managers, assigns, and agents acting or having
16 responsibilities with respect to the subject matter of this Assurance.

17 7. "Diamond Collections" means, collectively, Diamond Resorts U.S. Collection,
18 Premiere Vacation Collection, Diamond Resorts California Collection, Diamond Resorts
19 Hawaii Collection and Monarch Grand Vacations timeshare plans, each constituting an
20 individual "Collection."

21 8. "DRCC" means and includes the Diamond Resorts California Collection.

22 9. "DRHC" means and includes the Diamond Resorts Hawaii Collection.

23 10. "DRI" means and includes Diamond Resorts International, Inc., a company
24 incorporated in Delaware and headquartered in Las Vegas, Nevada, which is the parent
25 company of Diamond Resorts Corporation.

26 11. "DRUSC" means and includes the Diamond Resorts U.S. Collection.

1 12. “DRUSC Association” means the Diamond Resorts U.S. Collection Members
2 Association, Inc., a non-stock, non-profit Delaware corporation

3 13. “Effective Date” means the later of: (a) the date on which a Court approves this
4 Assurance; or (b) 30 calendar days after the execution date, which means the date this
5 Assurance is fully executed by both Parties. In the event that the Parties execute this Assurance
6 on different dates, the later execution date shall be the “execution date.”

7 14. “Eligible Complaint” means a complaint filed by an Eligible Consumer that
8 qualifies for Relief (as defined in paragraph 83) under the Relinquishment Remedy Program set
9 forth in Article IV(A) of this Assurance.

10 15. “Eligible Consumer” means a Consumer who files a written complaint against
11 Diamond with the Attorney General, another law enforcement agency, the Better Business
12 Bureau, or the Arizona Department of Real Estate after January 1, 2009 that is received by the
13 Attorney General’s Office either prior to the Effective Date or during the Filing Period.

14 16. “Filing Period” means the period commencing on the Effective Date and ending
15 120 calendar days after the Effective Date.

16 17. “ILX” means ILX Resorts Incorporated, an Arizona corporation that sold
17 timeshare ownership interests throughout the United States from around 1986 until its
18 dissolution in 2010.

19 18. “Maintenance Fees” means regular assessments and special assessments charged
20 pursuant to the applicable declaration for one or more Diamond Collections.

21 19. “Membership” means membership in an Association related to owning Points in a
22 Collection.

23 20. “MGV” means and includes Monarch Grand Vacations.

24 21. “Parties” means and includes the State and Diamond.

25 22. “PMR” means Pacific Monarch Resorts, Inc., a California corporation not
26 affiliated with Diamond, which was the original developer of MGV and filed for bankruptcy in

1 2011.

2 23. "Points" means the currency of use in Diamond Collections: DRUSC, DRCC,
3 DRHC, MGV, and PVC, through which members reserve the use and occupancy of Collection
4 accommodations in accordance with the Project Documents.

5 24. "Project Documents" means the relevant Collection Declaration, the Articles of
6 Incorporation, the Bylaws, the Trust Agreement, the Regulations, the Register of Members and
7 any other document or instrument which defines or governs such Collection, together with each
8 Member's Purchase Documents and Points Certificate(s), as each may lawfully be amended or
9 supplemented from time to time.

10 25. "Purchase Documents" means the Purchase and Security Agreement and
11 Purchaser Understanding and Acknowledgement used for the purchase of Points by a
12 Consumer.

13 26. "PVC" means and includes the Premiere Vacation Collection.

14 27. "PVC Association" means and includes the Premiere Vacation Collection Owners
15 Association, Inc.

16 28. "Quality Assurance Officer" means a Diamond employee who is responsible for
17 reviewing Purchase Documents with Consumers to facilitate their understanding of the
18 purchase and ownership responsibilities concerning the Points.

19 29. "Quality Assurance Program" has the meaning set forth in Article IV of this
20 Assurance.

21 30. "Relinquishment Program" means Diamond's relinquishment program, currently
22 known as Transitions, publicly announced by Diamond on May 4, 2016, or other materially
23 similar program as described in Article VI of this Assurance. The Relinquishment Program is
24 separate from the Relinquishment Remedy Program set forth in Article IV(A) of this
25 Assurance. Moreover, the Relinquishment Program is a program offered, on a case-by-case
26 basis, at Diamond's discretion and it does not constitute an obligation under this Assurance

1 aside from the election resulting in the RP Monetary Payment in paragraph 113.

2 31. "Relinquishment Remedy Program" means the procedures for resolving Eligible
3 Complaints as set forth in Article IV(A) of this Assurance.

4 32. "Sales Center" means (i) a Diamond sales center or other sales location located in
5 the State of Arizona and (ii) a Diamond sales center or other sales location located outside of
6 the State of Arizona which makes Sales Presentations to Consumers who are domiciled in
7 Arizona.

8 33. "Sales Manager" means a Diamond employee who is responsible for direct
9 supervision of Vacation Counselors at Sales Centers.

10 34. "Sales Materials" means, and shall include, all scripts, booklets, brochures,
11 presentations, and all other documents used by Vacation Counselors when conducting a Sales
12 Presentation.

13 35. "Sales Presentation" means a formal sales presentation for the purchase of Points
14 made at a Sales Center.

15 36. "Sampler Agent" means a Diamond employee who conducts sales presentations
16 for the purchase of THE Sampler.

17 37. "Secret-Shopper Program" means that part of the Quality Assurance Program
18 under which Diamond will send a "secret-shopper" at least two (2) times per year to each Sales
19 Center to monitor implementation of and compliance with the Quality Assurance Program.

20 38. "State's Allegations" has the meaning set forth in paragraph 67.

21 39. "Stipulated Eligible Complaints List" means the list of complaints on file with the
22 Attorney General's Office that the Parties have stipulated constitute Eligible Complaints
23 qualifying for Relief regardless of when the relevant Complaint was filed.

24 40. "Sunterra" means Sunterra Corporation, a Maryland corporation formed in 1996
25 to market and sell timeshare ownership interests, which it did until 2007. Sunterra was a
26 predecessor-in-interest to Diamond.

1 41. "THE Club" means THE Club[®], which is a points-based, international exchange
2 program operated by Diamond Resorts International Club, Inc., a Florida corporation, that is
3 affiliated with the Diamond Collections. Through THE Club, Consumers have the option to
4 temporarily exchange, from time-to-time, their occupancy rights within a Diamond Collection
5 with owners of timeshares in other timeshare resorts or exchange networks participating in
6 THE Club.

7 42. "THE Sampler" or "Sampler" means Diamond's non-timeshare, limited use
8 package, under which Consumers pay a reduced rate to experience short-term, limited-use
9 membership privileges.

10 43. "Vacation Counselor" means a Diamond employee who acts as a sales agent for
11 the sale of Points to a Consumer at a Sales Center.

12 **II. BACKGROUND**

13 44. At all times material to this Assurance, other than with respect to operations of
14 predecessors to Diamond, Diamond sold Points-based vacation membership products to
15 Consumers.

16 45. In 2007, following the purchase of all shares of common stock of Sunterra
17 delivered in a tender offer, DRS Acquisition Corp., an affiliate of Diamond, merged with and
18 into Sunterra. This merger was consummated as a "short form" merger pursuant to the
19 Maryland General Corporations Law, under which Sunterra was the surviving corporation.

20 46. After the merger, Sunterra changed its name to "Diamond Resorts Corporation,"
21 a Maryland corporation, which, through its subsidiaries, markets and sells Points-based
22 vacation memberships throughout the United States and internationally and manages certain
23 timeshare resorts in which Diamond holds ownership interests. Diamond's principal office is
24 located at 10600 West Charleston Boulevard in Las Vegas, Nevada.

25 47. Under the merger, all the debts, liabilities, and duties of Sunterra became the
26 debts, liabilities, and duties of Diamond.

1 48. In 2010, a Diamond subsidiary acquired management of PVC when it purchased
2 certain assets from ILX in a sale under section 363 of the Bankruptcy Code. Diamond did not
3 assume PVC's or ILX's liabilities when it acquired ILX's assets.

4 49. Similarly, in 2012, a Diamond subsidiary acquired management of MGV when it
5 purchased certain assets from PMR in a sale under section 363 of the Bankruptcy Code.
6 Diamond did not assume MGV's or PMR's liabilities when it acquired PMR's assets.

7 50. As of December 31, 2015, Diamond managed a total of five (5) U.S.-based
8 vacation ownership Collections: DRUSC, PVC, DRCC, DRHC, and MGV. As of this same
9 date, Diamond's resort network included 93 resort properties with approximately 11,000
10 Diamond-managed units. Additionally, as of December 31, 2015, Diamond contracts for use
11 rights with 206 additional resorts and four (4) cruise itineraries. All real estate in the Diamond
12 Collections is held in trust for the benefit of the members of the applicable Collection.

13 51. Diamond maintains an Arizona timeshare registration permit with the Arizona
14 Department of Real Estate for the marketing of all Diamond Collections, but the Arizona-based
15 sales of Points for DRHC, DRCC, PVC and MGV are negligible. All Diamond Collections are
16 affiliated with THE Club. Diamond has four loyalty levels in THE Club: Valued, 2,500 to
17 14,999 Points; Silver, 15,000 to 29,999 Points; Gold, 30,000 to 49,999 Points; and Platinum,
18 over 50,000 Points (collectively referred to as "Loyalty Levels" or individually as a "Loyalty
19 Level"). Points purchased in different Diamond Collections affiliated with Diamond may be
20 combined to determine Loyalty Level.

21 52. As of December 31, 2015, DRUSC was comprised of 56 resorts across the
22 continental United States and St. Maarten. DRUSC is actively sold and marketed in Arizona
23 and accounted for over 83% of Diamond's Arizona sales from January 1, 2011 to July 24,
24 2014. PVC comprises 11 total resorts in Arizona, Colorado, Indiana, Nevada, and Mexico.
25 Most of Diamond's remaining sales in Arizona during the same time period were PVC
26 memberships sold at the resort known as Los Abrigados Resort and Spa in Sedona, Arizona.

1 Diamond does not currently sell PVC memberships.

2 53. Diamond sells Points in the Diamond Collections to Consumers for a purchase
3 price ranging from approximately \$11,500 to over \$100,000 depending on the number of Points
4 purchased.

5 54. Points are used like currency to reserve nights at a resort that is part of a
6 Collection.

7 55. With each annual (or, as in some cases with MGV, biennial) allotment of Points,
8 Consumers pay annual Maintenance Fees, which are allocated to pay for resort operations,
9 capital reserves, property taxes, insurance, and management.

10 56. The Points required for a night of accommodation at each resort location can vary
11 by type of accommodation (e.g., number of bedrooms), location, and time of year. A night of
12 accommodation at a more desirable vacation destination during a high volume vacation season
13 will "cost" comparatively more Points than a night of accommodation at a less desirable
14 destination in a low volume vacation season.

15 57. Points are initially sold to new members during Sales Presentations by a sales
16 team that consists of Vacation Counselors and Sales Managers. Quality Assurance Officers are
17 independent from Diamond's sales and marketing department, and are responsible for
18 providing Purchase Documents to Consumers to facilitate and confirm Consumers'
19 understanding of purchase and ownership responsibilities concerning the Points.

20 58. A member's Points are replenished annually or biennially, subject to the member
21 being current on Maintenance Fees and otherwise in good standing. For example, a member in
22 good standing who purchases 10,000 Points will automatically receive a new allotment of
23 10,000 Points annually or biennially.

24 59. Diamond created various Sales Materials to train and assist the Vacation
25 Counselors and Sales Managers with respect to conducting Sales Presentations. Diamond gives
26 such Sales Materials to the Vacation Counselors and Sales Managers, who are directed to

1 follow such materials. Diamond provides training to Vacation Counselors and Sales Managers
2 in effective sales techniques, compliance and ethics at a week-long training seminar, as well as
3 through ongoing training.

4 60. It is contrary to Diamond's corporate policies for Vacation Counselors to make
5 material alterations to, or materially deviate from, the Sales Materials in the course of
6 conducting a Sales Presentation.

7 61. Each Collection has an Association, operated similarly to a homeowner
8 association, for the purpose of managing the Collection and assessing Maintenance Fees.

9 62. The board of directors of each Association sets yearly Maintenance Fees based on
10 the Collection's costs of operating and maintaining the timeshare programs and resort
11 infrastructure in accordance with the Project Documents. Members of the Association must
12 pay Maintenance Fees annually to maintain their rights and privileges under the Project
13 Documents.

14 63. In 2010, the board of the PVC Association amended the document entitled PVC
15 Membership Plan, which is recorded in Maricopa County, to enable Maintenance Fees to
16 increase to a maximum of inflation plus 25% per year from the original maximum of inflation
17 plus 10% per year.

18 64. After the 2010 amendment, PVC owners have experienced annual increases in
19 Maintenance Fees. For example, a PVC member with 6,000 Points paid Maintenance Fees of
20 \$635 in 2010, \$789.80 in 2011, \$891.20 in 2012, and \$1,106.12 in 2013.

21 65. According to Diamond, these increases were required to address years of prior
22 mismanagement. It is Diamond's position that before Diamond's acquisition, the PVC
23 Association had kept Maintenance Fees artificially and unsustainably below the amount
24 necessary to pay for the resorts' basic operations and upkeep. Diamond submits that after these
25 short-term spikes in 2011-2013 to repair, refurbish, and update the PVC resorts, the increases to
26 Maintenance Fees have been less extreme, with the PVC Association raising them so that a

1 PVC member with 6,000 Points paid Maintenance Fees of approximately \$1,210.83 in 2014
2 and \$1,281.06 in 2015.

3 66. DRUSC owners have also experienced annual increases in Maintenance Fees. In
4 accordance with applicable Florida law and industry standards, the DRUSC Association has
5 capped increases to Maintenance Fees at 25% per year. For example, a DRUSC member who
6 owns 15,000 Points would have paid \$1,214 in Maintenance Fees in 2007, \$1,348.50 in 2008,
7 \$1,686 in 2009, \$1,850 in 2010, \$1,923.50 in 2011, \$2,018.50 in 2012, \$2,045.50 in 2013,
8 \$2,330 in 2014, and \$2,404.70 in 2015. The Attorney General received Consumer complaints
9 that involved alleged acts or practices of certain companies (each a "Prior Developer") that
10 occurred prior to Diamond's acquisition of certain of their assets. Except for Sunterra,
11 Diamond did not assume the liabilities of these Prior Developers and some of the prior
12 complaints resulted from actions taken by these Prior Developers before Diamond acquired
13 such assets.

14 67. Based upon allegations made by Consumers in their complaints, the State
15 believes, and therefore alleges, the following (collectively, the "State's Allegations"):

16 a. At times, some Vacation Counselors deviated from the Sales Materials and
17 made unauthorized representations or misrepresentations in connection with sales.

18 b. At times, some Quality Assurance Officers did not adequately explain to
19 certain Consumers all of the benefits and responsibilities associated with their Points-based
20 vacation membership product.

21 c. Although certain Vacation Counselors, at times, represented to Consumers
22 that Points could be used to book other travel needs such as cruises, hotels, airline tickets, and
23 rental cars at a lower rate, some Consumers allege that using Points to book such travel resulted
24 in a higher overall cost than booking through a travel website and paying cash.

25 d. During Sales Presentations, certain Vacation Counselors represented to
26 some Consumers that their Points may be rolled over to the following year if they did not use

1 them in any given year, but did not explain that to do so they needed to submit a request within
2 a pre-designated period of time. Some Consumers who did not submit a request later
3 discovered that their Points expired because they did not roll over to the subsequent year
4 automatically.

5 e. At times, certain Vacation Counselors told some Consumers that increases
6 to Maintenance Fees are minimal, when the DRUSC Association is permitted to increase
7 Maintenance Fees up to 25% per year.

8 f. At times, certain Vacation Counselors stated that Points could be used to
9 pay Maintenance Fees and did not explain that only members of certain Loyalty Levels could
10 use Points to pay/offset Maintenance Fees. At times, certain Vacation Counselors did not
11 explain to some Consumers the exchange rate of Points to Maintenance Fees dollars. Some
12 Consumers who believed they could use their Points to pay or offset Maintenance Fees were
13 not able to do so because they were not part of a Loyalty Level that offered this benefit.
14 Certain Consumers who attempted to allocate their entire balance of Points in a given year
15 received a comparatively small credit against their Maintenance Fees. At times, certain
16 Vacation Counselors stated to some Consumers that their Maintenance Fees would be reduced
17 by the purchase of more Points notwithstanding that Maintenance Fees are based on the number
18 of Points that a Consumer owns.

19 g. In some instances, certain Quality Assurance Officers did not specifically
20 discuss with some Consumers the portion of the Arizona Time-Share Public Report and
21 Purchase Documents which disclosed the Consumer's right to cancel a purchase and security
22 agreement within seven (7) calendar days following its execution, pursuant to A.R.S. § 32-
23 2197.03.

24 h. Some Consumers alleged that Diamond failed to honor their requests to
25 cancel the purchase and security agreement within seven (7) calendar days following its
26 execution, pursuant to A.R.S. § 32-2197.03.

1 i. Certain Vacation Counselors induced some Consumers to buy Points at the
2 Sales Presentation by representing to them that the deal offered would not be available after
3 they left the Sales Center.

4 j. Certain Vacation Counselors represented to some Consumers that Sales
5 Presentations typically last approximately 90 to 120 minutes. In some instances, however,
6 Sales Presentations lasted for several hours, and at times, certain Vacation Counselors led some
7 Consumers to believe they were obligated to stay for the entire presentation. Some Consumers
8 claimed they felt rushed to sign the Purchase Documents before carefully reviewing them, and
9 that they signed Purchase Documents with Diamond because they felt it was the only way to
10 extricate themselves from what they perceived as a high-pressure sales situation.

11 k. Consumers who agreed to buy Points were presented Purchase Documents
12 to sign which obligated them to pay yearly Maintenance Fees imposed by the Association
13 boards. At times, certain Quality Assurance Officers did not adequately explain to some
14 Consumers their rights and obligations under the Purchase Documents.

15 l. While Diamond provided Consumers with physical, paper copies of the
16 documents required to be provided in that form (*e.g.*, the Purchase Documents), Diamond
17 provided other Project Documents in electronic form when permitted under applicable Arizona
18 law. As most of the Consumers were on vacation, some were unable to review all of the
19 Project Documents provided in electronic form until they returned home.

20 m. At times, certain Vacation Counselors represented to some Consumers,
21 directly or indirectly, that Points ownership constitutes an investment or deeded real property
22 interest that can appreciate in value. However, Points-based vacation membership does not
23 constitute a deeded real property interest and Consumers are not likely to experience an
24 appreciation in financial value.

25 n. Certain Vacation Counselors represented to some Consumers, directly or
26 indirectly, that Consumers could sell their Membership if, at any time, they decided that they

1 no longer wanted their Membership. However, some Consumers have been unable to sell their
2 Membership on the secondary market. Certain other Consumers have been unable to give their
3 Membership away because some potential acquirers did not want to assume the obligation of
4 paying yearly Maintenance Fees and also could not acquire through a resale the Consumers'
5 membership in THE Club.

6 o. At times, certain Vacation Counselors failed to adequately inform
7 Consumers that they could not transfer Membership interests without approval from Diamond
8 and the DRUSC or PVC Association, which can refuse to allow the transfer of Membership
9 interests. At times, certain Vacation Counselors failed to disclose that if a Membership interest
10 transfer or sale is allowed, the purchasing Consumer does not receive a Membership in THE
11 Club.

12 p. At times, certain Vacation Counselors represented to some Consumers that
13 they could "rent" Points to other persons. According to the Purchase Documents, Consumers
14 are allowed to rent to friends and family, but are expressly prohibited from renting out vacation
15 intervals for cash through online or print advertising to the general public.

16 q. At times, certain Vacation Counselors represented to some Consumers that
17 purchases financed through Diamond could be refinanced at lower interest rates through the
18 Consumers' personal banking institutions, when Consumers were unable to acquire such
19 refinancing.

20 r. At times, certain Vacation Counselors represented to some Consumers that
21 interest paid on Diamond purchase money loans is tax-deductible as mortgage interest paid,
22 when such tax benefits only applied to deeded timeshare interests. Interest paid by Consumers
23 for their Membership is not deductible as home mortgage interest paid because Points-based
24 vacation membership products are not considered "qualified homes" according to IRS
25 Publication 936.

26 s. At times, certain Vacation Counselors represented to some Consumers that

1 Diamond would buy back their Membership within the first two years after purchase if the
2 Consumer became dissatisfied, but the Purchase Documents disclosed that Diamond does not
3 offer a buy-back program. Some Consumers expressed dissatisfaction to Diamond within two
4 years of their purchase. Despite these Consumers requesting that Diamond repurchase the
5 Membership as verbally represented, Diamond declined many of the requests.

6 t. At times, certain Vacation Counselors represented to some Consumers that
7 Diamond would assist them with selling their Membership. However, the Purchase Documents
8 disclosed that Diamond does not offer a resale program.

9 u. At times, certain Vacation Counselors represented to some Consumers that
10 they could save money on future vacations by purchasing Points, but did not factor in the cost
11 of Maintenance Fees and other costs.

12 v. At times, certain Sampler Agents represented to some Consumers that
13 THE Sampler package allows Consumers to experience membership in THE Club without
14 risking the initial cash outlay. Certain Sampler Agents did not verbally disclose that both the
15 Sampler agreement and checklist provided to Consumers explained that purchasers had to
16 maintain their Sampler account in good standing at the time of booking, were required to pay
17 either \$1,000 or six (6) monthly payments towards their purchase money loan before
18 vacationing, stay a minimum of three (3) nights, and attend a Sales Presentation during their
19 stay.

20 w. After the acquisition of Sunterra in 2007 and PVC in 2010, Diamond
21 contacted Sunterra and PVC timeshare owners to invite them to attend what were purportedly
22 "informational meetings" to learn about changes to the resorts. These meetings included Sales
23 Presentations for upgrades to a Points-based vacation Membership.

24 x. At these meetings, certain Vacation Counselors represented to some
25 former Sunterra and PVC owners that their Maintenance Fees would be lowered or reduced if
26 they upgraded to a Points-based vacation Membership. Instead, some former Sunterra and

1 PVC owners who upgraded to Points-based vacation Memberships saw an increase in their
2 Maintenance Fees.

3 y. At times, Vacation Counselors represented to some former PVC owners
4 that they would be able to take more vacations at a wider variety of resort locations if they
5 upgraded to a Points-based vacation Membership. While these former deeded PVC owners
6 were able to vacation at a wider variety of resort locations if they upgraded to a Points-based
7 vacation Membership, some former PVC owners who converted to Diamond Memberships
8 claim they were not able to occupy the same number of accommodation nights with their
9 Points-based vacation Memberships as with their original Memberships.

10 68. The State believes, and therefore alleges, that some of the actions and statements
11 by certain Diamond employees, including Vacation Counselors, Sales Managers, and Quality
12 Assurance Officers, as detailed in the State's Allegations, constitute deception, deceptive or
13 unfair acts or practices, fraud, false pretenses, false promises, misrepresentations, or
14 concealment, suppression, or omission of material facts in violation of the ACFA.

15 69. The State's Allegations are based on allegations made in specific individual
16 complaints received by the State.

17 70. Without admitting any liability or wrongdoing, Diamond emphasizes that it takes
18 Consumer complaints seriously and acknowledges the areas of concern identified by the State.
19 While Diamond already has policies and procedures in place, Diamond is prepared to further
20 enhance its policies and procedures in accordance with the terms of this Assurance in order to
21 resolve this dispute.

22 **III. APPLICATION**

23 71. The provisions of this Assurance shall be limited to Diamond's Business with
24 Consumers at Sales Centers in Arizona and with Arizona-domiciled Consumers who attend
25 Sales Presentations with Diamond outside of Arizona.

26 72. This Assurance shall apply to Diamond, any successor entity or entities, whether

1 by acquisition, merger, or otherwise, Diamond's current or future officers, directors,
2 managerial or supervisory employees, and to any other employees or agents having
3 responsibilities with respect to the subject matter of this Assurance.

4 **IV. ASSURANCES**

5 NOW, THEREFORE, Diamond and its officers, agents, servants, employees,
6 successors, assignees, and all other persons in active concert or participation with it, pursuant to
7 A.R.S. § 44-1530, agree, undertake and assure:

8 73. Diamond shall comply with the ACFA as it is now written and as it is amended in
9 the future.

10 74. Diamond shall adopt and implement a set of enhanced policies and procedures
11 (collectively, the "Quality Assurance Program") to govern the following:

12 a. Diamond shall continue to maintain its independent Quality Assurance
13 Program under which Quality Assurance Officers shall remain independent from Diamond's
14 sales and marketing department.

15 b. Diamond shall enhance its programs, policies, and training and continue to
16 instruct and train its Vacation Counselors and Sales Managers to comply with the ACFA.
17 Diamond shall advise all Vacation Counselors and Sales Managers that they may not:

- 18 i. deviate from Diamond Sales Materials;
- 19 ii. make oral representations at the point of sale that are inconsistent with
20 Diamond's Purchase Documents;
- 21 iii. use documents or other materials in Sales Presentations unless such
22 materials have been approved by the appropriate corporate departments;
- 23 iv. provide any information that may be construed as tax advice; and
- 24 v. make oral representations referred to in subsection (c) of this paragraph.

25 c. Diamond, its officers, agents, servants, employees, successors, assigns,
26 and those persons in active concert or participation with them are prohibited from, and

1 Diamond shall instruct its Vacation Counselors, Sales Managers, and Quality Assurance
2 Officers that they are prohibited from, making any oral representations at the point of sale that
3 are inconsistent with Diamond's Purchase Documents or any misrepresentations, including, but
4 not limited to the following:

- 5 i. the use of Points to book travel arrangements such as flights, rental
6 cars, or cruises is comparatively lower in cost than if the Consumer
7 would spend cash for the same travel arrangements, unless such
8 representations are accurate;
- 9 ii. a non-deeded timeshare interest such as Points is a deeded property
10 interest or may be considered an investment in real property;
- 11 iii. Points appreciate in value;
- 12 iv. Points automatically roll over to the following year, unless such
13 representations are accurate;
- 14 v. Points may be used to pay Maintenance Fees unless the particular plan
15 being sold offers this benefit;
- 16 vi. the Consumer's Maintenance Fees will be reduced by the purchase of
17 additional Points, unless such representations are accurate;
- 18 vii. Consumers may rent out Points for cash through online or print
19 advertising to the general public unless such representations are true;
- 20 viii. Diamond will buy back Consumers' Memberships unless Diamond
21 offers a buy-back program;
- 22 ix. there is a secondary market for the sale of Points, that such secondary
23 market has a certain level of sales volume, or provides Consumers with
24 the ability to re-sell their Points, unless such representations are
25 accurate;
- 26 x. Consumers will be able to obtain a loan from a private lender to

1 refinance a loan from Diamond at a lower interest rate; and

- 2 xi. interest paid on a Diamond loan is tax deductible unless such
3 representations are accurate.

4 d. A Quality Assurance Officer shall meet with each Consumer before the
5 Consumer signs any Purchase Documents. The Quality Assurance Officer shall review the
6 Purchase Documents with the Consumer and shall ask the Consumer a series of questions
7 reasonably designed to confirm that each Consumer understands the following:

- 8 i. their right to cancel their purchase of a timeshare interest within seven
9 (7) calendar days following execution pursuant to A.R.S. § 32-2197.03
10 (or other right to cancel, as applicable);
- 11 ii. any applicable policy regarding transfer of their timeshare interest to a
12 third-party and the fees and costs associated with such assignments;
- 13 iii. their decision to purchase is not based on tax incentive reasons;
- 14 iv. how to use their Points for travel or other ancillary benefits;
- 15 v. how to use Points for the payment of Maintenance Fees, including
16 disclosure of the exchange rate of Points to Maintenance Fee dollars in
17 such transactions, if applicable;
- 18 vi. procedures and deadlines for saving or borrowing Points from year-to-
19 year, and the timing for use based on Loyalty Level;
- 20 vii. the duration of their Membership; and
- 21 viii. that Maintenance Fees are billed annually, must be paid current to
22 make reservations, and are subject to annual increases in accordance
23 with the Project Documents and applicable law.

24 e. Quality Assurance Officers shall take reasonable steps to evaluate whether
25 any Vacation Counselor or Sales Manager is engaging in, has engaged in, or intends to engage
26 in conduct that is not consistent with subsections (b) and (c) of this paragraph. Diamond shall

1 investigate all claims by any Quality Assurance Officer that a Vacation Counselor or Sales
2 Manager has engaged in conduct that is not consistent with subsections (b) and (c) of this
3 paragraph within thirty (30) calendar days of receiving such information and shall take
4 appropriate action as described below.

5 f. Should Diamond receive a complaint directly from a Consumer that
6 alleges that a Vacation Counselor or Sales Manager has engaged in conduct that is not
7 consistent with subsections (b) and (c) of this paragraph, Diamond shall appropriately
8 investigate such allegations within thirty (30) calendar days of receiving the Consumer
9 complaint.

10 g. Diamond shall take appropriate disciplinary action, including termination
11 of employment, suspension and/or re-training of a Vacation Counselor or Sales Manager in the
12 event Diamond determines that such Vacation Counselor has engaged in conduct that is not
13 consistent with subsections (b) and (c) of this paragraph.

14 h. Diamond shall maintain policies for disclosure of all material information
15 regarding THE Sampler, including the requirement that the Consumer maintains his or her
16 Sampler account in good standing at the time of booking, having paid either \$1,000, or six (6)
17 monthly payments toward his or her purchase money loan; the three-night minimum stay
18 requirement; the existence of any other applicable fees and costs; and that the Consumer must
19 attend a timeshare presentation of approximately sixty (60) minutes during each Sampler stay.

20 i. Diamond shall maintain a Secret-Shopper Program to monitor Vacation
21 Counselors and Sales Managers' compliance with this Assurance.

22 j. The Quality Assurance Program shall include practices designed to (a)
23 monitor Vacation Counselor and Sales Manager activities for consistency with this Assurance;
24 (b) utilize information received from any complaints or misunderstandings from Consumers to
25 improve the Quality Assurance Program training; and (c) utilize information received through
26 the Quality Assurance Program to improve disclosures in the Purchase Documents.

1 75. At each Sales Presentation, Diamond shall provide each attending Consumer with
2 the following:

3 a. a summary containing the cost of Maintenance Fees and other applicable
4 fees charged to members of the Association for each Loyalty Level for at least the five (5) years
5 preceding the year of the sale applicable only to the Diamond Collection associated with the
6 Points being presented for sale; and

7 b. a written explanation of the process by which Maintenance Fees are
8 established by the applicable Association, which shall include disclosure of maximum yearly
9 increases to Maintenance Fees.

10 76. Diamond shall make available to each attending Consumer paper copies or, if the
11 Consumer requests, copies that are viewable in real time on a Diamond tablet or other device, of
12 the form Purchase Documents (*i.e.*, without blanks filled-in), the Arizona Time-Share Public
13 Report (or other disclosure document, as applicable), and the governing documents for their
14 review prior to signing.

15 77. Diamond shall give each attending Consumer sufficient time to review the
16 Purchase Documents before requiring the Consumers to sign them.

17 78. Diamond shall provide each attending Consumer an opportunity to ask a Quality
18 Assurance Officer any questions they may have about the rights and obligations set forth in the
19 completed but unexecuted Purchase Documents (*i.e.*, with blanks filled-in) prior to requesting
20 the Consumer to sign any Purchase Documents.

21 79. After each Consumer who attends a Sales Presentation signs the Purchase
22 Documents, Diamond shall provide each attending Consumer a copy of the Purchase
23 Documents executed by the Consumer, the Arizona Time-Share Public Report (or other
24 disclosure document, as applicable), and the Project Documents for the Consumer to keep. If
25 the Consumer consents to receive documents in electronic format in accordance with applicable
26 law, Diamond shall provide Consumers a tablet or other device through which the Consumer

1 may view such documents in the future. If the Consumer does not provide such consent, the
2 copies of the Purchase Documents and the Arizona Time-Share Public Report (or other
3 disclosure document, as applicable) provided to the Consumer shall be paper copies.

4 80. To the extent applicable, Diamond shall clearly and conspicuously disclose to
5 Consumers in its Arizona Time-Share Public Report that a majority of the Board of Directors of
6 the Association are employees of Diamond or are otherwise affiliated with Diamond.

7 81. For six (6) years after the Effective Date, Diamond shall conduct a training
8 program with relevant personnel, at least annually, to administer the requirements of this
9 Assurance. For three (3) years after the Effective Date, Diamond shall provide a copy of the
10 training materials provided to relevant personnel to the Attorney General's Office, within forty-
11 five (45) calendar days after conducting the training program. All training materials Diamond
12 provides to the Attorney General's Office under this paragraph will be confidential in
13 accordance with A.R.S. § 44-1525.

14 82. The Attorney General may conduct undercover investigations of Diamond's
15 practices as the State deems fit to monitor compliance with the ACFA and this Assurance.

16 ***A. Relinquishment Remedy Program***

17 83. The Relinquishment Remedy Program may include any complaints filed by
18 Eligible Consumers and received by the Attorney General either (1) prior to the Effective Date
19 or (2) during the Filing Period. The form of relief available through the Relinquishment
20 Remedy Program is limited to the relinquishment relief described in paragraphs 100 and 101
21 below (the "Relief"). An Eligible Consumer's receipt of a monetary disbursement pursuant to
22 paragraph 105 does not automatically entitle the Eligible Consumer to Relief under the
23 Relinquishment Remedy Program.

24 84. Only Eligible Complaints will be entitled to Relief. An Eligible Consumer
25 complaint may qualify as an Eligible Complaint only if: (1) the complaint alleges a problem or
26 dissatisfaction that can be identified with specificity about a matter that is the subject of the

1 State's Allegations; (2) the Consumer has not already been released from the Memberships at
2 issue; (3) the conduct alleged in the complaint occurred prior to the Effective Date; (4) the
3 Eligible Consumer wants to receive the Relief; and (5) the complaint was filed in good faith.
4 Eligible Consumer complaints filed during the Filing Period may qualify as an Eligible
5 Complaint only if the conduct alleged in the complaint occurred between January 1, 2011 and
6 on or before the Effective Date. Notwithstanding the foregoing criteria, the Parties stipulate
7 that all Consumers listed on the Stipulated Eligible Complaints List are eligible for Relief.

8 85. The Attorney General will evaluate whether Eligible Consumers, whose
9 complaints were not previously stipulated to on the Stipulated Eligible Complaints List, have
10 filed Eligible Complaints. Within thirty (30) calendar days after the expiration of the Filing
11 Period, the Attorney General will send Diamond a list of these Eligible Consumer complaints
12 that he believes should qualify as Eligible Complaints that are entitled to Relief (each a "Relief
13 List"). With respect to each such complaint, the Attorney General will identify the specific
14 State Allegation(s) in paragraph 67 that are the subject matter of the complaint based upon the
15 alleged conduct described therein. The Attorney General may provide Relief Lists on a rolling
16 basis during the Filing Period, but no more frequently than once per month.

17 86. Upon Diamond's receipt of a Relief List, Diamond will cease all collection
18 activities, including instructing third parties acting on its behalf to cease any applicable
19 collection activities, with respect to each of the Eligible Consumers who filed a complaint
20 included on the Relief List, until the relevant complaint has been investigated and a final
21 determination has been made regarding whether it qualifies as an Eligible Complaint. Diamond
22 will copy the Attorney General on all correspondence it sends to Eligible Consumers with
23 respect to the Relinquishment Remedy Program.

24 87. Within forty-five (45) calendar days after the expiration of the Filing Period,
25 Diamond will notify the Attorney General in writing if it has objections to the inclusion of any
26 complaints on the Relief List ("Relief Objections"). Diamond's Relief Objections will describe

1 the basis for its objections. Diamond will also notify the Attorney General in writing if there
2 are Consumers to which Diamond will stipulate to provide Relief (“Undisputed Complaint
3 List” and each such complaint an “Undisputed Complaint”).

4 88. Within forty-five (45) calendar days after receipt of the Relief Objections, the
5 Attorney General will provide Diamond with written notice of any Eligible Consumer
6 complaint subject to the Relief Objections which he believes should qualify for Relief
7 (“Disputed Complaint List” and each such complaint a “Disputed Complaint”). With respect to
8 each Disputed Complaint, the Attorney General will provide Diamond with any additional
9 information provided by the Eligible Consumer.

10 89. Disputed Complaints will be subject to the resolution procedures set forth in
11 paragraphs 90 through 99 below. Within forty-five (45) calendar days after receipt of the
12 Disputed Complaint List and additional information from the Attorney General, Diamond will
13 re-evaluate the Disputed Complaints prior to initiation of the dispute resolution procedures.
14 Diamond will notify the Attorney General in writing during such forty-five (45)-day period
15 with a revised Undisputed Complaint List if Diamond determines to stipulate to provide Relief
16 to a previously Disputed Complaint (“Second Stipulated Eligible Complaints List”). Diamond
17 will also deliver to the Attorney General a final Disputed Complaint list (“Final Disputed
18 Complaint List”).

19 90. On or before March 31, 2017, Diamond will retain a neutral third-party dispute
20 resolution facilitator (the “Facilitator”), who is mutually agreed upon by both Parties. All fees
21 and out-of-pocket expenses of the Facilitator will be paid by Diamond. The Facilitator will be
22 responsible for the coordination of resolution procedures to resolve Disputed Complaints and
23 will determine whether Disputed Complaints are Eligible Complaints that qualify for Relief.
24 On or before expiration of the Filing Period, the Facilitator will meet with the Attorney General
25 and Diamond, or confer by telephone or video conference, regarding the Relinquishment
26 Remedy Program process and procedures. The Facilitator may not engage in any ex parte

1 communications with the Attorney General or Diamond without prior consent of the Parties.
2 All information and evidence submitted to the Facilitator, and all written decisions or reports
3 issued by the Facilitator, will be confidential in accordance with A.R.S. § 44-1525.

4 91. The Facilitator may be removed for Cause by either the Attorney General or by
5 Diamond. For the purpose of this paragraph, "Cause" will mean: (a) a breach by the Facilitator
6 of the terms of this Assurance; (b) any act of dishonesty, intentional fraud or similar conduct by
7 the Facilitator; (c) any intentional act of bias or prejudice in favor or against either Diamond or
8 Eligible Consumers by the Facilitator; or (d) conduct by the Facilitator that demonstrates
9 unfitness to serve in any administrative capacity. "Cause" will not include disagreements with
10 the decisions of the Facilitator pursuant to this Assurance, unless there is a clear pattern in the
11 Facilitator's decisions that demonstrates that the Facilitator has not been acting as a neutral
12 third-party in rendering decisions. Should the Facilitator be removed for Cause, Diamond will
13 retain a new Facilitator who is mutually agreed upon by both Parties within thirty (30) calendar
14 days of the removal of the prior Facilitator.

15 92. Within twenty (20) calendar days after delivering the Final Disputed Complaint
16 List to the Attorney General's Office, the Attorney General and Diamond may provide a joint
17 statement to the Facilitator to assist him/her in the resolution process, which may include, but is
18 not limited to, information about the timeshare industry and the ACFA ("Joint Statement").
19 The Joint Statement will be exchanged between the Parties prior to submission to the
20 Facilitator. Each Party's position set forth on the Joint Statement will be limited to ten pages
21 that are double spaced, using 12 point, Times New Roman font.

22 93. Within forty-five (45) calendar days after delivering the Final Disputed
23 Complaint List to the Attorney General's Office, Diamond will deliver the following: (1) to the
24 Facilitator, the applicable records related to the Disputed Complaint, including: (a) the
25 Disputed Complaint, (b) any written communications from the Eligible Consumer in the
26 context of the Disputed Complaint, (c) any information provided by the Attorney General to

1 Diamond in the context of the Disputed Complaint, and (d) any information provided by
2 Diamond to the Attorney General in the context of the Disputed Complaint (collectively, the
3 “Disputed Complaint Materials”); (2) to Eligible Consumers listed on the final Disputed
4 Complaint List, a notice that their complaint has been sent to the Facilitator with copies of all
5 Disputed Complaint Materials that Diamond sent to the Facilitator (“Facilitator Notice”); and
6 (3) to the Attorney General, a copy of each Facilitator Notice.

7 94. The Facilitator will review the terms of this Assurance and the Disputed
8 Complaint Materials. The Facilitator’s decision regarding each Disputed Complaint will be
9 based solely on the Assurance, the Joint Statement, and the Disputed Complaint Materials
10 unless: (1) the Facilitator deems it necessary to obtain additional information or testimony
11 regarding a specific Disputed Complaint and/or (2) Diamond or the Attorney General
12 specifically request a telephonic conference in writing. The Facilitator will schedule and
13 conduct all proceedings with the objective of resolving the dispute as quickly and efficiently as
14 reasonably possible.

15 95. If the Facilitator deems it necessary to obtain additional information or testimony,
16 he/she may request it from the Attorney General, Diamond, or the Eligible Consumer. Prior to
17 contacting Eligible Consumers, the Facilitator must advise the Parties of the intended contact.
18 Except as specifically requested by the Facilitator, no Party or the Eligible Consumer may
19 present any evidence that was not shared with the other Party in a good faith attempt to resolve
20 the dispute prior to the review by the Facilitator.

21 96. The Facilitator will determine whether the Disputed Complaint qualifies as an
22 Eligible Complaint, which is entitled to Relief. A Disputed Complaint will qualify as an
23 Eligible Complaint if the Facilitator specifically finds by a preponderance of the evidence that:
24 (1) each of the requirements set forth in paragraph 84 are met, (2) Relief is warranted under the
25 totality of the circumstances, and (3) the underlying material allegations are true.

26 97. Upon the Facilitator’s determination as to whether the Disputed Complaint will

1 be treated as an Eligible Complaint and if Relief is warranted, but no later than sixty (60)
2 calendar days after Diamond delivers the Disputed Complaint Materials to the Facilitator, the
3 Facilitator will send a letter to Diamond, the Eligible Consumer, and the Attorney General
4 explaining his or her determination.

5 98. The use of the Facilitator will be the exclusive remedy for the Parties with respect
6 to the Disputed Complaints and the Parties may not attempt to adjudicate any Disputed
7 Complaints in any other forum. The decision of the Facilitator will be final and binding on the
8 Parties and will not be capable of challenge by the Parties, whether by arbitration, in court or
9 otherwise. This paragraph does not alter Consumers' rights as set forth in paragraph 124.

10 99. No later than thirty (30) days after delivering the last letter pursuant to paragraph
11 97, the Facilitator will send Diamond and the Office of the Attorney General a written report
12 summarizing the review and determination of the Disputed Complaints (the "Facilitator
13 Report").

14 100. For all Eligible Complaints, Diamond will deliver a Mutual Release and
15 Termination of Purchase and Security Agreement ("Mutual Release") with respect to the
16 Membership(s) which are the subject of the Eligible Complaint and purchased prior to the
17 Effective Date (collectively, the "Released Membership") during the following time periods:
18 (1) for all Eligible Consumers listed on the Stipulated Eligible Complaints List, Diamond will
19 deliver a Mutual Release within thirty (30) calendar days after the Effective Date; (2) for all
20 Eligible Consumers listed on the Second Stipulated Eligible Complaints List, Diamond will
21 deliver a Mutual Release within thirty (30) calendar days after delivering the Second Stipulated
22 Eligible Complaints List to the Attorney General; (3) for all Disputed Complaints that are
23 determined to be Eligible Consumers who qualify for Relief, Diamond will deliver a Mutual
24 Release with respect to the Released Membership(s) within fifteen (15) calendar days after
25 receipt of the Facilitator Report. Eligible Consumers must return their signed Mutual Release
26 to Diamond within thirty (30) calendar days after receipt of the Mutual Release to obtain the

1 Relief.

2 101. Diamond's Mutual Releases of Eligible Complaints will require the following: (1)
3 the Eligible Consumers will release all right, title, interest, and claim, in and to the Released
4 Membership and the Points allocated to such Released Membership; (2) the Eligible
5 Consumers will authorize the appropriate Association(s) to transfer the Points allocated to the
6 Released Membership to the cumulative register of Diamond; (3) Eligible Consumers will
7 release Diamond of any pre-Effective Date claims under the ACFA and claims relating to
8 Eligible Consumers' Released Membership or any other purchase(s) made through Diamond
9 prior to the Effective Date; (4) Eligible Consumers will release all right, title, or interest in all
10 Diamond Collections, THE Club, or interval exchanges related to the Released Membership;
11 (5) Diamond will release the Eligible Consumers of all outstanding obligations, financial and
12 otherwise, under the purchase and security agreement for the Released Membership and all
13 outstanding notes and obligations associated with the Released Membership will be deemed
14 satisfied and terminated; (6) the applicable Association(s) will release the Eligible Consumers
15 from liability for any unpaid Maintenance Fees for the Released Membership; (7) Diamond will
16 not impose liquidated damages in connection with the Released Membership; (8) Diamond will
17 not prohibit such Eligible Consumers from making statements to government officials; (9) to
18 the extent that Diamond has reported information regarding such Eligible Consumers to credit
19 reporting agencies, Diamond will contact all credit reporting agencies to which it reports and
20 request removal of all negative credit reporting entries with respect to each such Eligible
21 Consumer—it is understood and agreed that Diamond has no control over information
22 furnished to the credit reporting agencies by entities whose assets (or a portion thereof)
23 Diamond acquired; (10) Diamond will pay the cost of any transfer, documentation, and title
24 fees associated with the Relief; and (11) upon full execution of the Mutual Release, Diamond
25 will send a copy of each to the Attorney General.

26 102. The Relinquishment Program set forth in Article VI is separate from the

1 Relinquishment Remedy Program. Eligible Complaints entitled to Relief under the
2 Relinquishment Remedy Program are to be considered separate from Diamond's
3 Relinquishment Program and may not be considered as any part of any annual caps on
4 Consumers' eligibility for Diamond's Relinquishment Program. Diamond will have no
5 obligation under this Assurance to make any monetary payment directly to Eligible Consumers
6 in connection with the Relinquishment Remedy Program.

7 ***B. CRRR Fund Payments***

8 103. Subject to the terms and conditions of this Section, Diamond will pay to the
9 Attorney General a monetary payment of Six Hundred Fifty Thousand Dollars (\$650,000),
10 pursuant to A.R.S. § 44-1530 ("CRRR Fund Payment").

11 104. The CRRR Fund Payment will be made by cashier's check, or by wire, payable to
12 the Office of the Attorney General, in a single lump sum, no later than thirty (30) calendar days
13 after the Effective Date.

14 105. The Attorney General will promptly deposit the CRRR Fund Payment into an
15 interest-bearing consumer restitution subaccount of the Consumer Restitution and Remediation
16 Revolving Fund, pursuant to A.R.S. § 44-1531.02, and used for the purposes set forth therein.
17 The Attorney General may distribute such monies to Eligible Consumers who filed complaints,
18 pursuant to A.R.S. § 44-1531.02(B). The amount and timing of disbursement to each Eligible
19 Consumer will be determined at the sole discretion of the Attorney General and need not take
20 into account whether a complaint was deemed an Eligible Complaint under the Relinquishment
21 Remedy Program. The total amount of disbursement by the Attorney General to Eligible
22 Consumers is capped at the amount set forth in paragraph 103 above. In the event that any
23 portion of the monies cannot be distributed to Eligible Consumers, or exceeds the amount of
24 claims, such portion will be deposited by the Attorney General into the Consumer Protection –
25 Consumer Fraud Revolving Fund in accordance with A.R.S. § 44-1531.01 and used for the
26 purposes specified therein.

1 106. In the event that Diamond fails to timely make the full CRRR Fund Payment
2 imposed by this Assurance, and in addition to any other relief or remedy elected or pursued by
3 the State, the remaining balance will accrue interest at the rate of ten percent (10%) per annum
4 beginning thirty (30) calendar days after the Effective Date until paid in full.

5 107. No portion of the CRRR Fund Payment will be characterized as a fine, penalty,
6 sanction, or forfeiture by Diamond to the State.

7 **V. RELEASE**

8 108. By execution of this Assurance and following a full and complete payment of the
9 CRRR Fund Payment due under Article IV(B) of this Assurance and the Additional Payment
10 due under Article VII of this Assurance, the Arizona Attorney General releases and discharges
11 Diamond, as defined herein, from the following: all causes of action that can be brought by the
12 Arizona Attorney General under A.R.S. § 44-1521, *et seq.*, as a result of acts or omissions
13 which occurred prior to the Effective Date of this Assurance, except for any obligations arising
14 under this Assurance.

15 109. Except as described in the Relinquishment Remedy Program set forth in Article
16 IV(A) of this Assurance, nothing contained in this Assurance shall be construed to waive,
17 release, discharge or otherwise limit any right, claim, or right of action by any person or entity
18 or by any local, state, federal, or other governmental entity or agency which is not a party
19 hereto, and as to the parties hereto, only to the specific extent agreed to herein.

20 **VI. RELINQUISHMENT PROGRAM**

21 110. Diamond has publicly announced the Relinquishment Program, a program
22 through which Diamond may from time to time, in its sole and subjective discretion, offer
23 certain qualifying Diamond owners (“RP Qualifying Owners”) the ability to relinquish all
24 obligations and benefits of owning a Membership or other timeshare interest. Diamond
25 anticipates notifying its owners about the Eligibility Criteria (defined below) for the
26 Relinquishment Program in the first quarter of 2017.

1 111. To be considered an RP Qualifying Owner, an owner of a Membership or other
2 timeshare interest (collectively, "Qualifying Interest") must meet at least the following criteria
3 ("Eligibility Criteria"):

- 4 a. not have a loan balance or other lien encumbering the Qualifying Interest;
- 5 b. be current on the payment of all Maintenance Fees levied against the Qualifying
6 Interest and THE Club dues;
- 7 c. have free and clear title to the Qualifying Interest;
- 8 d. own a Qualifying Interest from a Diamond managed resort/program trust or a
9 Qualifying Interest that is eligible for Diamond's multisite vacation plan; and
- 10 e. have acquired the Qualifying Interest from Diamond or through any entity where
11 Diamond acquired associated developer rights; however, in some cases, Diamond
12 may acquire interests acquired by the RP Qualifying Owner in the secondary market
13 as Diamond shall determine.

14 112. RP Qualifying Owners who previously attempted to make transfers to fraudulent
15 companies may participate in the Relinquishment Program if they otherwise meet the
16 Eligibility Criteria. The Relinquishment Program is separate from the Relinquishment Remedy
17 Program set forth in Article IV(A) of this Assurance. Moreover, the Relinquishment Program
18 is a program offered, on a case-by-case basis, at Diamond's discretion and it does not constitute
19 an obligation under this Assurance aside from the election resulting in the RP Monetary
20 Payment in paragraph 113.

21 113. If in any calendar year commencing January 1, 2018 through December 31, 2023
22 Diamond, in its discretion, elects (i) to terminate the Relinquishment Program with respect to
23 Consumer purchases of Qualifying Interests at Sales Centers in Arizona or with respect to
24 Consumers domiciled in Arizona or (ii) not to offer relinquishment to a Consumer who
25 otherwise meets the Eligibility Criteria in any calendar year where the Relinquishment Cap (as
26 defined below) has not been met ("RP Denied Consumer"), Diamond shall promptly pay to the

1 Attorney General's Office a monetary payment of Five Hundred Thousand Dollars (\$500,000),
2 pursuant to A.R.S. § 44-1530, which will be deposited into the Consumer Restitution and
3 Remediation Revolving Fund, pursuant A.R.S. § 44-1531.02 ("RP Monetary Payment"). Only
4 one RP Monetary Payment shall be required in any calendar year irrespective of the total
5 number of RP Denied Consumers in that year. In no event, however, shall any portion of such
6 RP Monetary Payment be characterized, by the Attorney General or otherwise, as a fine,
7 penalty, sanction, or forfeiture by Diamond to the State. For purposes of this paragraph, the
8 "Relinquishment Cap" means the maximum amount of relinquished Qualifying Interests
9 (represented by Points) to RP Qualifying Owners under the Relinquishment Program in a
10 calendar year, and shall equal 15% of the previous year's timeshare sales (represented by
11 Points). The Relinquishment Cap will not include any Consumer complaints resolved under the
12 Relinquishment Remedy Program. To the extent Diamond agrees to acquire an interest under
13 the Relinquishment Program, Diamond will charge no more than \$250 per interval or Points
14 package, subject to annual inflation increases as designated by the U.S. Consumer Price Index.

15 **VII. ADDITIONAL PAYMENT**

16 114. Subject to the terms and conditions of this Section, and in consideration of the
17 time and effort of the Attorney General in connection with this Assurance, Diamond will pay to
18 the Attorney General an additional monetary payment of One Hundred and Fifty Thousand
19 Dollars (\$150,000), pursuant to A.R.S. § 44-1530.

20 115. Such additional payment will be made by cashier's check, or by wire, payable to
21 the Office of the Attorney General, in a single lump sum, no later than thirty (30) calendar days
22 after the Effective Date.

23 116. The Attorney General will deposit such payment in the Consumer Protection –
24 Consumer Fraud Revolving Fund in accordance with A.R.S. § 44-1531.01 and used for the
25 purposes set forth therein.

26 117. In the event that Diamond fails to timely make the full additional payment

1 imposed by this Assurance, and in addition to any other relief or remedy elected or pursued by
2 the State, the remaining balance will accrue interest at the rate of ten percent (10%) per annum
3 beginning thirty (30) calendar days after the Effective Date until paid in full.

4 118. No portion of the additional payment set forth in this Section will be
5 characterized as a fine, penalty, sanction, or forfeiture by Diamond to the State.

6 **VIII. GENERAL PROVISIONS**

7 119. This Assurance applies to Diamond, any successor entity or entities, whether by
8 acquisition, merger or otherwise, Diamond's current or future officers, directors, managerial or
9 supervisory employees, and to any other employees or agents having responsibilities with
10 respect to the subject matter of this Assurance of Discontinuance.

11 120. Diamond shall not participate, directly or indirectly, in any activity, or form a
12 separate corporation or entity for the purpose of engaging in acts or practices in whole or in part
13 within the State, that is prohibited by this Assurance or for any other purpose that would
14 otherwise circumvent any part of this Assurance.

15 121. Acceptance of this Assurance by the State shall not be deemed approval of or
16 sanction by the State of Diamond's past, present or future business practices, and Diamond is
17 prohibited from making any representations to the contrary. Further, neither Diamond nor
18 anyone acting on its behalf shall state or imply or cause to be stated or implied that the State, or
19 any other governmental unit, has approved, sanctioned, or authorized any of Diamond's acts or
20 practices.

21 122. Nothing in this Assurance shall be construed as relieving Diamond of its
22 obligation to comply with all applicable state and federal laws, regulations, or rules, or granting
23 it permission to engage in any acts or practices prohibited by such laws, regulations, or rules.

24 123. In the event that any statute, rule, or regulation pertaining to the subject matter of
25 this Assurance is enacted, promulgated, modified, or interpreted by a federal or state court, or
26 any federal or state government, or any federal or state agency, or a court of competent

1 jurisdiction holds that such statute, rule, or regulation is in conflict with any provision of this
2 Assurance, Diamond may comply with such statute, rule, or regulation and such action shall not
3 per se constitute a violation of this Assurance.

4 124. Nothing in this Assurance shall be construed to affect, restrict, limit, alter, waive,
5 or create any private right of action that a Consumer may hold against Diamond, unless
6 expressly set forth in state law.

7 125. This Assurance is made without trial or adjudication of any issue of fact or law.
8 The settlement negotiations resulting in this Assurance have been undertaken by the Parties in
9 good faith and for settlement purposes only. Nothing contained in this Assurance shall be
10 construed as an admission or concession of liability or fact by Diamond, a public reprimand, or
11 an adverse administrative order.

12 126. Neither this Assurance nor any evidence of any settlement negotiation or
13 settlement communications resulting in this Assurance, including determinations by the
14 Facilitator as part of the Relinquishment Remedy Program, shall be offered or received in
15 evidence in any action or proceeding for any purpose other than the enforcement of this
16 Assurance or related actions or enforcement proceedings. Nothing contained in this Assurance
17 shall be construed to create any legal or voluntary standard of care. Further, Diamond does not
18 intend that this Assurance be relied upon in any manner by any third-party in any civil,
19 criminal, or administrative proceeding before any court, administrative agency, or other
20 tribunal as an admission, concession, or evidence that Diamond has violated any federal, state,
21 or local law, or that any of Diamond's current or prior practices are or were in accordance with
22 any federal, state, or local law.

23 127. To seek modifications of this Assurance, Diamond shall send a written request for
24 modification with a detailed written explanation of the reason for the request to the Attorney
25 General. The Attorney General shall review such request on a timely basis and shall provide a
26 written response to Diamond within ninety (90) calendar days of the request.

1 128. This Assurance contains the entire agreement between the Parties. If any clause,
2 provision, or section of this Assurance shall, for any reason, be held illegal, invalid, or
3 unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause,
4 provision, or section of this Assurance, and this Assurance shall be construed and enforced as if
5 such illegal, invalid, or unenforceable clause, section, or other provision had not been contained
6 herein.

7 129. No waiver, modification, or amendment of the terms of this Assurance shall be
8 valid or binding unless made in writing, signed by the Parties, and then only to the extent
9 specifically set forth in such written waiver, modification, or amendment. To the extent that a
10 waiver, modification, or amendment of this Assurance must be approved and entered by the
11 Court, the State and Diamond agree to submit such waiver, modification, or amendment to the
12 Court for approval.

13 130. Although time is of the essence, nothing in this Assurance shall be construed to
14 require, prevent, or prohibit the Parties from agreeing to extend any time period set forth
15 herein, including but not limited to any notice requirement specified herein.

16 131. Diamond represents that it has fully read this Assurance and understands the legal
17 consequences involved in signing this Assurance.

18 132. Diamond represents and warrants that it is represented by legal counsel; it has
19 been fully advised of its legal rights in this matter; and the corporate signatory signing below is
20 fully authorized to act on behalf of Diamond.

21 133. Diamond shall provide a copy of this Assurance or a complete and accurate
22 summary of the material terms and conditions of this Assurance to its senior executive officers
23 who have managerial responsibility over the subject matter of this Assurance.

24 134. Diamond shall comply with the terms and conditions of this Assurance as of the
25 Effective Date, unless indicated otherwise in this Assurance or agreed to in writing by the
26 Parties.

1 135. Any notices required to be sent to the State or Diamond by this Assurance shall
2 be sent by United States mail or other national recognized courier service. Notice may also be
3 provided by facsimile, e-mail, or other electronic means of transmission. The documents shall
4 be sent to the following addresses:

5 For the State of Arizona:
6 Alyse C. Meislik
7 Assistant Attorney General
8 1275 West Washington Street
9 Phoenix, Arizona 85007-2997
10 consumer@azag.gov

 For Diamond:
 Jared T. Finkelstein
 Senior Vice President and General Counsel
 10600 West Charleston Boulevard
 Las Vegas, Nevada 89135
 Jared.Finkelstein@diamondresorts.com

11 136. If the State receives a request for documents provided by Diamond relating to this
12 Assurance or the negotiations resulting in this Assurance, or for any documents, materials,
13 reports or information specified by or required herein, the State shall comply with applicable
14 public disclosure laws, including without limitation A.R.S. § 44-1525.

15 137. This Assurance shall not be construed against the “drafter” because all Parties
16 participated in the drafting of this Assurance.

17 138. This Assurance may only be enforced by the Parties. Nothing contained in this
18 Assurance shall be construed to create any third-party beneficiary rights or give rise to or
19 support any right of action in favor of any consumer or group of consumers, or confer upon any
20 third-party any rights and remedies.

21 139. This Assurance is entered pursuant and subject to the provisions of A.R.S. § 44-
22 1530.

23 140. Diamond acknowledges that a violation of this Assurance within six (6) years of
24 the Effective Date constitutes prima facie evidence of a violation of A.R.S. § 44-1522.

25 141. The Attorney General shall file and seek Court approval of this Assurance. This
26 Court retains jurisdiction over the parties and the subject matter for purposes of enabling the
Parties to apply to the Court at any time for orders and directions as may be necessary or
appropriate to enforce compliance with or punish violations of this Assurance. Neither Party

1 will object on the basis of jurisdiction to enforcement of this Assurance under this paragraph.

2 142. This Assurance does not in any way limit the right of the Attorney General to: (a)
3 bring a legal action against Diamond for any future acts which violate the ACFA, whether or
4 not such acts are in violation of this Assurance; or (b) to enforce this Assurance.

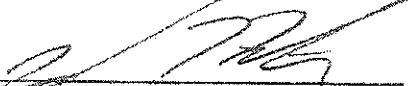
5 143. This Assurance may be executed in counterparts, and a facsimile or pdf signature
6 shall be deemed to be, and shall have the same force and effect as, an original signature.

7 DATED this 23rd day of December, 2016.

8 MARK BRNOVICH
9 ATTORNEY GENERAL

10 Alyse Meislik
11 Alyse C. Meislik
12 Assistant Attorney General
13 Office of the Arizona Attorney General
14 *Attorneys for State of Arizona*

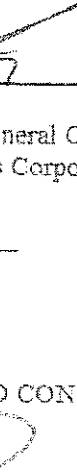
1 Diamond Resorts Corporation

2
3 By: 

4 Jared T. Finkelstein
5 Senior Vice President and General Counsel of
Respondent Diamond Resorts Corporation

6 Date: 12/22/16

7
8
9 APPROVED AS TO FORM AND CONTENT:

10
11 By: 

12 Joseph Kanefield
13 Ballard Spahr, LLP
Attorneys for Respondents

14 Date: 12/23/16

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