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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

CLARKE and REBECCA WIXON,  
NORMAN and BARBARA WIXON, and  
KANDICE SCATTOLON, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

WYNDHAM RESORT DEVELOPMENT  
CORP. (f/k/a Trendwest Resorts, Inc.),

Defendant.

Case No. C 07-02361 JSW

**SETTLEMENT AGREEMENT  
AND RELEASE**

CLASS ACTION

Before: Hon. Jeffrey S. White

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**INDEX OF EXHIBITS**

<b>EXHIBIT NO.</b>	<b>DESCRIPTION</b>	<b>SETTLEMENT AGREEMENT PROVISION</b>
<b>A</b>	CAFA Notice	I.(d); II.1.b.
<b>B</b>	Preliminary Approval Order	I.(p); II.1.a
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<b>D</b>	Credits to be cancelled at Disputed Resorts	III.A.
<b>E</b>	Units to be extracted and exchanged, and Credits cancelled at WorldMark resorts	III.B., C.

1  
2 Plaintiffs Clarke and Rebecca Wixon, Norman and Barbara Wixon, Kandice Scattolon,  
3 and the Settlement Class (collectively, “Plaintiffs”) and Defendant Wyndham Resort  
4 Development Corporation (“Wyndham”) (Plaintiffs and Wyndham are collectively referred to  
5 herein as “the Parties”), by and through their counsel, hereby enter into this Settlement  
6 Agreement and Release (“Settlement Agreement”), subject to Court approval, providing for the  
7 terms of the Parties’ settlement (the “Settlement”) and the releases set forth herein.  
8

9 **RECITALS**

10 WHEREAS, Plaintiffs Clarke and Rebecca Wixon and Norman and Barbara Wixon  
11 filed the above-captioned litigation (the “Action”) against Wyndham in the Superior Court of  
12 California, San Mateo County, on April 2, 2007 (*Wixon v. Wyndham Resort Development*  
13 *Corp.*, San Mateo Superior Court, Case No. CIV461931), which Wyndham removed to the  
14 United States District Court for the Northern District of California (the “Court”) on May 1,  
15 2007, Case No. C-07-2361-JSW.  
16

17 WHEREAS, on October 23, 2007, Plaintiffs Clarke and Rebecca Wixon and Norman  
18 and Barbara Wixon filed their First Amended Complaint, asserting claims against Wyndham on  
19 behalf of a class of persons who own WorldMark, The Club (“WorldMark”) Vacation Credits  
20 and who reside in or purchased their Vacation Credits in California, for breach of contract,  
21 breach of the covenant of good faith and fair dealing, violation of California Civil Code § 1750  
22 *et seq.* (“CLRA”), violation of California Business and Professions Code § 17200 *et seq.*  
23 (“UCL”), violation of California Business and Professions Code § 11210 *et seq.* (“VOTSA”),  
24 and declaratory relief; and adding as defendants Gene Hensley, David Herrick, John Henley,  
25 Peggy Fry, and John McConnell, in their capacities as current and former members of the  
26 Board of Directors of WorldMark, the Club (“Director Defendants”), and asserting against  
27 them claims for breach of fiduciary duty and declaratory relief.  
28

1  
2 WHEREAS, on April 18, 2008, the Court denied in part and granted in part Wyndham's  
3 motion to dismiss, finding that Plaintiffs' claims asserted against Wyndham were direct rather  
4 than derivative in nature, but granting dismissal as to Plaintiffs' CLRA claim.

5 WHEREAS, on May 16, 2008, Plaintiffs Clarke and Rebecca Wixon and Norman and  
6 Barbara Wixon filed their Second Amended Complaint, reasserting their class claims against  
7 Wyndham, and asserting against Director Defendants on behalf of Plaintiffs and nominal  
8 Defendant WorldMark derivative claims for breach of fiduciary duty and declaratory relief.  
9 Plaintiffs sought monetary damages, as well as injunctive and declaratory relief.  
10

11 WHEREAS, the Court, on July 23, 2008, granted Plaintiffs leave to file a Third  
12 Amended Complaint. Plaintiffs associated with the law firm of Gersh & Helfrich, LLP, and  
13 filed a Third Amended Complaint, which on November 3, 2009, in response to Director  
14 Defendants' motion to dismiss, the Court found alleged derivative claims with the requisite  
15 specificity.  
16

17 WHEREAS, on April 24, 2009, Plaintiffs Clarke and Rebecca Wixon and Norman and  
18 Barbara Wixon filed a motion for class certification with respect to the claims asserted against  
19 Wyndham and a motion for leave to file a Fourth Amended Complaint to amend the class  
20 definition.  
21

22 WHEREAS, on October 19, 2009, the Court granted Plaintiffs' motion for leave to file  
23 a Fourth Amended Complaint and granted in part their motion for class certification with  
24 respect to the class claims asserted against Wyndham. The Court certified the following class,  
25 pursuant to Fed. R. Civ. P. 23(b)(3):

26 All Current WorldMark, The Club members who purchased WorldMark Premier  
27 Vacation Credits before November 5, 2006 and who (A) reside in the State of  
28 California or who purchased Vacation Credits in California; and (B) did not enroll  
in the TravelShare program at any time. Excluded from the Class are Defendants,  
any entity in which any Defendant has or had a controlling interest, any officers  
or directors of Wyndham, the legal representatives, heirs, successors, and assigns

1  
2 of Defendants, and any judge assigned to this action and his or her immediate  
3 family. (Dkt. No. 420.)

4 WHEREAS, on January 27, 2010, the Court granted Plaintiffs' motion to file a Fifth  
5 Amended Complaint to add Plaintiff Kandice Scattolon, which Plaintiffs filed on February 3,  
6 2010 (Dkt. No. 455).

7 WHEREAS, Plaintiffs intend to seek leave of Court to file a Sixth Amended Complaint  
8 in connection with, and solely for purposes of, the Parties' Settlement to conform the class  
9 definition to the definition of Settlement Class herein.

10 WHEREAS, discovery between Plaintiffs and Wyndham commenced in July 2007 and  
11 concluded in June 2010.

12 WHEREAS, the Parties have explored and discussed at length the factual and legal  
13 issues in the Action. These discussions were informed by substantial fact discovery, expert  
14 discovery and analysis, and the Parties' investigation of the law and facts applicable to the  
15 claims asserted against Wyndham and relevant defenses and the ability of the Action to proceed  
16 as a class action.  
17

18 WHEREAS, on November 11, 2009, the Parties initiated settlement discussions in a  
19 full-day mediation session before the Honorable William J. Cahill (Ret'd) at JAMS in San  
20 Francisco, California. Subsequently, the Parties commenced settlement discussions without the  
21 assistance of a neutral, and since January 2010 have actively negotiated settlement while  
22 litigating the Action.  
23

24 WHEREAS, on July 2, 2010, as a result of the vigorous negotiations described above,  
25 the Parties reached agreement in principle on settlement of the individual and class claims  
26 asserted by Plaintiffs against Wyndham, subject to Court approval.  
27

28 WHEREAS, Plaintiffs, by and through their undersigned counsel, have: (a) made a  
thorough investigation of the facts and circumstances surrounding the allegations asserted in

1  
2 the Action; and (b) engaged in investigation and discovery of the claims asserted in the Action,  
3 including but not limited to: (i) researching, reviewing, and analyzing the applicable contracts  
4 and documents that govern the Parties' legal rights, duties, and obligations *vis a vis* one  
5 another; (ii) deposing witnesses and experts; (iii) reviewing and analyzing thousands of pages  
6 of paper and e-discovery documents produced in the Action; (iv) engaging in discovery motion  
7 practice before United States Magistrate Judge Bernard Zimmerman; and (v) investigating the  
8 law applicable to the claims and defenses asserted in the Action.  
9

10 WHEREAS, Wyndham believes Plaintiffs' claims have no merit. Wyndham has denied  
11 and expressly continues to deny any legal responsibility or liability to Plaintiffs, any  
12 WorldMark Member, or WorldMark for any of the matters asserted in the Action, but believes  
13 settlement is desirable to avoid the time, expense, and inherent uncertainty of defending  
14 protracted class litigation and to resolve, finally and completely, all pending and potential  
15 claims Plaintiffs asserted or could have asserted in the Action against Wyndham.  
16

17 WHEREAS, while Plaintiffs' counsel are experienced in this type of litigation and  
18 believe that Plaintiffs' claims have merit, they also recognize the costs and risks of continued  
19 prosecution of the Action, and believe it is in the interests of Plaintiffs and all WorldMark  
20 Members to resolve the Action, as well as Plaintiffs' claims against Wyndham arising from the  
21 conduct or actions alleged in or stemming from the Action, and they support this Settlement  
22 Agreement.  
23

24 WHEREAS, extensive arms-length negotiations resulted in this Settlement Agreement,  
25 subject to Court approval.

26 WHEREAS, the undersigned Parties submit this Settlement Agreement to benefit  
27 Plaintiffs and WorldMark Members, and believe it is fair, reasonable, adequate, and in the best  
28 interest of Plaintiffs and WorldMark Members.



1  
2 WHEREAS, this Settlement Agreement is intended to supersede any and all agreements  
3 previously executed by the Parties with respect to claims asserted in the Action.

4 NOW, THEREFORE, it is hereby stipulated and agreed, by and between the  
5 undersigned parties, as follows:

6 **I. DEFINITIONS.**

7  
8 As used in this Settlement Agreement, the following terms have the corresponding  
9 meanings set forth below. Where appropriate, terms used in the singular shall be deemed to  
10 include the plural and vice versa.

11 (a) “Action” means and refers only to the individual and class claims asserted by  
12 Plaintiffs against Wyndham in *Wixon v. Wyndham Resort Development Corp.*, Case No. C-07-  
13 2361-JSW (N.D. Cal.).

14 (b) “Approval Hearing” means a hearing to be held by the Court to determine  
15 whether the settlement should be approved and the Action dismissed.

16 (c) “Approval Order” means a final order and judgment entered by the Court,  
17 which, among other things, grants final approval of the Settlement, dismisses with prejudice the  
18 Action as to Wyndham, and deems the Parties’ claims released as set forth in this Agreement.

19 (d) “CAFA Notice” means notice, in substantially the form attached hereto as  
20 **Exhibit A**, to the appropriate authorities under the Class Action Fairness Act (“CAFA”), 28  
21 U.S.C. § 1715(b).

22 (e) “Class Counsel” means Girard Gibbs LLP and its attorneys of record in the  
23 action.

24 (f) “Class Representatives” means Clarke and Rebecca Wixon, Norman and  
25 Barbara Wixon, and Kandice Scattolon.

26 (g) “Disputed Resorts” means the following twelve WorldMark resorts: Anaheim,  
27  
28

1  
2 Canmore, Camlin, Las Vegas – Tropicana, Long Beach, Mission Valley, New Orleans, San  
3 Diego, San Francisco, Santa Fe, Taos, and West Yellowstone.

4 (h) “Effective Date” means the last date by which the Approval Order has been  
5 entered and the time for seeking appellate review of any and all matters related to the Action  
6 and the Parties’ Settlement has expired or, if appellate review is sought, the Settlement has been  
7 affirmed in its entirety by the court of last resort and such affirmance has become no longer  
8 subject to further appeal or review.

9  
10 (i) “Fee Award” means a fee award to be approved by the Court in an amount not to  
11 exceed five million dollars (\$5,000,000), which shall include any representative awards and  
12 Plaintiffs’ Counsels’ attorneys’ fees and expenses, including Plaintiffs’ expert witness fees and  
13 other investigative or litigation expenses incurred by Plaintiffs, and settlement administration  
14 fees and expenses, including Settlement-Related Expenses as defined herein.

15  
16 (j) “Final Approval” means the date upon which the Court enters the Approval  
17 Order.

18 (k) “Member” or “Membership” means a member of WorldMark, The Club, as  
19 defined by WorldMark’s By-Laws, § 3, and documents incorporated therein.

20 (l) “Notice Order” means a Court order approving the form of Settlement Notice to  
21 be given to the Settlement Class, directing that Settlement Notice be given to the Settlement  
22 Class in a manner consistent with the notice provisions set forth in this Settlement Agreement, and  
23 setting a schedule up to and including the Approval Hearing.

24  
25 (m) “Plaintiffs” means Class Representatives Clarke and Rebecca Wixon, Norman  
26 and Barbara Wixon, and Kandice Scattolon, and all Settlement Class members.

27 (n) “Plaintiffs’ Counsel” means Plaintiffs’ attorneys of record in the Action, *i.e.*, the  
28 law firms of Girard Gibbs LLP, Gersh & Helfrich, LLP, or either of them.

1  
2 (o) “Preliminary Approval” means the date upon which the Court enters the  
3 Preliminary Approval Order.

4 (p) “Preliminary Approval Order” means a Court order, in substantially the form  
5 attached hereto as **Exhibit B**, granting Plaintiffs leave to file a Sixth Amended Complaint,  
6 preliminarily certifying the Settlement Class for the sole purpose of this Settlement,  
7 preliminarily approving the Settlement, approving the form and internet posting of the  
8 Summary Notice, directing that CAFA Notice be given, and setting a date for the Parties to  
9 submit a joint report and a proposed form of Settlement Notice and a schedule leading up to  
10 and including the Approval Hearing.

11 (q) “Regulatory Approval” means the final approval from the California  
12 Department of Real Estate and any other applicable regulatory authorities having authority with  
13 respect to Wyndham, WorldMark, The Club, or WorldMark, The Club’s Vacation Ownership  
14 Program or its resorts, from which approval may be required to implement the terms of the  
15 Settlement.

16 (r) “Released Persons” means Wyndham Resort Development Corporation, its  
17 predecessors and successors in interest (including but not limited to Cendant Corporation {now  
18 known as Avis Budget Group, Inc.}, Wyndham Worldwide Corporation, Wyndham Vacation  
19 Ownership, Inc., and their respective subsidiaries), and any of its present or former subsidiaries,  
20 divisions, parent companies, affiliates, officers, directors, employees, trustees, principals,  
21 attorneys, agents, representatives, shareholders, members, partners, and insurers.

22 (s) “Settlement” means the Parties’ settlement, as memorialized in this Settlement  
23 Agreement and Release.

24 (t) “Settlement Agreement” means this Settlement Agreement and Release.

25 (u) “Settlement Class” means a settlement class comprised of all WorldMark  
26  
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2 Members as of Preliminary Approval.

3 (v) "Settlement Notice" means a notice directed to Settlement Class members,  
4 subject to agreement by the Parties and Court approval, describing among other things the  
5 material terms of the Settlement set forth in this Settlement Agreement, the procedure and  
6 deadline for objecting to or opting out of the Settlement, and the date and time of the Approval  
7 Hearing.  
8

9 (w) "Settlement-Related Expenses" means fees or expenses incurred for settlement  
10 administration and for providing Settlement Notice to the Settlement Class and the CAFA  
11 Notice to appropriate authorities. Settlement-Related Expenses incurred and billed by a third  
12 party administrator are referred to herein as "TPA Costs."

13 (x) "Summary Notice" shall mean a preliminary notice, substantially in the form  
14 attached hereto as **Exhibit C**, subject to Court approval, describing the material terms of the  
15 Settlement set forth in this Settlement Agreement and advising Settlement Class members that a  
16 Settlement Notice will be provided at a later date.  
17

18 (y) The "Wixons" means Clarke and Rebecca Wixon and Norman and Barbara  
19 Wixon.

20 (z) "WorldMark" means WorldMark, The Club.

21 (aa) The "WorldMark Board" means the Board of Directors of WorldMark, The  
22 Club.  
23

24 (ab) "Wyndham" means Wyndham Resort Development Corporation (formerly  
25 known as Trendwest Resorts, Inc.).

26 (ac) "Wyndham's Counsel" means Wyndham's attorneys of record in the Action,  
27 *i.e.*, the law firms of Troutman Sanders LLP and Schiff Hardin LLP.  
28

1  
2 **II. REQUIRED EVENTS**

3 Promptly after execution of this Settlement Agreement by all Parties:

4 1. a. The Parties will use their best efforts, consistent with the terms of this  
5 Settlement Agreement, to obtain the Preliminary Approval Order from the Court. The Parties  
6 agree that solely for purposes of the Parties' Settlement, the Preliminary Approval Order shall  
7 preliminarily certify the Settlement Class set forth in the Sixth Amended Complaint.  
8

9 b. Within ten (10) days after the filing of this Settlement Agreement with the  
10 Court, Wyndham shall comply with the requirements of 28 U.S.C. § 1715(b) and serve the CAFA  
11 Notice upon the appropriate federal official and the appropriate state official(s) of each state in  
12 which a settlement class member resides and each state which has applicable regulatory authority  
13 over WorldMark's Vacation Ownership Program.  
14

15 c. Upon entry of the Preliminary Approval Order, Wyndham will use  
16 commercially reasonable efforts, consistent with the terms of this Settlement Agreement, to obtain  
17 Regulatory Approval of the Settlement. Within 90 days after the entry of the Preliminary  
18 Approval Order, the Parties will submit to the Court a joint report advising on the status of efforts  
19 to obtain Regulatory Approval, together with a declaration from a Wyndham representative stating  
20 whether Wyndham has a good faith basis to forecast that, using commercially reasonable efforts, it  
21 will be able to legally extract at least 400 units pursuant to paragraph III.B. of this Settlement  
22 Agreement. In the joint report, the Parties will either advise the Court that additional time may be  
23 needed before Settlement Notice can be issued to the Class and the Approval Hearing scheduled,  
24 or submit to the Court a proposed form of Settlement Notice and a proposed Notice Order that will  
25 provide for approval of the form of the Settlement Notice, direct that Settlement Notice be given to  
26 the Settlement Class in a manner consistent with the notice provisions set forth herein, and set a  
27 schedule leading up to the Approval Hearing.  
28

1  
2 d. Certain transactions contemplated by the Settlement may require and be  
3 subject to consent by the WorldMark Board. The Parties shall cooperate with each other in  
4 good faith in seeking to obtain such consent prior to seeking entry of the Notice Order. The  
5 consent of the WorldMark Board may be a necessary and material condition precedent to this  
6 Settlement, and should such consent not be obtained prior to entry of the Notice Order, this  
7 Settlement is voidable by either party. Any Party voiding the Settlement pursuant to this  
8 provision shall give written notice to counsel for the other Parties.  
9

10 e. The Settlement Notice shall provide that any Settlement Class member  
11 may elect to opt-out of the Settlement, in the manner and by the date specified in the Settlement  
12 Notice. Such opt-out rights may only be exercised individually by a Settlement Class member and  
13 not in a representative capacity. Any request for exclusion must be postmarked or delivered not  
14 later than the date specified in the Court's Notice Order and the Settlement Notice, and any  
15 such request shall include (i) the member's full name and current address and telephone  
16 number, (ii) the member's WorldMark account number, (iii) the member's signature, and (iv) a  
17 specific and clear statement of his or her desire to be excluded from the Settlement. Failure to  
18 comply with these requirements and to timely submit a request for exclusion will result in the  
19 Settlement Class member being bound by the terms of the Settlement. Within five (5) business  
20 days from the last day upon which members may opt out of the Settlement Class, Plaintiffs'  
21 Counsel shall notify Wyndham's Counsel, in writing, of the number of persons who elect to be  
22 excluded from the Settlement and provide Wyndham's Counsel with copies of the written  
23 elections.  
24  
25

26 f. Wyndham shall have the unilateral right to withdraw from the Settlement  
27 prior to the Approval Hearing and cancel this Settlement Agreement, if the number of  
28 Settlement Class members who elect to be excluded exceeds five percent (5%) of the total

1  
2 Settlement Class, by giving written notice of such withdrawal to Plaintiffs' Counsel. If  
3 Wyndham exercises its right of withdrawal pursuant to this provision, the Settlement shall be  
4 null and void for all purposes, except for the provisions of paragraphs V.2 and IX.1.

5 g. Any Settlement Class member who timely opts out of the Settlement  
6 may not file an objection to the Settlement and shall be deemed to have waived any rights or  
7 benefits under this Settlement Agreement.  
8

9 2. The Parties will use their best efforts, consistent with the terms of this  
10 Settlement Agreement, to obtain the Approval Order from the Court. Should the Court  
11 disapprove of or modify the Settlement or this Settlement Agreement or any term or provision  
12 of this Agreement, or fail to approve this Settlement Agreement in its entirety, this Settlement  
13 is voidable by either Party within a period of thirty (30) days after such disapproval or  
14 modification. Any Party voiding the Settlement pursuant to this provision shall give written  
15 notice to counsel for the other Parties.  
16

17 3. The Parties shall cooperate with each other in good faith to carry out the  
18 purposes of and to effectuate this Settlement Agreement, shall promptly perform their  
19 respective obligations hereunder, and shall promptly take any and all actions and execute and  
20 deliver any and all documents and other materials and/or information reasonably necessary or  
21 appropriate to carry out the terms of this Settlement Agreement and the transactions, actions, or  
22 activities contemplated thereby.  
23

24 4. Upon entry of the Approval Order, the Action shall be dismissed, with prejudice,  
25 subject to the continuing jurisdiction of this Court and pursuant to the provisions of paragraphs  
26 VII.D. and VII.E.

27 5. Certain transactions contemplated by the Settlement require and are subject to  
28 Regulatory Approval. The Parties shall cooperate with each other in good faith and use

1  
2 commercially reasonable efforts to obtain Regulatory Approval as expeditiously as reasonably  
3 possible after entry of the Approval Order. Should Wyndham not be able to implement the  
4 terms of this Settlement Agreement, then Wyndham shall have a right to void the Settlement in  
5 accordance with the provisions of paragraph III.B.6. If the Settlement is voided after the  
6 Effective Date pursuant to this paragraph, the Parties shall promptly advise the Court and the  
7 provisions of paragraph VII.E. shall be implemented pursuant to the Court’s continuing  
8 jurisdiction.  
9

10 **III. SETTLEMENT TERMS.**

11 As consideration for dismissal of the Action, dismissal of the Wixons’ complaint in  
12 intervention in the State Case,<sup>1</sup> and the release of claims as provided for in this Settlement  
13 Agreement, the Parties have agreed to and shall adopt and fully implement the following  
14 provisions:  
15

16 **A. Credit cancellation at the Disputed Resorts.**

17 1. On completion of the First Transfer Phase (as that term is defined in  
18 paragraph III.B.1.), Wyndham will legally and effectively cancel 22 million Vacation Credits  
19 that are currently held by Wyndham as unsold developer Credits. Those cancelled Vacation  
20 Credits will no longer be available for sale, and will not be sold, to any consumer as WorldMark  
21 Vacation Credits, and Wyndham’s rights and obligations as to those cancelled Vacation Credits  
22 will be eliminated. The Parties agree that the specific number of Credits to be cancelled at the  
23 Disputed Resorts is set out in **Exhibit D** to this Settlement Agreement.  
24

25 \_\_\_\_\_  
26 <sup>1</sup> “State Case” means and refers to a proceeding commenced by WorldMark filing a petition in  
27 the Superior Court of California for Sacramento County, entitled *WorldMark, The Club v. Robin Miller and Wyndham Resort Development Corp.*, Case No. 2008-00025130-CU-PT-  
28 GDS, and the Wixons’ complaint in intervention filed in that case in which they assert claims against WorldMark, and any appeals pertaining to that action. The term “State Case” as used in the Settlement Agreement excludes and is meant to preserve any and all claims and interests Respondent Miller has asserted in that proceeding.



1  
2           2.       Within fifteen (15) days after the Effective Date, or as soon as practicable  
3 thereafter, the WorldMark reservation system shall be modified (“Modification Date”) such that  
4 the new credit values at the affected resorts will be in place for reservations for travel dates  
5 occurring on or after the Modification Date. The account of any WorldMark Member making a  
6 reservation at an affected resort prior to the Modification Date for travel dates occurring on or  
7 after the Modification Date will be adjusted such that the Member will have the benefit of the  
8 new credit values. The reservation system modification to be effected on the Modification Date  
9 will not alter or affect the date for cancellation of Vacation Credits as set forth in paragraphs  
10 III.A.1. and paragraphs III.B.1. and 6., and Wyndham retains all rights and obligations as to the  
11 Vacation Credits until they are cancelled.  
12

13           3.       Should the Settlement be voided by Wyndham after the Modification  
14 Date, pursuant to paragraph III.B.6., credit values at the resorts set forth on **Exhibit D** shall  
15 revert to the values in place prior to the Modification Date.  
16

17       **B.       Extraction of units and Credits.**

18           1.       Within twelve (12) months after the Effective Date, or any additional  
19 periods as provided in paragraph III.B.6., WorldMark will legally and effectively transfer to  
20 Wyndham or its assignee units from certain WorldMark resorts from a minimum of 400 units  
21 and up to a maximum of all of the units identified on **Exhibit E**. Wyndham will complete the  
22 transfer of at least 400 units as soon as practical upon obtaining Regulatory Approval (“First  
23 Transfer Phase”). After the First Transfer Phase is complete, the Vacation Credits associated  
24 with those transferred units will be cancelled and will no longer be available for sale, and will  
25 not be sold, to any consumer as WorldMark Vacation Credits. Wyndham retains all rights and  
26 obligations as to those Vacation Credits prior to completion of the First Transfer Phase. Except  
27 as described below with respect to units transferred from WorldMark’s Anaheim resort, the  
28

1  
2 units to be transferred shall consist of units determined to be underutilized based on analysis of  
3 certain reserved credit occupancy and Vacation Credit utilization data. The maximum number  
4 of units to be transferred and Credits cancelled at the specific WorldMark resorts is set out in  
5 **Exhibit E** to this Settlement Agreement.

6           2.       (a)       Subject to consent by Class Counsel and the WorldMark Board,  
7 and approval by the Court, Wyndham shall have the right, during the First Transfer Phase to  
8 substitute WorldMark units for transfer, subject to the overall 481 unit maximum and 245.6  
9 million cap on Vacation Credits associated with the transferred units. Substitute units shall be  
10 identified under criteria similar to those used to identify the original units to be transferred.  
11 Subject to Court approval, any hearing the Court may hold regarding the substitution of units  
12 need not be noticed to Settlement Class members.

13                       (b)       After the First Transfer Phase is complete, Wyndham may  
14 continue to substitute units under criteria similar to those used to identify the original units to be  
15 transferred, subject to the overall 481 unit maximum and 245.6 million cap on Vacation Credits  
16 associated with the transferred units, and subject to consent by Class Counsel and the  
17 WorldMark Board and approval by the Court (“Additional Transfer Phase”).

18           3.       Within ninety (90) days after the Effective Date, and every ninety (90)  
19 days thereafter, Wyndham shall submit to Class Counsel a report advising of the status of  
20 Regulatory Approval until the transfer of units has been finally and fully performed as provided  
21 in paragraphs III.B.5. and 6., or the Settlement Agreement has been voided, as provided in  
22 paragraph III.B.6.

23           4.       When the First Transfer Phase is complete, Wyndham shall promptly  
24 notify the Court and Class Counsel and Wyndham’s right to void the Settlement pursuant to  
25 paragraph III.B.6. shall be extinguished.  
26  
27  
28

1  
2           5.       After the First Transfer Phase is complete, to the extent that Wyndham  
3 has not reached the 481 unit maximum or the 245.6 million cap on Vacation Credits, it shall  
4 have the right to either (i) continue to attempt to legally transfer the remaining WorldMark  
5 units, or substitute WorldMark units as provided in paragraph III.B.2., or (ii) declare that  
6 paragraph III.B.1. has been finally and fully performed. When the Additional Transfer Phase is  
7 complete, Wyndham shall promptly notify the Court and Class Counsel that paragraph III.B.1.  
8 of this Settlement Agreement has been finally and fully performed.  
9

10           6.       If Wyndham is unable, using commercially reasonable efforts, to obtain  
11 Regulatory Approval to transfer a minimum of 400 units as provided in paragraphs III.B.1. and  
12 2., then Wyndham shall have the right to either void the Settlement or, provided that Wyndham  
13 has acted in good faith and with due diligence in its efforts to transfer the units, request  
14 approval from Class Counsel for up to an additional six (6) month time period within which to  
15 obtain Regulatory Approval to transfer additional units or substitute units, which approval shall  
16 not be unreasonably withheld by Class Counsel. If, after the expiration of this additional time  
17 period, Wyndham still is unable, using commercially reasonable efforts, to obtain Regulatory  
18 Approval to transfer a minimum of 400 units, then Wyndham shall have the right to either void  
19 the Settlement or, provided that Wyndham has acted in good faith and with due diligence in its  
20 efforts to transfer the units, to request approval from the Court for an additional time period  
21 within which to obtain Regulatory Approval to transfer additional units. If Wyndham exercises  
22 its right to void the Settlement pursuant to this provision, the Settlement will be null and void,  
23 except for the provisions of paragraphs V.4. and IX.1. If Wyndham exercises its right to void  
24 the Settlement pursuant to this provision, the provisions of paragraph VII.E. shall be  
25 implemented pursuant to the Court's continuing jurisdiction.  
26  
27

28           7.       The WorldMark reservation system shall be modified as of nine (9)

1  
2 months after the Effective Date, or as soon as practicable thereafter, such that the units being  
3 transferred will no longer be available for occupancy by WorldMark Members; however, all  
4 existing reservations as of that date will be honored.

5 **C. Exchange of units in Anaheim, California resort area.**

6 When the First Transfer Phase is complete, Wyndham will legally and effectively  
7 transfer twenty-one (21) units and corresponding Vacation Credits from WorldMark Anaheim  
8 and will add weeks equivalent to twenty-one (21) units and corresponding Vacation Credits at  
9 the WorldMark Dolphin's Cove Resort. Also when the First Transfer Phase is complete,  
10 Wyndham will legally and effectively cancel seven million Vacation Credits, which is the  
11 difference between the number of Vacation Credits removed from Anaheim and the number of  
12 Vacation Credits added at Dolphin's Cove, as set out in **Exhibit E** to this Settlement  
13 Agreement.  
14

15 **D. Aggregate Changes in Credits and Units and Reserves.**

16 1. The Parties agree that the maximum aggregate number of Credits to be  
17 cancelled, removed by extraction, and added is computed approximately as follows: 22 million  
18 cancelled + 262.5 million extracted (less 9.86 million added to WorldMark Dolphin's Cove) =  
19 274.7 million net reduction in the number of Credits held by Wyndham for sale as WorldMark  
20 Vacation Credits. Wyndham's rights and obligations, including voting rights, with respect to  
21 the Credits to be cancelled shall terminate upon cancellation of those Credits. Wyndham shall  
22 maintain sufficient unsold developer Credits to effectuate the purposes and terms of this  
23 Settlement Agreement, upon entry of the Preliminary Approval Order and up to the time that the  
24 terms of the Settlement Agreement have been performed or the Settlement is voided.  
25

26 2. Exterior reserves for future refurbishment and repair at resorts where  
27 units are being extracted shall be transferred to, and held by, an independent association or  
28

1  
2 governing body responsible for exterior maintenance at the resort. Interior reserves for future  
3 refurbishment and repair of the extracted units will be deposited with an escrow agent with  
4 instructions that (i) the interior reserve monies will be held in a federally-insured, interest-  
5 bearing account for the benefit of Wyndham; and (ii) the monies will be released as instructed  
6 by Wyndham, in such amounts and at such times as Wyndham determines, solely for the  
7 purpose of refurbishment and repair of the extracted units.  
8

9 **E. Cessation of sales of TravelShare with Fun Time.** Wyndham will cease  
10 selling new TravelShare memberships with Fun Time on the later of October 31, 2011 or 90  
11 days after the Effective Date. Sales of new TravelShare memberships without Fun Time may  
12 continue after such deadline.

13 **F. WorldMark budget.** In formulating the WorldMark budgets, Wyndham, as  
14 manager of WorldMark, will use commercially reasonable efforts to drive efficiencies in order  
15 to minimize the impact, if any, of this Settlement on maintenance fees paid by the members of  
16 the Settlement Class. Notwithstanding these efforts, Wyndham acknowledges that the  
17 WorldMark By-laws cap annual dues increases, and Wyndham, so long as it is operating under  
18 its current management agreement with WorldMark, agrees to bear any incremental costs that  
19 may result in a total annual increase above the annual cap.  
20

21 **G. Election issues.** Upon entry of the Preliminary Approval Order, Wyndham will  
22 work in conjunction with the Board to establish and maintain a separate internet website for  
23 members to access during election cycles for the sole purpose of, and with content solely  
24 pertaining to, posting comments regarding Board candidates or WorldMark election matters,  
25 including proposals to be presented to members for a membership vote, subject to reasonable  
26 review and approval of any member postings by the Board or the Board's authorized designee.  
27  
28

1  
2 Wyndham will notify WorldMark Members as to that website's existence via Destinations  
3 Magazine and the Insider Magazine.

4       **H. Party Weekends.** Wyndham may continue to book Party Weekends at  
5 WorldMark resorts, subject to the following condition: Wyndham will not book Party  
6 Weekends at any specific WorldMark resort during any particular calendar month in which the  
7 occupancy at the resort has exceeded 90% based on occupancy data from the same month in the  
8 preceding calendar year.  
9

10 **IV. NOTICE AND RELATED PROVISIONS.**

11       1. Subject to Court approval, notice of the Settlement shall be provided to the  
12 Settlement Class as follows:

13           a. Within ten (10) business days after entry of the Preliminary Approval  
14 Order, the Summary Notice shall be posted in a clear and prominent manner in a location  
15 accessible only to WorldMark Members on the WorldMark by Wyndham website  
16 ([www.worldmarktheclub.com](http://www.worldmarktheclub.com)). On WorldMark's home page, Members will be instructed how  
17 to access the Summary Notice and be linked to the sign-in page. The Summary Notice shall  
18 remain on the WorldMark by Wyndham website through the date of the posting of the  
19 Settlement Notice.  
20

21           b. Within ten (10) business days after entry of the Preliminary Approval  
22 Order, Plaintiffs' Counsel shall post in a clear and prominent manner the Summary Notice on  
23 the Girard Gibbs LLP website ([www.girardgibbs.com](http://www.girardgibbs.com)). The Summary Notice shall remain on  
24 that website through the date of the posting of the Settlement Notice.  
25

26           c. Within fifteen (15) business days after entry of the Notice Order, the  
27 Settlement Notice shall be sent by U.S. mail, bulk rate postage, to all Settlement Class  
28 members.

1  
2 d. Within ten (10) business days after entry of the Notice Order, the  
3 Settlement Notice shall be posted in a clear and prominent manner in a location accessible only  
4 to WorldMark Members on the WorldMark by Wyndham website  
5 ([www.worldmarktheclub.com](http://www.worldmarktheclub.com)). On WorldMark's home page, Members will be instructed how  
6 to access the Settlement Notice and be linked to the sign-in page. The Settlement Notice shall  
7 remain on the WorldMark by Wyndham website through the date of the Approval Hearing.  
8

9 e. Within ten (10) business days after entry of the Notice Order, Plaintiffs'  
10 Counsel shall post in a clear and prominent manner the Settlement Notice on the Girard Gibbs  
11 LLP website ([www.girardgibbs.com](http://www.girardgibbs.com)). The Settlement Notice shall remain on that website  
12 through the date of the Approval Hearing.  
13

14 2. Not later than five (5) days before the Approval Hearing, Plaintiffs' Counsel and  
15 Wyndham's Counsel each shall file a sworn declaration attesting that the Summary Notice and  
16 the Settlement Notice were disseminated to Settlement Class members in a manner consistent  
17 with the terms of this Settlement Agreement, the Preliminary Approval Order, and the Notice  
18 Order.  
19

20 3. All costs associated with the mailed Settlement Notice shall be paid as agreed in  
21 paragraphs V.1.-4. Each Party shall bear separately any costs associated with posting settlement  
22 notice on its respective website(s).  
23

24 **V. SETTLEMENT PAYMENT AND ADMINISTRATION COSTS.**

25 1. Wyndham agrees to pay, and will not object to Plaintiffs' application to the  
26 Court for, a fee award in an amount not to exceed five million dollars (\$5,000,000) ("Fee  
27 Award"), which Fee Award shall include any representative awards and Plaintiffs' Counsels'  
28 attorneys' fees and expenses, including Plaintiffs' expert witness fees and other investigative or  
litigation expenses incurred by Plaintiffs, settlement administration fees and expenses, and fees

1  
2 or expenses associated with disseminating Settlement Notice to the Settlement Class and the  
3 CAFA Notice to the appropriate authorities. Wyndham shall pay the amount of any such Fee  
4 Award up to and including the sum of \$5,000,000, provided that in no event shall Wyndham be  
5 required to pay any Fee Award or any monetary amount in settlement greater than \$5,000,000,  
6 and Plaintiffs shall be responsible for paying all of the foregoing fees and expenses from such  
7 Fee Award, including all Settlement-Related Expenses, subject to the provisions and conditions  
8 below.

9  
10 2. In the event that Wyndham exercises its right to withdraw from the Settlement  
11 prior to the Approval Hearing and cancel this Settlement Agreement, pursuant to paragraph  
12 II.1.f., the Parties shall be responsible for TPA Costs as follows: (a) Wyndham shall pay up to  
13 and including the first \$400,000 of all such TPA Costs; (b) Plaintiffs shall pay only that portion  
14 of the TPA Costs that exceed \$400,000. Plaintiffs shall pay all other Settlement-Related  
15 Expenses, if any.

16  
17 3. In the event the Settlement is not granted Final Approval by the Court, TPA  
18 Costs shall be allocated and paid as follows: (a) Plaintiffs shall pay up to and including the first  
19 \$400,000 of all such TPA Costs; (b) Wyndham shall pay only that portion of the TPA Costs that  
20 exceed \$400,000. Any third-party administrator retained by Plaintiffs to provide settlement  
21 administration or to provide the Settlement Notice to the Settlement Class and notice to  
22 appropriate authorities under CAFA shall agree, in advance, to this arrangement for payment,  
23 and shall not seek to recover from the Parties, as joint and several obligors, for any  
24 administration costs in this action.

25  
26 4. Wyndham, at its sole expense, will use commercially reasonable efforts to obtain  
27 any Regulatory Approval that may be necessary for the Parties to effectuate the terms of the  
28 Settlement. If Wyndham is unable to obtain Regulatory Approval as required by paragraph



1  
2 III.B.6. of this Settlement Agreement, then Wyndham shall bear full responsibility for payment  
3 of all TPA Costs. If the Settlement is voided by Wyndham after the Effective Date, pursuant to  
4 the provisions of paragraph III.B.6, and the Court determines that further notice to the  
5 Settlement Class is required, then Wyndham shall pay all such notice costs.

6  
7 5. a. Subject to the provisions of paragraphs II.1.f. and V.6. of this Settlement  
8 Agreement, within thirty (30) days after the Court enters a final Fee Award, Wyndham shall  
9 deposit the Fee Award amount (in no event to exceed \$5,000,000) into an interest bearing  
10 escrow account held at a bank or financial institution to be designated by Plaintiffs' Counsel.  
11 Plaintiffs (and not Wyndham) shall be solely responsible and obligated for payment of any costs  
12 or fees associated with the escrow account, the escrow agent, the escrow agreement, and any  
13 transfer of funds into or out of the escrow account.

14  
15 b. In the event the Approval Order is appealed and reversed and such  
16 reversal becomes final (*i.e.*, all appeals and avenues of review are exhausted) ("Final Adverse  
17 Judgment"), or the Settlement is voided pursuant to the provisions of paragraph III.B.6., or the  
18 Settlement and this Settlement Agreement shall become void or cancelled for any other reason  
19 after the deposit is made, the full amount of the Fee Award together with any interest amounts  
20 that have accrued thereon shall be paid to Wyndham within five (5) business days of such Final  
21 Adverse Judgment or the voiding of the Settlement.

22  
23 c. The Fee Award amount and any interest amounts that have accrued  
24 thereon shall be transferred to Plaintiffs' Counsel for deposit into the Girard Gibbs LLP  
25 Attorney-Client Trust Account as follows:

26 (i) When the First Transfer Phase has been completed pursuant to the  
27 provisions of paragraph III.B. of this Settlement Agreement, if Wyndham elects to continue to  
28 attempt to legally transfer the remaining WorldMark units or substitute WorldMark units, as

1  
2 provided in paragraphs III.B.2. and III.B.5. of this Settlement Agreement, ninety percent (90%)  
3 of the Fee Award amount shall be transferred within ten (10) business days into the Girard  
4 Gibbs LLP Attorney-Client Trust Account. The remainder of the Fee Award and any interest  
5 amounts that have accrued thereon shall be transferred into the Girard Gibbs LLP Attorney-  
6 Client Trust Account upon the earlier of the date the Additional Transfer Phase is complete or  
7 Wyndham elects to declare paragraph III.B. to be finally and fully performed.  
8

9 (ii) When the First Transfer Phase has been completed pursuant to the  
10 provisions of paragraph III.B. of this Settlement Agreement, if Wyndham elects to declare  
11 paragraph III.B. to be finally and fully performed, the total Fee Award amount and any interest  
12 amounts that have accrued thereon shall be transferred to the Girard Gibbs LLP Attorney-  
13 Client Trust Account.  
14

15 6. This Settlement Agreement and the Parties' Settlement is not contingent upon  
16 the Court's award of attorneys' fees, whatever that amount may be, provided the Fee Award is  
17 not in an amount in excess of \$5,000,000. Plaintiffs and their counsel waive any right to seek or  
18 to enforce or to execute on any Fee Award in excess of \$5,000,000; and Wyndham's obligation  
19 to deposit amounts in an escrow account as provided in paragraph V.5. is conditioned upon the  
20 final Fee Award being an amount not to exceed \$5,000,000. In the event the Court renders a  
21 Fee Award or other monetary award in the aggregate amount greater than \$5,000,000, Plaintiffs  
22 shall execute and enter a satisfaction of judgment upon receipt of \$5,000,000, pursuant to  
23 paragraph V.5., and seek modification of any such Fee Award or monetary award to an  
24 aggregate amount of \$5,000,000 or less.  
25

26 **VI. APPROVAL HEARING AND ORDER.**

27 1. Subject to the provisions of paragraph II.1.c., the Parties shall, within 90 days  
28 after the entry of the Preliminary Approval Order, jointly apply to the Court for entry of the

1  
2 Notice Order and a scheduled date and time for the Approval Hearing or advise the Court that  
3 additional time may be needed before Settlement Notice can be issued to the Class and an  
4 Approval Hearing scheduled. At the Approval Hearing, the Parties will move for final approval  
5 of the Settlement set forth in this Settlement Agreement and entry of the Approval Order, and  
6 Class Counsel will move for approval of the Fee Award.  
7

8       2.     a.     As part of the application described in paragraph VI.1., the Parties will  
9 ask the Court to enter an order requiring any Settlement Class member who wishes to be heard  
10 at the Approval Hearing or to have his or her objection considered by the Court, to file with the  
11 Court a written notice of objection and, if applicable, notice of the member's intent to appear at  
12 the Approval Hearing, and to provide copies of same to Plaintiffs' Counsel and Wyndham's  
13 Counsel, at least ten (10) days before the Approval Hearing. To state a valid objection to the  
14 Settlement or the requested Fee Award, an objecting Settlement Class member must provide  
15 the following information in his or her written objection: (i) the member's full name and  
16 current address and telephone number, (ii) the member's WorldMark account number, (iii) the  
17 member's signature, and (iv) a specific and clear statement of the position(s) the objector  
18 wishes to assert, including the factual and legal grounds for the position. The notice of intent to  
19 appear must include copies of any papers, exhibits, or other evidence that the objecting  
20 Settlement Class member (or his or her counsel) will present to the Court in connection with  
21 the Approval Hearing.  
22

23  
24       b.     Subject to Court approval, the Parties agree that any Settlement Class  
25 member who does not provide a notice of intent to appear or of written objection in compliance  
26 with the deadlines set forth herein and in the Notice Order will be deemed to have waived any  
27 objections and opposition to the fairness, adequacy, and reasonableness of the Settlement and  
28

1  
2 shall not be permitted to object, present argument, or comment at the Approval Hearing, either  
3 individual or through counsel or other representative.

4 c. These agreed-upon procedures and requirements for written objection  
5 and written notice of intent to appear in connection with the Approval Hearing are intended to  
6 ensure the efficient administration of justice and orderly presentation of any Settlement Class  
7 member's objection to the Settlement Agreement, in accordance with the due process rights of  
8 all members.  
9

10 3. If the Settlement is approved as agreed to by the Parties, the Parties will move  
11 jointly for entry of the Approval Order. Should the Court disapprove of or modify the  
12 Settlement or this Settlement Agreement or any term or provision of this Settlement  
13 Agreement, or fail to approve this Settlement Agreement in its entirety, the Settlement is  
14 voidable by either party. Any Party voiding the Settlement pursuant to this provision shall give  
15 written notice to counsel for the other Parties.  
16

17 **VII. RELEASES, DISMISSAL OF ACTION AND STATE CASE, AND**  
18 **JURISDICTION OF COURT.**

19 **A. Acknowledgement With Respect To Credit Values**  
20 **At Future WorldMark Resorts.**

21 1. In consideration of the terms and undertakings herein, it is acknowledged  
22 and understood by the Parties as follows: The existing WorldMark resorts have a range of  
23 credit values. Wyndham, in its role as developer, may consider, among other factors (such as  
24 owner demand, cost and other factors), the range of credit values at existing WorldMark resorts  
25 in exercising its reasonable discretion pursuant to Section 3.4(a) of the Declaration of Vacation  
26 Ownership to allocate credit values to each unit of any new WorldMark resort. Neither past  
27 practices nor credit values at existing resorts shall restrict or limit Wyndham's reasonable  
28 discretion to set credit values at any new resort or require the new resort to be at the same level

1  
2 as credit values at any existing resorts. Wyndham’s consideration of the credit values at  
3 existing WorldMark resorts in allocating credit values to units at any new WorldMark resort  
4 shall be a valid, reasonable, and sufficient exercise of its discretion under Section 3.4(a) of the  
5 Declaration of Vacation Ownership. Nothing herein shall be construed to amend the  
6 WorldMark Governing Documents.  
7

8           2.       By the Effective Date, Wyndham shall include in its sales documentation  
9 (for upgrade sales and new sales of Vacation Credits) notice that the credit values at future  
10 WorldMark resorts, if any, may be higher or lower than the credit values at existing  
11 WorldMark resorts.

12           **B.       Release Of Claims.**

13           1.       Upon the Effective Date, for and in consideration of the terms and  
14 undertakings herein, Plaintiffs and all members of the Settlement Class who do not timely elect  
15 to opt out of the Settlement, for themselves and for their assigns, agents, representatives,  
16 attorneys, heirs, executors, administrators, beneficiaries, and privies, release Wyndham, its  
17 predecessors and successors in interest (including but not limited to Cendant Corporation {now  
18 known as Avis Budget Group, Inc. }, Wyndham Worldwide Corporation, Wyndham Vacation  
19 Ownership, Inc., and their respective subsidiaries), and any of its present or former subsidiaries,  
20 divisions, parent companies, affiliates, officers, directors, employees, trustees, principals,  
21 attorneys, agents, representatives, shareholders, members, partners, and insurers (collectively,  
22 “Released Persons”), as well as any person acting or purporting to act on behalf of those in  
23 privity with such Released Persons, from all manner of actions, causes of action, lawsuits,  
24 claims, counterclaims, damages, debts, obligations, liabilities, promises, defenses, agreements,  
25 costs, expenses (including attorneys’ fees), and demands of whatever kind or nature, whether  
26 based on statute (including without limitation the California statutes referred to as the Unfair  
27  
28

1  
2 Competition Law, the Consumers' Legal Remedies Act, and the Vacation-Ownership  
3 Timeshare Act), tort, contract, or other theory of recovery, whether known or unknown,  
4 suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent,  
5 liquidated or unliquidated, that, as of the date that the Approval Order is entered: (i) arise out of  
6 or are related in any way to any or all of the acts, omissions, facts, matters, transactions, or  
7 occurrences that were directly or indirectly alleged, asserted, described, set forth, or referred to  
8 in the Action; (ii) arise from or are based on the allegations, transactions, facts, matters,  
9 occurrences, representations or omissions alleged, involved, set forth or referred to in the  
10 complaints filed in the Action with respect to the right, authority or discretion of Wyndham, or  
11 its predecessors or successors in interest, to formulate, allocate, establish, or set (a) Credit  
12 Values and (b) the number of weeks worth of Vacation Credits to be sold or set aside, at  
13 Vacation Properties owned and operated by WorldMark; or (iii) any claim that was or could  
14 have been asserted against Wyndham or any Released Person by the Class Representatives or  
15 any member of the Settlement Class in the Action or in the State Case (collectively, "Released  
16 Claims"). The Class Representatives and all members of the Settlement Class who do not  
17 timely elect to opt out of the Settlement expressly waive and/or are deemed to waive all rights  
18 under California Civil Code Section 1542, which provides

19  
20  
21 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH**  
22 **THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN**  
23 **HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**  
24 **RELEASES, WHICH IF KNOWN BY HIM OR HER MUST HAVE**  
**MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE**  
**DEBTOR.**

25 The Parties acknowledge that the foregoing waiver and release was bargained for and is a  
26 material element of the Settlement Agreement.

27           2.       Except as specifically set forth in this Settlement Agreement, neither the  
28 Settlement nor this Settlement Agreement in any way alters, merges, terminates, bars, waives,

1  
2 voids, satisfies, novates, abrogates, diminishes, releases, or discharges the indebtedness or other  
3 contractual obligation of any Class Representative or member of the Settlement Class regarding  
4 the full, complete, and timely performance of any and all terms of any loan, note, mortgage,  
5 security deed, agreement, or contract, oral or written, entered into as between any Class  
6 Representative or member of the Settlement Class and any Released Person, or any person  
7 acting or purporting to act on behalf of those in privity with such Released Persons, in  
8 conjunction with the purchase, financing, or ownership of WorldMark Vacation Credits  
9 (including without limitation any dues or fee obligation) or any matter, incident, or benefit  
10 related thereto (including without limitation TravelShare membership).  
11

12           3.       Upon the Effective Date, for and in consideration of the terms and  
13 undertakings herein, Wyndham releases Plaintiffs Clarke and Rebecca Wixon, Norman and  
14 Barbara Wixon, and Kandice Scattolon and Plaintiffs' Counsel from any and all claims or  
15 causes of action that were, or could have been, asserted by Wyndham pertaining to the Action  
16 or the State Case ("Additional Released Claims"). Wyndham recognizes that, even if it later  
17 discovers facts in addition to or different from those which it now knows or believes to be true,  
18 Wyndham nevertheless agrees that, upon entry of judgment, Wyndham fully, finally and  
19 forever settles and releases any and all of the Additional Released Claims. Additional Released  
20 Claims do not include any claims, counterclaims, or cross-claims Wyndham may have, if any,  
21 in the State Case with respect to WorldMark or Respondent Miller. Additional Released  
22 Claims also do not include any liabilities, claims, rights, suits, or causes of action any Party  
23 hereto may assert to enforce the terms of this Settlement Agreement. The Parties acknowledge  
24 that the foregoing waiver and release was bargained for and is a material element of the  
25 Settlement Agreement.  
26  
27

28           4.       Released Claims do not include any claims, counterclaims, or cross-

1  
2 claims Wyndham may have, if any, in the State Case. Released claims also do not include any  
3 liabilities, claims, rights, suits or causes of action either Party may assert to enforce the terms of  
4 this Settlement Agreement.

5 **C. Covenant Not To Sue.**

6 1. Plaintiffs and all members of the Settlement Class who do not timely  
7 elect to opt out of the Settlement further agree and covenant not to sue, bring any proceeding or  
8 action, or participate in any proceeding or action in an individual, joint, representative, or class  
9 capacity, in law or in equity, including without limitation any action in any court or arbitration  
10 forum, whether by original process or demand, claim, counterclaim, cross-claim, third-party  
11 process, interpleader, claim for indemnity or contribution, or otherwise, against any of the  
12 Released Persons for any Released Claim or any other matter settled in this Settlement  
13 Agreement.

14 2. Wyndham further agrees and covenants not to sue, bring any proceeding  
15 or action, or participate in any proceeding or action in an individual, joint, representative, or  
16 class capacity, in law or in equity, including without limitation any action in any court or  
17 arbitration forum, whether by original process or demand, claim, counterclaim, cross-claim,  
18 third-party process, interpleader, claim for indemnity or contribution, or otherwise, against  
19 Plaintiffs Clarke Wixon, Rebecca Wixon, Norman Wixon, Barbara Wixon or Kandice  
20 Scattolon or their Counsel for any Additional Released Claim or any other matter settled in this  
21 Settlement Agreement.

22 **D. Dismissal.**

23 Upon entry of the Approval Order, (i) the Action shall be dismissed, with prejudice,  
24 subject to the continuing jurisdiction of this Court and the provisions of paragraph VII.E.; and  
25 (ii) the Wixons shall dismiss with prejudice their complaint in intervention in the State Case  
26  
27  
28



1  
2 and withdraw from the State Case, including any proceedings in any California appellate court.  
3 Further, upon issuance of the Approval Order: (i) Wyndham shall not be subject to liability or  
4 expense of any kind to any Settlement Class member who does not opt out of the Settlement for  
5 reasons related to the Action or State Case, except as set forth herein; and (ii) Settlement Class  
6 members who do not opt out of the Settlement shall be permanently barred and enjoined from  
7 initiating, asserting, or prosecuting any and all Released Claims against Wyndham or any other  
8 Released Person, subject to the provisions of paragraph VII.E.  
9

10 **E. Required Actions If Settlement Is Voided After Effective Date.**

11 If the Settlement is voided by Wyndham after the Effective Date pursuant to the  
12 provisions of paragraph III.B.6., the Parties shall, within ten (10) business days, move for an  
13 Order from the Court pursuant to the Court's continuing jurisdiction that: (i) the judgment and  
14 dismissal of the action be vacated; (ii) Plaintiffs' Fifth Amended Class Action Complaint and  
15 Wyndham's Answer thereto be reinstated as the operative pleadings and the record be  
16 reinstated in the litigation; (iii) the Parties shall be restored to their respective positions in the  
17 litigation as of July 2, 2010; (iv) all Settlement Class members shall be restored to their  
18 respective positions as of July 2, 2010, (v) the parties shall confer with respect to a new joint  
19 Case Management Statement; and (vi) notice to the Settlement Class shall be provided, if  
20 deemed necessary by the Court.  
21  
22

23 **VIII. REPRESENTATIONS, WARRANTIES, AND COVENANTS.**

24 1. Plaintiffs' Counsel, who are signatories hereof, represent and warrant that they  
25 have the authority, on behalf of Plaintiffs, to execute, deliver, and perform this Settlement  
26 Agreement and to consummate all of the transactions contemplated hereby. This Settlement  
27 Agreement has been duly and validly executed and delivered by Plaintiffs' Counsel and  
28 Plaintiffs and constitutes their legal, valid, and binding obligation.

1  
2           2.       Wyndham, through its undersigned counsel, represents and warrants that it has  
3 the authority to execute, deliver, and perform this Settlement Agreement and to consummate all  
4 of the transactions contemplated hereby; provided, however, that the Parties acknowledge that  
5 certain approvals may be required of third parties, as set forth herein, which are outside the  
6 control of Wyndham. The execution, delivery, and performance by Wyndham of this  
7 Settlement Agreement and its consummation of the actions contemplated hereby have been  
8 duly authorized by all necessary corporate action on the part of Wyndham. This Settlement  
9 Agreement has been duly and validly executed and delivered by Wyndham's Counsel and  
10 Wyndham and constitutes their legal, valid, and binding obligation.

11  
12           3.       This Settlement Agreement is entered into solely for purposes of compromise  
13 and settlement. In the event the Approval Order is not entered or is subsequently reversed on  
14 appeal or the Effective Date does not occur for any reason or the Settlement Agreement is  
15 voided pursuant to paragraph III.B.6., the Parties' Settlement and this Settlement Agreement,  
16 including any releases or dismissals hereunder, are canceled and null and void, and no term or  
17 condition of this Settlement Agreement or any draft thereof, or the discussion, negotiation,  
18 documentation, or other part or aspect of the Parties' settlement discussions, shall have any  
19 force or effect, except as expressly set forth in this Settlement Agreement; nor shall any such  
20 matter be admissible in evidence for any purpose, or used for any purposes whatsoever, in the  
21 Action, the State Case, or any other action or proceeding, and all Parties shall be restored to  
22 their prior rights and positions as if the Settlement Agreement had not been entered into.

23  
24  
25 **IX.    ADDITIONAL PROVISIONS.**

26           1.       This Settlement Agreement may not be used in evidence and is not, and shall not  
27 at any time be construed or deemed to be, an admission or concession by Wyndham with  
28 respect to any alleged wrongdoing, violation of law, breach of contract, breach of any covenant,

1  
2 liability, fault, or omission of any kind whatsoever, regardless of whether this Settlement  
3 Agreement results in entry of the Approval Order as contemplated herein. Wyndham denies all  
4 of the allegations, counts, and claims made by Plaintiffs in connection with the Action and the  
5 State Case. Neither this Settlement Agreement nor any class certification pursuant to it shall  
6 constitute, in this or in any other proceeding, an admission by Wyndham, or evidence or a  
7 finding of any kind, that any requirement for class certification is satisfied with respect to the  
8 Action, or any other litigation, except for the limited purpose of settlement pursuant to this  
9 Settlement Agreement. This Settlement Agreement is made with the Parties' express  
10 understanding and agreement that, (a) under applicable laws, it is appropriate that a class be  
11 certified for settlement purposes only (*i.e.*, without needing to satisfy fully the standard  
12 required for certification of the matter for litigation purposes); and (b) Wyndham contests and  
13 denies that any class, including the proposed Settlement Class, is suitable for certification as a  
14 class under the law of any jurisdiction, other than for the purposes of this Settlement  
15 Agreement. This provision shall survive any voiding of this Settlement Agreement.  
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18         2.       The Parties agree that the settlement consideration and other terms of the  
19 Settlement set forth in this Settlement Agreement were negotiated at arm's length in good faith  
20 by the Parties, and reflect a Settlement that was reached voluntarily after consultation with  
21 experienced legal counsel.  
22

23         3.       The Parties agree to cooperate in good faith in the execution and implementation  
24 of the Settlement, and may mutually agree in writing to an amendment of the Settlement  
25 Agreement if deemed reasonable and necessary to effectuate the purpose and intent of the  
26 Settlement. The Parties agree that the terms of this Settlement Agreement can be  
27 implemented by amendment of the WorldMark Declarations of Vacation Ownership for the  
28 specific resorts affected by this Settlement Agreement and the execution of other documents

1  
2 necessary to implement the terms of this Settlement Agreement without further vote of the  
3 WorldMark Membership.

4           4.       This Settlement Agreement may not be modified or amended, nor may any of its  
5 provisions be waived, except by a writing signed on behalf of all Parties or their successors-in-  
6 interest.

7  
8           5.       The headings in this Settlement Agreement are used for the purpose of  
9 convenience only and are not meant to have legal effect.

10           6.       The administration and consummation of the Settlement set forth in this  
11 Settlement Agreement will be under the authority of the Court in the Action, and the Court will  
12 retain jurisdiction for, among other things, entering orders concerning enforcement of this  
13 Settlement Agreement.

14  
15           7.       The waiver by one Party of any breach of this Settlement Agreement by any  
16 other Party will not be deemed a waiver of any other prior or subsequent breach of this  
17 Settlement Agreement.

18           8.       The exhibits to this Settlement Agreement are an integral part of the Settlement  
19 and are expressly incorporated in and made a part of this Settlement Agreement. This  
20 Settlement Agreement and its exhibits constitute the entire agreement among the Parties  
21 concerning the Settlement of the Action; and no representations, warranties, or inducements  
22 have been made by any Party concerning this Settlement Agreement and its exhibits other than  
23 those contained and memorialized in such documents. This Settlement Agreement supersedes  
24 all prior understandings, communications, and agreements with respect to the subject of this  
25 Settlement Agreement.

26  
27           9.       This Settlement Agreement may be executed in one or more counterparts. All  
28 executed counterparts and each of them will be deemed to be one and the same instrument,

1  
2 provided that the Parties' respective counsel exchange among themselves all signed  
3 counterparts.

4       10. This Settlement Agreement will be binding on, and inure to the benefit of, all  
5 representatives, heirs, successors, and assigns of the Parties.

6       11. The construction, interpretation, operation, effect, and validity of this Settlement  
7 Agreement, and all documents necessary to effectuate it, will be governed by the internal laws  
8 of the State of California without giving effect to any choice or conflict of law provision or rule  
9 that would cause the application of the laws of any other jurisdiction.

10       12. Except as otherwise provided in this Settlement Agreement, each Party shall  
11 bear his, her, or its own costs of litigation and the Settlement.

12       13. The Parties reserve the right, by agreement and subject to Court approval, to  
13 grant any reasonable extension of time that might be necessary to carry out the provisions of  
14 this Settlement Agreement, as well as to correct any inadvertent, non-substantive mistakes or  
15 typographical errors contained in any of the Settlement papers.

16       14. Proper notice shall be given to Plaintiffs and Wyndham of all applications for  
17 Court approval or Court orders required under this Settlement Agreement.

18       15. The determination of the terms of, and the drafting of, this Settlement  
19 Agreement has been by mutual agreement after negotiation, with consideration by and  
20 participation of all Parties and their counsel. Since this Settlement Agreement was drafted with  
21 the participation of all Parties and their counsel, the presumption that ambiguities shall be  
22 construed against the drafter does not apply. The Parties were represented by competent and  
23 effective counsel throughout the course of settlement negotiations and in the drafting and  
24 execution of this Settlement Agreement, and there is no disparity in bargaining power between  
25 the Parties to this Settlement Agreement.  
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2           16.     This Settlement Agreement constitutes the entire, fully integrated agreement  
3 among the Parties and cancels and supersedes all prior written and unwritten agreements and  
4 understandings pertaining to the Parties' Settlement.

5           17.     Plaintiffs' Counsel and Wyndham's Counsel agree to cooperate fully with one  
6 another in seeking entry of the Preliminary Approval Order, the Notice Order, the Court's  
7 approval of this Settlement Agreement and the Settlement set forth herein, and entry of the  
8 Approval Order, and to promptly agree on and execute all such other documentation as may be  
9 reasonably required to obtain the Court's approval of the Settlement.  
10

11           18.     The Parties agree that any disputes regarding the meaning of the terms and  
12 conditions of this Settlement Agreement, the Parties' rights and obligations under this  
13 Settlement Agreement, or the manner in which any issue or dispute arising under this  
14 Settlement Agreement should be resolved, shall be submitted to the Court for resolution.  
15

16           19.     All notices to the Parties or Counsel required by this Settlement Agreement shall  
17 be made in writing and communicated by electronic and regular mail to the following addresses  
18 (unless one of the Parties subsequently designates one or more other designees):

19                   Plaintiffs' Counsel:

20                   Jonathan K. Levine  
21                   Elizabeth C. Pritzker  
22                   GIRARD GIBBS LLP  
23                   601 California Street, Suite 1400  
24                   San Francisco, California 94108  
25                   Telephone: (415) 981-4800  
26                   Facsimile: (415) 981-4846  
27                   [jkl@girardgibbs.com](mailto:jkl@girardgibbs.com); [ecp@girardgibbs.com](mailto:ecp@girardgibbs.com)

28                   James Helfrich  
29                   GERSH & HELFRICH, LLP  
30                   1860 Blake Street, Suite 300  
31                   Denver, Colorado 80202  
32                   Telephone: (303) 293-2333  
33                   Facsimile: (303) 293-2433  
34                   [jh@ghlawoffice.com](mailto:jh@ghlawoffice.com)

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Wyndham's Counsel:

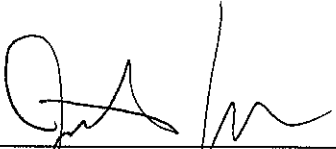
J. Kirk Quillian  
A. William Loeffler  
TROUTMAN SANDERS LLP  
5200 Bank of America Plaza  
600 Peachtree Street, N.E.  
Atlanta, Georgia 30308-2216  
Telephone: (404) 885-3000  
Facsimile: (404) 885-3900  
[kirk.quillian@troutmansanders.com](mailto:kirk.quillian@troutmansanders.com)  
[bill.loeffler@troutmansanders.com](mailto:bill.loeffler@troutmansanders.com)

Stephen M. Hankins  
SCHIFF HARDIN LLP  
One Market, Spear Street Tower, 32<sup>nd</sup> Floor  
San Francisco, California 94105  
Telephone: (415) 901-8700  
Facsimile: (415) 901-8701  
[SHankins@schiffhardin.com](mailto:SHankins@schiffhardin.com)

1  
2 IN WITNESS WHEREOF, the Parties have executed and caused this Settlement  
3 Agreement to be executed by their duly authorized attorneys below.

4  
5 Dated: October 21, 2010

6 BY:

  
\_\_\_\_\_  
Jonathan Levine  
Elizabeth C. Pritzker  
GIRARD GIBBS LLP  
Eric H. Gibbs  
Elizabeth C. Pritzker  
601 California Street  
San Francisco, CA 94108

\_\_\_\_\_  
James Helfrich  
GERSH & HELFRICH, LLP  
1860 Blake Street, Suite 300  
Denver, Colorado 80202

*Attorneys for Plaintiffs and the Class*

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15  
16 Dated: October 21, 2010

17 BY:

\_\_\_\_\_  
J. Kirk Qullian  
A. William Loeffler  
TROUTMAN SANDERS, LLP  
5200 Bank of America Plaza  
600 Peachtree Street, N.E.  
Atlanta, GA 30308-2216

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22 Stephen M. Hankins  
SCHIFF HARDIN LLP  
One Market, Spear Street Tower, 32<sup>nd</sup> Floor  
San Francisco, California 94105  
Telephone: (415) 901-8700  
Facsimile: (415) 901-8701

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25  
26 *Attorneys for Wyndham Resort  
Development Corporation*

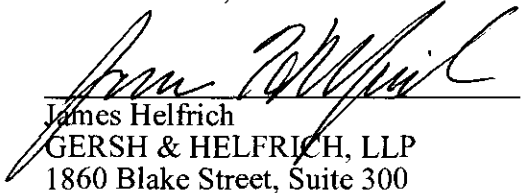


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Elizabeth C. Pritzker  
GIRARD GIBBS LLP  
Eric H. Gibbs  
Elizabeth C. Pritzker  
601 California Street  
San Francisco, CA 94108

10  
11   
12 \_\_\_\_\_  
James Helfrich  
GERSH & HELFRICH, LLP  
1860 Blake Street, Suite 300  
Denver, Colorado 80202

13  
14 *Attorneys for Plaintiffs and the Class*

15  
16 Dated: October \_\_, 2010

17 BY:

18 \_\_\_\_\_  
J. Kirk Qullian  
A. William Loeffler  
TROUTMAN SANDERS, LLP  
5200 Bank of America Plaza  
600 Peachtree Street, N.E.  
Atlanta, GA 30308-2216

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22 Stephen M. Hankins  
SCHIFF HARDIN LLP  
23 One Market, Spear Street Tower, 32<sup>nd</sup> Floor  
San Francisco, California 94105  
24 Telephone: (415) 901-8700  
25 Facsimile: (415) 901-8701

26 *Attorneys for Wyndham Resort  
27 Development Corporation*  
28

1  
2 IN WITNESS WHEREOF, the Parties have executed and caused this Settlement  
3 Agreement to be executed by their duly authorized attorneys below.  
4

5 Dated: October 21, 2010

6 BY:

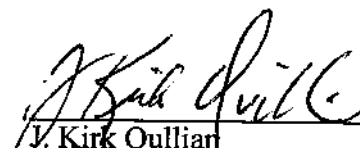
7 \_\_\_\_\_  
Jonathan Levine  
Elizabeth C. Pritzker  
GIRARD GIBBS LLP  
8 Eric H. Gibbs  
Elizabeth C. Pritzker  
9 601 California Street  
San Francisco, CA 94108

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11 \_\_\_\_\_  
James Helfrich  
12 GERSH & HELFRICH, LLP  
1860 Blake Street, Suite 300  
13 Denver, Colorado 80202

14 *Attorneys for Plaintiffs and the Class*

15  
16 Dated: October 21, 2010

17 BY:

18 \_\_\_\_\_  
  
J. Kirk Qullian  
19 A. William Loeffler  
TROUTMAN SANDERS, LLP  
5200 Bank of America Plaza  
20 600 Peachtree Street, N.E.  
Atlanta, GA 30308-2216

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22 Stephen M. Hankins  
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23 One Market, Spear Street Tower, 32<sup>nd</sup> Floor  
San Francisco, California 94105  
24 Telephone: (415) 901-8700  
25 Facsimile: (415) 901-8701

26 *Attorneys for Wyndham Resort  
Development Corporation*  
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**EXHIBIT A**

**DRAFT**

October 21, 2010

Chris W. Neri  
Assistant Commissioner/Subdivisions  
California Department of Real Estate  
P.O Box 187005  
2201 Broadway  
Sacramento, California 95818-7005

**Re: Wixon v. Wyndham Resort Development Corporation**  
**United States District Court, Northern District of California**  
**Docket No. C-07-02361-JSW (BZ)**

---

Dear Mr. Neri:

Pursuant to Section 1715 of Title 28 of the United States Code (28 U.S.C. § 1715, the “Class Action Fairness Act of 2005”), this letter and its enclosures shall constitute notice of a proposed class action settlement in the above-referenced action. The action and proposed settlement involves a points-based time-share plan that may be subject to the jurisdiction of your office.

The time-share plan is commonly known as WorldMark, The Club (“WorldMark”). Wyndham Resort Development Corporation (“Wyndham”) develops resorts for WorldMark. Pursuant to a written agreement with WorldMark, Wyndham transfers legal ownership of the resort properties it develops to WorldMark and, in exchange, Wyndham has the exclusive right to market memberships in the Club and to the proceeds from the sale of membership in the Club.

The proposed settlement, if approved, will effectuate changes in the WorldMark time-share plan. Specifically, credit values required to make reservations at specified WorldMark resorts will be reduced, and Wyndham will cancel credits associated with these reductions so that they will no longer be available for sale to the public. Additionally, certain units at WorldMark resorts that do not have high overall vacation credit usage will be removed from the WorldMark resort system, and transferred back to Wyndham or its designee. Credits associated with removed units also will be cancelled so that they will no longer be available for sale to the public. Wyndham will add up to 21 units at WorldMark’s Dolphin’s Cove resort in Anaheim, California to replace an equivalent number of higher credit value units that will be removed from WorldMark’s Anaheim resort and transferred back to Wyndham or its designee. The number of units and credits remaining in the WorldMark system after the settlement is implemented will be sufficient to ensure that the number of accommodations available to WorldMark member usage will be equal to or greater than the number of vacation credits sold to the public.

In the event the settlement does not receive final court approval and final regulatory approval, the above-described changes to the WorldMark time-share plan will not occur.

The action and the proposed settlement are evidenced by the following enclosed materials:

1. Plaintiffs’ Sixth Amended Class Action (operative) Complaint on Behalf of Nationwide Settlement Class;

To: Chris W. Neri

Re: **Wixon, et al. v. Wyndham Resort Development Corp. et al.**

October 21, 2010

Page 2

2. The parties' Settlement Agreement and Release, including exhibits thereto;
3. The Proposed Order of the United States District Court for the Northern District of California Granting Preliminary Approval of Class Action Settlement, which was filed with the Court on October 21, 2010; and
4. The Summary Notice for members of WorldMark, The Club that will be posted on the WorldMark member web site and on the class counsel's web site, as directed by the court.

Also enclosed with this letter is a chart prepared by Wyndham identifying the number of class members in each State encompassed within the proposed settlement that will be provided with Notice of the Class Action Settlement, and their percentage of the Class.

If, upon review of the enclosed materials, you have any questions or concerns regarding the proposed settlement or its implementation, please contact me directly prior to [date of expiration of 90-day CAFA period] to discuss these matters.

Sincerely,

[NAME]

[TITLE]

Wyndham Resort Development Corporation

cc: J. Kirk Quillian, Troutman Sanders LLP, attorneys for Wyndham Resort Development Corp.  
Jonathan K. Levine, Girard Gibbs LLP, Class Counsel for Plaintiffs and the Class

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**EXHIBIT B**

Jonathan K. Levine (State Bar No. 220289)  
jkl@girardgibbs.com  
Elizabeth C. Pritzker (State Bar No. 146267)  
ecp@girardgibbs.com  
Todd I. Espinosa (State Bar No. 209591)  
tie@girardgibbs.com

**GIRARD GIBBS LLP**  
601 California Street, 14th Floor  
San Francisco, California 94108  
Telephone: (415) 981-4800  
Facsimile: (415) 981-4846

Attorneys for Individual and Representative  
Plaintiffs Clarke and Rebecca Wixon, Norman  
and Barbara Wixon, Kandice Scattolon and the Class

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

Clarke and Rebecca Wixon, Norman  
and Barbara Wixon, and Kandice Scattolon, on  
behalf of themselves and all others similarly  
situated,

Plaintiffs,

v.

Wyndham Resort Development Corp. (f/k/a  
Trendwest Resorts, Inc.),

Defendant.

Case No. C 07 2361 JSW (BZ)

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

CLASS ACTION

Date: December 3, 2010

Time: 9:00 a.m.

Courtroom: Hon. Jeffrey S. White

1 This matter came before the Court for hearing on December 3, 2010, on the joint application of  
2 Plaintiffs Clarke and Rebecca Wixon, Norman and Barbara Wixon and Kandice Scattolon (“Plaintiffs”)  
3 and Defendant Wyndham Resort Development Corporation (“Wyndham”) (Plaintiffs and Wyndham  
4 are referred to collectively as the “Parties”) for preliminary approval of the proposed Settlement  
5 Agreement and Release (“Settlement”), resolving the class claims asserted in the litigation against  
6 Wyndham. In their joint application, the Parties further request (i) leave for Plaintiffs to file a Sixth  
7 Amended Complaint to conform the class definition set forth in the pleadings with that contained in the  
8 proposed Settlement, (ii) preliminary certification of a settlement class, and (iii) approval of the form of  
9 Summary Notice to be electronically published to the settlement class.

10 The Court having considered all papers filed and proceedings had herein, and otherwise being  
11 fully informed in the premises and good cause appearing therefore, **IT IS HEREBY ORDERED** that:

12 1. Solely for purposes of the proposed Settlement, the Court grants Plaintiffs leave to file a  
13 Sixth Amended Complaint to conform the class definition and class allegations to the proposed  
14 Settlement, which is attached as Exhibit 1 to the Parties’ Joint Application. Wyndham is excused from  
15 filing an answer or any other responsive pleading with respect to the Sixth Amended Complaint,  
16 without prejudice to Wyndham and its right to deny allegations and otherwise respond under the  
17 Federal Rules of Civil Procedure, absent this Settlement becoming effective.

18 2. The Court previously entered an order certifying a litigation class pursuant to Fed. R.  
19 Civ. P. 23. (*See* Dkt No. 420.) For the reasons stated in the Court’s prior class certification order, the  
20 Court finds that the Parties’ proposed settlement class satisfies the prerequisites of numerosity,  
21 commonality, typicality, and adequacy of representation, and further finds that common questions  
22 predominate over any questions affecting only individual members such that resolution on a class basis  
23 is superior to other available methods for a fair resolution of this controversy. Fed. R. Civ. P. 23(a),  
24 (b). Accordingly, the Court preliminarily certifies the following class for purposes of the proposed  
25 Settlement (the “Settlement Class”):

26 All Current WorldMark, The Club members as of Preliminary Approval. Excluded from  
27 the Class are Defendants, any entity in which any Defendant has or had a controlling  
28 interest, any officers or directors of Wyndham, the legal representatives, heirs,  
successors, and assigns of Defendants, and any judge assigned to this action and his or  
her immediate family.



1           3.       Capitalized terms not otherwise defined herein shall have the same meaning as set forth  
2 in the Settlement.

3           4.       The Court preliminarily approves the proposed Settlement, finding that its terms appear  
4 sufficiently fair, reasonable, and adequate to warrant dissemination of notice of the proposed Settlement  
5 to the Settlement Class. The Court finds that the proposed Settlement contains no obvious deficiencies  
6 and that the parties entered into the proposed Settlement in good faith, following arms-length  
7 negotiation between their respective counsel.

8           5.       The Court hereby approves the form and procedures for disseminating a Summary  
9 Notice of Class Action Settlement (“Summary Notice”) to the Settlement Class set forth in the proposed  
10 Settlement. Within ten (10) business days after entry of this Order: (a) Wyndham shall cause the  
11 Summary Notice to be posted in a clear and prominent manner in a location accessible only to  
12 WorldMark members on the WorldMark by Wyndham website ([www.worldmarktheclub.com](http://www.worldmarktheclub.com)); and (b)  
13 Plaintiffs’ counsel shall cause the Summary Notice to be posted in a clear and prominent manner on the  
14 Girard Gibbs LLP firm website ([www.girardgibbs.com](http://www.girardgibbs.com)). The Summary Notice shall remain on these  
15 websites until formal settlement notice is issued to the Settlement Class or until such other date as the  
16 Court may order.

17           6.       Wyndham shall comply with the requirements of 28 U.S.C. § 1715(b) and timely serve  
18 notice of the proposed Settlement upon the appropriate federal official and the appropriate State official  
19 of each State in which a Settlement Class member resides. Wyndham shall also provide copies of its  
20 submissions to Plaintiffs’ counsel.

21           7.       On or before \_\_\_\_\_, 2011, the Parties shall submit a report to the Court  
22 advising of: (i) the WorldMark Board’s consent to the Settlement; and (ii) the status of the Parties’  
23 efforts to obtain Regulatory Approval to implement the terms of the Settlement. If, at that time,  
24 Wyndham attests that Regulatory Approval is, in Wyndham’s estimate, likely to be attained, the Parties  
25 may propose a timeline and procedure for providing formal settlement notice to the Settlement Class,  
26 and propose a hearing and schedule for final settlement approval by the Court.

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8. A further status conference shall be held on \_\_\_\_\_, 2011.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2010

\_\_\_\_\_  
Honorable Jeffrey S. White  
United States District Judge

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**EXHIBIT C**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

Clarke and Rebecca Wixon et al. v. Wyndham Resort  
Development Corp.

Case No. C 07-02361 JSW (BZ)

**SUMMARY NOTICE OF CLASS ACTION  
SETTLEMENT**

---

**TO: OWNERS OF WORLDMARK, THE CLUB**  
**THIS SUMMARY NOTICE RELATES TO A PROPOSED SETTLEMENT OF A CLASS ACTION  
LAWSUIT AGAINST WYNDHAM RESORT DEVELOPMENT CORP. PLEASE READ THIS NOTICE  
CAREFULLY. IT CONTAINS IMPORTANT INFORMATION.**

**1. PURPOSE OF THIS SUMMARY NOTICE.** This notice is being provided at the direction of the United States District Court, Northern District of California (“Court”) to inform you about a proposed settlement (“Settlement”) of litigation involving Wyndham Resort Development Corp. (“Wyndham”) and WorldMark, The Club (“WorldMark”). If approved by the Court, the Settlement will fully, finally and forever resolve the litigation against Wyndham on the terms and conditions summarized in this notice.

The Court has not yet set a date for a hearing to approve the Settlement (“Approval Hearing”). When the Court does set the date for the Approval Hearing, the parties will mail a formal Notice of Class Action Settlement to all WorldMark owners that will advise owners of the date of the Approval Hearing and of their rights to comment on any provision of the Settlement, to appear at the Approval Hearing, or to exclude themselves from the Settlement.

**2. LITIGATION OVERVIEW.** In 2007, four WorldMark owners (“Plaintiffs”) filed a class action lawsuit, U.S. District Court Case No. C-07-02361 JSW (BZ), on behalf of certain WorldMark owners against Wyndham, alleging that Wyndham, as the developer and manager for the WorldMark resorts, engaged in certain acts that violate the WorldMark governing documents and California law. Among other things, the lawsuit challenged the setting of credit values by Wyndham at 12 WorldMark resorts, Wyndham’s implementation of TravelShare and Fun Time reservations, the reduction in the number of weeks set aside and not sold at new WorldMark resorts, and Wyndham’s use of WorldMark resorts for sales and marketing purposes. Wyndham contests and denies the alleged claims.

**3. THERE HAS BEEN NO FINDING OF WRONGDOING OR LITIGATION SUCCESS.** The Court has not decided the merits of the claims or defenses in the litigation. This notice does not, and is not intended to, imply that there have been or would be any findings of violation of law by Wyndham. Wyndham denies all liability or wrongdoing alleged in the litigation. It believes the Settlement is desirable to avoid the substantial expense, burden, risk, distraction, and uncertainty of protracted litigation. All parties believe the Settlement confers substantial benefits and is in the best interests of WorldMark and WorldMark owners.

**4. THE SETTLEMENT.** The terms and conditions of the proposed Settlement are set forth in the parties’ Settlement Agreement and Release, which has been filed with the Court. The Settlement, if approved, will lower credit values at certain resorts, cancel certain Vacation Credits held by Wyndham as unsold developer credits, remove underutilized units from the WorldMark system, and make other changes to the WorldMark time-share plan that may require consent of the WorldMark Board and approval from various regulatory authorities. Wyndham has notified regulatory authorities of the settlement, and will periodically report to Class Counsel regarding the status of efforts to obtain regulatory approval. The following description of the terms of the proposed Settlement is a summary only:

**A. *Credit Cancellation and Reduction of Credit Values at Certain Resort.*** If the Settlement is approved, and once the Settlement is effective, Wyndham will cancel 22 million WorldMark Vacation Credits that it currently holds as unsold developer credits. Cancelled Vacation Credits will no longer be available for sale, will not be sold, and cannot be used in connection with voting in any WorldMark election. The 22 million cancelled Vacation Credits will be allocated to reduce peak “red season” credit values in certain categories of units at certain of the resorts at issue in the lawsuit, as follows:

Resorts Selected for Red Season Credit Value Reductions	Unit Type	Number of Units	Number of Season Weeks	Old Red Season Credit Value	New Reduced Red Season Credit Value	Credits Canceled To Permit Credit Reductions
<b>Anaheim</b>	Studio	10	50	11,000	10,500	6,400,000
	1 bd	62	50	14,000	13,000	
	2 bd	122	50	16,500	16,000	
<b>Camlin</b>	1 bd	57	31	12,000	11,500	883,500
<b>Las Vegas – Tropicana</b>	2 bd	36	50	13,000	12,500	2,100,000
	2 bd dlx	48	50	15,000	14,500	
<b>Long Beach - Washington</b>	2 bd	59	33	13,500	13,000	1,023,000
	3 bd	3	33	15,500	15,000	
<b>Mission Valley</b>	1 bd	55	50	12,500	11,500	2,750,000
<b>New Orleans</b>	1 bd	22	38	12,000	11,500	418,000
<b>San Diego</b>	Studio H	49	50	12,000	11,000	3,875,000
	1 bd	19	50	15,000	13,500	
<b>San Francisco</b>	Studio H	40	40	9,000	8,500	1,740,000
	1 bd	47	40	12,000	11,500	
<b>Santa Fe</b>	Hotel	1	36	9,000	8,500	1,494,000
	C-Studio	10	36	12,000	10,500	
	1 bd-c	5	36	13,000	12,000	
	1 bd	14	36	14,000	12,500	
<b>Taos</b>	Studio	15	36	11,000	10,500	540,000
	Studio-dlx	4	36	12,000	11,500	
	1 bd	9	36	13,000	12,500	
	2 bd	2	36	15,000	14,500	
<b>W Yellowstone</b>	2 bd	67	20	13,500	13,000	870,000
	3 bd	10	20	15,500	14,500	
<b>TOTAL</b>						<b>22,093,500</b>

As a result of this Settlement term, Wyndham’s rights and obligations as to the 22 million Vacation Credits, including Wyndham’s voting rights in WorldMark elections, will be eliminated. Within 15 days of the Settlement’s Effective Date, or as soon as practicable thereafter, the WorldMark reservation system will be modified, and the new lower credit red season values at the affected resorts reflected above will be in place for stays at these resorts, so that members have the benefit of the new, lower credit values when they book reservations or stay at these resorts.

**B. Extraction of Underutilized Units and Cancellation of Related Credits.** If the Settlement is approved, between 400 and 481 units at certain underutilized WorldMark resorts will be returned to Wyndham. Underutilized units include only units at resorts with overall Vacation Credit occupancy rates below WorldMark’s 85% average rate. This provision of the Settlement “right-sizes” the resorts by eliminating units that WorldMark members underutilize and relieving WorldMark of the expense and ongoing burden of maintaining units that are being underutilized. The specific resorts and number of units being removed at each such resort are identified below (assuming all 481 units are removed):

<b>Resorts Selected for Extraction</b>	<b>Number of Credits Cancelled</b>	<b>Number of Units Removed</b>
<b>Angels Camp</b>	19,780,000	44
<b>Bisontown</b>	8,460,000	18
<b>Canmore</b>	13,824,000	31
<b>Denarau Island</b>	12,688,000	22
<b>Galena</b>	10,568,000	31
<b>Grand Lake</b>	13,968,000	32
<b>Indio</b>	59,384,000	113
<b>Lake of the Ozarks</b>	11,664,000	24
<b>Las Vegas Tropicana</b>	36,504,000	56
<b>Pinetop</b>	9,304,000	23
<b>Rancho Vistoso</b>	10,828,000	23
<b>Steamboat Springs</b>	18,008,000	27
<b>Taos</b>	20,652,000	37
<b>TOTAL</b>	<b>245,632,000</b>	<b>481</b>

If the Settlement is approved, within 12 months of the Settlement’s Effective Date, Wyndham will seek regulatory approval to transfer out of WorldMark a minimum of 400 and up to a maximum of the 481 units identified above or, with the consent of Class Counsel and the WorldMark Board, and with Court approval, certain substitute units (subject to the overall 481 unit maximum) that meet the criteria used to identify the units listed above. Wyndham will complete the transfer of at least 400 units (the “First Transfer Phase”) as soon as practicable upon obtaining regulatory approval. If more time is needed to obtain regulatory approval to complete the First Transfer Phase, Wyndham may, depending upon the amount of time required, seek the consent of Class Counsel or a Court order for additional time to complete the First Transfer Phase. After the First Transfer Phase is complete, Wyndham will cancel the Vacation Credits associated with these underutilized units from its pool of unsold developer credits.

When the First Transfer Phase is complete, Wyndham will promptly notify the Court and Class Counsel. At that time, to the extent that Wyndham has not reached the 481 unit maximum or the 245.6 million cap on Vacation Credits, Wyndham may either (i) continue to attempt to obtain the authority to legally transfer the remaining 81 units or such number of substitute units that meet the criteria used to select the original specified units (the “Additional Transfer Phase”); or (ii) declare that this term of the Settlement has been finally and fully performed. After the Settlement’s Effective Date, Wyndham has the right to void the Settlement if and only if, after exhausting all commercially reasonable efforts, Wyndham is unable to obtain regulatory approval to legally and effectively transfer out of WorldMark a minimum of 400 units as provided for under this term of the Settlement.

If all 481 units are removed, Wyndham will cancel the 245.6 million Vacation Credits associated with these underutilized units from its pool of unsold developer credits. The 245.6 million cancelled Vacation Credits will no longer be available for sale, will not be sold, and cannot be used in connection with voting in any WorldMark election. As a result of this Settlement term, Wyndham’s rights and obligations as to the 245.6 million Vacation Credits, including Wyndham’s voting rights in WorldMark elections, will be eliminated. If fewer units are

removed, the corresponding number of Vacation Credits to be cancelled will be reduced accordingly. Based on a thorough review of occupancy and credit usage data, Plaintiffs and Wyndham agree that extraction of the units will not materially impair availability at the resorts identified above.

- C. *Exchange of Certain Units in Anaheim to Provide More Availability at Lower Credit Values.*** If the Settlement is approved, upon completion of the First Transfer Phase described above, 21 units at WorldMark Anaheim will be returned to Wyndham. These 21 units at WorldMark Anaheim will be replaced by weeks equivalent to 21 units at WorldMark’s Dolphin’s Cove Resort (also in Anaheim), which has lower credit values. Wyndham will cancel 7 million Vacation Credits associated with this exchange (16.9 million from WorldMark Anaheim less 9.9 million for WorldMark Dolphin’s Cove) from its pool of unsold developer credits, as follows.

<b>Resorts Selected for Exchange</b>	<b>Number of Credits</b>	<b>Number of Units</b>
Anaheim - REMOVED	(16,874,000) Cancelled	(21) Removed
Dolphin’s Cove - ADDED	+ 9,860,000 Added	+ 21 Added
<b>NET CHANGE</b>	<b>( 7,014,000) Cancelled</b>	<b>-0-</b>

The 7 million cancelled Vacation Credits will no longer be available for sale, will not be sold, and cannot be used in connection with voting in any WorldMark election. As a result of this Settlement term, Wyndham’s rights and obligations as to the 7 million Vacation Credits, including Wyndham’s voting rights in WorldMark elections, will be eliminated.

- D. *Aggregate Changes in Credits and Units and Reserves.*** If the Settlement is approved and implemented, the maximum net reduction in the number of Vacation Credits held by Wyndham for sale as WorldMark Vacation Credits will be 274.7 million, calculated as follows: 22 million cancelled + 262.5 million extracted – 9.86 million added at WorldMark Dolphin’s Cove. As a result of the Settlement, Wyndham’s rights and obligations as to the 274.7 million Vacation Credits, including Wyndham’s voting rights in WorldMark elections, will be eliminated. WorldMark owners would be relieved of maintenance and other costs associated with the extracted units, and the number of credits available to compete for reservations at WorldMark resorts will be reduced, while ensuring that the number of units remaining after extraction will be sufficient to meet owner demand.

At the time units are transferred out of WorldMark, exterior reserves maintained for future refurbishment and repair at resorts where units are being returned to Wyndham will be transferred to, and held by, an independent association or governing body responsible for exterior maintenance at the resort. Interior reserves maintained for future refurbishment and repair of the units returned to Wyndham will be deposited with an escrow agent.

- E. *Cessation of Sales of TravelShare with Fun Time.*** If the Settlement is approved, Wyndham will cease selling new TravelShare memberships with Fun Time on the later of October 31, 2011 or 90 days after the Settlement’s Effective Date. WorldMark owners who join TravelShare prior to that date will not be affected by this aspect of the Settlement.
- F. *Election Website.*** If the Settlement is approved, Wyndham will establish a separate internet website for owners to access during election cycles for the purpose of, and with content pertaining to, WorldMark Board of Director election matters, subject to reasonable review and approval of any owner postings by the WorldMark Board or the Board’s authorized designee. Wyndham will notify WorldMark owners of the website’s existence each election cycle via Destinations Magazine and the Insider Magazine.
- G. *Limitations of Party Weekends.*** If the Settlement is approved, Wyndham will not be able to book Party Weekends at any specific WorldMark resort during any particular calendar month in which the occupancy at the resort has exceeded 90% based on occupancy data from the same month in the preceding calendar year.
- H. *Release of Claims.*** If the Settlement is approved, all WorldMark owners as of December \_\_ 2010 who do not exclude themselves from the Settlement will release all claims that have been or could have been alleged in the

litigation or that arise out of, are connected with, or are related to the claims asserted in the litigation, including any unknown claims against Wyndham. Wyndham will similarly release all such claims against Plaintiffs and Plaintiffs' Counsel. For a fuller description of the claims being released, please see paragraphs VII.B.1-B.2 of the Settlement Agreement and Release, which is posted at [www.GirardGibbs.com/Wyndham-Settlement.asp](http://www.GirardGibbs.com/Wyndham-Settlement.asp).

- I. *Dismissal of Pending Litigation; Required Action if Settlement is Voided.*** If the Settlement is approved, the class action lawsuit will be dismissed, with prejudice, subject to the continuing jurisdiction of this Court. The Wixon plaintiffs also will dismiss with prejudice their complaint in intervention filed in the California state litigation involving a dispute as to the distribution of the owner register and owner email addresses, *WorldMark v. Miller*, Sacramento County Superior Court Case No. 34-2008-00025130-CU-PT-GDS.

After the Settlement's Effective Date, Wyndham has the right to void the Settlement if and only if, after exhausting all commercially reasonable efforts, Wyndham is unable to obtain regulatory approval to extract and transfer out of WorldMark a minimum of 400 units as provided for under the extraction provision of the Settlement. If Wyndham exercises this right, the Parties will, within ten (10) business days thereafter, request a Court order that: (i) the judgment and dismissal of the Action be vacated; (ii) Plaintiffs' Fifth Amended Class Action Complaint and Wyndham's Answer thereto be reinstated as the operative pleadings and the record be reinstated; (iii) the Parties shall be restored to their respective positions in the litigation as of July 2, 2010; (iv) all Settlement Class members shall be restored to their respective positions as of July 2, 2010; and (v) notice to the settlement class shall be provided, if deemed necessary, by the Court at Wyndham's expense.

- 5. PLAINTIFFS' COUNSEL'S FEE AND EXPENSE APPLICATION.** Plaintiffs and the Class have been represented by Girard Gibbs LLP, a law firm in San Francisco, California. Girard Gibbs has been assisted by Gersh & Helfrich LLP, a Denver, Colorado law firm. To date, Plaintiffs' Counsel have not been compensated for any of their work or reimbursed for any of the significant expenses incurred in the litigation. Wyndham has agreed, subject to Court approval, to pay a fee award up to \$5 million to compensate Plaintiffs' Counsel for the work they have performed for the Class, the litigation expenses incurred (including experts), and the costs associated with the notice and administration of the Settlement, together with any amounts paid to Plaintiffs as incentive awards. This award will be deposited into an escrow account, and dispensed to Plaintiffs' counsel in two phases as the Parties fulfill their obligations under the Settlement. Also subject to Court approval, each named Plaintiff will receive a \$5,000 incentive award to be paid out of any fee award to Plaintiffs' Counsel. Neither Plaintiffs, WorldMark, nor the Class will be responsible for the payment of any of Plaintiffs' Counsel's fees or expenses or the incentive awards. In addition, the Settlement described above is not contingent upon the Court's award of fees or expenses to Plaintiffs' Counsel or the incentive awards to the named Plaintiffs.

Plaintiffs' Counsel's fee and expense application, including the incentive awards, are subject to Court approval. If you wish to comment on the fee and expense application before the Court considers it, the Notice of Class Action Settlement will explain how and when to submit comments.

- 6. MORE INFORMATION.** This notice only summarizes the lawsuit and the Settlement. For more details, you may review the Settlement Agreement and Release, available online in Adobe Portable Document Format (pdf) at [www.GirardGibbs.com/Wyndham-Settlement.asp](http://www.GirardGibbs.com/Wyndham-Settlement.asp). The Settlement Agreement and all other pleadings and papers filed in the lawsuit are available for inspection and copying during regular business hours at the office of the Clerk of the Court, United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, California 94102.

**If you would like more information about the Settlement, you may contact Plaintiffs' counsel, Girard Gibbs LLP, 601 California Street, Suite 1400, San Francisco, CA 94108; telephone number (415) 981-4800; or by email to [Wyndham-Settlement@GirardGibbs.com](mailto:Wyndham-Settlement@GirardGibbs.com).**

**PLEASE DO NOT CONTACT THE COURT WITH QUESTIONS ABOUT THE SETTLEMENT.**

**DATED: \_\_\_\_\_, 2010**

**BY ORDER OF THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**



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**EXHIBIT D**

**EXHIBIT D**

**Reduction of Credit Values and Cancellation of Credits**

<b>Resorts Selected for Red Season Credit Value Reductions</b>	<b>Unit Type</b>	<b>Number of Units</b>	<b>Number of Season Weeks</b>	<b>Old Red Season Credit Value</b>	<b>New Reduced Red Season Credit Value</b>	<b>Credits Canceled To Permit Credit Reductions</b>
<b>Anaheim</b>	Studio	10	50	11,000	10,500	
	1 bd	62	50	14,000	13,000	
	2 bd	122	50	16,500	16,000	6,400,000
<b>Camlin</b>	1 bd	57	31	12,000	11,500	883,500
<b>Las Vegas – Tropicana</b>	2 bd	36	50	13,000	12,500	
	2 bd dlx	48	50	15,000	14,500	2,100,000
<b>Long Beach - Washington</b>	2 bd	59	33	13,500	13,000	
	3 bd	3	33	15,500	15,000	1,023,000
<b>Mission Valley</b>	1 bd	55	50	12,500	11,500	2,750,000
<b>New Orleans</b>	1 bd	22	38	12,000	11,500	418,000
<b>San Diego</b>	Studio H	49	50	12,000	11,000	
	1 bd	19	50	15,000	13,500	3,875,000
<b>San Francisco</b>	Studio H	40	40	9,000	8,500	
	1 bd	47	40	12,000	11,500	1,740,000
<b>Santa Fe</b>	Hotel	1	36	9,000	8,500	
	C-Studio	10	36	12,000	10,500	
	1 bd-c	5	36	13,000	12,000	
	1 bd	14	36	14,000	12,500	1,494,000
<b>Taos</b>	Studio	15	36	11,000	10,500	
	Studio-dlx	4	36	12,000	11,500	
	1 bd	9	36	13,000	12,500	
	2 bd	2	36	15,000	14,500	540,000
<b>W Yellowstone</b>	2 bd	67	20	13,500	13,000	
	3 bd	10	20	15,500	14,500	870,000
				<b>TOTAL</b>		<b>22,093,500</b>

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**EXHIBIT E**

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**EXHIBIT E**

**Extraction of Units and Credits**

<b>Resort</b>	<b>Number of Credits Cancelled</b>	<b>Number of Units Removed</b>
Angels Camp	19,780,000	44
Bisontown	8,460,000	18
Canmore	13,824,000	31
Denarau Island	12,688,000	22
Galena	10,568,000	31
Grand Lake	13,968,000	32
Indio	59,384,000	113
Lake of the Ozarks	11,664,000	24
Las Vegas Tropicana	36,504,000	56
Pinetop	9,304,000	23
Rancho Vistoso	10,828,000	23
Steamboat Springs	18,008,000	27
Taos	20,652,000	37
<b>TOTAL</b>	<b>245,632,000</b>	<b>481</b>

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**Exchange of Units in Anaheim, CA**

<b>Resort</b>	<b>Number of Credits</b>	<b>Number of Units</b>
Anaheim - REMOVED	(16,874,000) Cancelled	(21) Removed
Dolphin's Cove - ADDED	+ 9,860,000 Added	+ 21 Added
<b>NET CHANGE</b>	<b>( 7,014,000) Cancelled</b>	<b>-0-</b>