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TIMESHARE REGULATIONS

Decree No.39/2007
of the 24th of August

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Regulations on Timeshare

CHAPTER I

General provisions

Article 1
Definitions

For the purposes of these Regulations:

a) *Holiday village* means a supplementary type of tourist accommodation, comprising a set of premises that are functionally self-contained and architecturally homogeneous established in a demarcated space.

b) *Holiday complex* means an establishment set up in a demarcated space with inter-dependent buildings that includes at least one activity or project declared of interest to tourism, in addition to accommodation and catering and beverages facilities.

c) *Property development* means a quality development complex composed of an integrated cluster of buildings in a defined space, intended as housing, either permanent or temporary, or as offices, enjoying a range of supplementary structures, facilities and services, such as green spaces, leisure areas, and shopping, sports, cultural or tourist centers.

d) *Tourist development* means establishments intended to provide temporary accommodation, catering and beverages services to tourists or tourist recreation, possessing a range of supplementary structures, facilities and services for their operations.

e) *Real timeshare right* means having joint use of property that allows the staggered or fixed enjoyment of the holiday premises or second home.

f) *Timeshare right* means a real right or right *in personam* that permits the holder to use for dwelling purposes accommodation units in tourist or property developments for one or more periods of fixed or indeterminate duration in each year, for consideration.

g) *Holiday accommodation right* means the use of accommodation in a tourist development for dwelling purposes, for one or more periods normally of fixed duration, each year for consideration.

h) *Fractional ownership* means the acquisition of a real right in a share of a given immovable property that is part of a tourist or property development, together with the moveable property that it contains, as well as facilities and services related to the common areas of the development, subject to a fixed interval calendar laid down in the contract and in the regulations on usage and services.

i) *Apartment hotel* means an establishment consisting of self-contained furnished apartments in their own building which is operated as a hotel.

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j) *Supplementary types of tourist accommodation* means non-hotel undertakings intended to provide accommodation, with or without ancillary or support services, namely holiday villages, camps or parks, apartment hotels, youth hostels and private homes.

k) *Company system* means the legal mechanism by which real rights in fractional ownership or residential tourism rights are created by means of ownership of shares in a company incorporated for this purpose.

l) *Promissory purchaser* means the party interested in purchasing an accommodation unit operated on a timeshare basis, in the nature of either a real right or right *in personam*, who signs a promissory contract of purchase and sale of the right to use the accommodation unit as a dwelling for one or more periods of fixed or indeterminate duration in each year.

m) *Promissory vendor* means the owner, or an individual or corporate person acting as an owner, of an accommodation unit operated on a timeshare basis, in the nature of either a real right or right *in personam*, who is a party to a promissory contract of purchase and sale of the right to use the accommodation unit as a dwelling for one or more periods of fixed or indeterminate duration in each year.

n) *Residential tourism* means tourism based on property or tourism investment aimed at providing residential/living accommodation on a permanent basis or for periods of fixed duration in areas of interest for tourism.

o) *Accommodation unit* means immovable property that is part of a tourist or property development intended for residential/living purposes on a permanent or temporary basis.

Article 2
Object

1. The object of these Regulations is to lay down the legal framework applicable to the creation, exercise, transfer and extinguishment of timeshare rights, as well as to define the rules and procedures for licensing tourist and property developments on a timeshare basis.
2. For the purpose of the application of these Regulations, the following are forms of timeshare right:
   a) Real timeshare right;
   b) Holiday accommodation right;
   c) Fractional ownership.
3. These Regulations also lay down the legal framework applicable to residential tourism.

Article 3
Scope

1. These Regulations are applicable to all accommodation units or immovable property that are part of tourist or property developments operated on a timeshare basis in any of the forms provided for herein, as well as all accommodation units in residential tourism schemes.

2. In terms of personal scope, the provisions of these Regulations apply to the owners of tourist or property developments, to the promoters or to any individual or corporate person involved

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in the sale or marketing of rights in timeshare or residential tourism schemes, as well as to holders of these rights.

3. The construction and the safety conditions of tourist or property developments that intend to adopt at least one of the forms of timeshare scheme or of residential tourism are governed by specific legislation.

CHAPTER II
Legal framework of timeshare

Section I
Common provisions

Article 4
Content and exercise of timeshare rights

1. The holder of a timeshare right in any of its forms has the following rights:

   a) To occupy the accommodation unit for the period to which his right refers;

   b) To use the common facilities and equipment of the development and to enjoy the services provided by the owner of the development;

   c) In the event of impossibility of using the accommodation unit that is the subject of the contract, owing to situations of force majeure or accident, that is, extraordinary, unforeseeable and unavoidable facts whose effects occur independently of the will or personal circumstances of the parties and which make performance of the contract impossible, to demand that the owner of the development provide alternative accommodation in a development on a timeshare basis, of an identical or higher category, in a place close to the development that is the subject of the contract;

   d) To transfer the rights referred to in the preceding sub-paragraphs.

2. In the exercise of his right, the holder must act with the care of an ordinary prudent person, and he is especially prohibited from using the accommodation unit and the common parts of the development for purposes other than those for which they are intended and from performing acts prohibited by the instrument establishing the development or by its operating rules.

Article 5
Advertising and marketing

1. All advertising and promotion in respect of the sale and marketing of timeshare rights or of accommodation units in property or tourist developments operating on a timeshare basis must contain at least the elements referred to in article 8 (2) (a), (b), (c) and (d).

2. Advertising of the accommodation units referred to in the preceding paragraph must indicate the possibility of obtaining free of charge the information document provided for in article 8, and must state how access to such document may be obtained.

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3. Concrete or objective information contained in the advertisements is considered incorporated into contracts that are entered into after the advertisements were issued, and any contractual provisions to the contrary are considered non-existent.

4. The word “owner” or any other expression likely to lead purchasers of timeshare rights to believe that they will become co-owners of the development must not be used in the advertising or promotion of timeshare rights nor in the contracts and documents in respect of these when referring to the holders of such rights.

5. Rights acquired in fractional ownership and in residential tourism schemes are excluded from the provision of the preceding paragraph.

6. Marketing of timeshare rights by persons not owners of tourist or property developments on a timeshare basis, or by persons duly mandated to act for this purpose by means of brokering, agency, assignment or other similar arrangements, requires authorization to be granted by the regulating body of the tourism sector.

7. Granting the authorization provided for in the preceding paragraph requires the applicants to observe the following conditions:

   a) To guarantee the full enjoyment of the timeshare rights that are the subject of the transfer contract for the duration of the contract;

   b) To demonstrate that the proprietors, directors or managers of the sole proprietorship or company are of good business repute.

8. For the purposes of the provision of sub-paragraph (b) of the preceding paragraph, persons in respect of whom the following is found are not considered of good business repute:

   a) A legal prohibition on the pursuit of commerce;

   b) A restriction on the pursuit of commerce by virtue of having been declared bankrupt or insolvent, while the restriction is in place and he has not been rehabilitated;

   c) Have been proprietors, managers or directors of a sole proprietorship or a company penalized with a prohibition of the pursuit of business.

9. For the purposes of the provision of paragraph 6, the seller must submit an application to the Ministry supervising the tourism sector, together with the following items:

   a) Company incorporation document;

   b) Certificate of registration of the sole proprietorship or company in the register of legal entities;

   c) Certificate confirming that the sole proprietorship or the company does not owe any contributions, taxes or other amounts to the State or that the payment of these is formally assured;

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d) Certificate confirming that the situation of the sole proprietorship or the company in relation to social security is in order;

e) Copies of the contracts entered into between the seller and or the owners of the accommodation units on a timeshare basis, which guarantee the full enjoyment of the rights that are the subject of the contract or promissory contract for the transfer of these rights for the duration of the period provided for in the contracts.

Article 6
Non-waiver and nullity

1. The rights conferred on the purchaser and the promissory purchaser of timeshare rights, in any of their forms, cannot be waived and all agreements that exclude or limit them in any way are null and void.

2. Any agreement that excludes or limits the liabilities imposed on the owner or the promoter/seller is likewise null and void.

Article 7
General conditions in respect of the operation of tourist or property developments on a timeshare basis

1. Without prejudice to the specific conditions applicable to each of the forms of timeshare, the operation of a tourist or property development on a timeshare basis requires that:
   a) The accommodation units are part of a tourist or property development licensed pursuant to these Regulations;
   b) The tourist or property developments operated on a timeshare basis are duly registered with and accredited by the regulating body of the tourism sector;
   c) The accommodation units are self-contained, separate and secluded from each other, with an exit to the common part of the development or to a public road;
   d) Tourist and property developments where timeshare accommodation units are located must include the whole of one or more buildings, with the exception of apartment hotels and tourist apartments, in which they have to occupy only a majority of the accommodation units in one or more buildings, with a minimum of ten, that form a consistent development complex;
   e) The accommodation units of apartment hotels and tourist apartments must be adjoining and functionally self-contained;
   f) The accommodation units are provided with equipment, furniture and utensils for the purpose;
   g) If there is assignment of operation (*cessão de exploração*) of the tourist development, there is a sole assignee;
   h) The management of the development is performed by a single entity.
2. Where implementation of the development in stages is foreseen, the provisions of sub-paragraphs (c) and (d) of the preceding paragraph are applicable to each stage.
3. The provision of the preceding paragraph is applicable, with the necessary changes, to residential tourism schemes.

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Article 8
Information document

1. The owner of timeshare rights must give free of charge to any person who requests it an information document with the force of a binding offer that describes the tourist or property development clearly and precisely.

2. The document provided for in the preceding paragraph of this article must contain at least the following information:

   a) The identity, nationality and residence, if it is an individual, or indication of the representative, if it is a company, and the Official Gazette (*Boletim da República*) in which the articles of association were published or certified copies of the same;

   b) The real or *in personam* nature of the rights that are the subject of the contract, as well as the conditions for exercising them and if such conditions have been fulfilled;

   c) Identification of the tourist or property development, mentioning the description number of the property or properties at the Real Property Registry and indicating their location, or mentioning the provisional and/or final authorization order of the land use and benefit right, the date of expiry and the issuing authority;
   d) Guarantees in respect of completion of the building and, if the building is not completed, the forms of reimbursement of payments already made, as well as the forms of payment of such guarantees;
   e) The common facilities, equipment and usage services of the tourist or property development to which the holder of timeshare right is entitled, as well as the ancillary rights included in the price of the accommodation unit;
   f) Indication of the form in which the tourist or property development will be operated or managed;
   g) The expenses for the transfer of timeshare rights payable by purchasers;
   h) The average and maximum amount of periodic fees payable by the title holders, as well as the criteria for setting and updating these;
   i) Information on the mode and time limits of exercising the right to terminate the contract and indication of the person who must be notified of this right of withdrawal;
   j) Information about the cancellation of timeshare credit agreements linked to contracts establishing timeshare rights, when the latter are cancelled;
   k) The number of the business permit (*alvará*) of the tourist or property development if this is already in operation.
3. When the building is still under construction, the following must be indicated:

   a) The stage reached in the construction;

   b) The time limit for the completion of the work;

   c) The reference number of the building license;

   d) The reference number of the authorization to establish the development.

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4. Any changes to the information provided for in the preceding paragraph must be communicated to the purchaser before the contract is signed, and in this case the contract must expressly mention these changes.
5. The changes provided for in the preceding paragraph may only result from circumstances beyond the control of the vendor, unless the parties expressly agree otherwise.

Article 9
Bond

1. The owner of a tourist or property development on a timeshare basis must furnish a bond that will range from five hundred times the minimum wage to one thousand, five hundred times the minimum wage, and which guarantees:

   a) That the purchaser can begin the enjoyment of the timeshare rights on the date foreseen in the contract;

   b) The release of mortgages or other encumbrances enforceable against the purchaser of the rights;

   c) The return in full of sums paid over by the purchaser in respect of the purchase of the rights, adjusted to the annual rate of inflation, in the event the tourist or property development does not open to the public on the scheduled date;

   d) The return in full of sums paid over by the purchaser up to the expiry of the time foreseen for the right of withdrawal.

2. The bond is paid to the licensing authority by means of bank guarantee, bank deposit or any other form of guarantee permitted in the terms of the legislation in force.

3. The owner of the tourist or property development must deposit proof of payment of the bond with the regulating body of the tourism sector.

4. In the subsequent transfer of timeshare rights, the bond passes to the purchaser insofar as it guarantees performance of the obligations laid down in paragraph 1 (a) and (b), as well as those in paragraph 1 (c) if the tourist or property development is not yet open to the public.

5. A purchaser interested in claiming under the bond must, by means of a written application to the licensing authority, supported by evidence of the alleged facts and the document proving title to the right, request that a claim be made under the bond, and a decision must be made within fifteen days of the date of receipt of the application.

6. In the event of a claim under the bond, the licensing authority must notify the owner of the tourist or property development to replenish the bond by the amount of the claim within 30 days counting from the date of notification.

Article 10
Registration and certification of the timeshare scheme

1. All tourist or property developments operated on a timeshare basis are subject to compulsory registration with the regulating body of the tourism sector.

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2. The regulating body of the tourism sector must draw up a certificate of accreditation of the timeshare scheme adopted, for each tourist and property development operated on a timeshare basis, and this certificate must contain the items listed in article 8 (2), as well as proof of payment of the bond.

Section II
Real timeshare rights

Subsection
General provisions

Article 11
Real timeshare rights

Real timeshare rights limited to a fixed period of time in each year may be created in accommodation units that are part of tourist or property developments on a timeshare basis licensed in the terms of these Regulations.

Article 12
Other real rights

1. The owner of accommodation units subject to a timeshare scheme or the management entity of these units may not create other real rights in the same units.

2. The provision of the preceding paragraph does not impede the building, group of buildings or development complex being subject to a horizontal property regime prior to the creation of real timeshare rights when necessary.

Article 13
Duration

1. The duration of real timeshare rights is that established by the owner of the development, which may not be fixed at a duration greater than fifty years, counting from the date of authorization of the land use and benefit right or of the special licence, except when the development is still under construction, in which case the time limit is counted from the date the tourist or property development is opened to the public.

2. Real timeshare rights are limited to a period of time each year, ranging from a minimum of seven consecutive days to a maximum of thirty consecutive days.

3. Without prejudice to the provision of the preceding paragraph, the periods of time must all be of the same duration.

4. The last period of time in each year may end in the calendar year following that in which it began.
5. The owner of the development must reserve a period of seven consecutive days per year for each accommodation unit for repairs, maintenance, cleaning and other matters related to the management and maintenance of the development.

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Article 14
Specific operating conditions for developments on a real timeshare rights basis

1. The creation of real timeshare rights in tourist developments requires that at least twenty per cent of the accommodation units are used or kept exclusively for the operation of tourism business.
2. The creation of real timeshare rights requires that the tourist or property development be classified as equivalent to at least three stars, according to the Regulations on Tourist Accommodation, Catering, Beverages and Dancehalls.
3. Tourist or property developments on a real timeshare rights basis must have a single owner and the constitutive timeshare instrument must guarantee that holders of real timeshare rights can use the common facilities and equipment.

Subsection II
Creation of real timeshare rights

Article 15
Constitutive instrument of real timeshare rights

1. Real timeshare rights are created by public deed.

2. The public deed is supported by a copy of the certificate referred to in article 10, of the supplementary document and of proof of payment of the bond, and the notary must mention that the content of those documents forms an integral part of the deed.

Article 16
Amendment of the constitutive timeshare instrument

1. The constitutive timeshare instrument may be amended with agreement from the holders of timeshare rights whose position will be affected, and the form provided for in the preceding article must be observed.

2. Approval of amendment may be furnished by judicial means, in the event of unjustified refusal.

3. Amendment of the constitutive timeshare instrument requires authorization from the regulating body of the tourism sector; the owner must indicate the grounds for the amendment and the provisions of the preceding article apply, with the necessary changes.

Subsection III
Real Property Registration

Article 17
Registration

1. The constitutive timeshare instrument is subject to entry (registration) in the real property register.

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2. Real timeshare rights may only be created over a building, group of buildings or development complex contained in a single description in the real property register.

3. If the implementation of the tourist or property development is scheduled in stages, the creation of real timeshare rights in respect of each stage shall be registered by means of an endorsement added to the respective description.

Article 18
Real property registration certificate

1. The competent real property registry issues a real property registration certificate in respect of each real timeshare right, which records the right and entitles the holder to transfer or encumber it.
2. The real property registration certificate may only be issued in the name of the owner of the accommodation units subject to the real timeshare rights scheme, and only after final registration of the constitutive timeshare instrument.

Article 19
Requirements of the real property registration certificate and supplementary document

1. The real property registration certificate must contain the following:
   a) The date of the public deed creating the real timeshare rights and the notary office where it was executed;
   b) The particulars of the constitutive timeshare instrument listed in article 8 (2) (a), (b) and (c);
2. The real property registration certificate must also mention the existence of a supplementary document that contains the following particulars:
   a) The identification of the right holder;
   b) The identification of the accommodation unit and the type and classification of the tourist development;
   c) The maximum capacity of the accommodation unit;
   d) A precise indication of the period of time in which the rights subject to the contract can be exercised and the duration of the scheme established;
   e) An indication of existing burdens or encumbrances;
   f) The date from which the purchaser can exercise the rights subject to the contract;
   g) An indication that the purchase of the real timeshare rights does not bear any expenses, charges or liabilities, other than those stipulated in the contract;
   h) An indication of the compulsory legal expenses that the purchaser must bear, namely taxes or levies;
   i) The amount of the periodic fees payable by the real timeshare right holder;
   j) A detailed description of the furniture and utensils that comprise the equipment of the accommodation unit to which the rights refer;
   k) Identification of the entity in charge of the management of the development;
   l) Mechanisms adopted for participation by the purchaser in the management of the development;
   m) An indication of the guarantees provided to comply with articles 9 and 35;

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3. The particulars provided for in the preceding paragraph are an integral part of the contract, and the purchaser must declare in writing that he has received that document and understood its contents.
4. The real property registration certificate and the supplementary document must be written clearly and precisely, in an easily legible form, and any costs related to translation are to be borne by the purchaser, save agreement to the contrary.
5. In the space on the real property registration certificate immediately before the space for the signature of the real property registrar, mention must be made of the fact that in contracts of sale of timeshare rights, the purchaser may withdraw from the contract, without giving any reason and at no cost, within ten working days counting from the date on which he received the real property registration certificate, save where the purchase was preceded by a promissory contract.
6. The model of the real property registration certificate will be approved in a ministerial diploma of the ministers overseeing the tourism and justice sectors.

Subsection IV
Transfer encumbrance and promise to transfer real timeshare rights

Article 20
Transfer and encumbrance of real timeshare rights

1. The rules in respect of the creation and registration of real timeshare rights apply to transfers *inter vivos*.

2. Transfers *in mortis causa* take effect according to the general rules and are subject to registration, after documentary proof of entitlement has been shown to the real property registrar.

3. The transfer of real timeshare rights entails the transfer of the rights and obligations of the holder in relation to the owner of the development, and any contractual provisions to the contrary are considered non-existent.

4. The transfer of real timeshare rights must be preceded by written notification to the owner of the development, at least 30 days in advance of the date foreseen for the said transfer.

5. Real timeshare rights are encumbered according to the general rules of law.

6. In the transfer of real timeshare rights, the vendor must deliver the supplementary document provided for in article 19 (2) to the purchaser.

7. Without prejudice to the provision of article 19 (3), whenever there is any amendment to the content of the supplementary document or it is lost or mislaid, the holder of the real timeshare rights can demand a new document from the owner of the accommodation units that are subject to these rights.

Article 21
Deposit or advance payment

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Payment or receipt of any sum of money as a form of payment or for any other purpose directly or indirectly related to the legal transaction to be concluded is prohibited before the expiry of the period for the exercise of the right of withdrawal provided for in article 22 (1).

Article 22
Right of withdrawal

1. The purchaser of real timeshare rights can cancel the respective purchase contract, without giving any reason and at no cost whatsoever, within ten working days counting from the date on which the contract of transfer of the real timeshare rights is delivered to him.

2. The vendor must be notified of the cancellation by suitable means, specifically, by registered letter with notice of receipt, electronic mail, recorded delivery or ordinary post for which notification of receipt in writing must be demanded, before the expiry of the time limit provided for in the preceding paragraph, on pain of rendering the withdrawal null and void.

3. The purchaser has the right to cancel the contract within a time limit of three months, counting from the time the contract is signed by both parties, if the contract does not contain the particulars referred to in the supplementary document provided for in article 19 (2).

4. If the vendor supplies the missing particulars within the time limit provided for in the preceding paragraph, the purchaser can cancel the contract in the terms provided for in paragraph 1, from the time the missing particulars are supplied.

5. Upon expiry of the time limit of three months provided for in paragraph 3 without the missing particulars being supplied, the purchaser can cancel the contract in the terms provided for in paragraph 1 from the day following the expiry of that time limit.

6. Where the price of the immovable property subject to a timeshare scheme is fully or partly covered by a loan granted by the vendor or by a third party pursuant to an agreement between the third party and the vendor, the credit agreement is cancelled, without any right to compensation, if the purchaser exercises the right of withdrawal provided for in the preceding paragraphs.

7. If the contract is cancelled in the terms provided for in paragraphs 3 to 5 of these Regulations [*sic*], the vendor must return to the purchaser all sums of money received up to the date of cancellation of the contract.

Article 23
Promissory contract for the transfer of real timeshare rights

1. Promissory contracts for the transfer of real timeshare rights are binding on both parties; they must be recorded in writing and the signatures of the parties must be certified before a notary.

2. Any agreement that makes the conclusion of a promissory contract conditional upon the sale of timeshare rights in the other accommodation units is null and void.

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Article 24
Requirements

1. Promissory contracts for the transfer of real timeshare rights into which the promissory vendor enters in the course of business must contain the following particulars:

   a) The name and address of the owner of the accommodation units subject to a real timeshare rights scheme, with specific information on the legal status of the vendor at the time of the conclusion of the contract;

   b) Identification of the promissory purchaser;

   c) The particulars contained in article 8 (2) (a), (b) and (c);

   d) The particulars contained in article 65 (a), (b), (h), (j) and (k);

   e) The particulars contained in article 19 (1) (a) to (d) and (2);

   f) An express indication, placed immediately above the signatures of the parties, that the promissory purchaser of the real timeshare rights can cancel the contract, without giving any reason and at no cost whatsoever, within ten working days counting from the signature date of the contract, provided that notice of cancellation is given by suitable means, namely by registered letter with notice of receipt, electronic mail, recorded delivery or ordinary post for which notification of receipt in writing must be demanded, before the expiry of that time limit.
2. The delivery to the promissory purchaser of the supplementary document provided for in article 19 (2) is obligatory, and the provisions of article 19 (3) to (5) herein must be observed, with the necessary changes.

Article 25
Right of withdrawal

1. The promissory purchaser enjoys the right of withdrawal from promissory contracts after they are signed, in the terms of the provision of article 22, and the time limit is counted from the signature of the promissory contract.

2. If the public deed for the creation of timeshare rights is executed during the course of the time limit provided for in the preceding paragraph, the time limit established in article 22 (1) for the purchaser of the real timeshare rights to cancel the purchase contract is counted from the date of signing the promissory contract.

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Subsection VI
Management and maintenance of the development

Article 26
General principles

1. The owner of a development is responsible for the management and maintenance of the accommodation units subject to real timeshare rights, including the contents of the premises and the equipment in common use.

2. The owner can assign the operation of the development and transfer to the assignee the powers, rights and duties linked to it, without prejudice to the secondary liability of the owner towards the real timeshare right holders for the good management and maintenance of the development.

3. The regulating body of the tourism sector and the real timeshare right holders must be notified of the assignment of operation within fifteen days of the assignment, under pain of rendering the assignment null and void.

Article 27
Periodic fee

1. Real timeshare right holders are obliged to pay annually to the owner of the accommodation units the monetary fee indicated in the constitutive timeshare instrument.

2. The periodic fee is intended solely to compensate the owner or the management assignee of the accommodation units subject to a real timeshare rights scheme for expenditure on the services for their use and operation as a tourist facility, contributions, taxes and any other payments provided for in the constitutive timeshare instrument and remuneration for management services. The fee may not be used for any other purpose.

3. The value of the periodic fee may vary according to the season of the year to which the real timeshare rights relate, but it must be proportional to the right holder's enjoyment of the development.

4. The percentage of the periodic fee intended to remunerate the management of the tourist or property development must not exceed twenty per cent of the total value.

Article 28
Failure to pay periodic fees or compensation

1. Claims for periodic fees and compensation payments owed by a real timeshare right holder, as well as late payment interest thereon, enjoy a real property lien over the timeshare rights, which ranks after the liens mentioned in articles 746 and 748 of the Civil Code and those provided for in special legislation in force on this date

2. Without prejudice to the provision of the preceding paragraph, the contract or the real property registration certificate has executory force in the terms and for the purpose of

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article 46 (d) of the Code of Civil Procedure, with respect to the periodic fees or compensation payments owed by the real timeshare rights holder and the late payment interest thereon.

3. In the event of failure to pay the periodic fees by a date two months prior to the time when enjoyment of the timeshare rights is to start, the owner of the accommodation unit subject to the real timeshare rights scheme can oppose the exercise of these rights.

Article 29
Alteration of periodic fees

1. Irrespective of the criteria for setting the periodic fee established in the timeshare instrument, the fee can be altered by proposal of the entity responsible for auditing the accounts of the development, included in its audit report, whenever the fee is excessive or insufficient in relation to the expenditure and the remuneration for which it is intended.

2. The owner of the development must notify the real timeshare right holders in writing of the proposal to alter the periodic fee, so that the real timeshare right holders can give their opinion on the proposal.

3. The alteration of the periodic fee requires the confirmation of a sixty per cent majority of the real timeshare rights created.

Article 30
Maintenance and cleaning of the accommodation units

1. The entity responsible must maintain the accommodation units subject to a timeshare scheme, as well as their equipment and furniture, in a state of care and cleanliness compatible with the purposes for which they are intended and with the classification of the development.

2. Without prejudice to the normal exercise of his right, the holder of a right of fractional ownership must allow access to his accommodation unit for performance of the obligations provided for in the preceding paragraph.

Article 31
Repairs and innovations

1. Repairs essential to the normal exercise of rights which cannot be done without temporarily compromising those rights must be done at a time and in such a way as to minimize this sacrifice, without prejudice to the holders' right to compensation.

2. Repairs arising from deterioration imputable to the right holder or to anyone to whom he grants the use of the accommodation unit and which do not result from the normal exercise of these rights are also carried out by the entity responsible for the operation of the development, at the expense of the right holder.

3. The owner of accommodation units subject to a real timeshare rights scheme can only carry out works that constitute innovations in the accommodation units with the written consent of a sixty per cent majority of the right holders, even if done at the owners' expense.

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Article 32
Charges

Real timeshare right holders cannot be held liable for the payment of contributions, rates, taxes and any other charges attaching to ownership of tourist and property developments nor for the performance of ancillary obligations.

Article 33
Reserve fund

1. A percentage no lower than four per cent of the value of the periodic fee must be used to establish a reserve fund intended solely for carrying out repair and maintenance work of the facilities and equipment in common use and of the accommodation units, their furniture and equipment.

2. In addition, the balance of the periodic fees as shown in the annual accounts of the development must revert to the fund provided for in the preceding paragraph.

3. The sums of money that make up the reserve fund must be deposited in a specific bank account.

4. The owner or the management entity of the development must submit documentary proof to the regulating body of the tourism sector that a reserve fund has been set up.

Article 34
Local communities

A percentage no lower than five per cent of the periodic fee paid by the real timeshare right holders must be used to set up a fund intended exclusively for the local communities in the area where the development is built.

Article 35
Performance bond

1. The owner of accommodation units subject to a real timeshare rights scheme, or the assignee if their operation has been assigned, must provide a bond to the real timeshare right holders to guarantee the good management and maintenance of the development.

2. The bond may be provided by insurance, bank guarantee, or public debt securities and a copy of the respective instrument must be deposited with the regulating body of the tourism sector.
3. The minimum amount of the guarantee corresponds to the annual value of the sum of all the periodic fees paid by all the holders of transferred rights.
4. The guarantee can only be enforced by decision of the right holders, provided that this decision has been taken by a majority of the votes corresponding to rights transferred at a meeting called for this purpose.
5. The guarantee must be updated whenever the periodic fee is updated.

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Article 36
Rendering of accounts

1. The entity responsible for the management of the development must organize annually the accounts relating to the utilization of the periodic fee paid by the right holders, and the allocations to the reserve fund, and prepare a management report and submit both of these to an audit company for examination.

2. The management report and the accounts to which the preceding paragraph refers shall be sent to each of the real timeshare right holders, together with the report of the auditor.

3. The real timeshare right holders or their representatives have the right to consult the supporting documents of the accounts and the management report.

Article 37
Management program

1. The entity in charge of management of the development must prepare a program for the management and maintenance of the tourist or property development subject to a real timeshare scheme for the following year.

2. The program must be sent to each timeshare right holder.

Section III
Holiday Accommodation Schemes

Article 38
Holiday accommodation schemes

1. The rights of use in tourist developments for limited periods of time each year that do not constitute real timeshare rights, and contracts under which holiday accommodation rights are transferred or are promised to be transferred, directly or indirectly, against advance payment, whether supplemented or not by periodic fees, are compulsorily subject to the provisions of this section.

2. The holiday accommodation rights to which the preceding paragraph refers include, specifically rights *in personam* created in the context of contracts in respect of holiday cards and clubs and travel club cards and other schemes of a similar nature.

Article 39
Specific operating conditions for developments in holiday accommodation schemes

1. Without prejudice to the provisions of the following paragraphs, holiday accommodation rights can only be created in tourist developments once they are in operation and comply with the conditions laid down in article 7 herein, with the necessary changes; operation of

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such schemes is subject to licensing by the regulating body of the tourism sector, in the terms of these Regulations.

2. The provision of the preceding paragraph does not preclude the setting up of the development in stages.

3. Exceptionally, by decision of the regulating body of the tourism sector, holiday accommodation rights can be created in tourist developments under construction when all of the following requirements have been fulfilled:

   a) The operating entities contractually guarantee that the tourist operation of all the accommodation units in this undertaking, of its common facilities and equipment and its tourist facilities and equipment will be maintained for the duration of the respective contracts;

   b) The construction of the tourist developments where holiday accommodation rights are created contributes positively to the development and modernization of the sector in the region where they are located, through more competitiveness, better land management and diversification of supply and, in the less developed tourist areas, through the creation of a viable supply of tourism products that help to improve regional/local economic development;

   c) The construction of tourist developments where holiday accommodation rights are created has a significant impact on the creation of jobs or improving skills in the sector at local/regional level;

   d) A bond is provided in the terms and for the purposes laid down in article 9.

4. The creation of holiday accommodation rights in tourist developments requires that at least thirty per cent of the holiday accommodation units remain exclusively for tourist operation.

5. The creation of holiday accommodation rights in tourist developments requires that these are classified as three or more stars, in accordance with the Regulations on Tourist Accommodation, Catering, Beverages and Dancehalls.

Article 40
Duration

1. The duration of holiday accommodation rights is that established by the owner of the development, but may not be set for a period greater than 25 years or less than three years, counting from the date of creation, except when the development is still under construction, in which case the duration is counted from the date the tourist development is opened to the public.
2. Holiday accommodation rights are limited to one period of time each year, which can range from a minimum of seven consecutive days to a maximum of thirty consecutive days.

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Article 41
Contract of transfer of holiday accommodation rights

1. Contracts of transfer of holiday accommodation rights shall be in writing, with the signatures of the parties certified by a notary.

2. In the space on the promissory contract of transfer immediately before the space for the signatures, mention must be made of the fact that the purchaser may withdraw from the contract, without giving any reason and at no cost, within ten working days counting from the date on which the contract is concluded.

3. Where the vendor or promissory vendor is acting in the course of business, the contracts referred to in paragraph 1 or the respective promissory contracts must mention the following, otherwise they will be voidable:

   a) The items referred to in article 8 (2) (a), (b) and (c) and article 63 (b) and (i) to (k) [*sic*];

   b) The items contained in a article 19 (1) (a) and 2 (a) to (d), with the necessary changes;

   c) Information on the guarantees provided to fulfill the provision of article 9;

   d) Express mention that the right to which the contract refers is not a real right;

   e) Indication and declaration in the space immediately before that of the signatures of the right of withdrawal provided for in paragraph 1 of the following article;

   f) If the vendor is not the owner of the tourist development or someone duly mandated to represent him in the terms provided for in the following paragraph, the authorization provided for in the following paragraphs must also be attached.

Article 42
Right of withdrawal

1. The purchaser or promissory purchaser in contracts or promissory contracts for the purchase of holiday accommodation rights has the right to cancel the contract, without giving any reason and at no cost whatsoever, within ten working days from the date on which it is signed, provided that notice of cancellation is given by suitable means, specifically, by registered letter with notice of receipt, electronic mail, recorded delivery or ordinary post for which notification of receipt in writing must be demanded, before the expiry of that time limit.

2. The provisions of article 22 (3) to (7) herein are applicable, with the necessary changes, to the right to cancel contracts or promissory contracts for the purchase of holiday accommodation rights.

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Article 43
Management and maintenance

1. The owner of the undertaking is responsible for the management and maintenance of the accommodation units and of the common services and facilities of the development, and the provisions of articles 26 to 35 herein apply, with the necessary changes.

2. The entity in charge of management of the development shall send a full report to each of the holiday accommodation right holders in the first quarter of each year, for the purpose of providing information on any matter of interest to the holders.

Article 44
Bonds

1. The owner of the accommodation units subject to the holiday accommodation scheme, or the vendor in the cases provided for in article 41 (3) (f), must provide a bond to the purchaser of holiday accommodation rights for the amount of any sums of money he has received on any ground whatever, for the purposes and in the terms of article 9 herein.

2. The owner of accommodation units subject to the holiday accommodation scheme must furnish a bond in favor of the purchaser of holiday accommodation rights to guarantee good management, which must be set annually by the entity responsible for auditing the accounts, in an amount not less than the value of the expenditure foreseen for each year.

3. The bond provided for in the preceding paragraphs may only be enforced by decision of the majority of the holiday accommodation right holders, at a meeting called for this purpose.

Article 45
Remittal

The provisions of articles 20 *et seq* herein are applicable, with the necessary changes, to holiday accommodation rights in all matters not specially provided for in this section.

Section IV
Fractional ownership

Subsection I
General provisions

Article 46
Fractional ownership

1. Fractional ownership rights may be created over immovable property that is part of tourist or property developments on a timeshare basis licensed in the terms provided for herein.

2. A maximum of twelve fractional ownership rights can be created in each immovable property that is part of a tourist or property development.

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Article 47
Duration

1. In the absence of any provision to the contrary, fractional ownership is held in perpetuity, but a time limit may be set at not less than fifteen years, counting from the conclusion of the public deeds provided for in the following articles, except when the development is still under construction, in which case the time starts counting from the date on which the tourist or property development is opened to the public.

2. Fractional ownership rights are limited to one period of time per year, which varies according to what is stipulated by the parties in the constitutive instrument; however it may not be set at a period of less than seven consecutive days.

Article 48
Operating conditions of developments under a fractional ownership scheme

1. The creation of fractional ownership in tourist developments requires that at least thirty per cent of the tourist accommodation units remain exclusively in the business of tourism.

2. The creation of fractional ownership in tourist developments requires that the tourist development has a classification of four or more stars, in accordance with the Regulations on Tourist Accommodation, Catering, Beverages and Dancehalls.

3. A tourist or property development subject to fractional ownership must have one single owner and the constitutive instrument must guarantee the use by the right holders of the common facilities and equipment.

Subsection II
Creation of fractional ownership

Article 49
Creation of fractional ownership

1. Fractional ownership can be created by means of a public deed of joint ownership or by the purchase of shares in a company that owns a tourist or property development, duly licensed for the purpose.

2. The rules on joint ownership laid down in articles 1203 *et seq* of the Civil Code apply to fractional ownership created by means of a public deed of joint ownership.

3. The creation of fractional ownership in a company system rests on the incorporation by public deed of a private limited company or a public limited company, the corporate object of which is exclusively the construction or acquisition and management of immovable property intended to operate on a fractional ownership basis.

4. For the purposes of the provision of the preceding paragraph, ownership of a shareholding that includes enjoyment by the shareholder of fractional ownership confers on the shareholder the enjoyment of these same rights, in the terms of the articles of incorporation.

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5. Rights to enjoy and exercise fractional ownership may not be altered without the prior written consent of the respective shareholder.

6. The transfers of shareholdings that are part of a company system of fractional ownership without the simultaneous transfer of the fractional ownership rights attached thereto, and the transfer of such rights separately from the shareholding of which they are part, are null and void.

7. The public deeds referred to in paragraphs 2 and 3 of this article are supported by a copy of the certificate referred to in article 10 and also of the supplementary document provided for in article 19 (2), and of the use and services agreement, and the notary must mention that the content of these documents forms an integral part of the deed.

8. The use and services agreement shall govern the conditions of use and access to ownership of the immovable property incorporated in a fractional ownership scheme, as well the conditions of management and administration of the common areas and services.

Article 50
Remittal

Articles 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25 herein are applicable, with the necessary changes, to fractional ownership.

CHAPTER III
Residential tourism

Article 51
Residential tourism

1. Ownership rights and other real rights may be created in respect of immovable property for residential purposes that are part of tourist or property developments located in areas of tourist interest.

2. Residential tourism is established by means of a public deed of purchase and sale or on the basis of a company system through a shareholding that carries residential tourism rights.

3. The location and erection of property developments the sole object of which is intended to be the operation of residential tourism requires approval from the regulating body of the tourism sector, in the terms of the Regulations on Tourist Accommodation, Catering, Beverages and Dance Halls.

Article 52
Remittal

Articles 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25 and paragraphs 3, 4, 5, 6, 7 and 8 of article 49 herein apply, with the necessary changes, to residential tourism schemes.

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CAPTER IV
Licensing

Section I
Competence

Article 53
Competence of the regulating body of the tourism sector

1. For the purposes of this diploma and without prejudice to other powers conferred by law, the following fall within the competence of the Minister who supervises the tourism sector:

   a) Authorization of the location of tourist or property developments under timeshare schemes;

   b) Authorization of the location and establishment of property developments intended for residential tourism schemes;

   c) Authorization of the establishment, alteration or extension of tourist or property developments under timeshare schemes, as well as any structural or aesthetic alterations of the same, where these are:

      i. Intended to alter the classification or maximum capacity of the development; or

      ii. Capable of adversely affecting the minimum requirements for the classification of the development, in the terms of this decree and of the applicable regulations;

   d) Inspection of tourist or property developments under timeshare schemes for the purposes of verifying their compliance with the information supporting the application for establishment, alteration or extension; and to verify their classification, review the same or disqualify them as developments under timeshare schemes;

   e) License the operation of tourist or property developments under timeshare schemes;

   f) Approve the name of tourist and property developments under timeshare schemes.

2. The suspension and closure of the activity of tourist or property developments under timeshare schemes also fall within the competence of the Minister who supervises the tourism sector.

3. The regulating body of the tourism sector must maintain an updated registration service of all tourist or property developments that have created timeshare rights, containing detailed information on these and also information on the owners of the developments.

4. The regulating body of the tourism sector must issue the certificates referred to in article 10, and these must support contracts for the creation of timeshare rights.

5. The Minister who supervises the tourism sector can delegate his competence to the National Director of Tourism.

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6. Appraisal of license applications in respect of tourist or property developments in timeshare schemes falls within the competence of the National Directorate of Tourism or the Provincial Directorates of Tourism, according to their area of jurisdiction.

Section II
Licensing tourist or property developments in timeshare schemes

Article 54
Stages of licensing

Licensing that enables the operation of tourist or property developments on a timeshare basis comprises the following stages:

a) Prior information

b) Authorization of establishment;

c) Licensing of operation.

Subsection I
Prior information

Article 55
Right to prior information

Any interested party who wants to establish a tourist or property development on a timeshare basis must request the regulating body of the tourism sector for prior information on the possibility of establishing the said development in a given place and under what conditions, in terms of tourism.

Article 56
Request for information

The letter of request for information on the possibility of establishing a tourism or property development on a timeshare basis must be addressed to the regulating body of the tourism sector and must be submitted in triplicate, one copy of which is returned to the applicant after it is marked with the date of receipt of the original.

Article 57
Application documents

1. When the request for prior information relates to existing buildings, it must be supported by the following items:

   a) A descriptive memorandum of the development, specifying the following details:

      i. The physical characteristics of the location, including the geographical orientation, hydrological features and vegetation, as well as the integration of the development in terms of tourism, landscape and town planning;

      ii. General breakdown of the essential components and characteristics of the building;

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iii. The characteristics of the surrounding area, with assurances that there are no derelict structures and hazardous or polluting industries or activities or ones that could damage the natural conditions, landscape or culture;

iv. The existence of any protection zones;

v. The total area of the land parcel or plot and the area of construction;

vi. In the case of a tourist development, the category and the proposed classification;

vii. A brief description of the entrances and exits and of the systems for water supply, electricity, telephones and drainage, sewage and rainwater disposal;

viii. In the case of implementation in stages, an indication the building sequence and timetable;

ix. Justification of the interest to tourism of the development.

b) A ground plan to a minimum scale of 1:1000, with precise indication of the location where the tourism or property development on a timeshare basis is intended to operate.

c) An information document in the terms of the provision referred to in article 8 herein.

2. When the request relates to new building or to works that entail an increase in the size of the built area, the following items must be contained in the request for prior information, whenever possible:

a) A design plan to a minimum scale of 1:200, showing the alignment and perimeter of the buildings and the purpose for which they are intended;

b) Drawings with the number of floors above or below the level of the threshold;

c) The dimensions of the construction areas and the internal measurements of the building;

d) A drawing of the location of the intended development.

Article 58
Simultaneous submission of the items for the provision of prior information and application for establishment

Should the proponent so wish, he may submit the items mentioned in articles 57 and 63 simultaneously; this shall be deemed for all purposes to be an application for establishment.

Article 59

Consultation of the local government or of the regulating body of the public works sector

1. In the context of appraisal of requests for prior information, the regulating body of the tourism sector must consult the competent local governments or the regulating body of the public works sector in areas that are not in urban centers or covered by development plans,

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and send the necessary documentation to the appropriate body within five days after receipt of the application referred to in the preceding article.

2. The opinion of the competent local government or of the regulating body of the public works sector, as the case may be, is given for the purpose of pronouncing on the appraisal of the location of the tourist or property development on a timeshare basis.

3. The competent local government or the regulating body of the public works sector, as the case may be, must give its opinion within ten days, counting from the date of receipt of the documentation.

4. Failure to issue an opinion within the time limit set in the preceding paragraph is deemed a favorable opinion.

Article 60
Decision on the request

1. The regulating body of the tourism sector must provide the information within a time limit of twenty days, counting from the date of receipt of the opinion referred to in the preceding article or from the expiry of the time limit set for issuing it.

2. The regulating body of the tourism sector must consider unviable the establishment of tourist or property developments on a timeshare basis in a given location, on grounds of the inadequacy of the planned development to the intended use, in the following situations:

   a) If there are hazardous, polluting, noisy or inconvenient industries, activities or places in the vicinity of the development or these are planned at the proposed location;

   b) When there are no adequate access routes;

   c) When there are no or insufficient hospital or medical care facilities, if the type and size of the development justify these;

   d) When they are located close to derelict urban structures.

   e) In other situations provided for in law.

Article 61
Prior hearing

1. When the regulating body of the tourism sector is in possession of information that could lead to an unfavorable decision, it notifies the interested party and informs him of this before taking a decision.

2. In the case foreseen in the preceding paragraph, the interested party may give a reasoned statement in writing to the regulating body of the tourism sector within eight days of the notification provided for in the preceding paragraph.

3. On receipt of the response from the interested party provided for in the preceding paragraph, the regulating body of the tourism sector must decide on action to be taken in respect of the same within a maximum time limit of fifteen days, on pain of the arguments being taken as accepted.

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Article 62
Remittal

The provisions of this sub-section are applicable, with the necessary changes, to property developments intended to operate residential tourism.

Subsection II
Authorization of establishment

Article 63
Establishment

1. Upon notification of the applicant of the approval of the request for prior information, the applicant must submit a request for establishment, alteration or extension of the tourism or property development on a timeshare basis within a time limit of fifteen days, counting from the date of the notification.

2. Any of the requests referred to in the preceding paragraph must be made by a letter of application addressed to the Minister who supervises the tourism sector, with the signature certified in the terms of applicable law, and must contain the following details:

   a) The name, nationality and residence, if it is an individual, or indication of the representative, if it is a company, and the Official Gazette (*Boletim da República*) in which the articles of association were published or certified copies of these;

   b) Identification of the building, mentioning the description of the property or properties at the real property registry and indicating its location;

   c) Identification of the parcel or plot of land, mentioning the entry number of the provisional authorization of land use and benefit right at the real property registry;

   d) If it is an application in respect of alteration or extension of a tourist or property development, information about the operating license;

   e) When the establishment of tourist or property developments on a timeshare basis entails the use of lands in the public maritime domain or under the jurisdiction of other authorities, submission of the document from the competent entity proving that such use has been authorized or granted.

3. Without prejudice to the specific requirements applicable to each of the types of timeshare right, the applicant must attach the following items to the request for establishment, alteration or extension of a tourist or property development on a timeshare basis referred to in paragraph 1:

   a) The detailed engineering design of the said development, in the terms of article 64;

   b) The information document, in the terms of article 8;

   c) A copy of proof of payment of the bond, in the terms of article 9;

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d) The notification of approval of the request for prior information;

e) The opinion on environmental impact issued by the competent regulating body of the coordination of environmental action sector;

f) An estimate of the number of workers to be employed, if it is establishment or if this is applicable in the other cases;

g) An estimate of the value of the investment;

h) Provisional authorization of land use and benefit rights for tourism purposes, issued by the competent authority, as laid down in specific legislation, in cases where a building is to be erected;

i) A real property registration certificate that confirms ownership of the building, in cases where the building has already been erected;

j) Proof of payment of the fee in respect of appraisal and approval of the application for establishment, alteration or extension of the development.

4. The regulating body of the tourism sector may request the interested parties to submit any additional items necessary to the best appraisal of the application.

5. Alteration of the development only requires authorization when it entails the following:

   a) Alteration of the classification or maximum capacity of the development; or

   b) It is likely to adversely affect the minimum requirements demanded for the classification of the development, in the terms of this diploma and of applicable regulations.

6. The time limit referred to in paragraph 1 may be extended by the regulating body of the tourism sector, on submission of a reasoned letter of application from the interested party; however, the total time of extensions may not exceed sixty days.

7. If the request referred to in paragraph 1 is not submitted within the time limit laid down or if there has been no extension of the time limit for submission, in the terms of the preceding paragraph, approval of the request for prior information expires.

8. Tourist developments licensed pursuant to the Regulations on Tourist Accommodation, Catering, Beverages and Dance Halls that intend to operate their business wholly or partly on a timeshare basis have to submit only an application to adopt a timeshare scheme, supported by the items mentioned in article 65, article 66 or article 67, as the case may be.

9. If the application referred to in the preceding paragraph receives a positive appraisal by the regulating body of the tourism sector, the certificate referred to in article 10 must be issued.

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Article 64
Detailed engineering design

1. When a tourist or property development on a timeshare basis is to be established in a building to be erected, the detailed engineering design is comprised of the following items:

   a) Site layout plan to a scale of 1:1000 or 1:2000 that shows the location of the structures to be erected;

   b) Floor plans of the different floors of the buildings to a scale of 1:100 that allow appraisal of the functional organization and passageways, showing the area and purpose of all divisions that are not for passage, width of stairways and corridors and all the architectural solutions intended to comply with fire safety requirements;

   c) For better understanding of the design, transverse and longitudinal sections are required; one of the sections should show the vertical access zones, where such exist;

   d) Elevation of every building to a scale of 1:100, facing materials and colors should be indicated;

   e) Design plans for drainage, sewage and rainwater disposal, streets, exits and entrances and power equipment;

   f) A declaration of compliance of the works with the provisions of the urban building regulations, when located in urban centers or areas covered by development plans, and health and safety requirements, signed by the architect or civil engineer responsible for the design;

   g) A descriptive and explanatory memorandum.

2. The descriptive and explanatory memorandum referred to in sub-paragraph (g) of the preceding paragraph must observe the requirements laid down in article 58 (2) herein, with the additions contained in the following sub-paragraphs:

   a) A description of the operation of the various services and facilities planned, their horizontal and vertical passageways, the ventilation and air conditioning and other similar facilities planned in general, such as to permit clear understanding of the designs submitted;

   b) The scheduled starting and completion dates of the building work and of the start up of operation.

3. In the case of tourist or property developments on a timeshare basis to be established in existing buildings, the descriptive and explanatory memorandum referred to in paragraph 1 (g) must contain the items mentioned in sub-paragraph (a) of the preceding paragraph , article 58 (1) (a) and the following items:

   a) A description of the basic characteristics of the building construction;

   b) The scheduled starting and completion dates of the refurbishment work of the building where the tourist or property development on a timeshare basis is to be established and of the start up of operation.

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Article 65
Specific requirements for authorization of the establishment of tourist or property developments on a real timeshare rights basis

The holder of land use and benefit rights, a special license, owner, lease-holder or any other interested party with legal standing who intends to subject his tourist or property development to a real timeshare rights scheme must, in addition to the items mentioned in article 64, submit the following items:

a) The constitutive deed of horizontal property that guarantees use of the common facilities and equipment by the timeshare right holders, in the terms laid down in article 12 (2), where applicable;

b) Indication of existing burdens or encumbrances on the building where it is intended to create real timeshare rights;

c) Description and designation of the accommodation units in which it is intended to create timeshare rights, provided that in the case of existing buildings the description must observe the provisions of the Real Property Registration Code;

d) The number of the accommodation units referred to in the preceding sub-paragraph and the percentage they represent of the whole tourist or property development;

e) Enumeration of the common and tourist facilities and equipment and of the leisure, sports and recreation equipment of the development;

f) The total number of timeshare rights to be created and their limits and duration;

g) The relative value of each timeshare right, in accordance with a standard unit;

h) The criteria for setting and updating the periodic fee payable by the holders and the percentage intended to remunerate the management and to be assigned to benefit local communities, if applicable.

i) The start and finish of each period of time attached to the timeshare rights;

j) The powers of the right holders, specifically in respect of the parts of the development for common use;

k) The duties of the right holders, specifically in respect of the exercise of their right and of the time, place and form of payment of the periodic fee;

l) The powers and duties of the owner or manager of the development in matters of equipment and furniture of the accommodation units and their replacement, ordinary and extraordinary repairs, upkeep, cleaning and other services provided.

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Article 66
Specific requirements for authorization of the establishment of tourist or property developments on a real timeshare rights basis [*sic*]

The holder of land use and benefit rights, a special license, owner, lease-holder or any other interested party with legal standing who intends to subject his tourist or property development to a holiday accommodation scheme must, in addition to the items mentioned in article 64, submit the following items:

a) A document containing the items laid down in the preceding article, with the necessary adaptations;

b) If the applicant is not the owner of the house or development, a document that entitles him to create holiday accommodation rights.

Article 67
Specific requirements for authorization of establishment of tourist or property developments on a shared ownership and residential tourism basis

The provisions of article 65 and 67 [*sic*] apply, with the necessary changes, to applications for the establishment of fractional ownership projects and residential tourism projects.

Article 68
Establishment of tourist or property developments on a timeshare basis in conservation areas

Applications in respect of the establishment of tourist or property developments on a timeshare basis in conservation areas are governed by the Regulations on Tourist Accommodation, Catering, Beverages and Dance Halls.

Article 69
Preliminary appraisal and rectification

1. The regulating body of the tourism sector has competence to appraise and decide on information of a formal or procedural nature that may hamper consideration of the application; and it may determine that omissions or inaccuracies must be rectified within a time limit of ten days from the receipt of the application and the items and information it comprises.

2. In this case, the time limits imposed on the services runs from the date on which the items and information, duly corrected or with the inaccuracies rectified, are submitted.

Article 70
Appraisal of applications for establishment, alteration or extension

1. Appraisal by the competent authority of applications for establishment, alteration or extension of developments and the items supporting the application must deal with verification of their compliance with the technical requirements and with the integration of the development from the point of view of tourism development.

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2. The regulating body of the tourism sector must take a decision on applications for establishment, alteration or extension within a maximum time limit of twenty days, counting from the date of receipt of the letter of application or the delivery of the information to which paragraph 1 of the preceding article refers

Article 71
Rejection of applications

1. Applications for establishment, alteration or extension of a development may be refused on any of the following grounds:

   a) Failure to observe the applicable legal rules and regulations;

   b) Disregard of public servitudes and restrictions on public utility;

   c) Works manifestly liable to affect the environment, the aesthetics of villages or the beauty of the landscape, namely discordance with the dominant styles, size of buildings and other rules expressly provided for in specific legislation;

   d) The existence of a declaration of public utility for purposes of expropriation that covers the area where it is intended to establish the development.

2. Applications for establishment may also be refused on the following grounds:

   a) The absence of roadways and of an effective proposal for the construction of water supply and drainage infrastructure;

   b) If it is confirmed that the intended structure constitutes an insupportable burden on existing infrastructure.

2. Decisions of refusal are always grounded, mentioning the reasons for refusal.

3. The provision of article 61 is applicable, with the necessary changes.

Subsection III
Operating license

Article 72
Operating license

The functioning and operation of any tourist or property development on a timeshare basis is dependent on a competent operating license to be issued in the terms of the following articles.

Article 73
Issue of license

1. Upon completion of the works and equipping of the development in conditions for commencement of operation, the proponent must make an application to the regulating body of the tourism sector to issue an operating license for the tourist development on a timeshare basis.

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2. The issue of an operating license for tourist or property developments on a timeshare basis is always preceded by the inspection to which the following article refers.

Article 74
Inspection

The inspection must be carried out within a time limit of ten days, counting from the date of submission of the letter of application referred to in paragraph 1 of the preceding article, and whenever possible on a date agreed with the proponent.

Article 75
Composition of the inspection team

1. The inspection is carried out by a committee composed of:

   a) Two technicians to be designated by the regulating body of the tourism sector;

   b) One technician from the health sector;

   c) One technician from the national park or reserve administration, if the developments are to be established in these conservation areas.

   d) One technician from the National Fire Service.

2. The applicant for the operating license, the authors of the detailed engineering design and the technician in charge of the technical management of the works take part in the inspection, without the right to vote.

3. Convening the entities referred to in paragraph 2 (b) to (d) and the persons referred to in the preceding paragraph falls within the competence of the regulating body of the tourism sector, giving at least five days notice.

4. The absence of the entities referred to in paragraph 2 (b) to (d) and of the persons referred to in paragraph 3 does not constitute an impediment or a reason not to carry out the inspection or issue the operating license, provided that those entities and persons were convened in accordance with the rules.

Article 76
Inspection instruments

The members of the inspection team must observe the relevant legislation and the inspection manual and be well acquainted with the items that comprise the file of the inspection for which they were designated.

Article 77
Inspection report

1. The committee referred to in article 75 (1), after carrying out the inspection, draws up an inspection report that must contain the opinions of the entities represented and a copy must be delivered to the applicant, who may appeal against it within ten working days, if he so wishes.

2. In the event imperfections are found, a time limit is set for their rectification and this time limit must be stated in the report.

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3. The rectification of the imperfections referred to in the preceding paragraph is verified by means of a new inspection that follows the same procedures as the first inspection; at least the representatives of the entities whose sphere of competence relates to those imperfections must be present.

4. The report is submitted to a higher level for decision, which must be made and communicated to the interested party within five working days.

Article 78
Issue of a permit (*alvará*)

1. If the result of the inspection is favorable to operation of the development, the regulating body of the tourism sector issues the respective permit (*alvará*) within eight days, counting from the date of the decision.

2. Failure to notify the applicant within fifteen working days from the date of the inspection or from the end of the time limit for carrying out the inspection is equivalent to tacit approval of the application for an operating license.

3. The permit (*alvará*) is valid for an indefinite period.

4. If the result of the inspection is unfavorable to the operation of the development, this must be communicated to the proponent with reasons.

Article 79
Specifications of the permit (*alvará*)

1. The permit of the operating license for tourist or property developments on a timeshare basis must specify the following particulars:

   a) The serial number of the permit;

   b) The identification of the individual or corporate person that owns or operates the development;

   c) The name of the development;

   d) The location of the development and indication of which conservation area, if applicable;

   e) The category of the development, if a tourist development;

   f) The classification of the development, if a tourist development;

   g) The area occupied by the development;

   h) The maximum capacity of the development;

   i) The timeshare scheme adopted.

2. If there is a change in any of the particulars indicated in the preceding paragraph, the holder must request a replacement permit, by returning the previous one to the licensing authority.

3. The return of the permit is likewise required in the event of cessation of business.

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4. The permit must be affixed in a visible place and presented to the supervisory authorities whenever so requested.

5. The model of the permit is approved by ministerial diploma of the regulating body of the tourism sector.

Article 80
Expiry of the operating license and the certificate of timeshare scheme

1. The operating license and the certificate of timeshare scheme expire:

    a) If the development does not start operating within ninety days from the date of issue of the operating license permit and the timeshare scheme certificate or from expiry of the time limit for their issue;

    b) If the development remains closed for more than ninety days, save for reasons of works;

    c) When the development is put to a use other than that foreseen in the permit;

    d) When the tourist development cannot be classified or maintain the classification of the development, for any reason.

2. Upon expiry of the operating license and the certificate, the permit is seized by the regulating body of the tourism sector.

3. Seizure of the permit and the certificate takes place after notification of the permit or certificate holder, and is followed by closure of the development.

CHAPTER V
Supervision, infractions and penalties

Article 81
Supervisory competence

The following fall within the competence of the Inspector General of the regulating body of the tourism sector:

a) To supervise compliance with the provisions of this diploma, without prejudice to the powers attributed to other bodies;

b) To consider complaints made about the operation of a tourist or property development on a timeshare basis, as well as to order measures necessary to correct defects verified;

c) To organize and investigate cases in respect of the infringements foreseen in this diploma, without prejudice to the powers attributed to other bodies.

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Article 82
Inspection

1. Officials of the regulating body of the tourism sector must be given access to tourist or property developments for purposes of inspection and documents reasonably requested must be shown to them.

2. In the performance of its inspection activity, the regulating body of the tourism sector may request the collaboration of the police and the administrative authorities.

Article 83
Police report

Whenever officials with inspection powers learn of the existence of any infringement of the provisions of these Regulations or arising there from, they prepare an infringements report, in the terms of article 166 of the Code of Criminal Procedure.

Article 84
Denouncement

Any person has the right to inform the body with inspection powers about any facts of which he is aware or has witnessed that violate wrongfully or negligently the provisions of these Regulations.

Article 85
Complaints book

1. All tourist and property developments operated on a timeshare basis must have a complaints book for timeshare right holders so that they can make comments and complaints, including about the quality of service and the way in which it is provided.

2. The complaints book must be made available immediately to any timeshare right holder who requests it.

3. The owner or manager of the tourist or property development must send a duplicate copy of comments or complaints to the regulating body of the tourism sector.

4. A duplicate copy of the comments or complaints written in the book must be given to the timeshare right holder, who can send it to the regulating body of the tourism sector, together with the documents and evidence necessary for appraisal of the comments or complaints, if he so wishes.

Article 86
Infringements

1. The following constitute infringements punishable by a fine from 100,000.00 MT to 300,000.00 MT:

   a) Unlicensed operation of a tourist or property development on a timeshare basis;

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b) Operation of a tourist or property development, the classification of which is lower than three stars;

c) Operation of a tourist or property development on a timeshare basis that does not ensure 30 per cent of occupation set aside for hotel business;

d) Operation of holiday accommodation schemes outside of tourist developments;

e) Construction of a property development for residential tourism purposes in a place not authorized by the competent body.

2. The following constitute infringements punishable by a fine from 50,000.00 MT to 200,000.00 MT:

a) Use of water not from the public supply and not approved by the health authorities;

b) Suppression of the siphons of hand basins, sinks and WCs;

c) Accumulation of refuse;

d) Lack of receptacles for the collection of refuse or the use of receptacles without lids;

e) Storage of crockery and utensils in places that are unhygienic;

f) Poor state of repair and cleanliness of the premises, equipment and utensils;

g) The existence of utensils liable to rust;

h) The existence of broken or cracked crockery or glasses;

i) Inadequate airing, ventilation and lighting;

j) Inadequate function of the smoke and smell extractor system;

k) Rodent and insect infestation;

l) Lack of disposable towels, as well as of indispensable items of personal hygiene in the sanitary installations;

m) Non-functioning WC flushing systems.

3. The following constitute infringements punishable by a fine from 50,000.00 MT to 100,000.00 MT:

a) Lack of or insufficient number of fire extinguishers;

b) The existence of fire extinguishers beyond the limit of their expiry date;

c) Lack of marking of exits;

d) Lack of or inadequate emergency safety lighting;

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e) Blockage of exits and of windows or stairways;

f) Blockage of evacuation routes;

g) Disabling of smoke alarms;

h) Use of decorative materials without fireproofing;

i) The existence of fuels above the established limits or of a type not approved;

j) Overcrowding of the establishment.

4. The following constitute infringements punishable by a fine from 75,000.00 MT to 250,000.00 MT.

a) Marketing real timeshare rights that are not validly created;

b) Failure to supply the information document provided for in article 8 (1) when so requested by any interested party;

c) Failure to return in good time sums paid by the purchaser or promissory purchaser of real timeshare rights or holiday accommodation rights in the event of the exercise of the right of withdrawal from the respective contracts;

d) Violation of the rights of timeshare right holders to occupy the accommodation unit for the period of time to which his rights relate and their right to demand alternative accommodation at the expense of the owner of the development in the terms of the provisions of article 4 (1) (a) and (c);

e) Failure to set up the reserve fund to which article 33 refers and/or the reserve fund intended for local communities provided for in article 34;

f) Failure to pay the bonds provided for in article 9 (1) and articles 35 and 44;

g) Advertising or promotion of real timeshare rights or holiday accommodation rights in contravention of the provision of article 5;

h) Marketing holiday accommodation rights in contravention of the provision of article 5;

5. The following constitute infringements punishable by a fine from 50,000.00 MT to 250,000.00 MT:

a) Failure to complete the requirements of the information document required by the provision of article 8 (2);

b) Failure to deliver the supplementary document to the promissory purchaser as required by article 24 (2);

c) Failure to carry out maintenance and cleaning of the accommodation units subject to the rights, in contravention of the provision of article 30;

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d) Failure to comply with the rules relating to rendering accounts provided for in article 36 and failure to send the management and maintenance program to the timeshare right holders as provided for in articles 37 and 45 herein;

e) Failure to comply with the rules applicable to the management and maintenance of tourist developments on a timeshare basis as laid down in article 43 herein.

Article 87
Ancillary penalties

1. Ancillary penalties may be imposed in the terms of general law, in addition to the fines established herein, according to the nature, seriousness or frequency of the infringements:

   a) Embargo of works, the establishment, alteration or extension of which has not been authorized by the competent authority, but are otherwise adequate as to their location;

   b) Demolition of developments established in unsuitable areas and without authorization for establishment;

   c) Suspension of the development because of serious infringements that represent risk to the timeshare right holders or to third parties;

   d) Closure of the development because of repeated serious infringements that represent risk to the timeshare right holders or to third parties or that damage the image of national tourism;

   e) Seizure of all materials used, in the case of paragraph 4 (h) of the preceding article;

   f) Prohibition on the pursuit of business for two years, save in the case of paragraph 5 (d) of the preceding article.

2. For the purposes of sub-paragraph (c) of the preceding paragraph, infringements in matters of health, food hygiene, cleanliness and fire safety, racial discrimination and child sex tourism are specifically classed as serious infringements.

Article 88
Warning

When the applicable penalty is a fine, the body with powers of inspection may substitute the fine with a warning, taking account of the less serious nature of the infringement and other extenuating circumstances, if it is a first offence committed during the calendar year.

Article 89
Repeat infringements

1. A repeat infringement occurs when a person on whom a penalty has been imposed commits another identical offence within six months of the final decision on the previous penalty.

2. A repeat infringement is punishable by a fine with a threefold increase of the minimum and maximum limits, without prejudice to other applicable penalties.

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Article 90
Payment of fines

1. The time limit for the voluntary payment of fines is thirty-one days from the date of notification to pay the fine.

2. Failure to make voluntary payment within the time limit referred to in paragraph 1 results in the case being remitted to the competent court.

Article 91
Lifting of suspension or closure

1. Once the reasons that gave grounds for the imposition of measures of suspension of business or closure of the development have been remedied, the suspension or closure is lifted within a maximum of five days from the notification of the rectification, at the request of the interested party, who shall provide documentary evidence for this purpose.

2. While the suspension of business or closure of the development is in effect, the owner must compensate the timeshare right holders for losses suffered.

Article 92
Powers to impose penalties

The regulating body of the tourism sector has powers to impose the fines and ancillary penalties provided for herein.

Article 93
Publication of infractions

The imposition of any penalty shall always be given publicity, at the expense of the offender, by means of:

a) Affixing a copy of the decision for a period of thirty days at the development itself, in a clearly visible place and form;

b) Publication in a national, regional or local newspaper, according to the place, the importance and the effects of the infraction.

Article 94
Complaints and appeals

Decisions taken pursuant to these regulations are subject to hierarchical and judicial appeal, in the terms of the law.

Article 95
Liability

The proprietors, directors or managers of a sole proprietorship, or assignees, have secondary liability for the payment of fines imposed on the proprietorship.

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Article 96
Destination of fines

1. The amounts of the fines laid down herein have the following destinations:

    a) 40% for the State Budget;

    b) 30% for the improvement of inspection services;

    c) 30% for the National Tourism Fund.

2. The mechanism for the distribution of the amounts deriving from the percentage referred to in sub-paragraph (b) of the preceding paragraph shall be defined by joint ministerial diploma of the ministers who oversee the finance and tourism sectors.
3. The relevant services of the regulating body of the tourism sector must remit the proceeds of the fines established herein to the finance directorate in the respective tax area, by means of the model "B" and model 11 payment slip, in the month following that in which the fines were levied.

CHAPTER VI
Final and transitory provisions

Article 97
Exemption from Sisa

The transfer of real timeshare rights and holiday accommodation rights is exempt from payment of *Sisa* (real property transfer tax).

Article 98
Technical Monitoring Committee

1. A Technical Monitoring Committee must be formed within sixty days of the entry into force of these Regulations; within its powers will be the monitoring and evaluation of these Regulations in the first year following their entry into force.
2. The creation of the committee referred to in the preceding paragraph falls within the competence of the minister who supervises the tourism sector, and it must be composed of the following members:

    a) Three members designated by the Ministry of Tourism;

    b) One member designated by the Ministry of Public Works & Housing;

    c) One member designated by the Ministry of Agriculture;

    d) Two members designated by the Confederation of Economic Associations.

3. For the purposes of the preceding paragraph, the Technical Monitoring Committee shall select tourist and property developments that will be subject to study in respect of the introduction of these Regulations.

    At the end of the period indicated in paragraph 1 of this article, the Technical Monitoring Committee shall produce a report containing

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