

Real Estate Development Marketing Act

Policy Statement 8

DISCLOSURE STATEMENT REQUIREMENTS FOR DEVELOPMENT PROPERTY CONSISTING OF FIVE OR MORE TIME SHARE INTERESTS

EFFECTIVE OCTOBER 1, 2014

1. Interpretation

In this Policy Statement:

- (a) "Act" means the *Real Estate Development Marketing Act*;
- (b) "common facility", "common property", "phased strata plan" and "strata corporation" have the meanings given to them in the *Strata Property Act*; and
- (c) unless the context otherwise requires, other words and expressions have the meanings given to them in the Act.

2. Disclosure Statement Filing and Distribution

Unless exempted by the regulations, section 14 of the Act requires developers to file a disclosure statement with the superintendent before marketing a development unit in a development property. The disclosure statement must:

- (a) be in the form and include the content required by the superintendent;
- (b) without misrepresentation, plainly disclose all material facts;
- (c) set out the substance of a purchaser's rescission rights; and
- (d) be signed as required by the regulations.

The form and content required by the superintendent for disclosure statements filed in relation to development property consisting of five or more time share interests in a time share plan are set out in this Policy Statement. The onus is strictly on the developer to disclose plainly all material facts, including a fact or proposal that could reasonably be expected to affect the value, price, or use of the development property or a development unit.

Developers may market a development unit immediately after filing a disclosure statement that is prepared in accordance with section 14(2) of the Act. However, before entering into a purchase agreement, the developer must provide a copy of the disclosure statement to the purchaser, give the purchaser a reasonable opportunity to read the disclosure statement and obtain a written statement from the purchaser acknowledging that the purchaser had an opportunity to read it.

In accordance with section 15(3) of the Act, and the *Electronic Transactions Act*, a developer may provide a copy of a disclosure statement by electronic means but only with the written consent of the purchaser.

The Superintendent of Real Estate issued this Policy Statement pursuant to the *Real Estate Development Marketing Act*. Effective August 1, 2021, the Superintendent of Real Estate operates within the BC Financial Services Authority.

NOTE: *Marketing includes engaging in any transaction or other activity that will or is likely to lead to a sale or lease. It is the superintendent's view that marketing includes the use of "letters of intent", "priority lists", "reservation agreements", "conversion rights", "rights of first refusal", or any similar agreement that carries with it the right to acquire a time share interest. Accordingly, developers must file a disclosure statement before using any such agreement or receiving any deposit or other consideration.*

*Developers may advertise a proposed development and communicate with potential purchasers so long as potential purchasers **do not** gain the impression that they have a right to acquire a time share interest and every advertisement contains the developers' name and address, the telephone number of at least one representative from whom information and a copy of the disclosure statement (when available) may be obtained, and a **prominent disclaimer** stating that the advertisement is **not** an offering for sale and that such an offering can only be made after filing a disclosure statement.*

3. Form and Content of the Disclosure Statement

Form 8A sets out the form and content required under section 14 of the Act for disclosure statements filed in relation to time share interests in a time share plan where the purchaser does not acquire an ownership interest in the land that is subject to the time share plan (e.g. "Points" type plans).

Form 8B sets out the form and content required under section 14 of the Act for disclosure statements filed in relation to time share interests in a time share plan where purchasers do acquire an ownership interest in the land that is subject to the time share plan. In this case, the developer must consolidate the content required by this Policy Statement with the content required by the Policy Statement that applies to the interest in land that is subject to the time share plan (e.g. Policy Statement 1 in the case of strata lots contained in a stratified building).

The information contained in each disclosure statement must be set out in the order contained in Forms 8A or 8B. If a section does not apply to a particular development property, the section must state "not applicable". Sections and subsections may be added by a developer, as required, to meet the developer's obligation to disclose plainly all material facts.

NOTE: *If a change occurs that would have the effect of rendering a statement false or misleading or that brings into being a fact or proposal which should have been disclosed if the fact or proposal had existed at the time of filing, section 16 of the Act requires developers to file an amendment to the disclosure statement. If the change is in respect of the identity of the developer or the appointment of a receiver, liquidator, trustee in bankruptcy or other person, in respect of the original developer, then the new developer, who has the right to acquire or dispose of the development property must file its own new disclosure statement.*

4. Enforcement

The superintendent's staff will review disclosure statements to determine whether they are in the form and include the contents required by this Policy Statement. In addition, the superintendent's staff will conduct audits of selected disclosure statements to determine whether they contain any misrepresentations, or otherwise fail to comply with the requirements of the Act.

Where it is found that a disclosure statement contains a misrepresentation, or otherwise fails to comply with the requirements of the Act, a recommendation may be made to the superintendent to issue a cease marketing order. Before issuing a cease marketing order, the superintendent will provide a developer with an opportunity to be heard, unless the length of time required to complete an investigation or to hold a hearing is detrimental to the public interest, in which case an urgent order may be made.

After a hearing, if a developer is found to have filed a disclosure statement containing a misrepresentation, or to have otherwise failed to comply with the requirements of the Act, the superintendent may order the developer,

and its directors, to pay an administrative penalty in the amount of, in the case of a corporation, not more than \$500,000 or, in the case of an individual, not more than \$250,000. The superintendent may also order the developer to pay enforcement expenses or choose to recommend prosecution under section 39 of the Act.

5. Transitional Provisions – Filings Prior to October 1, 2014

Despite section 2 above, a disclosure statement or prospectus filed under the Act prior to October 1, 2014, including any disclosure statement or prospectus submitted under the now repealed *Real Estate Act* and deemed filed under the Act by virtue of section 47 of the Act, continues to satisfy the form and content requirements for a disclosure statement filed under the Act if the substantive content of the disclosure statement or prospectus filed prior to October 1, 2014 complies with the superintendent's applicable Policy Statements effective immediately prior to October 1, 2014 and does not otherwise contain a misrepresentation.

6. Filings On or After October 1, 2014

Despite section 5 above, if an amendment or new disclosure statement is filed on or after October 1, 2014, to correct a non-compliant disclosure statement in accordance with section 16 of the Act or to otherwise revise the developer's disclosure, the amended or new disclosure statement must be in the form and include the content set out in Form 8A or Form 8B, as applicable.

FORM 8A TIME SHARE USE PLANS

NOTE: *If an offering relates to a development property that has not yet been completed, please also include the additional disclosure required under the Superintendent of Real Estate's Policy Statement 14 (Development Property Not Yet Completed).*

If an offering relates to real estate securities, please also include the additional disclosure required under the Superintendent of Real Estate's Policy Statement 13 (Real Estate Securities).

COVER PAGE DISCLOSURE

The following information must be included on the cover page of the disclosure statement:

- State the full legal name, address for service in British Columbia, and business address of the developer.
- State the name and business address in British Columbia of the real estate brokerage, if any, acting on behalf of the developer or describe whom the developer will use to market the time share interests. If the developer intends to use its own employees to market the time share interests, disclose that the employees are not licensed under the *Real Estate Services Act* and are not acting on behalf of the purchaser.
- Specify the date of the disclosure statement.
- Display the following disclaimer **in conspicuous type**:
"This Disclosure Statement has been filed with the Superintendent of Real Estate, but neither the Superintendent, nor any other authority of the government of the Province of British Columbia, has determined the merits of any statement contained in the Disclosure Statement, or whether the Disclosure Statement contains a misrepresentation or otherwise fails to comply with the requirements of the *Real Estate Development Marketing Act*. It is the responsibility of the developer to disclose plainly all material facts, without misrepresentation."
- In the case of a consolidated disclosure statement, note **in conspicuous type**:
"This is a Consolidated Disclosure Statement filed pursuant to the *Real Estate Development Marketing Act*."

SECOND PAGE DISCLOSURE (CANCELLATION RIGHTS)

Display the following information about a purchaser's right to terminate a contract, **in conspicuous type**, on the second page of the disclosure statement:

RIGHT OF RESCISSION

Under section 21 of the *Real Estate Development Marketing Act*, the purchaser or lessee of a development unit may rescind (cancel) the contract of purchase and sale or contract to lease by serving written notice on the developer or the developer's brokerage, within 7 days after the later of the date the contract was entered into or the date the purchaser or lessee received a copy of this Disclosure Statement.

The rescission notice may be served by delivering or sending by registered mail, a signed copy of the notice to

- (a) the developer at the address shown in the disclosure statement received by the purchaser,**
- (b) the developer at the address shown in the purchaser's purchase agreement,**
- (c) the developer's brokerage, if any, at the address shown in the disclosure statement received by the purchaser, or**
- (d) the developer's brokerage, if any, at the address shown in the purchaser's purchase agreement.**

The developer must promptly place purchasers' deposits with a brokerage, lawyer or notary public who must place the deposits in a trust account in a savings institution in British Columbia. If a purchaser rescinds their purchase agreement in accordance with the Act and regulations, the developer or the developer's trustee must promptly return the deposit to the purchaser.

If the developer is offering the time share interests pursuant to Policy Statement 5 or 6, **insert the rescission rights contained in those Policy Statements immediately after the statutory right of rescission.**

Describe any additional rescission rights applicable to the offering.

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- Insert a table listing the contents of the disclosure statement.

1 The Developer

- 1.1 State the jurisdiction, date of incorporation, and incorporation number of the developer.
- 1.2 State whether the developer was incorporated specifically for the purpose of developing the time share interests and whether the developer has any assets other than the development property itself.
- 1.3 State the address of the developer's registered and records office.
- 1.4 List the names of all directors required by section 14 of the Act and section 9 of the regulations to sign the disclosure statement.

NOTE: *If the developer is not incorporated, amend this item, as required, to disclose plainly all material facts about the developer. If the identity of the developer marketing the time share interests changes, the new developer must file its own disclosure statement.*

- 1.5
 - (1) Disclose, to the best of the developer's knowledge, the nature and extent of the experience that the developer and its officers and directors have in the development industry. This disclosure should include the number of years of experience of the developer and its officers and directors, and the types of previous development properties.
 - (2) Disclose, to the best of the developer's knowledge, whether the developer, any principal holder of the developer, or any director or officer of the developer or principal holder, within the ten years before the date of the developer's declaration attached to the disclosure statement, has been subject to any penalties or sanctions imposed by a court or regulatory authority, relating to the sale, lease, promotion, or management of real estate or securities, or to lending money secured by a mortgage of land, or to arranging, administering or dealing in mortgages of land, or to theft or fraud, and describe any penalties or sanctions imposed.
 - (3) Disclose, to the best of the developer's knowledge, whether the developer, any principal holder of the developer, or any director or officer of the developer or principal holder, within the five years before the date of the developer's declaration attached to the disclosure statement, was declared bankrupt or made a voluntary assignment in bankruptcy, made a proposal under any legislation relating to bankruptcy or insolvency or has been subject to or instituted any proceedings, arrangement, or compromise with creditors or had a receiver, receiver manager or trustee appointed to hold the assets of that person.
 - (4) Disclose, to the best of the developer's knowledge, whether any director, officer or principal holder of the developer, or any director or officer of the principal holder, within the five years prior to the date of the developer's declaration attached to the disclosure statement, has been a director, officer or principal holder of any other developer that, while that person was acting in that capacity, that other developer
 - (a) was subject to any penalties or sanctions imposed by a court or regulatory authority relating to the sale, lease, promotion, or management of real estate or securities, or to lending money secured by a mortgage of land, or to arranging, administering or dealing in mortgages of land, or to theft or fraud, and describe any penalties or sanctions imposed, or
 - (b) was declared bankrupt or made a voluntary assignment in bankruptcy, made a proposal under any legislation relating to bankruptcy or insolvency or been subject to or instituted any proceedings,

arrangement or compromise with creditors or had a receiver, receiver manager or trustee appointed to hold its assets.

- 1.6 Describe any existing or potential conflicts of interest among the developer, manager, any directors, officers and principal holders of the developer and manager, any directors and officers of the principal holders, and any person providing goods or services to the developer, manager or holders of the development units in connection with the development which could reasonably be expected to affect the purchaser's purchase decision.

2 The Development

2.1 General Description

Provide a general description of the time share plan and the land that is subject to the time share plan. Attach a copy of the actual or proposed plans, or a portion of those plans, showing the layout of the development and the dimensions or areas of the land that is subject to the time share plan as an Exhibit.

NOTE: *The structure and material facts of time share use plans are varied. Examples of material facts in relation to the general description of a time share use plan include the number of sites in the plan, the nature of the membership or other interest that a purchaser acquires, the maximum number of time share interests that may be in the time share plan and the number of time share interests being marketed by the developer. In all cases, after reading this paragraph, potential purchasers should have a basic understanding of the structure and scope of the time share plan and what is being offered for sale.*

2.2 Time Share Plan Agreements

Summarize the key terms of the agreements that establish the time share plan. Attach a copy of the agreements to the disclosure statement as an Exhibit.

NOTE: *Examples of relevant agreements include declarations and trust agreements.*

2.3 Accommodations

Describe the land and buildings that are subject to the time share plan.

NOTE: *Examples of material facts include the civic location of the land and buildings that are subject to the time share plan, the number of strata lots, lots or other parcels at each location, and the nature of the time share plan's ownership interest in the land.*

2.4 Title Protection

Explain the arrangements the developer has made to ensure the land that is subject to the time share plan will not be subject to foreclosure or other proceedings that would impair or destroy good, safe and marketable title to the land.

NOTE: *Under section 11 of the Act, developers must make adequate arrangements to ensure that purchasers will have assurance of title or other interest contracted for. In the case of time share interests where purchasers do not acquire a registered ownership interest in the land that is subject to the time share plan, adequate arrangements must be made to provide and maintain security of title to the land that is subject to the time share plan. For example, title to the land that is subject to the time share plan is often held in trust by a lawyer, notary public or trust company, financial charges are ordinarily removed from title before a time share interest is sold, and post closing registration of financial encumbrances is not permitted.*

2.5 Inventory Protection

Describe the arrangements the developer has made to ensure that the number of sold time share interests does not exceed the maximum number of time share interests that may be accommodated in the time share plan. Attach a copy of the key agreements to the disclosure statement as an Exhibit.

NOTE: *Under section 11 of the Act, developers must make adequate arrangements to ensure that purchasers will have assurance of title or other interest contracted for. In the case of time share interests where purchasers do not acquire a registered ownership interest in the land that is subject to the time share plan, adequate arrangements must be made to ensure that the time share plan is not oversold. For example, an independent lawyer, notary public, or trust company is often retained by the developer to act as the transfer agent for the sale of time share interests.*

2.6 Permitted Use

Describe the permitted use of land that is subject to the time share plan and the manner in which the developer or another person may use unsold time in the plan. In addition, if the land that is subject to the time share plan does not comprise all of the lots or strata lots in the relevant subdivision plan or strata plan, describe in general terms the manner in which the other lots or strata lots may be used and who controls their use.

2.7 Additions and Deletions to the Plan

Explain the process and requirements for adding land to and deleting land from the time share plan.

2.8 Compliance with Other Jurisdictions

If land that is subject to the time share plan is located outside British Columbia, state whether the developer and the time share plan are in compliance with the laws of the jurisdictions in which land is located.

2.9 Modification or Termination of the Time Share Plan

Explain the circumstances in which the time share plan could be modified or terminated and describe what would happen if the time share plan is modified or terminated.

3 Sharing Arrangements

3.1 Interest Acquired

Describe the membership or other interest that purchasers acquire. Describe the rights time share interest owners have to the recurring use, occupation or possession of all or part of the land that is subject to the time share plan.

NOTE: *Examples of material facts in relation to a time share interest include the type or nature of the membership or other interest acquired (e.g. "points" or a licence to use), the duration of the interest, and the method of determining the period of recurring use available to owners of time share interests. In all cases, after reading this paragraph, potential purchasers, should have a basic understanding of the interest being offered for sale and the restrictions and rights associated with the interest.*

3.2 Reservation System

Summarize the key terms of the reservation system that allocates the use of the time share interests in the time share plan amongst time share interest owners and other persons, including persons who may be eligible to exchange into or use unassigned time in the time share plan. Attach a copy of the reservation agreement to the disclosure statement as an Exhibit.

3.3 Purchase Procedure

Describe the procedure for purchasing a time share interest.

NOTE: *Under section 18 of the Act, deposits must be held by a brokerage, lawyer or notary public who must hold the deposit as a trustee in a trust account in a savings institution in British Columbia.*

3.4 Financing Assistance Program

State whether the developer is offering to finance the purchase of time share interests and, if it is, describe the financing available. Attach a copy of any financing agreement that the developer intends to use and ensure that the financing agreement complies with cost of borrowing legislation.

3.5 Resale, Sub-licensing, Assignments

Describe the methods by which purchasers may resell, sub-licence or assign their time share interest. Summarize the key terms of any agreement related to the disposition of a time share interest to a subsequent purchaser or the developer. Disclose any risks associated with the disposition of a time share interest.

3.6 Default

Describe the circumstances which could lead to a time share interest owner being in default under the terms of the time share plan agreements, the manner in which the default may be cured and what could happen if the default continues.

3.7 Restrictions on Use

Describe any rules or other restrictions that apply to a purchaser's use, occupancy or possession of the time share interests.

NOTE: *Examples include code of conduct rules or restrictions related to the number of permitted occupants, pets or smoking.*

3.8 Time Share Manager

Identify the time share plan manager. Summarize the key terms of the time share plan management agreement. Disclose whether the manager is related to the developer.

NOTE: *Examples of key terms include the length of the agreement, the responsibilities and duties of the manager, renewal provisions, termination rights, financial reporting and management fees.*

3.9 Time Share Association

State whether the developer intends to create or has created a time share association by which purchasers participate in administering the time share plan. If there is a time share association, identify the association and summarize the key terms of any agreement, including articles of incorporation, rules or bylaws, that relate to its creation or operation and by which purchasers are able to participate in administering the time share plan. Attach a copy of any agreement to the disclosure statement as an Exhibit.

3.10 Operating and Reserve Costs

Explain how the operating and reserve costs of the time share plan are determined and allocated amongst time share interest owners. Disclose who is responsible for payment of the operating and reserve costs of the time share plan, how they are collected and when they are due. Explain whether financial statements in respect of the time share plan will be prepared, whether the financial statements will be audited, and whether purchasers are entitled to a copy. Attach a copy of the estimated operating budget of the time share plan as an Exhibit, including

a schedule showing how the budget will be allocated amongst the individual time share interest owners. If the time share plan has approved a budget, attach a copy of its most recent budget as an Exhibit, including a schedule showing how the budget is allocated amongst the individual time share interest owners.

3.11 Developer's Contribution to Maintenance and Operations

Describe the developer's obligations towards contributing to the operating and reserve costs of the time share plan and describe the type and amount of the security that the developer has posted in relation to performing its obligations.

NOTE: *Under section 12 of the Act, a developer must not market a time share interest unless the developer has made adequate arrangements to ensure payment of the cost of utilities and other services associated with the time share plan. Developers must generally provide security, in the amount equal to the yearly operating and reserve costs associated with all unsold time share interests in the time share plan, for the performance of their obligation to contribute to the operating and reserve costs of the time share plan.*

3.12 Maintenance

Explain the arrangements related to maintaining the land and buildings that are subject to the time share plan.

3.13 Taxes and Utilities

Describe who is responsible for the payment of property taxes and utilities.

3.14 Insurance

Describe any property or liability insurance that indemnifies time share interest owners and explain who is responsible for payment of the insurance premium.

3.15 Furniture and Equipment

Describe the furnishings and equipment included in the time share plan.

3.16 Guest Services

Describe any additional guest services that are part of the time share plan.

3.17 On Site Sales Program

Describe the nature of any on site sales program the developer intends to use.

4 Exchange Program

4.1 General Description

State whether an exchange program is associated with the time share plan and whether participation by purchasers in the exchange program is mandatory or optional. Provide a general description of the exchange program and summarize the key terms of any agreement related to it. Disclose whether the exchange program operator is related to the developer and whether the operator is regulated in any jurisdiction.

NOTE: *The structure and material terms of exchange programs are varied. Material terms of an exchange program may include whether the purchaser's participation in the exchange program is dependent upon the continued affiliation of the time share plan with the exchange program operator, the procedures used to make, cancel or amend exchanges, the cost of participating in the exchange program, the cost of making a specific exchange, the duration of the affiliation with the exchange program and the availability and priority of exchange requests.*

5 Title and Legal Matters

5.1 Legal Description

State the legal descriptions of the land that is subject to the time share plan.

NOTE: *It is permissible to disclose the legal descriptions by attaching an Exhibit to the disclosure statement.*

5.2 Ownership

State the name of the registered owner of the land that is subject to the time share plan. If the developer is not the registered owner, describe the legal arrangements that enable the developer to market the time share interests.

5.3 Existing Encumbrances and Legal Notations

List and describe briefly all encumbrances and legal notations registered against title to land that is subject to the time share plan. Explain the arrangements by which financial charges will be removed from title. The disclosure statement must be accompanied by a title report or title certificates that set out the applicable legal descriptions, registered owner's name and all encumbrances registered against title, in respect of land that is subject to the time share plan.

NOTE: *In all cases, it is permissible to list and describe the encumbrances by attaching an Exhibit to the disclosure statement. In large multi-site time share plans, listing and describing all encumbrances, either in the disclosure statement or in an Exhibit, could be cumbersome and detract from the developer's obligation to disclose plainly all material facts. In such cases, it is permissible to list and describe briefly only those encumbrances that impose significant obligations or restrictions on purchasers, such as rent charges or restrictive covenants that impose age, use or occupancy restrictions.*

It is not necessary to attach the title report or title certificates to the disclosure statement, but in all cases the title report or title certificates should be in sufficient detail to disclose the general nature of all encumbrances.

5.4 Proposed Encumbrances

List and describe briefly all encumbrances that the developer proposes to register against title to land that is subject to the time share plan.

NOTE: *See previous NOTE.*

5.5 Outstanding or Contingent Litigation or Liabilities

Describe any outstanding or contingent litigation or liabilities in respect of the development property or against the developer that may affect the time share plan or time share interest owners.

5.6 Environmental Matters

Disclose all material facts related to flooding, the condition of soil and subsoil or other environmental matters affecting the land that is subject to the time share plan.

6 Construction, Availability and Warranties

6.1 Construction Dates and Date of Availability

State the construction dates disclosure required by the Policy Statement that applies to the interest in land that is subject to the time share plan (e.g. Policy Statement 1, section 5.1 in the case of strata lots contained in a stratified building).

State either: that the offered time share interests are available for use; or, if they are not yet available for use, state an estimated date range, not exceeding three months, for when the offered time share interests will become available for use.

6.2 Warranties

Describe any construction or equipment warranties that apply to the buildings, furniture or equipment that is associated with the time share plan.

7 Approvals and Finances

7.1 Development Approval

State the facts which establish that the developer has met the preliminary requirements or approvals in Division 2 of Part 2 of the Act.

NOTE: *Under section 7 of the Act, a developer must not market a time share interest in a time share plan unless the land, accommodations and facilities that are subject to the share plan can be lawfully used or occupied by a purchaser or the appropriate municipal or other government authority has issued a building permit or given development approval in relation to the land that is subject to the time share plan. Section 10 of the Act permits developers to market a development unit before complying with section 7 if the appropriate municipal or other government authority has approved in principle construction of the development unit and the superintendent has given permission to the early marketing. Policy Statement 5 sets out the circumstances, including the applicable terms and conditions, in which the superintendent's permission is deemed to be granted. Developers who have not yet received a building permit or development approval, as applicable, should review Policy Statement 5 before completing this section.*

7.2 Development Financing

Describe the financing the developer has arranged or proposes to arrange to develop the time share plan.

NOTE: *Under section 12 of the Act, a developer must not market a time share interest unless the developer has made adequate arrangements to ensure payment of the cost of utilities and other services associated with the development unit. Policy Statement 6 sets out the circumstances in which arrangements made under section 12 are deemed adequate for the purpose of **installing** utilities and services. Developers should review Policy Statement 6 before completing this section.*

8 Miscellaneous

8.1 Deposits

State the name of the trustee who will be holding purchasers' deposits and that all money received from a purchaser will be held in trust by that person in the manner required by the *Real Estate Development Marketing Act*. If the developer has entered into a deposit protection contract, describe the subject matter and terms of the insurance, explain that the developer may use the deposit money to construct and market the development and state the aggregate and per claim limits of the insurance. In accordance with section 10 of the regulations, state the name and business address of the insurer, the name of the developer who entered into the deposit protection contract, and the date on which the insurance takes effect.

NOTE: *Under section 18 of the Act, deposits must be held in trust by a real estate brokerage, lawyer or notary public, unless the developer has entered into a deposit protection contract. Ordinarily, deposits are held in trust or the deposit insurance contract remains in effect until the land that is subject to the time share plan is capable of being lawfully occupied and an instrument evidencing the interest of the purchaser in the time share plan has been delivered to the purchaser.*

8.2 Purchase Agreement

Attach a copy of the developer's purchase agreement to the disclosure statement as an Exhibit.

8.3 Developer's Commitments

Describe any commitment made by the developer that will be met after completion of the sale and explain whether the developer has posted any security to meet the commitment. In **conspicuous type**, explain any risks associated with the developer's commitment.

8.4 Other Material Facts

Disclose any other fact that affects, or could reasonably be expected to affect, the value, price or use of the time share interests or the development property.

NOTE: *Material facts include material contracts entered into or proposed to be entered into by the developer, or a person associated with the developer, that impose obligations or restrictions on purchasers, including contracts related to the offering of real estate securities. Key terms of material contracts that have not already been disclosed should be summarized in this section with the contract attached as an Exhibit.*

Signatures

- Deemed Reliance

State the following in **conspicuous type**:

Section 22 of the *Real Estate Development Marketing Act* provides that every purchaser who is entitled to receive this Disclosure Statement is deemed to have relied on any false or misleading statement of a material fact contained in this Disclosure Statement, if any, and any omission to state a material fact. The developer, its directors and any person who has signed or authorized the filing of this Disclosure Statement are liable to compensate the purchaser for any misrepresentation, subject to any defences available under section 22 of the Act.

- Declaration

State the following declaration, in **conspicuous type**, before the signatures of all persons who at the time of filing are developers or directors of corporate developers as required by section 14(2)(d) of the Act and section 9 of the regulations:

The foregoing statements disclose, without misrepresentation, all material facts relating to the Development referred to above, as required by the *Real Estate Development Marketing Act* of British Columbia, as of _____.

NOTE: *Disclosure statements must be signed by the developer(s). Additionally, if the developer is a corporation(s), all directors of the developer(s) must sign the disclosure statement, unless exempted by the superintendent. At least one director of each corporate developer will have to sign twice, once as the authorized signatory of the corporation and once in his or her personal capacity. Policy Statement 7 sets out additional information on signing disclosure statements.*

- **Solicitor's Certificate**

The Disclosure Statement must be accompanied by a certificate from a solicitor certifying that the contents of items 5.1, 5.2 and 5.3 are correct.

NOTE: *It is not necessary to attach the solicitor's certificate to the disclosure statement. If necessary, the solicitor may rely upon the opinion of a solicitor qualified to practice law in the jurisdiction in which the land is located.*

Exhibits

- Attach a copy of all Exhibits to the disclosure statement.

FORM 8B TIME SHARE OWNERSHIP PLANS

NOTE: *If an offering relates to a development property that has not yet been completed, please also include the additional disclosure required under the Superintendent of Real Estate's Policy Statement 14 (Development Property Not Yet Completed).*

If an offering relates to real estate securities, please also include the additional disclosure required under the Superintendent of Real Estate's Policy Statement 13 (Real Estate Securities).

COVER PAGE DISCLOSURE

The following information must be included on the cover page of the disclosure statement:

- State the full legal name, address for service in British Columbia, and business address of the developer.
- State the name and business address in British Columbia of the real estate brokerage, if any, acting on behalf of the developer or describe whom the developer will use to market the time share interests. If the developer intends to use its own employees to market the time share interests, disclose that the employees are not licensed under the *Real Estate Services Act* and are not acting on behalf of the purchaser.
- Specify the date of the disclosure statement.
- Display the following disclaimer **in conspicuous type**:
"This Disclosure Statement has been filed with the Superintendent of Real Estate, but neither the Superintendent, nor any other authority of the government of the Province of British Columbia, has determined the merits of any statement contained in the Disclosure Statement, or whether the Disclosure Statement contains a misrepresentation or otherwise fails to comply with the requirements of the *Real Estate Development Marketing Act*. It is the responsibility of the developer to disclose plainly all material facts, without misrepresentation."
- In the case of a consolidated disclosure statement, note **in conspicuous type**:
"This is a Consolidated Disclosure Statement filed pursuant to the *Real Estate Development Marketing Act*."
- In the case of a phase disclosure statement, note **in conspicuous type**:
"This is a Phase Disclosure Statement filed pursuant to the *Real Estate Development Marketing Act*."

SECOND PAGE DISCLOSURE (CANCELLATION RIGHTS)

Display the following information about a purchaser's right to terminate a contract, **in conspicuous type**, on the second page of the disclosure statement:

<p style="text-align: center;">RIGHT OF RESCISSION</p> <p>Under section 21 of the <i>Real Estate Development Marketing Act</i>, the purchaser or lessee of a development unit may rescind (cancel) the contract of purchase and sale or contract to lease by serving written notice on the developer or the developer's brokerage, within 7 days after the later of the date contract was entered into or the date the purchaser or lessee received a copy of this Disclosure Statement.</p> <p>A purchaser may serve a notice of rescission by delivering a signed copy of the notice in person or by registered mail to</p> <ul style="list-style-type: none">(a) the developer at the address shown in the disclosure statement received by the purchaser,(b) the developer at the address shown in the purchaser's purchase agreement,(c) the developer's brokerage, if any, at the address shown in the disclosure statement received by the purchaser, or(d) the developer's brokerage, if any, at the address shown in the purchaser's purchase agreement. <p>The developer must promptly place purchasers' deposits with a brokerage, lawyer or notary public who must place the deposits in a trust account in a savings institution in British Columbia. If a purchaser rescinds their purchase agreement in accordance with the Act and regulations, the developer or the developer's trustee must promptly return the deposit to the purchaser.</p>
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If the developer is marketing the time share interests pursuant to Policy Statement 5 or 6, **insert the rescission rights contained in those Policy Statements immediately after the statutory right of rescission.**

Describe any additional rescission rights applicable to the offering.

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- Insert a table listing the contents of the disclosure statement.

1 The Developer

- 1.1 State the jurisdiction, date of incorporation, and incorporation number of the developer.
- 1.2 State whether the developer was incorporated specifically for the purpose of developing the time share interests and whether the developer has any assets other than the development property itself.
- 1.3 State the address of the developer's registered and records office.
- 1.4 List the names of all directors required by section 14 of the Act and section 9 of the regulations to sign the disclosure statement.

NOTE: *If the developer is not incorporated, amend this item, as required, to disclose plainly all material facts about the developer. If the identity of the developer marketing the time share interests changes, the new developer must file its own disclosure statement.*

- 1.5
 - (1) Disclose, to the best of the developer's knowledge, the nature and extent of the experience that the developer and its officers and directors have in the development industry. This disclosure should include the number of years of experience of the developer and its officers and directors, and the types of previous development properties.
 - (2) Disclose, to the best of the developer's knowledge, whether the developer, any principal holder of the developer, or any director or officer of the developer or principal holder, within the ten years before the date of the developer's declaration attached to the disclosure statement, has been subject to any penalties or sanctions imposed by a court or regulatory authority, relating to the sale, lease, promotion, or management of real estate or securities, or to lending money secured by a mortgage of land, or to arranging, administering or dealing in mortgages of land, or to theft or fraud, and describe any penalties or sanctions imposed.
 - (3) Disclose, to the best of the developer's knowledge, whether the developer, any principal holder of the developer, or any director or officer of the developer or principal holder, within the five years before the date of the developer's declaration attached to the disclosure statement, was declared bankrupt or made a voluntary assignment in bankruptcy, made a proposal under any legislation relating to bankruptcy or insolvency or has been subject to or instituted any proceedings, arrangement, or compromise with creditors or had a receiver, receiver manager or trustee appointed to hold the assets of that person.
 - (4) Disclose, to the best of the developer's knowledge, whether any director, officer or principal holder of the developer, or any director or officer of the principal holder, within the five years prior to the date of the developer's declaration attached to the disclosure statement, has been a director, officer or principal holder of any other developer that, while that person was acting in that capacity, that other developer
 - (a) was subject to any penalties or sanctions imposed by a court or regulatory authority relating to the sale, lease, promotion, or management of real estate or securities, or to lending money secured by a mortgage of land, or to arranging, administering or dealing in mortgages of land, or to theft or fraud, and describe any penalties or sanctions imposed, or
 - (b) was declared bankrupt or made a voluntary assignment in bankruptcy, made a proposal under any legislation relating to bankruptcy or insolvency or been subject to or instituted any proceedings,

arrangement or compromise with creditors or had a receiver, receiver manager or trustee appointed to hold its assets.

- 1.6 Describe any existing or potential conflicts of interest among the developer, manager, any directors, officers and principal holders of the developer and manager, any directors and officers of the principal holders, and any person providing goods or services to the developer, manager or holders of the development units in connection with the development which could reasonably be expected to affect the purchaser's purchase decision.

2 The Development

2.1 General Description

Provide a general description of the time share plan and the land that is subject to the time share plan. Attach a copy of the actual or proposed plans, or a portion of those plans, showing the layout of the development and the dimensions or areas of the land that is subject to the time share plan as an Exhibit.

If the time share plan is part of a larger development plan controlled by the developer or a related entity, describe the overall development plan and the arrangements, if any, for amalgamation or the sharing of costs or facilities.

NOTE: *The structure and material facts of time share ownership plans are varied. Examples of material facts in relation to the general description of a time share ownership plan and the land that is subject to the plan include the number of sites in the plan, the total number of lots, strata lots or other parcels of land that are subject to the plan, the nature of the ownership interest that a purchaser acquires, the maximum number of time share interests that may be in the time share plan and the number of time share interests being marketed by the developer. In all cases, after reading this paragraph, potential purchasers should have a basic understanding of the structure and scope of the time share plan and what is being offered for sale.*

2.2 Time Share Plan Agreements

Summarize the key terms of the agreements that establish the time share plan. Attach a copy of the agreements to the disclosure statement as an Exhibit.

NOTE: *Examples of relevant agreements include leases and co-ownership agreements.*

2.3 Permitted Use

State the zoning applicable to the development property and describe the permissible uses of the development property intended by the developer. State whether any lot or strata lot may be used for commercial or other purposes not ancillary to residential purposes.

State whether there may be other permissible uses of the development property beyond those intended by the developer. Developers are not required to disclose all of the potential uses, however, developers must provide purchasers with information about where to obtain further information and details about zoning requirements and permissible uses. For example, the name and contact information (e.g. address, telephone, email, or website address) of the responsible municipal department must be provided.

Describe the manner in which the developer or another person may use unsold time in the plan. In addition, if the land that is subject to the time share plan does not comprise all of the lots or strata lots in the relevant subdivision plan or strata plan, describe in general terms the manner in which the other lots or strata lots may be used and who controls their use.

2.4 Phasing

State whether the land that is subject to the time share plan will be constructed in phases. If development of the land is phased, describe the phasing aspects of the offering, including the total number of potential lots or strata lots that may be subject to the time share plan, the number of phases, the number of lots or strata lots in each phase, and the phase or phases the developer is currently marketing. Caution purchasers that the developer is entitled not to proceed with subsequent phases. State whether the phasing has been approved by the appropriate approving officer and attach a Form P, Phased Strata Plan Declaration as an Exhibit.

If the time share plan will contain common facilities in future phases, describe those facilities and the security arrangements, if any, for their construction.

NOTE: *Ordinarily, the approving officer will have signed the Form P. If the Form P is not signed, attach a copy of the unsigned Form and state whether the approving officer is prepared to sign the Form P, as disclosed, in due course. If the lots or strata lots are located outside British Columbia, disclose the facts which establish that the relevant local authority has approved the phasing.*

A developer who markets development units in phases may market multiple phases of a development property concurrently under separate disclosure statements, provided the developer complies with all Act requirements, including section 14(4). Section 14(4) of the Act requires developers, before marketing development units in a subsequent phase, to file an amendment to a disclosure statement submitted in respect of a previous phase unless, in accordance with section 14(4.1) of the Act, the developer files a phase disclosure statement under section 15.1 of the Act and the developer does not market, including the completion of a sale, any development units in any previous phase of the development property.

2.5 Additions and Deletions to the Plan

Explain the process and requirements for adding land to and deleting land from the time share plan.

2.6 Compliance with Other Jurisdictions

If land that is subject to the time share plan is located outside British Columbia, state whether the developer and the time share plan are in compliance with the laws of the jurisdictions in which the lots or strata lots are located.

2.7 Modification or Termination of the Time Share Plan

Explain the circumstances in which the time share plan could be modified or terminated and describe what would happen if the time share plan is modified or terminated.

3 Land Information

Insert the content required by the Policy Statement and Part 3 of the Form that applies to the type of interest in land that is subject to the time share plan. For example, if fractional ownership interests in strata lots are being marketed, title this part as **Strata Information**, and insert the content required by Part 3 of Form 1.

4 Sharing Arrangements

4.1 Ownership Interest

Describe the ownership interest that purchasers acquire. Describe the rights time share interest owners have to the recurring use, occupation or possession of all or part of the land that is subject to the time share plan.

NOTE: *The structure and material facts of time share ownership plans are varied. For example, purchasers could obtain an ownership interest that carries with it the right to the recurring use, occupation or possession of the land on a fixed unit/fixed time, fixed unit/variable time, variable unit/fixed time or variable unit/variable time basis. In all cases, after reading this paragraph, potential purchasers should have a basic understanding of the ownership interest being offered for sale and the restrictions and rights associated with the ownership interest.*

4.2 Reservation System

Summarize the key terms of the reservation and priority system that allocates the use of the time share interests in the time share plan amongst time share interest owners and other persons, including persons who may be eligible to exchange into or use unassigned time in the time share plan. Attach a copy of the reservation agreement to the disclosure statement as an Exhibit.

4.3 Purchase Procedure

Describe the procedure for purchasing a time share interest.

NOTE: *Under section 18 of the Act, deposits must be held by a brokerage, lawyer or notary public who must hold the deposit as a trustee in a trust account in a savings institution in British Columbia.*

4.4 Financing Assistance Program

State whether the developer is offering to finance the purchase of time share interests and, if it is, describe the financing available. Attach a copy of any financing agreement that the developer intends to use and ensure that the financing agreement complies with cost of borrowing legislation.

4.5 Resale, Subleasing, Assignments, Mortgages

Describe the methods by which purchasers may resell, sublease, assign or mortgage their time share interest. Summarize the key terms of any agreement related to the disposition of a time share interest to a subsequent purchaser or the developer. Disclose any risks associated with the disposition of a time share interest.

4.6 Default

Describe the circumstances that could lead to a time share interest owner being in default under the terms of the time share plan agreements, the manner in which the default may be cured and what could happen if the default continues.

4.7 Restrictions on Use

Describe any other restrictions that apply to a purchaser's use, occupation or possession of the time share interests.

NOTE: *Examples include code of conduct rules or restrictions related to the number of permitted occupants, pets or smoking.*

4.8 Time Share Manager

Identify the time share plan manager. Summarize the key terms of the time share plan management agreement. Disclose whether the manager is related to the developer. If the land subject to the time share plan consists of an ownership interest in a strata lot or bare land strata lot, explain whether the time share manager is related to the strata manager and describe the respective duties of each manager.

NOTE: *Examples of key terms include the length of the agreement, the responsibilities and duties of the manager, renewal provisions, termination rights, financial reporting and management fees.*

4.9 Time Share Association

State whether the developer intends to create or has created a time share association by which purchasers participate in administering the time share plan. If there is a time share association, identify the association and summarize the key terms of any agreement, including articles of incorporation, rules or bylaws, that relate to its creation or operation and by which purchasers are able to participate in administering the time share plan. Attach a copy of any agreement to the disclosure statement as an Exhibit.

4.10 Operating and Reserve Costs

Explain how the operating and reserve costs of the time share plan are determined and allocated amongst the time share interest owners. Disclose who is responsible for paying the operating and reserve costs of the time share plan, how they are collected and when they are due. Explain whether financial statements in respect of the time share plan will be prepared, whether the financial statements will be audited, and whether purchasers are entitled to a copy. Attach a copy of the estimated operating budget of the time share plan as an Exhibit, including a schedule showing how the budget will be allocated amongst the individual time share interest owners. If the time share plan has approved a budget, attach a copy of its most recent budget as an Exhibit, including a schedule showing how the budget is allocated amongst the individual time share interest owners. If the land that is subject to the time share plan is located within a strata plan or bare land strata plan, explain the difference between costs related to the operation of the strata corporation and the operation of the time share plan.

4.11 Developer's Contribution to Maintenance and Operations

Explain the developer's obligations towards contributing to the operating and reserve costs of the time share plan and describe the type and amount of the security that the developer has posted in relation to performing its obligations.

NOTE: *Under section 12 of the Act, a developer must not market a time share interest unless the developer has made adequate arrangements to ensure payment of the cost of utilities and other services associated with the time share plan. Developers must generally provide security, in the amount equal to the yearly operating and reserve costs associated with all unsold time share interests in the time share plan, for the performance of their obligation to contribute to the operating and reserve costs of the time share plan.*

4.12 Maintenance

Explain the arrangements related to maintaining the land and buildings that are subject to the time share plan.

4.13 Taxes and Utilities

Describe who is responsible for the payment of property taxes and utilities.

4.14 Insurance

Describe any property or liability insurance that indemnifies time share interest owners and explain who is responsible for payment of the insurance premium.

4.15 Furniture and Equipment

Describe the furnishings and equipment included in the time share plan.

4.16 Guest Services

Describe any additional guest services that are part of the time share plan.

4.17 On Site Sales Program

Describe the nature of any on site sales program the developer intends to use.

5 Exchange Program

5.1 General Description

State whether an exchange program is associated with the time share plan and whether participation by purchasers in the exchange program is mandatory or optional. Provide a general description of the exchange program and summarize the key terms of any agreement related to it. Disclose whether the exchange program operator is related to the developer and whether the operator is regulated in any jurisdiction.

NOTE: *The structure and material terms of exchange programs are varied. Material terms of an exchange program may include whether the purchaser's participation in the exchange program is dependent upon the continued affiliation of the time share plan with the exchange program operator, the procedures used to make, cancel or amend exchanges, the cost of participating in the exchange program, the cost of making a specific exchange, the duration of the affiliation with the exchange program and the availability and priority of exchange requests.*

6 Title and Legal Matters

6.1 Legal Description

State the legal description of the land that is subject to the time share plan.

6.2 Ownership

State the name of the registered owner of the land that is subject to the time share plan. If the developer is not the registered owner, describe the legal arrangements that enable the developer to market the time share interests.

6.3 Existing Encumbrances and Legal Notations

List and describe briefly all encumbrances and legal notations registered against title to land that is subject to the time share plan. Explain the arrangements by which financial charges will be removed from title. The disclosure statement must be accompanied by a title report or title certificates that set out the applicable legal descriptions, registered owner's name and all encumbrances registered against title, in respect of land that is subject to the time share plan.

NOTE: *In all cases, it is permissible to list and describe the encumbrances by attaching an Exhibit to the disclosure statement. In large multi-site time share plans, listing and describing all encumbrances, either in the disclosure statement or in an Exhibit, could be cumbersome and detract from the developer's obligation to disclose plainly all material facts. In such cases, it is permissible to list and describe briefly only those encumbrances that impose significant obligations or restrictions on purchasers, such as rent charges or restrictive covenants that impose age, use or occupancy restrictions.*

It is not necessary to attach the title report or title certificates to the disclosure statement, but in all cases the title report or title certificates should be in sufficient detail to disclose the general nature of all encumbrances.

6.4 Proposed Encumbrances

List and describe briefly all encumbrances that the developer proposes to register against title to land that is subject to the time share plan.

NOTE: *See previous NOTE.*

6.5 Outstanding or Contingent Litigation or Liabilities

Describe any outstanding or contingent litigation or liabilities in respect of the development property or against the developer that may affect the time share plan or the time share interest owners.

6.6 Environmental Matters

Disclose all material facts related to flooding, the condition of soil and subsoil or other environmental matters affecting the development property.

7 Construction, Availability and Warranties

7.1 Construction Dates and Date of Availability

State the construction dates disclosure required by the Policy Statement that applies to the interest in land that is subject to the time share plan (e.g. Policy Statement 1, section 5.1 in the case of strata lots contained in a stratified building).

State either: that the offered time share interests are available for use; or, if they are not yet available for use, state an estimated date range, not exceeding three months, for when the offered time share interests will become available for use.

7.2 Warranties

Describe any construction or equipment warranties that apply to the buildings, furniture or equipment that is associated with the time share plan.

8 Approvals and Finances

8.1 Development Approval

State the facts which establish that the developer has met the preliminary requirements or approvals in Division 2 of Part 2 of the Act.

NOTE: *Under section 7 of the Act, a developer must not market a time share interest in a time share plan unless the land, accommodations and facilities that are subject to the share plan can be lawfully used or occupied by a purchaser or the appropriate municipal or other government authority has issued a building permit or given development approval in relation to the land that is subject to the time share plan. Section 10 of the Act permits developers to market a development unit before complying with section 7 if the appropriate municipal or other government authority has approved in principle construction of the development unit and the superintendent has given permission to the early marketing. Policy Statement 5 sets out the circumstances, including the applicable terms and conditions, in which the superintendent's permission is deemed to be granted. Developers who have not yet received a building permit or development approval, as applicable, should review Policy Statement 5 before completing this section.*

8.2 Construction Financing

Describe the financing the developer has arranged or proposes to arrange to develop the time share plan.

NOTE: *Under section 12 of the Act, a developer must not market a time share interest unless the developer has made adequate arrangements to ensure payment of the cost of utilities and other services associated with the development unit. Policy Statement 6 sets out the circumstances in which arrangements made under section 12 are deemed adequate for the purpose of installing utilities and services. Developers should review Policy Statement 6 before completing this section.*

9 Miscellaneous

9.1 Deposits

State the name of the trustee who will be holding purchasers' deposits and that all money received from a purchaser will be held in trust by that person in the manner required by the *Real Estate Development Marketing Act*. If the developer has entered into a deposit protection contract, describe the subject matter and terms of the insurance, explain that the developer may use the deposit money to construct and market the development and state the aggregate and per claim limits of the insurance. In accordance with section 10 of the regulations, state the name and business address of the insurer, the name of the developer who entered into the deposit protection contract and the date on which the insurance takes effect.

NOTE: *Under section 18 of the Act, deposits must be held in trust by a real estate brokerage, lawyer or notary public, unless the developer has entered into a deposit protection contract. Ordinarily, deposits are held in trust or the deposit insurance contract remains in effect until the strata plan or subdivision plan is deposited in a land title office, the premises purchased or leased are capable of being lawfully occupied and an instrument evidencing the interest of the purchaser or lessee in the lot, strata lot or other parcel of land that is subject to the time share plan has been registered in the appropriate land title office.*

9.2 Purchase Agreement

Attach a copy of the developer's purchase agreement to the disclosure statement as an Exhibit.

9.3 Developer's Commitments

Describe any commitment made by the developer that will be met after completion of the sale or lease and explain whether the developer has posted any security to meet the commitment. In **conspicuous type**, explain any risks associated with the developer's commitment.

9.4 Other Material Facts

Disclose any other fact that affects, or could reasonably be expected to affect, the value, price or use of the time share interests or the development property.

NOTE: *Material facts include material contracts entered into or proposed to be entered into by the developer, or a person associated with the developer, that impose obligations or restrictions on purchasers, including contracts related to the offering of real estate securities. Key terms of material contracts that have not already been disclosed should be summarized in this section with the contract attached as an Exhibit.*

Signatures

- Deemed Reliance

State the following in **conspicuous type**:

Section 22 of the *Real Estate Development Marketing Act* provides that every purchaser who is entitled to receive this Disclosure Statement is deemed to have relied on any false or misleading statement of a material fact contained in this Disclosure Statement, if any, and any omission to state a material fact. The developer, its directors and any person who has signed or authorized the filing of this Disclosure Statement are liable to compensate the purchaser for any misrepresentation, subject to any defences available under section 22 of the Act.

- Declaration

State the following declaration, in conspicuous type, before the signatures of all persons who at the time of filing are developers or directors of corporate developers as required by section 14(2)(d) of the Act and section 9 of the regulations:

The foregoing statements disclose, without misrepresentation, all material facts relating to the Development referred to above, as required by the *Real Estate Development Marketing Act* of British Columbia, as of _____.

NOTE: *Disclosure statements must be signed by the developer(s). Additionally, if the developer is a corporation(s), all directors of the developer(s) must sign the disclosure statement, unless exempted by the superintendent. At least one director of each corporate developer will have to sign twice, once as the authorized signatory of the corporation and once in his or her personal capacity. Policy Statement 7 sets out additional information on signing disclosure statements.*

- Solicitor's Certificate

The disclosure statement must be accompanied by a certificate from a solicitor certifying that the contents of items 6.1, 6.2 and 6.3 are correct.

NOTE: *It is not necessary to attach the solicitor's certificate to the disclosure statement. If necessary, the solicitor may rely upon the opinion of a solicitor qualified to practice law in the jurisdiction in which the land is located.*

Exhibits

- Attach a copy of all Exhibits to the disclosure statement.