

CODE OF BY-LAWS
OF
VILLAS AT TAMARACK HOMEOWNERS ASSOCIATION, INC.

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ARTICLE I
Identification and Applicability

Section 1.01. Identification and Adoption. This Code of By-Laws (the “By-Laws”) is adopted contemporaneously with the execution of a certain Declaration of Covenants and Restrictions of Villas at Tamarack (the “Villas Declaration”) (as the same may be amended and supplemented) creating Villas at Tamarack (hereinafter referred to as “Villas at Tamarack”). The Villas Declaration is incorporated herein by reference, and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Villas Declaration shall have the same meaning in these By-Laws and reference is specifically made to Paragraph 1 of the Villas Declaration containing definitions of terms. These By-Laws shall constitute the By-Laws of the Villas Corporation (as defined herein).

Section 1.02. Name, Principal Office and Registered Agent. The name of the Corporation is Villas at Tamarack Homeowners Association, Inc. (hereinafter referred to as the “Villas Corporation”). The post office address of the principal office of the Villas Corporation is M/I Homes, 8425 Woodfield Crossing Boulevard, Suite 100W, Indianapolis, Indiana 46240; the name and street address of its Registered Agent is Community Association Services of Indiana, 11711 North College Avenue, Suite 100, Carmel, Indiana 46032. The location of the principal office of the Villas Corporation, or the designation of its Registered Agent, or both, may be changed at any time or from time to time when authorized by the Villas Board of Directors by filing with the Indiana Secretary of State.

Section 1.03. Individual Application. All of the Owners, future Owners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy a Lot or any part of the Real Estate, shall be subject to the restrictions, terms and conditions set forth in the Villas Declaration and these By-Laws, and to any rules and regulations adopted by the Villas Board of Directors as herein provided.

ARTICLE II
Meetings of Villas Corporation

Section 2.01. Purpose of Meetings. At least annually, and at such other times as may be necessary, a meeting of the Owners shall be held for the purpose of electing the Villas Board of Directors (subject to the provisions of Section 3.02 hereof), receiving the annual budget, and for such other purposes as may be necessary or required by the Villas Declaration or these By-Laws.

Section 2.02. Annual Meetings. The annual meeting of the members of the Villas Corporation shall be held in the fourth quarter of each calendar year. At the annual meeting the Owners shall (subject to the provisions of Section 3.02 hereof) elect the Board of Directors of the

Villas Corporation in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 2.03. Special Meetings. A special meeting of the members of the Villas Corporation may be called by resolution of the Villas Board of Directors or upon a written petition of Owners who have in the aggregate at least a majority of the votes of all Owners. The resolution or petition shall be presented to the President or Secretary of the Villas Corporation and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the Villas Corporation shall be held at any suitable place in Hamilton County, Indiana or any contiguous county, as may be designated by the Villas Board of Directors. Written notice stating the date, time and place of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Villas Corporation to each member entitled to vote thereat not less than ten (10) days prior to the date of such meeting. The notice shall be mailed or delivered to the Owners at the addresses of their respective Lots and not otherwise. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary of the Villas Corporation to each Mortgagee (a) who requests in writing that such notices be delivered to it, and (b) who has furnished the Villas Corporation with its name and address in accordance with Section 8.01 of these By-Laws. Such Mortgagee may designate a representative to attend the meeting. Attendance at any meeting in person, by agent or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting and Conduct of Meetings.

(a) Number of Votes. With respect to each matter on which a Member of the Villas Corporation is entitled to vote, the Villas Corporation shall have two (2) classes of membership with the following voting rights:

(i) Class A. Class A Members shall be all Owners except Class B Members. Each Class A Member shall be entitled to one (1) vote for each Lot of which such Member is the Owner with respect to each matter submitted to a vote of Members upon which the Class A Members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be Members of the Villas Corporation, but all of such persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(ii) Class B. Class B Members shall be Declarant and all successors and assigns of Declarant designated by Declarant as Class B Members in a written notice mailed or delivered to the registered agent of the Villas Corporation. Each Class B Member shall be entitled to ten (10) votes for each Lot of which it is the Owner on all matters requiring a vote of the Members of the Villas Corporation. The Class B membership shall cease and terminate upon the Applicable Date. The

“Applicable Date” is the last to occur of (i) the date upon which the written resignation of the Class B Members is delivered to the Registered Agent of the Villas Corporation; (ii) within one hundred twenty (120) days after the date when eighty percent (80%) of all Lots have been conveyed by Declarant to third party purchasers who will reside on such Lots; or (iii) May 1, 2026.

(b) Multiple Owners. Where the Owner of a Lot constitutes or consists of more than one person, or is a partnership, there shall be only one vote for such Lot. At the time of acquisition of title to a Lot by a multiple Owner or a partnership, those persons constituting such Owner or the partners shall file with the Secretary of the Villas Corporation an irrevocable proxy appointing one of such persons or partners as the voting representative for such Lot, which shall remain in effect until all of such parties constituting such multiple Owner or the partners in such partnership designate another voting representative in writing, or such appointed representative relinquishes such appointment in writing, becomes incompetent, dies or such appointment is otherwise rescinded by order of a court of competent jurisdiction or the Owner no longer owns such Lot. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall not constitute a permanent relinquishment of his right to act as voting representative for the Lot.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustee may cast the vote on behalf of the trust and the agent or other representative of the corporation duly empowered by the board of directors of such corporation may cast the vote to which the corporation is entitled. The secretary of the corporation or a trustee of the trust so entitled to vote shall deliver or cause to be delivered prior to the commencement of the meeting a certificate signed by such person to the Secretary of the Villas Corporation stating who is authorized to vote on behalf of said corporation or trust.

(d) Voting by Mail or Proxy. An Owner may vote either in person, by mail and/or written ballot or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Secretary of the Villas Corporation prior to the commencement of the meeting.

(e) Quorum. Except where otherwise expressly provided in the Villas Declaration, these By-Laws or the Indiana Nonprofit Corporation Act of 1991, as amended (hereinafter referred to as the “Statute”), the Owners representing twenty percent (20%) of the votes of all Owners shall constitute a quorum at all meetings.

(f) Conduct of Annual Meeting. The President of the Villas Corporation shall act as the Chairman of all annual meetings of the Villas Corporation if he is present. At all annual meetings, the Chairman shall call the meeting to order at the duly designated time and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto, unless such reading is waived by a majority of the votes of all Owners attending the annual meeting.

(2) Treasurer's Report. The Treasurer shall report to the Owners concerning the financial condition of the Villas Corporation and answer relevant questions of the Owners concerning the Villas Common Expenses and financial report for the prior year and the proposed budget for the current year.

(3) Budget. The budget for the current fiscal year shall be presented to the Owners.

(4) Election of Villas Board of Directors. Nominations for the Villas Board of Directors may be made by any Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Villas Corporation at least seven (7) days prior to the date of the annual meeting. Voting for the Villas Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Villas Board member. Each Owner may cast the total number of votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to cumulate his votes. Those persons receiving the highest number of votes shall be elected. Each voting Owner shall sign his ballot. The foregoing provisions are subject to the provisions of Section 3.02 hereof.

(5) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Villas Corporation at least seven (7) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the votes of all Owners attending the annual meeting.

(6) Adjournment.

(g) Conduct of Special Meeting. The President of the Villas Corporation shall act as Chairman of any special meetings of the Villas Corporation if he is present. The Chairman shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

ARTICLE III Villas Board of Directors

Section 3.01. Management. The affairs of the Villas Corporation and Villas at Tamarack shall be governed and managed by the Board of Directors (herein collectively called "Villas Board of Directors" or "Directors" and individually called "Director"). The Initial Villas Board of Directors shall be composed of three (3) persons. After the Applicable Date, the Villas

Board of Directors shall be composed of three (3) persons. No person shall be eligible to serve as a Director unless he is, or is deemed in accordance with the Villas Declaration to be, an Owner, including a person appointed by Declarant as provided in Section 3.02 hereof.

Section 3.02. Initial Villas Board of Directors. The Initial Villas Board of Directors shall be Keith Blais, Jonathan Isaacs and Jodi Rana (herein referred to as the "Initial Villas Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of, these By-Laws or the Villas Declaration or elsewhere (a) the Initial Villas Board shall hold office until the Applicable Date, as set forth in Paragraph 7 of the Declaration, and (b) in the event of any vacancy or vacancies occurring in the Initial Villas Board for any reason or cause whatsoever prior to the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Villas Board. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Lot by any type of juridic acts, inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote and to vote as Declarant determines on all matters as to which members are entitled to vote under the Villas Declaration, these By-Laws, or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. The President of the Villas Board of Directors shall also be a member of the Tamarack Homeowners Association, Inc. Board of Directors (the "Master Board of Directors").

Section 3.03. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Villas Board of Directors, except that no single Lot may be represented on the Villas Board of Directors by more than one person at a time.

Section 3.04. Term of Office and Vacancy. Subject to the provisions of Section 3.02 hereof, at least one (1) member of the Villas Board of Directors shall be elected at each annual meeting of the Villas Corporation. The Initial Villas Board shall be deemed to be elected and re-elected as the Villas Board of Directors at each annual meeting until the Applicable Date as provided herein. After the Applicable Date, each member of the Villas Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date one (1) member of the Villas Board of Directors shall be elected for a three (3) year term, one (1) member for a two (2) year term, and one (1) member for a one (1) year term so that the terms of at least one (1) of the Directors shall expire annually. If such first election is at a special meeting, the Directors elected shall serve for the applicable period plus the time from the special meeting to the first annual meeting. There shall be separate nominations for the office of each Director to be elected at such first election after the Applicable Date. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 3.02 hereof as to the Initial Villas Board, any vacancy or vacancies occurring in the Villas Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Owners if a Director is removed in accordance with Section 3.05 of this Article III. The Director so filling a vacancy shall serve until the next annual meeting of the members

and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 3.05. Removal of Directors. A Director or Directors, except the members of the Initial Villas Board, may be removed with or without cause by vote of a majority of the votes of all Owners at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners and until his successor is duly elected and qualified.

Section 3.06. Duties of the Villas Board of Directors. The Villas Board of Directors shall be the governing body of the Villas Corporation representing all of the Owners and being responsible for the functions and duties of the Villas Corporation, including, but not limited to, providing for the administration of the Villas Corporation, the collection and disbursement of the Villas Common Expenses and the collection and remittance of the Master Common Expenses. The Villas Board may, on behalf of the Villas Corporation, employ a reputable and recognized professional property management agent (herein called the “Managing Agent”) upon such terms as the Villas Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Villas Board in carrying out its duties, which include, but are not limited to:

- (a) assessment and collection from the Owners of each Owner’s respective share of the Villas Common Expenses, and Master Common Expenses;
- (b) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;
- (c) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;
- (d) procuring and maintaining for the benefit of the Villas Corporation and the Villas Board the insurance coverages required under the Villas Declaration and such other insurance coverages as the Villas Board, in its sole discretion, may deem necessary or advisable; and
- (e) maintenance which is the obligation of the Villas Corporation pursuant to the Maintenance Guidelines as may be adopted by the Villas Board (the “Maintenance Guidelines”).

Section 3.07. Powers of the Villas Board of Directors. The Villas Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) to employ a Managing Agent to assist the Villas Board in performing its duties;

(b) to purchase, lease or otherwise obtain for the Villas Corporation to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Villas Board of Directors;

(c) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Villas Board of Directors may be necessary or desirable in connection with the business and affairs of the Villas Corporation;

(d) to employ, designate, discharge and remove such personnel as in the judgment of the Villas Board of Directors may be necessary for the Villas Board of Directors to perform its duties;

(e) to include the costs of all of the above and foregoing as Villas Common Expenses and to pay all of such costs therefrom;

(f) to open and maintain a bank account or accounts in the name of the Villas Corporation; and

(g) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate and Common Area (in addition to those set forth in the Villas Declaration) as the Villas Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Villas Board shall be promptly delivered or mailed to all Owners. Such rules and regulations may provide that an Owner's failure to comply with such rules and regulations may result in the imposition of fines by the Villas Corporation against the Owner.

Section 3.08. Limitation on Villas Board Action. After the Applicable Date, the authority of the Villas Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000.00) without obtaining the prior approval of a majority of the Owners, except that in the following cases such approval shall not be necessary:

(a) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget; and

(b) expenditures necessary to deal with emergency conditions in which the Villas Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

Section 3.09. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority vote of the Owners. The Managing Agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Villas Common Expense.

Section 3.10. Meetings. Regular meetings of the Villas Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. The Secretary shall give notice of regular meetings of the Villas Board to each Director personally or by United States mail at least five (5) days prior to the date of such meeting.

Special meetings of the Villas Board may be called by the President or any two members of the Villas Board. The person or persons calling such meeting shall give written notice thereof to the Secretary who shall either personally or by mail, and at least three (3) days prior to the date of such special meeting, give notice to the Villas Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place and at such time within Hamilton County, Indiana, or any of the contiguous counties, as shall be designated in the notice.

Section 3.11. Waiver of Notice. Before any meeting of the Villas Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting or his subsequent consent to the actions taken thereat, shall, as to such Director, constitute a waiver of notice of the time, place and purpose thereof. If all Directors are present at any meeting of the Villas Board, no notice shall be required and any business may be transacted at such meeting.

Section 3.12. Quorum. At all meetings of the Villas Board a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Villas Board.

Section 3.13. Non-Liability of Directors. The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Villas Corporation shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Villas Board on behalf of the Villas Corporation, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Villas Corporation.

Section 3.14. Additional Indemnity of Directors. The Villas Corporation shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Villas Corporation, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in such action, suit or proceeding where such Director is adjudged liable for bad faith, gross negligence

or willful misconduct in the performance of his duties. The Villas Corporation shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority of the votes of the Owners that such Director was not guilty of gross negligence or willful misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Villas Corporation or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Villas Corporation to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Villas Board of Directors.

Section 3.15. Bond. The Villas Board of Directors may provide surety bonds and may require the Managing Agent (if any), the Treasurer of the Villas Corporation and such other officers as the Villas Board deems necessary to provide surety bonds, indemnifying the Villas Corporation against larceny, theft, embezzlement, forgery, misappropriation, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Villas Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Villas Board. A Managing Agent shall provide such bond at its expense. For all officers and directors, the expense of any such bonds shall be a Villas Common Expense.

Section 3.16 HOA Act. Notwithstanding any provision of this Declaration to the contrary, the Villas Corporation shall be run with due regard and in compliance with the Homeowner's Association Act, Indiana Code Section 32-25.5 *et seq.*, as amended (the "HOA Act"). As a part of this obligation, the Villas Corporation shall (i) maintain the roster and other information regarding the Owners and make such information available to the Owners as required under Section 32-25.5-3-1 of the HOA Act, (ii) shall prepare and adopt an annual budget and make documents available to the Owners consistent with the requirements and procedures of Section 32-25.5-3-3 of the HOA Act, (iii) not enter into any contract or borrow funds in violation of Sections 32-25.5-3-4 and 32-25.5-3-5 of the HOA Act, and (iv) maintain and follow a grievance resolution procedure required under Section 32-25.5-5 of the HOA Act, which procedure is set forth in Section 9.05 of these By-Laws. In the event of a conflict between the Declaration, HOA Act and these By-Laws, the HOA Act shall control.

ARTICLE IV Officers

Section 4.01. Officers of the Association. The principal officers of the Villas Corporation shall be the President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Villas Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more

offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 4.02. Election of Officers. The officers of the Villas Corporation shall be elected annually by the Villas Board at the initial meeting of each new Villas Board. Upon an affirmative vote of a majority of all members of the Villas Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Villas Board or at any special meeting of the Villas Board called for such purpose.

Section 4.03. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Villas Corporation. He shall preside at all meetings of the Villas Corporation and of the Villas Board, shall have and discharge all the general powers and duties usually vested in the office of president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including but not limited to the power to appoint committees from among the Owners as he may deem necessary to assist in the affairs of the Villas Corporation and to perform such other duties as the Villas Board may from time to time prescribe.

Section 4.04. The Vice President. The Vice President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Villas Board or by the President.

Section 4.05. The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Villas Corporation and of the Villas Board and shall keep or cause to be kept a true and complete record of the proceedings of such meetings, shall perform all other duties as from time to time may be prescribed by the Villas Board. The Secretary shall specifically see that all notices of the Villas Corporation or the Villas Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 4.06. The Treasurer. The Villas Board shall elect from among the Directors a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Villas Corporation and who shall perform such other duties incident to the office of Treasurer. He shall be the legal custodian of all monies, notes, securities and other valuables which may from time to time come into possession of the Villas Corporation. He shall immediately deposit all funds of the Villas Corporation coming into his hands in some reliable bank or other depository to be designated by the Villas Board and shall keep such bank account or accounts in the name of the Villas Corporation. The Treasurer may permit the Managing Agent to handle and account for monies and other assets of the Association to the extent appropriate as part of its duties.

Section 4.07. Assistant Officers. The Villas Board of Directors may, from time to time, designate and elect from among the Owners an Assistant Secretary and an Assistant Treasurer who shall have such powers and duties as the officers whom they are elected to assist shall

delegate to them and such other powers and duties as these By-Laws or the Villas Board of Directors may prescribe.

ARTICLE V Villas Assessments

Section 5.01. Annual Accounting. Annually, after the close of each fiscal year of the Villas Corporation, the Villas Board shall cause to be prepared and furnished to each Owner a financial statement prepared by an accountant approved by the Villas Board, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 5.02. Proposed Annual Budget. Annually, before the date of the annual meeting of the Villas Corporation, the Villas Board of Directors shall cause to be prepared a proposed annual budget for the next fiscal year estimating the total amount of the Villas Common Expenses for the next fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual meeting of the Villas Corporation for adoption, and, if so adopted, shall be the basis for the Villas Regular Assessments for the next fiscal year. At the annual meeting of the Owners, the Budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Owners present either in person or by proxy; provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Villas Regular Assessments, and all sums assessed by the Villas Corporation shall be established by using generally accepted accounting principles applied on a consistent basis.

The annual budget and the Villas Regular Assessment shall, in addition, be established to include (1) Villas Regular Assessments; (2) the establishment and maintenance of a Villa's Villas replacement reserve fund for capital expenditures and replacement and repair of the roofs and exterior Duplex Units that must be repaired and replaced on a periodic basis ("Villas Replacement Reserve Fund"). The Villas Replacement Reserve Fund shall be used for these purposes and not for usual and ordinary maintenance expenses. Usual and ordinary expenses which will not be paid out of the Villas Replacement Reserve Fund include but are not limited to, snow removal, fertilization, annual plantings, mulch, and preventive maintenance contracts. Such Villas Replacement Reserve Funds for capital expenditures and replacement and repair of the roofs and exteriors of Duplex Units shall be maintained by the Villas Corporation in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Hamilton or Marion County, Indiana as selected from time to time by the Villas Board.

The failure or delay of the Villas Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Villas Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Villas Corporation, there is no annual budget approved by the Owners as herein provided for such

current fiscal year, the Owners shall continue to pay Villas Regular Assessments based upon the last approved budget or, at the option of the Villas Board, based upon one hundred ten percent (110%) of such last approved budget, as a temporary budget.

Section 5.03. Villas Regular Assessments. The annual budget, as adopted by the Owners, shall contain a proposed assessment against each Lot equal to the Villas Common Expenses multiplied by a percentage equal to one divided by the total number of Lots in the Real Estate. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Lot (herein called the “Villas Regular Assessment”). In the event the Villas Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Villas Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Villas Regular Assessment shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds. The Villas Regular Assessment against each Lot shall be paid in advance in equal annual installments, with the payments due on the first day of January. Payment of the annual installments of the Villas Regular Assessment shall be made to the Villas Board of Directors or the Managing Agent, as directed by the Villas Board of Directors. An Owner may elect to pay assessments annually, in advance. Semi-annual installments of Villas Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Villas Board or the Villas Corporation, and neither the Villas Board nor the Villas Corporation shall be responsible for providing any notice or statements to Owners for the same. In the event the Villas Regular Assessment for a particular fiscal year of the Villas Corporation was initially based upon a temporary budget:

(i) If the Villas Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Villas Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Villas Regular Assessment which is due shall be paid with such next payment, and all payments thereafter during such fiscal year, shall be increased so that the Villas Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or

(ii) If the Villas Regular Assessment based upon the temporary budget exceeds the Villas Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Villas Regular Assessment coming due, until the entire amount of such excess has been so credited;

provided, however, that if an Owner had paid his Villas Regular Assessment annually in advance, then the adjustments set forth under (i) or (ii) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Villas Regular Assessment based upon the annual budget finally adopted by the Owners.

The Villas Regular Assessment for the current fiscal year of the Villas Corporation shall become a lien on each separate Lot as of the first day of each fiscal year of the Villas Corporation, even though the final determination of the amount of such Villas Regular Assessment may not have been made by that date. The fact that an Owner has paid his Villas Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Villas Regular Assessment are finally determined, approved and adjusted as provided herein, sells, conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Lot from payment of the Villas Regular Assessment for such Lot as finally determined, and such Owner and his successor as Owner of such Lot shall be jointly and severally liable for the Villas Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Villas Corporation pursuant to Section 8.02 hereof prior to the final determination and adoption of the annual budget and Villas Regular Assessment for the year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Villas Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations.

Payment of Villas Regular Assessments prior to the Applicable Date with respect to each Lot shall commence on the date of conveyance of such Lot by Declarant or current owner to a new owner ("Commencement Date"). The first payment shall be payable on the Commencement Date prorated to the first day of the month when the next payment is due. Thereafter, payment of Villas Regular Assessments shall be paid semi-annually.

Section 5.04. Villas Special Assessments. From time to time Villas Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in these By-Laws or the Villas Declaration, the Villas Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Villas Board, shall become a lien on each Lot, prorated in equal shares (herein called "Villas Special Assessment"). Without limiting the generality of the foregoing provisions, Villas Special Assessments may be made by the Villas Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in the Villas Declaration.

Section 5.05 Villas Replacement Reserve Fund. Prior to the Applicable Date, ten percent (10%) of the Capital Contribution (as defined in Section 5.07 below) shall be deposited into the Villas Replacement Reserve Fund (as established by Section 5.02) until the balance of such Villas Replacement Reserve Fund is Twenty-Five Thousand Dollars (\$25,000.00). Thereafter, deposits into the Villas Replacement Reserve Fund will cease unless and until expenditures are made from such fund, at which time fifty percent (50%) of the Capital Contribution will again be deposited into such fund until the balance of such fund again reaches Twenty-Five Thousand Dollars (\$25,000.00). After the Applicable Date, one hundred percent (100%) of the Capital Contribution will be deposited into the Villas Replacement Reserve Fund regardless of the balance of such fund.

That portion of the Villas Regular Assessment collected by Declarant prior to the Applicable Date applicable to the Villas Replacement Reserve Fund shall be held by the Initial Villas Board and used for those expenses described in Paragraph 5.07. To the extent that such Villas Replacement Reserve Fund is not so applied, the balance thereof shall be retained by the Villas Corporation at the Applicable Date.

Section 5.06. Payment of Villas Assessments by Declarant. The Declarant shall not be assessed any portion of any Villas Regular Assessment or Villas Special Assessment. Prior to the Applicable Date, Declarant hereby covenants and agrees to pay to the Villas Corporation an amount equal to the difference, if any, between the expenditures of the Villas Corporation made pursuant to the Villas Declaration and the aggregate amount of all Villas Regular Assessments and Villas Special Assessments collected by the Villas Corporation. Any such payment by the Declarant shall not establish any precedent for further or additional payments. Further, Declarant may advance funds to offset deficits on terms and conditions acceptable to the Villas Board of Directors and Declarant.

Section 5.07. Capital Contribution. At the first closing of the purchase of a Lot containing a Dwelling Unit from Declarant or the original third-party builder, the purchaser is required to pay an amount equal to fifty percent (50%) of the Villas Regular Assessment due on such Lot as purchaser's initial contribution to the Villas Replacement Reserve Fund and working capital fund of the Villas Corporation. This sum is not an advance payment of Villas Regular Assessments, but is allocated to the reserve fund and working capital fund to meet unforeseen expenditures and operating expenses and to purchase additional equipment and services. After the Applicable Date, the balance of the working capital fund shall be transferred to the Villas Corporation. At such times as the balance of the working capital fund is Five Hundred and 00/100 Dollars (\$500.00), Declarant may reimburse itself from such capital contributions for any subsidies paid or advances made to offset deficits. Once Declarant is reimbursed, such amounts shall be deposited into the working capital fund, regardless of the balance of such working capital fund.

Section 5.08. Failure of Owner to Pay Assessments. No Owner may exempt himself from paying Villas Regular Assessments and Villas Special Assessments or from contributing toward the Villas Common Expenses or Master Common Expenses or toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Area or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the

payment of all Villas Regular Assessments and Villas Special Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Villas Regular Assessment or Villas Special Assessment when due, the lien for such assessment on the Owner's Lot may be filed and foreclosed by the Villas Board of Directors for and on behalf of the Villas Corporation as a mortgage on real property or as otherwise provided by law. Upon the failure of the Owner to make timely payments of any Villas Regular Assessment or Villas Special Assessment, the Villas Board of Directors may, in its discretion, accelerate the entire balance of unpaid assessments and declare the same immediately due and payable. The Villas Board of Directors may, at its option, bring suit to recover a money judgment for any unpaid Villas Regular Assessment or Villas Special Assessment, without foreclosing or waiving the lien securing the same. In any action to recover a Villas Regular Assessment or Villas Special Assessment, whether by foreclosure or otherwise, the Villas Board of Directors, for and on behalf of the Villas Corporation, shall be entitled to recover from such Owner the costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, and interest from the date such assessments were due until paid at the rate equal to the prime interest rate as announced by Chase Bank, Indianapolis, N.A., from time to time by, or if said bank is no longer in existence then such rate charged by another national bank in Hamilton County, Indiana, as selected by the Villas Board of Directors, during the unpaid period plus twelve percent (12%).

Section 5.09. Subordination of Assessment Lien to Mortgage. Notwithstanding anything contained in this Section or elsewhere in the Villas Declaration, Articles and these By-Laws, any sale or transfer of a Lot to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Villas Regular Assessment or Villas Special Assessment as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Villas Regular Assessments or Villas Special Assessments thereafter becoming due or from the lien therefor. Any such unpaid Villas Regular Assessments or Villas Special Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Villas Common Expense, collectible from all Owners (including the party acquiring the subject Lot from which it arose).

ARTICLE VI Covenants and Restrictions

Section 6.01. Covenants and Restrictions. Paragraph 21 of the Master Declaration establishes covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units, Real Estate and Common Area which shall be in addition to any other covenants or restrictions contained in the Villas Declaration, these By-Laws and in the Plats. All such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Villas Corporation. An Owner and/or the Villas Corporation shall be entitled to injunctive relief

against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation.

Notwithstanding anything to the contrary contained herein or in the Articles, Master Declaration or Villas Declaration, Declarant shall have, for so long as Declarant owns any Lot or any of the Real Estate, the right to use and maintain any Lots and Dwelling Units owned by Declarant and other portions of the Real Estate (other than individual Dwelling Units and Lots owned by persons other than Declarant), as Declarant deems advisable or necessary in its sole discretion to aid in (i) the construction of Dwelling Units; (ii) the sale of Lots and Dwelling Units; and (iii) the conducting of any business or activity attendant thereto. Such Declarant's rights shall include, but not be limited to, construction and use of model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices on the Real Estate. Declarant shall have the right to relocate any or all of the same from time to time as it desires. At no time shall any of such facilities so used or maintained by Declarant be or become part of the Common Area, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Real Estate at any time.

Section 6.02. Right of Entry. All Owners and occupants of a Lot and Dwelling Unit shall be deemed to have granted the right of entry thereto to the Managing Agent, if any, or any other person authorized by the Villas Board of Directors in case of any emergency originating in or threatening his Lot or Dwelling Unit, whether the Owner is present at the time or not.

Section 6.03. Right of Villas Board to Adopt Rules and Regulations. The Villas Board may promulgate such additional rules and regulations regarding the operation of the Real Estate, including but not limited to the use of the Common Area, as it may deem necessary from time to time and such rules as are adopted may be amended by a vote of a majority of the Villas Board, and the Villas Board shall cause copies of such rules and regulations and all amendments thereto to be delivered or mailed promptly to all Owners.

ARTICLE VII Amendment to By-Laws

Section 7.01. Amendment to By-Laws. Subject to any contrary, overriding or superseding provisions set forth herein or in the Villas Declaration, these By-Laws may be amended in the same manner, and subject to the same limitations and requirements, as amendments to the Declaration, as set forth in Section 18 of the Villas Declaration. Notwithstanding anything to the contrary contained herein or in the Villas Declaration, there shall be no amendment of the Villas Declaration or these By-Laws prior to the Applicable Date without the consent and approval of Declarant.

ARTICLE VIII Mortgages

Section 8.01. Notice to Villas Corporation. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify the Secretary of the Villas Corporation thereof and

provide the name and address of the Mortgagee. A record of such Mortgagee and its name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Villas Declaration, these By-Laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record at the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Villas Declaration, these By-Laws or otherwise shall be required and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled by virtue of the Villas Declaration, these By-Laws, or proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Villas Corporation shall, upon request of a Mortgagee who has furnished the Villas Corporation with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under the Villas Declaration or these By-Laws which is not cured within sixty (60) days.

Section 8.02. Notice of Unpaid Assessments. The Villas Corporation shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Villas Regular Assessment, Villas Special Assessment or other charges against the Lot, which statement shall be binding upon the Villas Corporation and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments in excess of the amounts set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 5.03 hereof.

Section 8.03. Right of Mortgagee to Pay Real Estate Taxes or Insurance Premiums. Mortgagees shall have the right, but not the obligation, (1) to pay any taxes or other charges against the Common Area which are in default and (2) to pay any overdue premiums on insurance for the Common Area or to secure new insurance for the Common Area on the lapse of a policy with fifteen (15) days' notice to the Villas Corporation. Any mortgagee making such payment shall be owed immediate reimbursement by the Villas Corporation.

ARTICLE IX Miscellaneous

Section 9.01. Fiscal Year. The fiscal year of the Villas Corporation shall be the calendar year.

Section 9.02. Membership Certificates. Each Member of the Villas Corporation shall receive a certificate from the Villas Corporation, signed by the President or Vice-President, and Secretary or Assistant Secretary thereof, stating that he is a Member of the Villas Corporation. Such certificates shall be non-transferable and a Member's certificate shall become void and of no force and effect upon sale by a Member of his Lot. Such membership certificates shall be in a form and style determined by the Villas Board.

Section 9.03. Personal Interests. No member of the Villas Corporation shall have or receive any earnings from the Villas Corporation as a result of being an officer or director of the Villas Corporation, except a member may receive principal and interest on moneys loaned or advanced to the Villas Corporation as provided in the Statute.

Section 9.04. Contracts, Checks, Notes, Etc. All contracts and agreements entered into by the Villas Corporation and all checks, drafts and bills of exchange and orders for the payment of money shall, in the conduct of the ordinary course of business of the Villas Corporation, unless otherwise directed by the Villas Board of Directors, or unless otherwise required by law, be signed by the President or in his absence the Treasurer. Any one of the documents heretofore mentioned in this section for use outside the ordinary course of business of the Villas Corporation or any notes or bonds of the Villas Corporation shall be executed by and require the signature of the President and Secretary.

Section 9.05. Dispute Resolution.

(a) Introduction

The Villas Corporation, Declarant, and all persons subject to this Villas Declaration (collectively, the “Parties”) agree to encourage the amicable resolution of disputes involving matters such as the initial construction and development of Real Estate, the repair, restoration or replacement of the Real Estate, contributions to the Villas Regular Assessment or Villas Special Assessment, Villas Replacement Reserve Fund, working capital fund, and the budget, including Villas Common Expenses. To that end, and to avoid the financial and emotional costs associated with litigation, the Parties agree that should a Claim (as defined below) arise out of or be in relation to the Real Estate or any Governing Documents (as defined below), and the Parties are unable to resolve the Claim through direct discussion, the Parties shall attempt in good faith to resolve the Claim promptly by mediation between the Parties. If the mediation does not prove successful, either Party may seek to resolve the Claim through binding arbitration. Accordingly, each Party covenants and agrees that this Section applies to all Claims.

(b) Definitions

(i) “Claim” means any grievance or dispute between Parties involving the Real Estate or Governing Documents, except Exempt Claims as they are defined below. “Claims” include, without limitation:

- A. Claims arising out of or relating to the interpretation, application, or enforcement of the Governing Documents.
- B. Claims relating to the rights and/or duties of Parties under the Governing Documents.
- C. Claims relating to the design, construction, or maintenance of the Real Estate.

(ii) “Claimant” means any Party having a Claim against any other Party.

(iii) “Exempt Claims” refers to grievances or actions which are exempt from this Section. “Exempt Claims” include:

A. The Villas Corporation’s claim for assessments due from an Owner (other than Declarant), and any action by the Villas Corporation to collect assessments from an Owner (other than Declarant).

B. An action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief to maintain the status quo and preserve the Party’s ability to enforce the provisions of the Master Declaration or Villas Declaration.

C. Enforcement of the easements, architectural control and use restrictions of the Master Declaration or Villas Declaration.

D. A suit to which an applicable statute of limitations would expire within the notice period of this Section, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Section.

E. A dispute that is subject to alternate dispute resolution - such as mediation or arbitration - by the terms of applicable law or another instrument, such as a contract or warranty agreement, in which case the dispute is exempt from this Section, unless the Parties agree to have the dispute governed by this Section.

(iv) “Respondent” means any Party responding to a Claim.

(v) “Governing Documents” means, singly or collectively as the case may be, the Master Declaration, the Villas Declaration, the Plats, these By-Laws and the Articles, as any of these may be amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Governing Document is a part of that Governing Document.

(c) Mediation.

(i) Notice. Claimant must notify Respondent of his demand for mediation of his Claim in writing (the “Claim Notice”), stating plainly and concisely: (1) the nature of the Claim, including date, time, location, persons involved, and Respondent’s role in the Claim; (2) the basis of the Claim (i.e., the provision of the Governing Documents or other authority out of which the

Claim arises); (3) what Claimant wants Respondent to do or not do to resolve the Claim; and (4) that the Claim Notice is given pursuant to this Section. The Claim Notice for mediation may be made concurrently with the filing of a demand for arbitration (as provided in sub-paragraph (d) below), but in such event mediation shall proceed in advance of binding arbitration, and the binding arbitration shall not commence until the mediation process has completely concluded.

(ii) Location of Mediation. The location of any mediation will be Hamilton County, Indiana.

(iii) Choice of Mediator. Once a Respondent receives a Claim Notice, the Respondent will have twenty (20) days to respond to the Claimant's Claims. Within ten (10) days after the Respondent submits his response, both Parties must also exchange a list of five (5) acceptable mediators. The mediation will be conducted by a single mediator mutually agreed to by the Parties from the mediator list. If the Parties do not have a mutually agreeable mediator on their lists, the Parties will have to reach an agreement upon a mediator with the only requirement being that the mediator must have experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. The Parties will have ten (10) days to agree to a mediator after the lists have been exchanged.

(iv) Role of Mediator. Once the date of the first formal mediation session is set, the mediator may require the Parties to submit (a) a mediation statement clarifying the disputed issues, as well as each Party's position and a summary of arguments supporting that position, and (b) the name and title of the person or persons who will attend and have authority to make settlement decisions binding on the respective Parties. At all times during the mediation process, the mediator will maintain impartiality, though he may give his views, opinions or settlement proposals as a means to move the dispute toward resolution. However, the mediator's views, opinions, and settlement proposals shall not be deemed to be legal advice. Information exchanged during the mediation is confidential unless it otherwise would be discoverable or admissible at another legal proceeding.

(v) Waiver of Mediation. If Claimant does not submit the required list of mediators, cannot reach an agreement with Respondent as to an acceptable mediator within the ten (10) days after the lists of mediators have been exchanged, ever fails to attend a formal mediation session, or in any other way fails to participate in the mediation process, the Claimant will be deemed to have waived the Claim and the Respondent will be released and discharged from any and all liability to Claimant on account of the Claim.

(vi) Enforcement of Resolution. Any settlement of a Claim through initial negotiation or subsequent mediation will be documented in writing and signed by the Parties. Any settlement agreement that they may enter into during the mediation process is fully binding and enforceable by any Court with jurisdiction of the Claim. Thus, if any Party thereafter fails to abide by the terms of the agreement, then the other Party may file suit or initiate administrative proceedings to enforce the agreement without the need to again comply with the procedures set forth in this Section. In that event, the Party taking action to enforce the agreement is entitled to recover from the non-complying Party all costs incurred in enforcing the agreement, including, without limitation, attorney's fees and court costs.

(vii) Termination of Mediation. If the Parties do not settle the Claim within sixty (60) days after the Claim Notice, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may make a demand for binding arbitration if the Claimant did not already simultaneously make one at the time that the Claimant made a demand for mediation.

(viii) Partial Resolution of Claims. If the Parties were able to resolve some, but not all, of the Claims at issue at the mediation, then the issues that were resolved will be documented in writing and signed by the Parties as provided in sub-paragraph (vi) above. These claims will not be at issue in the binding arbitration and shall be enforced in the same manner as discussed in sub-paragraph (vi) above.

(ix) Allocation of Costs. Except as otherwise provided in this sub-paragraph (ix), each Party bears all of its own costs incurred prior to and during the proceedings described above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.

(d) Arbitration

(i) Matters to be submitted to Binding Arbitration. Any Claim which would be subject to mediation as set forth in this Section is also subject to binding arbitration.

(ii) Initiation of Claim. Arbitration of any Claim shall be initiated by a Claimant making a written demand therefor after all attempts at a meaningful mediation have failed. The demand for arbitration shall take the same form as the Claim Notice set forth in sub-paragraph (c)(i) above. As discussed above, a Claimant can simultaneously demand mediation and arbitration, but the demand for arbitration must be held in abeyance until the mediation process has been completed.

(iii) Location of Arbitration. The location of any arbitration will be in Hamilton County, Indiana.

(iv) Selection of Arbitrators. Unless otherwise agreed to in writing by the parties to the arbitration, the Claimant and Respondent shall each choose one arbitrator. These two (2) arbitrators will, in turn, then agree upon a third arbitrator.

(v) Arbitration Procedures. The arbitrators shall commence hearings within thirty (30) days of the initiation of the arbitration process. Prior to the hearings, Claimant or Respondent may send out requests to compel document production from the other Party. Disputes concerning the scope of document production and or may be ordered by the arbitrators to the extent reasonable. When rendering a decision, the arbitrators may base such decision only on the facts presented in the course of arbitration and shall not modify or amend the provisions of any Governing Document. Subject to the other terms hereof, if a Party fails or refuses to appear at and participate in an arbitration hearing after due notice, the arbitrators may hear and determine the Claim upon evidence produced by the appearing Party.

(vi) Applicable Rules. Notwithstanding any other provisions of the Governing Documents, the foregoing agreement to arbitrate shall be subject to the rules set forth in the Federal Arbitration Act. Except where contrary to the provisions set forth in the Governing Documents, the arbitrator shall apply the rules set forth in the Federal Arbitration Act to the arbitration of any Claim. However, the parties may agree in writing to any additions, deletions or changes to the applicable arbitration rules.

The foregoing agreement to arbitrate does not constitute any agreement or consent to arbitrate any Claim not described in this Section or with any person not named or described herein. Any arbitration proceeding initiated under the terms of this Section may, at the request of either of the Parties may be joined or consolidated with other arbitration proceedings involving additional parties if the Claim and the subject of such other proceedings arise out of common or interrelated factual occurrences.

(vii) Binding Arbitration. THESE BY-LAWS CONTAIN A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES. Any award of the arbitrator shall be final and binding upon the Parties and judgment thereon shall be entered by any court having jurisdiction.

(viii) Costs. The arbitration costs shall be borne equally by the Parties, except that each Party shall be responsible for its own expenses.

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