

**BY-LAWS
OF
MOUNTAINSIDE VILLAS
OWNERS ASSOCIATION, INC.
As Amended Through November 13, 2004**

**ARTICLE I
IDENTITY**

The following By-Laws shall govern the operation of the Mountainside Villas Owners Association, a corporation not for profit, organized and existing under the laws of the Commonwealth of Virginia, and created under and subject to the statement of Mutual Ownership Agreements, Protective Covenants and Restrictions of Mountainside Villas, Massanutten Village, Rockingham County, Virginia, recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, hereinafter called "statement."

Section 1. Name

The name of this Association shall be Mountainside Villas Owners Association.

Section 2. Address

The office of the Association shall be at Massanutten Village, McGaheysville, Virginia, or at such other place that may be subsequently designated by the Board of Directors of the Association.

**ARTICLE II
PURPOSE AND RESPONSIBILITY**

Section 1. Purpose

The purpose of the Association shall be to own and maintain the Association property situated at Massanutten Village, maintain, repair, decorate and refurnish the interiors and exteriors of the units situated in Mountainside Villas, maintain and/or replace the fixtures, furniture, furnishings, equipment and other personal property appurtenant to the units and to otherwise promote, maintain, administer and provide for the welfare and property interest of the owners of Time Periods in and to units situated in Mountainside Villas, Massanutten Village,

McGaheysville, Virginia.

Section 2. Responsibility

The Association shall be responsible for providing and performing any and all acts and services of any type whatsoever, which may be necessary to carry out and effectuate the purpose of the Association and for enforcing the provisions of this statement. Provided further, however, the Board of Directors may delegate certain of these responsibilities to a Managing Agent as hereinafter provided.

ARTICLE III MEMBERSHIP AND VOTING

Section 1. Membership

- (a) Membership in the Association shall be limited to owners of Time Periods in and to units situated in Mountainside Villas, Massanutten Village. Transfer of ownership of a unit or Time Period either voluntarily or by operation of law shall terminate membership in the Association. The transferee will then acquire all of the rights and duties of his predecessor. The Association shall not be obligated to alter its records to reflect a change in ownership unless or until the Association is provided a copy of the appropriate and recorded legal documents transferring title of the property to the new owner.
- (b) If a unit or time period ownership is vested in more than one person, then all of the persons so owning said unit or use period shall be members of the Association eligible to hold office, attend meetings, etc., but as hereinafter set forth, the vote of a unit shall be cast by the voting member. If unit membership is vested in a corporation, said corporation may designate the individual officer an employee of or corporation as its voting member.

Section 2. Voting

- (a) The owner(s) of each Time Period in and to a unit and in good standing shall be entitled to one vote in the affairs of the Association providing their names appear as owners in the records of the Association (45 days prior to the voting). An individual(s) owning more than one (1) time Period shall be entitled to one (1) vote for each Time Period owned. A member in good standing shall mean any owner of record in Rockingham Virginia of County, a

Mountainside Villa who appears as an owner in the records of the Association and is not indebted to the Association for past due amounts in excess of forty dollars (\$40.00).

- (b) There shall be no vote for the Time Period designated as the maintenance period in and for each unit.
- (c) The vote of a Time Period shall not be divisible.
- (d) Providing that a quorum is present, a majority of the members' votes present at any meeting shall decide any question unless the statement or these By-Laws provide otherwise, in which event the percentage of votes required thereby shall control.

Section 3. Designation of Voting Members

- (a) If a Time Period is owned by one person, his right to vote shall be established by the recorded title to the unit.
- (b) If a Time Period is owned by more than one person, the person entitled to vote for the Time Period shall be designated in a Certificate signed by all of the owners of record of the Time Period and filed with the Secretary of the Association. The person designated in such a Certificate who is entitled to cast the vote for such a unit shall be known as the voting member. Such a Certificate shall be valid until revoked or until suspended by a subsequent Certificate or until a transfer in the ownership of the Time Period concerned. If such a certificate is not on file with the Secretary of the Association for such a Time Period, the vote of the said Time Period shall not be considered in determining a quorum or for any purpose requiring the vote of the membership of the Association. Provided, however, that if a Time Period is owned jointly by a husband and wife, the following three (3) provisions shall be applicable thereto:
 - (i) They may, but they shall not be required to, designate a voting member.
 - (ii) If they do not designate a voting member and if both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting. (As previously provided, the vote of a Time Period is not divisible).
 - (iii) Where they do not designate a voting member, and only one is present at a meeting, the person present may cast the vote for the Time Period as

though he or she owned the Time Period individually, and without establishing the concurrence of the absent person.

- (c) If a Time Period is owned by a corporation, the officer or employee thereof entitled to cast the vote of the Time Period for the corporation shall be designated in a certificate for this purpose; such a Certificate shall be signed by the President or Vice President of the corporation, attested to by the Secretary and filed with the Secretary of the Association. The provision of Subsection (b) of this Section shall govern the revocation and failure to file such a Certificate.

Section 4. Method of Voting

Votes may be cast in person by the designated voting member for each Time Period at the meeting at which subject is being voted upon or by filing a proxy as hereinafter provided.

Section 5. Proxies

The following procedure shall govern the casting of votes by proxy:

- (a) Upon notice by the Secretary of the Association of a special or annual meeting, the Managing Agent of the Mountainside Villas Owners Association shall immediately forward to each Time Period owner written notice of the meeting setting forth the time and place of the meeting, the purposes thereof and any issues to be voted upon by the membership.
- (b) The notice provided for in subsection (a) shall be mailed (in a manner predetermined by the Board of Directors at a regular meeting) to the address of each Time Period owner in good standing.
- (c) The notice provided for in Subsection (a) of this section shall also contain for the designated voting member for each Time Period, as established by Article III, Section 3 of these By-Laws, a proxy setting forth, but not limited to, the following items: the unit and Time Period for which the member is entitled to vote, the issues to be voted upon by the membership, and a place for that member to indicate his vote on each issue.
- (d) The proxies shall be completed by each designated voting member who shall sign same and return it to the office of the Managing Agent at least forty-eight (48) hours prior to the meeting for which the notice was sent.
- (e) The Managing Agent shall at the meeting, deliver to the Secretary of the Association, all of

the proxies which it received in accordance with subsection (d) of this Section, along with a Certificate which sets forth that all of the proxies so delivered, constitute the total numbers which were received by the Managing Agent, and such other information as the Secretary shall from time to time require.

- (f) The Proxies delivered to the Secretary shall be counted at the meeting and voted in accordance with the wishes of the voting member as designated thereon.
- (g) The managing Agent shall promptly notify the owners of the Time Periods of the matters discussed at all meetings and the outcome of any vote on any issue placed before the membership.
- (h) Where a unit is owned jointly by a husband and wife and if they have not designated one of them as a voting member, any proxy forwarded to the Managing Agent must be signed by both husband and wife.
- (i) The proxies provided for in this Section shall only be valid for the particular meeting designated thereon.

ARTICLE IV MEETINGS OF THE MEMBERSHIP

Section 1. Place

All meetings of the Association membership shall be held at Mountainside Villas, Massanutten Village, McGaheysville, Virginia, or at such other place and at such time as shall be designated by the Board of Directors of the Association and stated in the notice of the meeting.

Section 2. Notices

It shall be the duty of the Managing Agent to mail or deliver a notice of each annual or special meeting, stating the time and place thereof, to each Time Period owner of record and in good standing at least thirty (30) but not more than forty-five (45) days prior to such meeting. All notices shall conform to the provision of Article III, Section 5 thereof.

Section 3. Annual Meeting

The annual meeting shall be held on the second Saturday of November of each year at a time set by the Board at its Organizational Meeting for the purpose of electing directors and transacting any other business. At the annual meeting, elections by plurality vote of those present in person or by proxy shall be held for the Board of Directors in accordance with the provisions of Article V, Section 2, the annual budget for the ensuing year shall be presented and such other business shall be transacted as may be properly brought before the meeting. Voting for the Board of Directors shall be statutory. Business transacted at the annual meeting shall be confined to objectives stated in the notice provided per Article III, Section 5, subsection (a). No other business requiring a membership vote will be considered if not mentioned in the notice.

Section 4. Special Meeting

Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President, and shall be called by the President or Secretary at the request, in writing, of a majority of the Board of Directors, or at the request, in writing, of voting members representing sixty percent (60%) of the members' total votes, which request shall state the purpose or purposes of the proposed meeting. Business transacted at all special meetings shall be confined to the objects stated in the Notice thereof.

Section 5. Quorum

At any meeting of the Association, the presence in person or by proxy, the designated voting members whose voting interest constitutes ten percent (10%) of owners in good standing shall constitute a quorum and the occurring vote of such majority shall be valid and binding upon the Association except as otherwise provided in these By-Laws or the Declaration.

Section 6. Waiver and Consent

Whenever the vote of members at a meeting is required or permitted by any provision of these By-Laws to be taken in connection with any action in the Association, the meeting and vote of members may be dispensed with if not less than a majority of the members who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken; however, notice of such action shall be given to all members.

Section 7. Adjourned Meeting

If any meeting of members cannot be organized because a quorum of voting members is not present, either in person or by proxy, the meeting may be adjourned from time to time until a quorum is present.

Section 8. Notice to the Managing Agent and Attendance at Meetings

The Managing Agent shall be given sufficient notice prior to any meeting of the membership of the Association to enable it to effectuate the notice procedure set forth in Section 2 of this Article and the voting by proxy as set forth in Article III, Section 5 thereof. In addition, a duly authorized representative of the managing agent shall attend all meetings of the membership.

**ARTICLE V
DIRECTORS****Section 1. Number, Term and Qualifications**

- (a) The affairs of the Association shall be governed by a Board of Directors composed of ten (10) persons until November 12, 1988. Effective November 12, 1988, the Association shall

be governed by a Board of Directors composed of nine (9) persons elected from the membership and one voting ex officio member to be appointed by Great Eastern Resort Corp., its successors or assigns.

- (b) All directors shall be voting members in good standing of the Association.
- (c) The term of each Director's service shall be a period of three (3) years, commencing with the organizational meeting of the Board following his or her election at an Annual Meeting and ending at the beginning of the organizational meeting following the Annual Meeting three years later, or until death or prior removal or resignation. A Director may serve an unlimited number of terms.

Section 2. Establishment of Board of Directors

Elections to available positions on the Board of Directors shall occur at each Annual Meeting of the Association. Any MVOA member in good standing is eligible for consideration by the Nominating Committee to be placed on the Nominating Committee Report.

The Board shall appoint a Nominating Committee. The Nominating Committee shall solicit the Association membership for candidates, receiving a written statement of interest qualifications from each interested person in order to be considered for nomination. Such statements must be received by the Nominating Committee no less than 75 days prior to the Annual Meeting.

The Nominating Committee shall screen and nominate candidates for election to the Board of Directors. The Nominating Committee shall nominate not more than two candidates for each seat on the Board of Directors up for election.

The nominations submitted by the committee shall be made known to the membership prior to the Annual Meeting. The statements provided by the nominees shall be the basis of election information to be provided to the membership and will be sent with the Notice of Annual Meeting, and Proxy (both general and instructed proxies). The report of the Nominating Committee shall be formally presented at a regular meeting of the Board of Directors preceding the Annual Meeting at which the election is to take place and thereafter place on the Ballot for election. After the Nominating Committee has presented its report at the Annual Meeting the nominees are automatically placed in nomination without a second. Before voting, the chair shall call for further nominations from the floor.

Section 3. Meetings

(a) **Organizational Meeting:**

The organizational meeting of the Board shall be held on the same day as the Annual Meeting at such time and place as may be fixed by the members of the Board. At that meeting, the Board shall elect the corporate officers (and adopt the budget) for the ensuing year. No notice shall be required of the organizational meeting.

(b) **Regular Meetings:**

The Board shall hold regular meetings not less than four (4) times a year.

(c) **Special Meetings:**

(i) Special meetings of the Board shall be called by the President of the Association or in his absence, the Vice President upon written request of five (5) members of the Board for such meeting. The President shall call any such meetings not less than ten (10) nor more than twenty (20) days after receipt of such request, designating the time and location of such meetings.

(ii) The President may call a special meeting at any time in order to address an emergency situation or other urgent business requiring the immediate attention of the Board.

(d) The Board of Directors shall operate under the laws of the Commonwealth of Virginia, The Virginia Timeshare Act, the By-Laws of Mountainside Villas Owners Association, Inc., The Virginia Non-stock Corporation Act and Robert's Rules of Order in the priority stated.

Section 4. Notice of Meetings and Waiver

(a) Written notice of any meeting of the Board shall be given by the Secretary to each member of the Board at least five (5) days but not more than ten (10) days prior to such meeting.

(b) Notice may be waived by any Board member in writing either given before or after the meeting. No action of the Board shall be valid unless a quorum is present or unless the Board has acted without the formality of a meeting, which it may do by obtaining the written consent of all Board members for any action so taken. Any action taken on behalf of the Board but without prior authorization therefore may be subsequently ratified by the

Board.

Section 5. Quorum

A simple majority of the members of the Board shall comprise a quorum for the transaction of business.

Section 6. Voting

Each Board member shall be entitled to cast one (1) vote, and a simple majority vote of the Board members in attendance shall bind the Board for all purposes unless otherwise provided by law, in the statement or in these By-Laws; however, in no instance shall less than four (4) votes be binding upon the Board for all purposes unless otherwise provided by law, in the statement or in these By-Laws.

Section 7. Compensation

The Directors' fees, if any, shall be determined by the Voting members, provided that, the Board may establish policies for reimbursing Board Members for reasonable expenses incurred for Board activities.

Section 8. Removal of Directors

Following the approval of two-thirds (2/3) of the full Board of Directors the removal of a director shall be approved upon the affirmative vote of a majority of the voting members present, in person or by proxy, and voting at a meeting called for that purpose.

Section 9. Disqualification and Resignation of Directors

Any Director may resign at any time by sending a written notice of such resignation to the office of the Association, delivered to the Secretary. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the Secretary. More than three (3) absences from regular meetings of the Board of Directors in any one calendar year shall constitute a resignation effective when such resignation is accepted by the Board of Directors. The transfer of title of all owned Time Periods by a Director shall constitute a resignation, effective when such resignation is accepted by the Board of Directors. No member shall continue to serve on the

Board should be more than thirty (30) days delinquent in the payment of an assessment and said delinquency shall constitute a resignation, effective when such resignation is accepted by the Board of Directors.

Section 10. Filling Vacancies

In the event of any vacancy or vacancies on the Board, whether caused by resignation, death, disqualification or requirement, a majority of the remaining Directors though less than a quorum, shall elect a successor or successors who shall serve for the period of the unexpired term until the next Annual Meeting, at which Annual Meeting the Voting Members shall elect a successor or successors to serve for the balance of the unexpired term. Interim election by the Board shall be held at any regular or special meeting of the Board.

Section 11. Powers and Duties

(a) Powers

Subject to any limitations provided by law, the Statement or these By-Laws, the Board of Directors shall have such powers and authority as are necessary or desirable to enable it to manage and supervise the Association property and units in the residential area, administer the affairs of the Association and for such purposes, the powers of the Board shall specifically include but shall not be limited to:

- (1) engage and dismiss employees and agents, and define the duties and fix the compensation thereof;
- (2) open bank accounts, sign checks and drafts;
- (3) prepare and adopt an annual budget for the Association;
- (4) determine, levy and collect the common expense charge pursuant to the budget and to use and expend such funds in accordance with the budget and the statement;
- (5) collect individual expenses, as provided for in the statement;
- (6) make special assessments;
- (7) purchase supplies, materials, equipment, necessary for the maintenance, repair and refurbishing of the Association property and the units in the residential area;
- (8) appoint committees for such purposes as it may deem necessary; and act on behalf of all owners as agent with the right to appoint delegates and determine how all votes

shall be cast as may be required to represent the owners' or Association's interests in other associations or organizations which all members shall be affiliated with as a group and as a result of being a member of the Timeshare Owners' Association, it being specifically intended that the Board of Directors shall have the right to appoint a delegate to represent the Association at meetings of the Massanutten Property Owners Association.

- (9) enter into contracts, agreements, mortgages and other written instruments or documents and authorize the execution, delivery and if appropriate, the recording thereof by the officers of the Association;
- (10) retain, employ and hire a business entity to manage, maintain and supervise the Association property and the units in the residential area;
- (11) enforce the provisions of the statement or these By-Laws;
- (12) the foregoing rights and powers of the Board shall be in addition to and not in limitation of any other rights which the Board may have by law or under the statement or these By-Laws.

(b) Duties:

The duties of the Board shall specifically include but shall not be limited to the following:

- (1) the maintenance, repair, refurbishing and decoration of the interior and exterior of the units in the residential area;
- (2) the maintenance of the Association property;
- (3) the maintenance, repair and replacement of the personal property, furniture, fixtures, furnishings and equipment appurtenant to the units in the residential area;
- (4) obtaining and maintaining all necessary insurance for the Association property and the units in the residential area as provided for in the statement;
- (5) promulgation, distributing and enforcing of rules and regulations governing the details of the use and occupancy of the Association property and the units in the residential area;
- (6) providing all of the services for the necessary maintenance, operation and supervision of the Association property and the units in the residential area including but not

limited to the following services:

- i. trash and garbage collection
 - ii. water service
 - iii. sewage service
 - iv. building and ground maintenance
 - v. domestic services
 - vi. vermin extermination
 - vii. security guard
 - viii. utility
- (7) payment of all expenses and debts of the Association and the tax assessments against the Association property and the units in the residential area;
- (8) the performance of any other duties which may be imposed upon the Board from time to time pursuant to law or the provisions of the statement or these By-Laws or necessary to carry out the purposes of the Association.

Section 12. Notice to Managing Agent

The managing Agent shall be given reasonable notice of all of the meetings of the Board of Directors and shall have its duly authorized representative attend same.

Section 13. Indemnification.

- (a) Indemnification of Directors, etc.

The Association shall indemnify any director or officer of the Association against expenses (including legal fees), judgments, fines and amounts paid in settlements, actually and reasonably' incurred by him, to the fullest extent now or hereafter permitted by law in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, brought or threatened to be brought against him by reason of his performance as a director or officer of the Association, or in any other capacity in behalf of the Association. The Board of Directors by resolution adopted in each specific instance may similarly indemnify any person other than a director or officer of the Association for liabilities incurred by him in connection with services rendered by him for, or at the request of the Association. The provisions of

this section shall be applicable to all actions, suits or proceedings commenced after its adoption, whether such arise out of acts or omissions which occur prior or subsequent to such adoption, and shall continue as to a person who has ceased to be a director or officer or to render services for, or at the request of the Association, and shall inure to the benefit of the heirs, executors and administrators of such a person. The rights or indemnification provided for herein shall not be the exclusive rights to which any director, officer, employee, or agent of the Association may be entitled. The Association may pay the expenses incurred by any person entitled to be indemnified by the Association in defending a civil or criminal action, suit or proceeding in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking, by or on behalf of such person, to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized by law.

(b) **Liability Insurance**

The Association may purchase and maintain insurance on behalf of any person who is or was director, officer, employee, or agent of the Association or who is or was serving in any capacity in any other corporation or organization at the request of the Association against any liability asserted against him or incurred by him in any such capacity or arising out of his status of such, whether the Association would have the power to indemnify him against such liability under law.

ARTICLE VI MANAGEMENT FIRM

Section 1. Management Agreement

The Board of Directors pursuant to Article VI of this statement, shall enter into an agreement upon such terms and conditions as it may deem advisable with a management firm for the maintenance, supervision, operation and management of the Association property and the units situated in the residential area and for the administration of the affairs of the Association. Provided, however, if the said agreement conflicts with the statement or these By-Laws, or if any ambiguity results therefrom, then same shall be resolved in favor of the statement or these By-Laws.

Section 2. Delegation of Powers and Duties

The Board of Directors shall delegate to the Managing Agent in the management agreement, all of the powers and duties necessary to carry out the purposes of the Association and for the administration of the Association. Pursuant thereto, the Managing Agent shall accomplish all acts and exercise such authority which is not reserved to the membership or the Board or prohibited by law, the statement or these By-Laws. Provided, however, that the Managing Agent shall be at all times subject to the control of the Association and the Board shall not be liable for the managing agent's wrongful exercise of any power, malperformance or nonperformance of any duty which has been delegated to it.

ARTICLE VII OFFICERS

Section 1. Officers

- (a) The principal officers of the Association shall be a President, Vice President, a Treasurer and a Secretary.
- (b) One person may not hold more than one of the aforementioned offices except that one person may be both Treasurer and Secretary.
- (c) All of the aforementioned officers shall be elected members of the Board of Directors.

Section 2. Terms

The officers provided for in Section 1 of this Article shall be elected by the Board of Directors at the Organizational Meeting and shall serve for a one (1) year term from the date of election. Any officer may serve an unlimited number of terms so long as he has been re-elected to the Board of Directors.

Section 3. President

- (a) President:

The President shall be the chief executive officer of both the Association and the Board of Directors. Subject to the control of those two bodies, he shall direct, supervise, coordinate and have general control over the affairs of the Association and the Board. He shall preside

at all meetings of either body unless he is absent in which case the Vice President shall preside. He shall have all of the powers and duties generally and ordinarily attributable to a chief officer of a corporation domiciled in the Commonwealth of Virginia including the power to sign checks and documents on behalf of the Association.

(b) Vice President:

The Vice President shall perform all of the duties and have the authority of the President in his absence, and such other duties as may be required of him or assigned to him from time to time by the President or the Board of Directors.

(c) Secretary:

The Secretary shall keep or cause to be kept all records (or copies thereof if such documents must be recorded) of the Association and the Board and shall have the authority to affix the seal to any documents requiring same. He shall give or cause to be given all notices as required by law, the statement or these By-Laws (unless such duty is delegated to the Managing Agent) shall take and keep minutes of all meetings of the Association and the Board, shall maintain a record of the names and addresses of all Time Period owners and a voting list compiled pursuant to Article III, Section 5 hereof as well as copies of the Rules and Regulations of the Residential Area and copies of the Statement and copies of these By-Laws, all of which shall be available at the office of the Association for inspection by Time Period owners during normal business hours. The Secretary shall in general perform all duties and have such authority as are ordinarily attributable to the Secretary of a corporation domiciled in the Commonwealth of Virginia or are assigned or delegated to him by the President or the Board of Directors.

(d) Treasurer:

The Treasurer shall have charge and custody of, and be responsible for, all funds and securities of the Association, shall deposit, or cause to be deposited all such funds and securities in such depositories as the Board of Directors may direct, shall keep or cause to be kept correct and complete accounts and records of all financial transactions of the Association and shall submit or cause to be submitted to the Board of Directors and the Association such reports thereof as the law, the statement, these By-Laws or the Board may from time to time require. Such records shall include, without limitation, chronological listings of all receipts and expenditures on account of the Association property, each unit in

the residential area, the amount of common expense charge, special assessments, if any, and the amounts paid and the amounts due on each charge and assessments. Such records shall specify and itemize the maintenance, repair and replacement expenses relating to the Association property, the units in the residential area and any other expenses incurred by the Association. The foregoing financial reports shall be kept at the Association's office and shall be available there for inspection by Time Period owners during normal business hours. The Treasurer shall perform such duties and have such powers as are ordinarily attributable to the Treasurer of a corporation domiciled in the Commonwealth of Virginia or as are assigned to him by the President.

Section 4. Assistant Officers

- (a) The Board of Directors may appoint from time to time Assistant Secretaries or Assistant Treasurers or such other officers as it may deem necessary who shall have the power and perform the duties of their respective superior officers in the absence of same and shall perform such duties as may be delegated to them by the President or the Board of Directors.
- (b) Assistant Officers must be members of the Association but need not be members of the Board of Directors.

Section 5. Compensation

The Officers of the Association shall receive no compensation unless same is approved by the Association.

Section 6. Resignation and Removal

- (a) Any Board member who resigns, is disqualified or is removed as a Board member, pursuant to Article V of these By-Laws, shall also be deemed to have resigned, been disqualified, or removed from any office he may hold at that time.
- (b) Any Officer may resign at any time by written notice to the Board, effective as of the next Board meeting.
- (c) Any Officer may be removed from his office at any time by a majority of the Board of Directors, with or without cause, whenever in the best judgment of the Board members, interest of the Association will be best served.

Section 7. Filling Vacancies

Vacancies caused by resignation, disqualification, death or removal shall be filled by a majority vote of the Board members. Such successor to an office shall serve for the balance of unexpired term of the officer whom he replaces.

Section 8. Execution of Instruments

No agreement, check, document or other instrument shall be binding upon the Association unless entered into on its behalf by the Board and executed by the corporate officers, one of whom may be an assistant officer, unless such power is delegated to the Managing Agent, in which case the execution of the aforementioned by same shall be binding on the Association.

Section 9. Indemnification

Every officer of the Association shall be indemnified in accordance with the provisions of Article v, Section 13 hereof pertaining to the members of the Board of Directors of the Association.

**ARTICLE VIII
RIGHTS AND DUTIES OF THE
TIME PERIOD OWNERS**

- (a) Time Period owners shall comply strictly with all the provisions of the Statement, these By-Laws and any Rules and Regulations for the residential area promulgated hereunder and with any and all resolutions or decisions which may be rendered by the Association, the Board of Directors and when applicable, the Managing Agent. Any Time Period owner who shall fail to so comply, shall be subject to the remedies provided for in the Statement and/or these By-Laws and may be required by the Board to give security or such other guarantees as are satisfactory to the Board for his future compliance with all such provisions, resolutions and decisions.
- (b) Time Period owners shall use and occupy the unit in and to which they own a Time Shared interest only as residence and in accordance with the provisions of Article III of the statement. In addition, no Time Period owner shall in any event do any work, alterations or

improvements except as provided in Article III of the Statement.

- (c) Each Time Period owner will ensure that the unit in and to which he owns a Time Shared interest shall be kept in good, clean and sanitary conditions during his period of occupancy and that all appliances and equipment located in such unit are properly and adequately used during such period.
- (d) Each Time Period owner shall give the Board written notice within five (5) days of the receipt by such Time Period owner of notice of, or, of actual knowledge of (i) the attachment of any lien (other than the lien of a permitted mortgage) against any unit in which he has a Time Shared interest or (ii) the filing of any suit, claim, demand or proceeding against such unit or Time Shared interest and/or that may affect such Time Period owners' title to his Time Shared interest therein.
- (e) All Time Period owners shall pay the common expense charge, individual expense charge or assessment, charged to them in accordance with the provisions of the statement and these By-Laws as hereinafter set forth.

ARTICLE IX FINANCES, CHARGES AND ASSESSMENTS

Section 1. Depositories

The funds of the Association shall be deposited in such Banks, Savings & Loan Associations, Financial Institutions and/or government securities as may be determined by the Board of Directors from time to time and shall be withdrawn only upon check or demand executed pursuant to Article VII, Section 8 of these By-Laws. Provided, however, that such right and authority shall be delegated to the managing agent pursuant to Article VI, Section 2 hereof.

Section 2. Fidelity Bonds

- (a) The Treasurer and any other officer of the Association who is authorized to sign checks, handle, have control over or be responsible for the funds of the Association shall be bonded in such amount as may be determined by the Board of Directors of the Association but in no event less than Fifty Thousand Dollars (\$50,000). All bonds shall be in an amount sufficient to equal the monies an individual has control over or is responsible for via a signatory or bank account or other depository account.

- (b) The Managing Agent shall bond any of its employees who have control over, possession of, or responsibility for the funds of the Association in accordance with paragraph (a) of this section.

Section 3. Fiscal Year

The fiscal year for the Association shall begin on the first day of January of each year provided, however, that the Board of Directors is expressly authorized to change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed by the Internal Revenue Code of the United states of America, at such time as the Board of Directors may deem it advisable.

Section 4. Budget

- (a) The Board of Directors shall prior to the annual meeting of the membership, prepare a proposed annual budget for the Association for the ensuing year. The budget will, then, be presented to the membership at the annual meeting at which time same will be discussed and recommendations heard by the Board. Thereafter, the Board shall at its organizational meeting make any modifications, changes or amendments to the budget which it may deem necessary and in the best interests of the Association and shall adopt the budget in its final form as the budget of the Association for the ensuing year.
 - (i) Notwithstanding the provisions of paragraph (a) above, the Secretary of the Association or the Managing Agent shall forward to the members of the Association along with the notice of the annual meeting, a copy of the proposed budget, a copy of the estimate of the net expenses of the Association for the ensuing year (including reserves), and an estimate of the common expense charge per Time Period.
- (b) The Board of Directors may delegate the responsibility for the preparation of the proposed budget to the Managing Agent which will then submit and prepare along with its same, recommendations to the Board in accordance with the time limitations provided for by paragraph (a) of this Section. The Board, however, shall have the right sole and responsibility to adopt a final budget for the Association.

Section 5. Determination and Payment of Common Expense Charge

- (a) The Board of Directors shall upon adoption of the budget of the Association and pursuant thereto and in accordance with Article IV of the statement, determine the respective pro-rata amount of the total expenses of the Association for which each Time Period owner shall be liable as his common expense charge.
- (b) When the amount of the charge common expense has been determined, the Treasurer of the Association or the Managing Agent shall, not less than thirty (30) days prior to the due date, send by a manner of service determined by the Board of Directors at a regularly scheduled meeting to each Time Period owner at his address listed on the records of the Association, a statement setting forth that individual's common expense charge for each Time Period owned.
- (c) Each Time Period owner's common expense charge shall be due and payable thirty (30) days prior to the commencement of his Time Period in the year of purchase of such Time Period and thereafter shall be due and payable on January 1 of each succeeding year. Such charge shall be payable to the Association which shall upon request, provide a receipt.
- (d) If the Board of Directors shall fail to fix a new assessment for the ensuing fiscal year, pursuant to this section, then the Time Period owners shall pay the same common expense charge including, however, any special assessment they paid for the then current fiscal year as if such sum were the new assessment and such failure shall not constitute a waiver, modification or release of any Time Period owner's obligation to pay same. If the Board shall change such assessment at a later date, such new assessment shall be treated as a special assessment as hereinafter provided for.
- (e) No Time Period owner shall exempt himself from liability for the common expense charge by the waiver of the right to use the Association property or by the abandonment of his Time Period or otherwise.
- (f) In addition to any remedies that are provided for hereinafter, in these By-Laws, a Time Period owner who fails to pay his common expense charge may be prohibited by the Board from using the unit in and to which he owns his Time Period, during this period of occupancy or in the alternative, the Board may terminate all service, utility and otherwise to such unit during the owner's Time Period.

Section 6. Special Assessments

(a) Membership in General:

- (i) If the cash requirement estimated at the beginning of any fiscal year shall prove to be insufficient to cover the actual expenses of the Association of such fiscal year for any reason (including by way of illustration and not limitation, any Time Period owner's non-payment of his assessment), the Board shall, at any time it deems necessary and proper, levy a special assessment against each Time Period owner in the same proportion as the original common expense charge except that in the event such special is assessment required because of the failure of one or more Time Period owners promptly to pay his common expense charge, the amount of the special assessment shall be increased to compensate for the anticipated failure of such defaulting Time Period owner or owners to pay his or their share of such special assessment.
- (ii) Upon determination by the Board of Directors of the need for a special assessment pursuant to paragraph (a) (i) of this section and the amount thereof, the Treasurer of the Association or the Managing Agent shall within thirty (30) days of such determination forward by a manner of service determined by the Board Directors of at a regularly scheduled meeting to each Time Period owner as provided in paragraph (a) (i) above, at his address listed on the records of the Association, a statement setting forth the amount of the special assessment and the reasons therefore.
- (iii) The special assessment provided for in paragraph (a) of this section shall be payable within sixty (60) days of the receipt thereof by a Time Period owner.

(b) Specific Time Period Owners:

- (i) In the event that the Board of Directors shall determine that any expenditure which has been made out of the common expense fund of the Association is primarily for the benefit of or the responsibility of a specific Time Period owner or owners or that an expenditure must be made primarily for the benefit of or is the responsibility of a specific Time Period owner or owners, then the Board shall levy a special assessment upon such Time Period owner

or owners to obtain the funds necessary for or to recover such expenditure. If more than one Time Period owner is responsible for or will derive the benefit from the expenditure, the Board shall also determine the respective amounts of such expenditures for which each Time Period owner shall be liable.

- (ii) Upon the Board's making the determination set forth in paragraph (b) (i) of this section, the Treasurer of the Association or the Managing Agent shall notify the affected Time Period owners by a manner of service determined by the Board of Directors at a regularly scheduled meeting forwarded to their respective addresses as listed on the records of the Association, of the special assessment, the amount thereof, the reasons for the assessment and the terms and conditions for payment.
- (iii) Any Time Period owner who shall object to a special assessment levied pursuant to paragraph (b) (i) of this section or the amount thereof, shall be required to pay the amount of the special assessment when due but thereafter may be written notice forwarded within ninety (90) days from the date of payment of the special assessment to the Board, obtain a review of the Board's prior determination, conducted in accordance with Article XIII, Section 3 of these By-Laws. The Board shall notify any other Time Period owner involved of the objection and the review of the Board's determination.

Section 7. Delegation of Authority and Responsibility

The Board of Directors may delegate to the Managing Agent the duty and responsibility of levying and collecting from the Time Period owners all amounts payable as common expense charges or special assessments. If so delegated, the Managing Agent shall have the right and power to take any and all necessary action as provided in these By-Laws to collect same.

Section 8. Individual Expense Charge

- (a) The Board of Directors or the Managing Agent shall keep an accurate record of all items of expense which pursuant to Article VII, Section B of the statement are chargeable to individual Time Period owners as individual expense charges.
- (b) The Treasurer or the Managing Agent shall present a statement listing all such charges to the Time Period owner incurring same at the end of his Time Period or shall forward same

by a manner of service to be determined by the Board of Directors at a regularly scheduled meeting to such Time Period owner at his address as listed on the records of the Association as soon as such charges may feasibly be determined.

- (c) All individual expense charges shall be paid immediately upon receipt of the statement for same unless otherwise provided by the Board or Managing Agent.

Section 9. Default in Payment of Charges or Assessments

- (a) If a Time Period owner fails to pay any charge or assessment provided for by this Article, the Board of Directors or the Managing Agent shall on behalf of the Association institute such action against the Time Period owner obligated to pay the said charge and shall foreclose any judgment on the Time Period or periods owned by said individual or individuals. Any judgment entered against a Time Period shall include interest on the charge or assessment at the maximum rate allowed by law, costs and a reasonable attorney's fee for collection.
- (b) If a Time Period owner desires to remedy his default he shall be obligated to pay in addition to the amount of the assessment or charge and the interest due thereon, the following:
 - (i) A late fee of \$25.00.
 - (ii) Interest on all amounts owing, including late charges and fees, at a maximum lawful rate, compounded monthly.
 - (iii) All expenses of the Association including attorney's fees incurred in the collection of the delinquent charge or assessment on account of legal proceedings or otherwise.
 - (iv) Any amounts paid by the Association for taxes or on account of superior liens or otherwise to protect its lien upon the owner's Time Period.

Section 10. Application of Payments and Co-Mingling of Funds

- (a) All payments made pursuant to this Article shall be co-mingled in one account or divided into more than one account as determined by the Board of Directors.
- (b) All payments made pursuant to this Article shall be applied to interest, delinquencies, costs, attorney's fees and other charges, expenses and advances as may be provided for herein in the statement in such manner and amounts as the Board of Directors shall determine in its

discretion.

- (c) In no event shall the Managing Agent co-mingle the funds collected for this Association with those of any other entity for which it acts as manager.

Section 11. Annual Financial Statement by Management Firm

During the term of the Management Contract, the Managing Agent shall perform a continual internal audit of the Association's financial records for the purpose of verifying the same and shall conduct an internal audit on an annual basis, prepare all necessary financial statements for the operation conducted by the Managing Agent for the Association and submit same to the Board of Directors of the Association no later than the first of April in the year following the calendar year for which the statements are prepared. The financial records and statements of the Association shall be audited by an external and duly registered and licensed Certified Public Accountant who will submit his findings to the Association and enter an opinion as to the record thereof. Said audit shall be submitted to the Association prior to the first day of April in the year following the calendar year for which the audit is accomplished. The Board of Directors of the Association shall distribute and mail a summary of the financial statements provided for therein to the members of the Association, upon their receipt by the Treasurer of the Association. All financial statements referred to herein shall be maintained in the Managing Agent's office for member's inspections during normal business hours.

ARTICLE X COMPLIANCE

Section 1. Violations

In the event of a violation (other than the non-payment of charges or assessments by the Time Period owner of any of the provisions of the statement, or of these By-Laws, the Board of Directors or the Managing Agent shall notify the owner by written notice of said violation transmitted by first class mail, and if such violation shall continue for a period of thirty (30) days from the date of the notice, the Association, by the Board of Directors and/or the Managing Agent, shall have the right to treat such violation as an intentional and inexcusable and material breach of the statement, or the By-Laws, and the Association may then at its option, exercise the following remedies:

- (a) An action at law to recover any and all damages or amounts provided for by the statement.
Such action may be instituted on behalf of the Association, any Time Period owner or both.
- (b) An action in equity to enforce performance on the part of the owner; or
- (c) An action in equity for such equitable relief as may be necessary under the circumstances, including injunctive relief.

Upon finding by the Court that the violation complained of is willful and deliberate, the owner so violating shall reimburse the Association for reasonable attorney's fees incurred by its bringing such action. Any violations which are deemed by the Board of Directors or the Managing Agent to be a hazard to public health may be corrected immediately as an emergency matter and the cost thereof shall be charged to the owner as a special assessment.

Section 2. Negligence or Carelessness of Time Period Owners

Pursuant to the statement, all Time Period owners shall be liable for the cost of any maintenance or repair to the units, the Association property and the replacement or repair of furnishings, fixtures, or equipment rendered necessary by his act, neglect or carelessness or by any member of his family, of his or their guests, employee, agents or lessees, but only to the extent that such expense is not met by the proceeds of any insurance coverage. Such liability shall include any increase in insurance rates occasioned by the carelessness of misuse. Provided, however, that nothing herein contained shall be construed so as to modify any waiver by an insurance company of rights of subrogation.

Section 3. Waiver of Rights

All rights, remedies and privileges granted to the Association, the Managing Agent or Time Period owner, pursuant to any terms, provisions, covenants or conditions of the aforementioned statement or these By-Laws, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may exist at law or in equity.

**ARTICLE XI
TRANSFER OF OWNERSHIP****Section 1**

All owners of Time Period shall notify the Association of any transfer by sale or otherwise of the ownership of his Time Period within ten (10) days prior to the date of said transfer. Said notice shall include such information and be in such form as the Managing Agent or the Board of Directors' shall prescribe and require from time to time. All necessary notices sent to the persons shown as the owner of a Time Period on the records of the Association shall be binding as to any other owner of the said Time Period when no notification of a transfer of a Time Period is given in accordance with this section.

Section 2. Liability Survives Termination of Membership

The termination of membership in the Association by the transfer of an individual's Time Period shall not relieve or release any such former owner or members from any liability or obligations incurred under or in any way connected with the Association during the period of such ownership and membership, or impair any rights or remedies which the Association may have against such former owner and member arising out of or in any way connected with such ownership and membership, and the covenants and obligations incident thereto.

**ARTICLE XII
INSURANCE**

Section 1. Types of Insurance

Pursuant to Article VI of the statement, the Board of Directors or the Managing Agent shall make every effort to obtain the following types of insurance coverage:

- (a) Insurance against loss or damage by fire and other hazards covered by a standard extended coverage endorsement for each of the units situated in the residential area and the Association property in an amount equal to not less than ninety percent (90%) of the full insurable replacement value of same without deduction for depreciation payable to the Managing Agent and the Association on behalf of the Association and the Time Period owners as their respective interests may appear. Such insurance shall include a separate loss payable endorsement in favor of any holders of liens against the Time Periods in and to the units or the Association property, if any, modified to make the loss payable provisions in favor of such lien holders subject and subordinate to the loss payment provisions in favor of the Managing Agent and the Association under an appropriate agreement which provides that the Managing Agent or the Board shall hold and disburse all payments received on account of loss or damage recovered by such policy for repairs and restoration as provided in the statement.
- (b) Insurance coverage on all furniture, furnishing, equipment, appliances, and other personal property appurtenant to the units against loss or damage by fire with extended coverage including insurance against loss or damage by vandalism or malicious mischief. Said coverage to be obtained in an amount equal to the maximum replacement value thereof without deduction for depreciation payable to the Managing Agent and the Association.
- (c) Comprehensive liability insurance coverage insuring the Association, the Board of Directors and the Managing Agent, its employee and agents, and the Time Period owners in their capacity as Time Period owners against any liability to any person in any way arising out of or incidental to the ownership, possession, use, management or control of the units and the Association property or any parts thereof. Said insurance to be carried with limits of liability of at least One Million Dollars (\$1,000,000) in one or more policies covering all claims for bodily injury on property damage in any one occurrence.
- (d) Such other insurance for all risks of a similar or dissimilar nature to those referred to above as are now or may be hereafter customary for such Associations or as the Board of Directors of the Managing Agent may deem necessary from time to time.

- (e) All of the above insurance coverage shall be reviewed annually by the Board of Directors and the Managing Agent and may be increased or expanded in their discretion.

Section 2. Conditions for Insurance Coverage

All insurance coverage to be obtained pursuant to this Article shall be in accordance with the following provisions in addition to any terms or conditions which the Managing Agent and the Board of Directors may require.

- (a) The Board of Directors and the Managing Agent shall have the exclusive authority to adjust loss under any policy obtained pursuant thereto.
- (b) The insurance coverage obtained pursuant to this Article shall in no event be brought into contribution with any insurance which may be purchased by individual Time Period owners or individuals holding liens against their Time Period.
- (c) All policies shall contain a waiver of subrogation by the insurer as to any claims against the Board of Directors, its members, the Managing Agent, the Time Period owners and their respective employees and guests.
- (d) All policies obtained by the Board of Directors or the Managing Agent and covering the units, personal property appurtenant thereto and the Association property shall contain a provision that such policy shall not be canceled, invalidated or suspended on account of the conduct of any one or more Time Period owners and in no event shall it be canceled or invalidated or suspended for any reason without at least thirty (30) days prior written notice to the Board of Directors, the Managing Agent, each Time Period owner and all lien holders whose names and addresses are on file with the Association.

Section 3. Insurance Obtained by an Individual Time Period Owner

- (a) Each Time Period owner may obtain additional insurance at his own expense; provided, however, that (i) such policies shall contain waivers of subrogation and (ii) no Time Period owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association may realize under any insurance policy which the Board may have in force on the unit, personal property appurtenant thereto or Association property.
- (b) The Board of Directors shall have the power to require all Time Period owners to carry such

types of insurance as the Board may reasonably require with the type of insurance companies in this Article.

- (c) Any Time Period owner who obtains individual insurance policies covering his interest in a unit or the personal property appurtenant thereto other than personal property belonging to such Time Period owner, shall be required to file a copy of such individual policy or policies with the Secretary of the Association or the Managing Agent within thirty (30) days after purchase of such insurance and, in the event of cancellation or modification of such policy or policies, shall provide written notice to the Board of Directors and the Managing Agent.

ARTICLE XIII MISCELLANEOUS

Section 1. Amendment

The By-Laws may be altered, amended or added to at any duly called meeting of the membership, provided:

- (a) Notice of the meeting shall contain a statement of the proposed Amendment.
- (b) Following the approval of two thirds (2/3) of the full Board of Directors, then any proposed amendment shall be approved upon the affirmative vote of a majority of the voting members present, in person or by proxy, and voting at a meeting called for that purpose.

Section 2. Limitation of Liability

Notwithstanding the duty of the Managing Agent, if any, and the Association to maintain the Association property, the Managing Agent and Association shall not be liable for injury or damage caused by the elements or by other owners or persons.

Section 3. Arbitration

Any dispute which shall arise between Time Period owners shall be arbitrated in the first instance by the Board of Directors at its next regular meeting, at which meeting the disputing Time Period owner shall have a right to appear and be heard. Any decision of the Board with respect to such dispute shall be reviewable, if any of the disputing Time Period owners shall so request within fifteen (15) days of the date of such decision by the Board, by the Association at

its next regular meeting, at which meeting the disputing Time Period owner shall again have the right to appear and be heard. Any decision of the Association with respect to such dispute shall be binding upon the disputing Time Period owners; provided, however, that nothing herein shall limit the right of any Time Period owner to apply to a court of competent jurisdiction thereafter for resolution of such dispute.

Section 4. Interpretation

The provisions of these By-Laws shall be liberally construed to effectuate the purpose of the Association.

Section 5. Severability

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereto.

Section 6. Effective Date

These By-Laws are in effect as of the 13th of November 2004. APPROVED AND DECLARED as the By-Laws of the Association named below.

DATED this ____th day of _____ 2012.

MOUNTAINSIDE VILLAS OWNERS
ASSOCIATION, INC.

By: _____

President

ATTEST:

By _____

Secretary