

THE COURT II CONDOMINIUM ASSOCIATION, INC.
ALTERNATIVE DISPUTE RESOLUTION POLICY

PREAMBLE

WHEREAS, The Master Deed for Court II Condominium, and as it may have thereafter been amended (collectively the “Master Deed”) and the By-Laws of the Court II Condominium Association, Inc. (“Association”), as thereafter amended (collectively, the “By-Laws”), were recorded in the Offices of the Atlantic County Registrar on, (hereinafter the Master Deed, By-Laws, Certificate of Incorporation of the Association, and any duly adopted Rule and Regulation will be referred to collectively as the “Governing Documents”);

WHEREAS, Article IV of the By-Laws sets forth the powers and privileges of the Board of Directors of the Association (“Board”), including providing the Board with the authority to operate and manage the affairs of the Association, and to exercise all powers, duties and authority necessary for the proper conduct and administration of the affairs of the Association;

WHEREAS, N.J.S.A. 46:8B-14(k) and N.J.S.A. 45:22A-44(c) require the Association to provide a fair and efficient procedure for the resolution of housing related disputes between individual Unit Owners and the Association and between individual Unit Owners, as an alternative to litigation (collectively “ADR Procedure”), and housing related disputes have been defined by the Court to include Common Expense Assessments in *Bell Towers Condominium Ass'n. v. Haffert*, 423 N.J. Super. 507 (App. Div. 2012);

WHEREAS, for the benefit of the Association and the individual Unit Owners, the Board deems it necessary and desirable to adopt formal procedures for dispute resolution in circumstances where there is or are disputes between individual Unit Owners or between the Association and one or more individual Unit Owners regarding housing related matters (“Disputes”), thereby attempting to minimize the necessity of judicial intervention and litigation; and

WHEREAS, the Board has determined to adopt this policy by which it amends and replaces any existing resolution(s) which have or may have previously provided a means of alternate dispute resolution for such Disputes.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Association that the following ADR Policy be and hereby is adopted, ratified and confirmed:

I. INITIAL EFFORTS TO RESOLVE DISPUTES

1. Any individual Unit Owner(s) (“Claimant”) may request that other individual Unit Owner(s) (“Respondent”) or the Association cease and desist from taking action that Claimant alleges is contrary to the Governing Documents. Alternatively, the Claimant may request that the

Respondent proceed to correct any act or omission by Respondent that Claimant alleges violates the Governing Documents. Any agent designated by the Board may request on behalf of the Board that Respondent cease and desist from taking action that the Board believes is contrary to the Governing Documents or, in the alternative, correct any act or omission which is believed to be in violation of the Governing Documents. Claimant or the Association, after submitting such a request, shall attempt to negotiate a resolution of the Dispute(s). Such informal request shall be made before any formal ADR Procedure is initiated by either Claimant or the Board. The Claimant and the Respondent or the Board and the Claimant or Respondent, as the case may be, shall attempt to resolve the Dispute(s) through informal negotiation. If this proves unsuccessful, either the Claimant or the Board may request that the matter proceed to mediation as provided for in this Resolution.

2. In the case of Disputes between the Claimant and the Respondent, the Board, on its own initiative or upon receipt of a written complaint by the Claimant, may, by written correspondence with the Claimant and Respondent, within ten (10) days of receipt of the complaint, state the nature of the complaint (where applicable, the time, date and place), indicate that the Claimant or the Respondent may elect to commence the ADR Procedure to resolve the Dispute(s). Either the Claimant or the Respondent shall make such election by written notice to the Board sent within seven (7) days after receipt of the complaint, requesting mediation ("Request for Mediation"). The Request for Mediation shall contain a brief statement setting forth the nature of the Dispute(s).

3. In the case of Dispute(s) between the Association and Claimant or Respondent, either the Board shall serve a written Request for Mediation on the Claimant or Respondent or the Claimant or Respondent shall serve a written Request for Mediation on the Association, stating the nature of the complaint or violation (where applicable, the time, date and place) and where the Association has filed the complaint, set forth the time period within which the violation must be corrected ("Initial Notice"). Such Initial Notice shall indicate that the Association or the Respondent or Claimant, as the case may be, may elect, within five (5) days after receipt of the Initial Notice, to commence the ADR Procedure if the Claimant or Respondent or the Association dispute the allegations contained in the Initial Notice. The party shall make such election by serving a Request for Mediation upon the other side, i.e. the Claimant or Respondent or the Association. The Initial Notice from the Association shall also advise the other party as to the consequences, if any, of failure to respond, including, but not limited to, the nature of any sanctions.

4. If the Respondent, within the five (5) day period provided for in Paragraph 3 above, (i) does not deny in writing the allegations set forth in the Initial Notice or (ii) does not elect to proceed to mediation, all allegations contained in the Initial Notice shall be deemed admitted and the Board shall have the right to impose sanctions without any further hearings or proceedings.

5. All Disputes are subject to the ADR Procedure. If a party to the Dispute(s) commences litigation prior to completion of the ADR Procedure, any other party to the Dispute(s) may move to dismiss the litigation and compel completion of the ADR Procedure as permitted by New Jersey law.

6. The ADR Procedure shall be conducted in accordance with this Resolution. The designated mediator shall be any private qualified mediator as more fully set forth in Paragraph 8.

II. ADR PROCEDURE

7. The ADR Procedure commences with the submission of a Request for Mediation to the Association pursuant to Paragraph 2 or Paragraph 3, together with a deposit in the amount of \$250.00 ("Escrow Deposit"). Failure to tender the Escrow Deposit with the Request for Mediation shall result in the Association's rejection of the Request for Mediation. The Escrow Deposit shall be held by the Association's managing agent ("Escrow Agent") and applied against all costs of the mediation, including, but not limited to the fees of the mediator, if any.

8. Promptly upon receipt of a Request for Mediation, together with payment of the Escrow Deposit(s), the Association shall submit the matter to the Community Associations Institute-NJ ("CAI-NJ") for appointment of a mediator in accordance with its procedures for ADR.

9. Within thirty (30) days after appointment of the mediator, the parties and their respective attorneys, if any, shall meet with the mediator for one (1) mediation session of not more than two (2) hours. If the dispute cannot be settled at such mediation session, or at any mutually agreed upon continuation thereof, the mediator may terminate the mediation at the mediator's sole discretion or any party may give written notice to the other party and the mediator declaring the mediation process at an end. If the parties agree to continue, both parties shall provide to the Association's managing agent an additional escrow deposit comprising a proportionate share of the mediator's additional fee.

10. Each party to the mediation may prepare and submit to the mediator, as well as to the other party, no later than forty-eight (48) hours prior to the time scheduled for the start of the mediation session contemplated by Paragraph 9, a written statement setting forth in ordinary and concise language the acts or omissions upon which the Dispute(s) arose (the "Position Statement"). The Position Statement shall specify what the party claims was violated and/or the party's defense to the alleged violation(s). The Position Statement shall not (i) exceed five (5) typewritten pages, double spaced on 8½" x 11" paper, (ii) be construed as a pleading, (iii) limit the evidence the parties may later use in litigation, and/or (iv) be evidential in a later litigation. No responsive or supplemental statements shall be permitted.

11. The mediator shall manage the ADR Procedure as he or she deems best so as to make the mediation expeditious, economical and less burdensome than arbitration or litigation. The mediator shall convene the mediation session at a time amenable to the mediator, all parties and counsel, if any, and during which the mediator (i) shall explain the mediation process to all parties, (ii) may meet with each party separately, or together and (iii) shall make every effort to resolve the Dispute(s) through direct and/or indirect negotiations.

12. The mediator shall be responsible for controlling the ADR Procedure and for reporting to the Parties only as to the success of or lack of success of the mediation. The mediator shall not

have the authority to impose a settlement on the parties but may make recommendations for settlement and assist the parties in trying to reach a satisfactory resolution of the Dispute(s).

13. The ADR Procedure shall be conducted in private. Only the parties, their legal representatives, appropriate witnesses, if any, and the mediator shall attend the proceedings. Other persons may attend only upon the express consent of all of the parties and the mediator. All proceedings of, or writings generated in connection with, the mediation including the Position Statement, Settlement Agreement, mediator's settlement recommendations, and any statement made by any party, attorney or other participant, shall in all respects be considered as part of the settlement efforts and therefore privileged and non-admissible in a court of law, and nothing said or disclosed, nor any document produced, which is not otherwise independently discoverable, shall be offered or received as evidence or used for impeachment or for any other purpose in any current or future litigation, except that any party shall have the right to enforce the Settlement Agreement in accordance with its terms.

14. If the parties agree to settle the Dispute(s) as part of the ADR Procedure, such settlement shall be memorialized in a written agreement, signed prior to the conclusion of the mediation session by each of the parties to the mediation (the "Settlement Agreement"). Mediations involving the Association may require approval of the Board before the Settlement Agreement can be signed by the Association and, therefore, the Association shall advise the other party and mediator as to whether the Board has approved or disapproved of the settlement within ten (10) days of the mediation session.

15. The parties to the Dispute(s) shall share equally all mediation costs. Should the Escrow Deposit be insufficient, the parties shall deposit an additional sum with the Escrow Agent in an amount sufficient to cover the additional costs of the mediation. If monies remain in the Escrow Deposit after all costs are paid, the excess shall be returned to the parties. In no event shall the ADR Procedure cost in excess of \$2,500.00.

16. If a Dispute between or among the Claimant and Respondent or between the Association and the Claimant or Respondent is not resolved through mediation, any party may elect to proceed to resolve the matter in Court. The parties to the Dispute(s) may proceed to resolve the matter through arbitration only if all parties agree and such arbitration shall proceed in accordance with the Expedited Arbitration Procedures of the American Arbitration Association ("AAA"), then in effect.

17. A tenant shall have the right to utilize the ADR Procedure upon submission to the Association of written authorization from the Owner of the Unit in which the tenant resides.

18. Any inadvertent omission or failure to conduct the ADR Procedure in exact conformity with this Resolution shall not invalidate the results, so long as a prudent and reasonable attempt has been made to ensure due process according to the steps set forth herein.

19. This Alternative Dispute Resolution Policy shall become effective on October 5, 2018 and shall apply to any and all new Dispute(s) thereafter arising.

III. NOTICE

20. The Association's managing agent is authorized and directed to prepare correspondence in appropriate form and substance and thereafter circulate same along with a copy of this Resolution to all Unit Owners.

COURT II CONDOMINIUM ASSOCIATION,
INC.

ATTEST:
