



UNANIMOUS WRITTEN CONSENT OF
THE BOARD OF DIRECTORS OF
THE VAIL GOLFCOURSE TOWNHOME ASSOCIATION, PHASE 1
IN LIEU OF A SPECIAL MEETING

15/76

The undersigned, being all the directors of The Vail Golfcourse Townhome Association, Phase 1 a Colorado nonprofit corporation (hereinafter the "Association"), do hereby adopt the following resolutions by written consent as if such action had been taken at a special meeting of the directors of the Association duly noticed and convened.

WHEREAS, the Association was formed to be and act as the owners association described in that certain Condominium Declaration for The Vail Golfcourse Townhome Association, Phase 1 recorded November 23, 1979 at Reception No. 191391, in book 294, page 996 of the Eagle County, Colorado real property records (the "Declaration");

WHEREAS, the State of Colorado recently enacted into law Senate Bill 05-100 and Senate Bill 06-089, both amending Colorado's Common Interest Ownership Act, Section 38-33.3-101, et seq., C.R.S. (the "Act") and placing significant new requirements on the Boards of Directors of Homeowner Associations ("HOAs") in connection with HOA governance and operations;

WHEREAS, all Colorado HOAs that are not exempt from the Act are generally subject to the Act, as amended;

WHEREAS, in that connection, the Association is required to adopt eight (8) written policies that non-exempt HOAs are required to adopt under the Act, as amended, regarding: (i) collection of unpaid Assessments, (ii) handling conflicts of interest, (iii) conduct of meetings, (iv) covenant and rule enforcement, (v) inspection and copying of records, (vi) investment of reserve funds, (vii) adoption of policies and (viii) dispute resolution; and

WHEREAS, all capitalized terms not otherwise defined in the Written Policies (as hereinafter defined) shall have the meanings ascribed thereto in the Declaration.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts each of the eight (8) written policies attached hereto as Exhibits A through H (the "Written Policies") and such Written Policies shall hereafter form a part of the governing documents of the Association; and be it further

RESOLVED, that, notwithstanding anything contained herein or in the Written Policies to the contrary, the Written Policies shall not be construed to invalidate any provision of the Declaration or the Association's Bylaws, Articles of Incorporation or other governing documents (collectively, the "Governing Documents") to the extent such provisions do not conflict with the Act, as amended, or any other law that the Association is subject to; and be it further

RESOLVED, that, notwithstanding anything contained in the Governing Documents to the contrary, the Association intends to be generally bound by the provisions of the Act, as amended, and such provisions shall override any nonconforming provisions in the Associations Governing Documents.

Vail Golf course Townhomes
PO Box 954, Vail, CO, 81658

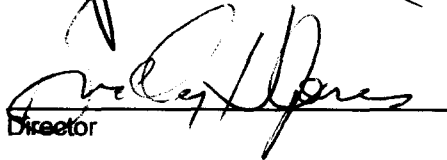
IN WITNESS WHEREOF, the undersigned, being all of the Directors of the Association, have duly executed this Unanimous Written Consent as of the 15th day of November, 2007.


President and Director


Vice President and Director


Director


Director


Director

COLLECTION OF UNPAID ASSESSMENTS

1. Due Dates.

- a. **Annual Assessments.** Annual Assessments shall be due and payable in advance, quarterly, on the 1st day of each quarterly period in regular installments, or as otherwise determined by the Board and as allowed for in the Declaration.
- b. **Special Assessments.** Special Assessments, if any, shall be due and payable in such manner and at such times as determined by the Board following adoption thereof, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.
- c. **Default Assessments.** Default Assessments shall be due and payable five (5) days following receipt of notice thereof by an Owner, unless the Board specifies otherwise.

2. **Late Charges and Interest Charges.** Assessments or other charges not paid to the Association by the fifteenth (15th) day following the due date thereof shall be considered past due and delinquent. The Association shall be entitled to impose a late charge of twenty dollars (\$20.00) on each past due and delinquent Assessment. If any Assessment is not paid within thirty (30) days after its due date, the amount due shall bear interest at a rate of twelve percent (12%) per annum from the due date until paid. All late charges and interest charges shall be due and payable immediately, without notice, in the manner provided for payment of Assessments.

3. **Return Check Charges.** A twenty dollar (\$20.00) fee shall be assessed against an Owner in the event any check or other instrument attributable to or payable for the benefit of such Owner is not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to, insufficient funds. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law. If two (2) or more of an Owner's checks are returned unpaid by the bank within any twelve (12) month period, the Association may require that all of the Owner's future payments, for a period of one (1) year, be made by certified check or money order.

4. **Referral of Delinquent Accounts.** The Association may, at any time, at its option, refer delinquent accounts to its attorneys and/or assign such accounts to collection agencies. After consultation with the Board of Directors or the Association's Managing Agent, the Association's attorneys shall be entitled to exercise all available remedies to collect the amounts due, including judicial foreclosure and appointment of a receiver of the delinquent Owner's Lot. The Association shall be entitled to recover its attorneys' fees and collection costs incurred in the collection of Assessments or other charges due the Association from a delinquent Owner.

5. **Application of Payments Made to the Association.** The Association reserves the right to apply all payments received on account of any Owner first to payment of any and all legal fees and costs (including attorneys' fees), then to costs and expenses of enforcement and collection, late charges,

interest, returned check charges, lien fees, and other costs owing or incurred with respect to such Owner, and any remaining amounts shall be applied to the Assessments due with respect to such Owner.

6. **Waivers.** The Association has the option and right to continue to evaluate each delinquency on a case by case basis. The Association may grant a waiver of any provision herein upon petition in writing by an Owner showing a personal hardship. Such relief granted an Owner shall be appropriately documented in the files with the name of the person or persons representing the Association granting the relief and the conditions of the relief. In addition, the Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association may determine appropriate under the circumstances. The granting of a waiver for any particular delinquency shall not require the Association to grant a waiver for any future delinquency for the same or another Owner.

7. **Delinquencies Constitute Covenant Violations.** Any delinquency in the payment of Assessments shall constitute a violation of the Declaration, and following notice and an opportunity to be heard, the Association shall be entitled to impose sanctions on the delinquent Owner consistent with the Association's policy regarding "Enforcement of Covenants and Rules, Including Notice and Hearing Procedures and the Schedule of Fines".

HANDLING OF CONFLICTS OF INTEREST INVOLVING BOARD MEMBERS

1. No loans shall be made by the Association to any member of the Board or any officer of the Association. Any member of the Board or any officer of the Association who assents to or participates in the making of any such loan shall be liable to the Association for the amount of such loan until the repayment thereof.

2. No "conflicting interest transaction" (as defined in Section 7-128-501(1), C.R.S.) shall be void or voidable or be enjoined, set aside, or give rise to an award of damages or other sanctions in a proceeding by a Member or by or in the right of the Association, solely because the conflicting interest transaction involves a member of the Board or a "party related to a member of the Board" (as defined in Section 7-128-501(5), C.R.S.) or an entity in which a member of the Board is a director or officer or has a financial interest or solely because the member of the Board is present at or participates in the meeting of the Board that authorizes, approves, or ratifies the conflicting interest transaction or solely because the interested Board member's vote is counted for such purpose if:

- a. The material facts as to the interested Board member's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board, and the Board in good faith authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested Board members, even though the Board members are less than a quorum; or
- b. The material facts as to the interested Board member's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board members entitled to vote thereon, and the conflicting interest transaction is specifically authorized, approved, or ratified in good faith by a vote of the Board members entitled to vote thereon; or
- c. The conflicting interest transaction is fair as to Association.

3. Common or interested Board members may be counted in determining the presence of a quorum at a meeting of the Board which authorizes, approves, or ratifies the conflicting interest transaction.

CONDUCT OF MEETINGS

1. **Notice.** In addition to the notice required by the Bylaws, notice of any meeting of the Members shall be physically posted in a conspicuous place, to the extent that such posting is feasible and practicable. If electronic means are available to the Association, notice of all regular and special meetings of the Members shall be provided to all Owners who so request and who furnish the Association with their electronic mail addresses. Electronic notice of a special meeting of the Members shall be given as soon as possible, but at least twenty-four (24) hours before the meeting.

2. **Open Meetings.** All meetings of the Association and the Board of Directors are open to every Member, or to any person designated by a Member in writing as the Member's representative, and all Members or their designated representatives so desiring shall be permitted to attend, listen, and speak at an appropriate time during the deliberations and proceedings; except that, for regular and special meetings of the Board, Members who are not Board members may not participate in any deliberation or discussion unless expressly so authorized by a vote of the majority of a quorum of the Board.

3. **Restrictions on Participation at Meetings.** The Board may place reasonable time restrictions on those persons speaking during the meeting but shall permit a Member or a Member's designated representative to speak before the Board takes formal action on an item under discussion, in addition to any other opportunities to speak. The Board shall provide for a reasonable number of persons to speak on each side of an issue. Should the President or acting chair determine that any Member has spoken for the allocated amount of time or longer, the President or acting chair shall have the authority to instruct that Member to yield the floor, and that Member will be obligated to comply with the President's or acting chair's instruction.

4. **Attorney-Client Privilege.** Upon the final resolution of any matter for which the Board received legal advice or that concerned pending or contemplated litigation, the Board may elect to preserve the attorney-client privilege in any appropriate manner, or it may elect to disclose such information, as it deems appropriate, about such matter in an open meeting.

5. **Executive Session.** Notwithstanding the foregoing, the Board or a committee thereof may hold an executive or closed door session and may restrict attendance to Board members and other persons specified by the Board; provided that any such executive or closed door session may only be held in accordance with the provisions and requirements of the Colorado Common Interest Ownership Act, § 38-33.3-101, et seq., as amended from time to time, or other applicable law. The matters to be discussed at such an executive session are limited to:

- a. Matters pertaining to employees of the Association or the Managing Agent's contract or involving the employment, promotion, discipline, or dismissal of an officer, agent, or employee of the Association;
- b. Consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;
- c. Investigative proceedings concerning possible or actual criminal misconduct;

- d. Matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;
- e. Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy;
- f. Review of or discussion relating to any written or oral communication from legal counsel.

Prior to the time the members of the Board convene in executive session, the President or acting chair shall announce the general matter of discussion as enumerated in paragraphs (a) to (f) above.

6. **Secret Ballot** Votes for contested positions on the Board shall be taken by secret ballot. In addition, at the discretion of the Board, or upon the request of twenty percent (20%) or more of the Members present, or represented by proxy, at a meeting in which a quorum has been achieved, a vote on any other matter affecting the Project on which all Members are entitled to vote shall be by secret ballot. Ballots shall be counted by a neutral third party or by a committee of volunteers. Such volunteers shall be Owners who are selected or appointed at an open meeting, in a fair manner, by the chair of the Board or another person presiding during that portion of the meeting. The volunteers shall not be Board members and, in the case of a contested election for a Board position, shall not be candidates. The results of the vote taken by secret ballot shall be reported without reference to names, addresses or other identifying information of the Owners participating in such vote.

**ENFORCEMENT OF COVENANTS AND RULES,
INCLUDING NOTICE AND HEARING PROCEDURES
AND SCHEDULE OF FINES**

1. The Board shall have the power to enforce the Declaration in accordance with the Bylaws.
2. In addition to any other remedies available to it, the Board may levy fines in accordance with the following schedule for any act or omission deemed a violation by the Board:

<u>Number of violations in a 12 month period</u>	<u>Fine Amount</u>
First violation:	Warning
Second violation:	\$25
Third violation:	\$50
Fourth violation:	\$100

In addition, habitual offenders (more than 4 violations in a 12-month period), continuing violations, or violations which have an indefinite commencement or termination date, shall all be subject to a fine of \$100 per month until the violation is corrected, in addition to any other remedy determined by the Board, which may include suspension of membership privileges or the imposition of additional fines.

3. The Owner shall have the primary obligation to pay fines imposed for their actions or the actions of their guests. Fines imposed pursuant to these enforcement policies and procedures shall become an Assessment imposed against the Unit and enforceable as provided in the Declaration.

INSPECTION AND COPYING OF ASSOCIATION RECORDS BY MEMBERS

1. The Association shall keep financial records sufficiently detailed to enable the Association to provide a written statement of any unpaid Assessments in accordance with Section 316(8) of the Act.

2. The Association shall keep as permanent records (a) minutes of all meetings of Members and the Board, (b) a record of all actions taken by the Members or the Board by written ballot or written consent in lieu of a meeting, (c) a record of all actions taken by a committee of the Board in place of the Board on behalf of the Association, and (d) a record of all waivers of notices of meetings of Members and of the Board or any committee of the Board.

3. The Association or its agent shall maintain a record of Members in a form that permits preparation of a list of the names and addresses of all Members, showing the number of votes each Member is entitled to vote.

4. The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

5. All financial and other records (other than records deemed confidential by the Board) shall be made reasonably available for examination and copying by any Member and such Member's authorized agents. The Association may charge a fee, which may be collected in advance but which shall not to exceed the Association's actual cost per page, for copies of Association records. As used in this Paragraph 5, "reasonably available" means available during normal business hours, upon notice of five (5) business days, or at the next regularly scheduled meeting if such meeting occurs within thirty (30) days after the request, to the extent that (a) the request is made in good faith and for a proper purpose, (b) the request describes with reasonable particularity the records sought and the purpose of the request, and (c) the records are relevant to the purpose of the request.

6. A membership list, or any part thereof, may not be obtained or used by any person for any purpose unrelated to an Owner's interest as an Owner without consent of the Board. Without limiting the generality of the foregoing, without the consent of the Board, a membership list, or any part thereof, may not be:

- a. Used to solicit money or property unless such money or property will be used solely to solicit the votes of the Owners in an election to be held by the Association;
- b. Used for any commercial purpose; or
- c. Sold to or purchased by any person.

7. At the discretion of the Association or the Association's Managing Agent, certain records may only be inspected in the presence of a Board member or employee of the Association's Managing Agent. No records may be removed from the office without the express written consent of the Board.

8. In addition to the records specified in Paragraphs 1 and 2 above, the Association shall keep a copy of each of the following records at its principal office:

- a. the Articles of Incorporation;
- b. the Declaration;
- c. the Bylaws;
- d. Resolutions adopted by the Board relating to the characteristics, qualifications, rights, limitations and obligations of Members or any class or category of Members;
- e. the minutes of all meetings of the Members and records of all actions taken by Members without a meeting for the past three (3) years;
- f. all written communications within the past three (3) years to Members generally as Members;
- g. a list of the names and business or home addresses of the Association's current directors and officers;
- h. the Association's most recent annual report, if any; and
- i. all financial audits or reviews conducted pursuant to Section 303(4)(b) of the Colorado Common Interest Ownership Act during the immediately preceding three (3) years.

RESERVE FUND INVESTMENT POLICY

1. The Board of Directors shall be responsible for managing and investing a reserve fund (the "Reserve Fund"). In that connection, the Board may engage outside professionals;
2. The Reserve Fund shall be invested in accordance with all applicable laws, including Colorado state statutes, and with any resolutions adopted by the Board of Directors;
3. The Reserve Fund shall be invested in a manner that will preserve capital and minimize credit and interest rate risk;
4. The investments in the Reserve Fund shall be sufficiently liquid to meet all planned Reserve Fund expenditures for the following fiscal year. The Reserve Fund portfolio shall consist largely of money market accounts and/or certificates of deposit;
5. The portfolio of investments in the Reserve Fund shall earn a competitive market rate of return on available funds while taking into account the Association's investment risk, constraints, and cash flow needs;
6. Association Members shall have access to a list of the portfolio of investments in the Reserve Fund and the current market valuation of each investment; and
7. Notwithstanding any of the foregoing, with regard to investment of the Reserve Fund, the Board shall be subject to the standards set forth in Section 7-128-401, C.R.S., as more particularly described in Section 303(2.5) of the Act.

**PROCEDURES FOR THE ADOPTION AND AMENDMENT OF
POLICIES, PROCEDURES AND RULES**

1. The Board shall have the authority to create, adopt, enforce, and amend policies, procedures, rules and regulations (the "Rules and Regulations") which it deems appropriate for the Project.
2. Prior to adopting any new Rules and Regulations, the Board may, at its sole option, discuss the proposed new Rules and Regulations at any meeting of the Members which may or may not be called for that purpose.
3. The Board may adopt Rules and Regulations at a meeting of the Board, by unanimous written consent in lieu of a meeting or by any other method authorized by the Association's governing documents or pursuant to Colorado law.
4. The Board shall inform all Members of the adoption of any new Rules and Regulations either by posting the new Rules and Regulations at the Project or on the Association's website, if any, or by delivering the new Rules and Regulations to the Members by e-mail, U.S. Mail, newsletter or personal delivery. A compilation of all current Rules and Regulations shall be available for inspection and copying in accordance with the Association's policy regarding inspection and copying of Association records by Owners.
5. Unless otherwise provided, any new Rules and Regulations shall be in full force and effect and subject to enforcement by the Association immediately following publication thereof in accordance with Paragraph 4 above.

DISPUTE RESOLUTION

1. The Association and its Members, all persons subject to the Declaration, and any person not otherwise subject to the Declaration who agrees to submit to this policy (individually, a "Bound Party", and collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Project, and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Bound Party covenants and agrees that all claims, grievances or disputes between such Bound Party and any other Bound Party involving the Project, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Declaration, the Bylaws, the Association's Rules and Regulations, or the Articles of Incorporation (collectively "Claim"), except for those Claims pursuant to Paragraph 2 below, shall be resolved using the procedures set forth in Paragraph 3 below, in lieu of filing suit in any court or initiating proceedings before any administrative tribunal seeking redress or resolution of such Claim.

2. The following Claims ("Exempt Claims") shall be exempt from the provisions of Paragraph 3 below:

- a. Any suit by the Association against any Bound Party to enforce the collection of Assessments;
- b. Any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of the Declaration;
- c. Any suit between Owners seeking redress on the basis of a Claim which would constitute a cause of action under federal law or the law of the State of Colorado in the absence of a claim based on this Declaration, Bylaws, Articles of Incorporation, or Rules and Regulations of the Association, if the amount in controversy exceeds \$25,000.00;
- d. Any suit by the Association in which similar or identical claims are asserted against more than one Bound Party; and
- e. Any suit by a Bound Party for declaratory or injunctive relief which seeks a determination as to applicability, clarification or interpretation of any provision of this Declaration.

Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Paragraph 3 below, but there shall be no obligation to do so. The submission of an Exempt Claim involving the Association to the alternative dispute resolution procedures of Paragraph 3 below shall require the approval of the Association.

3. All Claims other than Exempt Claims shall be resolved using the following procedures:

- a. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent"), other than an Exempt Claim, shall notify each Respondent in writing of the Claim (the "Notice"), stating plainly and concisely:

- i. The nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim;
 - ii. The basis of the Claim (i.e., the provisions of this Declaration, the Bylaws, the Articles of Incorporation, Rules and Regulations, or other authority out of which the Claim arises);
 - iii. What Claimant wants Respondent to do or not do to resolve the Claim; and
 - iv. That Claimant wishes to resolve the Claim by mutual agreement with Respondent, and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss in good faith ways to resolve the Claim.
- b. Each Claimant and Respondent (the "Parties") shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.
 - c. Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes its efforts will be beneficial to the Parties and to the welfare of the community.
 - d. If the Parties do not resolve the Claim through negotiation within thirty (30) business days following the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have thirty (30) additional business days within which to submit the Claim to mediation under the auspices of an independent mediation service designated by the Association, the Colorado chapter of the Community Association Institute, or such other independent agency providing mediation services upon which the Parties may mutually agree
 - e. If Claimant does not submit the Claim to mediation within thirty (30) business days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.
 - f. If the Parties do not settle the Claim within thirty (30) business days after submission of the matter to the mediation process, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth when and where the parties met, that the Parties are at an impasse, and the date that mediation was terminated.
 - g. Each Party shall, within five (5) business days of the Termination of Mediation, make a written offer of settlement in an effort to resolve the Claim. The Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent. The Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the

Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

- h.** If the Parties do not agree in writing to accept either the Settlement Demand, the Settlement Offer, or otherwise resolve the Claim within ten (10) business days of the Termination of Mediation, the Claimant shall have ten (10) additional business days to submit the Claim to arbitration in accordance with the appropriate rules of the American Arbitration Association, or the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to persons not a Party to the foregoing proceedings. If the American Arbitration Association ceases to exist then a similar organization shall be designated by the Association.
- i.** The immediately preceding paragraph is an agreement of the Bound Parties to arbitrate all Claims except Exempt Claims and is specifically enforceable under the applicable arbitration law of the State of Colorado. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Colorado.
- j.** If the Claims are resolved through negotiation or mediation as provided in subparagraphs b. through g. of this Paragraph 3, each Bound Party shall bear all of its own costs incurred in resolving the Claims, including its attorneys fees and mediation expenses, unless the Bound Parties otherwise agree; if the Claims are not resolved through negotiation or mediation as provided in subparagraphs b. through g. of this Paragraph 3, and the Claims go to binding arbitration as provided in subparagraph h. of the Paragraph 3, the "Prevailing Party" shall receive as a part of its Award from the opposing Party(ies) all of its costs, including attorneys fees, costs for other representatives in resolving each Claim, and any expenses incurred as a result of the dispute resolution procedures of this herein.
- k.** If the Parties agree to resolve any Claim through negotiation or mediation in accordance with this Paragraph 3, and any Party thereafter fails to abide by the terms of such agreement, or if the Parties agree to accept the Award following arbitration and any Party thereafter fails to comply with such Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in this Paragraph 3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.