

AMENDED AND RESTATED BYLAWS PELICAN BAY
FOUNDATION, INC.

ARTICLE I
GENERAL

1.01 NAME, The name of the corporation is Pelican Bay Foundation, Inc., a Florida corporation, not-for-profit, hereinafter referred to as the "Foundation."

1.02 PRINCIPAL OFFICE, The principal office of the Foundation shall be at 6251 Pelican Bay Boulevard, Naples, Florida 34108, or at such other place as may be established by resolution of the Pelican Bay Foundation, Inc. Board of Directors (the "Board").

1.03 DEFINITIONS, All terms defined in the Amended and Restated Declaration and General Protective Covenants for Pelican Bay ("Declaration") shall be used herein with the same meanings unless the context clearly requires otherwise.

1.04 GENDER INTERPRETATION, Any reference to the word "he" or "his" or "himself" in connection with a Member, Owner, Director or Officer, shall be interpreted to mean any male or female individual and/or other legal entity, as applicable.

ARTICLE II
MEMBERSHIP

2.01 MEMBERSHIP, Every Owner shall be a member of the Foundation. Membership in the Foundation ("Membership") shall be appurtenant to and may not be separated from Ownership of a Plot which is subject to assessment by the Foundation. Subject to the Governing Documents, the rights and privileges of Membership may be exercised by the Member, or, in the case of a Plot owned by a corporation, partnership, trust, limited liability company or other entity, by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Foundation. A Member, or the person designated by an entity to exercise the Membership rights of the entity, shall be entitled, subject to the Rules and Regulations, to designate their spouses or one adult person living with them as a person entitled, subject to the Governing Documents, to exercise the rights and privileges of Membership, other than the right to vote, provided, however, that if a Member is the Owner of more than one Plot, such Member shall have the right to designate only one person as provided herein to have the rights and privileges of Membership. An Owner may assign the Owner's rights to use the Foundation Common Area in accordance with the Governing Documents. An Owner shall not have the right to assign rights to any Persons who are not tenants, business or residential, on the Owner's property ("Tenants"). No Tenant shall become a Member of the Foundation by virtue of an assignment nor shall any residential Member have the ability to assign voting rights. No person designated by a Member pursuant to these Bylaws to exercise the rights and privileges of Membership shall become a Member by virtue of such designation, nor shall such person have the right to vote. The number of Property Units assigned to any Plot shall be as determined in these Bylaws and the Declaration.

2.02 SUSPENSION OF MEMBERSHIP RIGHTS. As provided in the Governing Documents, the Board may at any time suspend a Member's rights and privileges in the Foundation as well as the rights and privileges in the Foundation of any person designated by the Member to exercise the rights and privileges of Membership.

2.03 EVIDENCE OF RIGHTS AND PRIVILEGES OF MEMBERSHIP,

- (a) Upon application to the Board or its designee, every Member in good standing and every person designated pursuant to Section 2.01 to exercise the rights and privileges of Membership, shall be entitled to a membership card which shall contain the picture of the holder and such other information as may be required by the Board ("Membership Card"). All Membership Cards shall be issued pursuant to Rules and Regulations, which may require, among other things, different Membership Cards for different categories of holders. Except as herein provided, no Member shall receive more than one (1) Membership Card regardless of the number of Property Units such Member may own, and no person designated to exercise the rights and privileges of Membership shall receive more than one (1) Membership Card regardless of the number of designations. The Membership Card shall set forth such information as is required by the Board. A commercial Member may request one additional Membership Card for every ten (10) Property Units assigned to it for use by managers and other personnel subject to rules and regulations promulgated by the Board. Such additional Membership Cards shall not confer any additional voting rights on the commercial Members.
- (b) Every individual entitled to a Membership Card pursuant to Section 2.03(a) hereof shall be entitled, subject to the provisions of these Bylaws and any applicable Rules and Regulations, to designate any person who is a dependent and who is thirteen (13) years of age and older as having the rights and privileges of Membership, other than the right to vote, and such person shall be entitled to a Membership Card. All Membership Cards issued to dependents shall be issued pursuant to Rules and Regulations, which may provide special conditions and limitations on the issuance and use of such Membership Cards.
- (c) Admission to any Foundation Common Area, facility, meeting or affair may be predicated upon production of a Membership Card.
- (d) Adequate records shall be maintained by the Foundation showing the names of the Members and all other holders of Membership Cards, their addresses, the number of Property Units owned by each Member, the date of Membership and such other information as the Board shall require.
- (e) Upon suspension of the rights and privileges of any holder of a Membership Card, the holder shall relinquish his Membership Card to the Foundation until such rights and privileges have been reinstated.

2.04 TRANSFER/TERMINATION OF MEMBERSHIP,

- (a) Except for the assignment or delegation of his rights under Section 2.06, no Member may transfer or assign (either temporarily or permanently) his Foundation Membership without prior Foundation approval, and no other holder of a Membership Card may transfer or assign any of the rights and privileges of Membership at any time.
- (b) When a Member ceases to be an Owner, such person's Membership shall cease, and the right of any person designated by a Member pursuant to these Bylaws to exercise the rights and privileges of Membership shall cease; provided, however, any Member shall remain personally liable for all assessments that came due while he was an Owner until such assessments are paid in full. Immediately upon the termination of any Membership, the former Member and any person designated by the Member pursuant to these Bylaws to exercise the rights and privileges of Membership shall surrender their Membership Cards to the Foundation administrative office.

2.05 RIGHTS AND PRIVILEGES OF MEMBERS,

- (a) Every Member, subject to the payment of assessments and applicable provisions of these Bylaws and other Governing Documents, shall have the right to vote for the election of Directors and vote for all other purposes as set forth in the Declaration and the Bylaws:
- (b) Every Member and every person designated by a Member pursuant to Section 2.01 to exercise the rights and privileges of Membership, subject to the payment of assessments by the Member and applicable provisions of these Bylaws and other Governing Documents, shall have the right to:
 - 1. Serve on the Board;
 - 2. Serve on Foundation committees;
 - 3. Attend Foundation meetings; and
 - 4. Use the Foundation Common Area.
- (c) Every person designated by a Member pursuant to Section 2.03(b) to exercise the rights and privileges of Membership, every person to whom a Member has assigned or delegated his right to use the Foundation Common Area, and every person to whom a holder of a Membership Card has delegated his right to use the Foundation Common Area, subject to the payment of assessments by the Member and applicable provisions of these Bylaws and other Governing Documents, shall have the right to use the Foundation Common Area.

- (d) All of the Foundation Common Area shall be available to the holders of Membership Cards and their guests for the uses intended for such Foundation Common Area facilities, subject to the delegation of rights as provided in Section

2.06 below and the right of the Foundation to suspend such rights. The Foundation may adopt reasonable rules and regulations pertaining to the use of such areas and may impose use fees. No entity or entities shall unreasonably restrict the right of any holder of a Membership Card to peaceably assemble or right to invite public officers or candidates for public office to appear and speak in the Foundation Common Area. Any holder of a Membership Card prevented from exercising rights guaranteed by this subsection may bring an action in the appropriate court of Collier County and, upon favorable adjudication, the court shall enjoin the enforcement of any provision contained in any Foundation document or rule that operates to deprive the holder of a Membership Card of such rights.

- (e) Every holder of a Membership Card in good standing shall have the privilege of using and enjoying the Foundation Common Area except as otherwise limited in the Governing Documents. All privileges of using and enjoying the Foundation Common Area shall be subject to the right of the Foundation to charge a reasonable admission and other fees for the use of any Foundation Common Area.

2.06 DELEGATION AND ASSIGNMENT OF MEMBERSHIP RIGHTS,

- (a) Any holder of a Membership Card appurtenant to residential property within Pelican Bay, with the exception of any hotel Owner and a dependent, may delegate his right to use the Foundation Common Area to his visiting immediate family and visiting guests of the Member's household for the duration of the stay and they may utilize the Foundation Common Area for which the specified guests may be issued temporary identification cards for the time period of the stay. Other guests of holders of Membership Cards may utilize the Foundation Common Area while accompanied by the sponsoring holder.
- (b) Any Member who owns commercial property within Pelican Bay may delegate his right to use the Foundation Common Area to his employees and/or guests, subject to reasonable rules and regulations adopted by the Board. Notwithstanding, any Member who is a hotel Owner or who is the designated representative of a hotel Owner may not delegate his right to use the Foundation Common Area to any guest of the hotel.
- (c) Any Member who is actively developing real property within Pelican Bay may delegate his right to use the Foundation Common Area to his employees and/or real estate brokers and salespersons who work in or on the Member's Plot.

Delegation under this subsection is strictly limited to the use of the tram and boardwalk only.

- (d) Any Member who owns residential or commercial property within Pelican Bay, with the exception of any hotel Owner, may assign his right to use the Foundation Common Area to business and residential Tenants who reside or work in or on the Member's Plot. If the Member assigns his right to use the Foundation Common Area to a Tenant, then the right of the Member and the person or persons whom the Member has designated pursuant to these Bylaws to exercise the rights and privileges of Membership to use the Foundation Common Area shall be temporarily suspended, and their Membership Cards shall be returned to the Foundation, for so long as the Tenant retains the assignment.
- (e) No Member may assign his right to vote. The assignment or delegation of Membership rights under this Section 2.06 shall be deemed the granting of temporary non-voting Membership rights in the Foundation, and shall be subject to (i) the approval of the Board or its designee; (ii) to all Rules and Regulations; (iii) compliance with all procedures promulgated by the Board or its designee for delegation or assignment of Membership rights; and (iv) any other reasonable restriction or limitation that may be imposed by the Board or its designee.
- (f) Each Member shall be responsible for the actions of any Person whom the Member has designated pursuant to these Bylaws to exercise the rights and privileges of Membership or to whom the Member has delegated or assigned his right to use the Foundation Common Area. Any unpaid charge against such Person shall be charged against such Member personally and be assessed against such Member's Plot. Any infraction of the Foundation's rules and regulations by such Person shall be deemed to be an infraction by such Member.
- (g) WCI Communities, Inc., as Declarant under the Declaration, shall have the following special rights and privileges with respect to the Foundation Common Area: So long as Declarant shall own either unplatted land or at least one (1) Property Unit within Pelican Bay, Declarant shall have the right to delegate the full use of the Foundation Common Area to twenty (20) of its employees. Declarant shall promptly supply to the Foundation the names of every employee to whom a Membership Card is to be issued and any additions and deletions to such names. The Foundation shall there after promptly issue Membership Cards in the name of such employees through the Declarant. Each employee to whom a Membership Card is issued shall have the full rights and privileges of a Member to use the Foundation Common Area except that he shall not have the right to vote. The Declarant shall not be responsible to the Foundation for the prompt payment of any delinquent charges of its employees under this subsection. The Board acknowledges and agrees that the rights and privileges granted to Declarant under this subsection represents bargained-for consideration and may not be terminated except with the written consent of Declarant.

2.07 RULES AND REGULATIONS.

- (a) The Board may adopt, amend and revoke Rules and Regulations consisting of written rules, regulations, policies, practices and guidelines for the use, operation and enjoyment of the Foundation and the Foundation Common Area.

- (b) The Rules and Regulations may include without limitation:
 - 1. procedures;
 - 2. aspects and objectives of use regulation;
 - 3. principles and standards for use regulation;
 - 4. typical practices that are acceptable or not acceptable;
 - 5. fees and charges for the use of the Foundation Common Area by family, guests and employees of Members;
 - 6. rules dealing with the rights of Members to designate persons to exercise the rights and privileges of Membership; and
 - 7. such other matters as the Board may deem appropriate.

The Rules and Regulations are intended to assist Members, their designees, and their Tenants and guests in the ongoing process of community use. They may be modified and supplemented from time to time by the Board with or without notice to the Members, but may not be enforced until reasonable notice of the changes has been given to the Members.

2.08 TEMPORARY PERMITS. The Board may issue permits to temporarily exempt one or more Persons from conforming to any prohibitions expressed or implied by the provisions of these Bylaws or the Rules and Regulations, provided the Person(s) affected can show good cause for the granting of the exemption and can fully meet all conditions imposed by the Board and provided that the Board is not engaging in selective enforcement as defined by Florida law.

ARTICLE III MEETINGS
OF MEMBERS

3.01 ANNUAL MEETINGS. The Annual Meeting of the Members shall be held in Collier County, Florida, each year during the month of March at a day, place and time designated by the Board. The purpose of the Annual Meeting is to transact any business duly authorized to be transacted by the Members. Members shall cast their ballots in the election of Directors before the Annual Meeting as provided for in Section 3.08. All ballots properly and timely cast in the annual election of Directors shall be counted as provided herein prior to the Annual Meeting, and the results shall be announced at the beginning of the Annual Meeting.

3.02 SPECIAL MEETINGS. Special meetings of the Members may be called by the Board, and shall, except as provided in Section 4.12 (b), be called by the Secretary upon receipt of a petition signed by Members having at least twenty-five percent (25%) of the voting interests. In addition, if requested by a Member in a written notice to the Secretary, the Secretary shall place such request for a special meeting on the agenda of a Board meeting scheduled at least thirty (30)

days after receipt of such notice. All special meetings of the Members shall be held in Collier County, Florida, at such time, date and place as is determined by the Board and stated in the notice of the meeting. The business at any special meeting shall be limited to the items specified in the notice of meeting.

3.03 NOTICE.

- (a) Written notice of the date, time and place of the Annual Meeting and election of Directors shall be delivered, either personally by mail, or by electronic transmittal in the manner set forth in Section 617.0141, Florida Statutes (to the extent that a Member has consented to receive notices by electronic transmission and has not revoked such consent), to each Member at least sixty (60) days before the date of the meeting.
- (b) Ballots for the election of Directors shall be delivered, either personally by mail, or by electronic transmittal to those unit owners who have so consented to each Member at least thirty (30) days before the date the mail ballot is due and shall specify the due date of the ballot and the procedures for voting. Notwithstanding the foregoing, balloting and procedures for voting may be conducted electronically as set forth herein.
- (c) Written notice of the date, time and place of any special meeting and the purpose or purposes for which the meeting is called shall be delivered, either personally by mail, or by electronic transmittal to those unit owners who have consented, to each Member not less than fourteen (14) days before the date of the meeting.
- (d) If mailed, the notices provided for in this Section 3.03 shall be deemed to have been delivered when such notice is deposited in the U.S. Mail, addressed to the Member at his address as it appears on the records of the Foundation, with postage prepaid. Solely for purposes of the notice of the Annual Meeting and election of Directors, the depositing in the U.S. mail of an issue of the Pelican Bay Post with the notice contained therein addressed to the Member at his address as it appears on the records of the Foundation shall constitute the delivery of such notice. The Member is responsible for informing the Foundation of any change of address.
- (e) Attendance at any meeting by a Member in person or by proxy constitutes waiver of notice, unless objection to the notice is raised at the beginning of the meeting. A person entitled to receive notice may waive notice of any meeting at any time.

3.04 QUORUM, A quorum shall be attained at any meeting of Members by the presence in person or by proxy of at least ten percent (10%) of the total voting interests. After a quorum has been established, the subsequent withdrawal of any person or persons that reduces the number of

voting interests represented to less than the number required for a quorum, shall not affect the validity of any action taken after such withdrawal, or at any reconvening thereof.

3.05 VOTE REQUIREMENT!. After a quorum has been attained, the vote of a majority of the voting interests present in person or by proxy and voting shall be the act of the Members, unless a higher vote is required by law, by the Governing Documents or by resolution of the Board.

3.06 METHOD OF VOTING.

- (a) One (1) indivisible vote may be cast for each Property Unit assigned to a Plot regardless of the number of persons who have an Ownership interest in the Property Unit or the manner in which title is held by them.
- (b) The vote for the Property Unit shall be cast as follows:
 - 1. If the Property Unit is owned by one natural person, the right to vote shall be established by the record title.
 - 2. If the Property Unit is owned jointly by two or more natural persons, any one of the record Owners may cast the vote(s). If two or more Owners do not agree among themselves how to vote on any issue, that vote shall not be counted for any purpose.
 - 3. If the Owner of a Property Unit is not a natural person, the Owner thereof shall have the responsibility and obligation to designate in writing one (1) natural person who is authorized to vote. The written designation shall be filed with the Foundation. Secretary, and shall remain in effect until Ownership is changed, or until a new written designation is filed. Failure to file the written designation shall result in the vote(s) of the Property Unit being disregarded.
- (c) If authorized by the. Board of Directors and subject to such guidelines and procedures as the Board of Directors may adopt, votes may be cast electronically if the system and methods comply with Section 720.317, Florida Statutes, as amended from time to time. A Member must consent in writing to voting electronically, which written consent may be given as part of the electronic voting procedures. Consent to voting electronically is effective until revoked in writing by the Member.

3.07 PROXY VOTING. Any person entitled to attend and vote in person at a meeting of the Members may establish his presence and vote by proxy. All procedures relating to proxies shall be conducted in accordance with applicable state law.

3.08 **BALLOTING IN ELECTIONS FOR DIRECTORS.** Unless and to the extent a resolution of the Board provides otherwise, all votes for the election of Directors shall be cast by mail ballot, by telephone, electronically in accordance herewith, or as the Board shall determine from time to time by resolution. If authorized by the Board of Directors and subject to such guidelines and procedures as the Board of Directors may adopt, elections may be conducted by electronic voting if the system and methods comply with Section 720.317, Florida Statutes, as amended from time to time. A Member must consent in writing to voting electronically, which written consent may be given as part of the electronic voting procedures. Consent to voting electronically is effective until revoked in writing by the Member.

3.09 **ADJOURNED MEETINGS.** Any duly called meeting of the Members may be adjourned, to be reconvened at a specific later day and time, by vote of the majority of the voting interests present, no matter whether a quorum has been attained. Any business that might have been conducted at the meeting as originally scheduled may instead be conducted when the meeting is reconvened, provided a quorum has been attained.

3.10 **MINUTES.** Minutes of all meetings of the Members, and of the Board, shall be kept in a businesslike manner and available for inspection by Members or their authorized representatives at all reasonable times, for at least seven (7) years after the meeting.

3.11 **PARLIAMENTARY PROCEDURE.** Roberts' Rules of Order (latest edition) shall govern the conduct of meetings when not in conflict with the law, with the Governing Documents, or with procedures and policies established by Board resolution. The presiding officer may appoint a Parliamentarian, whose decisions on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates is waived.

3.12 **ACTION BY MEMBERS WITHOUT A MEETING,** Except for the holding of the Annual Meeting and election of Directors, any action required or permitted to be taken at a meeting of the Members may be taken without a meeting if the action is taken by Members entitled to vote on such action and having not less than the minimum number of votes that would be necessary to take such action at a meeting at which all Members entitled to vote on such action were present and voted. Action by Members without a meeting may be requested only by the Board and only by a Supermajority Vote, as defined in Section 4.03 (f) hereof, in which case written notice of the requested action, together with an explanation by the Board of why action by Members without a meeting is being requested, shall be delivered either personally or by mail to each Member. If mailed, such notice shall be deemed to have been delivered when such notice is deposited in the U.S. Mail, addressed to the Member at his address as it appears on the records of the Foundation, with postage prepaid. The Member is responsible for informing the Foundation of any change of address. In order to be effective, the action must be evidenced by one or more written consents describing the action taken, dated and signed by approving Members having the requisite number of votes and entitled to vote on such action, and delivered to the Secretary. In order to be valid, such written consents must be delivered to the Secretary

within sixty (60) days after the date of the earliest dated consent received. If the requisite number of written consents are timely delivered to the Secretary, a resolution passed by the Board on the action so authorized shall be of full force and effect as if the action had been approved by vote of the Members at a duly noticed meeting of the Members held on the sixtieth (60th) day. Within ten (10) days after adopting the resolution, the Board shall mail written notice of the action taken, or shall cause an issue of the Pelican Bay Post with the notice contained therein to be mailed, to all Members who have not consented in writing. Nothing in this Section affects the rights of Members to call special meetings of the Membership as provided herein. If the vote is taken by the method described in this Section, the list of Members on record with the Secretary at the time of mailing the voting materials shall be the list of qualified voters.

ARTICLE IV BOARD OF DIRECTORS

4.01 GENERALLY, The administration of the affairs of the Foundation shall be by the Board. All powers and duties vested in the Foundation by law, as modified and limited in the Governing Documents, shall be exercised by the Board, subject to approval or consent of the Members only when specifically required.

4.02 POWERS. The Board has the authority, subject to the provisions of Section 4.03 hereof, to:

- (a) Manage and control the affairs of the Foundation;
- (b) Appoint and remove at its pleasure all officers, agents and employees of the Foundation, prescribe their duties, fix their compensation, and require of them such security or fidelity bonds as it may deem expedient;
- (c) Establish, levy and assess, and collect any assessment provided for by the Governing Documents;
- (d) Designate one or more depository(ies) for Foundation funds, and the officer(s) authorized to make withdrawals therefrom, to invest Foundation funds, and to enter into contracts and incur obligations on behalf of the Foundation.
- (e) Borrow money for Foundation purposes. A resolution approved by a majority of the whole Board that the interests of the Foundation require borrowing for a proper corporate purpose shall be required. The Board may, if it determines that the same shall be reasonably necessary, assign, pledge, mortgage or encumber Foundation property or future revenues of the Foundation as security therefor;
- (f) Adopt Rules and Regulations relating to the use of the Foundation Common Area, and sanctions, including suspension of use rights and the assessment of reasonable

finer for noncompliance therewith, as it may deem to be in the best interest of the Foundation and its Members. The Board may also establish and levy reasonable fees and charges for the issuance of permits for erecting or placing improvements on any Foundation Common Area or for the use of the Foundation Common Area and may also establish and levy reasonable fees and charges for architectural review for new construction and exterior alterations pursuant to the Declaration;

- (g) Cause the Foundation to employ sufficient personnel to adequately perform the responsibilities of the Foundation;
- (h) Negotiate and adopt agreements for the purpose of insuring that the Foundation Common Area is properly maintained and cared for;
- (i) Appoint such standing or temporary committees as the Board may deem necessary or convenient for the efficient and effective operation of the Foundation. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. If a committee has delegated to it the authority to bind the Foundation or act for and in the place of the Board, including the power to authorize the expenditure of funds, the committee shall hold its meetings and give notice of such meetings with the same formalities as required for Board meetings;
- (j) In order to facilitate the business of the Foundation and to further the interests of Members, the Board may enter into agreements with anyone relating to the orderly transfer of property to the Foundation, and such other matters as the Board may deem appropriate. Such agreements may contain such provisions as the Board may in its discretion and judgment feel are appropriate. However, the existence of such agreements and provisions and terms shall be made known to the Members in such manner as the Board deems appropriate, but in no event, later than the next Annual Meeting following execution of such contract or agreements;
- (k) Perform all other acts not inconsistent with the Governing Documents, or with law, and reasonably necessary for the proper functioning of the Foundation; and
- (l) In anticipation of and during any Emergency, as defined in Section 4.03(e) hereof, the Board shall have the emergency powers set forth in the Florida Statutes, and such other emergency powers as may be authorized by law.

4.03 LIMITATIONS ON THE POWERS OF THE BOARD, Notwithstanding anything contained in these Bylaws to the contrary, and subject to the provisions of governing law, the Articles of Incorporation, the Declaration, and the Bylaws, the powers of the Board shall be limited as follows:

- (a) Before taking any of the following actions, other than in an Emergency, the Board shall publish notice of the intended action in the Pelican Bay Post and on the Foundation's web site, or in such other publications and/or locations as shall be required by the Rules and Regulations, and shall consider the actions in at least two Board meetings (one of which may be the meeting at which the action is taken):
1. Levy a Special Assessment, as defined in Section 7.05 hereof.
 2. Incur indebtedness that is expected to remain outstanding for more than one (1) year and that is in excess of fifty percent (50%) of the Annual Assessment, as defined in Section 7.02 hereof, for the fiscal year in which the indebtedness is incurred. and
 3. Obligate the Foundation to expend an amount that is in excess of ten percent (10%) of the Annual Assessment for the current fiscal year on any non-budgeted project.
 4. Change the amount of the Resale Capital Assessment, as defined in Section 7.03 (e) hereof,
 5. Amend the Bylaws.
- (b) Except in an Emergency, or with the approval of a majority of the voting interests present in person or by proxy and voting at a duly called meeting of the Members, any levy of a Special Assessment by the Board shall not be effective unless:
1. it has been approved by the Board by a Supermajority Vote,
 2. the levy is approved by the Board during the period from November 1 to April 30,
 3. the levy is not in excess of fifty percent (50%) of the Annual Assessment for the fiscal year in which the Special Assessment is approved, and
 4. the resolution authorizing the Special Assessment sets forth the reasons the special assessment is necessary and why other sources of funding are not adequate, and provides an estimate of the likely impact on future operating expenses of capital projects, if any, planned as a result of the Special Assessment.

The determination of the Board by Supermajority Vote that the conditions of this subsection (b)(1) through (b)(4) have been met shall be conclusive proof that they have been met and shall be final and binding for all purposes.

- (c) Except in an Emergency, or with the approval of a majority of the voting interests present in person or by proxy and voting at a duly called meeting of the Members, any authorization by the Board of the incurrence of indebtedness by the Foundation that is expected to remain outstanding for more than one (1) year and that is in excess of fifty percent (50%) of the Annual Assessment for the fiscal year in which the indebtedness is incurred (the "Limitation Amount"), shall not be effective unless:
1. it has been approved by the Board by a Supermajority Vote, and
 2. the Board determines in the resolution authorizing the Foundation to incur the indebtedness that the indebtedness in question, together with all other indebtedness of the Foundation that is not intended to be repaid within one year, can be serviced (principal and interest) each year the indebtedness is outstanding by application of seventy-five percent (75%) or less of the Resale Capital Assessments the Board expects to receive in such year.

The provisions of this subsection shall not apply to lines of credit authorized by the Board, but shall apply to any draws by the Foundation on such lines of credit in excess of the Limitation Amount that are expected to remain outstanding for more than one (1) year. The determination of the Board by Supermajority Vote that the conditions of this subsection (c) (1) and (2) have been met shall be conclusive proof that they have been met and shall be final and binding for all purposes.

- (d) Except in an Emergency, or with the approval of a majority of the voting interests present in person or by proxy and voting at a duly called meeting of the Members
1. any authorization by the Board of the expenditure of an amount that is in excess of ten percent (10%) of the Annual Assessment for the current fiscal year on any non-budgeted project, or
 2. any change in the amount of the Resale Capital Assessment shall not be effective unless it has been approved by the Board by a Supermajority Vote.
- (e) For all purposes of these By-Laws, an Emergency shall mean a serious situation, occurrence or combination of circumstances that is unexpected and that calls for immediate action. The determination of a majority of the Board members present and voting of the existence of an Emergency shall be conclusive proof of the existence of the Emergency and shall be final

and binding for all purposes.

- (f) For all purposes of these By-Laws, a Supermajority Vote shall mean the affirmative vote of at least a majority plus one (1) of the Directors present and voting.
- (g) The Board is encouraged but not required to consider important issues during the period from November 1 to April 30 when it is feasible to do so.
- (h) Any resolution of the Board requesting Member approval of a Special Assessment shall contain the information set forth in subsection (b)(4) above.
- (i) Nothing contained in this subsection shall limit the ability of the Board to take any action in an Emergency or with the approval of a majority of the Members present in person or by proxy and voting at a duly called meeting of the Members.
- G) Nothing contained in this subsection shall apply to any action of the Board taken prior to the date that these Bylaws become effective.

4.04 NUMBER AND QUALIFICATIONS OF DIRECTORS, The business affairs of the Foundation shall be managed by a Board consisting of seven (7) Directors. All Directors shall be holders of Membership Cards. A holder of a Membership Card appurtenant to a Plot for which an assessment is more than thirty (30) days past due shall not be eligible for Board membership.

4.05 TERM OF OFFICE, Regardless of the number of Directors, each Director shall be elected for a three (3) year term, unless initially such term must be for a shorter period, so that the number of Directors whose terms expire each year may be as nearly mathematically equal as possible. Each Director's term shall end at the Annual Meeting at or in connection with which his successor is to be elected. Each Director is limited to election for two (2) consecutive terms. This limitation shall not apply to any term or portion thereof to which a Director has been appointed by the Board to fill a vacancy on the Board. Directors, having served in that position for two consecutive terms, may run again for election as a Director after remaining out of that position for one complete three (3) year term.

4.06 ELECTION OF DIRECTORS,

- (a) Subject to Section 4.12, the election of Directors shall occur as provided in sections 3.01 and 3.03.
- (b) Directors shall be elected by ballot as provided for in Section 3.08. The candidate(s) receiving a plurality of the votes cast shall be elected. Each Member eligible to vote may cast as many votes as there are Directors to be elected, but no more than one vote may be cast for any candidate, it being the intent hereof that cumulative voting is prohibited. Any Member may waive the right of secrecy of his ballot.

- (c) The election of Directors shall be overseen by an elections committee, which shall be a standing committee of the Foundation (the "Elections Committee"). The Elections Committee shall have the following responsibilities as the same may be amended from time to time by resolution of the Board:
1. Draft an election procedure resolution for approval by the Board for each election of Directors.
 2. Publish notice of the election in the Pelican Bay Post at least ninety (90) days in advance of the Annual Meeting.
 3. Certify that nominees meet the qualifications stated in Section 4.04 of the Bylaws.
 4. Report nominees and its certification thereof to the Board and to the Management Team not less than sixty (60) days before the Annual Meeting.
 5. Organize forums where candidates may be introduced to the voters.
 6. Resolve complaints about the election process.
 7. Recommend to the Board any changes in the method of voting for Directors.
 8. Oversee the voting and resolve, with the participation of the Management Team, any issues that might arise regarding eligibility.
 9. Certify the election results to the Board.
- (d) The name of each nominee as reported by the Elections Committee shall be included on the ballot for the election which shall be mailed, hand delivered or electronically transmitted to each Member no less than thirty (30) days prior to the date the ballot shall be due. The mailing, delivery, or transmittal shall include instructions on casting ballots and shall set forth the date and time at which all ballots must be cast in order to be counted. Notwithstanding the foregoing, balloting and procedures for voting may be conducted electronically as set forth in these Bylaws.
- (e) The ballots shall be cast by the Members directly with the Foundation or its agents and not with their Neighborhood Association. Ballots may be cast as provided for in Section 3.08.
- (f) No more than seven (7) days prior to the day of the Annual Meeting, at a

place and time which was stated in the notice of the Annual Meeting, the
Elections

Committee shall count the ballots which have been timely cast in such manner as it deems advisable. In the alternative, the Elections Committee may delegate the counting of the ballots to an outside vendor. Any ballots which have not been timely cast in accordance with the instructions accompanying the ballots shall not be eligible to be counted.

- (g) The results of the election shall be announced by the Board at the beginning of the Annual Meeting, and the new Directors shall take office at the adjournment of the Annual Meeting. In the event of a tie vote, the tie shall be broken by lot. Any dispute as to the validity of any ballots shall be resolved by the Elections Committee, subject to a right of appeal to the Board.
- (h) The Board may, by resolution, authorize the Elections Committee to hire an outside firm to assist in conducting the elections and implementing the required systems and methods as set forth herein including a recount of the ballots in the event of a challenge to the election process. The Board may also authorize the Elections Committee to investigate any voting irregularities and report its findings and recommendations to the Board for consideration.

4.07 MEETING OF THE BOARD, All meetings of the Board shall be open to holders of Membership Cards. A notice and agenda for each Board meeting shall be delivered, either personally, by overnight courier, or by electronic means, to each Director at least forty-eight hours before each Board meeting, and shall be posted conspicuously on Foundation property for at least forty-eight (48) continuous hours before each Board meeting, except in an Emergency. A notice of any Board meeting at which an assessment is to be considered will include a statement that assessments will be considered and the nature of the assessments, except in an Emergency. Notice of any Board meeting at which a special assessment may be approved shall be delivered, either personally or by mail, to each Member, and shall be posted conspicuously on Foundation property, at least fourteen (14) days before the meeting, except in an Emergency. If mailed, such notice shall be deemed to have been delivered when such notice is deposited in the U.S. Mail, addressed to the Member at his address as it appears on the records of the Foundation, with postage prepaid. The Member is responsible for informing the Foundation of any change of address. Attendance at any meeting by a Director constitutes waiver of notice, unless objection to the notice is raised at the beginning of the meeting. A Director may waive notice of any meeting at any time. The right of holders of Membership Cards to attend Board meetings includes the right to speak on designated agenda items, subject to reasonable rules of the Foundation governing the manner, duration and frequency of doing so.

4.08 QUORUM, A quorum at a Board meeting exists when at least a majority of all Directors are present in person at a duly called meeting. Directors may participate in any meeting of the Board, by a conference telephone call or similar communicative arrangement by which all persons present can hear and speak to all other persons. Participation by such means is equivalent to presence in person at a meeting. Directors may not vote or participate by proxy or by secret ballot at Board meetings, except that officers may be elected by secret ballot.

4.09 VOTE REQUIRED, The acts approved by a majority of the Directors present and voting at a duly called meeting while a quorum exists are the acts of the Board, unless approval by a greater number of Directors is required by the Governing Documents, or by law. A Director who is present at a meeting of the Board is deemed to have voted in favor of any action taken, unless that Director voted against such action or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes.

4.10 ADJOURNED MEETINGS, The majority of the Directors present at any meeting of the Board, no matter whether a quorum exists, may adjourn the meeting to be reconvened at a specific time, date and place. At the reconvening of the meeting, provided a quorum is present, any business may be transacted that might have been transacted at the meeting as originally called.

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- (a) If the office of any Director becomes vacant because of death, disqualification or resignation, a majority of the remaining Directors, though less than a quorum, may appoint a Director, who shall hold office for the remaining unexpired term.
- (b) If the vacancy exists because of a newly created directorship , the Director appointed by the Board shall serve only until the next annual election, at which time a Director shall be elected for a full term by the Members, subject to Section 4.05 above.
- (c) If one or more vacancies exist because of the recall of less than all of the Directors, the vacancy or vacancies may be filled by appointment by a majority of the remaining Directors, though less than a quorum, as provided above, however the successor(s) so appointed shall not be the same person or persons just removed, nor any person related to any of them by blood or marriage. If all of the Directors were removed, the vacancies shall be filled by a vote of the Members in a special election.

4.12 RESIGNATION AND REMOVAL OF DIRECTORS,

- (a) Any Director may resign at any time by written notice delivered to any officer of the Foundation, and the resignation shall be effective upon receipt unless another date is clearly set forth in the notice. A resignation may be revoked by the resigning Director at any time before it becomes effective, but not thereafter.
- (b) Any or all Directors may be recalled, with or without cause, by a majority vote of the entire Membership, either by a written petition or at a meeting called for that purpose. In all cases, the question shall be decided by separate vote as to each Director sought to be recalled. The notice of meeting shall state the specific

Director or Directors sought to be removed. Votes for the removal of a Director(s) may be cast at a special meeting which shall be called for that purpose by the Secretary upon receipt of a petition signed by Members having at least ten percent (10%) of the voting interests, in which case the notice of the meeting must be accompanied by a dated copy of the signature list(s). Each signature list must contain a statement of the purpose of the signatures.

- (c) Any Director who is removed from the Board shall not be eligible to stand for reelection until the next annual meeting of the Members. Any Director removed from office shall turn over to the Board within seventy-two (72) hours any and all records of the Foundation in his possession.
- (d) If any Director is absent from three (3) consecutive regular meetings of the Board, the Board may, by action taken at the meeting during which the third absence occurs, declare the office of the absent Director to be vacant, and may fill the vacancy as provided above.

4.13 ORGANIZATIONAL MEETING. The organizational meeting of a new Board, for the purpose of electing officers, and the appointment of committees, shall be called by the chair, as hereinafter determined, following the annual meeting but in no event later than ten (10) days thereafter, at such place and time as may be fixed in the notice of the meeting. Until the new Board elects the Chairman, the meeting will be chaired by the highest ranking officer remaining from the previous Board after the election, in the order of Chairman, Vice-Chairman, Treasurer and Secretary. Thereafter, the newly elected Chairman shall chair the meeting.

4.14 PRESIDING OFFICER, The Chairman of the Foundation, or in his absence, the Vice-Chairman, shall be the presiding officer at all meetings of the Board. If neither is present, the presiding officer shall be selected by majority vote of the Directors present.

4.15 COMPENSATION, Directors shall not receive compensation for their services as such. Directors may be reimbursed for actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

ARTICLE V OFFICERS

5.01 OFFICERS, The officers of the Foundation shall be the Chairman, one or more Vice-Chairman, the Secretary, the Treasurer, and such other officers and assistant officers as the Board may from time to time elect. Officers shall serve at the pleasure of the Board.

Any two (2) or more offices may be held by the same person, except that the Chairman may hold no other office. The Chairman and Vice-Chairman must be Directors, but no other officers need be Directors.

5.02 CHAIRMAN. The Chairman shall be the chief policy officer of the Foundation, except as otherwise determined by the Board, and shall chair all meetings of the Board and have all other duties assigned to the Chairman under these Bylaws, the Administrative Policies and Procedures, as amended, and resolutions adopted by the Board. The Chairman shall be an ex- officio Member of all Board committees. The Chairman's term of office shall be one (1) year with a maximum of three (3) consecutive terms.

5.03 VICE-CHAIRMAN. In the absence or disability of the Chairman, the Vice-Chairman is empowered to act and shall thereupon be vested with the powers and duties of the Chairman. In the event that there is more than one Vice-Chairman, the Board shall establish the order in which they serve.

5.04 SECRETARY, The Secretary of the Foundation shall keep or cause to be kept the minutes of the business and other matters transacted at the meetings of the Members and of the Board. The Secretary shall perform all of the duties incident to the office of Secretary or designated to him by the Board or these Bylaws. The Board may authorize the Secretary to delegate certain powers and responsibilities to the Management Team. All records of the Foundation shall be maintained in the offices of the Foundation.

5.05 TREASURER, The Treasurer shall have the responsibility for custody of the funds of the Foundation, collection of monies due, payment of the obligations of the Foundation out of its funds, and performance of such other duties as are incident to the office of Treasurer. The Board may authorize the Treasurer to delegate certain powers and responsibilities to the Management Team.

5.06 TERM, The term of each officer shall be for one year, and until any successor officer is elected and qualified to hold office.

5.07 REMOVAL OF OFFICERS, Any officer may be removed, with or without cause when, in the judgment of the Board, the best interests of the Foundation will be served by such removal. Removal shall be accomplished by a majority vote of the Board.

5.08 COMPENSATION, The compensation of officers, if any, shall be as provided by resolution of the Board.

5.09 MANAGEMENT TEAM, The Board, in its discretion, may hire one or more members of a management team (the "Management Team") to be responsible for the operation and administration of the Foundation properties, operations, and affairs. The Board shall, by resolution, determine the compensation, powers, duties, obligations and responsibilities of the Management Team as set forth in these Bylaws, and in the Administrative Policies and Procedures, as amended.

5.10 FIDELITY BONDS. At such time as the Board deems advisable, all persons who are authorized to sign checks, shall be bonded in such amounts as may be required by law or otherwise decided by the Board. Premiums on such bonds shall be paid for by the Foundation.

ARTICLE VI
BUDGET

6.01 FISCAL YEAR, The Foundation Fiscal Year shall end on September 30.

6.02 PREPARATION OF BUDGET, It shall be the responsibility of the Foundation Treasurer to annually supervise the preparation of a proposed budget for the next Fiscal Year. The Treasurer shall, no later than sixty (60) days prior to the first day of the Fiscal year, deliver the proposed budget to the Board for their consideration. The budget shall comply with all statutory requirements, including but not limited to, a line item for all fees or charges for recreational amenities including lease or rental payments. The budget shall also include line items for the funds outlined in Section 6.05 of the Declaration.

6.03 ADOPTION OF BUDGET, At least fifteen (15) days before the first day of each Fiscal Year, the Board shall adopt an annual budget. It shall also determine the amount of the annual assessment and the manner in which it is to be assessed against and collected from each Plot. A copy of the proposed budget, and a notice of the meeting at which the Board will adopt it, shall be posted in a conspicuous place on the Foundation Common Area for at least fourteen (14) consecutive days before the meeting. A copy of the proposed budget (or the actual operating budget after its adoption) shall be made available to all Members upon request at no charge to the Member. The Board shall not have the power or authority to adopt a budget that is not balanced (i.e., in which planned annual operating expenses exceed planned operating income). If actual spending exceeds the planned or actual operating income of the Foundation, then the Board shall hold a special meeting of the Board for the purpose of determining how to fund the budget overrun.

6.04 ANNUAL REPORT, Annually the Treasurer of the Foundation shall cause the Foundation financial records to be audited by an independent Certified Public Accountant, said firm to be recommended by the Treasurer for approval by the Board of Directors.

ARTICLE VII
ASSESSMENT

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7.01 ASSESSMENTS, Each Owner is obligated to pay to the Foundation assessments. Foundation assessments are the personal obligation of the Owner and are secured by a continuing lien upon the property against which the Assessments are made. Except as otherwise provided by Florida Law, when the mortgagee of a first mortgage of record, or when a third party purchaser obtains ownership of a Plot by foreclosure, or a deed in lieu of foreclosure, said party and his successors and assigns shall not be liable for the share of common expenses or Assessments attributable to the foreclosed Plot which became due prior to acquisition of title, unless the share is secured by a claim of lien for assessments that was recorded prior to the recording of the foreclosed mortgage. Assessments levied by the Foundation shall be used:

- (a) To promote the recreation, entertainment, health, safety, and welfare of the Owners and their families, guests and tenants in Pelican Bay;

- (b) To provide or make available such services, facilities and amenities as determined by the Board to be in the best interests of the residents of Pelican Bay;
- (c) For the improvement, maintenance, protection and operation of the Foundation Common Area, Foundation equipment and facilities, and dedicated public rights- of-way; and
- (d) For such other purposes as are permitted by the Governing Documents.

7.02 ANNUAL ASSESSMENTS,

- (a) The amount of the annual assessment, which shall include an annual operating assessment and an assessment for the Replacement Reserve Fund (" Annual Assessment"), shall be determined by the Board in accordance with the Governing Documents and shall be calculated on a per unit basis as follows: All single family units or Plots, whether completed, under construction or vacant, pay a full share; all multi-family villa and mid-rise (four floors or fewer over parking) units completed or under construction pay a full share and all not under construction pay a one-half share; all multi-family high-rise units (more than four floors over parking) completed or expected to be ready for occupancy during the first six (6) months of the year pay a full share, and all other multi-family high rise units or Plots, whether under construction or vacant, pay a one-half share. Every cooperative unit, as defined in Section 719.103 (15), Florida Statutes (1993), and every condominium unit, as defined in Section 718.103 (24), Florida Statues (1993), shall be considered a single unit for assessment purposes.
- (b) The value to be used in determining the Annual Assessment for any golf clubhouse and its underlying property will be 5 units per acre, and the land constituting the golf course itself shall not be considered nor assessed.
- (c) By resolution, the Board shall establish: the amount of the Annual Assessment; the date or dates on which Annual Assessments are due and payable; the place for payment; and the method of payment. Unless otherwise determined by the Board, the full amount of the Annual Assessment shall be due October 1 each year and payable as of January I of the succeeding year.
- (d) The Board may by resolution establish a discount for payment of Annual Assessments prior to the due date and/or payment of the Annual Assessment in installments.
- (e) The Foundation will determine the number of units for assessment purposes as follows:

1. The number of units which are subject to an Annual Assessment shall be determined by reference to the Neighborhood Covenants and subdivision plat for the various parcels as recorded in the Public Records of Collier County, with single family area consisting of one unit for each homesite as platted.
 2. The unit count for commercial parcels and for parcels containing hotel units shall be one-half of that designated by the Neighborhood Covenants as recorded in the Public Records of Collier County.
 3. The unit count for any portion of a Plot which contains a health center, clinic or other such facility intended for the temporary medical treatment and care of persons, whether or not such persons are Members, shall be one (1) unit for every three (3) beds.
 4. Once the total unit count has been determined from the above methods, this count will then be divided into the current year's budget as adopted by the Board to help determine a per unit Annual Assessment.
- (f) Notwithstanding any other provisions of this Section to the contrary, the Board may by resolution establish additional per unit Annual Assessments for additional services, facilities or amenities which are provided or made available only to the Owners, tenants or guests of certain residential units. The additional per unit Annual Assessment shall be calculated by dividing the estimated number of units receiving such service, facilities, or amenities into the total budget for such items as adopted by the Board.

7.03 INITIAL CAPITAL ASSESSMENTS,

- (a) The Foundation shall levy upon each Property Unit, at the time of closing of the first conveyance to an Owner, an initial capital assessment ("Initial Capital Assessment").
- (b) The calculation of the amount of the Initial Capital Assessment and the manner and time of payment shall be as determined by resolution of the Board from time to time.
- (c) The rate of assessment per unit shall be at a uniform rate or at a rate based upon the valuation of the unit or at a rate based upon a variation or combination thereof.
- (d) There shall be no Initial Capital Assessment in respect of or arising out of the golf course and the clubhouse or its underlying property.
- (e) The funds derived from Initial Capital Assessments and resale capital

assessments, as provided for in Section 7.04 ("Resale Capital Assessment"), shall

be maintained in a separate account, designated Capital Fund, and shall be used for acquiring and constructing new assets and improving existing assets.

7.04 RESALE CAPITAL ASSESSMENTS,

- (a) In addition to the Initial Capital Assessments, the Foundation may levy a Resale Capital Assessment upon the transfer of a conveyance of every Property Unit owned by a Member.
- (b) The calculation of the amount of the Resale Capital Assessment and the manner of payment shall be as determined by resolution of the Board from time to time.
- (c) The rate of assessment per unit shall be at a uniform rate or at a rate based upon the valuation of the unit or at a rate based upon a variation or combination thereof. The number of units assigned to a Plot for calculation of Annual Assessments shall be used to calculate the Resale Capital Assessment. If any Plot is subject to Ownership as a condominium, cooperative, or other form of fractional Ownership, the conveyance of one or more units or portions of such Ownership shall be subject to a Resale Capital Assessment on a pro-rata basis. The pro-rata share or percentage shall be based upon the governing documents of such Plot or upon such other method of calculation as may be determined by the Board. The due date shall be the date of the closing of the conveyance. The Resale Capital Assessment shall, unless the transferor and transferee otherwise expressly agree, be the obligation of the transferee.
- (d) For purposes of this Section 7.04, the following definitions shall apply:
 - 1. The term "Property Unit" and "Plot" shall have the meaning described in the Declaration.

The term "conveyance" shall mean the non-exempt transfer of record legal title to a Property Unit, whether singly or otherwise, by deed or other authorized means of conveyance for valuable consideration, and shall also refer to the transfer of possession and beneficial Ownership for valuable consideration by means of an agreement for deed, transfer of an interest in a land trust or similar conveyance of beneficial interest. A conveyance into trust, by gift, devise or inheritance for no consideration or for nominal consideration shall be exempt from the Resale Capital Assessment. If the title holder is a corporation, limited liability company or other business entity, then "conveyance" shall include the sale, issuance or transfer of any voting capital stock or interest of the title holder or of any corporate entity which directly or indirectly controls the title holder which shall result in a change in the voting control of the title holder or the legal entity or persons who control the title holder. If the

title holder is a partnership or an unincorporated association, then the sale, issuance or transfer of a

majority interest therein, or the transfer of a majority interest in or a change in the voting control of any partnership or unincorporated association or corporation which directly or indirectly controls the title holder, or the transfer of any portion of any general partnership or managing partnership interest which shall result in a change of control over the title holder, shall be deemed a conveyance within the meaning of this Section. A contract for the purchase or conveyance of a Dwelling Unit or Plot entered into by or made to a person, corporation, trust or other legal entity who or which owned and occupied a Dwelling Unit or owned a Plot within ninety (90) days prior to the date of such contract for purchase or conveyance shall be exempt from the Resale Capital Assessment (the "Exemption") upon the making of application to the Foundation, provided that such application is made on the approved Foundation form at least 7 days prior to the closing. It is the responsibility of the Owner to apply for the exemption and the Foundation shall have no liability to an Owner who fails to apply for the exemption as required herein. A Member shall be entitled to only one Exemption during the lifetime of the Member. For example, if a Member currently owns a Dwelling Unit or Plot within Pelican Bay, and the Member subsequently purchases another Dwelling Unit or Plot, then the Member may be granted the Exemption on the second purchase. However, any subsequent purchases or conveyances by the Member, after the Exemption has been used, will not be eligible for the Exemption. Additionally, the individual beneficiaries of a trust shall not be eligible for the Exemption if the trust has already received one Exemption.

7.05 SPECIAL ASSESSMENTS,

- (a) Subject to the provisions of these Bylaws, the Board may levy, in any Fiscal Year, one or more special assessments ("Special Assessments") for any legal purpose.
- (b) Special Assessments shall be levied only against those Plots benefitted thereby. The designation by the Board of the Plots benefitted by a Special Assessment shall be conclusive proof that those are the only Plots benefitted thereby and shall be final and binding for all purposes.
- (c) The calculation of the amount of any Special Assessment and the manner and time of payment shall be determined by resolution of the Board.
- (d) Any Special Assessment chargeable to the golf course clubhouse and its underlying property will be at only one-half (1/2) the amount that would otherwise be required. No special Assessment shall be levied against the golf course itself.

7.06 PAYMENT OF ASSESSMENTS BY NEIGHBORHOOD ASSOCIATIONS,

- (a) If a Plot has been submitted to the condominium or cooperative form of ownership or to a mandatory membership homeowners Association, the Neighborhood Association thereof shall have the duty and responsibility for collecting and timely remitting to the Foundation assessments and other charges directly from any Owner personally and may impose a lien against such Owner's Plot or Property Unit for the payment of such assessments and charges which are due and unpaid.
- (b) Neighborhood Associations shall not be responsible for collecting Resale Capital Assessments.

7.07 EXEMPT PROPERTIES, All properties designated to be, or dedicated to, and accepted by the Foundation, Collier County or any other public or quasi-public authority shall be exempt from the Assessments created herein, except no land improvements devoted to dwelling use shall be exempt from said Assessments.

7.08 NONPAYMENT OF ASSESSMENTS, Any assessment not paid within thirty (30) days after the payable date shall bear interest at the highest permitted legal rate under the laws of the State of Florida.

7.09 PROOF OF PAYMENT, Upon request, the Foundation Secretary shall furnish a statement certifying that all assessments then due have been paid or indicating the amount due.

7.10 SUSPENSION, The Foundation shall not be required to transfer Memberships on its books or to allow the exercise of any rights or privileges of Membership on account thereof to any Owner, or to any persons claiming under them, unless and until all assessments and charges to which they are subject have been paid.

7.11 RESALE OF PLOTS, Within fifteen (15) days after receipt of a written request therefor from an Owner, mortgagee, or contract purchaser of a Plot, the Management Team shall prepare a Certificate of Assessment Payment stating the amount of any and all unpaid Assessments and charges, as well as the amount of the Resale Capital Assessment, and deliver the same to the person making the request. Outstanding assessments and charges, if any, shall be deducted from the seller's account at the closing and transmitted directly to the Foundation. See Section 7.04 for Resale Capital Exemption Procedures.

ARTICLE VIII
OFFICIAL RECORDS

The Foundation shall maintain as its official records all books, documents and other written materials as may be required by law. During regular business hours, any Member shall be entitled to inspect the official records and may copy certain of the official records; provided,

however, the Foundation may deny any demand for inspection and copying of official records if the demand is made for an improper purpose or previous records have been improperly used. The Foundation may impose a reasonable charge for the costs of labor and materials, for copies of any official records or other documents provided to a Member.

ARTICLE IX
INDEMNIFICATION OF OFFICERS, DIRECTORS AND COMMITTEE MEMBERS

To the fullest extent permitted by law, every Director, Officer and Committee Member of the Foundation shall be indemnified by the Foundation against all expenses and liability including reasonable attorney fees, incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may be become involved, by reason of his being or having been a Director, Officer or Committee Member of the Foundation, whether or not he is a Director, Officer or Committee Member at the time such expenses are incurred. The foregoing right of indemnification shall not be available if a judgment or other final adjudication establishes that his actions or omissions to act were material to the cause adjudicated and involved

- (a) Willful misconduct or a conscious disregard for the best interests of the Foundation in a proceeding by or in the right of the Foundation to procure a judgment in its favor;
- (b) A violation of criminal law, unless the Director, Officer or Committee Member had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful; or
- (c) A transaction from which the Director, Officer or Committee Member derived an improper personal benefit.

Claims for reimbursement as permitted under this Article shall be paid by the Foundation as incurred. The foregoing right of indemnification shall be in addition to and not exclusive of, all other rights to which such Director, Officer or Committee Member may be entitled.

ARTICLE X
MISCELLANEOUS

10.01 AMENDMENT, Amendments to these Bylaws shall be proposed and adopted in the following manner:

- (a) Proposal. Amendments to these Bylaws may be proposed by the Board. In addition, if requested by a Member in a written notice to the Secretary, the Secretary shall place a request for an amendment to the Bylaws on the agenda of a Board meeting scheduled at least thirty (30) days after receipt of such notice.

- (b) Procedure. If any amendment to these Bylaws is so proposed, such proposed amendment shall be posted in a conspicuous place on the Foundation Common Area for at least fourteen (14) consecutive days before the next regularly scheduled or special meeting of the Board at which the proposed amendment is to be considered for approval and adoption.
- (c) Vote Required. Except as otherwise provided by law, a proposed amendment to these Bylaws shall be adopted if it is approved by a Supermajority Vote of the Board.
- (d) Recording; Effective Date. A copy of each amendment shall be attached to a certificate reciting that the amendment was duly adopted. The certificate shall be executed by an officer of the Foundation with the formalities of a deed. The certificate must identify the book and page of the Public records where the Declaration was originally recorded. The amendment is effective when the certificate and copy of the amendment are properly recorded in the Public Records of Collier County, Florida.

10.02 SEVERABILITY, Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

10.03 CONFLICT. If any irreconcilable conflict now exists, or shall later arise, between these Bylaws and the Declaration or the Articles of Incorporation, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of these Bylaws.