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DWIGHT E. BROCK, CLERK OF THE CIRCUIT COURT
COLLIER COUNTY FLORIDA
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THIS INSTRUMENT PREPARED BY
AND RETURN TO:
DAVID G. MULLER, ESQ.
BECKER & POLIAKOFF, P.A.
4001 TAMIAMI TRAIL N., SUITE 410
NAPLES, FL 34103

CERTIFICATE OF AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HERITAGE BAY GOLF & COUNTRY CLUB AND THE BYLAWS OF HERITAGE BAY GOLF & COUNTRY CLUB, INC.

The undersigned officers of Heritage Bay Golf & Country Club, Inc., a not for profit Florida corporation organized and existing to operate and govern Heritage Bay Golf & Country Club, according to the Declaration of Covenants, Conditions and Restrictions thereof recorded at O.R. Book 3989, Page 2218, *et seq.*, and the Amended and Restated Declaration of Covenants, Conditions and Restrictions recorded at O.R. Book 4355, Page 1839, *et seq.*, as amended, of the Public Records of Collier County, Florida, which includes the Bylaws as an exhibit to said Amended and Restated Declaration of Covenants, Conditions and Restrictions, certifies that the following amendments to the Amended and Restated Declaration of Covenants, Conditions and Restrictions were duly adopted by an affirmative vote of at least two-thirds (2/3rds) of those members who are eligible to vote and who are present, in person or by proxy, at a duly called meeting of the Members at which a quorum is attained, as required by Article 15.5 of the Amended and Restated Declaration of Covenants, Conditions and Restrictions and the Bylaws were duly adopted by at least two-thirds (2/3rds) of the voting interests present and voting at any annual or special meeting, as provided by Article 9.2 of the Bylaws and in accordance with applicable law at a duly convened Annual Membership Meeting held on March 23, 2016. The following amendments were also approved by the Board at a Board of Directors meeting held on January 19, 2016.

(Additions indicated by underlining, deletions by ~~strike-through~~)

1. **Amendment to Article 1.40 of the Amended and Restated Declaration of Covenants, Conditions and Restrictions, to read as follows:**

1.40 "Voting Representative" means the ~~Director(s)~~ individual(s) appointed ~~to the Board of Directors~~ by each Neighborhood Association to be responsible for performing the duties specified within the Club Governing Documents, including casting votes of the members (except for the election of Directors) ~~in all Club matters, as established in~~ pursuant to Section 2 of the Bylaws of the Club.

2. **Amendment to Article 11.6 of the Amended and Restated Declaration of Covenants, Conditions and Restrictions, to read as follows:**

11.6 Neighborhood Association Voting. The Club Bylaws ~~of each Neighborhood Association~~ shall provide a procedure by which its members who are entitled to cast votes as members of the Club may cast their votes and have their votes cast by and through their Voting Representatives, as applicable, on Club matters ~~with the Neighborhood Association~~. Except as otherwise provided in the Bylaws, ~~each Neighborhood Association~~ the Club shall poll its ~~owners or~~ members "at large" and collect and tabulate its members' votes on all matters as to which Club members are entitled to vote~~, and shall designate a voting representative to attend Club meetings and cast the votes of its members at such~~ at Club membership meetings. ~~The procedure, subject to any restrictions, limitations or conditions which may be imposed by the Neighborhood Covenants or by other recorded instrument, may provide for votes to be cast in the same manner as originally cast by the Neighborhood Association's members.~~ In the event of a conflict between the Club Governing Documents and Neighborhood Documents as it pertains to voting on Club matters, the terms and conditions of the Club Governing Documents shall prevail. ~~Nothing herein shall be construed to make it mandatory for a Neighborhood Association to poll its members on every matter or any particular matter which may be voted upon by the members of the Club.~~ Voting Representatives shall formally cast votes on behalf of, and as decided and directed by, the Club members from their respective Neighborhood Associations at Club membership meetings, as provided more fully in the Club Bylaws.

3. **Amendment to Article 11.7 of the Amended and Restated Declaration of Covenants, Conditions and Restrictions, to read as follows:**

11.7 Voting Groups. In order to provide for relatively equal representation on the Board of Directors for various Neighborhoods having potentially dissimilar interests, and to avoid a situation in which ~~the Voting Representatives representing~~ similar Neighborhoods are able, due to the number of Units in such Neighborhoods, to elect a disproportionate number of Directors, or exclude representation of others, the Declarant shall establish Voting Groups for the election of Directors to the Board. Voting Groups shall be established by Declarant in its sole discretion at least ninety (90) days before the turnover of control of the Club, and shall be evidenced by recording of a Supplemental Declaration in the Public Records of the County establishing the Voting Groups. Voting Groups will generally be composed of one or more Neighborhood(s) of similar housing types, but the designation of such groups is in the discretion of the Declarant.

Each Voting Group shall be entitled to elect the number of Directors specified in the Supplemental Declaration. This Section 11.7 may not be amended without the written consent of Declarant as long as Declarant membership exists.

4. **Amendment to Article 2.2 of the Bylaws, to read as follows:**

2.2 Method of Voting. Except for the election of Directors, and except for actions taken by the Club members without a meeting (as specified in Section 3.11) , all votes of the Club members pertaining to the Club shall be cast in person (by a meeting ballot) or by proxy ~~by the voting~~

~~representatives of the Neighborhood Associations designated as provided in Section 3.6~~ and pursuant to the voting procedure set forth in this Section 2.2. ~~Such procedure, subject to any restrictions, limitations or conditions which may be imposed by any Neighborhood Covenants or by other recorded instrument, may provide for votes to be cast in a block, or in the same manner as originally cast by its members, or in any other manner that is equitable and uniformly applied within the Neighborhood Association, and does not result in the casting of fractional votes. The failure of a voting representative to cast votes in the manner instructed by the Neighborhood Association which he represents, or by its members, shall no invalidate the votes as cast.~~ Nothing herein shall require the use of secret ballots unless such use is required by law. Votes of the Declarant member shall be cast by its designated representative.

Each Club member resides in a Neighborhood and is a member of a Neighborhood Association, which is comprised of a certain number of Living Units. The number of total Living Units within each Neighborhood is documented in the Supplemental Declaration of Covenants, Conditions and Restrictions, as recorded in the Collier County Public Records at O.R. Book 4770, Page 3189 (hereinafter the "Supplemental Declaration"). The Club is comprised of a total of 1250 Living Units within a total of 21 Neighborhoods. Prior to the effective date of this provision, "block voting" at Club membership meetings was mandated by the governing documents of many of the Neighborhood Associations. For the purposes of this Section 2.2, "block voting" means a voting mechanism wherein all the possible votes attributable to a given Neighborhood Association (based on the total number of Living Units) are cast uniformly (i.e. entirely for or entirely against the Club proposal) at a Club membership meeting by the Voting Representative from that Neighborhood Association based on a procedure mandated by that Neighborhood Association's governing documents or permitted or mandated by that Neighborhood Association's Board of Directors. "Block voting" resulted in all the possible votes attributable to a given Neighborhood Association (based on the number of Living Units) being cast in a uniform manner at a Club membership meeting (usually based on the majority of the votes cast by the members of that Neighborhood Association) even though not all the members in that Neighborhood Association voted on a respective Club matter uniformly. An example of "block voting", as referenced herein, is as follows:

> In a Neighborhood with 252 Living Units (i.e. 252 potential votes on a Club matter), where a poll of that Neighborhood Association's members taken by that Neighborhood Association resulted in 127 "yeas" to a proposed Club measure and 125 "nays" to the same measure, the Voting Representative from this Neighborhood Association was required (under "block voting") per a directive from that Neighborhood Association's Board of Directors to cast all 252 votes attributable to that Neighborhood Association as "yeas".

As of the effective date of this provision, block voting by any Neighborhood Association via its Voting Representative at Club membership meetings on matters pertaining to the Club is prohibited. In the event of a conflict between these Club Bylaws and the Neighborhood Association governing documents (or any Neighborhood Association Board resolution or policy) on matters pertaining to voting on Club matters, the terms and conditions of these Club Bylaws shall prevail.

As of the effective date of this provision, the Club will notify each Club member of a proposed Club matter which requires a vote of the Club members and which vote will be conducted at a Club membership meeting, per the notification requirements contained within these Club Bylaws. The Club members will initially individually cast their votes regarding the proposed Club matter directly with the Club, in person (by meeting ballot) or by proxy, at a Club membership meeting but an individual Club member's vote will be formally cast at the Club membership meeting by the Voting Representative from that member's Neighborhood Association. Voting Representatives are required to vote on a proposed Club matter as directed by the Club members of their respective Neighborhood Associations and pursuant to the voting procedure mandated in these Club Bylaws and each Voting Representative hereby covenants to do so. The Club will tabulate the results of the votes cast by the Club members, in person (by meeting ballot) or by proxy, at the Club membership meeting. Then, the total votes attributable to each Neighborhood Association will be calculated as follows: (1) The "total voting percentages" (to three decimal points, if necessary [ex. 52.354 %]) of the votes actually cast by the Club members, in person (by meeting ballot) or by proxy, from a given Neighborhood Association both in favor of the proposed Club measure and against the proposed Club measure will be calculated. (2) The "total voting percentages" will then be multiplied by the total number of Living Units within that Neighborhood Association resulting in a "final tally" of "yea" votes and "nay" votes which (when added together) will equal the total number of Living Units within said Neighborhood Association. (3) If the "final tally" is a fractional number (to three decimal points, if necessary), the Club will "round up" to the next whole number any "final tally" higher than ".499" and the Club will "round down" to the next whole number any "final tally" of ".499" or lower such that no Neighborhood Association will have more votes attributable to their Neighborhood Association than the number of Living Units within said Neighborhood Association, per the Supplemental Declaration. The Voting Representative from each Neighborhood Association will then cast the votes of the Club members of such Neighborhood Association in accordance with the "final tally" of the "yea" votes and "nay" votes as set forth above. The following is an example as to how this voting percentage mechanism will work:

> In a Neighborhood Association with 252 Living Units (i.e. 252 potential votes on a Club measure), where a poll of that Neighborhood Association's members results in 87 "yeas" to a proposed Club measure and 81 "nays" to the same measure, with 84 votes not being cast, the "total voting percentages" (of the votes cast) is 51.786 percent in favor of the proposed Club measure and 48.214 percent opposed to the proposed Club measure. This 51.786 voting percentage in favor (i.e. the "yea" votes in this example) is then multiplied by 252 Living Units, resulting in a "final tally" of 130.500, or 131 "yea" votes (after rounding up). The corresponding 48.214 voting percentage attributable to the "nay" votes is likewise multiplied by 252 Living Units, resulting in a "final tally" of 121 "nay" votes (after rounding down). The Voting Representative of this Neighborhood Association will cast the 252 votes of the members of the Neighborhood Association as follows: 131 "yea" votes and 121 "nay" votes.

In the event all the possible votes attributable to the Club members within a given Neighborhood Association are cast, in person (by meeting ballot) or by proxy, on a proposed Club measure, the "total voting percentages" and "final tally" (referenced above) will not need to be calculated or

utilized (since all the possible votes were cast). In this scenario, the Voting Representative of that Neighborhood Association will cast the votes of the Neighborhood Association as cast by the Club members from that Neighborhood Association.

In the event that no votes attributable to a given Neighborhood Association are cast by the Club members of that Neighborhood Association, no further calculations will be necessary and all the votes attributable to this Neighborhood Association will be considered "nay" votes (or votes opposed to the proposed Club measure). In this scenario, the Voting Representative of that Neighborhood Association will cast all the votes of the Club members of that Neighborhood Association as "nay" votes.

The above-described voting procedure shall be utilized to vote on a proposed Club matter at a Club membership meeting wherein a quorum, as specified by Section 3.3, has been attained.

In the event that two or more of the Neighborhood Associations merge into one corporate entity, the voting procedure mandated by these Club Bylaws shall still be utilized with the number of Living Units attributable to the surviving Neighborhood Association adjusted accordingly.

In the event a Voting Representative fails to attend a Club membership meeting, or fails to cast his or her Neighborhood Association's votes as required by the above-described voting procedure, or in the event a Neighborhood Association fails to appoint a Voting Representative, the Club Secretary, or, in the absence of the Club Secretary, another Club Officer shall serve as the Voting Representative for that Neighborhood Association and shall cast the votes of the Club members from that Neighborhood Association as decided and directed by each such Club member and pursuant to the voting procedure mandated in these Club Bylaws and such Club Officer hereby covenants to do so. Any votes cast by a Voting Representative contrary to the above-described voting procedure shall be null and void.

5. **Amendment to Article 3.5 of the Bylaws, to read as follows:**

3.5 Notice of meetings. Written notice of meetings shall be mailed, electronically transmitted ~~(provided the Voting Representative consents)~~ or hand-delivered directly by the Club to the ~~individual designated by each Neighborhood Association to receive Club notices~~ Club members and directly by the Club to the Voting Representatives, and to the Declarant member, if any. ~~Thereafter, it shall be the responsibility of the Neighborhood Association to notify the owners of all parcels.~~ The notices must be mailed, electronically transmitted or delivered by the Club to the Club members and the Voting Representatives not less than thirty (30) days prior to the date of the meeting. Notices must also be posted in a conspicuous place on the Club common areas or may be broadcast pursuant to Section 720, Florida Statutes. Notices of meetings where assessments will be considered must state the purpose of the meeting and the assessment under consideration.

6. **Amendment to Article 3.6 of the Bylaws, to read as follows:**

3.6 Voting ~~r~~Representatives. Each Neighborhood Association shall appoint and designate in writing to the Secretary of the Club, at least annually by January 1st of each year, the name and address of one ~~person~~ individual who will serve as its ~~v~~Voting ~~r~~Representative for that year. The person will:

(A) Receive Club notices, but Club notices which pertain to voting matters shall also be sent directly from the Club to each Club member;

(B) Represent the members of that particular Neighborhood Association ~~or Committee~~ at Club meetings;

(C) Formally ~~C~~cast the votes of the Club members from that particular ~~for the parcels within the~~ Neighborhood Association as mandated via the procedure (and exclusions) contained within Section 2.2 of these Club Bylaws; and

(D) Keep the Secretary of the Club informed of changes in the ownership of parcels as they occur, and the names and addresses of the new members.

An alternate ~~v~~Voting ~~r~~Representative may be designated by a Neighborhood Association to serve in the absence or disability of the ~~v~~Voting ~~r~~Representative. The ~~v~~Voting ~~r~~Representative and the alternative ~~v~~Voting ~~r~~Representative (if any) serve at the pleasure of the entity which appointed them.

HERITAGE GOLF & BAY COUNTRY CLUB, INC.

By: _____
~~Jerry Hollinden~~, President
Bob Lukas

Attest: _____
Carl Bellows, Secretary

_____
Witness Signature

William Bowser
Printed Name

Witness Signature

Robert G. Stachle

Printed Name

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 23 day of March 2016 by ~~Jerry Hollinden~~ Bob Lukas, as President and Carl Bellows, as Secretary of HERITAGE BAY GOLF & COUNTRY CLUB, INC., a Florida corporation, on behalf of the corporation. They are personally known to me or have produced _____ as identification. If no type of identification is indicated, the above-named persons are personally known to me.

Notary Public _____

Printed Name Cindy Wieschhorster

State of Florida

My Commission Expires 11/15/18

ACTIVE: H16797/323988:8221362_1

CINDY WIESCHHORSTER
MY COMMISSION # FF 158991
EXPIRES: November 16, 2018
Bonded Thru Pichard Insurance Agency