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NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HERITAGE BAY GOLF & COUNTRY CLUB. FOR PRESENT TEXT SEE THE EXISTING AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR HERITAGE BAY GOLF & COUNTRY CLUB RECORDED IN OFFICIAL RECORDS BOOK 4355, PAGE 1839, ET SEQ., PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.

**SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
HERITAGE BAY GOLF & COUNTRY CLUB**

The Club, as representatives of members in Heritage Bay Golf & Country Club pursuant to the amendment powers contained in the Declaration of Covenants, Conditions and Restrictions, and Florida Statutes, after proposed notice and discussion, and after recommendation and approval, file this Second Amended and Restated Declaration of Covenants, Conditions and Restrictions.

CONFIRMATION OF PRIOR STATEMENT OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS SUBMISSION: The Owners of Living Units in Heritage Bay Golf & Country Club do hereby confirm the statements of the Declaration of Covenants, Conditions and Restrictions as reflected in the Public Records of Collier County, Florida as follows: Statement of Declaration of Covenants, Conditions, and Restrictions Submission, Official Record Book 3989, Page 2218, *et seq.*, and as later amended and restated and recorded in Official Records Book 4355, Page 1839, *et seq.*, and as further amended from time to time, all of which amendments are recorded in the Public Records of Collier County, Florida.

WHEREAS certain real property located within the Heritage Bay Development of Regional Impact (“DRI”), located in Collier County, Florida was developed, and a Community was created thereon of 1250 single-family homes, multi-family structures, and related recreational and other common facilities and amenities known as Heritage Bay Golf & Country Club; and

WHEREAS the legal description for the real property known as Heritage Bay Golf & Country Club (the “Club - Property”) is described in “Exhibit “G-1” to the original Declaration, and which is incorporated herein by reference; and

WHEREAS the Club promotes the general health, safety and welfare of residents, provides for the maintenance of the land comprising Heritage Bay Golf & Country Club, and the improvements thereon, and provides for preservation of the property values and the amenities, and the real property is subject to the protective covenants, conditions, restrictions, and other provisions hereinafter set forth; and

WHEREAS to provide a means for meeting the purposes and intents herein set forth, the Club has incorporated Heritage Bay Golf & Country Club, Inc., a Florida corporation not for profit (hereinafter the “Club;” and

NOW THEREFORE the Club hereby declares that the real property described in Exhibit “A” hereto, is and shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the provisions of this Declaration, as amended from time to time, which shall run with the Land and be binding on all parties having any right, title or interest in the real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each present and future owner thereof. Nothing herein contained, and no violation of these covenants, conditions and restrictions, shall invalidate or impair the lien of any mortgage or deed of trust given in good faith and for value. Further, the express intent of the Club is that substantive contract rights created hereunder shall not be retroactively affected by legislation enacted subsequent to the recording of this Declaration unless the Declaration is amended accordingly.

1. DEFINITIONS. The following definitions shall apply to the terms used in this Declaration and its recorded exhibits, unless the context clearly requires another meaning.

1.1 “Architectural Review Committee” or “ARC” means the Architectural Review Committee as established and empowered in Section 6 of this Declaration.

1.2 “Army Corp of Engineers Permit” means Permit No. 199801232 (IP-MN) dated May 21, 1999, issued to Heritage Bay by the Army Corp of Engineers, as amended from time to time.

1.3 “Articles” as used herein, means the Articles of Incorporation of Heritage Bay Golf & Country Club, Inc., as amended from time to time. A copy of the Amended and Restated Articles of Incorporation is attached hereto as Exhibit “C,” and made a part hereof.

1.4 “Assessment” or “Assessments” means a share of the funds required for the payment of the expenses of the Club which from time to time is assessed against the Members, including without limitation annual assessments and special assessments, as, authorized by Section 9 of this Declaration.

1.5 “Association” or “Club” means Heritage Bay Golf & Country Club, Inc.

1.6 “Board” or “Board of Directors” means the Board of Directors of Heritage Bay Golf & Country Club, Inc.

1.7 “Bylaws” as used herein, means the Bylaws of Heritage Bay Golf & Country Club, Inc., as amended from time to time. A copy of the Amended and Restated Bylaws is attached hereto as Exhibit “D” and incorporated herein by this reference.

1.8 “CDD” or “Heritage Bay CDD” means and refers to the Community Development District, as defined in Chapter 190, Florida Statutes, that has been established for the purpose of constructing, owning and maintaining property or facilities in Heritage Bay.

1.9 **“CDD Property”** means any and all real property and improvements which a CDD either owns, contracts, operates, administers or has jurisdiction over or any combination of the foregoing or otherwise administers pursuant to its responsibilities under Chapter 190, Florida Statutes, and the documents establishing the CDD. The term “CDD Property” shall include systems, facilities and services that the CDD may acquire, construct, maintain and finance over the years (which constitute projects or infrastructure improvements) which may or may not be owned by the CDD.

1.10 **“Club Common Areas”** or **“Common Areas”** means any and all real property and improvements within the Club owned by, leased to, or dedicated to the Club for the use and benefit of its Members, as legally described in Exhibit “B” attached hereto and incorporated herein.

1.11 **“Club Property”** means all real property comprising Heritage Bay Golf & Country Club, and the improvements thereon.

1.12 **“Common Expenses”** shall mean the expenses for which Owners are liable to the Association as described in this Declaration and any other Governing Documents and include, but are not limited to, the costs and expenses incurred by the Association in administering, operating, maintaining, financing, or repairing, reconstructing, replacing or improving, the Association property or any portion thereof and improvements thereon, all other property owned by the Association and all costs and expenses incurred by the Association in carrying out its powers and duties hereunder or under any other Governing Documents. The cost for “communication services” as defined in Section 202.11, Florida Statutes, such as basic cable television programming services, telephone and/or internet services in bulk for all Living Units and certain Common Areas shall be a common expense.

1.13 **“Common Surplus”** means the excess of all receipts of the Association, including but not limited to Assessments, rents, profits and revenues over the common expenses.

1.14 **“Community Systems”** shall mean and refer to any and all television (cable, satellite or otherwise), telecommunication, internet access, alarm/monitoring, utility or other lines, conduits, wires, fibers, satellites, amplifiers, towers, antennae, equipment, materials, installations and fixtures (including those based on, containing or serving future technological advances not now known), and serving the Association Property and Living Units.

1.15 **“County”** or **“the County”** means Collier County, Florida.

1.16 **“Declaration”** means the Declaration of Covenants, Conditions and Restrictions for Heritage Bay Golf & Country Club, Inc., as amended from time to time.

1.17 **“DRI”** means and refers to the development order for Heritage Bay, a Development of Regional Impact (“DRI”), as amended from time to time, of which the Club Property is a part.

1.18 **“Family”** means one natural person or two or more natural persons each of whom are related to each other by blood, marriage, or adoption and who customarily reside and live together and otherwise hold themselves out as a single housekeeping unit or not more than two natural persons who are not related to each other by blood or adoption, who customarily reside and live together and otherwise hold themselves out as a single housekeeping unit. The decision as to whether two persons reside and constitute a qualifying family unit shall be a matter for the Board of Directors in their sole and unbridled discretion. Once designated and accepted by the Board as a qualifying family unit, no change in persons so constituting the qualifying family unit may be made except for one time in any

calendar year and no more than three times in any constituent partner's lifetime, but in all events such change in partner shall be subject to the Board's approval in its sole and unbridled discretion. Further, the biological or adopted children of only one person shall be entitled to golf privileges if they meet all of the following conditions: (a) said child or children are age 21 or less; and (b) such child or children are not married or cohabitating with any third party; and (c) said children do not have custodial children of their own, (i.e., grandchildren of the member); and (d) said children reside with the owner on a permanent basis, or in the case of college or graduate students, at such times as the student is not enrolled in a college or university. If a Living Unit is owned by two or more persons who are not a "family" and described above, or is owned by an entity which is not a natural person, the owner shall be required to select and designate one (1) family as defined above to utilize the golf membership. The Club may restrict the frequency of changes in such designation when there is no change in ownership of the Living Unit.

1.19 "**Governing Documents**" means this Declaration, and the Articles of Incorporation, Bylaws, and Rules and Regulations of the Club. In the event of a conflict in the interpretation of the Governing Documents, they shall be applied in the order of priority listed herein.

1.20 "**Guest**" means any person who is physically present in, or occupies a Living Unit on a temporary basis at the invitation of the owner or other legally permitted occupant, without the payment of consideration.

1.21 "**Heritage Bay**" is the name of the development that Heritage Bay Golf & Country Club is a part of and is sometimes referred to as the "Community."

1.22 "**Heritage Bay Umbrella Association Documents**" or the "**Umbrella Documents**" is the Declaration of Covenants, Conditions and Restrictions for Heritage Bay recorded in O.R. Book 3968, Page 4031, Public Records of Collier County, Florida, and all exhibits recorded thereto, as amended from time to time.

1.23 "**Institutional Mortgagee**" means:

(A) a lending institution having a first mortgage lien upon a Living Unit, including any of the following institutions: a Federal or State savings and loan or building and loan association, a bank chartered by a state or federal government, a real estate investment trust, a pension and profit sharing trust, a mortgage company doing business in the State of Florida, or a life insurance company; or

(B) a governmental, quasi-governmental or private agency that is engaged in the business of holding, guaranteeing or insuring residential mortgage loans (including without limitation the Federal National Mortgage Association), Governmental National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration and Veterans Administration and which holds, guarantees or insures a first mortgage upon a Living Unit.

1.24 "**Lands**" means the land described in Exhibit "A" to this Declaration, as it may be amended from time to time.

1.25 "**Lease**" when used in connection with a Living Unit, means the grant by the owner of the Unit of a temporary right of use of the Unit for valuable consideration.

1.26 “**Living Unit**” means any residential structure, including a single-family detached home or condominium unit, located within Heritage Bay Golf & Country Club and intended for use by one family as a place of residence.

1.27 “**Lot**” means one or more of the platted portions of land into which parts of Heritage Bay Golf & Country Club have been subdivided, upon each of which a single Living Unit has been constructed. It is synonymous with the word “parcel” as used in Chapter 720, Florida Statutes. Unless the context clearly requires a different interpretation, the term “Lot” shall be interpreted as if it were followed by the words “and the Living Unit constructed thereon.”

1.28 “**Member**” means a person who is entitled to membership in the Club, as provided in Section 2 of the Club Bylaws. Membership is mandatory for the owners of all Living Units.

1.29 “**Neighborhood**” means a condominium, or a group of single-family homes within Heritage Bay Golf & Country Club where all the Living Units are subject to a Declaration of Condominium or a Declaration of Covenants, Conditions, and Restrictions.

1.30 “**Neighborhood Association**” means a condominium association under Chapter 718, Florida Statutes, or a homeowners association under Chapter 720, Florida Statutes, operating a Neighborhood.

1.31 “**Neighborhood Association Common Areas**” means that real property, including any improvements thereon, which is owned or leased by, or dedicated to, a Neighborhood Association for the common use and enjoyment of its members. If the Neighborhood is a condominium, the term includes the common elements of the condominium and any real property owned by the condominium association.

1.32 “**Neighborhood Association Documents**” means any and all covenants, conditions, restrictions, and other provisions imposed by a recorded declaration or other instrument, applicable to one or more specific Neighborhoods to the exclusion of all others, including the recorded Declaration, Articles of Incorporation and Bylaws of the Neighborhood Association, all as amended from time to time.

1.33 “**Occupy**” when used in connection with a Living Unit, means the act of using a Living Unit as one’s place of residence for two (2) or more consecutive days. An “**Occupant**” is one who occupies a Living Unit, other than the owner or his family as defined above.

1.34 “**Owner**” means the record owner of legal title to any Living Unit.

1.35 “**Rules, and Regulations; Policies**” means the administrative rules, regulations and policies governing use of the Club Common Areas and procedures, for operating the Club, as adopted, amended and rescinded from time to time by resolution of the Board of Directors.

1.36 “**SEWMD**” means South Florida Water Management District.

1.37 “**Service Assessment**” means a charge against one or more Living Units for any service, material or combination thereof which may be provided by the Club for the use and benefit of the Owner(s) on a voluntary basis, such as contracting in bulk for repairs, services, materials or maintenance. The amount paid or incurred by the Club on behalf of the owners accepting or

receiving such material or service shall be a service assessment against the Living Units so benefited. An owner is deemed to have agreed to such assessment by the act of subscribing to, requesting, or accepting the material or service.

1.38 “**Structure**” means something built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on the ground, or which is attached to something having a permanent location on the ground. The term shall be construed as if followed by the words “or part thereof.” The term includes, without limitation, all Living Units, swimming pools, spas, fences, flagpoles, antennas, basketball backboards, skateboard ramps, swing sets or other play equipment, and storage sheds.

1.39 “**Tract**” means any and all platted portions of the Club Property other than the Lots.

1.40 “**Voting Group**” means a group of members who are entitled to vote in the election of one (1) or more Directors of the Association, as more particularly described in Section 11.5 of this Declaration.

1.41 “**Voting Interests**” means the arrangement established in Section 2 of the Bylaws of the Club by which the owners of each Living Unit are entitled to vote in the affairs of the Club, whenever a vote of the owners is permitted or required as to any Club business.

1.42 “**Voting Representative**” means the individual(s) appointed 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) pursuant to Section 2 of the Bylaws of the Club.

1.43 “**Water Management Permit**” means the Environmental Resource Protection Permit No. 11-02234-P issued by the South Florida Water Management District to Heritage Bay, which permit includes the maintenance of the Club’s surface water management system, and is recorded as Exhibit “E” to the Declaration of Covenants, Conditions, and Restrictions for Heritage Bay.

2. GENERAL DEVELOPMENT PLAN. The Community is a Planned Unit Development (“PUD”), comprising at least 687 acres of land including a 27 hole golf course and country club, together with single and multiple family dwelling units.

2.1 Community Development District. A Community Development District, as defined in Chapter 190, Florida Statutes, manages and provides certain urban infrastructure facilities and services, and has the authority to levy and collect fees, rates, charges, taxes and assessments to pay for, finance and provide said facilities and services. The term “assessment” as used in this Section refers to assessments as defined in Chapter 190, Florida Statutes, not as defined in this Declaration. The CDD is empowered to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for basic infrastructure including without limitation: water management and control lands within the CDD and the connection of some or any of such facilities with potable water distribution systems; sewage collection and transmission systems; and waste water management facilities.

2.2 Right to Use Club Common Areas. The non-exclusive right to use the Club Common Areas shall be appurtenant to and shall run with each owner's membership in the Club, subject to this Declaration and its recorded exhibits. The Club has the right to enter into Agreements with the Umbrella Association and/or the CDD for the maintenance and operation of CDD Property.

2.3 Owner and Member Compliance. The protective covenants, conditions, restrictions and other provisions of this Declaration shall apply not only to the members, and persons to whom an owner has delegated his right of use in and to the Club Common Areas, but also to any other person occupying an owner's Living Unit under lease from the owner, or by permission or invitation, expressed or implied, of the owner or his tenants, licensees, invitees or guests. Failure of an owner to notify any person of the existence of the easements, covenants, conditions, restrictions, and other provisions of this Declaration shall not in any way act to limit or divest the right of the Club of enforcement of these provisions and, in addition, the owner shall be responsible for any and all violations of these provisions by his tenants, licensees, invitees or guests, and by the guests, licensees and invitees of his tenants at any time.

2.4 Members' Rights and Easements.

(A) Every member of the Club shall have a non-exclusive right and easement for access to and the use and enjoyment of the Club Common Areas. The right and easement shall be appurtenant to and shall pass with the title to every Lot and Living Unit subject to any limitation set forth in this Declaration, including without limitation:

- (1) The right of the Club to determine the annual and special assessments to be paid by the Members;
- (2) The right to the Club to dedicate or transfer all or any part of the Club Common Areas to any governmental agency, public authority, or utility;
- (3) The right of the Club to grant easements over, across or through the Club Common Area or any part thereof;
- (4) The right of the Club to borrow money for the accomplishment of its purposes of improving the Club Common Areas, and in aid thereof, to mortgage Club Common Areas;
- (5) The right to take such steps as are reasonably necessary to protect Club Common Areas against foreclosure;
- (6) The right to enforce the Declarations, Articles of Incorporation and Bylaws of the Club; and any Rules and Regulations governing the use and enjoyment of the Club Common Areas adopted by the Club;
- (7) The right of the Club to charge use fees or membership fees;
- (8) The right of the Club to assist the Heritage Bay Umbrella Association in enforcing its rules and regulations.

(B) Delegation of Rights. Each owner may temporarily delegate his right of use in and to the Club Common Areas to his non-resident guests (if the guests are accompanied by the owner) or to tenants who reside in the Living Unit of the owner, but only to the extent and subject to conditions, limitations and restrictions as may be provided for in the Club Documents. Each owner of a Living Unit shall be financially and legally responsible for the actions of any person to whom the owner has delegated his right to use the Club Common Areas.

2.5 Conveyance and Use.

(A) Any real property conveyed, leased, or the use of which has been granted to the Club as Club Common Areas is not and shall not be deemed dedicated for use by the general public but is, and shall be, deemed restricted for the common use and enjoyment of members of the Club.

2.6 Non-Potable Water. The Club has the exclusive right to be the permanent non-potable water supplier for irrigation services to the Club Common Areas, and any fees for irrigation of the Club Common Areas are a Club Common Expense.

2.7 Irrigation with Treated Effluent. All owners within the Community, by the act of purchasing, are deemed to have irrevocably consented to the irrigation of part or all of the Community with treated effluent, emanating from an approved treatment plant with a current operating permit from the State of Florida. The cost is a Club Common Expense.

3. THE CLUB'S PURPOSES AND POWERS. The primary purposes of the Club are to hold title to, operate and maintain the Club Common Areas, including without limitation the golf course, clubhouse and related recreation facilities, including certain pools within the Community; to enforce restrictive covenants applicable to the Community; to provide architectural and esthetic control; and to take such other action as the Club is authorized or required to take with regard to the Community pursuant to the Club Documents. The Club shall operate, insure, maintain and repair all property and related improvements designated as Club Common Areas. If required by governmental agencies, the Club shall accept the transfer of all permits, and assume responsibility for maintenance and monitoring of on-site and off-site wetland preserve areas located on the Common Areas (if any).

3.1 Club Common Areas. The Club shall operate and maintain the Club Common Areas as described in Exhibit "B," as amended from time to time. Club Common Areas are all portions of the Community that are not CDD Property and that are not part of a Neighborhood Association. Common Areas include, but are not limited to, all swimming pools that are not part of a Lot, entryways, certain roads not within Neighborhood Association Common Areas or the CDD, the clubhouse, golf course, maintenance facilities, golf cart facility and pro shop, fitness center, meeting rooms, aqua range, tennis courts and tennis pro shop, pickleball courts, bocce ball courts, food and beverage facilities and outlets and related facilities. The Club and/or the CDD shall also maintain environmental habitat and preservation areas, surface water drainage and management systems on the Club Common Areas, if maintenance responsibilities are delegated to it by the Umbrella Association. The Board of Directors may promulgate reasonable rules and regulations regarding use of the Club Common Areas consistent with the Club Documents. Use of Club Common Areas shall be available to all members and their invitees, guests, family members and tenants, subject to the rules and the Club Documents. The costs of operating, maintaining, repairing, insuring and protecting the Club

Common Areas and the facilities located thereon or connected therewith shall be assessed equally against all Living Units. The Club shall have, without limitation, the following powers:

- (A) To exercise the rights more particularly described in Section 4 below.
- (B) To allow public use of the golf course and clubhouse, and other recreational facilities. The Board of Directors may determine whether and to what extent public use of the golf course and other Club facilities will be allowed.
- (C) To lease, assign or otherwise transfer the operating rights to, and any and all profits from any restaurant, snack bar, pro shop or other facility on the Club Common Areas to a third party.
- (D) To restrict or prohibit the recovery of lost golf balls on and around the golf course and in water hazards and to sell or assign the exclusive right to do so to commercial enterprises.
- (E) To restrict or prohibit use of the cart paths, and the golf course generally, for jogging, cycling, walking pets or other activities not directly related to the playing of golf.
- (F) To enter into Agreements for the maintenance and operation of Club Property.

3.2 Manager. The Club may contract, employ and pay for the services of an entity or person to assist in managing its affairs and carrying out its responsibilities, and may employ other personnel as the Club shall determine to be necessary or desirable. These responsibilities may include but are not limited to the submission of proposals, collection of Assessments, keeping of records, issuing estoppels and mortgagee questionnaires, enforcement of rules and Maintenance, Repair and Replacement of the Common Areas with funds made available by the Association for such purposes.

3.3 Personal Property. The Club may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise.

3.4 Insurance. The Club at all times shall procure and maintain adequate policies of public liability and other insurance as it deems advisable or necessary and as required in Section 12 below. The Club additionally shall cause all persons with access to Club funds to be insured or bonded with adequate fidelity insurance or bonds.

3.5 Express and Implied Powers. The Club may exercise any rights, powers or privileges given to it expressly by the Club Documents or by the law in effect at the time this Declaration is recorded, and every other right, power or privilege reasonably inferable therefrom. The powers and duties of the Association include those set forth in Chapters 617 and 720, Florida Statutes, and in the Governing Documents.

3.6 Acts of the Club. Unless the approval or affirmative vote of the members is specifically made necessary by some provision of applicable law or the Club Documents, all approvals or actions permitted or required to be given or taken by the Club may be given or taken by its Board of Directors, without a vote of the members. The officers and Directors of the Club have a fiduciary relationship to the Club and its members. A member does not have the authority to act for the Club by reason of being a member.

3.7 Member Approval of Certain Litigation. Notwithstanding any other provisions of the Club Documents, the Board of Directors shall be required to obtain the prior approval of at least a majority of the entire membership of the Club prior to the payment of, or contracting for the payment of, legal fees to any person engaged by the Club for the purpose of commencing any lawsuit, other than for the following purposes:

- (A) collection of assessments;
- (B) collection of other charges which members are obligated to pay;
- (C) enforcement of the Club Documents;
- (D) enforcement of the rules and regulations of the Club;
- (E) in an emergency, when waiting to obtain the approval of the members creates a substantial risk of irreparable injury to the Club or its members; or
- (F) filing a compulsory counterclaim.

3.8 Articles of Incorporation. The Amended and Restated Articles of Incorporation of the Club are attached as Exhibit "C."

3.9 Bylaws. The Amended and Restated Bylaws of the Club shall be the Bylaws attached as Exhibit "D" as they may be amended from time to time.

3.10 Official Records. The official records of the Club, as defined by Chapter 720, Florida Statutes, as amended, shall be maintained within the State of Florida and must be open to inspection and available for photocopying as provided for in Section 7 of the Bylaws. The Club may adopt reasonable written rules governing the frequency, time, location, notice, and manner of inspection, and may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying. The Club shall maintain an adequate number of copies of the Club Documents, to ensure their availability to members and to prospective purchasers, and may charge its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive them.

3.11 Roster. The Club shall maintain a current roster of names and mailing addresses of Owners, based upon information supplied by the Owners. Owners are responsible for notifying the Club of any change in their mailing address. All such information shall be in writing. A copy of the roster shall be made available to any member upon request, except any confidential information and exempt information as defined by Florida law shall not be provided to a member.

3.12 Polling Places. Accommodations may be made for the future use of building space within the Common Areas for the purposes of accommodating the function of an electoral polling place.

3.13 Treated Effluent. The Club may negotiate an agreement with any effluent supplier for the use of treated sewage or effluent within the project for irrigation purposes of the golf course and throughout the subdivision, including all common areas, neighborhood common areas, lots, units and condominium common element properties. The Club would be responsible for providing all on-site piping and pumping facilities from the point of delivery to the project, and negotiate with the effluent

supplier to provide full or partial on-site storage facilities, as required by the Florida Department of Environmental Protection consistent with the volume of treated wastewater to be utilized. All owners within Heritage Bay Golf & Country Club, by the act of purchasing, are deemed to have irrevocably consented to the irrigation of the Common Areas and Lots with treated effluent, provided that the effluent emanates from an approved treatment plant with a current operating permit from the State of Florida, Department of Environmental Protection, or other such agency with jurisdiction. The cost of such treated effluent and all administrative, operational, maintenance and support costs related to it, are Community Common expenses of the Club.

3.14 Rules and Regulations; Policies. Subject to this Declaration and any other applicable recorded instrument, the Club shall have the right and the power to develop, promulgate and enforce reasonable Rules and Regulations for the use and enjoyment of Club Common Areas. No Club Common Areas shall be used in violation of any Rule or Regulation adopted by the Club pursuant to Section 4.1(F) of the Bylaws. The Club shall also have the authority to adopt policies from time to time.

3.15 Acquisition of Property. The Club has the power to acquire property, both real and personal. The power to acquire personal property shall be exercised by the Board of Directors. The power to acquire ownership interests in real property shall be exercised by the Board of Directors, but only after approval of a majority 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.

3.16 Disposition of Property. Any property owned by the Club, whether real, personal or mixed, may be mortgaged, sold, leased or otherwise encumbered or disposed of by the same authority as would be required to acquire it under Section 3.15 above.

3.17 Community Development District. Portions of Heritage Bay Golf & Country Club are subject to a Community Development District (CDD), as defined in Chapter 190, Florida Statutes. The CDD may provide and operate certain urban infrastructure facilities and services and have the authority to levy and collect fees, rates, charges, taxes and assessments to pay for, finance and provide such facilities and services. The term “Assessments” as used in this Section 3.17 refers to assessments defined in Chapter 190, Florida Statutes, not as defined in Chapter 617, Florida Statutes, or this Declaration. The CDD is empowered to acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities, including but not limited to, indoor and outdoor recreational, cultural and educational uses, security and mosquito control. There are plat dedications of such systems and facilities to entities other than the CDD. Said systems and facilities may instead be conveyed to the CDD. The Club reserves the right to amend the Club Documents in any way convenient or necessary to address CDD issues.

3.18 Gate; Gatehouses; Entranceways. Heritage Bay includes a gatehouse, gate, entranceway, and entry gates, which may be manned unless otherwise determined by the Board of Directors and required by the Governing Documents. The Association’s responsibility for the cost to maintain and operate the entry gate and guardhouse shall be a Common Expense. The Association makes no representations whatsoever as to the security of the premises or the effectiveness of any entry gates. The Owners acknowledge that the entry gates are designed to control vehicle access only.

3.19 Bulk Agreements. The Board of Directors of the Association, by a majority vote pursuant to the applicable provisions of the Bylaws, shall have the power to enter into an agreement with an entity providing bulk services, including but not limited to, cable television and internet service to obtain such services on a “bulk rate” basis. Pursuant to such “bulk rate” agreement, every Living Unit within the property subject to this Declaration shall receive the bulk service specified in such agreement and any “bulk rate” fee or payment provided for in any such agreement which is to be paid by the Association to the provider shall be a Common Expense of the Association.

4. CLUB MEMBERSHIP AND VOTING RIGHTS. Every owner of record legal title to a Living Unit within the Community shall be a Golf member of the Club as further defined in Section 4.1 below. Golf membership is appurtenant to, and may not be separated from, ownership of a Living Unit. The rights, powers, duties and privileges of members shall be as set forth in this Declaration, and in the Articles of Incorporation and Bylaws of the Club and all members agree to comply with same.

4.1 Classes of Membership. The Club has one (1) class of voting membership, and two (2) classes of non-voting membership, as follows:

(A) Golf Membership. Every Owner of a Living Unit shall be a Golf member and Golf membership is an appurtenance to the Living Unit. Golf members shall be all owners of Living Units within the Community. Golf members have full rights of use in the Common Areas and facilities, including full golfing privileges. The number of memberships is 1250. Except for temporary delegations as provided in Section 4.4 below, a membership shall not be assignable and/or transferable by any method other than the sale, lease or conveyance of record legal title to the Living Unit to which it is appurtenant. Upon sale or other transfer of ownership of a Living Unit to which a membership is appurtenant, the transferor shall be deemed to have automatically assigned and transferred the membership with his property. A member’s rights to use the golf course and other recreation facilities shall be limited as set forth in this Declaration and in the Bylaws. Any attempt to separate the membership from the interest in real property upon which it is based shall be null and void.

(B) Interim Membership. The Board of Directors shall have the right, but not the obligation, to limit the number of interim members who are not owners or residents of the Community, and who shall have no voting rights. Interim memberships for golf are limited to One Hundred Twenty-Five (125) members and interim memberships for tennis are limited to One Hundred (100) members. While in good standing, such members have the right to enjoy the social and recreational facilities appropriate to their membership class. To remain in good standing, such members shall be obligated to timely pay all charges and annual dues in the amount established by the Board of Directors. Such memberships shall be good for not more than one year at a time, and may, upon expiration of any one-year term, be terminated at the discretion of the Board of Directors, with or without cause.

(C) Transfer Members. Transfer members shall have use rights to the Club Common Areas and golf course as a result of a membership being transferred to a lessee occupying a unit under a Lease. Transfer membership expires upon termination of the lease.

4.1.1 “Member for the Day - Private Club” In order to comply with the Florida State Alcoholic Beverages and Tobacco regulations relating to dispensing of alcoholic beverages pursuant to a private club liquor license, the Club may create a daily membership to facilitate dispensing of alcoholic beverages to daily guests of the Club. The Board shall be empowered to adopt rules and restrictions pertaining to the charges paid to the Club for daily membership. In all events, any daily guest who has been charge for and paid a greens fee for use of the golf course shall be considered a member for that day.

4.2 Use of the Club Common Areas, Including the Golf Course. The Owners of each Living Unit are entitled to only one (1) Golf membership. Use rights in the Club Common Areas, including the golf course for each such membership shall be limited to the persons comprising one (1) “family.” For purposes of this Section 4.2 only, “family” means one natural person or not more than two natural persons who are not related to each other by blood or adoption, who customarily reside and live together and otherwise hold themselves out as a single housekeeping unit. The decision as to whether two persons reside and constitute a qualifying family unit shall be a matter for the Board of Directors in their sole and unbridled discretion. Once designated and accepted by the Board as a qualifying family unit, no change in persons so constituting the qualifying family unit may be made except for one time in any calendar year and no more than three times in any constituent partner’s lifetime, but in all events such change in partner shall be subject to the Board’s approval in its sole and unbridled discretion. Further, the biological or adopted children of only one of the persons shall be entitled to golf privileges if they meet all of the following conditions: (a) said child or children are age 21 or less; and (b) such child or children are not married or cohabitating with any third party; and (c) said children do not have custodial children of their own, (i.e., grandchildren of the member); and (d) said children reside with the owner on a permanent basis, or in the case of college or graduate students, at such times as the student is not enrolled in a college or university. If a Living Unit is owned by two or more persons who are not a “family” as described above,” or is owned by an entity which is not a natural person, the owner shall be required to select and designate one (1) family as defined above to utilize the golf membership. The Club may restrict the frequency of changes in such designation when there is no change in ownership of the Living Unit.

4.3 Association Rights and Easements. Members in good standing have the non-exclusive right to use the Common Areas subject to:

(A) The right of the Club, by and through its Board of Directors, to adopt the annual budget and to determine the annual assessments to be paid by members;

(B) The right of the Club, by and through its Board of Directors, to charge any admission, use, or other fees for any Common Areas as the Board may deem appropriate. The fees may be higher for non-owners than for owners;

(C) The right of the Club, by and through its Board of Directors, to suspend a member’s right to use Common Areas for the period during which any assessment or charge against the member’s Living Unit remains unpaid and past due, and for a reasonable period during or after any infraction of the Club’s rules and regulations;

(D) The right of the Club, by and through its Board of Directors, to dedicate or transfer all or any part of the Common Areas to any governmental agency, public authority, or utility;

- (E) The right of the Club, by and through its Board of Directors, to grant easements over, across or through the Common Areas;
- (F) The right of the Club, by and through its Board of Directors, to open the Common Areas, including the golf course, for use by non-members of the Club, or non-owners;
- (G) The right of the Club, by and through its Board of Directors to borrow funds and to pledge the assets of the Club for the purpose of improving the Common Areas, and in aid thereof, to mortgage Common Areas as security for said loan. Notwithstanding the foregoing, the Board of Directors must obtain approval of a majority 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 in order to borrow funds equal to or greater than two percent (2%) of the Club's annual operating budget excluding reserves;
- (H) The right of the Club, by and through its Board of Directors, to close or restrict access to the golf course or other Common Areas for limited periods of time to conduct special events,;
- (I) The right of the Club, by and through its Board of Directors, to regulate parking and traffic on the private roads within the Community, including without limitation the use of access gates or speed bumps;
- (J) The provisions of this Declaration, the Articles of Incorporation and Bylaws of the Club; and any Rules, Regulations and Policies governing use and enjoyment of the Common Areas adopted by the Club;
- (K) The right of the CDD to exercise and enforce any and all powers authorized by Chapter 190, Florida Statutes; and
- (L) The right of the Club to dedicate or transfer ownership or control of all or any part of the Common Areas to a CDD or any other governmental agency, public authority, or utility.

4.4 Delegation of Use Rights In Common Areas. Guests initially accompanied by a Golf member shall have the right to use the Common Areas, but only to the extent provided in Section 2.6 of the Bylaws, or in the Club's rules and regulations, and subject to the conditions, limitations and restrictions as may be stated therein. A fee may be imposed for such usage delegation, not necessarily limited by or related to the cost of processing the delegation. Each member shall be financially and legally responsible to the Club for the actions and debts to the Club of any person to whom the member has delegated his right to use the Common Areas. The member may not delegate the obligation to pay Club assessments. Upon the lease of a Living Unit to which a membership is appurtenant, the lessor may retain the right to use the membership, in which case the tenant shall have no such rights. If a member delegates his privileges to a tenant residing in his Living Unit, the member shall not be entitled to use of the facilities, except as a guest of another Golf member, during the period of the delegation.

4.5 Separation of Ownership. The ownership of a Living Unit may not be separated or separately conveyed, nor may any person who does not own record legal title to at least one Living Unit, hold Golf membership in the Association.

4.6 Credit. The Club may implement a policy of not accepting cash payments, and may require that each member and resident guest open an account with a nationally recognized credit card, to which all purchases of goods and services from the clubhouse, pro shop, dining room and other facilities may be charged.

4.7 Minimum Purchases. The Club may implement a policy that requires each Golf member to purchase at least a minimum amount of food or beverages from the Club, or to be billed for the minimum amount.

5. USE RESTRICTIONS. The following restrictions, in addition to the rules and regulations hereafter promulgated by the Board of Directors, shall govern the use of property within the Club and the Club Common Areas and the conduct of the users. The Club shall operate, insure, maintain and repair all property and related improvements designated by the Declaration as Club Common Areas.

5.1 Compliance with Laws: Nuisance. The use of the Club Common Areas shall be consistent with existing law, the Governing Documents, and the Governing Documents of the Neighborhood Association. No person shall engage in any obnoxious, unpleasant or offensive activity, or any other activity which would be an unreasonable source of nuisance or annoyance to residents of the Club. The Club Common Areas shall not be obstructed, littered, defaced, damaged, destroyed or misused in any manner.

5.2 Alterations of Club Common Areas. No Neighborhood Association or its respective owners or occupants shall make any alteration or improvement of Club Common Areas, except as authorized, in writing, by the majority of the Board of Directors of the Club.

5.3 Outdoor Cooking. No barbecuing or outdoor cooking of any type shall be permitted on the Club Common Areas, except where the Association may in its discretion designate a place or provides facilities for cooking: If it does, then such activity may be undertaken only in conformity with the rules established for the use of such facilities.

5.4 Attire. Residents and guests may utilize Club recreation facilities only if attired in appropriate apparel that conforms to the rules and regulations pertaining to the use of such facilities, as same may from time to time exist.

5.5 Camping. No tents or camping facilities shall be permitted on the Club Common Areas.

5.6 Signs. No signs, banners, billboards or advertisements of any kind, including without limitation, those of Realtors, politicians, contractors or subcontractors, shall be erected or displayed anywhere within the Community, including in windows and on motor vehicles. The Board of Directors shall have the right to erect signs or allow signs to be displayed as it deems appropriate. Notwithstanding the foregoing, no Owner may erect or display any signs in or on any Living Unit, or structure, except that one (1) oval "For Sale" or one (1) oval "For Rent" sign no larger than ten (10) inches in height and no more than eighteen (18) inches in width is permitted. The sign shall conform to the drawing depicted on the attached sheet (see Exhibit "F") and shall have a dark green background with white lettering and numbering. The party seeking to erect or place a sign on their property shall be required to purchase the sign and sign post. Owner's right to install a sign shall be further subjected to the following restrictions and those which may be later promulgated by the Architectural Review Committee:

- (a) The sign shall only contain the telephone number and the name of either the homeowner or the real estate company listing the property, if any;
- (b) Telephone number letters shall not exceed four (4) inches in height and the lettering indicating the homeowner or real estate company shall not exceed two (2) inches in height;
- (c) The signs shall be oval in shape and shall have a dark green background with white lettering;
- (d) For single-family homes, one (1) oval "For Sale" sign may be located in the front of the property, no closer than fifteen (15) feet from the street pavement;
- (e) For condominiums, one (1) oval "For Sale" sign is permitted;
- (f) For single-family homes, villas, and condominiums, one (1) oval "For Rent" sign may be located in one (1) window of the home or condominium;
- (g) All signage must be removed from the site upon signing of a contract;
- (h) No "Sale Pending" or "Sold" signs are allowed;
- (i) Note: Notwithstanding the foregoing, the individual neighborhood associations may prevent, prohibit, or impose additional restrictions on the placement of signs in their respective neighborhoods;
- (j) The Architectural Review Committee may require that all signs installed or placed within the community be constructed or installed by a vendor designated and approved by the Association, in order to insure conformity with these restrictions.

If any sign is erected in violation of this provision, the Club, the CDD or any Neighborhood Association shall have the right to enter the property on which the sign is located and remove it, as well as levy a fine of \$100.00/day for each day's violation and the Club may suspend the violator's use privileges of the golf and community common areas. Said action to enter one's property and remove the sign, if necessary, shall be deemed expressly permitted by the property owner.

5.7 Heritage Bay CDD Lakes. No skiing, boating or swimming is allowed in any of the Heritage Bay CDD lakes. Fishing is generally allowed at the individual's own risk, on a "catch and release basis" only. In no event shall fishing be allowed or permitted on lands abutting the golf course property or on or off of bridges and other similar structures.

WARNING: ALLIGATORS AND OTHER DANGEROUS WILDLIFE MAY OCCUPY THE LAKES AND PORTIONS OF THE COMMON AREAS. NEITHER THE CLUB, NOR THE CDD ARE LIABLE FOR ANY DAMAGE OR INJURY CAUSED BY SUCH WILDLIFE.

5.8 DRI. The Club Property may be used for those purposes provided in the DRI.

5.9 Subdivision and Regulation of Club Property. No Lot or Living Unit may be divided or subdivided without the express written consent of the Club. No owner or Neighborhood Association shall initiate, undertake or attempt to inaugurate or implement a variation from, modification to, or amendment of the DRI or any other governmental plans, land development regulation, development orders or development permits applicable to the Club, or to any Lot, Living Unit or Parcel. Nothing here is intended to prohibit judicial partition of a Lot, Living Unit or Parcel owned by two or more persons.

5.10 Surface Water Management Systems, Lakes and Wet Retention Ponds. The CDD shall be responsible for maintenance of all surface water management systems.

(A) No structure of any kind (including docks) shall be constructed or erected in or on, nor shall an owner or Neighborhood Association in any way change, alter, impede, revise or otherwise interfere with the flow or volume of water in, any portion of any water management area including, but not limited to lakes, ponds, swales, drainage ways, or wet retention ponds or areas intended for the accumulation of runoff waters, without the specific written permission of the Heritage Bay CDD.

(B) No owner, Neighborhood Association or other person shall unreasonably deny or prevent access to water management areas for maintenance, repair, or landscaping purposes by the Club, or the CDD or any appropriate governmental agency, that may reasonably require access. Nonexclusive easements therefore are hereby specifically reserved and created.

(C) No Lot, Parcel or Neighborhood Common Area shall be increased in size by filling in any lake, pond or other water retention or drainage areas which it abuts. No person shall fill, dike, rip-rap, block, divert, establish or remove plantings, or change the established water retention and drainage areas that have been or may be created without the prior written consent of the CDD. No person other than the Club may draw water for irrigation or other purposes from any lake, pond or other water management area, nor is any boating, swimming, or wading in such areas allowed.

(D) All Stormwater Management Systems and Conservation Areas, excluding those areas (if any) maintained by the County, will be the ultimate responsibility of the Club or CDD. The Club or CDD may enter any Lot, Living Unit, Parcel, Umbrella Association Common Area or Neighborhood Common Area and make whatever alterations, improvements or repairs are deemed necessary to provide, maintain, or restore proper surface water management. The cost may be an expense of the Club or CDD. NO PERSON MAY REMOVE NATIVE VEGETATION THAT MAY BECOME ESTABLISHED WITHIN THE CONSERVATION AREAS. "REMOVAL" INCLUDES DREDGING, APPLICATION OF HERBICIDE, PULLING AND CUTTING.

(E) Nothing in this Section shall be construed to allow any person to construct any new water management facility, or to alter any Stormwater Management Systems or Conservation Areas, without first obtaining the necessary permits from all governmental agencies having jurisdiction, including South Florida Water Management District.

(F) The South Florida Water Management District shall have the right to take any and all action available (including civil action for an injunction and penalties) against the CDD and

the Club to compel compliance with all permits related to the surface water management system and/or in mitigation thereof, and the conservation areas contained in the Umbrella Common Areas.

DUE TO NATURAL CONSEQUENCES, WHICH INCLUDE, BUT ARE NOT LIMITED TO, WIND AND WAVE ACTION, ALL HOMEOWNERS ARE HEREBY PLACED ON NOTICE THAT PROPERTIES ADJACENT TO THE LAKE AND/OR WATER BODY BANK AREAS AND THE LAKE AND/OR WATER BODY BANK AREAS THEMSELVES MAY BE SUBJECT TO EROSION, AVULSION, ALLUVION, ACCRETION, DERELICTION AND/OR RELICTION.

THEREFORE, MAINTENANCE, REGRADING AND/OR OTHER REPAIRS MAY BE REQUIRED TO MAINTAIN THE PROPERTIES ADJACENT TO THE LAKE AND/OR WATER BODY BANK AREAS AND THE LAKE AND/OR WATER BODY BANK AREAS THEMSELVES IN THEIR ORIGINAL STATE.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE LAKE AND/OR WATER BODY BANK AREAS ARE SUBJECT TO THE SAME MAINTENANCE, REPAIR AND/OR REPLACEMENT PROVISIONS AND ARE THE RESPONSIBILITY OF THE HERITAGE BAY CDD OR THE CLUB.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, PROPERTIES ADJACENT TO THE LAKE AND/OR WATER BODY BANK AREAS ARE SUBJECT TO THE MAINTENANCE, REPAIR AND/OR REPLACEMENT PROVISIONS SET FORTH IN THE GOVERNING DOCUMENTS AND MAY BE THE RESPONSIBILITY OF THE OWNER AT HIS OR HER OWN COST.

NEITHER THE CLUB NOR THE CDD SHALL BE LIABLE IN ANY WAY FOR ANY MAINTENANCE, REGRADING AND/OR OTHER REPAIRS ON ACCOUNT OF SUCH EROSION, AVULSION, ALLUVION, ACCRETION, DERELICTION AND/OR RELICTION.

LOTS AND PARCELS MAY CONTAIN OR ABUT CONSERVATION AREAS, WHICH ARE PROTECTED UNDER ENVIRONMENTAL RESOURCE PERMIT. THESE AREAS MAY NOT BE ALTERED FROM THEIR PRESENT CONDITIONS EXCEPT IN ACCORDANCE WITH THE RESTORATION PROGRAM INCLUDED IN THE ENVIRONMENTAL RESOURCE PERMIT, OR TO REMOVE EXOTIC OR NUISANCE VEGETATION, INCLUDING WITHOUT LIMITATION MELALEUCA, BRAZILIAN PEPPER, AUSTRALIAN PINE, JAPANESE CLIMBING FERN; CATTAILS, PRIMROSE WILLOW, AND GRAPE VINE. THE CLUB WILL BE RESPONSIBLE FOR PERPETUAL MAINTENANCE OF SIGNAGE REQUIRED BY THE ENVIRONMENTAL RESOURCE PERMIT ISSUED BY SOUTH FLORIDA WATER MANAGEMENT DISTRICT, WHICH MAINTENANCE WILL BE MAINTAINED TO THE GREATEST DEGREE LAWFUL BY THE CLUB.

5.11 Conservation Areas. The Club shall be responsible for the continuous implementation, management, maintenance, monitoring and reporting of the management plan adopted by the U.S. Army Corps of Engineers Permit (if any). No person shall undertake or perform any activity in Conservation Areas described in the approved permits and Plats of the Club Property, or remove

native vegetation that becomes established within the Conservation Areas. Prohibited activities within Conservation Areas include the removal of native vegetation, excavation, placement or dumping of soil, trash or land clearing debris, and construction or maintenance of any building, Living Unit or other structure. "Removal of native vegetation" includes dredging, application of herbicides, and cutting.

5.12 Open Space. Any real property subjected to this Declaration and designated as open space, landscape buffer, preserve area, Conservation Area or words of similar import on any plat, declaration of covenants and restrictions, site plan, permit or other document shall be preserved and maintained by the owner of such land as open space. If such land or an easement over such land has been conveyed or dedicated to the Club or a Neighborhood Association, the Club or Neighborhood Association shall preserve and maintain such land. No development may occur on such land except structures or improvements which promote the use and enjoyment of the land for open space purposes.

5.13 Lawns, Landscaping; Irrigation Systems. Except for designated Conservation Areas, buffer zones, open space or other similar areas, all areas not covered by structures, walkways or parking facilities shall be maintained by their owners as lawn or landscaped areas to the pavement edge of any abutting streets and to the waterline of any abutting lakes, canals or water management areas. Stone, gravel, or paving may not be used as a substitute for grass or landscaping unless first approved by the Club. Certain areas under the DRI shall remain in a natural or unimproved state. All lawns and landscaping shall be kept in good condition by the owner. Lawns must be regularly cut and mulched areas regularly re-mulched. The main irrigation line may be owned by and thus be the responsibility of the Club. The components of the irrigation system serving each individual Lot, Neighborhood Association Common Area, Member Common Area, Club Common Area or Commercial Parcel, including but not limited to the tap into the main line, timers, switching devices and heads shall be the responsibility of the owner or operator of the real property the irrigation line is located on. The Club shall have the right, at their sole discretion to adopt a schedule of irrigation times and duration of irrigation, subject to intervention by the SFWMD. The Club may also be responsible for irrigation of certain highway medians not owned by it, and the cost shall be a Common Expense of the Club.

5.14 Maintenance of Premises. High weeds, thick underbrush, high grass or other unsightly vegetation shall not be permitted to grow or remain upon any Lot or Common Area, except in Conservation Areas and other areas designated by the DRI to remain in a natural state. No refuse or waste shall be allowed to be placed or suffered to remain upon any Lot, Parcel, Tract or Neighborhood Association Common Area. If an owner, Member Association or Neighborhood Association permits such weeds, high grass, underbrush or other unsightly growths, and fails to correct same after five (5) days' notice by the Club, the Club shall have the right to enter upon the premises and make such corrections and shall charge the owner or Association for the cost of the corrections. Said charge, until paid, shall be a lien against the offending Lot, Parcel, Member Association Common Area or Neighborhood Association Common Area. All lawns, landscaping and sprinkler systems and all structures, improvements and appurtenances shall at all times be kept in safe, and attractive condition, and all structures shall be maintained in a finished, painted and attractive condition.

5.15 Litter. In order to preserve the beauty of the Club, no garbage, trash, refuse or rubbish shall be deposited, dumped or kept within the Club except in closed containers, dumpsters or other garbage collection facilities deemed suitable by the Board, or in proper-sized, closed plastic bags for curbside pickup as required. All containers, dumpsters and other garbage collection facilities shall be screened from view, kept in a clean condition, and without noxious or offensive odors emanating.

5.16 Walls, Fences, Hedges, etc. No wall, fence, hedge or other divider shall be constructed anywhere in the Club unless its height, length, type, design, composition, material and location shall have first been approved in writing by the Club. No wall, fence, hedge, or other divider shall be constructed or maintained at a height of more than six feet above the ground level of any Lot, Parcel or Neighborhood Association Common Area adjoining the Club Common Areas. Height shall be measured from the finished grade of adjoining developed property. Any dispute as to height, length, type, design, composition or material shall be resolved by the Club's Board of Directors, whose decision shall be final. Approval shall not be given for the construction of any wall, fence, hedge or other divider which materially interferes with the water view or golf course view directly behind a Lot or Living Unit.

5.17 Driveways and Parking Areas. Driveways and parking areas must be paved with concrete, paver blocks, or another surface approved by the Club. Maintenance and repair of all driveways, parking and other paved parking facilities (except driveways serving only one single-family home) shall be the responsibility of the Club (if located in the Club Common Areas) or the responsibility of the Neighborhood Association (if located in a Neighborhood Common Area). Parking areas and driveways must be kept clean and free from excessive oil, rust or other unsightly stains.

5.18 Color. No exterior colors or change in exterior colors shall be permitted on any Club Common Property structure that, in the judgment of the Board of Directors of the Club, would be inharmonious, discordant or incongruous with the Club Property or a particular Neighborhood.

5.19 Underground Utilities. Lines or wires for communications or the transmission of electric current shall not be constructed, or placed, or permitted to be placed within the Club, unless the same shall be protected cables; all such lines or wires which are not located in buildings shall be constructed or placed and maintained underground, unless otherwise approved in writing by the Club. No water pipe, gas pipe, sewer pipe, drainage pipe or storage tank shall be installed or maintained above the surface of the ground, except hoses and movable pipes used for irrigation purposes.

5.20 Potable Water Supply; Wells; Water Rights. Each Living Unit or Structure shall be equipped with dual water lines, one of which shall be designated to utilize non-potable water. All underground irrigation systems must be connected to the non-potable water line and all outside spigots must be connected to the potable water line. Each owner shall be required to connect the water lines on his Lot, Parcel or Tract to the lines of the utility provider(s) providing service to the Club. No owner may install or operate a private well. The Club shall have the exclusive right to develop and utilize the ground and surface water resources of the Club for any legal purpose, including the transport and use of such waters beyond the Club, and the conveyance of any Lot, Living Unit or Parcel does not include the right to develop or utilize any ground water or sub surface water resources within such Lot or Living Unit.

5.21 Temporary Factory-Built or Existing Structures. No structure of any kind of what is commonly known as “factory-built,” “modular,” or “mobile home” type construction shall be erected. No tent, trailer or temporary structure shall be permitted unless its size, appearance and temporary location have first been approved by the Board of Directors of the Club.

5.22 Antennas and Flagpoles. No outside television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Lot, Living Unit, Parcel or Tract or upon any improvements thereon, unless expressly approved in writing by the Neighborhood Association and the Club, except that this prohibition shall not apply to those antennae specifically covered by 47 C.F.R. Part 1, Subpart S, Section 1.4000, as amended from time to time, promulgated under the federal Telecommunications Act of 1996, as amended from time to time. The Club shall be empowered to adopt rules governing the types of antennae, restrictions relating to safety, location and maintenance of antennae. The Club may adopt and enforce reasonable rules limiting installation of permissible dishes or antennae to side or rear yard locations, not visible from the street or neighboring properties, and integrated with the residence, structure and surrounding landscape, to the extent that reception of an acceptable signal would not be unlawfully impaired by such rules. Antennae shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land-use and building regulations. A flagpole, for display of the American Flag, the State of Florida or the United States Army, Navy, Air Force, Marines, or Coast Guard, or a POW-MIA flag, or others as approved by the Board of Directors, may be permitted if its design and location are first approved by the Club. An approved flagpole shall not be used to mount an antenna. This provision is intended to protect residents from unreasonable interference with television reception, electronic devices, and the operation of home appliances, which is sometimes caused by the operation of ham radios, CB base stations or other high-powered broadcasting equipment.

5.23 Outdoor Equipment. All garbage and trash containers, oil tanks, bottled gas tanks, swimming pool and spa equipment and housing and sprinkler pumps and other such outdoor equipment must be underground, or placed in areas not readily visible from adjacent streets, or adequate landscaping must be used as screening around these facilities and maintained by the owner, or Neighborhood Association.

5.24 Clothes Drying Area. Outdoor clothes drying areas are not allowed unless the location and design are approved in writing by the Club.

5.25 Lighting. Exterior lighting of structures or landscaping shall be accomplished in accordance with plans approved in writing by the Club. No spotlights, floodlights or similar high intensity lighting shall be placed or utilized upon any Lot, Parcel or Tract which in any way will allow light to be reflected on any other Lot, Parcel or Tract or the improvements thereon, or upon any Club Common Areas or any part thereof, without the approval of the Club. Other types of low intensity lighting, including normal and customary holiday lightning and decorations, which do not unreasonably disturb the other owners or occupants of the Club, shall be allowed.

5.26 Air Conditioners. Wall or window air conditioning or heating units are not permitted in the Club.

5.27 Solar Collectors: Roof Vents. Solar collectors, roof vents and other installations on the roofs of structures, shall be permitted only at locations approved in writing by the ARC, and may be required to be screened from view by landscaping or other suitable visual barrier.

5.28 Trucks, Commercial Vehicles, Recreational Vehicles, Motor Homes, Mobile Homes, Boats, Campers, Trailers and Other Vehicles.

(A) No commercial vehicle of any kind shall be parked in the Community except for construction or service vehicles temporarily present on business. The term “commercial vehicle,” as restricted under this subsection, is defined as meaning all vehicles of every kind whatsoever which, from the viewing the exterior of the vehicles or any portion thereof, shows or tends to show any commercial markings, signs, displays, equipment, or otherwise indicates a commercial use. Law enforcement and emergency vehicles owned or operated by residents or bona fide guests within the community shall be considered a permitted vehicle.

(B) No boat, trailer, semitrailer, or house trailer of any kind, camper, mobile home, motor home, bus, truck, truck camper, pick-up truck or disabled, inoperative or unlicensed motor vehicle of any kind may be parked or kept in the Community unless it is kept fully enclosed inside a structure or in an area designated for that purpose. For purposes of this paragraph only, an open carport shall not be deemed a structure or an area designated for such, if any. House trailers, semi-trailers, campers, buses, motor homes, mobile homes, truck campers, and the like are permitted to be parked in the Community for loading and unloading purposes only, and then for a maximum of 12 hours. Parking for longer periods of time may be permitted, only with the prior written approval of the Board of Directors.

(C) No motor vehicle shall be parked anywhere other than on paved or other areas designated for that purpose, or in garages. Parking on lawns or landscaped areas is prohibited.

(D) No motor vehicle shall be used as a domicile or residence, either permanent or temporary.

(E) Passenger automobiles, vans and light pick-up trucks with single rear wheels and no more than one (1) ton designation, in a presentable condition, and which will fit within an enclosed garage, shall be permitted. The term “vans and light pick-up trucks” is defined to mean vehicles with no more than one (1) ton, rear single wheels or less rated weight carrying capacity.

(F) Paragraphs (A) through (E) shall not be deemed to **prohibit** any temporary facility permitted by Section 0 above.

(G) Any vehicles parked in violation of this Section 5.27 shall be subject to being towed away at the owner’s expense.

5.29 Living Units: Residential Use. Each Living Unit shall be used as a single-family residence and for no other purpose. No business or commercial activity shall be conducted in or from any Living Unit, nor may the address or location of the Living Unit be publicly advertised as the location of any business or commercial activity. This restriction shall not be construed to prohibit any owner

from maintaining a personal or professional library, from keeping personal business or professional records in his Living Unit, or from handling person, business or professional telephone calls and written correspondence in and from his Living Unit. Such uses are expressly declared customarily incident to residential use.

5.30 Leasing of Living Units. No Living Unit may be leased or rented for a period of less than thirty (30) consecutive days. Any advertising or listing of a Living Unit for lease or rental shall state that the minimum lease or rental period is thirty (30) consecutive days. Landlord is obligated to sufficiently assure the Board that no Home will be occupied by any sexual offender or predator or anyone who has been arrested or adjudicated as a sexual offender or predator. Neighborhood Covenants may establish stricter standards for particular Neighborhoods. Occupancy of Living Units is controlled by the Neighborhood Associations. If authorized by its governing Declaration, a Neighborhood Association may run background checks on any proposed lessee.

5.31 Pets and Animals. Not more than two (2) commonly accepted household pets such as a dog or cat, and reasonable numbers of tropical fish or caged birds may be kept in a Living Unit, subject to other reasonable regulation by the Club, or Neighborhood Association. All animals shall be leashed (if outdoors), or kept within the Living Unit and shall not be permitted to roam free. The Club may restrict the walking of pets to certain areas. Pets are not permitted on any golf course at any time. Owners who walk their pets on Club, or Neighborhood Common Areas must clean up after their pets. Commercial activities involving pets, including without limitation, boarding, breeding, grooming or training, are not allowed. The ability to keep a pet is a privilege, not a right. If in the opinion of the Board, any pet becomes the source of unreasonable annoyance to others, or the owner of the pet fails or refuses to comply with these restrictions, the owner, upon written notice, may be required to remove the pet from Club Property. Pets may not be left unattended or leashed in yards or garages or on porches or lanais.

Notwithstanding the foregoing, pit bull and pit bull mix dogs or other recognized aggressive breeds of dogs shall be prohibited regardless of size or weight. A pit bull or pit bull mix dog is defined as any dog that, in the sole and exclusive discretion of the Board, has the appearance and characteristics of being predominately and commonly referred to as a "pit bull" regardless of the opinion of any veterinary doctor. Any Unit Owner who keeps or maintains any pet, in exchange for and in consideration of the privilege to keep the pet, hereby indemnifies and holds the Association and each Unit Owner free and harmless from any loss, claim or liability of any kind of character of whatever nature arising from or related to the keeping or maintain of such pet on Club Property.

5.32 Nuisances. Nothing may or shall be done which is, or may become, a source of unreasonable annoyance or nuisance to residents of any Neighborhood. Any question with regard to the interpretation of this Section shall be decided by the Board of Directors whose decision shall be final.

5.33 Correction of Health and Safety Hazards. Any conditions of the physical property which are reasonably deemed by the Board of Directors to be an immediate hazard to the public health or safety may be corrected as an emergency matter by the Club, and the cost thereof shall be charged to the responsible owner or Association.

5.34 Neighborhood Association Assessments and Covenants, Restrictions, and Rules. Because the financial health and well-being of each Neighborhood is integral to the purposes of this

Declaration, each Owner covenants and agrees to timely pay all monetary obligations owing by such Owner to any Neighborhood Association pursuant to applicable Neighborhood Association Documents. In addition, each Owner covenants and agrees to abide by all Neighborhood Association covenants, restrictions, and rules governing use of Living Units and Neighborhood common areas. In the event any Owner is delinquent in the payment of any monetary obligation to a Neighborhood Association, then upon recordation of a lien by such Neighborhood Association against a Living Unit, the Owner of such Living Unit shall be deemed to have breached this covenant. Upon a breach of this covenant by any Owner, the Club may take all available enforcement action against such Owner, including but not limited to the exercise of the Club's right to suspend the Club Common Area use rights of such Owner, his Family, Guests, and tenants.

6. ARCHITECTURAL AND AESTHETIC CONTROL OF NEIGHBORHOOD ASSOCIATION STRUCTURES, COMMON AREAS AND LANDSCAPING

6.1 General. No building structure or other improvement shall be erected or altered, nor shall any grading, excavation, landscaping, change of exterior color, or other work which in any way materially alters the exterior appearance of any Neighborhood Association structure, Living Unit, or Neighborhood Common Area be performed without the prior written approval of the ARC. In obtaining said written approval, an owner or any other person applying shall comply with all applicable requirements and procedures.

6.2 Architectural Review Committee. The architectural and aesthetic review and control functions of the Neighborhood Associations shall be administered and performed by the Architectural Review Committee (ARC). The ARC shall consist of not less than three (3) individuals, who need not be members of the Club, the term of office, composition, compensation (if any), qualifications and meeting procedures of the ARC shall be as provided in Section 6 of the Bylaws.

6.3 Powers. The ARC shall have the power, subject to and limited by the guidelines of the approved regulatory permits of South Florida Water Management District (Permit No. 26-00736-5-02), the County, the U.S. Army Corps of Engineers and the PUD, to:

(A) Propose the adoption, modification or amendment by the Board of Directors, of written Design Review Guidelines which shall set forth such things as design requirements, landscape materials, construction standards and colors and materials which the ARC finds acceptable. Said Guidelines shall be consistent with provisions of this Declaration, and shall not be effective until adopted by at least a majority of the whole Board of Directors at a meeting duly called and noticed. Notice of any adoption, modification or amendment of Design Review Guidelines, including a verbatim copy of the proposed modification or amendment thereof, shall be mailed to each Neighborhood Association at least thirty (30) days prior to the Board meeting at which such action is to occur;

(B) Require submission to the ARC of complete plans and specifications for any building, structure, or other improvement proposed to be erected or altered, or any proposed grading, excavation, tree or other landscape material removal or installation, change of exterior color or other work which materially alters the exterior appearance of any Neighborhood Association structure, or Neighborhood Association Common Area. The ARC may also require submission of samples of building materials or colors proposed, and

may require such additional information as may reasonably be necessary for the ARC to fully evaluate the proposed work;

(C) Approve or disapprove the erection or alteration of any building, structure or other improvement; or any grading, excavation, landscaping, change of exterior color, or other work which in any way materially alters the exterior appearance of any Neighborhood Association structure, Lot, Living Unit or Neighborhood Common Area. All decisions of the ARC shall be forwarded in writing to the applicant and the Board. Any person aggrieved by a decision of the ARC shall have the right to make a written appeal to the Board within thirty (30) days after notification of the decision. The determination by the Board, upon prompt review of any such decision, shall, in all events, be final, and shall not be unreasonably delayed;

(D) Adopt procedures and a schedule of reasonable fees for processing requests for ARC review. Fees, if any, shall be payable to the Club, in cash or check, at the time the request is submitted to the ARC; or

(E) Adopt procedures for inspecting approved changes during and after construction, to ensure conformity with approved plans.

6.4 Enforcement. Any decisions of the ARC shall be enforced by the Neighborhood Association involved, as well as by the Club.

7. EASEMENTS. In addition to the easements created elsewhere herein, and those already of public record at the time this Declaration is recorded, easements are hereby provided for:

7.1 Utilities, Services and Support. Each Lot, Living Unit, Tract and Parcel and the Common Areas (except Conservation Areas) and Neighborhood Common Areas is and are hereby subjected to easements for public services, communications, and telecommunications and utilities purposes including, but not limited to, fire, police protection, and emergency services, garbage and trash removal, potable and non-potable water, sewage, telephone, electric and gas service, lake maintenance, internet and cable television. The utilities and governmental agencies having jurisdiction, the CDD and their employees and agents, shall have the right of access to any Lot, Living Unit, Dwelling Unit, Tract, or the Common Areas in furtherance of such easements. The easement areas on any Lot or Tract whether or not shown on any plat, shall at all times be properly maintained by the owner, whether or not the utility or service company properly maintains the easement area.

(A) There is hereby reserved, for the purpose of installing, operating and maintaining governmental, public or private utility facilities those easements described herein and those shown upon the recorded plat of the Community, and there are also reserved such easements and rights-of-way for any other purposes as the Club in its sole discretion may in the future grant.

(B) If any agreement is entered into by the Club for the exclusive provision of System Services or other services as described in either Section 7.2, 7.3 or both below, it shall be the affirmative obligation of the Club to grant all appropriate and reasonably necessary easements for the furnishing of those services; and upon the expiration or termination of such

agreement, to provide subsequent or alternate easements so as to insure the continuous accessibility and availability to the Club, of those services.

7.2 Communications Systems. The Club hereby reserves for itself and its successors, assignees and licensees, the right, without obligation, to construct or install over, through, under, across and upon any portion of the Club Property including Club and Neighborhood Association Common Areas, and all structures thereon for the use and benefit of the owner and authorized guests, invitees, tenant and family members, communications services as defined in Section 202.11, Florida Statutes, including but not limited to cable, internet and/or telecommunications receiving and distribution systems and electronic surveillance systems, emergency, medical and surveillance monitoring, or alarm systems (all or any part of which shall be referred herein collectively as the "System"). The Club shall have and hereby reserves to itself and its designees, successors, assignees and licensees, a perpetual and exclusive right, privilege, easement and right-of-way for the installation, construction and maintenance of the System (the scope, extent, size and location of which over, across, upon and through the Community shall be determined solely by the Club together with a perpetual and exclusive right and privilege of:

(A) Unlimited ingress and egress thereto for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing the facilities and equipment constituting the System including, without limitation, any towers, antennas, conduits, wires, cables, lines, panels, boxes, housings, connections, insulators and amplifiers necessary or desirable to receive and distribute System services including, without limitation, telecommunications, electronic banking, surveillance, fire, police and emergency medical protection.

(B) Each Lot and Living Unit is subject to a permanent easement in favor of adjoining or adjacent Lots and Living Units for lateral and adjacent support.

(C) Each Lot and Living Unit is subject to a permanent easement in favor of the Club to remove and/or destroy invasive exotic vegetation species.

7.3 Contracts With Service Providers. The Club shall have the right to enter into Contracts for the exclusive provision of the System. Any such contract for cable television or other similar services shall provide, and if it does not, shall be deemed to provide, that during any period of occupancy of Living Unit by a hearing impaired or legally blind owner who does not occupy the Living Unit with a non-hearing impaired or sighted person, said owner may refuse or discontinue the service without incurring disconnect fees, penalties, or subsequent service charges, and as to such Living Units, the owners shall not be required to pay any charge related to such service.

7.4 Easements for Playing Golf. Non-specific, non-exclusive easements are hereby created for the benefit of users of the golf course over all Lots, Living Units, Neighborhood Common Areas, and Common Areas adjacent to the golf course, to permit every act necessary, incidental, or appropriate to the playing of golf. These acts include, without limitation, the recovery by golfers of errant golf balls, the flight of golf balls over and across such Lots, Living Units or Common Areas, the landing of errant golf balls upon the Club Common Areas, the use of necessary and usual golf carts and maintenance equipment upon the golf course, the usual and common noises and other disturbances created by maintenance of the course and the playing of the game of golf, including occasional tournaments, together with all other common and usual occurrences normally associated with the existence and operation of a golf course.

7.5 Waiver and Disclaimer Regarding Golf Course. Each Owner of a Living Unit, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is hereby deemed to acknowledge and accept the following inherent risks and annoyances associated with the golf course:

- (1) maintenance operations on the golf course may begin in the early morning and extend into the evening;
- (2) during certain periods of the year, the golf course may be heavily fertilized;
- (3) maintenance of the golf course may require the use of chemicals and pesticides;
- (4) the golf course may be watered with reclaimed water; and
- (5) golf balls are not easily controlled, and accordingly may enter an Owner's airspace, strike Owner, Owner's guests, yard, walls, roof, windows, landscaping and personal property causing personal injury and property damage.

The Club and its members (in their capacity as members), and any agents, servants, employees, directors, officers, affiliates, representatives, receivers, subsidiaries, predecessors, successors and assigns of any such party ("Released Parties"), shall not be responsible for any claims, damages, losses, demands, liabilities, obligations, actions or causes of action whatsoever based on (a) any invasion of the owner's use or enjoyment of the Living Unit, (b) improper design of the golf course, (c) the level of skill of any golfer (regardless of whether such golfer has the right to use the golf course), or (d) trespass by any golfer on the Lot, that may result from property damage or personal injury from golf balls (regardless of number) hit anywhere in the Community, or adjacent roadways, or from the exercise by any golfer of the easements granted herein.

Furthermore, each Owner of a Living Unit hereby assumes the risk inherent in owning property adjacent to or nearby a golf course, including, without limitation, the risk of such personal injury and property damage from errant golf balls, and hereby indemnifies and agrees to hold the Released Parties harmless from any and all loss arising from claims by such Owner, or persons using or visiting such Owner's Lot or Living Unit for any personal injury or property damage claim.

7.6 Conservation Easements. There exists a perpetual conservation easement as defined in Section 704.06, Florida Statutes, Florida Statutes, for the South Florida Water Management District, and the U.S. Army Corps of Engineers permit, over the Conservation Areas which runs with the land and is binding upon the Club, its heirs, successors, and assigns and remain in full force and effect forever. The scope, nature and character of this conservation easement is as follows:

- (A) It is the purpose of this conservation easement to insure that the Conservation Areas predominately remain in their natural scenic open or wooded condition, while retaining such areas as suitable habitat for fish, plants, or wildlife. To carry out this purpose, the following rights are conveyed to SFWMD by this easement:
- (1) To enter upon the Lands at reasonable times to enforce the rights herein granted, upon prior notice to grantor, its heirs, successors or assigns in a manner that

will not unreasonably interfere with the use and quiet enjoyment of the Lands by Club, and its heirs, successors, or assigns at the time of such entry; and

(2) To enjoin any activity on or use of the Conservation Areas that is inconsistent with the purpose of this conservation easement, and to enforce the restoration of such areas or features of the Conservation Areas that may be damaged by any inconsistent activity or use, except those damages or changes caused by an act of God.

(B) Use Restrictions. Unless otherwise approved by SFWMD in writing, the following activities are prohibited in or on the Conservation Areas, except as provided in the reservation of rights located in Paragraph (C), or in the maintenance and monitoring plan for on-site wetland preserve areas.

(1) Construction or placing of buildings, roads, signs, billboards, or other advertising, utilities, or other structures on or above the ground.

(2) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.

(3) Removal or destruction of trees, shrubs, or other vegetation, excepting removal of invasive exotic species.

(4) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such a manner to affect the surface.

(5) Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition.

(6) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife habitat preservation.

(7) Acts or uses detrimental to such retention of land and water areas.

(8) Use of recreational motor vehicles such as motorcycles, ATV's, four-wheel drive vehicles.

(C) Reservation of Rights. The following rights are specifically reserved to the Club, its successors or assigns:

(1) Passive recreational activities not involving construction and not contrary to the purpose of this conservation easement, may be permitted upon written approval by SFWMD.

(2) If authorized in the Environmental Resource Permit, the Club, its heirs, successors or assigns, may construct cart paths for the purposes of golf course operations.

- (3) The Club reserves to itself, its successors, or assigns, all rights as owner of the property, including the right to engage in all uses of the property that are not specifically prohibited in this easement.
- (D) No right of access by the general public to any portion of the lands or Conservation Areas is conveyed by this conservation easement.
- (E) The Club shall bear all costs and liabilities of any kind related to the operation, upkeep, and maintenance of the Conservation Areas and does hereby indemnify and hold the SFWMD harmless therefrom.
- (F) The Club shall pay any and all real property taxes and assessments levied by competent authority on the Conservation Areas, if any.
- (G) Any costs incurred by the SFWMD in enforcing, traditionally or otherwise, the terms and restrictions of this conservation easement against the Club shall be borne by the Club.
- (H) Any costs incurred by the Club in defending an enforcement action brought by the SFWMD shall be borne by and be recoverable against the SFWMD and its successors, as long as the SFWMD is not the prevailing party.
- (I) Enforcement of the terms and provisions of the conservation easement shall be at the reasonable discretion of the SFWMD, and any forbearance on behalf of SFWMD to exercise its rights hereunder in the event of any breach hereof by the Club, its successors, or assigns shall not be deemed or construed to be a waiver of the SFWMD's rights hereunder in the event of a subsequent breach.
- (J) The SFWMD will hold this conservation easement exclusively for conservation purposes. The SFWMD will not assign its rights and obligations under this conservation easement without the prior written consent of the Club, its successors, or assigns, except to other State organizations qualified to hold such interest under the applicable state and federal laws who are committed to holding this conservation easement exclusively for conservation purposes.
- (K) If any provisions of this conservation easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this conservation easement and the applications of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby, as long as the general purpose of the conservation easement is preserved.
- (L) All notices, consents, approvals or other communications hereunder shall be in writing and be deemed properly given if sent by registered or certified U.S. Mail, return receipt requested, addressed to the appropriate party in interest.

8. COMMON AREAS; USE AND MAINTENANCE.

8.1 Common Areas. Any real property conveyed, for the use of the Club as Club Common Areas, is not and shall not be deemed dedicated for use by the general public but is, and shall be, deemed restricted for the common use and enjoyment of members and their guests, tenants and invitees.

8.2 Conservation Areas. ALL CONSERVATION AREAS THAT MAY BE ESTABLISHED WITHIN THE CLUB PROPERTY ARE HEREBY DEDICATED AS CLUB COMMON AREAS. THEY SHALL BE THE PERPETUAL RESPONSIBILITY OF THE CLUB AND MAY IN NO WAY BE ALTERED FROM THEIR NATURAL STATE. ACTIVITIES PROHIBITED WITHIN THE CONSERVATION AREAS INCLUDE, BUT ARE NOT LIMITED TO, CONSTRUCTION OR PLACING OF BUILDINGS ON OR ABOVE THE GROUND; DUMPING OR PLACING SOIL OR OTHER SUBSTANCES SUCH AS TRASH; REMOVAL OR DESTRUCTION OF TREES, SHRUBS, OR OTHER VEGETATION, EXCEPT REMOVAL OF EXOTIC/NUISANCE VEGETATION; EXCAVATION, DREDGING OR REMOVAL OF SOIL MATERIAL; DIKING OR FENCING; ANY OTHER ACTIVITIES DETRIMENTAL TO DRAINAGE, FLOOD CONTROL, WATER CONSERVATION, EROSION CONTROL, OR FISH AND WILDLIFE HABITAT CONSERVATION OR PRESERVATION.

8.3 Use of Common Areas and Facilities. The Club shall be responsible for the maintenance and administration of all areas and facilities designated as Club Common Areas including but not limited to Lions Bay Court, Escambia Bay Court, Heritage Bay Boulevard (Main Road), Smoke House Bay Drive, Gator Bay Court, Siesta Bay Drive (stopping at Quarry property), and Biscayne Bay Lane. The CDD shall have responsibility for the surface water management system, including all thirty one (31) lakes, lake banks and lake infrastructure, littoral plantings, shelf maintenance, and any required reports to the Club and government agencies.

8.4 Maintenance and Alteration. The Club is responsible for the maintenance, repair, replacement, insurance, protection and control of all Common Areas in accordance with all applicable laws, and shall keep the same in good, safe, clean, attractive and sanitary condition, and in good working order at all times. There shall be no material alterations of or substantial additions to the Club Community Common Areas costing more than \$300,000, in the aggregate during any fiscal year unless first approved by a majority 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; and there shall be no material alteration of or substantial additions to the Golf Common Areas costing more than \$300,000 in the aggregate during any fiscal year unless first approved by a majority 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. However, if work that is reasonably necessary to meet the Club's obligations under the first sentence of this Section 8.4 also constitutes a material alteration or substantial addition, no prior membership approval is required.

8.5 Partition, Subdivision and Encumbrance. The Club Common Areas shall not be abandoned, partitioned, subdivided, alienated, released, transferred, hypothecated, or otherwise encumbered, without first obtaining the approval of not less than a majority of the voting interests. The foregoing shall not be construed to limit the authority of the Club through its Board of Directors to grant such easements over, across and through the Club Common Areas, as may be necessary for the effective and efficient operation of the facilities or for the general benefit of the members.

Nothing herein shall be construed to prohibit judicial partition of any Lot, Living Unit, Tract or Parcel owned in co-tenancy.

8.6 Club's Rights and Powers. No Club Common Areas shall be used in violation of any rule or regulation or other requirement of the Club established pursuant to the provisions of this Declaration or the Bylaws.

8.7 Expansion or Modification of Common Areas. Additions or modifications to the Club Common Area may be made if not inconsistent with the PUD and any amendments thereto.

8.8 Security, Non-Liability of Club. The Club shall not be liable if security services are not provided.

9. ASSESSMENTS.

9.1 Creation of Lien. Each owner, by acceptance of a deed to a Living Unit, covenants and agrees to pay to the Club:

(A) Annual Assessments.

(B) Special Assessments.

(C) Service Assessments, Resale Capital Contributions and other fees or charges (including fines) imposed against his or her Living Units, as provided for elsewhere in this Declaration, and in the Bylaws of the Club.

(D) Except as otherwise provided in Section 13.2 below as to certain mortgagees, no owner may avoid or escape liability for the assessments or charges provided for herein by non-use or abandonment of his Living Unit, Tract, Parcel, or the Common Areas, or otherwise.

(E) Assessments shall be fixed, levied, established and collected as provided herein, and in Section 7 of the Bylaws.

(F) The owner of each Living Unit regardless of how title was acquired, is liable for all assessments coming due while he is the owner. Multiple owners are jointly and severally liable. Except as provided in Section 13.2 below, whenever title to a Living Unit is transferred for any reason, the new owner is jointly and severally liable with the previous owner for all assessments unpaid at the time of the transfer, regardless of when incurred, without prejudice to any right the new owner may have to recover from the previous owner any amounts paid by the new owner.

(G) No land shall be subject to assessment by the Club if it is a Neighborhood Association Common Area, or a Common Area, or it is owned by or dedicated to the County or other governmental agency, and used for a public purpose. Only Living Units shall be subject to assessment.

9.2 Purposes of Assessments:

- (A) To promote the recreation, health, safety, and welfare of the owners and residents of the Community;
- (B) For the improvement, maintenance, protection and operation of the Club and Community Common Areas, the Conservation Areas, the Club equipment and facilities, and the Stormwater Management System; and to establish and maintain adequate repair and replacement reserves;
- (C) To provide utility, cable television, and other systems of telecommunications services by bulk contract with third parties;
- (D) Where deemed desirable by the Board of Directors, to provide services of general benefit to the owners and residents either on a community-wide basis or otherwise, including without limitation, cable television, transportation, security or other services;
- (E) To pay the operating expenses of the Club; and
- (F) For such other purposes and uses as are authorized by the Governing Documents as amended from time to time.

9.3 Imposition and Amount of Annual Assessments. On the first day of each fiscal year, an annual assessment shall be assessed again each Living Unit. The amount of the annual assessment based on the annual budget shall be the same for each Living Unit subject to assessment.

9.4 Special Assessments. Any special assessments levied by the Club's Board of Directors shall be assessed equally against all Living Units.

9.5 Charges. Any charge by the Club authorized by law or by the Governing Documents to be imposed on less than all of the Living Units shall not be deemed an assessment. Payment may be enforced as provided in Section 9.6 Lien and Section 9.7 Foreclosure of Lien.

9.6 Lien. The Club has a lien on each Living Unit for any unpaid past due assessments and charges, together with interest, late payment penalties and reasonable attorney's fees incurred by the Club in enforcing this lien. The lien relates back to the date of recording this Declaration in the Public Records of Collier County, Florida; and is perfected by recording a Claim of Lien in the public records of the County, which Claim of Lien shall state the legal description of the property encumbered thereby, the name of the record owner, the amounts then due and the dates when due. The Claim of Lien must be signed and acknowledged by an officer or agent of the Club. The lien shall continue in effect until all sums secured by said lien have been fully paid, and the lien satisfied or discharged. The Claim of Lien shall secure all unpaid assessments and charges, interest, costs and attorneys' fees which are due and which may accrue or come due after the recording of the Claim of Lien and up to the issuance of a clerk's deed. Upon full payment, the person making payment is entitled to a satisfaction of the lien.

9.7 Foreclosure of Lien. Unless a different method is required by Florida law, as amended from time to time, the Club's lien may be foreclosed by the procedures and in the manner provided in Section 720.3085, Florida Statutes, as it may be amended from time to time, for the foreclosure of a

lien upon a Living Unit for unpaid assessments. The Association may also bring an action at law against any owner liable for unpaid charges or assessments. If final judgment is obtained, it shall include interest on the assessments as above provided and a reasonable attorneys' fee to be fixed by the Court, together with the costs of the action, and the prevailing party shall be entitled to recover reasonable attorneys' fees in connection with any appeal of such action.

9.8 Priority of Lien. Unless otherwise provided by Florida law as amended from time to time, the Club's lien for unpaid assessments and charges shall have the same priority with respect to first mortgagees holding mortgages on Living Units as the lien of a homeowners' association for unpaid assessments under Section 720.3085, Florida Statutes, as amended from time to time, has with respect to first mortgagees or other acquirers of title through the first mortgage. The Club's lien shall be superior to, and take priority over, all other mortgages regardless of when recorded. Any lease of a Living Unit shall be subordinate and inferior to any Claim of Lien of the Club, regardless of when the lease was executed. The relative priority of the Club's lien to that of a Neighborhood Association shall be determined by the order of their recording in the public records.

9.9 Resale Capital Contribution. The Club may levy a Resale Capital Contribution on any conveyance of a Living Unit. The amount of the Resale Capital Contribution and the manner of payment shall be as determined by resolution of the Board from time to time; provided, however, all Living Units similarly situated shall be assessed at a uniform rate. The due date shall be the date of the closing of the conveyance. Payment of the Resale Capital Contribution shall be the legal obligation of the new Owner. For purposes of this Section, the term "conveyance" shall mean the transfer of record legal title to a Living Unit by deed or other authorized means of conveyance, with or without valuable consideration, and shall also refer to a transfer of possession and beneficial ownership by means of an agreement for deed. It does not refer to a transfer of title resulting from foreclosure of a lien, or the death of the transferee, nor to a transfer of title to a Director or the transferor's spouse without changing occupancy, solely for estate planning or tax reasons. A Resale Capital Contribution shall be considered an assessment and can be collected as such in accordance with the provisions under Article 9.

9.10 Ownership. Assessments, Resale Capital Contributions, and charges collected by or on behalf of the Club become Association property; no owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Living Unit. No owner has the right to withdraw or receive distribution of his share of the common surplus (including reserves), except as otherwise provided by law.

9.11 Leased Living Units. If a Living Unit is occupied by a tenant and the Living Unit is delinquent in paying any Assessment or monetary obligation to the Club, the Club may, to the extent authorized by law, demand that the tenant pay to the Club the subsequent rental payments and continue to make such payments until all of the Assessments and monetary obligations related to the Living Unit have been paid in full to the Club and the Club releases the tenant or until the tenant discontinues tenancy in the Living Unit.

9.12 Fannie Mae. Notwithstanding anything in this Declaration to the contrary and to the extent permitted by applicable law, with respect solely to Fannie Mae approved financing of a Living Unit, any Institutional Mortgagee who obtains title to a Living Unit pursuant to the remedies in the mortgage or through foreclosure will not be liable for more than six (6) months of the Living Unit's

unpaid assessments accrued before acquisition of the title to the Living Unit by the Institutional Mortgagee.

10. COVENANT AND RULE ENFORCEMENT: DISPUTE RESOLUTION. The Club has the power to enforce all covenants, conditions, restrictions, rules and agreements applicable to any real property within Heritage Bay Golf & Country Club, and is further empowered to promulgate and enforce administrative rules and regulations governing the use of the Common Areas.

10.1 Owner and Member Compliance. The protective covenants, conditions, restrictions and other provisions of the Governing Documents and the rules promulgated by the Club, shall apply to all classes of members as described in Section 4.1 as well as to any other person occupying any Living Unit. Failure of an owner to notify any person of the existence of the rules, or the covenants, conditions, restrictions, and other provisions of the Governing Documents shall not in any way act to limit or divest the Club of the power to enforce these provisions. Each owner shall be responsible for any and all violations by his tenants, licensees, invitees or guests, and by the guests, licensees and invitees of his tenants, at any time.

10.2 Litigation. Subject to Section 3.6 above, each member and the member's tenants, guests, and invitees, and the Club, are governed by and must comply with Chapter 720, Florida Statutes, the Governing Documents and rules of the Club. Enforcement actions for damage, or for injunctive relief, or both, on account of any alleged violation of the Governing Documents and Club Rules may be brought by any owner or the Club against:

- (A) The Club;
- (B) A member;
- (C) Any occupant of a Living Unit;
- (D) Any Director or officer of the Association who willfully and knowingly fails to comply with these provisions;
- (E) Any tenants, guests, or invitees occupying a parcel or using the common areas; and
- (F) Any neighborhood Association which fails to make a prompt and reasonable effort to enforce any restrictive covenants or affirmative obligations under provisions of this Declaration or the Neighborhood Covenants, where such failure has or threatens to have a material adverse impact on the appearance of the community, or the operation of the Club. The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs. This Section is not intended to deprive any person of any other available right or remedy. The enforcement of covenants, conditions, restrictions and agreements applicable to the various subdivisions and developments within the Community is primarily the function and duty of the respective Neighborhood Associations. It is the intent of this provision that the Club exercise its covenant enforcement powers with respect to Neighborhood Covenants only after the Neighborhood Association primarily responsible for enforcement has notice of the violation and has, after a reasonable time, been unable or unwilling to resolve the problem in a satisfactory manner.

10.3 Damages and Attorney's Fees. Damages shall not be conclusively deemed adequate relief for any breach or violation of the Governing Documents or the rules. Any person or entity entitled to enforce any provision thereof shall be entitled to relief by way of injunction, as well as any other available relief either at law or in equity. The prevailing party in a proceeding to enforce any provision of the Governing Documents or rules, or to enjoin violation or breach of any provision hereof, or recover damages on account of such breach, against any person shall be entitled to recover reasonable attorney's fees and court costs (including those resulting from appellate proceedings).

10.4 Fines.

(A) In addition to the means of enforcement provided elsewhere herein, the Board of Directors shall have the right to levy reasonable fines against a unit, a unit owner, or his guests, relatives or lessees in the event of a violation of the provisions of the Declaration, the Articles of Incorporation, Bylaws and Rules and Regulations of the Club regarding the use of units, common elements, or Club property. Each such violator and the unit owner shall be given written notice of the alleged violation and the opportunity for a hearing before a committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director, or employee. If the Committee, by majority vote, does not approve a proposed fine or suspension (as provided in Section 10.5 below), it may not be imposed. The role of the Committee is limited to determining whether to confirm or reject the fine or suspension levied by the Board. If the Board imposes a fine or suspension, the Association must provide written notice of such fine or suspension by mail or hand delivery to the owners and, if appropriate, to any tenant, guest or invitee of the parcel owner with at least fourteen (14) days' notice. Said notice shall include a statement of the date, time and place of the hearing; a statement of the provisions of the Declaration, Articles, Bylaws or Rules and Regulations which have been allegedly violated; and a short and plain statement of the matters asserted by the Club. The party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Club. The amount of such fine shall not exceed One Hundred Dollars (\$100.00) per occurrence, or the maximum permissible by law, and each reoccurrence of the alleged violation for each day during which violation continues shall be deemed a separate offense and may result in additional fines, without the requirement of a separate hearing, such not to exceed the maximum permissible by law. So long as the violation has been abated or otherwise ceased, the maximum account the Club may fine shall not exceed \$2,500.00 per violation. The payment of fines shall be the ultimate responsibility of the unit owner, even when the violations for which fines have been levied arise out of the conduct of family members, guests or tenants. Any action to collect a duly levied fine shall entitle the prevailing party to an award of all costs and reasonable attorney's fees.

(B) Collection of fines. A fine shall be treated as a special charge due to the Club ten (10) days after written notice from the Club to the owner of the imposition of the fine. If not paid by the due date, the fine shall accrue interest at the highest rate allowed by law, and may itself be the subject of a late payment fee.

(C) Application. All monies received from fines shall become part of the common surplus.

(D) Nonexclusive remedy. Fines shall not be construed to be an exclusive remedy, and shall exist in addition to all other rights and remedies to which the Club may be otherwise legally entitled; however, any fine paid by the offending owner shall be deducted from or offset against any damages that the Club may otherwise be entitled to recover at law from such owner.

10.5 Suspension of Use Rights. To the extent lawful, the Board of Directors may suspend the right of any unit owner, or his guests, tenants, or family members, to use Common Areas during any period of time the owner shall have failed to pay any fine levied, or for a reasonable time as punishment for one or more infractions of the Club Declaration, Bylaws and Rules and Regulations by the owner, his family, guests or tenants. No such suspension shall affect the unit owner's right of access to his unit.

(A) A suspension may not be imposed without notice of at least fourteen (14) days to the person sought to be suspended and an opportunity for a hearing before a committee of at least three (3) members appointed by the Board who are not officers, Directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, Director, or employee. If the committee, by majority vote, which may be by secret ballot, does not approve a proposed suspension, it may not be imposed.

(B) The requirements of the previous paragraph do not apply to the imposition of suspensions or fines upon any member because of the failure of the member to pay assessments or other charges when due if such action is authorized by the Governing Documents.

(C) Suspension of common area use rights shall not impair the right of an owner or tenant of a parcel to have vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park.

10.6 Stormwater Management System. The beneficiaries of the Stormwater Management System shall have the right to enforce the provisions of the Governing Documents that the drainage system, easements and rights-of-way will be continuously maintained.

11. NEIGHBORHOOD ASSOCIATIONS.

11.1 Entry Rights. Each Neighborhood Association and each owner shall permit the Club, or any authorized agent or employee of the Club, to enter upon a Neighborhood Common Area or the owner's Living Unit at reasonable times, to carry out the provisions of this Declaration, and the entry shall not constitute a trespass. This provision shall not be construed as authorizing entry by the Club into the interior of any Living Unit except in an emergency and as provided for in Section 12.7.

11.2 Maintenance of Neighborhood Common Areas. The Club may contract with any Neighborhood Association to provide for the maintenance and management of its Neighborhood Common Areas.

11.3 Neighborhood Covenants. The documents establishing or governing a Neighborhood Association shall not be inconsistent with this Declaration or its recorded exhibits, except they may establish restrictions on subjects related to the use and occupancy of the property within the Neighborhood, such as pets, parking, architectural controls, leasing and guest occupancy, that are more restrictive than those set forth in the Governing Documents.

11.4 Neighborhood Association Voting. The Club Bylaws 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. Except as otherwise provided in the Bylaws, the Club shall poll its members “at large” and collect and tabulate its members’ votes on all matters as to which Club members are entitled to vote at Club membership meetings. 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. 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.

11.5 Voting Groups. The number of Directors to be elected shall be nine (9). Each Voting Group shall be entitled to elect two (2) directors. The ninth Director will be elected “at large” by all members of the Club. At each annual election, each Voting Group shall elect one Director in accordance with Section 4.2 of the Bylaws. If there is no one willing and eligible to serve on the Board of Directors from one or more of the Voting Groups as established below, that seat shall be filled in accordance with the provisions of Section 4.5 of the Master Association Bylaws. If the remaining Directors are unable to fill the position in accordance with the provisions of Section 4.5 of the Bylaws, that position shall remain vacant until the next annual election, unless the Board is sooner able to fill the vacancy by appointment for the remaining term as provided in Section 4.5 of the Bylaws.

(A) Voting Group 1 – shall consist of the following Neighborhood(s):

Terrace I at Heritage Bay	(60 Living Units)
Terrace II at Heritage Bay	(60 Living Units)
Terrace III at Heritage Bay	(60 Living Units)
Terrace IV at Heritage Bay	(30 Living Units)
Terrace V at Heritage Bay	(30 Living Units)
Terrace VI at Heritage Bay	(60 Living Units)
Terrace VII at Heritage Bay	(60 Living Units)
Terrace VIII at Heritage Bay	(60 Living Units)
Terrace IX at Heritage Bay	(30 Living Units)
<hr/> Total	<hr/> (450 Living Units)

(B) Voting Group 2 – shall consist of the following Neighborhood(s):

Veranda I at Heritage Bay	(60 Living Units)
Veranda II at Heritage Bay	(48 Living Units)
Veranda III at Heritage Bay	(28 Living Units)
Veranda IV at Heritage Bay	(48 Living Units)

Veranda V at Heritage Bay	(48 Living Units)
Veranda VI at Heritage Bay	(24 Living Units)
Veranda VII at Heritage Bay	(60 Living Units)
Veranda VIII at Heritage Bay	(48 Living Units)
<hr/> Total	<hr/> (364 Living Units)

(C) **Voting Group 3** – shall consist of the following Neighborhood(s):

Coach Homes I at Heritage Bay	(36 Living Units)
Coach Homes II at Heritage Bay	(88 Living Units)
Coach Homes III at Heritage Bay	(60 Living Units)
<hr/> Total	<hr/> (184 Living Units)

(D) **Voting Group 4** – shall consist of the following Neighborhood(s):

Heritage Bay Single-Family Homes I	(252 Living Units)
<hr/> Total	<hr/> (252 Living Units)

12. INSURANCE: RECONSTRUCTION AFTER CASUALTY.

12.1 Duty to Insure and to Reconstruct or Clean Up. Each Owner or Neighborhood Association shall at all times maintain adequate property insurance on the Living Units and structures containing Living Units, and all other insurable improvements, in amounts equal to the replacement cost thereof. If any Living Unit or other improvements located on any Lot, Neighborhood Common Area, Tract or Parcel are destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the owner or Neighborhood Association shall:

(A) Cause repair or replacement to be commenced within six (6) months after the date such damage or destruction occurred, and complete the repair or replacement within six (6) months thereafter. All such repairs or replacements must be approved in writing by the ARCHITECTURAL REVIEW COMMITTEE. Unless changes are approved by the ARCHITECTURAL REVIEW COMMITTEE, the owner or Neighborhood Association must restore the damaged property to substantially the same configuration as existed before the casualty, and structurally and architecturally compatible with any adjoining improvements which share a party wall; or

(B) Promptly cause all debris, damaged improvements, and other unsightly materials to be removed from the site.

12.2 Failure to Comply. If any owner or Neighborhood Association fails to comply with Section 12.1 above within the time periods provided, the Club shall be deemed to have been granted the right by the owner or Neighborhood Association as his or its attorney-in-fact, to either commence and complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements; or to remove the damaged improvements completely. If the Club exercises the rights afforded to it by this Section, the owner or

Neighborhood Association shall be deemed to have assigned to the Club any right he or it may have to insurance proceeds that may be available because of the damage or destruction. The Club shall have the right to recover from the owner or Neighborhood Association any costs not paid by insurance, and shall have a lien on the Living Unit to secure payment.

12.3 Flood Insurance. The Club may, in the discretion of the Board, maintain flood insurance to cover buildings and any other property in designated hazard areas, if any, up to the full insurable value or maximum coverage available.

12.4 Property Insurance. The Club shall maintain replacement cost property insurance coverage on all structures, improvements, and fixtures which are part of the Common Areas.

12.5 Liability Insurance. The Club shall maintain adequate public liability insurance coverage for all Common Areas.

12.6 Bonding. The Club shall maintain adequate fidelity bond coverage for all individuals having control of or access to Association funds.

12.7 Club's Right of Entry. For the purpose of performing the duties authorized by this Section 12, the Club, through its duly authorized agents and employees, shall have the right to enter upon any Living Unit or Lot at reasonable hours and perform such duties.

13. RIGHTS OF MORTGAGEES.

13.1 Notice of Casualty or Condemnation. In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of any significant portion of the Common Areas, the record holder of any first mortgage on the Common Areas who has requested such notice in writing, shall be entitled to written notice.

13.2 Mortgage Foreclosure. Except as otherwise provided by Florida law as amended from time to time, if an Institutional Mortgagee acquires title to a Living Unit, as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure in which the Club has been named as a defendant in the initial complaint, shall be liable for assessments levied against such Living Unit, unless the mortgagee is entitled to limited liability for delinquent assessments as provided in Chapter 720, Fla. Stat., which currently requires the lender to pay the Club the lesser of one percent (1%) of the original mortgage indebtedness, or the sum of the regular and special assessments that accrued or became due during the twelve (12) months immediately preceding acquisition of title by the lender, and as Chapter 720, Fla. Stat., may be amended by time to time. The foregoing sentence pertaining to entitlement to limited liability shall not be construed to negate the authority of a court to order a mortgagee to pay a surcharge pursuant to 11 USC Section 506(c), or grant other relief that may be found to be applicable under federal or state law. Any unpaid assessment or charges for which such acquirer is exempt from liability becomes an expense collectible from all Owners, including such acquirer and his successors and assigns. No Owner or acquirer of title to a Living Unit by foreclosure (or by a deed in lieu of foreclosure) may, during the period of his ownership, be excused from the payment of any assessments or charges coming due during the period of such ownership.

13.3 Right to Inspect Documents and Books. The Club shall make available to Institutional Mortgagees requesting same the current Governing Documents and Rules, Regulations and Policies of the Club and financial statements of the Association. "Available" shall mean ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies shall be at the expense of the mortgagee requesting same.

13.4 Financial Statement. Any Institutional Mortgagee is entitled, upon written request, to a copy of the financial statements of the Club for the immediately preceding fiscal year.

13.5 Lender's Notices. Upon written request to the Club, any Institutional Mortgagee shall be entitled to timely written notice of:

(A) Any delinquency of more than sixty (60) days in the payment of assessments or charges owed by the owner of any Living Unit, on which it holds a mortgage.

(B) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Club. An increase in coverage, or a change of insurer does not require notice under this Paragraph.

(C) Any proposed action that requires the consent of a specified percentage of mortgage holders.

14. DURATION OF COVENANTS; AMENDMENTS.

14.1 Duration of Covenants. The covenants, conditions, easements and restrictions in this Declaration shall run with and bind the property within the Community, and shall inure to the benefit of and be enforceable by the County, the Club, and any owner, their respective legal representatives, heirs, successors, and assigns, for an initial period to expire on the ninety-ninth (99th) anniversary of the date of recording this Declaration in the Public Records of Collier County, Florida. Upon the expiration of said initial period, this Declaration shall be automatically renewed and extended for an unlimited number of successive ten (10) year periods, this Declaration as it may be amended being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period, until terminated as provided below.

14.2 Termination. This Declaration may be terminated at any time after the initial period if not less than eighty percent (80%) of the voting interests of all classes of the members of the Club vote in favor of terminating this Declaration. Written notice of any meeting at which a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given at least forty-five (45) days in advance of said meeting. If the members vote to terminate this Declaration, the President and Secretary of the Club shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Club at which the resolution was adopted, the date that notice of the meeting of the Club at which the resolution was adopted, the date that notice of the meeting was given, the total number of votes cast in favor of the resolution, and the total number of votes cast against the resolution. The certificate shall be recorded in the public records of the County, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration. The termination shall be effective on the date the Certificate is recorded in the public records.

14.3 Amendments. This Declaration may be amended at any time. Except as otherwise specifically provided, amendments to this Declaration may be proposed by the Board of Directors or by written petition of at least one-fourth (1/4th) of the voting interests.

14.4 Procedure. Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can be given.

14.5 Vote Required. Except as otherwise provided by law, or by specific provision of this Declaration, a proposed amendment to this Declaration shall be adopted if it is approved at an annual or special meeting called for the purpose by 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.

14.6 Certificate: Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of the County. The certificate must set forth the location in the public records of the County where this Declaration was originally recorded.

14.7 Proviso. Regardless of any other provision in this Declaration, no amendment of the governing documents by any person, and no termination or amendment of this Declaration, can be effective to change the Club's responsibilities for the Stormwater Management System, the Conservation Areas, unless the amendment has been consented to in writing by the SFWMD. Any proposed amendment which would affect the Stormwater Management System, or the Conservation Areas, must be submitted to the SFWMD for a determination of whether the amendment necessitates a modification of the surface water management permit.

14.8 Exceptions. Wherever in this Declaration the consent, approval, or affirmative vote of two-thirds (2/3rds) or more of the voting interests of the members is required to authorize or take a particular action, the language requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to authorize or take the action.

14.9 Limitations. No amendment to any of the Governing Documents shall be effective to change any member's voting rights as set forth in the Governing Documents, unless all members affected first consent in writing to said amendment.

15. GENERAL AND PROCEDURAL PROVISIONS.

15.1 Other Documents. The Club, and the Neighborhood Associations shall have such rights, powers, duties, and privileges as are set forth in the Governing Documents and Neighborhood Covenants; this Declaration and its provisions shall prevail in all events of conflict.

15.2 Severability. If any covenant, condition, restriction or other provision of this Declaration is held to be invalid in whole or in part by any court of competent jurisdiction, the holding shall in no way affect the validity of the remaining provisions of this Declaration, all of which shall remain in full force and effect.

15.3 Merger or Consolidation of Associations. Upon a merger or consolidation of the Club with another corporation as provided by law, or upon creation of a CDD, the Club's rights, obligations and property may, by operation of law, be transferred to another surviving or consolidated association or CDD, alternatively, they remain the rights, obligations and property of the Club as the surviving corporation. The surviving or consolidated corporation or CDD may administer this Declaration within the existing property together with the covenants and restrictions established upon any other property, as one common scheme.

15.4 Dissolution. If the Club is dissolved other than by a merger or consolidation as provided for above, each Living Unit, shall continue to be subject to the assessments provided for in Section 9, and each owner shall continue to be personally obligated to the successor or assigns of the Club for such assessment to the extent that such assessments are required to enable any such successors or assigns acquiring any real property previously owned by the Club to properly maintain, operate and preserve it.

15.5 Gender; Number. Wherever in this Declaration the context so requires, the singular number shall include the plural, and the converse; and the use of any gender shall be deemed to include all genders.

15.6 Notices.

(A) To the Club. Notices to the Club shall be in writing and delivered or mailed to the Club at its principal place of business as shown by the records of the Secretary of the State of Florida, or at any other location designated by the Club.

(B) To Owners. Notices to any owner as may be required herein shall be in writing and shall be delivered or mailed to the owner at his last known address, or at the address shown on the deed recorded in the public records of the County.

15.7 Construction. The provisions of this Declaration shall be liberally interpreted and construed to provide maximum flexibility consistent with the general development plan and the purposes set forth herein, including the premises.

15.8 Captions, Headings and Titles. Captions, headings, capitalization of certain words, and titles inserted throughout the Governing Documents are for convenience only, and in no way shall such captions, headings or titles define, limit, or in any way affect the subject matter, content or interpretation of the terms and provisions of the Governing Documents.

15.9 Interpretation. The Board of Directors of the Club shall be responsible for interpreting the provisions of the Governing Documents. Their interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by Club legal counsel that an interpretation adopted by the Board is not wholly unreasonable shall conclusively establish the validity of such interpretation.

15.10 Applicable Statutes. The validity, application, and construction of this Declaration and its exhibits shall be governed by the Laws of Florida, as they exist on the date of recording this Declaration.

15.11 Rights Limited to Express Terms of Governing Documents. Every member of the Association acknowledges that his or her rights, duties or obligations are limited to the express terms of the Declaration, Articles of Incorporation, Bylaws and the Rules and Regulations (Governing Documents). Every prospective member should make his decision to purchase within Heritage Bay Golf & Country Club based upon these representations as set out in the Governing Documents.

IN WITNESS WHEREOF, Club has caused this Second Amended and Restated Declaration to be duly executed and its corporate seal to be hereunto affixed this _____ day of April, 2019.

HERITAGE BAY GOLF & COUNTRY CLUB, INC.

By: _____, President

Print Name: _____

By: _____, Secretary

Print Name: _____

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Updated 3/8/2019