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CERTIFICATE OF RECORDING

RESTATED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS OF POINTE VERDE AT PELICAN BAY

POINTE VERDE AT PELICAN BAY NEIGHBORHOOD ASSOCIATION, INC.

Pointe Verde at Pelican Bay is a platted single family community located in Collier County, Florida. The planned community was originally created by the recordation of the Plat for Pointe Verde at Pelican Bay, replat of Parcel "1", Pelican Bay, Unit 12, and a portion of Parcel "G-CN", Pelican Bay, Unit 12, according to the plat recorded in Plat Book 20, Pages 45 through 46, inclusive, of the Public Records of Collier County, Florida and the filing of a Declaration of Protective Covenants, Conditions and Restrictions of Pointe Verde at Pelican Bay, recorded in Official Record Book 1776, Page 2015 of the Public Records of Collier County, Florida (the "Declaration").

Since the creation of the planned community, there have been several amendments to the Declaration, which amendments have been recorded at Official Records Book 2146, Page 192; Official Records Book 3746, Page 1134; and Official Records Book 4558, Page 578, all in the Public Records of Collier County, Florida (the "Amendments" or singularly, an "Amendment"). The purpose of this Certificate of Recording is to integrate and restate the Declaration and all of the Amendments into a single instrument to make the complete Declaration, as amended, easier to read, subject to the following provisos.

Attached hereto is the Restated Declaration of Protective Covenants, Conditions and Restrictions of Pointe Verde at Pelican Bay (the "Restated Declaration").

The Association, by this recording, does not intend to make any amendments to the Declaration, but only to integrate all prior duly approved Amendments into the Declaration for the convenience of the Association and its members. Accordingly, no inadvertent typographical or scrivener's errors which were contained in the original Declaration or Amendments have been intentionally corrected, unless they were previously corrected in a duly adopted Amendment. Because this recording has not

been adopted as an Amendment by the Association, the duly adopted Declaration, as amended, shall control in the event the Restated Declaration attached hereto conflicts with the duly adopted Declaration, as amended.

The Declaration, as amended, shall remain in full force and effect until subsequently amended.

Signed and Sealed in the Presence of:

Pointe Verde at Pelican Bay Neighborhood Association, Inc., a Florida not for profit corporation

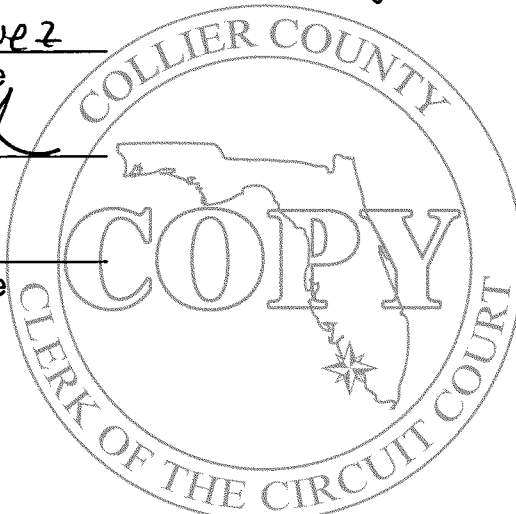
Yavascopz
Witness Signature

By: [Signature]
Tony Hess, President

Yolanda Vasquez
Type/Print Witness Name

[Signature]
Witness Signature

NATALIE HIRSCH
Type/Print Witness Name



STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 13th day of May, 2010 by Tony Hess, as President of Pointe Verde Neighborhood Association, Inc., a Florida not for profit corporation, on behalf of the corporation, who is personally known to me or who has produced _____ as identification.

[Signature]

Notary Public Signature

Mercedes Padin

Type/Print Notary Public Name

Commission No.: DD 907385

My Commission Expires:



**DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS OF
POINTE VERDE AT PELICAN BAY**

This DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS OF POINTE VERDE AT PELICAN BAY ("Neighborhood Declaration") is made this 7th day of December 1992, by Westinghouse Communities of Naples, Inc., a Florida corporation, its successors and assigns (the "Declarant").

WITNESSETH

WHEREAS, Declarant is presently developing a community located in Collier County, Florida known as Pelican Bay of which Pointe Verde at Pelican Bay is a part; and

WHEREAS, Declarant has imposed on the Pointe Verde at Pelican Bay and other properties in Pelican Bay, the Declaration and General Protective Covenants which are recorded in Official Records Book 825, at Pages 1755 through 1788, inclusive, of the Public Records of Collier County, Florida, as amended ("General Covenants"); and

WHEREAS, the General Covenants provide that Declarant may supplement the General Covenants for any Neighborhood (as Neighborhood is therein defined); and

WHEREAS, Declarant by this Declaration of Protective Covenants, Conditions and Restrictions of Pointe Verde at Pelican Bay (the "Neighborhood Declaration") imposes the covenants, conditions and restrictions contained herein on the real property referred to as the Neighborhood, more particularly described as Pointe Verde at Pelican Bay, Replat of Parcel "1", Pelican Bay Unit Twelve and a portion of Parcel "G-C", Pelican Bay Unit Twelve according to the plat recorded in Plat Book 20, Pages 45 through 46, inclusive, of the Public Records of Collier County, Florida; and

WHEREAS, Declarant has created a Neighborhood Association which shall be responsible for the operation of the Neighborhood. This Neighborhood Association is the Pointe Verde at Pelican Bay Neighborhood Association, Inc., a Florida corporation not-for-profit. The Association is NOT a condominium association under Chapter 718, Florida Statutes.

NOW, THEREFORE, Declarant declares that the Neighborhood is and shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the provisions of this Neighborhood Declaration, which shall run with the land and be binding on all parties having any right, title or interest in the Neighborhood or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I
DEFINITIONS

A. "Annual Assessment" shall mean the annual assessment due from each Site in the Neighborhood as established by the Neighborhood Association Board, which shall be the Neighborhood Common Expenses and any annual Foundation assessment collectible by the Neighborhood and Association.

B. "Articles" shall mean the Articles of Incorporation of the Neighborhood Association, as may be amended or restated from time to time.

C. "Assessments" shall mean any assessments imposed by the Neighborhood Association as set forth in Article IV below; and any assessments collected by the Neighborhood Association on behalf of the Foundation.

D. "Board of Directors" or "Board" shall mean and governing body of the Neighborhood Association.

E. "Building Height" shall mean the vertical distance measured from the first finished floor to the mean height level between eaves and ridges of gable, hip and gambrel roofs. Except that where minimum floor elevations in flood prone areas have been established by law, the building height shall be measured from such required minimum floor elevations.

F. "By-Laws" shall mean the By-Laws of the Neighborhood Association, as may be amended from time to time.

G. "Committed Property" shall mean those portions of Pelican Bay which are subjected to the Neighborhood Declaration, including the Land.

H. "County" shall mean Collier County, Florida.

I. "Declarant" shall mean Westinghouse Communities of Naples, Inc., a Florida corporation, its nominees, successors and /or assigns of any and all of its rights under the General Covenants and this Neighborhood Declaration. No right of Declarant hereunder shall be transferred or assigned unless done so pursuant to a written instrument.

J. "Dwelling Unit" shall mean any detached single family home constructed on a Site within Pointe Verde at Pelican Bay.

K. "Foundation" shall mean the Pelican Bay of Naples Foundation, Inc., a Florida corporation not-for-profit.

L. "General Covenants" shall mean the Declaration and General Protective Covenants recorded in Official Records Book 825, Page 1755 of the Public Records of Collier County, Florida, as amended.

M. "Institutional Mortgagee" shall mean (a) any generally recognized lending institution having a first mortgage lien upon a Site including, but not limited to, any of the following institutions: a federal or state savings and loan or building and loan association; national, state or other bank or real estate investment trust; or mortgage banking company doing business in the State of Florida, or a life insurance company; or a subsidiary or a holding company holding any of the foregoing; or (b) any "secondary mortgage institution" including the Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA), Federal Housing Administration (FHA), Veterans Administration (VA) and such other secondary mortgage institution as the Board shall hereafter approve in writing which have acquired a first mortgage upon a Site; or (c) any and all investors or lenders, or the successors and assigns of such investors or lenders, which have loaned money to Declarant to acquire, or to construct improvements on the Committed Property and who have a mortgage lien on or a portion of the Committed Property securing such loan; or (d) such other lenders as the Board shall hereafter approve in writing which have acquired a first mortgage lien upon a Site.

N. "Land" shall mean the real property subject to this Neighborhood Declaration, which is that real property referred to as Pointe Verde at Pelican Bay, Replat of Parcel "1", Pelican Bay Unit Twelve and a portion of parcel "G-C", Pelican Bay Unit Twelve, as recorded in Plat Book 20, pages 45 through 46, inclusive, of the Public Records of Collier County, as may be amended from time to time.

O. "Members" shall mean the members of the Neighborhood Association.

P. "Neighborhood" shall mean Pointe Verde at Pelican Bay which is the Land and any additional real property added pursuant to Section 2.2 hereof.

Q. "Neighborhood Association" shall mean the Pointe Verde at Pelican Bay Neighborhood Association, Inc., a Florida corporation, not-for-profit, its successors and assigns. The Neighborhood Association is NOT a condominium association.

R. "Neighborhood Common Areas" shall mean all real property including any improvements and fixtures thereon, owned by, leased to, or the use of which has been primarily granted to the Neighborhood for the common use and enjoyment of the Owners. The Neighborhood Common Area shall be owned by the Neighborhood Association. Except as otherwise provided herein, the Neighborhood Common Areas shall be maintained by the Neighborhood Association and funded by the Neighborhood through the Neighborhood Assessments. The initial Neighborhood Common Area is Tract A as shown on the Plat for Pointe Verde at Pelican Bay, recorded in Plat Book 20, Pages 45 through 46, inclusive, of the Public Records of Collier County, Florida.

S. "Neighborhood Common Expenses" shall mean and include the actual and estimated expenses incurred by the Neighborhood Association to benefit the

Members of the Pointe Verde at Pelican Bay Neighborhood, which may include a reasonable reserve for capital repairs and replacements, and which are assessed against Members of the Pointe Verde at Pelican Bay Neighborhood.

T. "Neighborhood Declaration" shall mean this Declaration of Protective Covenants, Conditions and Restrictions of Pointe Verde at Pelican Bay.

U. "Neighborhood Documents" shall mean and refer to this Neighborhood Declaration, the Articles, the By-Laws, and the Rules of the Neighborhood Association, as filed or recorded, if required, and all as may be amended from time to time. In the event of any conflict among the provisions of these Neighborhood Documents, the Declarant reserves the right and the power to resolve any such conflict, and its decision shall be final.

V. "Neighborhood Property" shall mean and refer to the Land and any additional property plus all improvements thereon which is submitted to this Neighborhood Declaration and all easements and rights appurtenant thereto intended for use in connection therewith.

W. "Owner" shall mean a record owner of a fee interest in a Site, but excluding those having an interest in a Site merely as security for the performance of an obligation.

X. "PBSD" shall mean the Pelican Bay Services Division, a special taxing district established by the State of Florida for the purpose of providing services which may include, but are not limited to, potable water, irrigation and sanitary sewer facilities for Pelican Bay.

Y. "Person" shall mean any individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest or any other legal entity.

Z. "Rules" shall mean the rules and regulations promulgated by Board in accordance with the provisions of the General Covenants and this Neighborhood Declaration.

AA. "Site" shall mean a platted site, or any quantity of land so designated by Declarant. The term Site shall also include any fixtures or improvements located on such Site, except any trees planted by Declarant on such Site prior to Declarant's conveyance of the Site to an Owner.

BB. "Special Assessments" shall mean those Assessments more particularly described in Article 7.4 of the By-Laws.

CC. "Structure" shall mean that which is built or constructed, or any work artificially built up or composed of parts joined together in some definite manner, the use of which requires more or less permanent or temporary location on the ground, or which

is attached to something having a permanent or temporary location on the ground. The term shall be construed as if followed by the words "or part thereof."

DD. "The Club at Pelican Bay golf course" shall mean and refer to those portions of Parcel "N", Pelican Bay Unit Two, according to the Plat thereof recorded in Plat Book 12, Pages 74 through 79, inclusive, of the Public Records of Collier County, Florida that are used for golf course and related activities.

EE. "Supplement" shall mean an instrument executed by Declarant for such purposes as are more fully described Article II of this Neighborhood Declaration.

FF. "Voting Member" shall mean the Person who shall represent the Members of the Neighborhood Association at meetings of the Foundation as set forth more fully herein and in the Articles and By-Laws of the Neighborhood Association

ARTICLE II

DESCRIPTION OF THE NEIGHBORHOOD

2.1 Neighborhood Property.

The Neighborhood Property will contain single-family detached residential Dwelling Units to be built upon platted Sites.

2.2 Expansion of Neighborhood.

Declarant shall have the right, but shall not be obligated, to designate additional real property in Pelican Bay as part of the Neighborhood by executing and recording a Supplement or other instrument intended to have the same effect in the Public Records of the County, without the consent of any Person being required. Declarant makes no representation regarding the size of such real property, if any. That portion of real property, if any, added by Declarant to the Neighborhood shall be subject to the provisions of the General Covenants and the Neighborhood Declaration. Some of the effects of adding such real property to the Neighborhood may be to increase the number of Sites, the number of Persons using the Neighborhood Common Areas, the size of the Assessments and Neighborhood Common Expense and the total number of votes which may be cast pertaining to Neighborhood affairs.

2.3 Neighborhood Common Areas.

The Neighborhood Common Areas shall initially (see Section 2.2 above) include all areas within the Neighborhood described as Tract A in the aforementioned Plat and not a part of any single family Site. This area will be owned by the Neighborhood Association for the exclusive benefit of the Neighborhood. Except as otherwise provided herein, the Neighborhood Common Areas shall be maintained by the Neighborhood Association and funded by the Neighborhood through Neighborhood Common Expenses. These Neighborhood Common Areas shall contain the private roadways, landscaped areas and such other Neighborhood Common Areas as shown on the Plat(s) for the Neighborhood.

ARTICLE III
POINTE VERDE AT PELICAN BAY NEIGHBORHOOD ASSOCIATION, INC.

3.1 Duties and Responsibilities of Neighborhood Association.

The Neighborhood Association manages and administers the Neighborhood Common Areas. The duties and responsibilities of the Neighborhood Association are more specifically set forth in the Neighborhood Documents.

3.2 Membership in Neighborhood Association.

Every Site Owner shall be a Member of the Neighborhood Association. Membership shall be appurtenant to, and may not be separated from, ownership of a Site. The votes of Members in the Neighborhood shall be cast at meetings of the Members of the Neighborhood Association as set forth more fully herein and in the Neighborhood Documents.

3.3 Neighborhood Documents.

The Neighborhood Documents impose certain rights and obligations on the Owners. The Neighborhood Documents set forth the manner in which the Owners in the Neighborhood, their family members, guests, invitees and lessees may use and enjoy the Neighborhood Common Areas and the sharing of Neighborhood Common Expenses. The Neighborhood Property and the provisions of this Neighborhood Declaration are subject to the Neighborhood Documents. Further, all covenants set forth in the Neighborhood Documents including, but not limited to, the affirmative covenants and obligations to pay Neighborhood Common Expenses, as therein set forth, shall run with the Neighborhood Property.

3.4 Pelican Bay of Naples Foundation, Inc.

a. Each Owner shall be a Member of the Foundation pursuant to the General Covenants.

b. Pursuant to the Neighborhood Documents, the Neighborhood Association shall designate the Voting Member who shall have the responsibility to:

i) Represent the Members of the Neighborhood at Foundation meetings; and

ii) Cast the votes for the Property Units assigned to the Neighborhood Association or for election of members of the board, turn over the absentee ballots that the Owners personally cast; and

iii) Keep the Secretary of the Foundation informed of changes of ownership and sale of Dwelling Units as they occur.

ARTICLE IV
ASSESSMENTS FOR NEIGHBORHOOD EXPENSES

4.1 Assessments.

Each Owner, by acceptance of a deed for a site, whether or not it shall be so expressed in such deed, shall be obligated to pay to the Neighborhood Association: (i) Annual Assessments, and (ii) Special Assessments for capital improvements and budget deficits. The Annual and Special Assessments, together with interest, late charges, court costs and other costs of collection, including reasonable attorneys' fees, which includes those resulting from any appellate proceedings, shall be a continuing lien upon the Site against which assessment is made until fully paid and shall also be the personal obligation of the Owner of such Site at the time when the Assessment falls due and shall remain the personal obligation of such Owner even if such Owner conveys the Site to a third party. An Owner is jointly and severally liable with the previous Owner of a Site for all unpaid assessments that came due up to the time of transfer of title, except as may be limited by chapter 720, F.S., as amended.

4.2 Annual Assessments.

In conjunction with the annual budgeting process for the operation and management of the Neighborhood Association and the Neighborhood, which shall include the Sites' share of the Neighborhood Common Expenses as described in Article 4.3 below, the Board of Directors shall establish in each budget the Annual Assessments. These Annual Assessments shall be applied equally to each Site conveyed to an Owner, and applied proportionally as to any fractional Sites conveyed.

4.3 Declarant's Election.

For so long as Declarant owns any property within the Neighborhood, Declarant shall have the election of either paying Annual Assessments for Neighborhood Common Expenses for each Site Declarant still owns or of funding in cash or in kind any deficits in the operations of the Neighborhood caused by an excess of expenses and reserve allocations over Assessments generated. If Declarant elects to pay its Annual Assessments, any budget deficit shall be funded by Special Assessments for the Neighborhood or by increases in the subsequent year's Assessment as the Board shall determine.

4.4 Lien.

a. If an Owner fails to pay any Assessment or make any other payment herein required to be paid to the Neighborhood Association within thirty (30) days after written request by the Neighborhood Association, the Neighborhood Association may record in the Public Records of Collier County, Florida a "Claim of Lien" or similar document describing the amounts claimed due by the Neighborhood Association as to any one or more Sites. The execution and recording of such a Claim of Lien shall not be required in order for the continuing lien of Assessments to be valid, however the

recording of such Claim shall determine the priority of the lien with respect to liens against the site claimed by a Neighborhood Association.

b. The Neighborhood Association may bring an action at law against an Owner to pay his personal obligations to the Neighborhood Association, or it may foreclose the lien against the Site. An Owner against who any such proceeding is successfully brought shall pay all costs of collection, including reasonable attorneys' fees, which includes those resulting from appellate proceedings.

c. No Owner may waiver otherwise or otherwise escape liability for the payments provided for herein by non-use of abandonment of his Site.

4.5 Neighborhood Common Expenses.

The Neighborhood Expenses to be funded by Assessments may include, but shall not be limited to, the following expenses and reserve allocations for maintenance, repair and replacement of the Neighborhood Common Areas and facilities and the provision of the following services and benefits unique to the Neighborhood:

- a. Private neighborhood road maintenance, repair, and replacement.
- b. Neighborhood Common Area landscape maintenance, repair and replacement and litter removal.
- c. Common Neighborhood light fixture and street signage maintenance, repair and replacement.
- d. Entry signage and landscaping maintenance.
- e. Security type services and facilities unique to this neighborhood.
- f. Common utilities such as common lighting and fountain electrical consumption, and common landscape irrigation.
- g. Reciprocal Easement/Maintenance Agreement as described in Article IX herein.
- h. Neighborhood insurance expenses.
- i. Social activities.
- j. Administrative and miscellaneous expenses.
- k. [Intentionally Deleted]
- l. Neighborhood Common Area property taxes, PBSD water management taxes and other similar charges and taxes.

4.6 Reserve Funds.

There shall be established an adequate reserve fund for replacement and/or capital refurbishment of the Neighborhood Common Areas and facilities for which the Neighborhood is responsible in amounts calculated pursuant to the requirements of Section 720.303(6), F.S., as amended. Upon a majority vote of the Owners at a meeting at which a quorum is present, the membership of the Association may provide for no reserves or less reserves than required by the statute. If a meeting of the Owners has been called to determine whether to waive or reduce the funding of reserves and no such result is achieved or a quorum is not present, the reserves as included in the budget shall go into effect. Each Owner acknowledges, understands and consents that such reserve funds are the exclusive property of the Neighborhood Association and that no Owner shall have any interest, claim or right to any reserve funds. The Neighborhood Association shall be responsible for maintaining the reserve funds in separate reserve accounts and to use such funds only for the appropriate Neighborhood capital costs and expenses.

ARTICLE V PROTECTIVE COVENANTS

5.1 Use Restrictions.

a. The Neighborhood shall be used for detached single family residential Dwelling Units and uses incidental thereto and for no other purposes. No business buildings may be erected in the Neighborhood and no business may be conducted on any part thereof, nor shall any building or portion thereof be used or maintained as a commercial office. No structures shall be erected or placed in or on any of the lakes in or adjacent to the Neighborhood without the prior written consent of the Declarant.

b. Notwithstanding the above provisions, the Declarant may, in its sole discretion, permit one or more Dwelling Units to be used or maintained temporarily as a sales office or model for the promotion of sales of Dwelling Units in the Neighborhood only. Any such permission must be granted by Declarant in writing prior to such use and may include restrictions on the type and nature of promotional materials that may be utilized.

c. No building, structure or other improvement including any temporary sales trailer or facility shall be placed in or on the Neighborhood unless and until Declarant has issued its written approval. In obtaining said written approval, Owner or any other person applying shall comply with all requirements and procedures of Section 3.02 of the General Covenants.

d. Except as approved by Declarant in writing, awnings, canopies, shutters and similar additions shall not be attached to the exterior of any Dwelling Unit, building or structure.

e. No decorative objects such as weathervanes, sculptures, birdbaths, fountains and the like shall be placed or installed in or on the Neighborhood without the

prior written approval of the Declarant.

f. Roof stacks and vents shall be placed so as not to be clearly or readily visible and shall be painted to match the approved roof color. Solar collectors or devices shall be so located as not to be readily visible from surrounding streets, neighboring Sites and The Club at Pelican Bay golf course.

g. Declarant shall approve the location of and materials used in the construction of solar collectors.

h. No motor homes, recreational vehicles, vans or trucks used for commercial purposes, or motorcycles shall be permitted to be parked overnight or stored in or on the Neighborhood unless kept fully enclosed inside an approved structure.

i. No outside satellite receptor dish or device or any other type of electronic device now in existence or that may hereafter come into existence, that is utilized or designed to be utilized for the transmission or reception of electronic or other type of signal shall be allowed without the prior written approval of Declarant.

j. No garbage, trash or refuse containers shall be placed within the front yard of any Site or in any right-of-way or street abutting any Site and all Sites must provide for garbage, trash and refuse removal to be made from screened or enclosed areas. Provided, however, that garbage, trash and refuse removal shall be permitted to be made from the front yard if side or rear yard removal service is unavailable.

k. All Owners shall be responsible for mailbox maintenance, repairs and replacement in accordance with the standards established pursuant to Section 5.6 herein.

l. No noxious or offensive use may be made of a Site or Dwelling Unit and no such activity will be carried on any Site or Dwelling Unit, which would be a nuisance by reason of unsightliness or excessive emission of noise, odors, liquids, gases, dust, vibration, fumes or smoke. No nuisances shall be allowed on any Site or Dwelling Unit nor any practice that is the source of annoyance or which interferes with the peaceful possession and proper use of the Dwelling Units and Neighborhood Common Areas. Except for emergency repair, any service to a Site (inclusive of trees, bushes, hedges, landscaping, and other improvements thereon) and/or the exterior of a Dwelling Unit which results in a noise that could be heard from the outside of a Dwelling Unit is prohibited on Saturdays, Sundays, and national legal holidays.

5.2 Building Setback Lines, Size of Buildings and Building Height.

a. No part of any Dwelling Unit on Sites shall be located nearer than: 30 feet to the front Site line; 15 feet to the side Site line if a one-story Dwelling Unit; 25 feet to the side Site line if a two-story Dwelling Unit; 25 feet from the rear Site line, except that (i) rear setback lines on lakefront Sites shall be measured from the P.B.S.D. water management easement. No structure shall be placed within any easements.

b. Pool enclosures shall conform to the Dwelling Unit setback requirements, except for Sites 1, 2, 3, 11, 12 and 13 on which the setback may be reduced to 15 feet from the rear Site line.

c. Minimal screening or walls or enclosures for mechanical equipment may be erected within the side and/or rear setback lines upon written approval of Declarant.

d. Minimum floor area per Dwelling Unit shall be three thousand (3,000) square feet of living area. The method of determining the square foot area of proposed buildings and structures or additions and enlargement thereto shall be to multiply the outside horizontal dimensions of the building or structure at each floor level. Garages, porches, patios, terraces and other similar areas and structures shall not be taken into account in calculating the minimum area required.

e. No building or structure of any kind shall exceed thirty (30) feet in height.

f. When two or more Sites are acquired and used as a single building Site for one Owner, the side Site lines shall refer only to the lines bordering on the adjoining property.

5.3 Spas, Hot Tubs, Swimming Pools, Enclosures, Fences and Walls.

a. All enclosures, including spa, hot tub and swimming pool enclosures (screen or otherwise), must be approved in writing by Declarant prior to construction. No flat screen enclosures, unless part of an approved mansard screen enclosure, are permitted, and the sloped portions of the screen enclosure shall have a pitch compatible with the pitch of the roof of the Dwelling Unit to which it is attached. The main structural elements for the enclosure shall be of material other than aluminum framing that is compatible with the Dwelling Unit (i.e. stucco covered concrete block with a stucco residence). All screens shall be bronze colored. Screened spa, hot tub and swimming pool enclosures shall be located in a manner to limit the area enclosed to that necessary to afford privacy to outdoor activity areas, and shall conform to the setback requirements for the Dwelling Unit.

b. Spas, hot tubs and swimming pools must be screened from the view of adjoining Sites, Dwelling Units, streets and The Club at Pelican Bay by landscaping, fences or privacy walls at locations approved by Declarant in writing. Screening shall be planned and approved so as to preserve view corridors to the adjacent golf course and lakes.

c. The erection and use of walls and fences is discouraged, however, if a wall and/or fence is approved in writing by Declarant it shall be located in a manner to limit the area enclosed to that necessary to afford privacy to outdoor activity areas. No wall or fence shall be constructed with a height of more than five (5) feet above the existing ground level of adjoining property except that privacy walls for bathrooms may be six (6) feet above the existing ground level or as approved in writing by Declarant. Notwithstanding the foregoing, no vegetative hedge or vegetative buffer which acts as a screen or buffer may be more than eight (8) feet above the existing ground level of the

adjoining property. No wall or fence shall be erected or placed on any property line. All Sites with fences or walls shall have a landscape buffer between the wall or fence and the adjacent Site property line.

d. A wall, fence or enclosure shall only be constructed of materials and with a design and color as approved by Declarant in writing. No chain link fencing shall be allowed.

5.4 Landscaping, Irrigation and Drainage.

a. Each Owners shall submit to Declarant for approval a landscape, irrigation and grading plan for the Site (including adjacent rights-of-way and area between the property line of a Site and any abutting bike path, road or water management area). It is Declarant's intent that the existing native vegetation be retained to the maximum extent possible. Clearing shall be done selectively, retaining wherever possible the native vegetation. Each Owner's landscape plan shall indicate Owner's plan for the retention and/or clearing of the existing, native vegetation.

b. Owner shall be responsible for the maintenance of landscaping and lawn in the Neighborhood to the edge of the road pavement abutting the Neighborhood and to the edge of water adjoining lakes and water management areas.

c. Prior to making any change, variation or deviation from the approved landscaping plan, an Owner shall first obtain Declarant's written approval of the change, variation or deviation. Any additional landscaping to be installed after occupancy of any Dwelling Unit requires written approval of Declarant prior to installation.

d. Each Owner shall install or retain the landscape material as approved by Declarant. All landscaping, trees, shrubs and lawns shall be maintained by the Owner in good and living condition at all times.

e. The Owner of a Site shall be responsible for maintaining and keeping in good working order the landscape irrigation system installed in or on the Owner's Site and adjacent right-of-way and areas between the property line of a Site and any road or water management area.

f. Surface water runoff must be properly handled, and cause no ponding, erosion or unfavorable impact on adjacent Sites and must conform to water management system criteria as permitted by PBSO.

g. No landscaping materials shall encroach or intrude into or on The Club at Pelican Bay golf course, unless approved by Declarant prior to being installed or placed in the Neighborhood. Measures shall be taken to protect existing native vegetation on The Club at Pelican Bay golf course.

h. No weeds, high grass, underbrush or other unsightly growth shall be permitted to grow or remain upon any part of the Neighborhood, including any Site located in the Neighborhood. In addition, each owner shall maintain his/her dwelling

including but not limited to performing regular and periodic exterior pressure cleaning and painting of all dwelling exterior surfaces such as exterior walls, roof tile, driveways and walkways, pool decks, etc. If for any reason an Owner allows on such Owner's Site and fails to maintain his/her dwelling exterior and site and to correct same after five days notice from the Neighborhood Association, then the Neighborhood Association shall have the right but not the obligation to enter upon the premises and make such corrections and shall charge the Owner for the cost of the corrections. Said charge shall be a Special Assessment against the Site of the Owner responsible for the payment. The lien for this Special Assessment may be enforced by the Neighborhood Association in the manner provided in this Neighborhood Declaration for the enforcement of the Assessment liens. Notwithstanding anything provided herein, if any part of the Neighborhood is a wetland area, preservation area or other area required by any governmental authority to be maintained in its natural condition, such area shall be so maintained.

5.5 Garage, Carports and Storage Areas.

a. No garage shall be erected which is separate from the Dwelling Unit. Each Dwelling Unit shall have a garage which shall accommodate no less than two, nor more than three automobiles, except for Site 8, which may accommodate a maximum of six automobiles. All garages shall be used for the purpose of housing vehicles and shall not be converted to dwelling units or other unintended uses. Repair of vehicles shall be permitted only inside the garage. All garages must be constructed with doors that are equipped with operating , automatic door openers and closers. The garage doors shall remain closed except upon entering or existing the garage. Vehicles shall be parked in the garage and not on the driveway when possible. No more than three vehicles of any type shall be permitted to be parked outside of the garage overnight. Those parked outside overnight must be parked on the driveway and not on the lawn or street.

b. Carports shall not be permitted or erected within the Neighborhood.

c. No unenclosed storage area shall be permitted. No enclosed storage area shall be erected which is separated from the Dwelling Unit. Fully enclosed storage facilities for garbage and trash container shall be required for each Dwelling Unit.

5.6 Mail Boxes.

All mail boxes must be installed and maintained in accordance with the standards established by Declarant. The design, material and location of all mail boxes must be first approved in writing by Declarant.

5.7 Roofs.

Roofs shall have a minimum pitch of 5:12 and shall be constructed of flat or barrel tile, hand sawn or split cedar shakes, slate or copper as approved in writing by Declarant and as defined by common usage in Collier County. In the event that some other new, attractive material for roofing surfaces is discovered or invented, the

Declarant may, in its sole discretion, approve or disapprove the use of such new materials. Flat roofs shall not be permitted.

5.8 Neighborhood Driveways.

a. All driveways shall be designed and constructed only in accordance with the design and with the materials as approved by Declarant in writing and must be maintained in a clean, neat and attractive manner. Driveway surfaces may consist only of approved materials with neutral colors. No plain concrete driveways shall be permitted, nor shall any asphalt or gravel driveways be permitted.

b. Driveways shall be constructed in such a manner so that the flare of the driveway at the adjoining street pavement does not extend beyond a straight line projection of the side line of the Site served by the driveway. In no event shall the driveway surface be less than five (5) feet from the side Site line.

c. The driveway for Site number 1 shall be located a minimum of thirty (30) feet south of the exit gates for the Neighborhood and shall not be located on the round-a-bout drive around the gatehouse.

d. Driveways shall continue in full texture or pattern to the street pavement. The bike path/sidewalk will terminate and begin on either side of the driveway pavement.

e. All driveways shall ingress/egress onto a common collector internal roadway with one (1) access onto Green Tree Drive subject to Declarant's approval. There shall be no pedestrian or vehicular access from the Neighborhood to The Club at Pelican Bay golf course.

f. Owner shall be responsible for and shall maintain all roads and streets in the Neighborhood in a clean, neat and attractive manner.

5.9 Construction.

a. During any construction activity within the Neighborhood, the construction area shall be maintained in a neat and orderly manner. Owner shall provide for trash and debris containment in a commercial container and shall provide for removal.

b. No temporary trailers shall be placed on any Site without the prior written approval of Declarant. Construction vehicles shall be parked so as not to block or interfere with the use of the streets or roads within the Neighborhood.

c. The construction area shall be screened with environmental fencing to the reasonable satisfaction of Declarant from the view of neighboring parcels and Owner shall conduct construction activities in a manner which does not detract from the operation of The Club at Pelican Bay golf course.

d. If during any construction activity on a Site, or at any other time, any of the Neighborhood Common Areas are damaged or destroyed, including without limitation, any roadway street lights, sidewalks, landscaping, street signs, underground utilities or irrigation lines located thereon, the Owner of such Site shall be liable for all costs incurred in repairing or replacing such Neighborhood Common Area, and the total costs thereof shall be assessed against the Owner as a Special Assessment.

e. New Home construction activity shall be allowed only between the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday. No new home construction activity shall occur on Saturday. No Sunday or holiday construction shall be permitted except for a bona fide emergency repair. Existing home renovations and remodeling work is limited to 8:00 A.M. to 5:00 P.M., Monday through Friday.

f. Access to and within the community by regular service and maintenance contractors is limited to Monday through Friday, 8:00 am to 5:00pm, excluding bona fide emergency situations.

g. Prior to the building, alteration, improvement, remodeling or rebuilding of a Structure upon a Site for any reason, including, but not limited to a casualty loss, such alteration, improvement, remodeling or rebuilding of such Structure shall be approved by the Foundation in accordance with the General Covenants. Once construction of such approved Structure commences, substantial work toward the completion of the construction will be pursued diligently and continuously until completion, which shall occur in a reasonable period of time after commencement. If, for any reason, no substantial progress is made toward the completion of the approved Structure for any thirty (30) day period after construction has commenced ("No Substantial Progress Period"), then an Owner shall be deemed in violation of this sub-section, whether the violation was caused by the Owner or his/her contractor(s). An Owner violating this sub-section shall first be given a written warning by the Association. A second violation shall result in a fine of fifty dollars (\$50.00) per day for each day that the violation continues. After the second violation, any additional violations shall result in a fine of one-hundred dollars (\$100.00) per day for each day that the violation continues. The provisions of Section 720.305(2), F.S., shall apply to fines levied pursuant to this subsection.

In the event the fines levied by the Neighborhood Association should equal the maximum amount set forth in Section 720.305(2) F.S. and the Owner has not cured the No Substantial Progress Period violation, then should the Neighborhood Association have to file an action ("Action") to enforce the provisions of this sub-section, each Owner (i) waives, releases, and remises any and all legal, equitable and/or factual defenses he/she may have to such Action, and (ii) agrees to pay to the Neighborhood Association the sum of Five Hundred and No/100 dollars (\$500.00) per day as liquidated damages for each day beyond the No Substantial Progress Period that substantial progress is not achieved toward the completion of a building or other improvement. Owner shall pay all the Neighborhood Association's costs and attorney fees related to the filing of the Action.

5.10 Lighting.

No exterior lighting fixtures, structures or improvements shall be placed in, on or about the Neighborhood, unless the written approval of Declarant has been obtained.

5.11 Signs.

No signs shall be allowed on any Site or Neighborhood Common Area located inside the Pointe Verde entry gate, except that, if required by applicable Florida law, a sign of reasonable size provided by a contractor for security services may be placed within 10 feet of any entrance to a Dwelling Unit. The posting of permits or notices required by applicable local or state laws or ordinances shall be permitted.

5.12 Increase in Insurance Rates.

No Owner may take any action which will result in an increase in the rate of any insurance policy or policies covering any portion of, or activity of, the Neighborhood Association or this Neighborhood.

5.13 Additional Rules.

The Neighborhood Association may, from time to time, promulgate rule and regulations with respect to the Neighborhood as it determines to be in the best interests of the Neighborhood and the Owners.

5.14 Neighborhood Association Maintenance Items.

Each Owner shall promptly report to the Neighborhood Association any defect known to such Owner which requires repair of the property for which the Neighborhood Association or a party other than that Owner is responsible.

5.15 Use of Lake Water Prohibited.

Lake or pond water is not to be used for landscape irrigation or other household uses.

5.16 Privacy Systems; Liability Disclaimer.

In an effort to enhance the privacy of the Neighborhood, each Owner may, at Owner's election, have installed in such Owner's Dwelling Unit, at Owner's expense, a privacy system designed so that it is capable of being monitored by a remote central station. It shall be the Owner's responsibility to maintain the system in full operational condition. Additionally, the Neighborhood Association may, but shall not be obligated to, implement, maintain or subsidize certain other security activities within the Neighborhood. NEITHER DECLARANT NOR THE NEIGHBORHOOD ASSOCIATION SHALL BE LIABLE FOR ANY HARM, DAMAGE OR LOSS ARISING FROM THE OPERATION OF THE SYSTEM OR ITS FAILURE TO OPERATE. ANY WARRANTY OR LIABILITY FOR THE SYSTEM'S DESIGN, INSTALLATION, OPERATION OR MONITORING SHALL BE BETWEEN THE OWNER AND THE CONTRACTOR(S) AND SUPPLIERS FOR THE SYSTEM. NO GUARANTY OF ITS EFFECTIVENESS IS MADE BY ANY PARTY. NEITHER DECLARANT NOR THE NEIGHBORHOOD

ASSOCIATION MAKES ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE PREMISES OR THE EFFECTIVENESS OF ANY MONITORING SYSTEM OR SECURITY SERVICE. ALL OWNERS AGREE TO HOLD DECLARANT AND THE NEIGHBORHOOD ASSOCIATION HARMLESS FROM ANY LOSS OR CLAIM ARISING FROM THE OCCURRENCE OF ANY CRIME OR OTHER ACT. NEITHER THE NEIGHBORHOOD ASSOCIATION NOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES. NEITHER THE NEIGHBORHOOD ASSOCIATION NOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY. ALL OWNERS AND OCCUPANTS OF ANY RESIDENCE, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM MAY COMPROMISED OR CIRCUMVENTED AND THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL NOT IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH MEMBER, OWNER AND OCCUPANT OF ANY DWELLING UNIT ACKNOWLEDGES THAT THE NEIGHBORHOOD ASSOCIATION AND DECLARANT ARE NOT INSURERS. EACH OWNER AND OCCUPANCY OF ANY DWELLING UNIT ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO DWELLING UNITS, AND TO THE CONTENTS THEREOF. NO PERSONS, INCLUDING PERSON AFFILIATED WITH DECLARANT OR THE NEIGHBORHOOD ASSOCIATION HAVE MADE REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED, IF ANY, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES, IF ANY.

5.17 Private Roads.

No Site, or any part thereof, shall be opened, dedicated or used as a street, road or thoroughfare, without obtaining the prior written consent of the Declarant.

ARTICLE VI **LEASES AND TENANTS**

6.1 Application.

The Neighborhood Declaration and the Neighborhood Documents shall apply not only to Owners, but also to any lessee or tenant or other party who is occupying a Dwelling Unit by way of lease, express or implied, license or invitation.

6.2 Leasing Requirement and Limitations.

Each time an Owner leases his Dwelling Unit, he shall give written notice of such lease to the Neighborhood Association with the name and address of the lessee and

such other information as the Neighborhood Association may reasonably require on forms that are supplied by the Neighborhood Association. No Owner may lease his Dwelling Unit for a terms of less than three (3) months or for a term of more than two (2) years. An Owner may only lease his Dwelling Unit once in any twelve (12) month period. However, if a tenant defaults under the terms of a lease and the lease is therefore prematurely terminated, the Board of Directors may, in its sole discretion, permit a second lease within such twelve (12) month period.

6.3 Failure to Notify.

Failure of an Owner to notify any Person of the existence of the provisions of the Neighborhood Documents or this Neighborhood Declaration shall not in any way act to limit the right of the Neighborhood Association to enforcement of the provisions of same against such Person.

6.4 Enforcement.

The Neighborhood Association may enforce the provisions of this Neighborhood Declaration and the Neighborhood Documents against any Person occupying a Dwelling Unit whether Owner, lessee, tenant, invitee, guest or other Person. Further, each Owner hereby irrevocably delegates to the Neighborhood Association the power for the Neighborhood Association to enforce any provisions of any lease or license or other agreement permitting occupancy of the Dwelling Unit to the extent it may against an Owner. The right of enforcement includes the right to evict such lessee, tenant, invitee, guest or other such person pursuant to Florida Statutes, in the event any such person violates any of the provisions of the General Covenants or this Neighborhood Declaration. Declarant or the Neighborhood Association shall be entitled to all costs in connection thereof including, but not limited to attorneys' fees.

6.5 Right to Use Facilities.

During any period when an Owner has leased his Dwelling Unit or otherwise permitted his Dwelling Unit to be occupied only by someone other than Owner, the Owner's right to use any of the Neighborhood recreational facilities shall be suspended, unless otherwise specifically authorized by the Neighborhood Association.

ARTICLE VII **MAINTENANCE, REPAIRS AND ALTERATIONS**

7.1 Dwelling Unit Owners.

a. Except as set forth below in this Article VII, each Owner shall maintain in good condition and repair and replace at his expense when necessary all portions of his Site and Dwelling Unit.

b. Each Owner must perform promptly all such maintenance and repairs which, if not performed, would affect a Dwelling Unit or Site belonging to any other Owner or the Neighborhood Property. Each Owner shall be liable for any damages that arise due to his failure to perform the above maintenance, repairs and replacement. Each Owner shall pay for any utilities which are separately metered and charged to his

Site or Dwelling Unit. Each Owner shall be responsible for the day-to-day maintenance of any landscaping located on his Site.

c. Without Declarant's prior written approval, no Owner shall make any alteration in or on the Neighborhood Common Areas, or the portions of a Site or Dwelling Unit which may be maintained by the Neighborhood Association, remove any portion thereof, make any additions thereto or do anything which shall or may jeopardize or impair the safety or soundness of the Neighborhood Property or which, in the sole opinion of Declarant, would detrimentally affect the architectural design of the Neighborhood Property. Any alteration or addition to the Neighborhood Property by an Owner shall be deemed to detrimentally affect the architectural design of the Neighborhood Property, unless approved pursuant to the provisions of this Neighborhood Declaration and the General Covenants.

d. No Owner shall paint, stain, alter, decorate or change the Neighborhood Common Areas.

e. Each Owner shall promptly report to the Neighborhood Association any defect or need for repair on the Neighborhood Property or his Site for which the Neighborhood Association is responsible to maintain and repair upon the Owner's being aware of such defect or need.

f. Any designee of the Neighborhood Association shall have the irrevocable right to have access to each Site and Dwelling Unit from time to time during reasonable hours as may be necessary for emergency repairs to prevent damage to the Neighborhood Common Area or to another Site or Dwelling Unit.

7.2 Neighborhood Association

a. The Neighborhood Association shall repair and maintain as necessary the Neighborhood Common Areas.

b. The Neighborhood Association shall have the right to make or cause to be made structural changes and improvements of the Neighborhood Common Areas which are approved by the Board of Directors and which do not prejudice the right of any Owner or any Institutional Mortgagee; provided, however, except in the case of an emergency, if the cost of the same shall exceed Five Thousand and No/100 Dollars (\$5,000.00), the affirmative vote representing seventy-five percent (75%) of the Sites shall be required in addition to such Board approval, and the cost of such alterations and improvements shall be assessed against the Owners in the Neighborhood in the manner provided in the Neighborhood Documents.

c. The Neighborhood Association shall be responsible to prune, provide disease-control measures, and replace any trees planted by Declarant on any site prior to Declarant's conveyance of such Site to an Owner.

d. The Neighborhood Association shall be responsible to maintain all portions of the Neighborhood located outside of the perimeter wall or fence, if any, of

the Neighborhood. Additionally, the Neighborhood Association shall share maintenance of the entrance features at the intersection of Green Tree Drive and Bridgestone Court as further described in Article IX below. Additionally, the Neighborhood Association shall maintain any wall, fence or landscaping located on the perimeter of the Neighborhood.

ARTICLE VIII

CASUALTY INSURANCE AND DESTRUCTION OF IMPROVEMENTS

8.1 Reconstruction of Structures or Improvements.

If a Structure is damaged or destroyed by a casualty loss or other loss, then within a reasonable period of time after such incident, the Owner thereof shall commence to rebuild or repair the damaged Structure and diligently continue such rebuilding or repairing until completion, as further set forth in Subsection 5.9g. hereof. As to any such reconstruction of a destroyed Structure, the same shall be replaced with Structures as are approved by Declarant in accordance with the General Covenants.

8.2 Special Assessment for Construction of Structures or Improvements.

Any and all sums necessary to repair, replace, construct or reconstruct any Structure within the Neighborhood Common Areas damaged by any casualty not covered in whole or in part by insurance shall be the subject of a Special Assessment. Any difference between the amount of insurance proceeds received with respect to such damage and the amount of funds necessary to repair, replace, construct or reconstruct the building or improvement so damaged shall be a Neighborhood Common Expense provided same shall be the subject of a Special Assessment, and the Neighborhood Association will levy a Special Assessment for the funds necessary to pay such Neighborhood Common Expense within ninety (90) days from the date such damage was incurred.

ARTICLE IX

RECIPROCAL EASEMENT/MAINTENANCE AGREEMENT

The Sites will be conveyed subject to a reciprocal easement and maintenance agreement between the Neighborhood Association and the Isle Verde at Pelican Bay Neighborhood Association, Inc. to benefit and serve the adjacent neighborhood known as Isle Verde at Pelican Bay as well as the Pointe Verde at Pelican Bay Neighborhood for purposes of ingress and egress and installation and maintenance of landscaping, utilities, a gatehouse and other common infrastructure and amenities. The Sites in the Neighborhood will be subject to certain expenses and costs with Isle Verde at Pelican Bay for the common maintenance of the bridge, gatehouse, entrance road, utilities and landscaping, lighting and for the cost of maintaining a gate keeper on the premises and for such other purposes as Declarant or the Board may deem appropriate. The portion of such expenses and costs attributable to the Sites in the Neighborhood shall be included in the budget and paid by each Site Owner as part of the Assessments.

ARTICLE X EASEMENTS

10.1 Perpetual Nonexclusive Easement to Public Ways.

The walks and private streets on the Neighborhood Property are hereby declared to be a perpetual nonexclusive easement over and across the same for ingress, egress and access to and from the public ways in favor of the Neighborhood Association to fulfill its obligation under the Neighborhood Documents. Such easement is for the use and benefit of the Declarant, the Members, and their family, guests, invitees, and lessees and for all proper and normal purposes. The easement rights hereunder shall be used in a manner consistent with the structural design of any improvements in the Neighborhood and shall not be used in a manner so as to create a nuisance.

10.2 Easements and Cross-Easements on Neighborhood Common Areas.

Declarant, for itself, its successors and assigns, the Neighborhood and the Neighborhood Association, reserves the right to impose upon the Neighborhood Common Areas from time to time such easements and cross-easements for ingress and egress for the installation, maintenance, construction and repair of facilities including, but not limited to, electric power, telephone, governmental purposes and services, sewer, water, gas, drainage, irrigation, lighting, television transmission, limited access assurance services, garbage and waste removal and the like as it deems to be in the best interests of, and necessary and proper for, Pelican Bay or for the Neighborhood.

10.3 Easement of Enjoyment and Use.

Every Owner of a Site shall have a non-exclusive right and easement of enjoyment and use in and to the Neighborhood Common Areas for their intended purposes, which right and easement shall be appurtenant to and shall pass with the title to the Site, subject to the Neighborhood Documents, this Neighborhood Declaration and all applicable governmental regulations.

10.4 Easements for Utility Connection.

Every Owner shall have the right to connect and make use of utility lines, wires, pipes, conduits, cable television lines, sewers, irrigation, and drainage lines which may from time to time be in or along the Neighborhood Common Area adjacent to such Owner's Site.

10.5 Easement for PBSD Maintenance.

Declarant or the Neighborhood Association shall grant to PBSD by separate instruments easements through the Neighborhood for ingress, egress and access for maintenance of any portions of the Neighborhood or Pelican Bay which PBSD is or may be required to maintain. Such easements shall be subject to the obligation of PBSD to repair any damage it may cause as a result of its use of such easements.

10.6 Easement for Neighborhood Association.

Easements through the Neighborhood are hereby granted to the Neighborhood Association for ingress, egress and access for maintenance of any portions of the Neighborhood which the Neighborhood Association is or may be required to maintain, and for other proper purposes of the Neighborhood Association, which activities shall be carried out to the extent reasonably practicable with due regard for the property and privacy rights of the Owners.

ARTICLE XI

AMENDMENTS TO NEIGHBORHOOD DECLARATION

11.1 Amendment of Neighborhood Declaration.

a. Declarant may, in its sole discretion, by an instrument filed of record, modify, enlarge, amend, waive or add to the covenants, conditions, restrictions and other provisions of this Neighborhood Declaration so long as the same do not substantially impair the general development plan of the Neighborhood. If an amendment to this Neighborhood Declaration is required by any governmental or quasi-governmental entity, such amendments may be made by Declarant without regard to impairment of the general development plan of the Neighborhood. Nothing contained herein shall require Declarant to make an amendment to this Neighborhood Declaration for any purpose whatsoever.

b. Except as set forth in Paragraph (a) above, the process of amending or modifying this Neighborhood Declaration shall be as follows:

1. Until all Sites in the Neighborhood have been conveyed by Declarant, or at such earlier time as determined by Declarant in its sole discretion, all amendments or modifications shall be made only by Declarant without the requirement of the consent of the Owners, or the Neighborhood Association or Institutional Mortgagees or any other Person provided, however, that the Neighborhood Association shall within ten (10) days after request of Declarant, join in any such amendments or modifications and execute such instruments to evidence such joinder and consent as Declarant shall, from time to time, request. Failure to so join and consent to an amendment or modification, if any, shall not be cause to prevent such modification or amendment from being made by Declarant or to affect the validity thereof.

2. After Declarant has conveyed all the Sites in all phases of the Neighborhood or, at such earlier time as determined by Declarant in its sole discretion, this Neighborhood Declaration may be amended (a) by the consent of the Owners of two-thirds (2/3) of all Sites in the Neighborhood together with (b) the approval or ratification of a majority of the Board of Directors of the Neighborhood Association. The aforementioned consent of the Owners may be evidenced by a writing signed by the required number thereof or by the affirmative vote of the required number thereof at any regular or special meeting of the Board of Directors called and held in accordance with the Neighborhood Association By-Laws, evidenced by a certificate of the Secretary or an Assistant Secretary of the Neighborhood Association.

3. Amendments for correction of scrivener's errors or other non-

material changes may be made by Declarant alone without the need for consent of the Neighborhood Association or any Owners or any other Persons or mortgagees, at any time.

4. Notwithstanding anything to the contrary herein contained, no amendment to this Neighborhood Declaration shall be effective which shall impair or prejudice the rights or priorities of Declarant under the Neighborhood Declaration or Neighborhood Documents without specific written approval of Declarant.

5. After the sale of all Sites in all phases of the Neighborhood, a true copy of any amendment to this Neighborhood Declaration shall be sent certified mail to Declarant or Institutional Mortgagee within five (5) days of its adoption.

ARTICLE XII

GENERAL PROVISIONS

12.1 Property Units.

In accordance with Article 5.03 of the General Covenants, Declarant assigned one (1) Property Unit to each platted Site for a total of thirteen (13) Property Units assigned to the Neighborhood.

12.2 Neighborhood Declaration Runs with Committed Property.

The covenants, reservations, restrictions and other provisions of this Neighborhood Declaration shall run with and bind the Neighborhood subject hereto and shall inure to the benefit of the Declarant and all Owners subject to this Neighborhood Declaration, their respective legal representative, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time these covenants, conditions, restrictions, and other provisions shall automatically be extended for successive period of ten (10) years, unless an instrument signed by the Owners of at least two-thirds (2/3) of the Sites in the Neighborhood has been recorded agreeing to terminate (if not prohibited by other provisions of this Declaration) these covenants, conditions, restrictions or provisions in whole or in part.

12.3 Condemnation.

If the Neighborhood Association receives any award or payment arising from any taking of the Neighborhood Common Areas or any part thereof as a result of the exercise of the right of condemnation or eminent domain, the net proceeds thereof shall first be applied to the restoration of remaining Neighborhood Common Areas and improvements thereon to the extent deemed advisable by the Neighborhood Association and the remaining balance of such net proceeds, if any, shall then be held by the Neighborhood Association for the use of the Neighborhood.

12.4 Non-Liability of Declarant.

Declarant shall not in any way or manner be held liable or responsible for any violation of this Neighborhood Declaration by a Person other than Declarant.

12.5 Enforcement.

a. Declarant reserves the right and the power (i) to enforce the covenants, conditions, restrictions, and other provisions of this Neighborhood Declaration, and (ii) to delegate or assign, either exclusively or non-exclusively, any or all of its rights, powers, duties or privileges hereto to the Neighborhood Association, Owner, or to any other designee.

b. If Declarant does not enforce the covenants, conditions, restrictions or other provisions of this Neighborhood Declaration, then the following parties may in the following priority enforce same as hereinafter set forth: (i) the Neighborhood Association; or (ii) an Owner. If a party with a lesser priority desires to enforce this Neighborhood Declaration, then that party must first give thirty (30) days written notice to the parties with higher priority, starting first with Declarant, that the noticing party intends to initiate enforcement upon the expiration of such thirty (30) days, and if during such period the parties with the higher priority do not initiate enforcement procedures then the party of the lesser party may so initiate such enforcement procedures. A party not initiating enforcement procedures shall incur no liability whatsoever for such non-enforcement.

c. Declarant, its designees or any other party having the right to enforce this Neighborhood Declaration pursuant to subparagraph (b) above shall have the right and the power to enforce the covenants, conditions, restrictions and other provisions imposed by this Neighborhood Declaration by any proceeding at law or in equity against any Person or entity violating or attempting violation of such provisions, and to enforce any lien created by this Neighborhood Declaration or the General Covenants. Failure by Declarant, or the Neighborhood Association, to enforce any such provision shall in no event be deemed a waiver of its right to do so thereafter.

d. The cost and attorneys' fees, including those resulting from any appellate proceedings, incurred by Declarant or its designees or party having the right to enforce this Neighborhood Declaration pursuant to subparagraph (b) above, who prevails in any such enforcement action, and any action against a Person or entity to enforce any provisions of the General Covenants shall be a personal obligation of such Person which shall be paid by such Person.

12.6 Fines.

In addition to all other remedies provided for in this Neighborhood Declaration and the General Covenants, the Neighborhood Association shall have the right to impose a fine on an Owner for failure of an Owner, or his family members, guests, invitees, tenants and licensees to comply with any of the provisions of this Neighborhood Declaration; provided, however, the Neighborhood Association grants reasonable notice and opportunity to be heard. The decisions of the Neighborhood Association shall be final. Fines shall be in such reasonable amounts as the Neighborhood Association shall determine, subject to Section 720.305, F.S., as

amended from time to time. The Neighborhood Association shall impose fines in the manner set forth in the Neighborhood Association By-Laws.

12.7 Right of Declarant to Transact Business and To Sell or Lease.

a. The provisions, restrictions, terms and conditions of Articles V and VI hereof shall not apply to Declarant as an Owner, and in the event and so long as Declarant shall own any Site, whether by reacquisition or otherwise, Declarant shall have the absolute right to lease, sell, convey, transfer, mortgage or encumber in any way any such Site upon any terms and conditions as it shall deem to be in its own best interests.

b. Declarant shall have the right to enter and transact within the Neighborhood any and all business necessary to consummate the sale, lease or encumbrance of Sites or other real property in Pelican Bay including, but not limited to, the right to maintain models, a sales area and a sales office, place signs, employ sales personnel, use the Neighborhood Common Areas and show Sites or Dwelling Units. Declarant shall have the right to make repairs and carry on construction activity. Declarant may exercise the foregoing rights without notifying the Neighborhood Association. Any models, sales area, sales office, signs and any other items pertaining to such sales and construction efforts shall not be considered a part of the Neighborhood Common Areas and shall remain the property of Declarant. Paragraphs (a) and (b) of this Article may not be suspended, superseded or modified in any manner by an amendment to this Neighborhood Declaration unless such amendment is first consented to in writing by Declarant. This right of use and transaction of business as set forth in this paragraph (b), the provisions of Paragraph (a) of this Article and the other rights reserved by Declarant in this Neighborhood Declaration may be assigned in writing by Declarant in whole or in part.

12.7 Severability.

If any provision of this Neighborhood Declaration is held to be invalid in whole or in part by any court of competent jurisdiction, then such holdings shall in no way affect the validity of the remaining provisions of this Neighborhood Declaration, all of which shall remain in full force and effect, and such holdings shall be limited to their most narrow applications.

12.8 Gender.

Whenever the context so requires in this Neighborhood Declaration, the singular number shall include the plural, and the converse; and the use of one gender shall be deemed to include the other gender.

12.9 Construction.

The provisions of this Neighborhood Declaration shall be liberally interpreted and construed to provide maximum flexibility consistent with Declarant's general plan for development of Pelican Bay and the Neighborhood and the purposes set forth herein, including the preamble.

12.10 Rule Against Perpetuities.

In the event any court shall determine any provisions herein are in violation of the rule of property known as the "rule against perpetuities" or any other rule of law because of the duration of the period involved, the period specified in this Neighborhood Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law, and for such purpose, "measuring lives" shall be those of the signatories hereof.

12.11 Notices.

Any notices or other communication required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to: (i) any Owner, to the last known address of the person whose name appears as the Owner on the records of the Neighborhood Association at the time of such mailing; (ii) the Neighborhood Association at 6983 Bridgestone Court, Naples, Florida 34108, or such address as the Neighborhood Association shall hereafter notify Foundation and all Owners of in writing; and (iii) Foundation at 6251 Pelican Bay Boulevard, Naples, Florida 34108, or such other address or addresses as Foundation shall hereafter notify the Neighborhood Association of in writing any such notice to the Neighborhood Association of a change in Foundation's address being deemed notice to the Owners.

12.12 Alterations of Sites and Neighborhood Common Areas by Declarant.

Declarant reserves the right to combine two or more Sites into one Site, or to sever any Site into two or more Sites as long as Declarant owns the Sites so altered; and to make aesthetic alterations to the exterior of the Neighborhood Common Areas, which, in Declarant's reasonable discretion, are in the best interest of the Neighborhood. If the alterations require an amendment to the Neighborhood Declaration, then an amendment of this Neighborhood Declaration shall be filed by Declarant in accordance with the provisions of this paragraph. Such amendment ("Declarant's Amendment") need be signed and acknowledged only by Declarant and shall not require approval of the Neighborhood Association, other Owners or lienors or mortgagees of the Sites, whether or not such approvals are elsewhere required for an amendment of this Neighborhood Declaration. This amendment may adjust the voting rights and assessment obligations attributable to the Sites or Dwelling Units being affected by the alterations and may be made as a Declarant's Amendment so long as Declarant owns the Sites for which such shares are being so adjusted.

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