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DECLARATION AND GENERAL PROTECTIVE COVENANTS
FOR PELICAN'S NEST

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This DECLARATION is made this 17th day of November, 1988, by WESTINGHOUSE COMMUNITIES OF NAPLES, INC., its successors and assigns ("Declarant"):

W I T N E S S E T H

WHEREAS, Declarant, Westinghouse Communities of Naples, Inc., presently having its principal place of business in Collier County, Florida, is the developer of "Pelican's Nest" (hereinafter defined) consisting primarily of residential property and common area serving same and desires to create a superior and unique community; and,

WHEREAS, the real property which will ultimately be developed as Pelican's Nest (hereinafter referred to as "PN") has located within it a privately owned golf course known as Pelican's Nest Golf Course (hereinafter described) in Lee County, Florida; and,

WHEREAS, Declarant by this Declaration imposes those certain protective covenants, conditions and restrictions set forth herein upon only a portion of PN, which portion of PN is legally described on Exhibit "B" hereto and shall be herein referred to as "Committed Property"; and,

WHEREAS, Declarant may in the future elect to add or not to add additional portions of PN to the Committed Property hereunder and thereby subject such additional portions of PN to this Declaration and to amend this Declaration, and, as well, to impose additional protective covenants, conditions and restrictions not set forth in this Declaration on such additional portions of PN; and,

WHEREAS, Declarant may impose additional protective covenants, conditions and restrictions, in conjunction with this Declaration, as may be necessary and appropriate on each "Neighborhood" (as that term is hereinafter defined); and,

WHEREAS, Declarant desires to provide for the preservation of property values, amenities and opportunities in that portion of PN which is Committed Property (and such additional land which may be added to Committed Property and which may hereafter be subjected to this Declaration) contributing to the personal and general health, safety and welfare of residents and for the maintenance of the land and improvements thereon, and to this end

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RECORD VERIFIED - CHARLIE GREEN, CLERK
BY LEE COUNTY, FL

desires to subject the Committed Property, together with such additional portions of PN as may hereafter be added to the Committed Property in accordance with the provisions hereof, to the protective covenants, conditions, restrictions, and other provisions hereinafter set forth, each and all of which is and are for the benefit of the Committed Property and each "Owner" (as that term is hereinafter defined) thereof; and,

WHEREAS, Declarant has caused Pelican's Nest Community Association, Inc., a Florida corporation not-for-profit (the "Corporation") to be formed, which Corporation has joined in these protective covenants and to which there has been and will be delegated and assigned certain powers and duties of operation, administration, maintenance and repair of portions of the Committed Property; and the collection and disbursement of the "Operating Expenses" (as that term is hereinafter defined) all as more particularly set forth herein; and

WHEREAS, Declarant may, in its sole discretion, from time to time, convey, lease or grant a license or other use right to lands within or without PN by deed, easement, or otherwise to the Corporation (which must accept the same), or Declarant may in its sole discretion cause additional parties to do so, for the purpose of maintenance, landscaping, drainage, recreation, preservation or other purposes that will be for the use and benefit of its "Members" (as that term is hereinafter defined) and their families, tenants and guests.

NOW, THEREFORE, the Declarant, Westinghouse Communities of Naples, Inc., declares that the Committed Property, together with such additional portions of PN, if any, as may hereafter be added to the Committed Property in accordance with this Declaration, are and shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the covenants, conditions, restrictions, easements, reservations, regulations, burdens, liens, and all other provisions of this Declaration, all as hereinafter set forth, which shall run with the Committed Property and be binding on all parties having any right, title or interest in the Committed Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE 1
DEFINITIONS

1.1 "Pelican's Nest" or "PN" shall mean and refer to certain real property in Lee County, Florida, described in Exhibit "A" hereto and such other lands as may from time to time be added to or subtracted from said lands pursuant to this Declaration. Not all of PN is Committed Property under this Declaration.

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1.2 "Pelican's Nest Golf Course" or "Golf Course" shall mean and refer to that property within PN which is currently owned by Pelican's Nest Associates, Ltd., a Florida Limited Partnership, and operated as a Public Golf Course as well as such other lands as may from time to time be added thereto and used as a Golf Course. The Golf Course surrounds, and is contiguous to, the Committed Property and other property which Declarant may, in the future, add to the Committed Property.

1.3 "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Pelican's Nest Community Association, Inc.

1.4 "Committed Property" shall mean and refer to (a) those portions of PN described in Exhibit "B" attached hereto and made a part hereof; and (b) those portions of PN, if any, which may hereafter become Committed Property pursuant to the recordation of one or more "Supplements" (as that term is described in Article 2.3 hereof).

1.5 "Conservation Area" Those areas on the plat or plats for PN designated as conservation easement(s) or as a conservation and drainage easement.

1.6 "Corporation" shall mean and refer to Pelican's Nest Community Association, Inc., a Florida corporation not-for-profit, which has its principal place of business in Lee County, Florida, its successors or assigns.

1.7 "Corporation Common Area" shall mean and refer to all real property including any improvements and fixtures thereon, owned, leased or the use of which has been granted to the Corporation as set forth in this Declaration, including, but not limited to, the real property described in Exhibit "C" hereto, or that hereafter may be conveyed or leased to the Corporation.

1.8 "Declarant" shall mean and refer to Westinghouse Communities of Naples, Inc., a Florida corporation, presently having its principal place of business in Collier County, Florida, its successors or assigns of any or all of its rights under the Declaration as specified by Declarant.

1.9 "Declaration" shall mean and refer to this document, entitled "Declaration and General Protective Covenants for Pelican's Nest" as the same may be amended from time to time.

1.10 "Dwelling Unit" shall mean and refer to any residential dwelling unit for which a Certificate of Occupancy has been issued by the applicable governmental entity and which is intended as an abode for one family or household including, without limitation, a detached single family home, an attached

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townhouse or patio dwelling, duplex or other multiplex dwelling, or any apartment-type unit contained in any multi-unit, multistory, residential building and whether any of the foregoing are subject to fee simple, cooperative, condominium, rental or other forms of ownership or possession.

1.11 "General Development Plan" shall mean and refer to Declarant's plan of PN as it may be amended from time to time by Declarant showing the land uses and the Property Units assigned by Declarant to the various portions of PN or the Committed Properties.

1.12 "Governing Documents" shall mean and refer to this Declaration and the Articles of Incorporation ("Articles"; and By-Laws ("By-Laws") of the Corporation and all as may be amended from time to time. In the event of conflict or inconsistency among the documents, the governing provision shall be that first appearing in the sequence: this Declaration, the Articles, the By-Laws.

1.13 "Lodge" shall mean and refer to a facility offering transient lodging accommodations to the general public, including motels, inns, and similar establishments, which may provide such additional incidental services and facilities as dining facilities, meeting rooms, and recreational facilities. The term shall include any real property upon which the Lodge or any of its facilities is built.

1.14 "Lodge Room" shall mean and refer to a room or suite in a Lodge which is intended for the exclusive overnight occupancy of a Lodge guest.

1.15 "Institutional Mortgages" shall mean and refer to (a) a lending institution having a first mortgage lien on a Plot including any of the following institutions: a Federal or State Savings and Loan or Building and Loan Association, a national or state bank or real estate investment trust, or mortgage banking company doing business in the State of Florida or a life insurance company; or (b) any "Secondary Mortgage Market Institution" including the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration and Veterans Administration and such other Secondary Mortgage Market Institutions as the Board shall hereafter approve in writing which has acquired a first mortgage upon a Plot; 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 construct improvements upon, the Committed Property and who have a mortgage lien on all or a portion of the Committed Property securing such loan.

1.16 "Land Segment" shall mean and refer to real property

which is a part of the Committed Property which is not a Single Family Lot or Dwelling Unit and which is designated by Declarant in writing as a Land Segment. Each Land Segment shall have that number of Property Units and Values which are attributed and assigned to it by Declarant in accordance with the provisions of Article 5.3 of this Declaration.

1.17 "Members" shall mean and refer to those Persons who are entitled to membership in the Corporation, i.e., every Owner, the Golf Course Owner and Declarant.

1.18 "Neighborhood" shall mean and refer to any development of Dwelling Units or other sub-area development within the Committed Property which is designated as such by Declarant in a written instrument.

1.19 "Neighborhood Association" shall mean and refer to any property owners association, homeowners association, condominium association, or other such entity, its successors and assigns, responsible for administering a Neighborhood. Neighborhood Association shall refer to Pelican's Nest Community Association, Inc. only when the context indicates that Pelican's Nest Community Association, Inc. is a Neighborhood Association pursuant to the Declaration.

1.20 "Neighborhood Common Area" shall mean and refer to all real property including any improvements and fixtures thereon, owned, leased or the use of which has been granted to a Neighborhood or Neighborhood Association for the common use and enjoyment of the Owners in such Neighborhood.

1.21 "Neighborhood Covenants" shall mean and refer to any and all covenants, conditions, restrictions, and other provisions imposed by a recorded instrument applicable to one or more specific Neighborhoods but not to all Neighborhoods if there shall be more than one Neighborhood.

1.22 "Operating Expenses" shall mean and refer to the expenses for which Owners are liable to the Corporation as described in this Declaration and in any other of the Governing Documents, and include, but are not limited to, the costs and expenses incurred by the Corporation in fulfilling its obligations hereunder and in administering, operating, owning, constructing, reconstructing, financing, maintaining, repairing and replacing the Corporation Common Areas or portions thereof and improvements thereon as well as expenses incurred by the Corporation in fulfilling the obligations under the Governing Documents, which mean and include the costs and expenses described in the Governing Documents as such and include regular and special assessments made by the Corporation in accordance with the terms hereof.

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1.23 "Owner" shall mean and refer to a record owner of any fee interest in any Plot or parcel of land located within the Committed Property, but excluding those having an interest in a Plot merely as security for the performance of an obligation.

1.24 "Person" shall mean and include an 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.

1.25 "Pelican's Nest P.U.D." or "P.U.D." shall mean and refer to the document titled "Pelican's Nest P.U.D. Ordinance", Lee County Ordinance No. 82-43, as it may from time to time be modified or amended.

1.26 "Plot" shall mean and refer to any of the following property within that portion of PN which is Committed Property or any additional lands later committed hereto by Declarant: a platted lot, including, but not limited to, a Single Family Lot; a platted parcel; a Dwelling Unit; a Land Segment; or any quantity of real property, platted or unplatted, including any fixtures and improvements thereon, capable of being described with such definiteness that its location and boundaries may be established, which is determined by the Declarant to be used, developed and conveyed as a unit and which is not Corporation Common Area or Neighborhood Common Area.

1.27 "Property Units" shall mean and refer to the number of Dwelling Units which may be constructed on a certain defined Plot. Each Plot shall have such number of Property Units as may be assigned to it by Declarant, in writing, in accordance with the provisions of Article 5.3 of this Declaration.

1.28 "Single Family Lot" shall mean and refer to a single family lot shown on a plat upon which no more than one (1) Dwelling Unit may be constructed in accordance with applicable zoning and use regulations and Neighborhood Covenants and which is part of the Committed Property.

1.29 "Structure" shall mean that which is 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 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".

1.30 "Value" shall mean and refer to a number, assigned to a Plot which is used in determining that Plot's applicable portion of Operating Expenses, all in accordance with the provisions of Article 7 of this Declaration, and in regard to Land Segments, the Value shall also be used to determine the number of votes

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assigned to a Land Segment as set forth in Article 5.3 of this Declaration.

ARTICLE 2
PLANS FOR DEVELOPMENT AND
DECLARANT'S RIGHTS AND POWERS

2.1 General Plan for Development.

Declarant presently plans to develop within the P.U.D., a community called Pelican's Nest as a multi-phased planned development. Pelican's Nest will be built around the "Golf Course". The Golf Course shall not be a part of Pelican's Nest nor subject to this Declaration, except for a clubhouse site and/or a lodge site which may become Committed Property in the future, at the discretion of Declarant. Nevertheless, the Committed Property will benefit from the aesthetics, open space and ambience of the Golf Course. Certain real property is Committed Property under this Declaration and additional real property within PN may become Committed Property hereunder pursuant to a Supplement.

2.2 "Committed Property".

NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN CONTAINED OR CONTAINED IN ANY OF THE GOVERNING DOCUMENTS, ONLY THAT PORTION OF PELICAN'S NEST WHICH IS COMMITTED PROPERTY (AS THAT TERM IS DEFINED IN SECTION 1.4 OF THIS DECLARATION) SHALL BE SUBJECT TO THE PROVISIONS OF THIS DECLARATION AND THE OTHER GOVERNING DOCUMENTS.

2.3 Additional Lands.

(a) Declarant shall have the right, and the power, but neither the duty nor the obligation, in its sole discretion, and by its sole act, to add additional portions of PN ("Additional Lands") to the Committed Property by recording in the Public Records of Lee County, Florida, an instrument (a "Supplement") subjecting such Additional Lands to this Declaration. SOME OF THE EFFECTS OF ADDING SUCH ADDITIONAL LANDS COULD BE TO ALLOW FOR AN INCREASE IN THE NUMBER OF PLOTS, THE SIZE OF THE CORPORATION COMMON AREAS, THE NUMBER OF MEMBERS, THE NUMBER OF PERSONS USING THE CORPORATION COMMON AREAS, THE NUMBER OF PROPERTY UNITS, THE SIZE OF THE CORPORATION'S BUDGET AND THE TOTAL NUMBER OF VOTES WHICH COULD BE CAST BY MEMBERS OF THE CORPORATION.

(b) Declarant may also, in its sole discretion, include in a Supplement certain provisions which (i) modify any of the Provisions of this Declaration insofar as they may apply to such Additional Lands only, or (ii) create new provisions applicable to such Additional Lands, or (iii) omit the

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applicability of any of the provisions of this Declaration to such Additional Lands, or (iv) do any, all, or none of the above.

(c) The execution and recordation of this Declaration shall not be construed to require Declarant to subject any portions of PN, other than the Committed Property herein, to the covenants, conditions, restrictions or other provisions of this Declaration or any other recorded instrument.

(d) In the event Declarant determines not to add a particular portion of PN to the Committed Property and Declarant desires to make a statement to this effect of record, then Declarant may by its act alone, without the necessity of the joinder of the Corporation or any Person, place a statement to that effect in the Public Records of Lee County, Florida, in which event such portion of PN described therein may not become Committed Property and shall not be affected by any of the provisions of this Declaration whatsoever.

2.4 Corporation Common Area.

(a) Declarant shall have the right, and the power, but neither the duty nor the obligation, in its sole discretion, to convey, lease or grant a license or other use right to real property within or without PN whether it be Committed Property or not, to the Corporation for such purposes as may be expressed in the instrument of conveyance, lease or grant of license or use. No such real property shall be considered to be Corporation Common Area until actually so conveyed, leased or a grant of license or other use right is created by a written instrument.

(b) Any such conveyance, lease or grant of license or use right to the Corporation may be exclusive or non-exclusive so that Persons other than the Corporation may or may not have a right, power, duty, or privilege with respect to all or any part of any real property so conveyed, leased, licensed or the use of which has been granted. The corporation shall accept from Declarant any such conveyance, lease, grant of license or grant of use right, and except as provided in paragraph (d) below, Corporation shall not accept, from any person other than Declarant, a conveyance, lease, grant of license or grant of use right except upon the prior written consent of the Declarant.

(c) Prior to any conveyance, lease or grant of license or other use right by Declarant to Corporation of any property, Declarant shall have the right to charge reasonable fees for the use of such property; thereafter the right to use such property is subject to the payment of Operating Expenses and may also be subject to reasonable rents, fees and other charges in favor of the Corporation; in any event, rents, fees and other charges required to be paid to Declarant under leases, grants, licenses or contracts creating use rights shall continue to be paid.

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(d) The Corporation may enter into easement agreements or other use or possessory agreements whereby the Corporation may obtain the use or possession of certain real property not owned by Declarant, on an exclusive or non-exclusive basis, and included or not included within Committed Property for certain specified purposes and whereby the Corporation agrees to maintain and pay for the taxes, insurance, administration, upkeep, repair, replacement and maintenance of such property. The afore stated expenses shall be an Operating Expense whether or not such real property shall be Corporation Common Areas. No such agreement shall be entered into without the prior written consent of Declarant, its designees or assignees.

(e) The Declarant declares, subject to the provisions of this Declaration, including but not limited to, the provisions of Article 4.1 hereof, that the Corporation Common Areas are subject to a perpetual non-exclusive easement in favor of Declarant, the Corporation, the Neighborhood Associations, the Golf Course owner, the owners, their family members, guests, members, invitees, and lessees, to use the Corporation Common Areas for all normal purposes, including, but not limited to, ingress and egress and for the furnishing of services and facilities for which the same are reasonably intended in accordance with the terms of this Declaration. Declarant reserves the right to restrict certain portions of the Corporation Common Area which are private streets for use by only the Neighborhoods which require such use for ingress and egress and reserves the right to install or require installation and maintenance of security facilities. NOTWITHSTANDING ANYTHING CONTAINED IN THIS DECLARATION, DECLARANT, IN ITS SOLE DISCRETION, MAY TERMINATE SUCH EASEMENTS AS TO A PORTION OF THE CORPORATION COMMON AREA AND CAUSE SAME TO BECOME NEIGHBORHOOD COMMON AREAS BY THE RECORDATION OF AN INSTRUMENT IN THE PUBLIC RECORDS OF LEE COUNTY STATING SUCH FACT AND DESCRIBING SUCH EASEMENTS ENCUMBERING THE CORPORATION COMMON AREAS BEING MADE INTO NEIGHBORHOOD COMMON AREAS, PROVIDED THAT SUCH ACT SHALL NOT DEPRIVE AN OWNER OF A MEANS OF INGRESS AND EGRESS FROM HIS PLOT TO A PUBLICLY DEDICATED ROAD OR OF A MEANS OF BEING FURNISHED THOSE PUBLIC UTILITIES WHICH WERE IMMEDIATELY PRIOR THERETO BEING FURNISHED.

Declarant also declares that the Corporation Common Areas are also subject to an easement for ingress and egress in favor of governmental and quasi-governmental entities for the purposes of police, fire, mail, ambulance, garbage collection, municipal or other such governmental services.

(f) Declarant reserves the right for itself and its designees to grant additional easements for ingress and egress, governmental services and utilities and cable television over, across and under the Corporation Common Areas, for the use and benefit of persons who are not Members of the Corporation and for portions of Pelican's Nest which are not Committed Property hereunder.

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2.5 Golf Course.

The Golf Course is not Committed property and shall not be subject to the obligations and conditions of this Declaration except that: (a) a clubhouse site and/or a Lodge may be subdivided from the Golf Course, and, if so, may be subject to the obligations and provisions of Article 6 and 7 hereof (Notwithstanding anything contained in this Declaration or other Governing Documents, the Value assigned to the clubhouse site in Article 7.1 shall not be changed without the Prior written consent of the fee simple title owner to the Golf Course (the "Golf Course Owner") and; (b) the Golf Course Owner shall be a member of the Corporation and shall be entitled to cast one vote as set forth in Article 5.2 hereof. The Golf Course Owner and its agents, employees, licensees and invitees, the members of any club on the Golf Course, their family members, guests, and invitees, the players or users of the Golf Course, any person having a right to use the Golf Course and the spectators at golf tournaments (the "Visitors") shall have a perpetual non-exclusive easement in their favor to use the Corporation Common Areas for all normal purposes, including but not limited to, ingress and egress and for the furnishing of services and facilities to the Golf Course and for such other purposes for which the same are reasonably intended in accordance with the terms of this Declaration. Notwithstanding anything contained herein, the aforesaid easement as it relates to the use of the Corporation Common Areas by members of any club on the Golf Course or Visitors shall be only as to that portion of the Corporation Common Areas necessary for their use. Any disputes as to what constitutes a normal purpose or what portion of the Corporation Common Areas are necessary for such use shall, during the term of this Declaration, be determined by Declarant in its sole and absolute discretion. Declarant reserves the right to impose upon the Corporation Common Areas such other easements which are required for the use and enjoyment of the Golf Course.

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2.6 Other Entities or Associations.

Declarant shall have the right, and the power, but neither the duty nor the obligation, to record instruments subjecting Additional Lands to protective covenants or provisions other than those provided for in this Declaration. Such provisions may or may not create Neighborhood Associations or entities other than the Corporation. Such other entities may or may not have the same, additional, or different rights, powers, duties or privileges with respect to such Additional Lands; provided, however, that any such recorded instrument may subject such Additional Lands to the jurisdiction of the Corporation, and may make the owners of such Additional Lands Members of the Corporation under such terms and conditions as may be provided therein, which may be the same as or substantially different from the terms and conditions of membership as provided herein.

2.7 Enforcement.

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

(b) In the event the Declarant does not enforce the covenants, conditions, restrictions or other provisions of this Declaration, then the following parties may in the following priority enforce same as hereinafter set forth: (1) the Corporation; (2) a Neighborhood Association; (3) the Owners of at least 25 Plots. In the event a party with a lesser priority desires to enforce this Declaration then that party must first give thirty (30) days written notice to the parties with higher priority, starting first with the Declarant, that the noticing party intends to initiate enforcement upon the expiration of such thirty (30) day period, and if during such period the parties with the higher priority do not initiate enforcement procedures then the party of the lesser priority 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 other party having the right to enforce this Declaration, if any, pursuant to paragraph (b) above shall have the right and the power to enforce the covenants, conditions, restrictions and other provisions imposed by this Declaration by any proceeding at law or in equity against any Person violating or attempting to violate any such provisions, to restrain any violation or attempted violation of such provisions, to require specific performance of such provisions, to recover damages for violations of such provisions, and to enforce any lien created by this Declaration. Failure by Declarant, or the Corporation, or a Neighborhood Association, or any Owner, or any other Person, to enforce any of such provisions shall in no event be deemed a waiver of the right of any of them to do so thereafter.

(d) The costs and attorneys fees, including those resulting from any appellate proceedings, incurred by Declarant or its designees or a party having the right to enforce this Declaration, if any, pursuant to paragraph (b) above, who prevails in any such enforcement action, shall be a personal obligation of such Person which shall be paid by such Person and any amount thereof which remains due and unpaid shall be a continuing lien upon such Owner's Plot, collectible in the manner provided in Article 6.

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2.8 Declarant's Inaction.

Neither the execution and recordation of this Declaration nor the creation of any Neighborhood Association or other entity, nor the recordation of any other instrument subjecting any land in the Committed Property to protective covenants, conditions or restrictions or other provisions shall obligate or require (i) Declarant to grant any right, power, duty or privilege of any nature or kind to the Corporation or to any other entity, or (ii) Declarant to perform any act permitted by this Declaration or by any other recorded instrument, or to enforce any covenant, condition, restriction or other provision hereof or thereof, or to do anything which it does not, in its sole discretion, elect to do.

2.9 Assignment.

Declarant reserves the right, and the power, to delegate or assign, either exclusively or non-exclusively, to any Person, any or all of its rights, powers, duties or privileges created or provided for by this Declaration or by any other recorded instrument. DECLARANT SHALL BE UNDER NO OBLIGATION TO DELEGATE OR ASSIGN ANY OF ITS RIGHTS, POWERS, DUTIES AND PRIVILEGES CONTAINED IN THIS DECLARATION TO ANY PERSON OR ENTITY. All such assignments shall be by a written instrument executed by Declarant.

2.10 Community Development District.

Declarant may, but is not obligated to, establish or cause to be established a community development district, as such district is defined in Chapter 190, Florida Statutes (1988), for all or a portion of Pelican's Nest. If established, it is anticipated that said community development district will provide certain urban community development services and that said district will have the authority to levy and collect fees, rates, charges, taxes and assessments to pay for, finance and provide said services. Each owner agrees, by acceptance of a deed or other instrument conveying title to a lot, plot or dwelling unit, for itself, their successors or assigns and grantees, to without reservation or objection take all steps and join in and execute all documents necessary and make such other written joinder or consent to any petition or request for establishment of such a district at Declarant's request to enable Declarant to establish said community development district and if established each owner will pay for all fees, rates, charges, taxes and assessments imposed by said district and will abide by its applicable regulations. Declarant is not obligated to establish or cause to establish said district and Declarant's decision in this regard is solely within the discretion of Declarant.

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ARTICLE 3

GENERAL PROTECTIVE COVENANTS

3.1 Use Restrictions.

Declarant reserves the absolute right, power and authority to assign and reassign various land uses to PN and Committed Property by instrument recorded in the Public Records of Lee County, Florida, and to inaugurate and implement variations from, modifications to, or amendments of any governmental zoning, land use restrictions, plans, land development regulations, development order and development permits applicable to PN.

3.2 Plans, Specifications and Locations of Structures.

(a) Declarant may establish and from time to time modify, architectural standards for the control of the design and construction of all Structures and other work within Committed Property.

(b) No Structure shall be commenced, erected, improved or altered, nor shall any grading, excavation, tree removal or change of exterior color or other work which in any way alters the exterior appearance of any Structure or Plot or of any Corporation Common Area or Neighborhood Common Area be done without the prior approval of the Declarant.

(c) Each Owner shall, prior to the commencement of any construction, submit in sequence to Declarant the following materials: (i) a "preliminary concept plan" which shall include schematic site plans, floor plans and exterior elevations and materials; (ii) "design proposals" which shall include more detailed building and site design plans and specifications sufficient and definite in detail so that there can be determined the character, exterior appearance, exterior materials and colors, and the quality and kind of building and landscape materials proposed; and (iii) "construction plans and specifications" which shall be a true extension of the preliminary concept plan and design proposals, including a sealed plot plan, in detail and to scale. Declarant shall, in writing, within thirty (30) days after receipt of each required submittal which it deems complete, approve, reject or approve, subject to change, such plans, proposals and specifications as are submitted to it as required above. If no written notice is sent by Declarant within said thirty (30) days the submittal shall be deemed rejected. After approval, any change in location, plot plan, exterior colors or exterior materials must be re-submitted for approval. Failure to obtain approval of Declarant of all such plans, proposals, specifications and plot plan prior to the commencement of any construction shall be deemed a material

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breach hereof and Declarant shall then have the right, in addition to any other rights permitted by law or in equity, to proceed in the courts to obtain a mandatory injunction requiring any construction done without said approval to be torn down or removed forthwith.

(d) The approval, rejection or withholding of any approval by Declarant of the plans, proposals and specifications and the location of all Structures, and every alteration of any Structure, shall not be construed or interpreted as a representation or determination by Declarant that any building, plumbing, electrical code or other applicable governmental regulations or requirements have or have not been properly met by the Owner, it being understood that the approval of Declarant relates only to the aesthetics of the improvements shown on the plans and specifications, and not to their sufficiency or adequacy. Each Owner shall be responsible for obtaining all necessary technical data and for making application to and obtaining the approval of Lee County, and any other appropriate governmental agencies prior to commencement of any work or construction.

(e) Declarant shall have no duty, responsibility nor liability to any Owner or to any other Person whomsoever in respect to the exercise of its rights, or the failure to exercise its rights under the Declaration. Declarant may reject plans, proposals and specifications based on any grounds or reason whatsoever, including purely aesthetic grounds, in its sole and absolute discretion. Declarant's decision to approve, reject or withhold its approval may, in the sole exercise of its discretion, be based upon: (i) the harmony of its exterior design, color and location in relation to, and its effect upon surrounding structures, vegetation, topography, and the overall community design; (ii) the character of the exterior materials; (iii) the planned quality of the exterior workmanship; (iv) Declarant's design and construction standards; (v) Declarant's Development Plan; or (vi) any other factor deemed material or relevant by Declarant.

3.3 Electronic Monitoring Systems.

In order to preserve the tranquility and peacefulness for the Owners and the Committed Property, no audible siren, horn, bell, klaxon or other noise-making device shall be permitted in connection with an electronic monitoring or alarm system unless such device is equipped with an automatic shut-off mechanism. All electronic monitoring or alarm systems shall provide for electronic notice to a central station.

3.4 Colors.

No exterior colors on any Structure shall be permitted that in the sole judgment of Declarant would be inharmonious or

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discordant or incongruous with Committed Property, or a particular Neighborhood or any other properties within PN. Any future exterior color changes desired by an Owner must be first approved by Declarant.

3.5 Factory Built Structures.

No Structure of any kind of what is commonly known as "factory built", "modular", or "mobile home" type construction shall be erected without the prior approval of Declarant.

3.6 Landscaping.

A. It is Declarant's intent that existing native vegetation be retained to the maximum extent possible. Clearing or removal of such existing native vegetation shall be done selectively.

To the extent possible, Owner shall protect suitable native vegetation to be integrated into the final landscape plan. The design review process and construction activities shall include these steps:

- a. Site-by-site review by Owner or his builder with Declarant of existing native vegetation.
- b. Review by Declarant of tree clearing plans.
- c. Review by Declarant of building placement so as to minimize disturbance and removal of existing native vegetation.
- d. Installation of protective identification of native vegetation during construction.
- e. Possibility of transplanting of suitable native vegetation from construction areas.

B. All areas not covered by Structures, walkways or paved parking facilities shall be maintained as lawn or landscape areas, with underground sprinkler systems, to the pavement edge of any abutting streets and to the waterline of any abutting lakes, wetland areas or water management areas, or to the edge of any area of native vegetation to be preserved. No stone, gravel, or paving of any type shall be used as a lawn unless approved as part of the final landscape plan. All landscaping shall be accomplished in accordance with a plan approved by Declarant. The determination of whether adequate provision has been made for landscaping shall be at the sole discretion of Declarant. All required lawns and landscaping shall be completed at the time of completion of the Structure as evidenced by the issuance of a Certificate of Occupancy by the appropriate governmental agency, and shall be kept in good and living condition by Owner. Unless otherwise consented to by Declarant all irrigation for Plots shall be by water supplied by Bonita Springs Water Systems, Inc., its successors or assigns and neither the Corporation nor any other person shall use water from lakes or other water bodies for irrigation purposes.

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3.7 Driveways and Parking Areas.

No concrete, asphalt or other paved residential driveways or parking areas will be permitted unless first approved by Declarant. Gravel or other unpaved driveways or parking areas shall not be permitted unless approved by Declarant. Driveways and parking areas must be constructed with materials first approved by Declarant.

3.8 Underground Utility Lines.

All electric, telephone, gas, cable television and other utility lines shall be installed underground.

3.9 Antennas, Discs and Flagpoles.

No outside antennas, discs, antenna poles, antenna masts, electronic devices, antenna towers, citizen band (CB) or amateur band (ham) antennas, or flagpoles shall be permitted except as may be approved by Declarant. An approved flagpole shall not be used as an antenna.

3.10 Temporary Structures.

No tents or temporary structures shall be permitted unless their size, appearance and temporary location on the Plot have first been approved by Declarant. Any signs to be used in conjunction with any tent or temporary Structure must also be approved by Declarant.

3.11 Accessory Structures.

No accessory Structures (including, but not limited to, playhouses, swing sets, tool or garden equipment sheds, basketball hoops, game courts, doghouses, barbecues, or like Structures) shall be permitted except with the prior approval of Declarant. Adequate landscaping shall be installed and maintained by Owner around any approved accessory Structure in sufficient quantity so that it shall not be readily visible from any adjacent street or property. All utility and storage rooms shall be at locations on the Structure as approved by Declarant.

3.12 Outdoor Equipment and Storage Areas.

All garbage and trash containers, oil tanks, bottled gas tanks, swimming pool equipment and housings and sprinkler pumps and other such outdoor equipment must be underground or placed in sight-screened, walled-in or fenced-in areas so that they shall not be readily visible from any adjacent street or property. In addition, Declarant may require that adequate landscaping be

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installed around these facilities and maintained by the Owner. No unenclosed storage area shall be permitted on any Plot. No enclosed storage area shall be constructed or erected which is separated from the principal Structure on the Plot.

3.13 Air Conditioners.

All air conditioning units shall be screened so that they shall not be readily visible from any adjacent street or property. Wall air conditioning units may be permitted only upon prior approval of Declarant. Window air conditioning units shall not be permitted.

3.14 Solar Collectors.

Solar collectors shall only be permitted at locations and on structures as are first approved by Declarant.

3.15 Signs.

No signs, freestanding or otherwise installed, shall be erected or displayed in or on any Plot or Structure, unless the placement, character, form, size, lighting and time of placement of such sign be first approved by Declarant. No sales price may be displayed on any sign. Not more than one (1) sign per Plot shall be permitted and no "for rent" or "for sale" signs shall be pasted, posted or displayed on any Structure, including, without limitation, in the window of any Dwelling Unit. No flashing signs shall be permitted. All signs must also conform with governmental code and regulations and with any master design plan for signs established by Declarant. Declarant may summarily remove and destroy all unauthorized signs and same shall not be deemed a trespass. Notwithstanding anything contained herein, Declarant shall be under no obligation to approve any signs on a Plot.

3.16 Walls, Fences and Structures.

No wall or fence shall be constructed with a height of more than six (6) feet above the ground level of an adjoining Plot or property without the prior approval of Declarant. No hedge or shrubbery abutting the Plot lines shall be permitted with a height of more than six (6) feet without the prior approval of Declarant. No wall or fence shall be constructed until its height, length, type, design, composition, material and location shall have first been approved by Declarant. The height of any wall or fence shall be measured from the existing property elevations. Any dispute as to height, length, type, design, composition or material shall be resolved by Declarant, whose decision shall be final. Hurricane, storm or weather shutters or shades shall not be stored on the exterior of any Structure without the approval of Declarant and all such shutters, shades,

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or awnings on any one Plot shall be uniform in character.

3.17 Lighting.

All exterior lighting of a Plot shall be accomplished in accordance with a lighting plan approved in writing by Declarant. Declarant may require mailbox lighting and lighting adjacent to the street lines of a Plot. Game court lighting shall only be permitted upon conditions specified by Declarant, including, but not limited to, designation of the hours of illumination.

3.18 Clothes Drying Areas.

No outdoor clothes drying area shall be allowed unless approved by Declarant.

3.19 Trucks, Commercial Vehicles, Recreation Vehicles, Mobile Homes, Boats, Campers & Trailers.

(a) No truck or other commercial vehicle of any kind shall be permitted to be parked on any Plot for a period of more than four (4) hours unless such vehicle is necessary for the construction or repair of a Structure or for ground or landscape maintenance.

(b) No truck, pick-up truck, "el camino"-type truck, motor home, recreation vehicle, or vehicle other than a non-commercial four wheel passenger automobile, or passenger van shall be permitted to be parked overnight on any Plot unless same is fully enclosed inside a Structure.

(c) No boat, boat trailer or trailer of any kind, camper, recreational vehicle, motor home, mobile home or disabled vehicle shall be permitted to be parked or stored on any Plot unless kept fully enclosed inside a Structure or parked in an area designated by Declarant for such purposes.

(d) None of the aforementioned Vehicles shall be used as a domicile or residence, either permanent or temporary.

(e) Paragraphs (a) through (d) shall not be deemed to prohibit any temporary facility otherwise permitted pursuant to this Declaration.

3.20 Pets and Animals.

(a) Commonly accepted household pets such as dogs and cats may be kept in reasonable numbers all as determined by Declarant in its sole discretion. All animals shall be contained on the Owner's Plot and shall not be permitted to roam free, or to otherwise disturb the peace of other Owners or Owners of adjacent properties.

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(b) Obnoxious animals, fowl or reptiles shall not be kept or permitted to be kept on any Plot. The determination of what is or what may be an obnoxious animal, fowl or reptile shall be determined by Declarant in its sole discretion.

3.21 Maintenance of Premises.

No weeds, underbrush, or other unsightly growth shall be permitted to grow or remain upon any Plot and no refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Plot. All lawns, landscaping and sprinkler systems and any property, Structure, improvement and appurtenance shall be kept in good, safe, clean, neat and attractive condition. Any lawn, landscaping and sprinkler system within that part of any Plot which is encumbered by a landscape easement, vegetation buffer easement, or similar easement shall be maintained by the owner of the easement. Upon the failure to maintain the premises as aforesaid to the satisfaction of Declarant and upon the Corporation, Neighborhood Association or Owner's failure to make such correction within thirty (30) days of giving of written notice by Declarant (which written notice does not have to be given by Declarant in the case of emergency, in which event, Declarant may without any prior notice directly remedy the problem), Declarant may enter upon such premises and make such improvements or correction as may be necessary, the costs of which shall be paid by the Corporation, Neighborhood Association or Owner, as the case may be, or Declarant may bring an action at law or in equity. Such entry by Declarant or its agent shall not be a trespass and by acceptance of a deed for a Plot or Dwelling Unit in Committed Property, such party has expressly given the Declarant the continuing permission to do so which permission may not be revoked. If any Owner, Corporation or Neighborhood Association fails to make payment within fifteen (15) days after request to do so by Declarant, the amounts due shall constitute and be a lien on said property in accordance with provisions of Article 6 hereof.

3.22 Water Management Areas.

(a) No Structure of any kind shall be constructed or erected, nor shall any person in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water, in any portion of any water management area reserved for, or intended by Declarant or any governmental body to be reserved for, drainage ways, sluiceways or for the accumulation or retention of runoff waters, as reflected in any plat or instrument of record or permit issued by an appropriate governmental body, without the specific written permission of Declarant.

(b) Owner shall in no way deny or prevent ingress and

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egress to such water management areas for maintenance or landscape purposes by Declarant, Corporation or any appropriate governmental agency that may reasonably require any right of ingress and egress, and easements therefore are hereby specifically reserved and created.

(c) No Plot or parcel of land shall be increased in size or altered by filling in any water or retention or drainage areas on which it abuts. Owner shall not fill, dike, rip-rap, block, divert or change the established water or retention or drainage areas that have been or may be created by easement, by plat or by permit from an appropriate governmental agency without the prior written consent of Declarant.

3.23 Conservation Areas.

In areas designated reserved for, or intended by Declarant to be reserved as, a conservation area, no person shall engage in any activity that alters the natural state of such areas. Activities prohibited within such 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; excavation, dredging or removal of soil material; diking or fencing; and any other activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat conservation or preservation.

3.24 Nuisances.

Nothing may or shall be done on Committed Property which may be or may become an annoyance or nuisance to any Person or to a Neighborhood. No obnoxious, unpleasant, unsightly or offensive activity shall be carried on, nor may anything be done, which can be reasonably construed to constitute a nuisance, public or private in nature. Any question with regard to the interpretation of this Section 3.24 shall be decided by Declarant whose decision shall be final.

3.25 Golf Course Nuisance.

No person shall during a golf tournament on the Golf Course engage in any activity whatsoever which shall interfere with the players performance during the golf tournament. Further, no obnoxious, unpleasant, unsightly or offensive activity shall be carried on which shall interfere with the play of such golf tournament. Declarant shall have, in its sole discretion, the absolute right to temporarily suspend as a distraction any or all construction activity occurring in the Committed Property during golf tournaments. Declarant shall provide all Owners so affected with reasonable prior written notice of such golf tournaments and

the dates that construction must be suspended and such dates shall be of reasonable duration. Declarant shall have no liability for any additional costs incurred by Owners or their contractors or agents during such temporary suspension of construction. Any questions with regard to the interpretation of this Section 3.25 shall be decided by Declarant, whose decision shall be final.

3.26 Windows and Sliding Doors in Dwelling Units or Business Units Facing Golf Course.

All windows and sliding doors which are in structures next to the Golf Course and which windows and sliding doors face the Golf Course shall be of tempered glass or Lexan(tm) or other similar material. The choice of such material shall be up to the Owner. No "mirrored" window or sliding doors shall be permitted.

3.27 Wells.

No well shall be drilled or installed on Committed Property without the prior approval of Declarant. Any wells for irrigation purposes shall have a mineral extraction system capable of preventing discoloration of Structures, which system shall be kept in proper operating condition at all times.

3.28 Casualty Destruction to Improvements.

In the event that a Structure or other improvement is damaged or destroyed by casualty loss or other loss, within a reasonable period of time after such incident, as determined by Declarant, the Owner thereof shall either commence to rebuild to repair the damaged Structure or improvement and diligently continue such rebuilding or repairing until completion or properly clear the damaged Structure or improvement and restore or repair the Plot or property in a manner aesthetically satisfactory to Declarant. As to any such reconstruction of a destroyed Structure or improvement, the same shall only be replaced with Structures or improvements as are approved by Declarant as provided herein.

3.29 No Implied Waiver.

The failure of Declarant to object to an Owner or another person's failure to comply with the covenants and restrictions contained herein shall in no event be deemed a waiver by Declarant, or any other Person having an interest herein, of its rights to object to the same and to seek compliance therewith in accordance with the provisions of this Declaration.

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3.30 Rights Reserved by Declarant.

Notwithstanding anything to the contrary contained in this Article 3 or elsewhere in this Declaration, Declarant and its nominees and designees shall have the right to construct, maintain and repair such Structures or improvements including conducting activities appurtenant thereto or associated therewith as Declarant deems necessary or appropriate for the development of PN. Further, notwithstanding any other provision of the Declaration, Declarant reserves and Declarant, and its nominees, designees and Grantees, shall have the right to enter into PN or the Committed Property and transact thereon any business necessary to consummate the sale, lease, improvement, repair, maintenance or encumbrance of Plots or other real property in PN including but not limited to the right to maintain models and sales offices, place signs, employ sales personnel, use the Corporation Common Areas and Neighborhoods, and show Plots. Any such models, sales areas, sales offices, improvements, construction, maintenance and repair shall not be considered a part of the Corporation Common Areas or a Neighborhood and shall remain the property of Declarant or its nominees, designees or Grantees. This section may not be suspended, superseded or modified in any manner unless such amendment is consented to by Declarant. This right of use including the transaction of business as set forth herein, like Declarant's other rights herein, and other rights reserved by Declarant may be assigned in writing by Declarant in whole or in part.

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3.31 Declarant's Exculpation and Approvals.

Declarant may grant, withhold or deny its consent, permission or approval in any instance where its consent, permission or approval is permitted or required at its sole discretion and without any liability of any nature or kind to Owner or any other Person for any reason whatsoever. Every consent, permission or approval by Declarant under this Declaration shall be in writing and binding upon all Persons.

3.32 Subdivision and Regulation of Land.

(a) No Plot shall be divided or subdivided without the prior consent of Declarant, who may impose certain requirements on Owner as a condition of consent. Declarant shall have the right to assign the number of Property Units for each Plot, notwithstanding anything contained herein and the number of Property Units assigned to a Plot by Declarant shall not be increased and shall not be exceeded without the prior approval of Declarant.

(b) No covenant, condition, restriction or other provision of this Declaration shall be construed as in any manner limiting or preventing any Plot, and the improvements thereon, from being

submitted to a plan of condominium ownership, and particularly a condominium shall not be construed as constituting a subdivision of any Plot provided that the number of Property Units of the condominium is not greater than the number of Property Units assigned to the Plot.

(c) An Owner shall not inaugurate or implement any variation from, modification to, or amendment of Declarant's Development Plan, the P.U.D., or governmental regulations, land use plans, land development regulations, zoning, development orders or development permits applicable to Committed Property or P.N., or to any Plot, without the prior written approval of Declarant.

3.33 Owner and Member Compliance.

(a) The protective covenants, conditions, restrictions and other provisions of this Declaration shall apply not only to Owners, Members and Persons to whom a Member has delegated his right of use in and to the Corporation Common Area, but also to any other Person occupying an Owner's Plot under lease from the Owner or by permission or invitation of the Owner or his tenants, expressed or implied, licensees, invitees or guests.

(b) Failure of an Owner to notify any Person of the existence of the covenants, conditions, restrictions, and other provisions of this Declaration shall not in any way act to limit or divest the right of Declarant of enforcement of these provisions against the Owner or such Person and, in addition, the Owner shall be responsible for any and all violations of these provisions by his tenants, delegates, licensees, invitees or guests, and by guests, licensees and invitees of his tenants at any time.

ARTICLE 4

PROPERTY RIGHTS
CORPORATION COMMON AREA
AND WATER BODIES

4.1. Members Rights and Easements.

Every Member shall have a non-exclusive right and easement of enjoyment and use in and to the Corporation Common Area, which right and easement shall be appurtenant to and shall pass with the title to every Plot, subject to:

(a) The right of the Corporation to charge reasonable admission and other fees for the use of any Corporation Common Area;

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(b) The right of the Corporation to suspend a Member's right to vote, and a Member's right to the use of Corporation Common Area, for any period during which any assessment against the Member's Plot or any obligation of the Member to the Corporation remains unpaid, and for a reasonable period during or after any infraction of the Corporation's rules and regulations, provided, however, that the Corporation shall not deny a Member access to his Plot;

(c) The right of the Corporation or Declarant to dedicate or transfer all or any part of the Corporation Common Area to any governmental agency, public authority, or utility (which right shall not be exercised by Corporation without Declarant's prior written approval);

(d) The right of the Declarant or Corporation to borrow money for the purpose of improving the Corporation Common Area and in aid thereof to mortgage Corporation Common Area in accordance with the terms hereof;

(e) The right of Declarant or the Corporation to take such steps as are reasonably necessary to protect Corporation Common Area against foreclosure; and

(f) The provisions of this Declaration, or any other applicable recorded instrument, the Articles and By-Laws of the Corporation; and any rules and regulations governing use and enjoyment of the Corporation Common Area adopted by the Corporation;

(g) The restrictions and limitations imposed on the conservation areas.

4.2 Delegation of Right.

(a) A Member may delegate his right of use in and to the Corporation Common Area to the members of his family, to residential tenants who reside on the Member's Plot and to the Member's guests, but only to the extent, and subject to conditions, limitations and restrictions, as may be provided for in the Governing Documents.

(b) Each Member shall be responsible for the actions of any Person to whom the Member has delegated his right to use the Corporation Common Area. Any unpaid charge against such Person shall be charged against such Member personally and be assessed against such Member's Plot. Any infraction of the Corporation's Governing Documents by such Person shall be deemed to be an infraction by such Member.

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4.3 Conveyance and Use.

(a) Any real property conveyed, leased, or the use of which has been granted by Declarant or any third party to the Corporation as Corporation Common Area is not and shall not be such conveyance, lease or grant be deemed dedicated for use by the general public but is, and shall be, deemed restricted for the common use and enjoyment of the Person or entities granted easement rights under the provisions of Paragraphs 2.4(f) and 2.5 of this Declaration.

(b) Declarant may convey property to the Corporation in either an improved or an unimproved condition, with or without any specific restrictions on its use, and Corporation, must accept each property. The Corporation shall not accept the conveyance of real property from any third party, in either an improved or unimproved condition, without the prior written consent of Declarant.

(c) In the event that the Corporation Common Areas, or a portion of the Corporation Common Areas are conveyed to the Corporation, all costs involved in such conveyance including documentary stamps, surtaxes, recording expenses, abstract, title insurance, surveys, etc. shall be borne by the Corporation. Except as herein provided, if the Corporation Common Areas are conveyed to the Corporation, the Corporation Common Areas and any improvements thereon shall not be abandoned, partitioned, subdivided, alienated or released, transferred, hypothecated, mortgaged or otherwise encumbered without first obtaining the written approval of Declarant. The preceding sentence shall not prohibit the Declarant or the Corporation from encumbering the Corporation Common Areas, provided that such encumbrances are subordinate to the provisions of this Declaration and the funds so loaned are used for improving the Corporation Common Areas. Further, the provisions hereof shall not be applicable to, nor prohibit the Declarant or Corporation from granting such easements as are reasonably necessary or appropriate for the development of the Corporation Common Areas and the use thereof in a manner consistent with the provisions of this Declaration.

4.4 Corporation's Rights and Powers.

(a) Subject to the provisions of the Governing Documents, and subject to the use rights of other persons provided for herein, the Corporation shall have the right, and the power, to develop, promulgate and enforce reasonable rules and regulations for the use and enjoyment of Corporation Common Area.

(b) No Corporation Common Area or Conservation area shall be used in violation of this Declaration or any rule or regulation or other requirement of the Corporation established pursuant to the provisions of the Governing Documents.

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4.5 Declarant's Rights and Powers.

(a) Declarant shall have the right, and the power, to regulate and control the external design and appearance of Corporation Common Area in such a manner as (i) to promote a quality environment which will preserve the value of the Member's Plots and (ii) to foster the attractiveness and functional utility of Committed Property as a place to live and play, including a harmonious relationship among structures, vegetation and topography.

(b) Except as may otherwise be provided in this Declaration, the Corporation Common Area shall be subject to the provisions of Article 3.

(c) Any use of Corporation Common Area shall be subject to the prior written approval of Declarant and any dispute as to the permissibility of a use shall be determined by Declarant.

4.6 Maintenance of Corporation Common Areas.

The Corporation shall be responsible for the maintenance, repair and replacement of the Corporation Common Area and shall keep the same in good, safe, clean, attractive and sanitary condition, order and repair at all times.

4.7 Maintenance of Lakes, Secondary Drainage and Conservation Areas.

The provisions of this Article 4.7 shall govern the maintenance of the lakes, secondary drainage facilities and conservation areas located on the Committed Property, whether or not same is a part of the Corporation Common Areas.

(a) Application of herbicide for aquatic weed control on lakes on the Committed Property shall in all instances be performed by or through the Corporation the cost and expense of which shall be an Operating Expense. All such determinations as to applications of herbicides shall be made by the Corporation.

(b) The cost and expense of maintaining and clearing all "secondary drainage facilities" (as same are defined by Declarant) on Committed Property and the cost and expense of maintaining and clearing drainage facilities not on Committed Property, but which are necessary for the proper functioning and operation of the "secondary drainage facilities" on the Committed Property shall be an Operating Expense.

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(c) The cost and expense of maintaining Conservation Areas shall be a Common Expense.

ARTICLE 5

MEMBERSHIP, VOTING RIGHTS AND PROPERTY UNITS

5.1 Members.

(a) Every Owner, the Golf Course Owner, and the Declarant shall be Members of the Corporation. Membership shall be appurtenant to and may not be separated from ownership of a Plot.

(b) Members rights, powers, duties and privileges shall be as set forth in the Articles and By-Laws.

5.2 Voting Rights.

Each member of the Corporation shall have the following voting rights:

(a) One (1) vote may be cast for each Property Unit owned by a Member. One (1) vote may be cast for each Value assigned to a Land Segment. The Golf Course Owner may cast one (1) vote. If part of the Golf Course becomes Committed Property, as a clubhouse site and/or a Lodge, then the number of votes of the clubhouse site owner or the Lodge owner shall be equal to the Values assigned in Article 7. Declarant may cast a number of votes equal three (3) times to the maximum number of Property Units permitted to be constructed by applicable governmental authorities on Committed Property owned by Declarant. In the event that two (2) or more members are the Owners of a plot, then the Member who shall be entitled to cast the vote shall be determined by the method provided for in the By-Laws.

(b) The votes of Members, other than Declarant, shall be cast at meetings of the Members by their representative (the "Representative") if the Plot owned by such Owner is operated, governed or administered by a Neighborhood Association. The Representative shall be the President of the Neighborhood Association or the holder of the President's written proxy. Such votes of the members shall be cast by the Representative in the same manner as they were cast at a meeting of the members of such Neighborhood Association duly called and held in accordance with the Articles of Incorporation and By-Laws of such Neighborhood Association. The Representative shall, prior to voting such votes at a meeting of the Members, supply the Corporation with an affidavit attesting to the outcome of such vote by the members of the Neighborhood Association.

(c) The Declarant may, in its sole discretion, assign the number of Property Units, if any, to each Plot. Any dispute as to the number of Property Units assigned to a Plot shall be decided by Declarant whose decision shall be final.

5.3 Property Units and Values.

(a) Declarant shall, upon or before its conveying legal title to a Land Segment, by the recordation of an instrument in the Public Records of Lee County containing provisions to such effect, attribute an amount of Property Units to such Land Segment or shall do so by attributing Property Units to a Land Segment in a Supplement or Neighborhood Covenants. The number of Property Units which Declarant shall so attribute to a Land Segment shall be the maximum number of Dwelling Units that may be built on such Land Segment. Declarant may however, in its sole discretion, record a subsequent amendment changing the maximum number of Dwelling Units that may be built on the Land Segment. Declarant shall incur no liability whatsoever and shall be held harmless by the Corporation and Owners in the event that the number of Dwelling Units built upon such Land Segment is different than the number attributed by Declarant.

(b) Upon Declarant's conveyance of legal title to the Land Segment to an independent third party ("Segment Owner"), the Land Segment shall be a "Contributing Plot" (as that term is hereinafter defined).

(c) The number of Values assigned to a Land Segment shall be equal to the number of Property Units assigned thereto. Declarant may, in its sole discretion, determine that the number of Values assigned to such Land Segment shall immediately upon the conveyance of legal title to such third party be equal to the number of Property Units assigned thereto, in which event the instrument attributing the Property Units to such Land Segment shall so state this fact.

(d) If the Segment Owner builds fewer Dwelling Units than the number of Property Units assigned to such Land Segment, then such Segment Owner may petition the Declarant, in a sworn petition, requesting reduction in the number of Property Units assigned to such Land Segment. Declarant, in its sole discretion, can so reduce the number of Property Units assigned to such Land Segment, which discretion shall be reasonably exercised. In the event Declarant does so reduce the number of Property Units assigned to a Land Segment, the same shall be evidenced by a written instrument executed by Declarant, recorded in the Public Records of Lee County, Florida, and same shall have the effect of reducing the maximum number of Dwelling Units which may be built on such Land Segment.

(e) The Declarant may, in its sole discretion, assign the

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number of Property Units, if any, to each Land Segment, in accordance with the provisions of this Article 5.3. Any dispute as to the number of Property Units assigned to a Land Segment shall be decided by Declarant whose decision shall be final.

5.4 Neighborhood Association.

The President of each Neighborhood Association shall be the Representative for the Neighborhood Association entitled to cast votes of the members of Neighborhood Associations on matters that the Members of the Corporation are entitled to act. No member of a Neighborhood Association, except the Representative or the Representative's proxy, may cast a vote at a meeting of the Members of the Corporation. Members of the Corporation may be present at meetings of the Board but do not have a right to speak or otherwise participate at such meetings. The Corporation shall be under no duty or obligation to determine whether the manner for determining how such votes are cast within the Neighborhood Association is correct, fair or equitable.

ARTICLE 6

COVENANT TO PAY ASSESSMENTS FOR OPERATING EXPENSES;
ESTABLISHMENT AND ENFORCEMENT OF LIENS;
CERTAIN RIGHTS OF DECLARANT AND INSTITUTIONAL MORTGAGEES

6.1 Affirmative Covenant to Pay Operating Expenses.

In order to (1) fulfill the terms, provisions, covenants and conditions contained in this Declaration; and (2) maintain, operate and preserve and improve the Corporation Common Area for the recreation, use, safety, welfare and benefit of those persons entitled to use the Corporation Common Areas, there is hereby imposed upon the Neighborhood Associations and each "Contributing Plot" (as that term is hereinafter defined in Article 7.2 hereof) an affirmative covenant and obligation to pay to the Corporation in the manner herein set forth all "Assessments" as hereinafter provided including, but not limited to, the "Individual Plot Assessments" and "Special Assessments" as hereinafter provided. Each Neighborhood Association shall have the obligation to collect the Assessments for the Contributing Plots it administers or controls and pay same to the Corporation when such Assessment is due in accordance with the terms hereof, provided however, that the Corporation may, in its sole discretion elect to collect or not collect Assessments directly from Owners. Each Owner by acceptance of a deed or other instrument of conveyance conveying a Plot, whether or not it shall be so expressed in such deed or instrument, shall be obligated and agrees to pay to the Corporation all assessments in accordance with the provisions of this Declaration and consents and agrees to the lien rights hereunder against such

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Plot. The liability for Assessments may not be avoided by waiver of the use or enjoyment of Corporation Common Areas or by abandonment of the Plot for which the Assessments are made.

6.2 Establishment of Liens.

Any and all assessments made by the Corporation in accordance with the provisions of this Declaration (the "Assessments") with interest thereon at the highest rate allowed by law and if there is no limit established by law then as established by the Corporation and costs of collection, including, but not limited to, reasonable attorneys' fees as hereinafter provided are hereby declared to be a charge and continuing lien upon the Plot against which each such Assessment is made. Each Assessment against a Plot, together with interest thereon as stated herein, and costs of collection thereof, including attorneys' fees as hereinafter provided, shall be the personal obligation of the Owner of each such Plot assessed. Said lien shall be effective only from and after the time of the recordation among the Public Records of Lee County, Florida, of a written, claim of lien by the Corporation setting forth the amount due to the Corporation as of the date the claim of lien is signed. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a satisfaction of the claim of lien in recordable form. Notwithstanding anything to the contrary herein contained, where an Institutional Mortgagee holding a first mortgage of record obtains title to a Plot as a result of foreclosure of its mortgage, such acquirer of title, its successors or assigns, shall not be liable for the share of Assessments pertaining to such Plot or chargeable to the former Owner thereof which became due prior to the acquisition of title as a result of the foreclosure, unless the Assessment against the Plot in question is secured by a claim of lien for Assessments that is recorded prior to the recordation of the mortgage which was foreclosed. The unpaid share of Operating Expenses or Assessments shall be collectible from all of the Owners, including such acquirer and his successors and assigns.

6.3 Collection of Assessments.

In the event any Owner or a Neighborhood Association shall fail to pay Assessments, or any installments thereof, charged to such Owner and/or Neighborhood Association, within fifteen (15) days after the same becomes due, then the Corporation, shall, in its sole discretion, have any and all of the following remedies, to the full extent permitted by law, which remedies are cumulative and which remedies are not in lieu of, but are in addition to, all other remedies available to the Corporation:

(a) To accelerate the entire amount of any Assessments for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.

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(b) To advance on behalf of the Owner(s) or Neighborhood Association in default funds to accomplish the needs of the Corporation up to and including the full amount for which such Owner(s) or Neighborhood Association is liable to the Corporation and the amount or amounts of monies so advanced, together with interest at the highest rate allowed by law, and if there is no limit established by law, then as established by Corporation, and all costs of collection thereof including, but not limited to, reasonable attorneys' fees at all trial and appellate levels, may thereupon be collected by the Corporation and such advance by the Corporation shall not waive the default.

(c) To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the Corporation in like manner as a foreclosure of a mortgage on real property.

(d) To file an action against the Owner at law to collect said Assessment plus interest costs and fees as provided herein without waiving any lien rights or rights of foreclosure in the Corporation.

6.4 Collection by Declarant.

In the event for any reason the Corporation shall fail to collect the Assessments, then in that event, Declarant shall at all times have the right (but not the obligation): (1) to advance such sums as the Corporation could have advanced as set forth above; and (2) to collect such Assessments and, if applicable, any such sums advanced by Declarant, by using the remedies available to the Corporation as set forth above which remedies, (including, but not limited to, recovery of attorneys' fees) are hereby declared to be available to Declarant.

6.5 Rights to Pay Assessments and Receive Reimbursement.

Declarant and any Institutional Mortgagees shall have the right, but not the obligation, jointly or singly, and at their sole option, to pay any of the Assessments which are in default and which may or have become a charge against any Plot. Further, Declarant shall have the right, but not the obligation, at its sole option, to pay insurance premiums or fidelity bond premiums or other required items of Operating Expenses on behalf of the Corporation where the same are overdue and where lapses in policies or services may occur. Declarant shall be entitled to immediate reimbursement for such overdue Operating Expenses so paid from the Corporation plus any costs of collection including, but not limited to, reasonable attorneys' fees.

ARTICLE 7

METHOD OF DETERMINING ASSESSMENTS

7.1 Determining Amount of Assessments.

(a) Budget. The total anticipated Operating Expenses for each calendar year shall be set forth in a budget (the "Budget") adopted by the Corporation as provided in the Articles and By-Laws.

(b) Individual Plot Assessment. The total anticipated Operating Expenses or the Total Guaranteed Operating Expenses during the "Guarantee Period" (hereinafter defined) (other than those Operating Expenses which are properly the subject of a Special Assessment, as hereinafter set forth) shall be apportioned to determine the "Individual Plot Assessment" as follows:

(i) There shall be assigned to each Dwelling Unit or Single Family Lot that is a Contributing Plot Value of one (1.00). The Value allocated to each Dwelling Unit shall not be changed by any consolidation of Dwelling Units into a single ownership. In the event that a fraction of a Single Family Lot is combined with an adjacent Single Family Lot, Declarant, in its discretion, may record an instrument allocating the Value of each fraction of the Single Family Lot to an adjacent Single Family Lot.

(ii) There shall be assigned to each Land Segment that is a Contributing Plot an amount of Values as set forth in Article 5.3 hereof.

(iii) There shall be assigned to the clubhouse site a Value of one (1.00) for each one-tenth of an acre contained within the clubhouse site. There shall be no assessments, whether regular or special assessments, against the rest of the Golf Course property. The provision of this subparagraph (iii) shall not be amended without the prior written approval of the Golf Course Owner.

(iv) There shall be assigned to the Lodge site a Value of one half of one (.5) for each Lodge Room, unless the Lodge is subject to a condominium form of ownership, in which case the Value shall be one (1.00) for each condominium unit in the Lodge.

(v) Subject to the provisions of Article 7.1 (c) immediately below (which provisions are only applicable during the "Guarantee Period", hereinafter defined, or any extension

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thereof), the "Individual Plot Assessment" for each Plot shall be the Product arrived at by multiplying the total anticipated Operating Expenses reflected by the Budget, other than those Operating Expenses which are properly the subject of a Special Assessment, by a fraction, the numerator of which is the Value assigned to the Contributing Plot as set forth in Article 7.1 above and the denominator of which shall be the total of all Values assigned to all Contributing Plots in existence as of the date the Budget is adopted. The total number of Contributing Plots will be adjusted from time to time in accordance with this Declaration. All questions regarding the number of Contributing Plots in existence shall be determined by the Declarant.

(c) Individual Plot Assessment During Guarantee Period: The term "Guarantee Period" shall mean the period of time commencing with the date of this Declaration and continuing through December 31, 1989. Declarant reserves the right, in its sole and absolute discretion, to extend the Guarantee Period beyond December 31, 1989, and thereafter on one (1) or more occasions to again extend it. The Corporation shall be advised in a written notice of any such extension of the Guarantee Period and the amount of the new Guaranteed Assessment at least thirty (30) days prior to the termination of the Guarantee Period or an extension thereof. During the initial Guarantee Period, it is covenanted and agreed by Declarant that Individual Plot Assessments shall not exceed an annual amount of \$1,200.00 (the "Guaranteed Assessment") and that Declarant shall pay the difference, if any, between the amount of the Guaranteed Assessments and the actual Individual Plot Assessment during such Guarantee Period. Thereafter, should Declarant elect to extend the Guarantee Period as aforesaid, the amount of such Guaranteed Assessment during such extended Guarantee Period shall be the amount set forth by Declarant in the notice to the Corporation. Upon the termination of the Guarantee Period or any extensions thereof, there shall be assigned to each acre of Committed Property owned by Declarant which is not a Neighborhood Common Area or a Corporation Common Area, a Value of one (1.00) notwithstanding any other provisions of this Declaration. The provisions of this subparagraph (c) may not be amended without Declarant's prior written consent.

(d) Notwithstanding anything contained in this Declaration to the contrary, the Individual Plot Assessment against Plots which are located in a Neighborhood governed by a Neighborhood Association shall be in the aggregate assessed against the Neighborhood and the Neighborhood Association operating such Neighborhood and shall be collected by such Neighborhood Association in the same manner and to the same extent as the common expenses of such Neighborhood. The lien set forth in Article 6.2 shall be a lien against the real property of such Neighborhood and the collection rights pursuant to Article 6.3 shall be as to all the Plots and their owners in the Neighborhood

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and to the Neighborhood Association operating such Neighborhood. Notwithstanding the foregoing, the Corporation, in its sole and absolute discretion, may elect to exercise its collection and lien rights hereunder only against the particular Plot Owner who has not paid his portion of the Assessments.

7.2 Contributing Plots.

Each Plot not a Corporation Common Area or Neighborhood Common Area or not owned by a Governmental entity, shall be a Contributing Plot. Notwithstanding anything contained herein, a Plot owned by Declarant shall not be a Contributing Plot during the Guarantee Period or any extension or renewal thereof nor ever shall be subject to Special Assessments. No lands owned by Declarant shall be a Contributing Plot.

7.3 Assessment Payments.

The Individual Plot Assessments and installments thereof may be adjusted from time to time by the Corporation to reflect changes, including but not limited to, changes in the number of Values for Contributing Plots. When a Contributing Plot comes into existence or if a new Value is assigned to a Contributing Plot, such Contributing Plot shall be deemed assessed the amount of such Assessment or installment thereof which would have been assessed against such Contributing Plot if it had such Value at the time such Assessment was originally made, prorated from the date the Contributing Plot received such new Value through the end of the period in question.

7.4 Special Assessments.

"Special Assessments" include, in addition to other Assessments designated as Special Assessments whether or not for a cost or expense which is included within the definition of "Operating Expenses", those Assessments which are levied for capital improvements which include the costs (whether in whole or in part) of constructing or acquiring improvements for or on the Corporation Common Areas or the cost (whether in whole or in part) of reconstructing or replacing such improvements. Notwithstanding anything to the contrary herein contained, it is recognized and declared that Special Assessments shall be in addition to, and are not part of, any Guaranteed Assessment, and any such Special Assessments assessed against Contributing Plots and Contributing Plot Owners shall be paid by such Contributing Plot Owners in addition to any regular Assessments. Special Assessments shall be paid in such installments or in a lump sum as the Corporation shall, from time to time, determine. Declarant shall have the right to approve all Special Assessments before they are made. NOTWITHSTANDING ANYTHING CONTAINED IN THIS DECLARATION, DECLARANT SHALL NEVER BE OBLIGATED TO PAY SPECIAL ASSESSMENTS AND PROPERTY OWNED BY DECLARANT SHALL NEVER BE ASSESSED FOR SAME.

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7.5 Liability of Contributing Plot Owners for Individual Plot Assessments.

By the acceptance of a deed or other instrument of conveyance of a Plot, each Owner thereof, other than Declarant, acknowledges that each Contributing Plot, and the Contributing Plot Owners thereof, are jointly and severally liable for their own Individual Plot Assessment and their applicable portion of any Special Assessments as well as for all Assessments for which they are liable as provided for herein. Such Owners further recognize and covenant that they are jointly and severally liable with the Owners of all Contributing Plots for the Operating Expenses. Accordingly, it is recognized and agreed by each Owner who is or becomes a Contributing Plot Owner for himself and his heirs, executors, successors and assigns that in the event Contributing Plot Owners fail or refuse to pay their Individual Plot Assessment or any portion thereof or their respective portions of any Special Assessments or other Assessments, then the other Contributing Plot Owners may be responsible for increased Individual Plot Assessments or Special or other Assessments, due to such nonpayment, and such increased Individual Plot Assessment or Special or other Assessment can and may be enforced by the Corporation and Declarant in the same manner as all other Assessments hereunder as provided in this Declaration.

ARTICLE 8
OPERATING EXPENSES; CERTAIN
ASSESSMENT CLASSIFICATIONS

The following expenses of the Corporation Common Areas and the Corporation are hereby declared to be Operating Expenses which the Corporation is obligated to assess and collect and which the Contributing Plot Owners are obligated to pay as provided herein or as may be otherwise provided in the Governing Documents:

8.1 Taxes.

Any and all taxes and special assessments levied or assessed at any and all times upon the Corporation Common Areas or any improvements thereto or thereon by any and all taxing authorities or districts, and against any and all personal property and improvements, which are now or which hereafter may be placed thereon or owned by the Corporation, including any interest, penalties and other charges which may accrue thereon.

8.2 Utility Charges.

All charges levied by utilities or districts providing

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services for the Corporation Common Areas, whether supplied by a private or public firm, including, without limitation, all charges for water, gas, electricity, telephone, sewer, and any other type of utility or any other type of service charge.

8.3 Insurance.

The premiums on the policy or policies of insurance which the Corporation, in its sole discretion determines to obtain, provided, however, that the Corporation shall obtain and maintain the following insurance coverage:

(a) Property insurance in an amount equal to the then full replacement cost, exclusive of land, foundation, excavation and other items normally excluded from such coverage, of all buildings and improvements now or hereafter located upon the Corporation Common Areas and such insurance shall afford protection against at least the following:

(i) Loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and for sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage; and

(ii) Such insurance may also afford protection against such other risks as are customarily covered with respect to areas similar to the Corporation Common Areas and serving such function.

(b) A comprehensive policy of public liability insurance and, if appropriate, owners, landlord and tenant policies naming the Corporation and the Declarant as named insureds thereof, insuring against any and all claims or demands made by any person or persons whomsoever for injuries received in connection with, or arising from, the operation, maintenance and use of the Corporation Common Areas and any improvements and buildings located thereon, and for any other risks insured against by such policies with limits of not less than One Million (\$1,000,000.00) Dollars for damages incurred or claimed by any one person for any one occurrence and not less than Five Million (\$5,000,000.00) Dollars for damages incurred or claimed for any one occurrence and for not less than Two Hundred Fifty Thousand (\$250,000.00) Dollars property damage per occurrence with no separate limits stated for the number of claims. Such coverage may include as appropriate, without limitation, protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, liability for false arrests, liability for electronic monitoring systems, libel and slander liability, host liquor liability and such other risks as are customarily covered with respect to areas similar to the Corporation Common Areas in developments similar in construction, location and use.

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(c) Such other forms of insurances and in such coverages as the Corporation shall determine to be required or beneficial for the protection or preservation of the Corporation Common Areas and any buildings and improvements now or hereafter located thereon or in the best interests of the Committed Property or the Corporation.

8.4 Reconstruction of Structures of Improvements.

Any and all sums necessary to repair, replace, construct or reconstruct any structure or improvements upon the Corporation Common Areas damaged by any casualty not covered in whole or in part by insurance. 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 an Operating Expense provided same shall be the subject of a Special Assessment, and the Corporation will levy a Special Assessment for the funds necessary to pay such Operating Expense within thirty (30) days from the date said difference is determined such damage was incurred.

8.5 Maintenance, Repair and Replacement.

Any and all expenses necessary to maintain, repair, operate, protect and replace the Corporation Common Areas and improvements thereon as well as to perform the obligations of the Corporation as provided for herein.

8.6 Lighting.

The cost of installing, maintaining, and operating any street lights now or hereafter located on the Corporation Common Areas or the Committed Property, as determined by the Declarant, to the extent any of such costs and charges are not paid for by governmental agencies or the utility company providing services with respect thereto.

8.7 Electronic Monitoring System and Security Personnel.

The cost and expense of operating electronic monitoring systems for Corporation Common Areas, if any, and the cost of employing any security personnel and operating and maintaining gate houses, privacy walls (if any), security facilities and vehicles used for monitoring or security services.

8.8 Administrative and Operational Expenses.

The costs of administration for the Corporation in the performance of its functions and duties under the Governing Documents including, but not limited to, costs for secretarial and bookkeeping services, salaries of employees, legal and

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accounting fees and contracting expenses. In addition, the Corporation may retain a management company or companies or contractors (ANY OF WHICH MANAGEMENT COMPANIES OR CONTRACTORS MAY BE, BUT ARE NOT REQUIRED TO BE, A SUBSIDIARY, AFFILIATE, OR AN OTHERWISE-RELATED ENTITY OF DECLARANT) to assist in the operation of the Corporation Common Areas, or portions thereof, and to perform or assist in the performance of certain obligations of the Corporation under the Governing Documents and the fees or costs of any management company or contractor so retained shall be deemed to be part of the Operating Expenses. Further, the Corporation may employ the necessary personnel and contract with the necessary persons or entities to carry out the obligations hereunder including maintenance and security functions.

8.9 Compliance with Laws.

The Corporation shall take such action as it determines necessary or appropriate in order for the Corporation Common Areas and the improvements thereon to be in compliance with all applicable laws, statutes, ordinances and resolutions of any governmental authority, whether federal, state or local. The cost and expense of such action taken by the Corporation shall be an Operating Expense.

8.10 Indemnification.

The Corporation covenants and agrees that it will indemnify, defend and hold harmless Declarant, and any related corporations, including but not limited to, parent corporations and their employees from and against any and all claims, suits, actions, causes of action and/or damages arising from any personal injury, loss of life and/or damage to property sustained on or about Committed Property or other property serving the Corporation, or resulting or arising out of the operation of the Corporation and improvements thereof and thereon, or resulting from or arising out of activities or operation of the Corporation, and from and against all costs, expenses, counsel fees (including, but not limited to, all trial and appellate levels and whether or not suit be instituted; expenses and liabilities incurred by Declarant arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgments and/or decrees which may be entered thereon. The costs and expense of fulfilling this covenant of indemnification set forth in this Paragraph shall be an Operating Expense to the extent such matters are not covered by the Corporation's insurance, provided that the amount of any Assessment arising therefrom shall be in addition to, and not part of, the regular Assessment during the Guarantee Period.

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8.11 Failure or Refusal of Contributing Unit Owners or Neighborhood Associations to Pay Assessments.

Funds needed for Operating Expenses due to the failure or refusal of Owners or a Neighborhood Association to pay Assessments levied shall themselves be deemed to be Operating Expenses and properly the subject of an Assessment.

8.12 Extraordinary Items.

Extraordinary items of expense under the Governing Documents such as expenses due to casualty losses, force majeure and other extraordinary circumstances shall be the subject of a Special Assessment.

8.13 Capital Payment.

The Corporation may establish a "Capital Payment" account in an amount determined by the Corporation to be necessary to pay extraordinary expenses which may be incurred by the Corporation during the period of time that PN is being developed, to make purchases for and improvements to the Corporation Common Areas and to purchase initial and future equipment and supplies. The Capital Payment account may also be used to acquire property for the use of the members or for the Corporation. In addition, the Capital Payment account may be used to make any deposits required by utility companies or to prepay insurance Premiums for policies obtained by the Corporation. A Capital Payment shall be paid by the Owners, other than Declarant, to the Corporation in addition to any other regular Assessment. A Land Segment Owner shall pay the Capital Payment for each Property Unit assigned to the Land Segment so owned at such time as is set forth in the instrument executed by Declarant assigning the Property Units to the Land Segment pursuant to the provisions of Article 5.3 of this Declaration. The Owner of a Single Family Lot shall pay the Capital Payment at such time as title to the Single Family Lot is conveyed to such Owner. In the event that a "Certified Dwelling Unit" has not yet paid the capital payment, then the Owner of the Certified Unit shall pay the Capital Payment for such Certified Unit at the time title to the Certified Unit is conveyed to such Owner. A Capital Payment shall only be paid once for each Property Unit, Single Family Lot, or Dwelling Unit. In the event that a Land Segment Owner has paid a Capital Payment for a Property Unit then the Owner of the Certified Unit shall not pay an additional Capital Payment for such Certified Unit at the time of its conveyance. Further, the Owner of a Dwelling Unit on a Single Family Lot shall not pay the Capital Payment if the Capital Payment has already been paid for the Single Family Lot. Any unused portion of the aforesaid Capital Payment may be used and applied for any proper purpose of the Corporation without any requirement that the same be credited in reduction of

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the Assessments. Capital Payments shall never be required from Declarant. Capital Payments shall be paid in addition to the Guaranteed Assessment or regular Assessment. The amount of Capital Payment shall be established by Declarant, in its sole discretion, at the time of conveyance of title by Declarant to the Owners.

8.14 Miscellaneous Expenses.

The cost of any item, or costs or expenses pertaining to or for the benefit of the Corporation or the Corporation Common Areas, or any part thereof, not herein specifically enumerated and which is determined to be an appropriate item of Operating Expense by the Board shall be an Operating Expense.

ARTICLE 9
NEIGHBORHOODS

9.1 Individual Property.

In the event that any Neighborhood Association, which has been granted a right of enforcement by Declarant, does not enforce any or all provisions of its Neighborhood Covenants or perform any of its duties and responsibilities pursuant to its articles of incorporation, by-laws or rules and regulations, Declarant or, in Declarant's sole discretion, the Corporation may enforce such Neighborhood Covenants, and perform such duties and responsibilities, including any and all maintenance provisions, and obtain the payment of the cost of such enforcement and maintenance pursuant to the provisions of Article 6. Declarant shall be entitled to reimbursement of attorneys' fees and court costs, as set forth in Article 2.7(d), incurred during the enforcement by it of Neighborhood Covenants.

9.2 Entry Rights.

Each Neighborhood Association and each Owner shall permit Declarant, the Corporation, their designee, or any agent or employee to enter upon the Neighborhood and upon the Owner's Plot at reasonable times, to carry out the provisions of this Declaration and the same shall not constitute a trespass.

9.3 Neighborhood Common Area.

(a) The cost and expense of the Neighborhood Common Areas shall not be an Operating Expense of the Corporation but shall be borne by the Owners of the Plots located in the Neighborhood.

(b) The Corporation may contract with any Neighborhood Association to provide for the operation and maintenance of its Neighborhood Common Area.

(c) Notwithstanding anything contained herein, Declarant reserves the right, in its sole discretion, to cause portions of the Corporation Common Area to become Neighborhood Common Area by the recordation of an instrument containing provisions to that effect in the Public Records of Lee County, Florida. Upon recordation of such an instrument, the real property described therein shall no longer be a Corporation Common Area but shall be a Neighborhood Common Area and the use and easement rights and the obligations pertaining thereto, including but not limited to, maintenance and administration obligations shall be those pertaining to such Neighborhood Common Area and not Corporation Common Area. Further, the expense thereof shall no longer be an Operating Expense. Provided that such act shall not deprive any owner or the Golf Course Owner of a means of ingress and egress to and from a publicly dedicated road or a means of being furnished those public utilities or services which were immediately prior thereto being furnished.

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9.4 Neighborhood Covenants.

Declarant reserves the right, and the power, without the consent of any other Person being required:

(a) To amend the specific provisions of this Declaration insofar as they apply to one or more Neighborhoods without amending those Provisions with respect to all Neighborhoods.

(b) To supplement this Declaration by recording separate covenants, conditions, restrictions and other provisions applying to any specific Neighborhood.

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(c) To determine consistency of all Neighborhood Covenants with this Declaration and the Plan of development of PN, and approve and consent to all Neighborhood Covenants prior to the recordation in the Public Records of Lee County. Neighborhood Covenants shall not be effective until Declarant approves and consents to same.

9.5 Special Assessments.

The Corporation may specially assess the Owners in a Neighborhood for expenses specifically incurred by the Corporation for such Neighborhood.

ARTICLE 10
GENERAL AND PROCEDURAL PROVISIONS

10.1 Utility Easements.

(a) There is hereby reserved, for the purpose of installing, operating and maintaining governmental, public or private utility facilities, and for other purposes incidental to the development of PN, those easements shown upon the Plat and as may be shown on any future recorded plats of PN, and there is also hereby reserved within such easements, areas and rights-of-way for such other purposes as Declarant in its sole discretion may in the future determine.

(b) Declarant hereby reserves the right for itself and the Corporation, and the power, during a period of thirty (30) years from the date of the recordation of this Declaration, to declare and file of record, additional easements granting the full free right, power and authority to lay, operate and maintain such drainage facilities, sanitary sewer lines, potable and irrigation water lines, storm sewers, gas and electric lines, communication lines, cable television lines, and such other and further public service facilities as Declarant or the Corporation may deem necessary, along, through, in, over and under a strip of land up to ten (10) feet in width from all sides, front and rear lines of any Plot and no Structure shall be placed on such ten (10) foot strip. The duration of any such easement shall be as set forth in an instrument of record. Said easements and the rights granted shall not be inconsistent with the then existing improvements on the applicable portions of the Plot.

(c) Declarant, for itself, its nominees and the Corporation, reserves the right to impose upon the Corporation Common Area henceforth and from time to time such easements and cross-easements for ingress and egress and the installation, maintenance, construction and repair of facilities, including, but not limited to, electric power, telephone, golf cart crossings, governmental purposes, sewer, water, gas, drainage, irrigation, lighting, television transmission, security, garbage and waste removal and the like as it deems to be in the best interest of, and necessary and proper for PN, the Committed Property or the Golf Course.

10.2 Public Facilities.

In order to supplement the public facilities and services that may be furnished by any local governmental agency, and in order to provide additional facilities and services that may not be otherwise available, Declarant is hereby authorized and empowered by all of the Owners, when Declarant in its sole discretion determines that it is necessary or desirable, to act on their behalf to contract for the installation of a water plant

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and supply system, irrigation water system, a gas system, a sewage disposal plant and sanitary sewer system, storm sewers, gutters, curbs, bike paths and sidewalks, street lighting and any other facilities or services customarily furnished or provided by local governmental agencies. Each Owner shall be liable for and shall promptly pay to the Declarant a pro-rata share of the cost of said water plant and supply system, irrigation water system, gas system, sewage disposal plant and sanitary sewer systems, storm sewers, gutters, curbs, bike paths, sidewalks, street lighting or other facilities or services, and said cost shall be apportioned among the Plots in proportion to their front footage, square footage, assessed value, or by any other reasonable method as determined by the Declarant in its sole discretion. Payment shall be due and payable immediately upon letting of the contract for any of the construction of such facilities. The judgment of the Declarant in the letting of such contract and the expenditure of said funds in compliance with such contract shall be final. Each Owner shall be vested with the right to benefit from (subject to charges for the use thereof) any water plant and supply system, irrigation water system, gas system, sewage disposal plant and sanitary sewer system, storm sewers, gutters, curbs, bike paths, sidewalks, street lighting and other facilities and services. Each Owner shall install, subject to the written approval of Declarant, all sewer connections, both storm and sanitary, so that direct connections can be made to the nearest street, alley main or collection lines and the plan for such sewer connections shall be submitted to Declarant for approval prior to commencement of said construction. No Owner shall install any potable or irrigation well or draw irrigation water from any lake or drainage area without the prior written approval of Declarant.

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10.3 Declaration and General Protective Covenants Run With The Land.

The covenants, reservations, restrictions and other provisions of this Declaration shall run with and bind the Committed Property subject hereto and shall inure to the benefit of the Declarant and all Owners subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from (i) the date this Declaration is recorded, or (ii) the date of the last addition of land to the Committed Property in accordance with the provisions of Article 2, whichever is later, but not more than forty (40) years from the date of this Declaration, after which time these covenants, conditions, restrictions, and other Provisions shall automatically be extended for successive periods of ten (10) years, unless an instrument signed by the then Owners of Plots assigned at least two-thirds (2/3) of the Property Units has been recorded agreeing to change or terminate (if not prohibited by other provisions of this Declaration) these covenants, conditions, restrictions or provisions in whole or in part.

10.4 Completion of Construction Remedy.

When the construction of any structure is once begun, work thereon must be prosecuted diligently and completed within a reasonable time. If for any reason work is discontinued or there is no substantial progress toward completion for a continuous sixty (60) day period, then Declarant shall have the right to notify the Owner of its intentions herein, enter the Plot and take such steps as might be required to correct the undesirable appearance or existence of the Structure, including, but not limited to, demolition and/or removal thereof, and/or pursue any of the remedies under this Declaration as Declarant determines.

The reason for such correction shall be solely in the discretion of Declarant and may include but not be limited to aesthetic grounds. The Owner shall be liable for all costs and attorneys' fees incurred in such action which shall be a continuing lien against said Plot collectable in accordance with Article 6.

10.5 Non-Liability of Declarant.

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

10.6 Amendment of Declaration.

(a) In addition to any other right of amendment or modification provided for in this Declaration, Declarant may at any time, in its sole discretion, by an instrument filed of record, modify, enlarge, amend, waive, add to, or vacate as to a portion of the Committed Property, the covenants, conditions, restrictions and other provisions of this Declaration so long as the same does not substantially impair the General Development Plan.

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

(i) Amendments or modifications shall be made only by Declarant without the requirement of the Corporation's consent or the consent of the Owners or the Neighborhood Associations; provided, however, that the Corporation shall, forthwith but not more than 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 of modification, if any, shall not be cause to prevent such

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modification or amendment from being made by Declarant or to affect the validity thereof.

(ii) In the alternative, this Declaration may be amended (a) by the consent of the Contributing Plot Owners of two-thirds (2/3) of all Contributing Plots together with (b) the approval or ratification of a majority of the Board of Directors of the Corporation provided, however, that no such amendment shall be effective unless Declarant joins in said Amendment for so long as Declarant owns any Plots. The aforementioned consent of the Contributing Plot Owners may be evidenced by a writing signed by the required number thereof or by the affirmative vote of the required number thereof or their Representative at any regular or special meeting of the Corporation called and held in accordance with the By-Laws, evidenced by a certificate of the Secretary or an assistant secretary of the Corporation.

(iii) Amendments for correction of scrivener's error or other non-material changes may be made by Declarant alone without the need of consent of the Contributing Plot Owners.

(iv) Notwithstanding anything to the contrary herein contained, no amendment to this Declaration shall be effective which shall impair or prejudice the rights or priorities of Declarant, the Corporation, or the Golf Course Owner, under this Declaration or any other of the Governing Documents without specific written approval of such Declarant, Corporation, or Golf Course Owner affected thereby.

(v) A true copy of any amendment to this Declaration shall be sent certified mail by the Corporation to Declarant within five (5) days of its adoption.

(vi) Notwithstanding anything contained herein, Supplements are not amendments and need be executed only by Declarant.

(vii) Notwithstanding anything contained herein, the Neighborhood Covenants are not amendments and need be executed only by Declarant.

(viii) Notwithstanding anything contained to the contrary herein no amendment would modify or amend those portions of this Declaration concerning water management areas, lakes, drainage facilities or conservation areas shall be effective without the prior written approval of the South Florida Water Management District, its successors or assigns.

10.7 Other Documents.

Declarant, Corporation, any Neighborhood Association, or other entity provided for herein or in any applicable recorded

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instrument shall have such rights, powers, duties, and privileges as set forth herein or in the articles of incorporation, by-laws and other constituent documents of such entity; however, no such entity may have rights, duties, powers or privileges that are in conflict with the provisions of this Declaration, which shall prevail in all events of conflict.

10.8 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, then such 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.

10.9 Dissolution.

In the event of dissolution of the Corporation, each Plot shall continue to be subject to the assessments specified in this Declaration and each Owner shall continue to be personally obligated to Declarant or the successor or assigns of Corporation as the case may be for such assessment to the extent that such assessments are required to enable Declarant or any such successors or assigns acquiring any real property previously owned by the Corporation to properly maintain, operate and preserve it. The provisions of this Section 10.9 shall only apply with regard to the maintenance, operation and preservation of property which has been Corporation Common Area and continues to be so used for the common use and enjoyment of Owners.

10.10 Gender.

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.

10.11 Notices.

(a) To Declarant. Notice to Declarant as may be required or desired herein shall be in writing and delivered or mailed to Declarant 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 Declarant.

(b) To Corporation. Notice to Corporation as may be required herein or the By-Laws shall be in writing and delivered or mailed to the Corporation 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 Corporation.

(c) To Owner. Notice to any Owner of a violation of any of

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these restrictions, or any other notice as may be required herein shall be in writing and shall be delivered or mailed to the Owner at the address shown on the tax rolls of Lee County, Florida, or to the address of the Owner, as shown on the deed recorded in the Public Records of Lee County, Florida, or to the address of the Owner as filed with the Secretary of the Corporation, or if an Owner be a corporation, to its Principal place of business as shown by the records of the Secretary of State (of Florida or its state of incorporation).

10.12 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 Preamble.

IN WITNESS WHEREOF the Declarant and Corporation have caused this Declaration to be executed and the corporate seals to be affixed hereto, all on the day and year first above written.

Declarant:

WESTINGHOUSE COMMUNITIES OF NAPLES, INC.

By: [Signature]
Byron R. Koste, President

Attest: [Signature]
Louis H. Hoegsted,
Assistant Secretary

Joined by Corporation:

PELICAN'S NEST COMMUNITY
ASSOCIATION, INC.

By: [Signature]
Samuel L. Crouch, President

Attest: [Signature]
Louis H. Hoegsted, Secretary

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STATE OF FLORIDA)
COUNTY OF COLLIER)

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to take acknowledgements, Byron R. Koste and Louis H. Hoegsted, the President and Assistant Secretary, respectively, of WESTINGHOUSE COMMUNITIES OF NAPLES, INC., to me know to be the persons who signed the foregoing instrument as such officers, and they severally acknowledged that the execution thereof was their free act and deed as such officers for the uses and purposes therein expressed and that the said instrument is the act and deed of said Florida Corporation not-for-profit.

WITNESS my hand and official seal in the County and State last aforesaid this 17th day of November, 1988.

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Notary Public
My Commission Expires:

(SEAL)


NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. MAY 28, 1992
BONDED THRU GENERAL INV. INC.

STATE OF FLORIDA
COUNTY OF COLLIER

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Samuel L. Crouch, President, Pelican's Nest Community Association, Inc. to me known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed same.

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WITNESS my hand and official seal in the County and State last aforesaid this 17th day of November, 1988.


Notary Public
My Commission Expires:

(SEAL)

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. MAY 28, 1992
BONDED THRU GENERAL INV. INC.

PELDEC-111588

FELICAN'S NEST
LEGAL DESCRIPTION

Portions of Sections 17 and 20, Township 47 South, Range 25 East, Lee County, Florida, more particularly described as the southeast one-quarter of Section 17, Township 47 South, Range 25 East together with that portion of the east one-half of Section 20, Township 47 South, Range 25 East lying northerly and easterly of the centerline of Spring Creek, together with that portion of the northwest one-quarter of Section 20, Township 47 South, Range 25 East lying easterly of the centerline of the most easterly branch of Spring Creek, less the north 660.00 feet thereof, subject to easements and dedications of record.

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EXHIBIT "A"

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COMMITTED PROPERTY
LEGAL DESCRIPTION

Pelican's Nest Unit One, according to the plat thereof as recorded in Plat Book 41, Pages 58-60, inclusive, in the Public Records of Lee County, Florida

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EXHIBIT 'B'

CORPORATION COMMON AREA
LEGAL DESCRIPTION

Tract D and Tract E, Pelican's Nest Unit One, according to the plat thereof as recorded in Plat Book 41, Pages 58-60, inclusive, in the Public Records of Lee County, Florida.

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Nov 17 10 54 AM '88

RECORDED & RECORD VERIFIED
Shelley
BY CIRCUIT CLERK

EXHIBIT "C"