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Division of Corporations

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MERGER OR SHARE EXCHANGE
THE SURF CLUB, INC.

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ARTICLES OF MERGER

of

SC PROPERTY ACQUISITION MERGER SUB LLC
(a Florida limited liability company)

into

THE SURF CLUB, INC.
(a Florida not for profit corporation)

SC PROPERTY ACQUISITION MERGER SUB LLC, a Florida limited liability company ("Merger Subsidiary") and **THE SURF CLUB, INC.**, a Florida not for profit corporation (the "Surviving Corporation") hereby adopt the following Articles of Merger:

1. The Surviving Corporation and SC Property Acquisition Sub Two LLC (the "Company"), are parties to that certain Agreement and Plan of Merger, dated as of September 8, 2012 (the "Agreement"). The Merger Subsidiary is a wholly-owned subsidiary of the Company.

2. The Agreement provides for the merger of the Merger Subsidiary with and into the Surviving Corporation (the "Merger") on the terms set forth therein and in the Plan of Merger attached hereto as Exhibit "A" (the "Plan of Merger").

3. The Plan of Merger was adopted and approved by the written consent of the sole Manager of the Merger Subsidiary on December 7, 2012, which constituted a sufficient number of votes to approve the Plan of Merger.

4. The Plan of Merger was adopted and approved (a) by the affirmative vote of the Board of Governors of the Surviving Corporation, at a special meeting of the Surviving Corporation's Board of Governors held on September 8, 2012, and (b) by ninety-two percent (92%) of the voting members of the Surviving Corporation, at a special meeting of the Surviving Corporation members held on September 8, 2012, which, in each case, constituted a sufficient number of votes to approve the Plan of Merger.

5. The Merger will become effective at 12:00 a.m. on December 7, 2012.

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IN WITNESS WHEREOF, these Articles of Merger have been executed by a duly authorized officer of each of the Merger Subsidiary and the Surviving Corporation as of this 7th day of December, 2012.

SC PROPERTY ACQUISITION MERGER SUB LLC

By: 
Nadim Achi, Manager

THE SURF CLUB, INC.

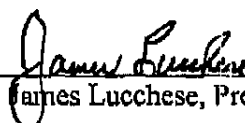
By: 
James Lucchese, President

EXHIBIT "A" TO ARTICLES OF MERGER**PLAN OF MERGER**

of

SC PROPERTY ACQUISITION MERGER SUB LLC
(a Florida limited liability company)

into

THE SURF CLUB, INC.
(a Florida not for profit corporation)

THIS PLAN OF MERGER (this "Plan") is made and entered into effective as of the 7th day of December, 2012, by and among **SC PROPERTY ACQUISITION SUB TWO LLC**, a Florida limited liability company (the "Company"), **SC PROPERTY ACQUISITION MERGER SUB LLC**, a Florida limited liability company (the "Merger Subsidiary") and **THE SURF CLUB, INC.**, a Florida not-for-profit corporation (the "Club"). Capitalized terms used in this Plan and not otherwise defined herein shall have the meanings set forth in Annex A attached hereto.

Article 1
The Merger

1.1 The Merger. Upon the terms and subject to the conditions set forth herein, on the Closing Date, the Parties agree to the following and agree to undertake the following actions:

- (a) The Merger Subsidiary is wholly-owned subsidiary of the Company.
- (b) The Merger Subsidiary will merge with and into the Club, with the Club to be the surviving corporation in the Merger (the "Surviving Corporation").
- (c) As a result of the Merger, all outstanding Proprietor Member Certificates ("Proprietor Certificates") of the Club as of the Closing Date (as determined based on the Closing Census) shall be cancelled and be automatically converted into the right to receive a Proportionate Share of the Merger Consideration pursuant to Article 2 hereof. As of the Closing Date the membership of the Club shall consist solely and exclusively of the classes of membership described in the Amended and Restated By-Laws (as defined below) and all Persons who are Proprietor Members or Non-Proprietor Regular Members in good standing and current on all amounts owed to the Club immediately prior to the Closing Date (the "Continuing Members") shall, as of the Closing Date, automatically, by virtue of the Merger and without further action on the part of such Members, become members of the Social Club of the Surviving Corporation, unless they opt out by written notification to the Social Club, as follows:

- (i) those Proprietor Members shall be "Founding Members;" and
- (ii) those Non-Proprietor Regular Members shall be "Regular Members."

All other Persons who are Members of the Club other than Proprietor Members or Non-Proprietor Regular Members immediately prior to the Closing Date shall, as of the Closing Date, automatically, by virtue of the Merger and without further action on the part of such Members, cease to be members of the Surviving Corporation.

Immediately upon the Closing the Continuing Members shall have all their respective rights and privileges of membership in the Club, including continued use of the Club properties, facilities, and amenities, subject to such reasonable conditions, restrictions and obligations imposed on the members of the Social Club by the Amended and Restated By-Laws (as defined below) and other governing documents of the Club, as may be reasonably established, in each case as may be amended from time to time, but not in a manner that in any way deprives the Continuing Members of their rights under Section 1.2 of the Agreement, or that imposes financial obligations on such Continuing Members beyond food, beverages, beach charges, normal incidentals, or annual membership fees required to be paid by Non-Proprietor Regular Members.

(d) As a result of the Merger, all of the equity interests of the Merger Subsidiary held by the Company will be cancelled and converted into the sole Proprietor Membership of the Surviving Corporation such that, as a result of the Merger, the Company will become the sole Proprietor Member of the Surviving Corporation.

(e) At the Effective Time the articles of incorporation attached as Exhibit A to this Plan will become the articles of incorporation of the Surviving Corporation and the by-laws attached as Exhibit B to this Plan will become the bylaws of the Surviving Corporation (the "Amended and Restated By-Laws").

(f) At the Effective Time the officers and governors/directors listed in Exhibit A to the Amended and Restated By-Laws will become the officers of the governors/directors of the Surviving Corporation until their respective successors are duly elected or appointed or qualified.

Article 2 Merger Consideration

2.1 Merger Consideration. For purposes of this Plan, the "Merger Consideration" will be an amount equal to \$116,000,000.00 (the "Base Amount") *plus* the Contingent Consideration, if any, as determined pursuant to Section 2.2 hereof *less* the amount of the Closing Liabilities to be paid at Closing pursuant to Section 2.3(a) hereof. The Merger Consideration shall be allocated and paid in accordance with Section 2.3 below, and shall not be renegotiated or reduced for any reason by either Party.

2.2 Contingent Consideration. The Base Amount was agreed to on the assumption that the Redevelopment will result in the North and South Towers consisting of not more than fourteen (14) residential floors each. In the event that the Redevelopment consists of less than the assumed twelve (12) residential floors per tower, the Base Amount shall remain unchanged and shall not be

reduced. In the event the Redevelopment results in construction of more than twenty-eight (28) residential floors in the aggregate in the North Tower and the South Tower, or any other tower included in the Redevelopment, the Merger Consideration will be increased by an amount (the "Contingent Consideration") equal to \$2,500,000.00 for each such additional residential floor constructed; provided, however, it is acknowledged and agreed that the scope of the Redevelopment shall be at the sole and absolute discretion of the Company and the Company shall have no obligation to construct or maximize the number of residential floors contained in the Redevelopment; provided, further, the Company shall not, directly or indirectly, whether through the use of an Affiliate or otherwise, take any act or engage in any transaction in connection with the Redevelopment intended to circumvent its obligation to pay the Contingent Consideration on the terms and conditions contained in this Section 2.2. The Contingent Consideration set forth herein shall be paid by the Company or its assignees upon obtaining a permanent certificate of occupancy for any portion of the Residential Component of the Redevelopment which results in construction of more than twenty-eight (28) residential floors as contemplated pursuant to this Section 2.2

2.3 Payment of Merger Consideration. The Company will pay the Merger Consideration as follows:

(a) At the Closing, the Company will pay to the Proprietor Members' Representative on behalf of each Proprietor Member as of the Effective Time (as determined based on the Closing Census) an amount (the "Closing Amount") equal to:

- (i) the Base Amount;
- (ii) *plus* all cash of the Club on hand or located in any of the bank accounts of the Club as of the Closing Date (less the amount of any Contract Deposits and any prepaid membership dues paid by Non-Proprietor Regular Members);
- (iii) *plus* the value at cost of all food and liquor existing at the Club as close of the Business on the day immediately preceding Closing;
- (iv) *less* the amount of the Deposit, which shall be separately released by the Escrow Agent at Closing to the Proprietor Members' Representative;
- (v) *less* the amount of the Closing Liabilities (including the amount of the Payoff Amounts due any Proprietor Member for outstanding Proprietor Member Loans) to be paid by the Company at Closing pursuant to the Agreement and the amount of Broker's Fees;
- (vi) and as adjusted pursuant to Section 2.4 below.

The foregoing amounts and adjustments shall be confirmed by the Parties in a closing statement executed and delivered at Closing and, upon receipt of the Closing Amount together with the Deposit, the Proprietor Members' Representative shall immediately distribute such amount as follows:

- (1) to each Proprietor Member his or her Proportionate Share of the Closing Amount, and less (A) each Proprietor Member's proportionate share of the aggregate sum of \$3,050,000.00 (i.e., \$25,000.00 each from a total of 122 Proprietor Members) (collectively, the "Holdback Amount"), which shall be delivered to and held by the Holdback Escrow Agent in accordance with the Agreement; and (B) all fees and expenses charged by the Proprietor Members' Representative as provided for in the Agreement;
- (2) to the Fund, any amounts the Proprietor Members have elected to use to acquire equity interests of the Fund pursuant to Section 2.3(c) below; and

following which the Proprietor Members' Representative shall provide written evidence of such distributions to the Company.

(b) Following the Closing the Company will pay to the Proprietor Members' Representative on behalf of the Proprietor Members as of the Effective Time (as determined pursuant to the Closing Census) any Contingent Consideration due in accordance with Section 2.2 hereof. Upon receipt of such amount the Proprietor Members' Representative shall immediately distribute to each such Proprietor Member his or her Proportionate Share of such Contingent Consideration, following which the Proprietor Members' Representative shall provide written evidence of such distributions to the Company.

(c) In lieu of receiving cash at Closing for the entirety of his or her Proportionate Share of the Closing Amount, each Proprietor Member shall, by delivery of written notice to the Company on or before the date that is fifteen (15) Business Days prior to Closing, have the option to elect to use either (i) all of his or her Proportionate Share of the Closing Amount or (ii) fifty percent (50%) of his or her Proportionate Share of the Closing Amount, to purchase a number of equity interests in the Fund having an equivalent value and representing an equity investment in the Company. Such investment shall be established in and subject to a separate written subscription agreement to be provided by the Company in the form attached to the Agreement as Exhibit A (the "Subscription Agreement") which shall have been provided to each Proprietor Member no later than October 31, 2012, and shall be at the same price and on the same terms as those applicable to all other Proprietor Members electing such option with respect to their Proportionate Share of the Closing Amount; provided, however, notwithstanding anything to the contrary herein, the cumulative total equity interests in the Fund to be issued pursuant to this Section shall not exceed a value equivalent to ten percent (10%) of the Base Amount (the "Maximum Amount"). In the event the cumulative total equity interests in the Fund to be issued pursuant to this Section exceeds the Maximum Amount, the number of equity interests in the Fund to be issued to each electing Proprietor Member pursuant to this Section shall be reduced on a pro-rata basis such that cumulative total equity interests in the Fund to be issued pursuant to this Section will not exceed the Maximum Amount. The equity interests in the Fund to be issued pursuant to this Section shall be issued and consummated at Closing to each electing Proprietor Member who has executed and delivered their respective Subscription Agreement on or before the date that is fifteen (15) Business Days prior to Closing (i.e., not later than November 23, 2012, assuming a Closing Date of December 14, 2012) (the "Subscription Deadline") unless otherwise agreed to by the Company in writing. Any Proprietor Member who does not execute and deliver their respective Subscription Agreement and such other

documentation on or before the Subscription Deadline shall, subject to the Agreement, receive his, her or its Proportionate Share of the Closing Amount paid pursuant to Section 2.3(a) above in cash irrespective of such Proprietor Member's election under this Section. The equity interests in the Fund to be issued to the Proprietor Members hereunder shall be a separate class of equity interests issued only to Proprietor Members, but shall have economic rights identical to those of equity interests issued generally to investors in the Fund. Any investment in the Fund pursuant hereto shall be governed by and subject to the Fund's Confidential Offering Memorandum and related documents. Each Proprietor Member will be required to acknowledge and agree that any investment in the Fund is a speculative investment subject to substantial risks, including the possible loss of the principal amount invested and the other risk factors as stated in the Fund's Confidential Offering Memorandum, (which shall be made available to each Proprietor Member concurrently with their receipt of the Subscription Agreement), together with such updates and related documentation (if any) as may be provided by October 31, 2012.

2.4 Prorations. Property taxes for the Owned Real Property for 2012 shall be paid by the Club at or prior to Closing. Otherwise all taxes, assessed values and assessments for real and personal property taxes due but not yet paid for the period prior to the Closing and all operating expenses of the Owned Real Property during such period (including but not limited to water, sewer, electric, gas, telephone and other utility charges, special assessments and other fees or charges due as of the Closing Date (whether or not invoiced by the provider as of such date)) shall be paid by the Club at the Closing and prorated as of the Closing Date. Estimated utility charges shall be based on 2011 rates (as reasonably agreed by the Parties) if the applicable charges have not been set or billed as of the Closing Date. Following the Closing Date, the Company will cooperate reasonably with any appeal of property taxes for the 2011 and 2012 tax years undertaken by or for the benefit of the Proprietor Members, provided that neither the Company nor the Club will be required to take any action in connection therewith that may involve a cost to the Company or the Club unless and to the extent such cost is borne by the Proprietor Members. Any recovery obtained as a result of any appeal referenced in the preceding sentence shall be for the benefit of the Proprietor Members and shall be provided to the Proprietor Members' Representative for distribution.

Signatures on Next Page

IN WITNESS WHEREOF, the parties have executed this Plan as of the date first written above.

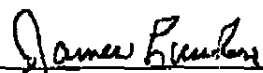
SC PROPERTY ACQUISITION MERGER SUB, INC.

By: 
Nadim Achi, Manager

SC PROPERTY ACQUISITION SUB TWO LLC

By: 
Nadim Achi, Manager

THE SURF CLUB, INC.

By: 
James Lucchese, President

ANNEX "A" TO PLAN OF MERGER**DEFINED TERMS**

"Affiliate" means, with respect to a particular Person, another Person that directly or indirectly (through one or more intermediaries) controls, is controlled by, or is under common control with, the Person in question.

"Agreement" means that Agreement and Plan of Merger, including any Annexes, Exhibits and Schedules thereto, dated September 8, 2012 between the Club, the Company and the Merger Subsidiary.

"Articles of Merger" means the Articles of Merger to be filed pursuant to the Agreement to effectuate the Merger.

"Broker's Fees" means the \$1,000,000 broker fee to be paid as compensation to EWM Realty International and its agent, Nelson Gonzalez, who has acted as the Club's broker with respect to the Contemplated Transaction.

"Business" means the business of owning and operating a private membership beach club located at 9011 Collins Avenue, Surfside, Florida 33154, commonly known as *"The Surf Club"*.

"Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in Miami, Florida are authorized or required by Law to close.

"Closing" means the closing of the Contemplated Transaction.

"Closing Date" means the date on which the Closing occurs.

"Closing Census" means the Closing census to be delivered pursuant to the Agreement.

"Closing Liabilities" means the Club's ascertained Liabilities as of the Closing Date, as specifically established in the certificate to be delivered by the Club at Closing in accordance with the Agreement; provided, however, the Closing Liabilities shall not include the operating leases or the executory Liabilities of the Club under its Contracts, to the extent such Liabilities arise from the Company's conduct of the Business after the Closing Date.

"Confirmation Letter" means the Confirmation Letter (and supporting documentation required thereby) received pursuant to the Agreement.

"Contemplated Transaction" means the Merger and the other transactions expressly contemplated by the Agreement or the Transaction Documents.

"Contract" means each lease, license, contract, instrument and agreement, written or oral, to which the Club is a party at the Closing Date, by which the Club is bound or from which the Club benefits.

"Contract Deposit" means amounts securing a wedding, reception, banquet, meeting or other event or obligation of the Club to be performed following the Closing.

"Deposit" means the Company's deposit on account with the Escrow Agent pursuant to the Agreement.

"Effective Time" means the time and date on which the Merger will become effective pursuant to the Articles of Merger.

"Escrow Agent" means Zarco Einhorn Salkowski & Brito, P.A.

"Fund" means North Bay Surf Club Real Estate Investment Company, LLC, a Florida limited liability company.

"Governmental Authority" means any federal, state, local or foreign government or any subdivision, agency, instrumentality, authority, department, commission, board or bureau thereof, provided, in each case, that the relevant action in any given circumstance has the force of Law, or any federal, state, local or foreign court, tribunal or arbitrator of competent jurisdiction.

"Holdback Escrow Agent" means a mutually agreed, reputable third-party banking institution.

"Law" means any provision of any federal, state, local or foreign law, statute, ordinance, charter, constitution, treaty, code, rule, regulation or guidelines, or any order, decree or ruling.

"Liability" or "Liabilities" means any debt, liability or obligation of any nature, whether secured, unsecured, recourse, non-recourse, liquidated, unliquidated, accrued, absolute, fixed, contingent, ascertained, unascertained, known, unknown or otherwise.

"Members" means all Proprietor Members, Non-Proprietor Regular Members, and other members of the Club as set forth in Schedule 4.2 to the Agreement.

"North Tower" means the north mid-rise building proposed to be constructed as part of the Residential Component.

"Owned Real Property" means the real properties owned by the Club as set forth in Schedule 4.8 to the Agreement.

"Party" or "Parties" means the Club, the Company and, as applicable, the Proprietor Members' Representative.

"Payoff Amount" means the amount to be paid to fully and completely satisfy the Proprietor Member Lender's Proprietor Member Loans at Closing pursuant to the Agreement.

"Person" means any corporation, partnership, joint venture, limited liability company, organization, entity, authority, or individual.

"Proportionate Share" means the percentage of the Merger Consideration to be distributed to each of the Proprietor Members pursuant to Section 2.3 hereof as determined by dividing (a) the Proprietor Membership interest held by the recipient Proprietor Member by (ii) the aggregate Proprietor Membership interest of the Club held by all the Proprietor Members.

"Proprietor Member" means the Proprietor Members of the Club as described in the Club's By-laws (but not any holder of an Inactive Proprietor Certificate).

"Proprietor Member Lender" means those Proprietor Members of the Club who lent money to the Club as evidenced by outstanding Promissory Notes as listed on Schedule 6.12 to the Agreement.

"Proprietor Member Loans" means the outstanding Proprietor Member loans to the Club.

"Proprietor Members' Representative" means the Person appointed to represent the Proprietor

Members pursuant to the Agreement.

"Redevelopment" means the Company's redevelopment the Club, its assets and properties and the Business following the Closing.

"Regular Members" means the Regular Members of the Club consisting of Proprietor Members and non-Proprietor members as described in the Club's By-laws.

"Residential Component" means the North and South Tower and other residential components to be constructed as part of the Redevelopment.

"Social Club" means the social club component to be developed by the Company as part of the Redevelopment.

"South Tower" means the south mid-rise building proposed to be constructed as part of the Residential Component.

"Transaction Documents" means, other than the Agreement, all documents, agreements, certificates and similar items to be delivered in connection with the Contemplated Transactions.

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EXHIBIT "A" TO PLAN OF MERGER

**AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF THE SURVIVING CORPORATION**

(attached)

**AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF THE
THE SURF CLUB, INC.**

A Florida Not-For-Profit Corporation

Pursuant to Section 617.1007 of the Florida Not For Profit Corporation Act (the "Act"), The Surf Club, Inc. (the "Corporation") hereby sets forth the following Amended and Restated Articles of Incorporation which: (a) were adopted by the Board of Governors and the voting members of the Corporation at a special meeting of the Corporation held on December 7, 2012 by a sufficient number of votes to duly approve the adoption, and (b) amends and restates the Corporation's Amended and Restated Articles of Incorporation filed with the Secretary of the State of Florida on October 30, 2012 (the "Articles"). The Articles are hereby amended and restated, effective on the date of filing of these Amended and Restated Articles of Incorporation with the Secretary of the State of Florida, to read in their entirety as follows:

ARTICLE I - NAME

The name of this Corporation is **THE SURF CLUB, INC.**

ARTICLE II - PRINCIPAL ADDRESS

The street address and mailing address of the initial principal office of this Corporation is 9011 Collins Avenue, Surfside, Florida 33154.

ARTICLE III - PURPOSE

This Corporation is organized for the following purposes:

- A. To operate a social club and related facilities for the Corporation's members;
- B. To have and to exercise all of the powers now or hereafter conferred by the laws of the State of Florida upon corporations organized pursuant to the laws under which this Corporation is organized and any and all acts amendatory thereof and supplemental thereto;
- C. To transact any or all lawful business; and,
- D. To do any and everything pertinent to the above.

**ARTICLE IV - MANAGEMENT OF CORPORATE AFFAIRS AND
APPOINTMENT OF DIRECTORS**

A. The business and affairs of this Corporation shall be managed by a Board of Governors.

B. The number of members of the Board of Governors of this Corporation shall not be less than three (3) nor more than six (6).

C. Governors of the Corporation shall be elected or appointed, removed and hold office as provided in the Bylaws of this Corporation.

ARTICLE V - REGISTERED OFFICE AND AGENT

The name of the registered agent of this Corporation is Corporation Company of Miami. The street address of the initial registered office of this Corporation is 201 South Biscayne Boulevard, Suite 1500 (WGM), Miami, Florida 33131.

ARTICLE VI - REINCORPORATION

The Corporation, having been duly authorized by a meeting of its members, reincorporated under Section 617.0901 of the Act on December 7, 2012 and accepted the provisions of the Act.

IN WITNESS WHEREOF, the undersigned has executed these Amended and Restated Articles of Incorporation this 7th day of December, 2012.

The Surf Club, Inc.

By: 

Name: Nadim Achi

Title: President

ACCEPTANCE OF REGISTERED AGENT

Having been named to accept service of process for the above stated corporation, at the place designated in Article VI of these Articles of Incorporation, the undersigned hereby agrees to act in this capacity and further agrees to comply with the provisions of all statutes relative to the proper and complete discharge of his/her/its duties.

Dated this 7th day of December, 2012.

CORPORATION COMPANY OF MIAMI,

By: 

Cavell J. Anderson, Assistant Secretary

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EXHIBIT "B" TO PLAN OF MERGER

**AMENDED AND RESTATED BYLAWS
OF THE SURVIVING CORPORATION**

(attached)

**AMENDED AND RESTATED BY-LAWS
OF
THE SURF CLUB, INC.**

**ARTICLE I
THE NAME**

The name of this corporation is THE SURF CLUB, INC.

**ARTICLE II
OFFICERS**

Section 1. *Executive Officers*. The Executive Officers of the Club shall be a Chairperson of the Board of Governors, a President, one or more Vice-Presidents who may be designated in order of their rank, a Secretary and Treasurer, all of whom shall be elected by, and at the annual meeting of, the Board of Governors, IMMEDIATELY FOLLOWING THE Annual meeting of the Members; provided, however, upon adoption of these By-laws the persons listed in Exhibit A attached hereto shall hold office until the first meeting of the Board of Governors held in the manner provided in these By-Laws. Such elected officers shall take office effective upon their election at the Annual Meeting. The offices of Secretary and Treasurer may be held by the same person. The Chairperson of the Board, the President and the Vice-President(s) shall be elected by the Board of Governors from among the members of the Board of Governors. Such officers shall be elected for a period of one (1) year or until their successors take office.

Section 2. *Subordinate Officers*. The President, with the approval of the Board of Governors, shall appoint such other officers and agents as he/she may deem necessary for the conduct of Club business and meetings. They shall hold office during the pleasure of the President, and have such authority and perform such duties as from time to time may be prescribed by the President.

Section 3. *The Chairperson of the Board*. The Chairperson of the Board shall preside at all meetings of the Board of Governors.

Section 4. *The President*. Subject to the direction of the Board of Governors, the President shall be the chief executive officer of the Club and shall preside at all meetings of the members and shall do and perform such other duties as from time to time may be assigned to him/her by the Board of Governors. The President shall be a member of the Executive Committee and shall preside over its meetings as Chairperson and shall be ex-officio a member of all other Committees.

Section 5. *The Vice-President*. The Vice-President(s) shall have such power and perform such duties as may be assigned to each of them by the Board of Governors or the President. In case of the absence or disability of the President, the duties of that office shall be performed by the Vice President or such other Officer designated by the President or the Board of Governors.

Section 6. *The Secretary*. The Secretary shall keep the minutes of all proceedings of the Board of Governors and the minutes of the Members' meetings in books provided for that purpose; and shall have custody of the Club seal and such books and papers as the Board of Governors may direct, and shall, in general, perform all the duties incident to the office of Secretary, subject to the control of the Board of Governors and the President. He/she shall also perform such other duties as may be assigned by the Board of Governors or the President.

Section 7. *The Treasurer*. The Treasurer, in concert with the General Manager and Controller, shall have the custody of all the receipts, disbursements, funds and securities of the Club, and shall perform all duties incident to the office of the Treasurer, subject to the control of the Board of Governors and the President. He/she shall do and perform other duties as may from time to time be assigned to him/her by the Board of Governors or the President. If required by the Board of Governors, the Treasurer shall give a bond for the faithful discharge of his/her duties in such sum as the Board of Governors may require.

**ARTICLE III
BOARD OF GOVERNORS**

Section 1. **Number and Terms of Service.** The business and affairs of the Club shall be managed by the Board of Governors consisting of not less than three (3) but not more than six (6) persons all of whom shall be elected by the Proprietor Member at the annual meeting of the Members; provided, however, upon adoption of these By-laws the persons listed in Exhibit A attached hereto shall hold office until the first meeting of the members when an election of Governors shall be held in the manner provided in these By-Laws. The term of office of each Governor shall be one (1) year or until such time as the Governor's successor shall have been duly elected and shall have been qualified. Vacancies on the Board of Governors shall be filled in the manner provided in these By-Laws. No members of the Board of Governors shall be deemed to have "Life Membership" status and any such status is hereby eliminated and deemed null and void effectively upon adoption of these By-Laws.

Section 2. **Vacancies.** In the event of the death or resignation of any Governor during his/her term of office, or a vacancy for any other reason, the President, with the approval of a majority of the remaining Governors, shall appoint an interim Governor from the name(s) submitted to him/her by the Nominating Committee, said appointee to serve until the next annual meeting of the Members.

Section 3. **Place of Meeting.** Except for the Annual Meeting, the Board of Governors may hold its meetings at such places in or outside the State of Florida as the Board of Governors may from time to time determine.

Section 4. **Annual Meeting.** The annual meeting of the Board of Governors shall be held at the Club, the time to be immediately following the regular Annual Meeting of the Members, for the purpose of organization, election of officers, and the transaction of such other business as may come before it. Should conditions be such so as to forestall this meeting being held in such other place as

may be feasible at the time.

Section 5. Other Meetings. Meetings of the Board of Governors shall be held whenever called by direction of the President, or, in his/her absence, by the Chairperson or, in his/her absence by a Vice President, or of one-third (1/3) of the Governor present or by proxy, provided seven (7) day notice of such meeting shall be given each member of the Board of Governors.

Section 6. Quorum. The Governors shall act only as a Board, and the individual Governors shall have no power as such. A majority of the Governors in office, present or by proxy, shall constitute a quorum for the transaction of business, but a majority of those present at the time and place of any regular or special meeting, although less than a quorum, may adjourn the same from time to time without notice until a quorum is present. The acts of a majority of the Governors present at any meeting at which there is a quorum, shall be the act of the Board of Governors except as may be otherwise provided by these By-laws. For purposes of being present at Board meeting and determining a quorum, a Governor may attend the meeting by telephone provided that the Governor provides prior notice, either orally or in writing, to the Secretary of his/her intent to attend the meeting by telephone.

Section 7. Order of Business. The President and/or Chairperson in concert with the Board of Governors, shall determine the order of business at its meetings.

Section 8. Chairperson. At all meetings of the Board of Governors, the Chairperson of the Board of Governors shall preside, or in the event of his/her absence, the President, or a vice-President, or in the absence of all the foregoing, a Chairperson chosen by the Governors present, shall preside.

Section 9. Powers. The Board of Governors, by a majority vote of Governors present or by proxy, shall have full power over the management of the business, property, and the affairs of the Club, including the election and removal of members, granting and revocation of membership

privileges, the fixing of fees and dues of all classes of members.

Section 10. Indemnification. The Club pledges its full faith and credit in protecting the members of the Board of Governors and Club Officers against any and all possible litigation, and indemnification for damages and expenses incurred under circumstances as follows:

a) Civil Proceedings. The Club shall indemnify an individual made a party to a proceeding solely because he/she was a Governor or officer of the Club against liability incurred in any civil proceeding if he/she conducted himself/herself in good faith, and in the case of conduct in his/her official capacity with the Club, he/she reasonably believed that his/her conduct was in the best interest of the Club, or in all other cases he/she reasonably believed that his/her conduct was at least not opposed to the best interest of the Club.

b) Criminal Proceedings. The Club shall indemnify any individual made a party to a criminal proceeding solely because he/she is or was a Governor or officer of the Club against any liability incurred in any criminal proceeding if he/she had no reasonable cause to believe his/her conduct was unlawful.

c) Limitations. The termination of any proceeding by judgment, order settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the Governor or officer did not meet the standard of conduct required in this Section. However, the Club will not indemnify a Governor or officer in connection with a proceeding by or in the right of the Club in which the Governor was adjudged liable to the Club, or in connection with any other proceeding charging physical abuse by such Governor or charging improper personal benefit to him/her, whether or not involving action in his/her official capacity, in which he/she is or was adjudged guilty or liable on the basis that personal benefit was improperly received by him or her. The Club will indemnify a Governor or officer who is wholly successful, on the merits or otherwise, in the defense of any proceeding to which he/she was a party solely because he/she is or was a

Governor or officer of the Club against reasonable expenses incurred by him/her in connection with the proceeding.

d. Advance for Expenses. The Club shall pay for or reimburse the reasonable expenses incurred by a Governor or officer who is a party to a proceeding in advance of final disposition of the proceeding if the Governor or officer furnishes to the Club's satisfaction a written affirmation of his/her good faith belief that he/she has met the standard of conduct required in this Article, and furnishes the Club a satisfactory written undertaking, executed personally or on his/her behalf, secured or unsecured, to repay the advance if it is ultimately determined that he/she did not meet the required standard of conduct, and a determination is made that the facts then known to those making the determination would not preclude indemnification of said Governor or officer.

e) Authorization. A majority vote of the Board of Governors shall determine whether or not indemnification of a Governor or officer is permissible under the circumstances because he/she has met the required standard of conduct. Alternatively, the Board of Governors, by a majority vote, may appoint an independent special legal counsel to determine whether or not a Governor or officer under the circumstances has met the required standard of conduct justifying indemnification and procedures in this Section.

f) Insurance. The Club may purchase and maintain insurance on behalf of an individual or individuals who are or were serving as Governors or officers of the Club, or who may be serving at the request of the Club as an officer, agent or in such other representative capacity, against liability asserted against or incurred by him/her/them in any such capacities or arising from his/her/their status as Governors, officers or agents, whether or not the Club would have power to indemnify him/her/them against such liability under applicable state law.

g) Section Applicability. The foregoing indemnification provisions of this Section 10 are applicable to proceedings against one or more officers or Governors or the entire Board of

Governors as a body.

ARTICLE IV MEETINGS OF MEMBERS

Section 1. Annual Meeting. There shall be an annual meeting of the members at the Club, on a Saturday in March, of each year, which date shall be determined by the Board of Governors at least ninety (90) days in advance, at 10:00 A.M., for the transaction of such business as may properly come before the meeting, including the election of Governors. Written notice of the annual meeting of the members shall be provided in accordance with Article XIII of these By-Laws to all members entitled to vote at least twenty (20) days prior to the date of the meeting together with a proxy form and a postage paid return envelope (if said written notice is provided by mail).

Section 2. Special Meetings. Special meetings of the members shall be held whenever called by a minimum of one-third (1/3) of the members of the Board of Governors, or by any of the following: the President, the Chairperson, or by the Proprietor Member. Notice of such special meeting, stating the time, place, and in general terms, the purpose or purposes thereof, shall be sent by mail to the last known address of all members entitled to vote thereat, at least fifteen (15) days prior to said meeting.

Section 3. Quorum. At any Members meeting, the Proprietor Member must be represented, personally or by proxy, for the conduct of business.

Section 4. Order of Business. The order of business of all meetings of members shall be as follows:

- a. Proof of the giving of required notice of the meeting and a quorum being present.
- b. Consideration of Minutes of preceding meeting and action thereon.
- c. Reports of Officers, if any.
- d. Reports of Committees, if any.

- e. Election of Governors. (At annual meetings only)
- f. Unfinished business.
- g. Ratification of Board Action.
- h. New Business.

The order of business to be followed at any meeting may be changed by vote of the majority of voting members present in person and/or proxy at such meeting.

Section 5. Adjournments. If at any annual or special meeting a quorum shall fail to attend, in person or by proxy, a majority of the members having voting power, present in person or by proxy at the time and place of such meeting, may adjourn the meeting from time to time, without further notice, until a quorum shall attend and thereupon any business may be transacted which might have been transacted at the meeting as originally called had the same been then held.

Section 6. Organization. The President, or in his/her absence, a Vice-President, or in the absence of both, a Chairperson appointed by a majority of the members present entitled to vote thereat, shall call meetings to order and shall act as chairperson thereof. The Secretary of the Club shall act as secretary of all meetings of the Club when present, or in his/her absence, the presiding officer may appoint any person to act as secretary of the meeting.

ARTICLE V COMMITTEES

Section 1. Executive and Other Committees. There shall be an Executive Committee, House Committee, Activities Committee, Nominating committee, Admissions Committee and such other committees as the Board may from time to time create. Each committee shall consist of at least three (3) members. The members of the Executive Committee shall be appointed by the Board of Governors.

Section 2. Committee Members. The members of all other committees shall be appointed by

the President with approval of the Board of Governors, and shall hold office until the next annual meeting of the Board or until the Board shall sooner terminate the terms of the members of the Committee to which they were appointed. Members of the Admissions Committee, whose identities shall remain confidential, do not, as hereinafter noted, require approval by the Board.

Section 3. Chairperson. The Chairperson of each Committee shall be appointed by the President and shall hold office until the next annual meeting of the Board, or until the election of his/her successor.

Section 3. Order of Business. Committees may adopt such rules and regulations as they may deem advisable for the transaction of their business.

Section 4. Vacancies. Vacancies occurring in any Committee except the Executive Committee, shall be filled directly by the President.

Section 5. Executive Committee. The President upon election shall recommend to the Board for its approval, members of the Board to serve as the Executive Committee, one of whom shall be the President. They shall serve for a period of one (1) year or until their successors are duly elected. Any vacancy appearing upon the Executive Committee shall be filled by appointment by the President with the approval of the Board of Governors. During the interval between the meetings of the Board of Governors, the Executive Committee shall possess and may exercise all the powers of the Board of Governors, in the management and direction of the affairs of the Club, including all cases involving financial expenditures in an amount not exceeding the sum of \$100,000 in any single transaction in which specific directions shall not have been given by the Board of Governors. In any unforeseen emergency, the Executive Committee may act by the written resolution of a majority of its committee members, although not properly convened. All actions of the Executive Committee shall be reported to the Board of Governors at its meeting next succeeding such action, and shall be subject to alteration or revision by the Board of Governors, provided that no action of any third party

shall be affected by any such alteration or revision if it would expose the Club to liability. The Executive Committee shall fix its own rules of procedure and shall meet where and as provided by said rules, or as called by the President, or by resolution of the Board of Governors, but in any case, a majority of the Committee shall be necessary to constitute a quorum and a majority vote of those present at any meeting at which a quorum is present shall be necessary to take action.

Section 7. House Committee. The House Committee oversees the operations of the Club relating to: maintenance and upkeep of physical facilities; expenditures; services; coordinating Club functions; food and beverage prices; hours of operation; staffing; members' accounts receivable; member complaints and suggestions. Minutes of the House Committee are circulated to all Board members. The House Committee shall work closely with the General Manager.

Section 8. Activities Committee. The Activities Committee recommends to the House Committee the calendar of the Club functions and other planned social and other activities. It shall work closely with the General Manager and Catering Manager. The Chairperson of the Activities Committee is an Ex-Officio member of the House Committee.

Section 9. Nominating Committee. At least sixty (60) days prior to the annual meeting of the members, the President shall appoint a Nominating Committee consisting of the Proprietary Member and members of the Board of Governors. At least thirty (30) days prior to the annual meeting, the Nominating Committee shall report to the President the names of persons nominated by it and approved by the Nominating Committee to fill the vacancies occurring in the Board of Governors by reason of the expiration of terms of office at the annual meeting of the Board of Governors. The names of the nominees shall be included in the Notice of the Annual Meeting and shall be posted on the Club premises at least fifteen (15) days before the annual meeting. Those members of this Nominating Committee who are serving on the Board of Governors shall constitute a Committee in itself for nomination of the Club's proposed officers. This Committee shall report to the Board, the

name(s) of persons nominated by it to fill vacancies on the Board resulting by expiration of officers' terms, reason of death, resignation or any other reason.

Section 10. Admissions Committee. The President shall appoint an Admissions Committee, consisting of at least three (3) persons, whose identities shall be and remain anonymous, except to the succeeding President. The Committee shall report its deliberations to the Board of Governors through the President, or in his/her absence, through the Chairperson or appropriate successor at the ensuing Board or Executive Committee meeting. Candidates may be elected to membership by the Board of Governors based upon such recommendation and approval of the Admissions Committee as set forth in Article VII of these By-Laws.

ARTICLE VI MEMBERSHIP

The qualifications of membership in the Club are that the candidate be compatible with the social and moral values of present members, and who will financially support and promote the preservation and best interests of the Club. The Club endorses the principle that individuals seeking membership in the Club should be judged by their character and ability. It is the policy of the Club not to deny membership to any person by reason of race, sex, nationality, color, or religion. No membership may be acquired, held or owned by more than one person at a time. Every membership shall be listed and appear in the Club records in the name of one person only. No person shall hold more than one membership. No membership shall be transferred, assigned, sold or conveyed, directly or indirectly, whether by operation of law or otherwise, except as expressly provided in these By-Laws or as approved by written authorization of the Board of Governors. All members shall be bound by the Articles of Incorporation of the Club, these By-Laws and such rules and regulations as the Board of Governors may from time to time adopt. The Club reserves the right, in furtherance of the

development and redevelopment of the Club and its properties, through the Board of Governors at any time and without prior to notice or compensation, other than distributions to the Proprietor Member hereunder, to alter its membership, be selective in the admission of members, to remove members (with or without cause) and to determine who may make use of the Club facilities and privileges of membership. Membership in the club constitutes a license to use to Club facilities. Members of the Club do not have any ownership interest or vested rights in or to the Club or its facilities or properties (other than the right of the Proprietor Member to receive distributions of Club assets as provided in these By-laws or by applicable law).

Section 1. **Voting Membership; Proprietor Member.** There shall be a sole Proprietor Member who shall constitute the sole voting membership of the Club and no members, other than the Proprietor Member shall be entitled to vote on any matters of Club business, Club membership or otherwise. The Proprietor Member shall only be entitled to vote on those matters specifically designated for Proprietor Member approval in these By-laws and, for clarity, the Board of Governors shall be entitled to vote on all other matters without the need for member approval. The Proprietor Member shall be entitled, in the event of dissolution of the Club, to receive distribution of the net assets of the Club after the payment of all Club obligations. The Proprietor Member shall be issued a certificate under the seal of the Club signed by the President and the Secretary evidencing the Proprietor Member's membership in the Club and such Proprietor certificate, together with such Proprietor Member's right, title and interest as a Proprietor Member of the Club, shall be freely transferrable or assignable upon request by the Proprietor Member by majority vote of the Board of Governors.

Section 2. **Non-voting Classes of Memberships.** Other than the Proprietor Member, the Club shall have the following non-voting classes of membership:

a) **Founding Members.** Founding members shall constitute only those persons who,

(i) immediately prior to the adoption of these By-laws were "Proprietor Members" recognized as such upon the records of the Club and in good standing and current in the payment of their applicable dues and (ii) who, following the adoption of these By-laws, are recognized as "Founding Members" upon the records of the Club and who remain current in the payment of their applicable dues and in good standing.

b) Regular Members. Regular members shall constitute only those persons who, (i) immediately prior to the adoption of these By-laws were "non-Proprietor Regular Members" recognized as such upon the records of the Club and in good standing and current in the payment of their applicable dues and (ii) who, following the adoption of these By-laws, are recognized as "Regular Members" upon the records of the Club and who remain current in the payment of their applicable dues and in good standing.

c) Other Members. The Board of Governors in its discretion may create from time to time such additional non-voting classes of membership as it may deem advisable; provided however, that such additional classes of membership shall not be entitled to vote at any meeting of the Club. The Board of Governors may also from time to time create classes of persons who shall upon compliance with such conditions and upon such terms as the Board may decide, be granted the privilege of using the facilities of the Club.

Section 5. Number of Members. The Board of Governors may in its discretion fix, increase or decrease the number of members who have the privilege of using the Club provided that at no time may the membership exceed the number which would disqualify the Club as being a "private" club as determined by the applicable laws of the State of Florida or the United States.

Section 6. Transfer of Membership. Except for the Proprietor Member's interest, membership in the Club is non-transferrable and may not be transferred, assigned, sold or conveyed, directly or indirectly, whether by operation of law or otherwise, except as expressly provided