



**THE UNITED STATES**  
**CORPORATION**  
**C O M P A N Y**

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DOMESTIC FILING

EFFECTIVE DATE:

XX ARTICLES OF INCORPORATION

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**ARTICLES OF INCORPORATION**

**OF**

**VIZCAYA P.U.D. MASTER HOMEOWNERS ASSOCIATION, INC.**

The undersigned incorporator, desiring to form a corporation not for profit under Chapter 617, Florida Statutes, as amended, hereby adopts the following Articles of Incorporation:

**ARTICLE I**

**NAME AND ADDRESS**

The name of the corporation shall be the VIZCAYA P.U.D. MASTER HOMEOWNERS ASSOCIATION, INC. The principal address of the corporation is 12534 Wiles Road, Coral Springs, Florida 33076. For convenience, the corporation shall be referred to in this instrument as "The Council", these Articles of Incorporation as the "Articles", and the Bylaws of The Council as the "Bylaws".

**ARTICLE II**

**PURPOSES AND POWERS**

2.1 **Objects and Purposes.** The objects and purposes of The Council are those objects and purposes as are authorized by the Declaration of Covenants and Restrictions for Vizcaya P.U.D. recorded (or to be recorded) in the Public Records of Palm Beach County, Florida, as hereafter amended and/or supplemented from time to time (the "Declaration"). The further objects and purposes of The Council are to preserve the values and amenities in The Properties, as same are defined in the Declaration for the benefit of the Members of The Council.

2.2 **Not for Profit.** The Council is not organized for profit and no part of the net earnings, if any, shall inure to the benefit of any Member or individual person, firm or corporation. Upon dissolution, all assets of The Council shall be transferred only to another not-for-profit corporation or as otherwise authorized by the Florida not-for-profit corporation statute.

2.3 The powers of The Council shall include and be governed by the following:

2.3.1 **General.** The Council shall have all of the common-law and statutory powers of a corporation not for profit under the Laws of Florida that are not in conflict with the provisions of these Articles, the Declaration, or the Bylaws.

2.3.2 **Enumeration.** The Council shall have the powers and duties set forth in subsection 2.3.1 above, except as limited by these Articles, the Bylaws and the Declaration, and all of the powers and duties reasonably necessary to operate The Council pursuant to the Declaration, and as more particularly described in the Bylaws, as they may be amended from time to time, including, but not limited to, the following:

- (a) To make and collect Assessments and other charges against Members and Owners, and to use the proceeds thereof in the exercise of its powers and duties.
- (b) To buy, own, operate, lease, sell, trade and mortgage both real and personal property.
- (c) To maintain, repair, replace, reconstruct, add to and operate the Common Areas and other property acquired or leased by the Council.

- (d) To purchase insurance upon the Common Areas and insurance for the protection of The Council, its officers, directors and Members.
- (e) To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Common Areas for the health, comfort, safety and welfare of the Members.
- (f) To enforce by legal means the provisions of the Declaration, these Articles, the Bylaws, and the Rules and Regulations for the use of the Common Areas, subject, however, to the limitation regarding assessing Lots owned by the Developer for fees and expenses relating in any way to claims or potential claims against the Developer as set forth in the Declaration and/or Bylaws.
- (g) To contract for the management and maintenance of the Common Areas and to authorize a management agent (which may be an affiliate of the Developer) to assist The Council in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Areas with such funds as shall be made available by The Council for such purposes. The Council and its officers shall, however, retain at all times the powers and duties granted by the Declaration, Bylaws and these Articles, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of The Council.
- (h) To employ personnel to perform the services required for the proper operation, maintenance, conservation, and use of the Common Areas.

### **ARTICLE III**

#### **MEMBERS**

The Members of The Council shall be as set forth in the Declaration and the Bylaws of The Council.

### **ARTICLE IV**

#### **CORPORATE EXISTENCE**

The Council shall have perpetual existence.

### **ARTICLE V**

#### **BOARD OF DIRECTORS**

Section 5.1. Management by Directors. The property, business and affairs of The Council shall be managed by a Board of Directors, which shall consist of not less than five (5) persons, but as many persons as the Board of Directors shall from time to time determine but which shall always be an odd number. Notwithstanding anything to the contrary, Ameriton shall be entitled to elect one (1) Member to the Board of Directors, or upon the resignation or removal of such Member, to elect a replacement Member, unless and until Ameriton waives this right in writing or fails to elect said Director at the annual meeting of the membership held for the purpose of electing Directors. Once Ameriton waives this right or fails to elect a Director at an annual meeting, then said right shall be forever terminated. For so long as Ameriton has the right to elect one (1) Director to the Board of Directors, it shall not be entitled to cast any votes for any other Directors at the annual meeting of the membership. A majority of the directors in office shall constitute a quorum for the transaction of business. The Bylaws shall provide for meetings of directors, including an annual meeting.

Section 5.2. Original Board of Directors. The names and addresses of the first Board of Directors of The Council, who shall hold office until their qualified successors are duly elected and have taken office as provided in the Bylaws, are as follows:

<u>Name</u>	<u>Address</u>
Mitchell A. Cox	12534 Wiles Road Coral Springs, Florida 33076
Albert Gomez	12534 Wiles Road Coral Springs, Florida 33076
Kevin M. Hampton	7630 South Chester Street Englewood, Colorado 80112

Section 5.3. Election of Members of Board of Directors. Except as otherwise provided herein and for the first Board of Directors, directors shall be elected by the Members of The Council at the annual meeting of the membership as provided by the Bylaws of The Council, and the Bylaws may provide for the method of voting in the election and for removal from office of directors.

Section 5.4. Duration of Office. Members elected to the Board of Directors shall hold office until the next succeeding annual meeting of Members, and thereafter until qualified successors are duly elected and have taken office.

Section 5.5. Vacancies. If a director so elected shall for any reason cease to be a director, the remaining directors so elected may elect a successor to fill the vacancy for the balance of the term, subject to Ameriton's right to replace its Director in accordance with Section 5.1.

Section 5.6. Term of Developer's Directors. The Developer shall appoint all but one of the members of the first Board of Directors and their replacements who shall hold office for periods described in the Bylaws; and Ameriton shall appoint one (1) Member of the First Board of Directors.

## **ARTICLE VI**

### **OFFICERS**

Section 6.1. Officers Provided. The Council shall have a President, a Vice President, a Secretary and a Treasurer, and such other officers as the Board of Directors may from time to time elect.

Section 6.2. Initial Officers. The affairs of The Council shall be administered by the officers holding the offices designated in the Bylaws. The officers shall be elected by the Board of Directors of The Council at its first meeting following the annual meeting of the members of The Council and shall serve at the pleasure of the Board of Directors. The Bylaws may provide for the removal from office of officers, for filling vacancies and for the duties and qualifications of the officers. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

<u>Name and Office:</u>	<u>Addresses:</u>
<u>President:</u>	Mitchell A. Cox 12534 Wiles Road Coral Springs, Florida 33076
<u>Vice-President:</u>	Kevin M. Hampton 7630 South Chester Street Englewood, Colorado 80112
<u>Secretary/Treasurer:</u>	Albert Gomez 12534 Wiles Road Coral Springs, Florida 33076

## ARTICLE VII

### BYLAWS

The Board of Directors shall adopt Bylaws consistent with these Articles of Incorporation. Such Bylaws may be altered, amended or repealed in the manner set forth in the Bylaws.

## ARTICLE VIII

### AMENDMENTS AND PRIORITIES

Section 8.1. Amendment Procedure. Amendments to these Articles of Incorporation shall be proposed and approved by the Board of Directors and thereafter submitted to a meeting of the membership of The Council for adoption or rejection (by affirmative vote of 66-2/3% of the Members), all in the manner provided in, and in accordance with the notice provisions of, Chapter 617, Florida Statutes. Notwithstanding these amendment provisions, Section 5.1 of these Articles may not be amended to impair the right of the of Ameriton to elect one (1) Member to the Board of Directors without the written consent of Ameriton.

Section 8.2. Limitation. No amendment shall be made which would in any way affect any of the rights, privileges, powers or options herein provided in favor of or reserved to the Developer, or any affiliate, successor or assign of the Developer, unless the Developer shall join in the execution of the amendment.

Section 8.3. Developer Amendments. Subject to Ameriton's right under Section 8.1 above, the Developer may amend these Articles consistent with the provisions of the Declaration, including such provisions of the Declaration allowing certain amendments to be affected by the Developer alone.

Section 8.4. Conflict. In case of any conflict between these Articles and the Bylaws, these Articles shall control; and in case of any conflict between these Articles of Incorporation and the Declaration, the Declaration shall control.

## ARTICLE IX

### INCORPORATOR

The name and address of the incorporator of this Corporation is:

<u>Name</u>	<u>Address</u>
UpJohn-Delray Limited Partnership, a Florida limited partnership	12534 Wiles Road Coral Springs, Florida 33076

## ARTICLE X

### INDEMNIFICATION

Section 10.1. Indemnity. The Council shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, employee, officer or agent of The Council, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, unless (a) it is determined by a court of competent jurisdiction, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or that he acted in a manner he believed to be not in or opposed to the best interest of The Council, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (b) such court further determines specifically that indemnification should be denied. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did

not act in good faith or did act in a manner which he believed to be not in or opposed to the best interest of The Council, and with respect to any criminal action or proceeding, that he had reasonable cause to believe that his conduct was unlawful.

Section 10.2. Expenses. To the extent that a director, officer, employee or agent of The Council has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 10.1 above or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually incurred by him in connection therewith.

Section 10.3. Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by The Council in advance of the final disposition of such action, suit or proceeding through all available appeals upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by The Council as authorized in this Article.

Section 10.4. Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of Members or otherwise, both as to action in his official capacity while holding such office or otherwise, and shall continue as to a person who has ceased to be director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

Section 10.5. Insurance. The Council shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of The Council, or is or was serving at the request of The Council as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not The Council would have the power to indemnify him against such liability under the provisions of this Article.

Section 10.6. Amendment. Anything to the contrary herein notwithstanding, the provisions of this Article X may not be amended without the prior written consent of all persons whose interest would be adversely affected by such amendment.

## ARTICLE XI

### REGISTERED AGENT

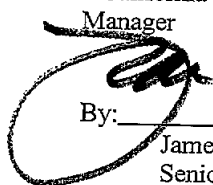
Until changed, Jennifer Bales Drake shall be the registered agent of The Council and the registered office shall be at Becker & Poliakoff, P.A., 3111 Stirling Road, Fort Lauderdale, Florida 33312.

IN WITNESS WHEREOF, the aforesaid Incorporator has hereunto set his hand this 28 day of December, 1999.

UpJohn Delray Limited Partnership,  
a Florida limited partnership

By: FL RFC/WA GP, L.C.,  
a Florida limited liability company  
General Partner

By: Hearthstone,  
a California corporation  
Manager

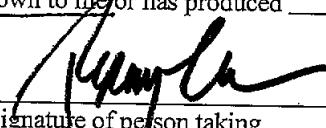
By:   
James K. Griffin, Jr.  
Senior Vice President

STATE OF FLORIDA     )  
                                  )  
COUNTY OF BROWARD    )

SS.

(SEAL)

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of DECEMBER, 1999, by James K. Griffin, Jr., as Senior Vice President of Hearthstone, a California corporation, as Manager of FL RFC/WA GP, L.C., a Florida limited liability company, as General Partner of UpJohn-Delray Limited Partnership, a Florida limited partnership, on behalf of the limited partnership. He is personally known to me or has produced \_\_\_\_\_ as identification and has, has not, taken an oath.

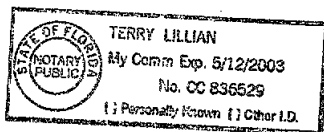
  
\_\_\_\_\_  
Signature of person taking  
acknowledgment

TERRY LILLIAN  
\_\_\_\_\_  
Name typed, printed or stamped

\_\_\_\_\_  
Title or rank

\_\_\_\_\_  
Serial number, if any

My commission expires:

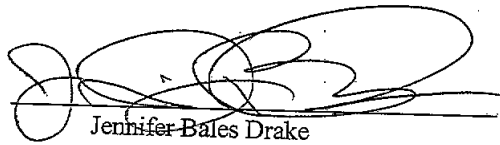


CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE  
FOR THE SERVICE OF PROCESS WITHIN THIS STATE,  
NAMING AGENT UPON WHOM PROCESS MAY BE SERVED

In compliance with the laws of Florida, the following is submitted:

That desiring to organize under the laws of the State of Florida with its principal office, as indicated in the foregoing articles of incorporation, in the County of Palm Beach, State of Florida, the corporation named in said articles has named Jennifer Bales Drake, Esquire, located at Becker & Poliakoff, P.A., 3111 Stirling Road, Fort Lauderdale, Florida 33312, as its statutory registered agent.

Having been named the statutory agent of the above corporation at the place designated in this certificate, I hereby accept the same and agree to act in this capacity, and agree to comply with the provisions of Florida law relative to keeping the registered office open.

  
Jennifer Bales Drake

Dated this 3 day of January,  
2000.

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
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01/03/00

This instrument was prepared by:

Jennifer Bales Drake, Esquire  
Becker & Poliakoff, P.A.  
3111 Stirling Road  
Fort Lauderdale, FL 33312  
Phone: (954) 985-4113  
Florida Bar No. 653896