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**FLORIDA NON-PROFIT CORPORATION**

*Townhomes of* **Kendall Pointe Homeowners Association, Inc.**

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J. Shivers MAR 31 2005



FLORIDA DEPARTMENT OF STATE

Glenda E. Hood  
Secretary of State

March 30, 2005

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SUBJECT: KENDALL POINTE HOMEOWNERS ASSOCIATION, INC.  
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ARTICLES OF INCORPORATION  
OF  
TOWNHOMES OF KENDALL POINTE HOMEOWNERS ASSOCIATION, INC.

The undersigned incorporator, for the purpose of forming a corporation not-for-profit pursuant to the laws of the State of Florida, Florida Statutes, Chapter 617, hereby adopts the following Articles of Incorporation:

PREAMBLE

This association is being formed as the association to administer a Declaration of Covenants and Restrictions of Kendall Pointe (the "DECLARATION") and to perform the duties and exercise the powers pursuant to the DECLARATION, as and when the DECLARATION is recorded in the Public Records with these Articles of Incorporation attached as an exhibit. All of the definitions contained in the DECLARATION shall apply to these Articles of Incorporation, and to the Bylaws of the ASSOCIATION.

ARTICLE 1. - NAME AND ADDRESS

The name of the corporation is TOWNHOMES OF KENDALL POINTE HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "ASSOCIATION." The initial address of the principal office of the ASSOCIATION and the initial mailing address of the ASSOCIATION is 3300 University Drive, Coral Springs, Florida 33065.

ARTICLE 2. - PURPOSE

The purposes for which the ASSOCIATION is organized are as follows:

- 2.1 To operate as a corporation not-for-profit pursuant to Chapter 617 of the Florida Statutes.
- 2.2 To enforce and exercise the duties of the ASSOCIATION as provided in the DECLARATION.
- 2.3 To promote the health, safety, welfare, comfort, and social and economic benefit of the members of the ASSOCIATION.

ARTICLE 3. - POWERS AND DUTIES

The ASSOCIATION shall have the following powers and duties:

- 3.1 All of the common law and statutory powers of a corporation not-for-profit under the laws of the State of Florida.
- 3.2 To administer, enforce, carry out and perform all of the acts, functions, rights and duties provided in, or contemplated by, the DECLARATION, including but not limited to, the following:
  - 3.2.1 To own, purchase, sell, mortgage, encumber, lease, administer, manage, operate, maintain, improve, repair and/or replace real and personal property.
  - 3.2.2 To make and collect ASSESSMENTS against OWNERS to defray the costs, expenses and losses incurred or to be incurred by the ASSOCIATION, and to use the proceeds thereof in the exercise of the ASSOCIATION'S powers and duties.
  - 3.2.3 To enforce the provisions of the DECLARATION, these ARTICLES, and the BYLAWS.

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4.4 The BYLAWS shall provide for an annual meeting of the members of the ASSOCIATION and shall make provision for special meetings.

ARTICLE 5. - TERM OF EXISTENCE

The existence of the ASSOCIATION shall commence with the filing of these ARTICLES with the Secretary of State, Tallahassee, Florida. The ASSOCIATION shall have exist in perpetuity.

ARTICLE 6. - INCORPORATOR

The name and street address of the incorporator is: Gary N. Gerson, Esquire, 1645 Palm Beach Lakes Boulevard, Suite 1200, West Palm Beach, Florida 33401.

ARTICLE 7. - DIRECTORS

7.1 The property, business and affairs of the ASSOCIATION shall be managed by a BOARD which shall consist of not less than three (3) directors, and which shall always be an odd number. The BYLAWS may provide for a method of determining the number of directors from time to time. In the absence of a determination as to the number of directors, the BOARD shall consist of three (3) directors. Directors are not required to be members of the ASSOCIATION.

7.2 All of the duties and powers of the ASSOCIATION existing under the DECLARATION, these ARTICLES and the BYLAWS shall be exercised exclusively by the BOARD, its agents, contractors or employees, subject to approval by the members only when specifically required.

7.3 The DECLARANT shall have the right to appoint all of the directors until 90 days after the date on which DECLARANT has conveyed 90% of the LOTS within the SUBJECT PROPERTY, or at such earlier date as DECLARANT, in its sole discretion, may elect to transfer control of the ASSOCIATION, on whichever occurs first. The DECLARANT may waive its right to elect one or more directors by written notice to the ASSOCIATION, and thereafter such directors shall be elected by the members. When the DECLARANT no longer owns any LOT within the SUBJECT PROPERTY, all of the directors shall be elected by the members in the manner provided in the BYLAWS.

7.4 Directors may be removed and vacancies on the BOARD shall be filled in the manner provided by the BYLAWS, however any director appointed by the DECLARANT may only be removed by the DECLARANT, and any vacancy on the BOARD shall be appointed by the DECLARANT if, at the time such vacancy is to be filled, the DECLARANT is entitled to appoint the directors.

ARTICLE 8. - OFFICERS

The officers of the ASSOCIATION shall be a president, vice president, secretary, treasurer and such other officers as the BOARD may from time to time by resolution create. The officers shall serve at the pleasure of the BOARD, and the BYLAWS may provide for the removal from office of officers, for filling vacancies, and for the duties of the officers.

ARTICLE 9. - INDEMNIFICATION

9.1 The ASSOCIATION 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 (other than an action by or in the right of the ASSOCIATION) by reason of the fact that he is or was a director, employee, officer or agent of the ASSOCIATION, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with the action, suit or proceeding if he acted in good faith and in a manner he

reasonably believed to be in, or not opposed to, the best interest of the ASSOCIATION; and with respect to any criminal action or proceeding, if he had no reasonable cause to believe his conduct was unlawful; except, that no indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of his duties to the ASSOCIATION unless and only to the extent that the court in which the action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper. 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, in and of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the ASSOCIATION; and with respect to any criminal action or proceeding, that he had no reasonable cause to believe that his conduct was unlawful.

9.2 To the extent that a director, officer, employee or agent of the ASSOCIATION has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraph 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 and reasonably incurred by him in connection therewith.

9.3 Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the ASSOCIATION in advance of the final disposition of such action, suit or proceeding as authorized by the BOARD in the specific case upon receipt of an undertaking by or on behalf of the directors, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the ASSOCIATION as authorized herein.

9.4 The indemnification provided herein shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of Florida, any BYLAW, agreement, vote of members or otherwise, and as to action taken in an official capacity while holding office, shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

9.5 The ASSOCIATION 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 ASSOCIATION, or is or was serving at the request of the ASSOCIATION 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, as arising out of his status as such, whether or not the ASSOCIATION would have the power to indemnify him against such liability under the provisions of this Article.

#### ARTICLE 10. - BYLAWS

The first BYLAWS shall be adopted by the BOARD and may be altered, amended or rescinded by the DECLARANT, the Directors and/or members in the manner provided by the BYLAWS.

#### ARTICLE 11. - AMENDMENTS

Amendments to these ARTICLES shall be proposed and adopted in the following manner:

11.1 A majority of the BOARD shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the members, which may be the annual or a special meeting.

11.2 Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote thereon within the time and in the manner provided in the BYLAWS for the giving of notice of a meeting of the members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

11.3 At such meeting, a vote of the members entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of 2/3 of the votes of the entire membership of the ASSOCIATION.

11.4 Any number of amendments may be submitted to the members and voted upon by them at any one meeting.

11.5 If all of the directors and all of the members eligible to vote sign a written statement manifesting their intention that an amendment to these ARTICLES be adopted, then the amendment shall thereby be adopted as though the above requirements had been satisfied.

11.6 No amendment shall make any changes in the qualifications for membership nor in the voting rights of members without approval by all of the members and the joinder of all INSTITUTIONAL LENDERS holding mortgages upon the LOTS. No amendment shall be made that is in conflict with the DECLARATION. Prior to the closing of the sale of all LOTS within the SUBJECT PROPERTY, no amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the DECLARANT, unless the DECLARANT shall join in the execution of the amendment, including, but not limited to, any right of the DECLARANT to appoint directors pursuant to Article VII.

11.7 No amendment to these ARTICLES shall be made which discriminates against any OWNER(S), or affects less than all of the OWNERS within the SUBJECT PROPERTY, without the written approval of all of the OWNERS so discriminated against or affected.

11.8 Upon the approval of an amendment to these ARTICLES, the articles of amendment shall be executed and delivered to the Department of State as provided by law, and a copy certified by the Department of State shall be recorded in the public records of the county in which the SUBJECT PROPERTY is located.

#### ARTICLE 12. - DISSOLUTION


In the event of dissolution or final liquidation of the ASSOCIATION, the assets, both real and personal, of the ASSOCIATION, shall be dedicated to an appropriate public agency or utility, and the property consisting of the surface water management system shall be conveyed to an appropriate agency of local government, to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the ASSOCIATION. In the event that such dedication or conveyance is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization, to be devoted to purposes as nearly as practicable to the same as those to which they were required to be devoted by the ASSOCIATION.

#### ARTICLE 13.

##### INITIAL REGISTERED OFFICE ADDRESS AND NAME OF REGISTERED AGENT

The initial registered office of the ASSOCIATION shall be at 1645 Palm Beach Lakes Boulevard, Suite 1200, West Palm Beach, Florida 33401. The initial registered agent of the ASSOCIATION at that address is Gary N. Gerson, Esquire.

WHEREFORE, the incorporator, and the initial registered agent, have executed these ARTICLES on this 29<sup>th</sup> day of March, 2005. By executing these ARTICLES, the undersigned registered agent accepts the appointment as registered agent and states that the undersigned is familiar with, and accepts, the obligations of that position.

  
\_\_\_\_\_  
Gary N. Gerson, Esquire, as Incorporator and as Registered Agent

STATE OF FLORIDA            )  
  ) SS:  
COUNTY OF PALM BEACH    )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of March 2005, by Gary N. Gerson, Esquire, as Incorporator and as Registered Agent. He is personally known to me.

  
\_\_\_\_\_  
NOTARY PUBLIC, State of Florida at Large



Michele Grabosch  
MY COMMISSION # DE085220 EXPIRES  
February 1, 2006  
BONDED THROUGH FAIN INSURANCE, INC

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