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Windjammer Point Master Association, Inc.

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ARTICLES OF INCORPORATION
OF
WINDJAMMER POINT MASTER ASSOCIATION, INC. SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The undersigned incorporator for the purpose of forming a Corporation not-for-profit under Chapter 617, Florida Statutes certifies as follows:

ARTICLE I
NAME AND ADDRESS

The name of the corporation is Windjammer Point Master Association, Inc., (hereinafter referred to as the "Association"). The principal mailing address of the corporation is 600 Fifth Avenue South., Suite 207, Naples, Florida 34102.

ARTICLE II
DEFINITIONS

All terms which are defined in the Declaration of Covenants, Conditions and Restrictions for Windjammer Point (hereinafter referred to as the "Master Declaration") shall be used herein with the same meaning as defined in said Declaration.

ARTICLE III
PURPOSE AND POWERS

The Association is organized and shall exist on a non-stock basis as a corporation not for profit under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, director or officer of the Association. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit under the laws of the State of Florida, except as limited or modified by these Articles, the Declaration of Covenants, Conditions and Restrictions for Windjammer Point; and it shall have all of the powers and duties reasonably necessary to operate Windjammer Point pursuant to the Master Declaration as it may hereafter be amended, including, but not limited to, the following:

- A. To make and collect assessments against members of the Association to defray the costs, expenses and losses of the Association, and to use the proceeds of assessments in the exercise of its powers and duties.
- B. To maintain, repair, replace and operate the Association and Association property.

- C. To purchase insurance upon the Association property for the protection of the Association and its members.
- D. To purchase, lease, hold, sell, mortgage or otherwise acquire or dispose of, real or personal property, except to the extent restricted hereby; to enter into, make, perform or carry out contracts of every kind with any person, firm, corporation, association or other entity; to do any and all of the activities and pursue any and all of the objects and purposes set forth in these Articles and not forbidden by the Laws of the State of Florida.
- E. To hold all property deeded to the Association in trust for the use and benefit of its Members, except that this Association may dedicate, sell or transfer all or any part of any common areas to any public agency, authority or utility, for such purposes and subject to such conditions consistent with the Master Declaration. For so long as the Declarant is a Class B Member of the Association, no such dedication, sale or transfer shall be effective unless an instrument has been signed agreeing to such dedication, sale or transfer by the Declarant.
- F. To maintain, repair, replace, approve, operate and manage such common and private areas and structures as may be placed under the jurisdiction of this Association, including but not limited to: entrance roads and features, clubhouse and other recreational amenities, street lighting, lakes, landscaping, irrigation system, conservation areas and water management system approved by any governmental agency and drainage easements.
- G. To enter into agreements with the Neighborhood Associations, if any, and if necessary, with respect to, but not limited by, those items listed in paragraph F. above.
- H. To reconstruct improvements after casualty and to make further improvements of the property.
- I. To make, amend and enforce reasonable rules and regulations governing the use of the common elements and the operation of the Association.
- J. To enforce the provisions of the Master Declaration, these Articles, and the Bylaws of the Association.
- K. To contract for the management and maintenance of the Association and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Master Declaration to be exercised by the Board of Directors or the membership of the Association.
- L. To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Association.

- M. To borrow money for any purpose, and to purchase units, and acquire, own, mortgage and convey real property.
- N. To enter into a contract with any individual or entity and employ personnel as may be selected by the Board of Directors to perform or accomplish any or all of the purposes of this Association, under such terms and conditions and for such compensation as the Board of Directors may consider in the best interest of the Association.
- O. To sue and be sued.

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Master Declaration, these Articles of Incorporation and the Bylaws.

ARTICLE IV
PROHIBITION AGAINST ISSUANCE OF STOCK AND DISTRIBUTION OF INCOME

The Association shall never have nor issue any shares of stock, nor shall the Association distribute any part of its income, if any, to its members, directors or officers. All monies and title to all properties acquired by the Association and the proceeds thereof shall be held only for the benefit of the members in accordance with the provision of these Articles and the By-Laws of the Association. Nothing herein, however, shall be construed to prohibit the Association from conferring benefits upon its members or from making any payments or distributions to members of monies or properties pursuant to Section 617.011, Florida statutes, or a statute of similar import. The Association may, however, reimburse its directors, officers and members for expenses authorized and approved by the Board of Directors and incurred for and on behalf of the Association and may pay compensation in a reasonable amount to its directors, officers and members for actual services rendered to the Association as authorized and approved by the Board of Directors.

ARTICLE V
MEMBERSHIP

The members of the Association shall be Robert B. Smeja and Jill E. Smeja Gnesda, as Trustees under Land Trust 1985-1, their successors or assigns (hereinafter referred to as the "Developer"), who shall be a Class B Member, and each of the Residential Parcel Owners (as defined in the Master Declaration) created within Windjammer Point, each of which shall be a Class A Member. No other persons or entities shall be entitled to membership. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. Membership right and duties shall be subject to and controlled by the Declaration, which is in the form of a covenant running with the land.

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**ARTICLE VI
VOTING RIGHTS**

- A. The Association shall have two (2) classes of voting memberships:
 - (i) Class A Member shall have one (1) vote for each unit represented by such Class A Member.
 - (ii) The Class B member shall have one vote for each unit subject to the Declaration, plus one (1).

- B. The By-laws may establish procedures for voting.

- C. The Class B membership shall cease and convert to Class A membership, based upon Developer's ownership, upon the occurrence of the first to occur of the following events:
 - (i) Three months after 90 per cent of the units in all phases of Windjammer Point that will ultimately be operated by the Association have been conveyed to owners other than the Developer.
 - (ii) Such other percentage of the parcels has been conveyed to owners, or such other event has occurred as is set forth in the Declaration or these Articles in order to comply with the requirements of any governmental chartered entity with regard to the mortgage financing of parcels.

- D. For purposes of this Article, the term "members other than the Developer" shall not include builders, contractors, or others who purchase a parcel for the purpose of constructing improvements thereon for resale.

**ARTICLE VII
TERM**

The term of the Association shall be perpetual.

**ARTICLE VIII
BYLAWS**

The Bylaws of the Association may be altered, amended, or rescinded in the manner provided therein.

ARTICLE IX
DIRECTORS AND OFFICERS

A. The affairs of the Association shall be managed by a Board of Directors consisting of the number provided by the Bylaws, but not less than three (3), and in the absence of such determination shall consist of three (3) directors.

B. The initial Directors of the Association shall be appointed by the Developer, and the Developer shall continue to appoint either all of the Directors or if the Association is subject to the provisions of Florida Statute 718.301 a majority of the Directors consistent with Florida Statute 718.301 until transfer of Association control to the members, other than Developer.

C. Prior to turnover of control all Directors shall be appointed by the Developer. Each Director to be appointed by a Member shall be appointed by the Board of Directors of such Member. Except for the Directors appointed by the Developer, all Directors of the Association must be members of the Member which elected such Director.

D. Any vacancies in the Board of Directors shall be appointed by the Developer if the vacating Director was appointed by the Developer, or be elected by the Member from which such vacating Director was elected.

E. At the time the members are entitled to elect at least a majority of the board of directors of the homeowners' association, the developer shall, at the developer's expense, within no more than 90 days deliver the following documents to the board:

- (a) All deeds to common property owned by the association.
- (b) The original of the association's declarations of covenants and restrictions.
- (c) A certified copy of the articles of incorporation of the association.
- (d) A copy of the bylaws.
- (e) The minute books, including all minutes.
- (f) The books and records of the association.
- (g) Policies, rules, and regulations, if any, which have been adopted.
- (h) Resignations of directors who are required to resign because the developer is required to relinquish control of the association.
- (i) The financial records of the association from the date of incorporation

through the date of turnover.

- (j) All association funds and control thereof.
- (k) All tangible property of the association.
- (l) A copy of all contracts which may be in force with the association as one of the parties.
- (m) A list of the names and addresses and telephone numbers of all contractors, subcontractors, or others in the current employ of the association.
- (n) Any and all insurance policies in effect.
- (o) Any permits issued to the association by governmental entities.
- (p) Any and all warranties in effect.
- (q) A roster of current homeowners and their addresses and telephone numbers and section and lot numbers.
- (r) Employment and service contracts in effect.
- (s) All other contracts in effect to which the association is a party.

F. Except for Directors appointed by the Developer, all Directors must be members of the Association, or the spouse of a member.

G. The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be appointed by the Board of Directors at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board.

ARTICLE X **INITIAL DIRECTORS**

The initial Directors of the Association shall be:

John N. Brugger
600 Fifth Avenue South
Suite 207
Naples, Florida 34102

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Robert B. Smeja
600 Fifth Avenue South
Suite 207
Naples, Florida 34102

Bonnie Smeja
600 Fifth Avenue South
Suite 207
Naples, Florida 34102

ARTICLE XI
INITIAL REGISTERED AGENT

The initial registered agent of the Association and his address shall be:

John N. Brugger, Esq.
600 Fifth Avenue South
Suite 207
Naples, Florida 34102

ARTICLE XII
INDEMNIFICATION

To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities, including attorneys fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may a party because of his being or having been a Director or officer of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication establishes that his actions or omissions to act were material to the cause adjudicated and involved:

- A. Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.
- B. A violation of criminal law, unless the director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.

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- C. A transaction from which the Director or officer derived an improper personal benefit.
- D. Wrongful conduct by Directors or officers appointed by the Developer, in a proceeding brought by or on behalf of the Association.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves such settlement as being in the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a Director or officer may be entitled.

ARTICLE XIII
INCORPORATOR

The name and address of the Incorporator are:

John N. Brugger
600 Fifth Avenue South
Suite 207
Naples, FL 34102

WHEREFORE, the undersigned John N. Brugger, as Incorporator, has caused these presents to be executed this February 11, 2007.

By: _____

John N. Brugger

ACCEPTANCE OF REGISTERED AGENT

Having been named to accept service of process for Windjammer Point Master Association, Inc., at the place designated in these Articles of Incorporation, I hereby accept the appointment to act in this capacity and agree to comply with the laws of the State of Florida in keeping open said office.

Dated: February 11, 2007

John N. Brugger

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