

Division of Corporations

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**BASIC AMENDMENT**

**PENINSULA II DEVELOPERS, INC.**

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**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
PENINSULA II DEVELOPERS, INC.**

The undersigned, Theodore R. Stotzer, being a Vice President of Peninsula II Developers, Inc., a Florida corporation (the "Corporation"), hereby states as follows on behalf of the Corporation:

1. The Corporation was incorporated as "Peninsula II Developers, Inc." on December 8, 2004, the date on which the Articles of Incorporation were filed with the Secretary of State of the State of Florida under Document Number P04000165010.

2. Pursuant to the requirements of Sections 607.1006 and 607.1007 of the Florida Business Corporation Act, the undersigned hereby certifies, attests and serves notice that the Articles of Incorporation of the Corporation are hereby amended and restated to read in their entirety as follows:

**ARTICLE I - NAME**

The name of the Corporation is Peninsula II Developers, Inc.

**ARTICLE II - PRINCIPAL OFFICE AND MAILING ADDRESS**

The principal office and mailing address of the Corporation is:

321 East Hillsboro Boulevard  
Deerfield Beach, Florida 33441.

**ARTICLE III - PURPOSE**

The purpose of the Corporation shall be limited to acquiring, owning, financing, operating, developing and managing a 31-story condominium tower commonly known as the "Peninsula II Condominium Tower" and activities incidental thereto (the "Project"). The Corporation shall be prohibited from incurring indebtedness of any kind except for (i) the construction loan and other indebtedness (the "Indebtedness") incurred in favor of Keybank National Association, a national banking association, and its successors and assigns with respect to the Indebtedness ("Lender"; capitalized terms used herein and not defined shall have the meaning assigned to such terms in that certain Construction Loan Agreement by and between the Corporation and Lender), (ii) related party indebtedness which is subordinate to the Indebtedness, and (iii) trade payables incurred in the ordinary course of business.

**ARTICLE IV - CAPITAL STOCK**

The aggregate number of shares which this corporation shall have authority to issue is One Thousand (1,000) shares of common stock, all of which are to have a par value of \$1.00.

**ARTICLE V - REGISTERED OFFICE AND AGENT**

The street address of the registered office of the Corporation is:

321 East Hillsboro Boulevard  
Deerfield Beach, Florida 33441;

and the name and address of the registered agent of the Corporation are:

Theodore R. Stotzer  
321 East Hillsboro Boulevard  
Deerfield Beach, Florida 33441

**ARTICLE VI - COMMENCEMENT**

The Corporation commenced on December 8, 2004, the date on which the Articles of Incorporation were filed with the Secretary of State of the State of Florida under Document Number P04000165010.

**ARTICLE VII - INCORPORATOR**

The name and address of the incorporator of the Corporation were:

Theodore R. Stotzer  
321 East Hillsboro Boulevard  
Deerfield Beach, Florida 33441

**ARTICLE VIII - SEPARATENESS PROVISIONS**

Notwithstanding anything contained herein to the contrary, for so long as the Indebtedness remains outstanding, the Corporation:

(a) shall not enter into any transaction of merger or consolidation, or liquidate or dissolve itself (or suffer any liquidation or dissolution), or acquire by purchase or otherwise all or substantially all the business or assets of, or stock or other evidence of beneficial ownership of, any Person;

(b) has not and shall not guarantee or otherwise become liable on or in connection with any obligation of any other Person;

(c) does not own and shall not own any assets or property other than the Project and any incidental personal property necessary for the ownership or operation of the Project;

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(d) is not engaged and shall not engage, directly or indirectly, in any business other than the ownership, management and operation of the Project and shall remain organized solely for the purpose of the ownership, management and operation of the Project;

(e) shall not enter into any contract or agreement with any Affiliate, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms' length basis with third parties other than an Affiliate;

(f) has not incurred and shall not incur any indebtedness, secured or unsecured, direct or contingent (including any contingent obligation), other than (i) indebtedness expressly permitted in connection with the Indebtedness, (ii) related party indebtedness which is subordinate to the Indebtedness, including, but not limited to that certain Promissory Note issued by the Corporation in favor of Aventura Land Holding II, Ltd., a Florida limited partnership, in the aggregate principal amount of Seven Million Dollars (\$7,000,000.00), and (iii) trade payables incurred in the ordinary course of business;

(g) has not made and shall not make any loans or advances to any third party;

(h) is and expects to remain solvent and pay its own liabilities, indebtedness and obligations of any kind, including all administrative expenses, as the same shall become due; it shall pay all such liabilities, indebtedness and obligations from its own separate assets;

(i) has done or caused to be done and shall do all things necessary to preserve its existence, and shall not, nor will any shareholder, amend, modify or otherwise change its articles of incorporation or bylaws in a manner which adversely affects each such Person's existence as a single purpose entity;

(j) shall conduct and operate its business generally as presently conducted and operated subject to such operational changes as may be reasonably necessary or appropriate to construct, operate and maintain the Project;

(k) shall maintain bank accounts separate from any other Person;

(l) shall maintain separate books and records and shall prepare separate financial statements which are not consolidated or combined with the financial statements of any other Person (unless consolidated financial statements with the Corporation's sole shareholder are required or permitted by applicable law, in which case footnotes shall identify the separate assets and liabilities of the Corporation's sole shareholder);

(m) shall be, and at all times shall not hold itself out to the public as being other than, a legal entity separate and distinct from any other Person (including any Affiliate);

(n) shall file its own tax returns, shall not permit its financial results to be consolidated or combined with those of any other Person for financial reporting purposes, and shall not permit any of its funds to be distributed, loaned or otherwise transferred to any other person (unless consolidated financial statements with the Corporation's sole shareholder are

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required or permitted by applicable law, in which case footnotes shall identify the separate assets and liabilities of the Corporation's sole shareholder);

(o) is and expects to be at all times adequately capitalized for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(p) shall not seek its dissolution or winding up, in whole or in part;

(q) shall not commingle its funds and assets with those of any other Person;

(r) has and shall maintain its assets in such manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(s) does not and shall not hold itself out to be responsible for the debts or obligations of any other Person;

(t) shall not do any act which would make it impossible to carry on its ordinary business;

(u) except as otherwise permitted in the Loan Documents, shall not possess or assign the Project for other than a business or company purpose;

(v) except as expressly permitted in the Loan Documents, shall not sell, encumber or otherwise dispose of all or substantially all of the Project, other than the sale of condominium units in the ordinary course of business;

(w) shall not hold title to its assets other than in its name;

(x) shall not institute proceedings to be adjudicated bankrupt or insolvent; or consent to the institution of bankruptcy or insolvency proceedings against it; or file a petition seeking, or consent to, reorganization or relief under any applicable federal or state law relating to bankruptcy; or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of it or a substantial part of its property; or make any assignment for the benefit of creditors; or admit in writing its inability to pay its debts generally as they become due;

(y) shall maintain its books, records, resolutions and agreements as official records;

(z) has observed and will continue to observe all corporate formalities;

(aa) has not and will not fail to correct any known misunderstandings regarding its separate identity; and

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(bb) shall not amend any provisions of its organizational documents in any material respect without Lender's express written consent, which consent shall not unreasonably be withheld.

#### ARTICLE IX - AMENDMENT

Subject to the limitations set forth in Article VIII, the Corporation reserves the right to amend or repeal any provisions contained in these Amended and Restated Articles of Incorporation, or any amendment thereto, and any right conferred upon the shareholders is subject to this reservation.

#### ARTICLE X - BY-LAWS

Subject to the limitations set forth in Article VIII, the power to alter, amend or repeal the By-laws of the Corporation shall be vested in each of the Board of Directors and the shareholders of the Corporation. Subject to the limitations set forth in Article VIII, the shareholders of the Corporation may amend or adopt a by-law that fixes a greater quorum or voting requirement for shareholders (or voting groups of shareholders) than is required by law.


#### ARTICLE XI - INDEMNIFICATION

The Corporation shall indemnify any officer, director or incorporator, or any former officer, director or incorporator, of the Corporation to the fullest extent permitted by law.

This amendment and restatement of the Articles of Incorporation has been duly and unanimously authorized and directed by Joint Unanimous Written Consent of Directors and Shareholders of the Corporation dated as of September 13, 2005. This amendment and restatement of the Articles of Incorporation supersedes the original Articles of Incorporation of the Corporation.

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IN WITNESS WHEREOF, these Amended and Restated Articles of Incorporation have been executed by the undersigned in his capacity as aforesaid as of the 13 day of September, 2005 on behalf of the Corporation.

  
\_\_\_\_\_  
Theodore R. Stotzer, Vice President