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FLORIDA NON-PROFIT CORPORATION

PALM BAY CLUB HOMEOWNERS ASSOCIATION, INC.

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ARTICLES OF INCORPORATION

OF

**PALM BAY CLUB HOMEOWNERS ASSOCIATION, INC.
(A CORPORATION NOT-FOR-PROFIT)**

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SECRETARY OF STATE
TALLAHASSEE FLORIDA
FILED

THE UNDERSIGNED, hereby associate themselves for the purpose of forming a corporation not-for-profit under Chapter 617, Florida Statutes, and certify as follows:

**ARTICLE I
NAME**

The name of this corporation is PALM BAY CLUB HOMEOWNERS ASSOCIATION, INC. (the "Association")

**ARTICLE II
PURPOSE**

The purpose for which this Association is organized is the operation and management of that certain real estate development which is to be or may be created upon lands located in Palm Beach County, Florida, (the "Properties"), and subject to the Declaration of Community Covenants for PALM BAY CLUB (the "Declaration") to be recorded in the Public Records of Palm Beach County, Florida.

The Association is to undertake the performance of and to carry out the acts and duties incident to the administration of the operation and management of the Properties in accordance with the terms, provisions, conditions and authorizations, contained in these Articles of Incorporation, and which may be contained in the Declaration, both of which will be recorded among the Public Records of Palm Beach County, Florida, encompassing the real property described above and the improvements thereon that are submitted to Association ownership; and to own, maintain, manage, operate, lease, sell, trade and otherwise deal with such property, whether real or personal, as may be necessary and convenient in the administration of the Association. All terms set forth in these Articles and defined in the Declaration shall have such meanings as are therein set forth.

**ARTICLE III
POWERS**

The powers of the Association shall include and be governed by the following provisions:

1. The Association shall have all the common law and statutory powers of a corporation not-for-profit which are not in conflict with the terms of these Articles,

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the Declaration and the By-Laws of the Association. In addition, all powers of the Association conferred by the Declaration are incorporated into these Articles by reference.

2. The Association shall have all the powers reasonably necessary to implement the purposes of the Association, and all of the powers granted to it in the Declaration after the Declaration is recorded among the Public Records of Palm Beach County, Florida and in the By-Laws as they may hereafter be amended. Without limiting the generality of the foregoing, the Association shall have power:

(a) The irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any Common Areas therein, or at any time and by force, if necessary, for making emergency repairs therein necessary to prevent damage to the Common Areas or to any other Unit or Units. Each Unit Owner does hereby appoint the Association as his or her agent for the purposes herein provided and agrees that the Association shall not be liable for any alleged property damage or theft caused to or occurring on account of any such entry.

(b) The power to make and collect Assessments and other charges against Unit Owners and to lease, maintain, repair and replace the Common Areas and the power to permit the temporary exclusive use by specific Owners or occupants and their guests of portions of the Common Areas for parties or other purposes, subject to reasonable regulation by the Board and reasonable charges or escrows to guarantee clean-up and repair of damages.

(c) The duty to maintain accounting records according to accounting practices normally used by similar associations, which records shall be open to inspection by Unit Owners and their authorized representatives during normal business hours.

(d) To contract for the management and maintenance of the Properties and to authorize a management agent (who may be an affiliate of the Developer) to assist the Association 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 funds as shall be made available by the Association for such purposes.

(e) The power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security therefor mortgages and security interests in property owned by the Association, provided that such actions are approved by a majority of the entire membership of the Board of Administration and of the votes of Owners represented at a meeting at which a quorum has been attained, or by such greater percentage of the Board or Unit Owners as may be specified in the By-Laws with respect to certain borrowing, provided further that no

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such action shall be permitted while the Developer owns any Units without the prior written consent of the Developer.

(f) The duty to obtain and maintain adequate insurance to protect the Association, the Common Areas and the Properties.

(g) Subsequent to the recording of the Declaration, the Association, when authorized by a majority of the votes of Owners represented at a meeting at which a quorum has been attained, shall have the power to convey, lease, and mortgage property owned by the Association and to acquire and enter into agreements for the acquisition of fee interests, leaseholds, memberships, and other possessory or use interests in lands or facilities (including, but not limited to, country clubs, golf courses, marinas and other recreational facilities, whether or not contiguous to the lands of the Association) intended to provide for the use or benefit of the Unit Owners. The expenses of ownership (including the expense of making and carrying any mortgage related to such ownership), rental, membership fees, operation, replacements and other expenses and undertakings in connection therewith shall be Common Expenses. No actions authorized hereunder, however, may be taken as long as the Developer owns any Units without the prior written consent of the Developer.

(h) The power to adopt and amend rules and regulations covering the details of the operation and use of the Properties.

(i) The power to employ personnel (part-time or full-time), and if part-time, such personnel may be employees of other associations and the allocation of their compensation shall be equitably apportioned among the associations for which such employee provides services.

(j) The power to purchase Units in the Development and to acquire, hold, lease, mortgage and convey the same and the power to acquire real property. If requested by the Master Community Association, the duty to collect from all Unit Owners the annual, special and individual assessments of the Community Association and/or Master Community Association and to pay said associations all sums collected in advance on a monthly or quarterly basis.

(k) The power to grant, modify or move any easement if the easement constitutes part of or crosses the Common Areas.

(l) The duty to maintain the official records of the Association.

3. All funds and the titles of all properties acquired by the Association and their proceeds shall be held for the benefit and use of the members in accordance with the provisions of the Declaration, these Articles and the By-Laws.

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4. The Association shall make no distribution of income to its members, administrators or officers, except that it may pay reasonable salaries or compensation to such of its officers as it deems proper from time to time.

5. While the Developer (defined below) still holds Units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing from the Developer:

- (a) Assessment of the Developer as a Unit Owner for capital improvements.
- (b) Any action that would be detrimental to the sales of Units by the Developer.

6. The powers of the Association shall be subject to and shall be exercised in accordance with the provision hereof and of the Declaration, the By-Laws and the Act.

7. Any emergency actions shall be noticed and ratified at the next regular meeting of the Board.

ARTICLE IV

DUTIES

The Association shall have the duty to operate and manage the Properties. Without limiting the generality of the foregoing, these duties shall include the following:

1. The Association shall adopt a rule and regulation concerning the posting of notices of Board meetings and the annual meeting.

2. The Association shall maintain an adequate number of copies of the Association documents, and all amendments to the foregoing, on the Properties, to ensure their availability to owners and prospective purchasers. The Association may charge its actual costs for preparing and furnishing the foregoing to those requesting same.

3. The Association shall ensure that the following contracts shall be in writing:

- (a) Any contract for the purchase, lease or renting of materials or equipment, which is not to be fully performed within one year from the date of execution of the contract.

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- (b) Any contract, regardless of term, for the provision of services; other than contracts with employees of the Association, and contracts for attorneys and accountants services, and any other service contracts exempted from the foregoing requirement by Florida Statutes or administrative rules as amended from time to time.

ARTICLE V

MEMBERS

1. All Unit Owners shall be members of the Association.
2. Membership in the Association shall be established by recording in the Public Records of Palm Beach County, Florida, an instrument or deed establishing a fee simple interest in a Unit within the Development and the notification in writing to the Association of the recording information. The new record owner designated by such instrument thereby becomes a member of the Association if his purchase was in compliance with the Declaration. The membership of the prior owner shall thereby terminate. The Developer, to the extent of its ownership of Units, is a member of the Association, holding memberships equal to the number of unsold Units it holds.
3. The share of a member in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to the individual Unit.
4. Members of the Association shall be entitled to one (1) vote for each Unit owned by such member. If the Unit is jointly owned by two or more persons (or by a corporation), the joint owners or the corporation, as the case may be, shall designate one person who shall exercise the right to vote permitted for each Unit so owned in the manner as provided in the By-Laws. Voting rights will be exercised in the manner provided by the By-Laws of the Association. Fractional voting is absolutely prohibited.
5. The By-Laws shall provide for an annual meeting of members, and may make provisions for regular and special meetings of members other than the annual meeting.

ARTICLE VI

DURATION

The Association shall have perpetual existence.

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ARTICLE VII

PRINCIPAL OFFICE

The initial principal office of the Association shall be located at 5752 Vintage Oaks Circle, Delray Beach, Florida 33484, but thereafter may be located at such other suitable and convenient place as shall be permitted by law and designated by the Board.

ARTICLE VIII

MANAGEMENT

The affairs of the Association shall be managed by the President with the assistance of the Vice President, Secretary and Treasurer and other officers, if any, subject to the direction of the Board. The Board, or the President with the approval of the Board, may employ a managing agent and/or other managerial and supervisory personnel or entities to administer or assist in the administration of the operation and management of the Association. Any such person or entity may be so employed without regard to whether such person or entity is a member of the Association or an Administrator or officer of the Association.

ARTICLE IX

BOARD OF ADMINISTRATION

1. **Number of Administrators and Qualifications.** The property, business and affairs of the Association shall be managed by a Board in the manner and accordance with the relevant provisions specified in the By-Laws. Each administrator must be a member of the Association or a spouse of a member. Other provisions regarding qualifications of administrators are contained in the By-Laws. The number of Administrators on the first Board shall be three (3). The number on succeeding Boards shall be as provided from time to time in the By-Laws. The Administrators shall be elected by the members of the Association at their annual meeting as provided in the By-Laws. At least a majority of the Board shall be members of the Association or shall be authorized representatives, officers or employees of corporate members.

2. **First Board.** The names and post office addresses of the first Board who, subject to the provisions of these Articles of Incorporation, the By-Laws, and the laws of the State of Florida, shall hold office for the first year of the Association's existence, or until their successors are elected and have qualified, are as follows:

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<u>Name</u>	<u>Address</u>
Eugene N. Suttin	5752 Vintage Oaks Circle Delray Beach, FL 33484
Steven Romanowski	5752 Vintage Oaks Circle Delray Beach, FL 33484
Kenneth Weitz	5752 Vintage Oaks Circle Delray Beach, FL 33484

The undertakings and contracts authorized by the first Board shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the Board duly elected by the membership after the Declaration has been recorded, so long as such undertakings and contracts are within the scope of the powers and duties which may be exercised by the Board in accordance with all applicable Association documents.

ARTICLE X

OFFICERS

The Board shall elect annually a President, Secretary and Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall determine. The President shall be elected from among the membership of the Board and be an Administrator but no other officer need be a member or Administrator. The same person may hold two offices, except for the following combinations: (1) President and Vice President; (2) President and Secretary or Assistant Secretary.

The officers who shall serve until the first election under the Articles of Incorporation shall be the following:

<u>Name</u>	<u>Address</u>	<u>Office</u>
Kenneth Weitz	5752 Vintage Oaks Circle Delray Beach, FL 33484	President
Eugene N. Suttin	5752 Vintage Oaks Circle Delray Beach, FL 33484	Secretary

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ARTICLE XI

BY-LAWS

The original By-Laws of the Association shall be adopted by the Board of Administrators designated herein. Thereafter, the By-Laws may be altered or rescinded only in such manner as the By-Laws may provide by the members.

ARTICLE XII

INDEMNIFICATION

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 by reason of the fact that he is or was an administrator, employee, officer or agent of the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such 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 interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or misfeasance or malfeasance in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which such 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, of itself, create 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 interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

2. To the extent that an administrator, 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 Section 1 above or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

3. Any indemnification under Section 1 above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a

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determination that indemnification of the administrator, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 1 above. Such determination shall be made (a) by the Board of Administrators by a majority vote of a quorum consisting of administrators who were not parties to such action, suit or proceeding, or (b) if such quorum is not obtainable, or, even if obtainable, if a quorum of disinterested administrators so directs, by independent legal counsel in a written opinion, or by a majority of the members of the Association.

4. 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 of Administrators in the specific case upon receipt of an undertaking by or on behalf of the administrator, 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 in this Article VII.

5. 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, and shall continue as to a person who has ceased to be an administrator, officer, employee or agent and shall inure to the benefit of the heirs and personal representatives of such person.

6. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was an administrator, officer, employee or agent of the Association, or is or was serving, at the request of the Association, as an administrator, 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 Association would have the power to indemnify him against such liability under the provisions of the Article.

ARTICLE XIII

AMENDMENTS

1. Proposal; Notice of Meeting. Amendment(s) to these Articles of Incorporation may be proposed by the Board acting upon a majority vote or by the members of the Association owning two-thirds (2/3) of the Units, whether by vote at a meeting or by instrument signed by them. Upon the proposal of any amendment(s) by the Board or members, such proposed amendment(s) shall be transmitted to the President (or other officer in the President's absence) who thereupon shall call a special meeting of the members for a date not sooner than twenty (20) days nor later than sixty (60) days from the receipt by him of the proposed amendment(s). The Secretary shall give each member written notice of such meeting, stating the time and place of the meeting and reciting the proposed amendment(s) in reasonably detailed form and shall post notice of the meeting in a conspicuous place on the

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Common Areas at least fourteen (14) continuous days prior to the meeting. Such notice shall be mailed or presented personally to each member not less than fourteen (14) nor more than thirty (30) days before the date set for the meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail, postage prepaid, addressed to the member at his post office address as it appears on the records of the Association. Any member may waive such notice in writing which waiver when filed in the records of the Association, whether before or after the meeting, shall be deemed equivalent to the receipt of such notice by such member.

2. Method of Approval. At an amendment meeting, the affirmative vote of members owning not fewer than two-thirds (2/3) of the Units shall be required for the approval of any proposed amendment.

A member may submit his written vote concerning any proposed amendment(s) in lieu of attending the meeting or in lieu of being represented by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting.

In the event that the members owning the number of Units necessary to pass any amendment(s) to these Articles of Incorporation shall execute an instrument amending these Articles of Incorporation, the same shall be and constitute, when duly registered in the Office of the Secretary of State, a valid amendment to these Articles of Incorporation, and it shall not be necessary for a meeting to be held.

3. Registration. Upon approval, such amendment(s) shall be transcribed and certified in such form as may be necessary to register the same in the Office of the Secretary of State. Upon such registration, a certified copy thereof shall be recorded in the Public Records of Palm Beach County, Florida, within ten (10) days from the date of registration.

4. Prohibition of Certain Amendments. Notwithstanding the foregoing provisions of this Article, no amendment to abridge, amend or alter the rights of the Association to contract with Developer as herein provided or the right of Developer to designate and select members of the Board may be adopted without the prior written consent of Developer. In addition, no amendment shall operate to unlawfully discriminate against any Unit or class or group of Units.

ARTICLE XIV

REGISTERED AGENT

The name and street address of the first registered agent authorized to accept service of process within the State for the Association is COBER Corporate Agents, Inc., 2601 South Bayshore Drive, 19th Floor, Miami, Florida 33133.

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ARTICLE XV
SUBSCRIBER

The name and street address of the subscriber is:

Name

Address

Karen P. Kondell

c/o Carlton, Fields, Ward, Emmanuel,
Smith & Cutler, P.A.
2601 South Bayshore Drive, 19th Floor
Miami, FL 33133

IN WITNESS WHEREOF, the subscriber has hereunto set her hand and
seals this 18th day of January, 2001.


KAREN P. KONDELL, Subscriber

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(FAX)305 857 0857

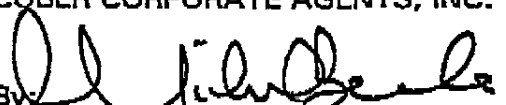
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ACCEPTANCE OF APPOINTMENT AS REGISTERED AGENT

Having been designated as registered agent for PALM BAY CLUB HOMEOWNERS ASSOCIATION, INC. in the foregoing Articles of Incorporation, I, on behalf of COBER Corporate Agents, Inc., a Florida corporation, hereby agree to accept service of process for said corporation and to comply with all statutes relative to the complete and proper performance of the duties of a registered agent. I am familiar with and accept the obligations of that position.

COBER CORPORATE AGENTS, INC.

By: 

MICHAEL A. BERKE

Title: Vice President

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