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The Townhomes at Vizcaya Falls Homeowners Associatio

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**ARTICLES OF INCORPORATION
OF
THE TOWNHOMES AT VIZCAYA FALLS
HOMEOWNERS ASSOCIATION, INC.**

(A not-for-profit corporation)

The undersigned hereby executes these Articles of Incorporation (the "Articles") for the purpose of forming a corporation not-for-profit under Chapter 617 of the Florida Statutes in existence on the date of execution of these Articles (the "Florida Not-For-Profit Corporation Act") and certifies as follows:

**ARTICLE I
NAME**

The name of the corporation shall be **THE TOWNHOMES AT VIZCAYA FALLS HOMEOWNERS ASSOCIATION, INC.**, hereinafter referred to as the "Association".

**ARTICLE II
PURPOSE**

The purpose for which the Association is organized is to engage as a non-profit organization in protecting the value of the property of the Members of the Association and of the Association, to exercise all the powers and privileges and to perform all of the duties and obligations of the Association as defined and set forth in that certain Declaration of Covenants, Conditions and Restrictions for The Townhomes at Vizcaya Falls and all amendments thereto (the "Declaration") to be recorded in the Public Records of Palm Beach County, Florida, including the establishment and enforcement of payment of Assessments contained therein, and to engage in such other lawful activities as may be to the mutual benefit of the Members and the Property.

The Association does not contemplate pecuniary gain to, or profit for, its Members. All terms used but not otherwise defined herein shall have the same meaning given to them in the Declaration.

**ARTICLE III
POWERS**

The Association shall have all the common law and statutory powers of a corporation not for profit which are not in conflict with these Articles, and further shall have all the powers to accomplish all purposes and goals authorized and set forth herein and in the Declaration, as amended from time to time. By way of example and not of limitation, such powers shall include the power to:

- A. Own and convey property.
- B. Establish Rules and Regulations.
- C. Assess Members and enforce Assessments.

- D. Sue and be sued.
- E. Contract for services of a maintenance or management company.
- F. Require all the Owners to be Members.
- G. Take any other action necessary for the purposes for which the Association is organized.

ARTICLE IV **MEMBERSHIP AND VOTING**

Qualification for, and admission to, membership in the Association and the voting rights of the Members in the Association, shall be as provided in and regulated by the Declaration and the By-Laws of the Association.

ARTICLE V **BOARD OF DIRECTORS**

The affairs of the Association shall be managed by a Board of Directors consisting of not less than three (3) nor more than nine (9) directors. Until Developer relinquishes control of the Association and the Board of Directors, pursuant to the By-Laws and the Declaration, Developer shall have the right to appoint all members of the Board of Directors and to approve the appointment of all officers of the Association, and no action of the membership of the Association or the Board of Directors shall be effective unless, and until, approved by Developer. Further, until Turnover, no director or officer need be a Member of the Association. Thereafter, Developer shall have the right to appoint at least one (1) member of the Board for so long as Developer holds for sale in the ordinary course of business at least five percent (5%) of all Lots and Units that will ultimately be contained in the Property, and any member of the Board appointed by Developer need not be a Member of the Association. The number of directors constituting the initial Board is three (3) and they shall serve until such time as Developer relinquishes control of the Association or until replaced by Developer. Commencing with the first annual meeting of Members following the date on which Developer relinquishes control of the Association, the directors shall be elected by the Members of the Association at the annual meeting. Developer shall be entitled at any time, and from time to time, to remove or replace any director originally appointed by Developer. Developer may waive or relinquish in whole or in part any of its rights to appoint any one or more of the directors it is entitled to appoint. The following persons shall constitute the initial Board of Directors:

<u>Name</u>	<u>Address</u>
Aaron Chorost	1601 Forum Place, Suite 805 West Palm Beach, FL 33401
Craig A. Perna	1601 Forum Place, Suite 805 West Palm Beach, FL 33401

Kevin Voller

1601 Forum Place, Suite 805
West Palm Beach, FL 33401

ARTICLE VI

OFFICERS

Officers shall be elected by the Board of Directors at the annual meetings of the directors, as provided in the By-Laws. Until such time as Developer relinquishes control of the Association, as provided in the Declaration and the By-Laws, Developer shall have the right to approve all of the officers elected. The initial officers shall consist of a President, a Vice President, a Secretary and a Treasurer.

ARTICLE VII

INDEMNIFICATION OF OFFICERS, DIRECTORS AND COMMITTEE MEMBERS

The Association hereby indemnifies any director, officer or Association committee member made a party to or threatened to be made a party to any threatened, pending or completed action, suit or proceeding:

A. whether civil, criminal, administrative or investigative, (other than one by or in the right of the Association to procure a judgment in its favor), brought to impose a liability or penalty on such person for an act alleged to have been committed by such person in his capacity as director, officer or committee member, or in his capacity as director, officer, employee or agent of any corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys fees, actually and necessarily incurred as a result of such action, suit or proceeding or any appeal therein. If such person acted in good faith in the reasonable belief that such action was in the best interests of the Association, and in criminal actions or proceedings, without reasonable ground for belief that such action was unlawful. The termination of any such action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not in itself create a presumption that any such director, officer, or committee member did not act in good faith and in the reasonable belief that such action was in the best interests of the Association or that he had reasonable grounds for belief that such action was unlawful; and

B. by or in the right of the Association to procure a judgment in its favor by reason of his being or having been a director, officer or committee member for the Association or by reason of his being or having been a director, officer, employee or agent of any corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against the reasonable expenses, including attorneys fees, actually and necessarily incurred by him in connection with the defense or settlement of such action, or in connection with an appeal therein, if such person acted in good faith and in the reasonable belief that such action was in the best interests of the Association. Such person shall not be entitled to indemnification in relation to matters as to which such person has been adjudged to have been guilty of gross negligence or willful misconduct in the performance of his duty to the Association unless and only to the extent that the court, administrative agency, or investigative body before which such action, suit or proceeding is held shall determine upon application that,

despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which such tribunal shall deem proper.

The Board of Directors shall determine whether amounts for which a director, officer or committee member seeks indemnification were properly incurred and whether such director or officer acted in good faith and in a manner he reasonably believed to be in the best interests of the Association, and whether, with respect to any criminal action or proceeding, he had no reasonable ground for belief that such action was unlawful. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding.

The foregoing rights of indemnification shall not be deemed to limit in any way the powers of the Association to indemnify under applicable law.

ARTICLE VIII **INCORPORATOR**

The name and address of the incorporator of the Association is:

<u>Name</u>	<u>Address</u>
Cynthia C. Spall, Esq.	Gunster, Yoakley & Stewart, P.A. 777 S. Flagler Drive, Suite 500 East West Palm Beach, FL 33401

ARTICLE IX **AMENDMENTS**

These Articles of Incorporation of the Association may be amended, altered or rescinded as provided in the Florida Not-For-Profit Corporation Act; provided, however, that no such amendments shall conflict with the terms of the Declaration or adversely affect the rights of Developer, without Developer's prior written approval; and provided further that no amendment, alteration or rescission may be made which impairs the rights or privileges of any Institutional Mortgagee, without the express, prior written consent of the Institutional Mortgagee so affected. Any attempt to amend contrary to these prohibitions shall be of no force or effect.

ARTICLE X **TRANSACTIONS IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED**

No contract or transaction between the Association and Developer, or between the Association and one (1) or more of its Members, directors or officers, or between the Association and any other entity in which Developer or any of the Association's Members, directors or officers has any interest shall be invalid, void or voidable solely for this reason, or solely because such interested person is present at or participates in the meeting of the Board or committee thereof which authorized the contract or transaction, or solely the votes of such interested person(s) are counted for such purpose. Neither Developer nor any Member, director or officer

of the Association shall incur liability by reason of the fact that Developer or such Member, director or officer is or may be interested in any such contract or transaction.

Interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction

ARTICLE XI

DISSOLUTION OF THE ASSOCIATION

The Association shall exist in perpetuity. Upon termination, dissolution or final liquidation of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner.

A. Real property contributed to the Association without the receipt of other than nominal consideration by Developer (or its predecessor in interest) shall be returned to Developer unless it refuses to accept the conveyance in whole or in part.

B. Remaining assets shall be distributed among the Members as tenants in common, each Member's share of the assets to be determined in accordance with its voting rights.

The Association may be dissolved upon a resolution to that effect being recommended by not less than three-fourths (3/4) of the Board of Directors, and approved by sixty-seven percent (67%) of the voting rights of the Members; provided, however, that no such dissolution shall be effective without the consent of Developer so long as Developer holds at least one Lot or Unit for sale in the ordinary course of business, which consent may be withheld for any reason whatsoever.

ARTICLE XII

REGISTERED AGENT AND REGISTERED OFFICE

The name of the initial registered agent shall be GY Corporate Services, Inc., and the street address of the registered office of the Association shall be 777 South Flagler Drive, Suite 500 East Tower, West Palm Beach, Florida 33401. The Association shall have the right to designate subsequent registered agents without amending these Articles of Incorporation.

ARTICLE XIII

ADDRESS

The principal place of business of the Association shall be:

1601 Forum Place, Suite 805
West Palm Beach, FL 33401

and the mailing address of the Association shall be:

1601 Forum Place, Suite 805
West Palm Beach, FL 33401

ARTICLE XIV
SEVERABILITY

If any provision of these Articles of Incorporation is contrary to, prohibited by or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder of these Articles of Incorporation shall not be invalidated thereby and shall be given full force and effect so far as possible. If any provision of these Articles of Incorporation may be construed in two or more ways, one of which would render the provision invalid or otherwise avoidable or unenforceable, and the other of which would render the provision valid and enforceable, such provision shall have the meaning which renders it valid and enforceable.

ARTICLE XV
CONFLICT

In the event of conflict between the provisions of these Articles and the Declaration, the By-Laws or Florida law, the provision of Florida law, the Declaration, these Articles, and the By-Laws shall prevail (in that order).

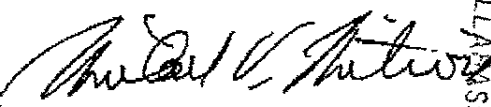
IN WITNESS WHEREOF, the incorporator has executed these Articles of Incorporation this 19 day of January 2007, the date when corporate existence shall begin.


Cynthia C. Spall, Esq.
Incorporator

ACCEPTANCE BY REGISTERED AGENT

GY Corporate Services, Inc., whose street address 777 South Flagler Drive, Suite 500 East Tower, West Palm Beach, Florida, 33401, hereby consents to its designation as Registered Agent in the foregoing Articles of Incorporation, and states that it is familiar with, and accepts, the obligations of that position as provided for in Section 617.0501, Florida Statutes.

GY CORPORATE SERVICES, INC.

By 
Michael V. Mittrione, Vice President

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