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BASIC AMENDMENT  
CALLAWAY PLAZA, INC.

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Amended & Restated  
Articles

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**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
CALLAWAY PLAZA, INC.**

**THE UNDERSIGNED**, as President of Callaway Plaza, Inc., a Florida corporation ("Corporation"), hereby adopts the following Amended and Restated Articles of Incorporation for the Corporation which amend and restate the original articles of incorporation (as amended, the "Original Articles") which the Corporation filed with the Florida Department of State on January 14, 1993, effective January 13, 1993 under Document No. P93000003327.

**NOW, THEREFORE**, the Original Articles are hereby amended and restated as follows:

**ARTICLE I - NAME**

The name of this corporation is **CALLAWAY PLAZA, INC.**, with its principal address being located at 6866 Treves Way, Boynton Beach, FL 33437 and its mailing address being 6866 Treves Way, Boynton Beach, FL 33437.

**ARTICLE II - DURATION**

This corporation shall have perpetual existence commencing on the date of the filing of these Articles of Incorporation by the Department of State. This corporation shall have an effective date of January 13, 1993.

**ARTICLE III - PURPOSE**

The nature of the business and of the purposes to be conducted and promoted by the corporation is to engage solely in the activity of acting as a general partner of Callaway Plaza Associates, Ltd., a Florida limited partnership (the "Partnership"), whose purpose is to own, hold, sell, assign, transfer, operate, lease, mortgage, pledge and otherwise deal with the real property popularly known as Callaway Plaza, located in Bay County, Florida (the "Property"). The corporation shall exercise all powers enumerated in the Florida Business Corporation Act necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

**ARTICLE IV - CAPITAL STOCK**

This corporation is authorized to issue one hundred (100) shares of \$1.00 par value common stock which shall be designated as "Common Shares".

This instrument prepared by:  
Gregory A. McLaughlin, Esq.  
FL Bar No. 0518794  
Tripp Scott, PA  
PO Box 14245  
Ft. Lauderdale, FL 33302  
(954) 525-7500

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#### **ARTICLE V - PRE-EMPTIVE RIGHTS**

Every shareholder, upon the sale by the corporation of any new stock of this corporation, shall have the right to purchase his pro rata share thereof (as nearly as may be done without issuance of fractional shares) at the price at which it is offered to others.

#### **ARTICLE VI - REGISTERED OFFICE AND REGISTERED AGENT**

The street address of the registered office of this corporation is 6866 Treves Way, Boynton Beach, FL 33437 and the name of the registered agent of this corporation at that address is Richard A. Schneider.

#### **ARTICLE VII - BOARD OF DIRECTORS**

The corporation shall have one (1) Director. The number of Directors may be either increased or decreased from time to time in accordance with the By-laws of the corporation. The name and address of the Director is: Richard A. Schneider, 6866 Treves Way, Boynton Beach, FL 33437.

#### **ARTICLE VIII - INCORPORATOR**

The name and address of the incorporator is: Richard A. Schneider, 4740 So. Ocean Boulevard, Apt. 303, Highland Beach, FL 33487.

#### **ARTICLE IX - CERTAIN PROHIBITED ACTIVITIES**

The corporation shall only incur or cause the Partnership to only incur indebtedness in an amount necessary to operate and maintain the Property. For so long as any mortgage lien in favor of UBS Principal Finance LLC, its successors or assigns (the "First Mortgage") exists on any portion of the Property, the corporation shall not and shall not cause the Partnership to incur, assume, or guaranty any other indebtedness, except for accounts payable incurred in the ordinary course of business or as otherwise permitted by the First Mortgage. For so long as the First Mortgage exists on any portion of the Property and the Partnership remains owner of the Property, the corporation: (i) shall not and shall not cause the Partnership to dissolve or liquidate, (ii) shall not and shall not cause the Partnership to consolidate or merge with or into any other entity, or convey or transfer its properties and assets substantially as an entirety or transfer any of its beneficial interests to any entity, (iii) shall not voluntarily commence a case with respect to itself or cause the Partnership to voluntarily commence a case with respect to itself, as debtor, under the Federal Bankruptcy Code or any similar federal or state statute without the unanimous written consent of the board of directors, and (iv) shall not materially amend the Articles of Incorporation or By-laws of the corporation or the Agreement of Limited Partnership of the Partnership without first obtaining approval of the mortgagee holding the First Mortgage on any portion of the Property.

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**ARTICLE X - SEPARATENESS COVENANTS**

For so long as the First Mortgage exists on any portion of the Property, in order to preserve and ensure its separate and distinct corporate identity, in addition to the other provisions set forth in these Articles of Incorporation, the corporation shall conduct its affairs in accordance with the following provisions:

1. It shall maintain an office through which its business shall be conducted separate and apart from those of its parent and any affiliate or may share office space with its parent or an affiliate and allocate fairly and reasonably any overhead for shared office space.
2. It shall maintain corporate records and books of account separate from those of its parent and any affiliate.
3. Its Board of Directors shall hold appropriate meetings (or act by unanimous consent) to authorize all appropriate corporate actions.
4. It shall observe all corporate formalities.
5. It shall not commingle assets with those of its parent and any affiliate.
6. It shall conduct business in its own name.
7. It shall maintain financial statements separate from its parent and any affiliate.
8. It shall pay any liabilities out from its own funds, including salaries of any employees, not from funds of its parent or any affiliate.
9. It shall maintain an arm's length relationship with its parent and any affiliate.
10. It shall not guarantee or become obligated for the debts or any other entity, including its parent or any affiliate or hold out its credit as being available to satisfy the obligations of others.
11. It shall use stationery, invoices and checks separate from its parent and any affiliate.
12. It shall not pledge its assets for the benefit of any other entity, including its parent and any affiliate.
13. It shall hold itself out as an entity separate from its parent and any affiliate.

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For the purpose of this Article X, the following terms shall have the following meanings:

"affiliate" means, any person controlling or controlled by or under common control with the parent, including, without limitation (i) any person who has a familial relationship, by blood, marriage or otherwise with any director, officer or employee of the corporation, its parent, or any affiliate thereof and (ii) any person which receives compensation for administrative, legal or accounting services from this corporation, its parent or any affiliate. For purposes of this definition, "control" when used with respect to any specified person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"parent" means, with respect to a corporation, any other corporation owning or controlling, directly or indirectly, fifty percent (50%) or more of the voting stock of the corporation.

"person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization, or government or any agency or political subdivision thereof.

#### ARTICLE XI - INDEMNIFICATION

The corporation shall indemnify any Officer or Director, or any former Officer or Director, to the full extent permitted by law, however, any indemnification of the corporation's Officers and Directors shall be fully subordinated to any obligations respecting the Partnership or the Property (including, without limitation, the First Mortgage) and such indemnification shall not constitute a claim against the corporation or the Partnership in the event that cash flow in excess of amounts necessary to pay holders of such obligations is insufficient to pay such obligations.

#### ARTICLE XII - AMENDMENT

Except as provided for in Article IX herein, these Articles of Incorporation may only be amended by the Board of Directors (but only to the extent permitted by the Florida Business Corporation Act) or by the vote of shareholders holding a majority of the issued and outstanding Common Shares of the corporation.

\* \* \* \* \*

The amendments were approved by the Board of Directors and the shareholders of the corporation by Joint Consent Action dated as of February 16, 2000. The number of votes cast by the shareholders in favor of the amendments was sufficient for approval.

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**IN WITNESS WHEREOF**, the undersigned President and Registered Agent have executed these Amended and Restated Articles of Incorporation this 16 day of February, 2000.



Richard A. Schneider, President

**THE UNDERSIGNED**, named as the registered agent in Article VI of these Articles of Incorporation, hereby accepts the appointment as such registered agent, agrees to act in this capacity, and acknowledges that he/she is familiar with, and accepts the obligations imposed upon registered agents under the Florida Business Corporation Act, including specifically Section 607.0505.



Richard A. Schneider, Registered Agent