

**NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE ARTICLES OF INCORPORATION. FOR PRESENT TEXT SEE EXISTING ARTICLES OF INCORPORATION**

**SECOND AMENDED AND RESTATED ARTICLES OF INCORPORATION**

**OF**

**WINDJAMMER VILLAGE OF NAPLES, INC.**

Pursuant to Section 617.0201(4), Florida Statutes, the Articles of Incorporation for Windjammer Village of Naples, Inc., a Florida corporation not for profit, which was originally incorporated under the former name of Windjammer Homeowners Association of Naples, Inc., on March 19, 1990 and amended on November 10, 1995, are hereby amended and restated in their entirety. All amendments included herein have been adopted pursuant to Section 617.0201(4), and Chapters 719 and 723 of the Florida Statutes, and there is no discrepancy between the corporation's Articles of Incorporation as heretofore amended and the provisions of these Amended and Restated Articles other than the inclusion of amendments adopted pursuant to Section 617.0201(4) and the omission of matters of historical interest. The Amended and Restated Articles of Incorporation shall henceforth be as follows:

ARTICLE I

NAME: The name of the corporation, herein called the "Corporation", is Windjammer Village of Naples, Inc., and its current address 220 Oceans Blvd., Naples Florida 33104.

ARTICLE II

PURPOSE AND POWERS: The purpose for which the Corporation is organized is to provide an entity pursuant to the Florida Cooperative Act for the operation of Windjammer Village of Naples, Inc., a cooperative, located in Collier County, Florida. For the accomplishment of its purposes, the Corporation 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 and of a cooperative under the Florida Cooperative Act, except as expressly limited or modified by these Articles, the Master Form Proprietary Lease, and the Bylaws; and it shall have all of the powers and duties reasonably necessary to operate the cooperative pursuant to the cooperative documents as they may hereafter be amended, including but not limited to the following:

- (A) To make and collect assessments against members of the Corporation to defray the costs, expenses and losses of the Corporation, and to use the funds in the exercise of its powers and duties.
- (B) To protect, maintain, repair, replace and operate the cooperative property and Corporation property.
- (C) To purchase insurance for the protection of the Corporation and its members.
- (D) To repair and reconstruct improvements after casualty, and to make further improvements of the cooperative property.
- (E) To make, amend and enforce reasonable rules and regulations governing the operation of the Corporation, the personal conduct of owners, occupants, residents, invitees, guests, tenants and the use, occupancy, alteration, maintenance, transfer and appearance of units, common elements and limited common elements, subject to any limits set forth in the cooperative

documents.

- (F) To approve or disapprove the transfer, leasing and occupancy of units, as provided in the cooperative documents.
- (G) To enforce the provisions of the Cooperative Act, the Master Form Proprietary Lease, these Articles, the Bylaws and any Rules and Regulations of the Corporation.
- (H) To contract for the management and maintenance of the cooperative and the cooperative property, and to delegate any powers and duties of the Corporation in connection therewith except such as are specifically required by law or by the Declaration of Cooperative to be exercised by the Board of Directors or the membership of the Corporation.
- (I) To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Corporation.
- (J) To borrow money as necessary to perform its other functions hereunder.
- (K) To grant, modify or move any common elements and/or easement in the manner provided in the cooperative documents.

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

### ARTICLE III

#### MEMBERSHIP:

Membership in this corporation shall be limited to Shareholders or a family member of a Shareholder of Windjammer Village of Naples, Inc., who have purchased a membership certificate, either voluntarily, or by operation of law, the transferee shall become a member of the corporation if all the requirements for membership have been met.

### ARTICLE IV

TERM: The term of the Corporation shall be perpetual.

### ARTICLE V

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

### ARTICLE VI

#### DIRECTORS AND OFFICERS:

- (A) The affairs of the Corporation shall be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but in no event less than three (3) Directors.

- (B) Directors of the Corporation shall be elected by the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.
- (C) The business of the Corporation shall be conducted by the officers designated in the Bylaws. The officers shall be elected each year by the Board of Directors at its first meeting after the annual meeting of the members of the Corporation, and they shall serve at the pleasure of the Board.

## ARTICLE VII

AMENDMENTS: Amendments to these Articles shall be proposed and adopted in the following manner:

- (A) Proposal. Amendments to these Articles may be proposed by a majority of the Board or by a written petition to the Board, signed by at least one-fourth (1/4th) of the voting interests of the Corporation.
- (B) Procedure. Upon any amendment to these Articles being proposed by said Board or unit owners, such proposed amendment shall be submitted to a vote of the owners not later than the next annual meeting for which proper notice can be given.
- (C) Vote Required. Except as otherwise provided by Florida law, a proposed amendment shall be adopted if it is approved by at least a majority (50%+1) of the voting interests who are present and voting, in person or by proxy, at any annual or special meeting called for the purpose. Amendments may also be approved by written consent a majority (50%+1) of the total voting interests. The Board of Directors may amend these Articles to correct scrivener's errors or omissions, and amend and restate the Articles in order to consolidate into one document amendments previously adopted by the members or the Board. Amendments adopted by the Board shall occur at a duly noticed Board meeting (with adoption of the amendments set forth on the agenda).
- (D) Effective Date. An amendment shall become effective upon filing with the Secretary of State and recording a Certificate of Amendment in the Public Records of Collier County, Florida, with the formalities required by the Cooperative Act.

## ARTICLE VIII

INDEMNIFICATION.

- (A) Indemnity. The Corporation shall indemnify any officer, Director, or committee member 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 a Director, officer, or committee member of the Corporation, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, unless (i) a court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interest of the Corporation, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (ii) such court also determines specifically that indemnification should be denied. 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 a 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 interest of the Corporation, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. It is the intent of the membership of the Corporation, by the adoption of this provision, to provide the most comprehensive indemnification possible to their officers, Directors, and committee members as permitted by Florida law.

(B) Defense. To the extent that a Director, officer, or committee member of the Corporation has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section (A) above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorney's fees) actually and reasonably incurred by him in connection therewith.

(C) Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected Director, officer, or committee member to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized by this Article VIII.

(D) Miscellaneous. The indemnification provided by this Article VIII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of members, or otherwise, and shall continue as to a person who has ceased to be a Director, officer, or committee member and shall inure to the benefit of the heirs and personal representatives of such person.

(E) Insurance. The Corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, committee member, employee, or agent of the Corporation, or a Director, 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 Corporation would have the power to indemnify him against such liability under the provisions of this Article.

(F) Amendment. Anything to the contrary herein notwithstanding, the provisions of this Article VIII may not be amended without the approval in writing of all persons whose interest would be adversely affected by such amendment.