

**DECLARATION OF RESTRICTIONS
AND PROTECTIVE COVENANTS**

ARTICLES OF INCORPORATION

BYLAWS



Arborgate **Patio Homes**
at Kendall Lakes East

TABLE OF CONTENTS

Homeowners' Association Declaration of Restrictions and Protective Covenants	02
Articles of Incorporation for Homeowners' Association	14
Bylaws of Homeowners' Association	17
Registered Agent Certificate	23
Legal Description (Exhibit A)	25

**HOMEOWNERS' ASSOCIATION
DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS
for ARBORGATE PATIO HOMES**

THIS DECLARATION is made this ___ day of 198___, by AMERIFIRST DEVELOPMENT CORP., f/k/a CHARTER I, INC., a Florida corporation, hereinafter called Developer, which declares that the real property described in Article 11, which is owned by Developer, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as covenants and restrictions) hereinafter set forth.

**ARTICLE I
DEFINITIONS**

The following words when used in this Declaration (unless the context shall prohibit.) shall have the following meanings:

- A. **Association** shall mean and refer to ARBORGATE PATIO HOMES HOMEOWNERS' ASSOCIATION. INC., a Florida corporation not for profit, which is to be incorporated.
- B. **The Properties** shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article 11 hereof, which are described in Exhibit A.
- C. **Common Areas** shall mean and refer to: The area described in Exhibit A attached hereto and made a part hereof and such additional parcels of land as may from time to time be designated by Developer as Common Areas under these covenants and restrictions each such designation to be by recorded instrument; together with the landscaping and any improvements thereon, including without limitation all structures, recreational facilities, open spaces, lakes, off-street parking areas, private streets, sidewalks, street lights, and entrance features, but excluding any public utility installations thereon.
- D. **Lot** shall mean and refer to any lot on the plats of ARBORGATE PATIO HOMES, and any lot created on any plat of other property within Section 26 Township 54 South, Range 39 East, Dade County, Florida, which plat is designated by Developer by recorded instrument to be subject to these covenants and restrictions, and any lot shown upon any re-subdivision of any such plat.
- E. **Owner** shall mean and refer to the record owner whether one or more persons or entities, of the fee simple title to any Lot or Unit situated upon The Properties.
- F. **Members** shall mean and refer to all those Owners who are members of the Association as provided in Article 11, Section 1, hereof.
- G. **Unit** shall mean and refer to any dwelling unit in any multi-dwelling building, which land is designated by Developer by recorded instrument to be subject to these covenants and restrictions.
- H. **Landscaping and Pedestrian Areas** shall mean and refer to strips of land abutting dedicated road surfaces, within The Properties. All references in this instrument to recording data refer to the Public Records of Dade County, Florida.

**ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION;
ADDITIONS THERETO**

Section 1. **Legal Description.**

The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Dade County, Florida, and is more particularly described as follows:

The land described in Exhibit A and All of the lots and tracts that may in the future be platted by Developer within

Section 26, Township 54 South, Range 39 East, Dade County, Florida, and which are designated by Developer by recorded instrument to be subject to this declaration; all of which real property shall hereinafter be referred to as The Properties. Developer may from time to time bring other land, in another section or sections, under the provisions hereof by recorded supplemental declarations.

Section 2. Merger or Consolidation.

Upon a merger or consolidation of any association referred to herein with any other association as provided in its articles of incorporation, its properties, rights and obligations may, by operation of law be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties rights and obligations of any association as a surviving corporation pursuant to a merger.

The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within The Properties together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within The Properties.

**ARTICLE III
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

Section 1. Membership.

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot or Unit which is subject by covenants of record to assessment by the Association shall be a member of the Association. Notwithstanding anything else to the contrary set forth in this Section 1, any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member of said association.

Section 2. Voting Rights.

The Association shall have two classes of voting membership.

Class A. Class A members shall be all those owners as defined in Section 1 with the exception of the Developer. Class A members shall be entitled to vote for each Lot or Unit in which they hold the interest required for membership by Section 1. When more than one person holds such interest or interests in any Lot or Unit, all such persons shall be members, and the vote for such Lot or Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot or Unit.

Class B. The Class B member shall be the Developer. The Class B member shall be entitled to three votes for each Lot or Unit in which it holds the interest required for membership by Section 1, and the Class B member shall be entitled to elect a majority of the Board of Directors, provided that the Class B membership shall cease and terminate when the last Lot or Unit within The Properties has been sold and conveyed by Developer.

Notwithstanding any provision to the contrary, the Developer shall have the right to elect a majority of the Board of Directors of the Association until such time as Developer no longer holds the title to any portion of said Properties.

**ARTICLE IV
PROPERTY RIGHTS IN THE COMMON AREAS**

Section 1. Ownership.

The Common Areas are hereby dedicated to the joint and several use, in common, of the Owners of all Lots and Units that may from time to time constitute part of The Properties. When all residential dwelling units proposed by Developer to be constructed within The Properties have been conveyed to purchaser, or sooner, at Developer's option exercisable from time to time, as to any portions of the Common Areas, the Developer, or its successors and assigns, shall convey and transfer the record fee simple title thereto to the Association, and the Association shall accept such conveyance, holding title for the Owners as stated in the preceding sentence. Beginning upon the date these covenants are recorded, the Association shall be responsible for the maintenance of the Common Areas in a continuous and satisfactory manner without cost to the general taxpayers of Dade County. It is intended that all real estate taxes against the Common Areas shall be proportionally assessed against and payable as part of the taxes of the Lots and Units within The Properties. However, in the event that any such taxes are assessed

directly against the Common Areas, the Association shall be responsible for the payment of the same, including taxes on any improvements and any personal property thereon accruing from and after the date these covenants are recorded, and such taxes shall be prorated between Developer and the Association as of the date of " such recordation. Developer shall have the right from time to time to enter upon the Common Areas during periods of construction upon adjacent properties, and for the purpose of construction of any facilities on the Common Areas that Developer elects to build, and Developer shall have the right to use the Common Areas for sales, display and signs during the period of construction and sales of all of the land owned by Developer in said Section 26. The Owner of a Lot or Unit shall have no personal liability for any damages for which the Association is legally liable or arising out of or connected with the existence or use of any Common Areas or any other property required to be maintained by the Association.

Section 2. **Members' Easements.**

A. Each Member of the Association and each tenant, agent and invitee of such Member shall have a permanent and perpetual easement for the use of all Common Areas in common with all other Members of the Association, their tenants, agents and invitees, subject to the following:

1. The right and duty of the Association to levy assessments against each Lot and Unit for the purpose of maintaining the Common Areas and facilities in compliance with the provisions of this Declaration and the restrictions on the plats of portions of the said properties from time to time recorded by Developer.
2. The right of the Association to suspend the voting rights and right to use the Common Areas and facilities by an Owner for any period during which any assessment against his Lot or Unit remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its lawfully adopted and published rules and regulations.
3. The right of the Association to adopt and enforce rules and regulations governing the use of the common Areas and all facilities at any site situated thereon, including the right to fine Members as provided in Article VII hereof.
4. Developer, its successors and assigns, shall have the right to permit persons other than Members to use the land described in Exhibit A and any recreational facilities that may be constructed thereon under such terms as Developer, its successor and assigns, may from time to time desire.

The right of an Owner to the use and enjoyment of the Common Areas and facilities thereon shall extend to the members of his immediate family who reside with him, subject to regulation from time to time by the Association in its lawfully adopted and published rules and regulations,

B. Also each Member of the Association and each tenant shall have an easement for ingress and egress appurtenant to his unit for purpose of painting, repair and maintenance to his unit or lot.

C. A perpetual four (4) wall-maintenance easement shall be provided on the lot adjacent to any exterior wall lying on the center of any property line and projecting or encroaching the adjacent lot in a dimension equal to half the thickness of such wall or any other wall having a side set back of four feet or less from the adjacent property line, which, with the exception of walls and/or fences, shall be kept clear of structures. This easement shall be shown on the plat and incorporated into each deed transferring title to the property. The wall shall be maintained in its original color and treatment unless otherwise agreed to in writing by the two affected lot owners. Roof overhangs may penetrate the easement on the adjacent lot a maximum of twenty-four (24) inches but the roof shall be so designed that water run-off from the dwelling place on the lot line is limited to the easement area.

D. It shall be the obligation of both Owners, equally, to maintain and repair any wall or fence lying on the center of any property line. To the extent any Owner fails or refuses to fulfill his or her obligation to maintain such walls or fences, the Association shall have the right to conduct all necessary maintenance and repair and to levy a special assessment against the delinquent Owner for all expenses associated with the maintenance and repair. Any such special assessment shall be treated as an assessment subject to the provisions for the collection of assessments as set forth in Article VI hereof.

Section 3. **Easement Appurtenant.**

The easement provided in Section 2 shall be appurtenant to and shall pass with the title to each Lot or Unit.

Section 4. **Maintenance.**

The Association shall at all times maintain in good repair and shall replace as often as necessary, any and all improvements situated on the Common Areas (upon completion of construction by Developer), but not limited to, all

recreational facilities, landscaping, paving, drainage structures, street lighting fixtures and appurtenants, sidewalks, lakes and other structures, except utilities, all such work to be done by the Board of Directors of the Association acting on a majority vote of the Board members. Maintenance of street lighting fixtures shall include and extend to payment for electricity consumed in their illumination. All work pursuant to this Section and all expenses hereunder shall be paid for by the Association through assessments imposed in accordance with Article VI, Such assessments shall be against all Lots and all Units equally. No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use of the Common Areas or abandonment of his right to use the Common Areas.

Section 5. Utility Easement.

Public utilities may be installed underground in the Common Areas when necessary for the service of the Properties or other lands owned by the Developer in Section 26, Township 54 South, Range 39 East, but all use of utility easements shall be in accordance with the applicable provisions of this Declaration. The Developer shall have the right also to install and maintain community and/or cable T.V. This easement is hereby reserved for the Developer over the Common Areas for this purpose.

**ARTICLE V
LANDSCAPING AND PEDESTRIAN AREAS AND LAKE BANKS**

Section 1. Maintenance.

Without limiting the generality of the provisions of Article IV, Section 4 hereof, the Landscaping and Pedestrian Areas or Lake Banks (as hereinafter defined) shall be maintained by the Association, beginning upon the date these covenants are recorded, in a continuous and satisfactory manner without cost to the general taxpayers of Dade County, and without direct expense to the Owners of the Lots upon which the Landscaping and Pedestrian Areas or Lake Banks of way are situated or abut, except for their share of the general common expenses. Such maintenance shall extend to any street & hung fixtures and the payment for electricity consumed in their illumination. All work pursuant to this Section and all expenses hereunder shall be paid for by the Association through assessments imposed in accordance with Article VII. No Owner may waive his right to use or otherwise escape liability for assessments for such maintenance under this Section.

Section 2. Limitations on Use.

The Landscaping and Pedestrian Areas shall be used for the purpose of landscaping, a planting screen buffer and for installation and maintenance of underground public utilities, and shall not be used by Owners of the respective Lots for parking or for any other purposes. No driveway access or vehicular access shall be permitted to any Lots across any Landscaping and Pedestrian Areas, except for access to the sales model areas.

Section 3. Like Banks.

Subject to applicable governmental agency approval, the Association shall maintain the shorelines and right-of-way all Lake Banks now or hereafter lying within or abutting the Development in a neat and attractive manner, and shall keep the shoreline right-of-way and Lake Banks areas free of weeds and tall grasses. The Association's maintenance responsibilities shall extend to the edge of water and may extend to the entire canal. The areas to be maintained by the Association are sometimes referred to herein as Lake Bank.

The Association shall have the right to open the Lake Bank to use by Members in such manner and under such restrictions as it shall elect, subject to all applicable governmental approvals. No parking or vehicular use of the Lake Banks of way shall be permitted.

**ARTICLE VI
ASSOCIATION-COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of the Assessments.

The Developer for each Lot and each Unit owned by it within The Properties hereby covenants, and each Owner of any Lot or any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual assessments or charges for the maintenance of the Common Areas as provided in Article IV, hereof, Lake Banks as provided in Article V, hereof, and Landscaping along dedicated roads dedicated by Developer within The Properties whether or not such landscaping is on property dedicated to the County, including such reasonable reserves as the Association may deem necessary, and special assessments as provided in Section 3 hereof, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together

with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest there on and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. All assessments, both regular and special, shall be equally against all Lots and all Units within The Properties and that may in the future be subject to liens of the Association.

Section 2. Purpose of Assessments.

- A.** The annual assessments levied by the Association shall be used exclusively for the maintenance of the Common Areas and facilities as provided in Article IV, maintenance of the Landscaping, Lake Banks and Pedestrian Areas as provided in Article V, landscaping along dedicated roads dedicated by Developer within the properties, and to promote the health, safety, welfare and recreational opportunities of the Members of the Association, their families residing with them, their guests and tenants.
- B.** The Board of Directors shall determine the annual assessment based on a review and analysis of the prior year's expenses and of any anticipated additional expenses. The Association must present its analysis in writing to all Owners within thirty (30) days of the commencement of the assessment, and shall provide a new analysis in writing to all Owners if the assessment is changed.
- C.** Upon the petition of 10% of the Owners, the Association shall hold a Special Meeting of the Board of Directors to reconsider the annual assessment. If at this Special Meeting a majority of the Owners vote to change the annual assessment, the Board of Directors shall conduct a new review and analysis to re-determine the annual assessment pursuant to subsection B, above.

Section 3. Capital Improvements.

Funds necessary for capital improvements relating to the Common Areas, Lake Banks, Pedestrian Areas, may be levied as special assessments by the Association, upon approval by a majority of the Board of Directors of the Association and upon approval of two-thirds favorable vote of Members voting at a meeting or by ballot as may be provided by the bylaws of the Association.

Section 4. Date of Commencement of Annual Assessments; Due Dates.

The annual assessments provided for in this Article VI shall commence on the first day of the month next following the recordation of these covenants. The annual assessments shall be payable in monthly installments, or in annual or quarter-annual installments if so determined by the Board of Directors of the Association. The amount of the annual assessment shall be ____ per Lot or Unit, payable in equal quarter-annual installments until the amount of the assessment is changed by action of said Board of Directors. The assessment amount may be changed at any time by said Board from that originally stipulated herein or from any other assessment that is in the future adopted. The assessment shall be for the calendar year, but the amount of the annual assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months remaining in such calendar year.

The due date of any special assessment under Section 3 hereof shall be fixed in the Board resolution authorizing such assessment.

Section 5. Duties of the Board of Directors.

Except for the initial assessments specified in Section 4 above, the Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot and each Unit for each assessment period at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall hereupon be sent to every Owner subject thereto. The Association shall upon demand at any time furnish to any Owner liable for an assessment a certificate in writing signed by an officer of the Association, setting forth whether such assessment has been paid as to any particular Lot or Unit. Such certificate shall be conclusive evidence of payment of any assessment to the Association therein stated to have been paid, The Association, through the action of its Board of Directors, shall have the power, but not the obligation, to acquire, by purchase, lease or otherwise, one or more dwelling units for occupancy by its employees or independent contractors, and to enter into an agreement or agreements from time to time with one or more persons, firm or corporations for management services. The Association shall have all other powers provided in its Articles of Incorporation.

Section 6. Collection of Assessment; Effect of Non-Payment of Assessment; the Personal Obligation of the Owner; the Lien, Remedies of the Association.

- (a) The assessments of the Association shall be collected through the Association which shall be incorporated as a Florida corporation not for profit. The Association shall have the right to collect any assessment due directly from any Owner.
- (b) All Owners, regardless of how his, her or their title to property has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, are liable for all assessments that come due on the Unit while he, she or they are Unit Owners. An Owner's liability for assessments may not be avoided by waiver or suspension of the use or enjoyment of any common area or by abandonment of the parcel upon which the assessments are made.
- (c) The Association has a lien on each parcel to secure the payment of assessments and other amounts provided for by this Article. Except as otherwise set forth in this section, the lien is effective from and shall relate back to the date on which the original declaration of the community was recorded. However, as to first mortgages of record, the lien is effective from and after recording of a claim of lien in the public records of the county in which the parcel is located. However, notwithstanding the priority of liens, nothing in this subsection shall limit the liability of subsequent owners for past due assessments and other amounts as provided for in this Article.
- (d) 1. If assessments are not paid by the due dates specified in Section 4 hereof, the such assessment shall become delinquent and shall, together with interest thereof and the cost of collection thereof as hereinafter provided, become a continuing lien on the property which shall property in the hands of the then Owner, his heirs, devisees, personal representatives, successors, assigns and all successors of title to the subject Unit.
2. All Owners, including any and all persons acquiring title to or interest in a Unit as to which the assessment is already delinquent, regardless of how his, her or their title to property has been acquired, and including but not limited to persons acquiring title by operation of law, by judicial sale, foreclosure sale or by deed in lieu of foreclosure, and including first mortgagees who acquire title through a foreclosure action and their successors (unless their liability is limited by Florida Statutes), are jointly and severally liable with the previous Owner(s) for all unpaid assessments that came due prior to the time of transfer of title. This liability is without prejudice to any right the successor Unit Owner may have to recover any amounts paid by them from the previous Owner. For the purposes of this paragraph, the term "previous Owner" shall not include the Association if it acquired title to a delinquent property through foreclosure or by deed in lieu of foreclosure, and if the present Owner acquired title from the Association the present Owner's liability for unpaid assessments is limited to any unpaid assessments that accrued before the Association acquired title to the delinquent property through foreclosure or by deed in lieu of foreclosure.
- (e) If such delinquent assessments are not paid within fifteen (15) days after the due date, they shall be subject to an administrative fee for the collection of past due assessments. If such assessments are not paid within thirty (30) days after the due date, the assessments shall bear interest from the date when due at a rate of eighteen percent (18%) per annum, and the Association may bring an action of law against the Owner and previous Owners personally obligated to pay the same, and may record a claim of lien against the Unit on which the assessments are unpaid and may enforce its claim of lien by filing a foreclosure action as provided under Florida law and as set forth below.
- (f) In order to enforce its lien and collect past due assessments, the Association may record a claim of lien following the procedures set forth in the Florida Statutes, and may bring an action in its name to foreclose a lien for assessments in the same manner in which a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. The Association is entitled to recover its reasonable attorney's fees and costs incurred in an action to foreclose a lien or an action to recover a money judgment for unpaid assessments.
- (g) If an Owner or the Owner's tenant remains in the foreclosed upon Unit after a foreclosure judgment is entered, the Unit owner owes and is liable to the Association for reasonable rent at the current market rate until such time as the Owner or tenant is removed or voluntarily vacates the Unit, as well as the Association's reasonable attorney's fees and costs incurred to remove the Owner. The Association may demand that the Owner's tenant

pay rent directly to the Association and may evict the tenant if the tenant fails to do so, in the same manner as provided in the Florida Statutes for the eviction of tenants when Association fees are due.

- (h) The Association may purchase the parcel at the foreclosure sale and hold, lease, mortgage, or convey the parcel. The Association is not liable for any unpaid assessments, late fees, interest, or reasonable attorney's fees and costs that came due before the Association's acquisition of title. However, the Association must use its best efforts to satisfy the amounts previously owed on the Unit either through the rental or sale of the Unit.
- (i) In addition to the rights of collection of assessments stated in this Section 6, any and all persons acquiring the title to or the interest in a Unit as to which assessments are delinquent, including without limitations persons acquiring title by operation of law and by judicial sales, shall not be entitled to the occupancy of such Unit or the enjoyment of the Common Areas until such time as all unpaid and delinquent assessments due and owing from the selling Owner have been fully paid.

Section 7. Additional Remedies for Abandonment by Delinquent Unit Owner

In order to preserve the value of the Condominium as a whole, and in recognition of the fact that abandoned and vacant properties in the Condominium decrease and dilute the value of all Units in the Condominium, in the event that an Owner of a Unit as to which assessments are delinquent abandons the Unit and leaves it vacant, the Association, in its sole discretion, may take possession of the abandoned Unit and rent the Unit, applying any rental income, first, as reimbursement for expenses paid by the Association to make the Unit safe and rentable, including but not limited to insurance costs, realtor and property management fees, and maintenance fees, and for all attorney's fees and costs related to the rental or for collection of the delinquent assessments; second, to cover new assessments due on the Unit as they come due; and, third, to pay down past due assessments. In the event, that all of the foregoing expenses are paid, any remaining rental income shall be held in trust for the Owner for a period of one (1) year, after which time, if uncollected, such funds shall be deemed abandoned and may be applied to general obligations of the Association.

Section 8. Effect on Developer.

Notwithstanding any provision that may be contained to the contrary in this instrument, for so long as Developer is the owner of any Lot or Unit or undeveloped property in The Properties, the Developer shall not be liable for assessments against such Lot or Unit, provided that Developer funds an amount equal to the amount of expenses incurred during such period of time not produced by assessment receivable from other Members of the Association. Developer may at any time commence paying such assessments as to Lots or Units that it owns and thereby automatically terminate its obligation to fund on the fractional basis.

Section 9. Trust Funds.

The portion of all regular assessments collected by the Association for reserves for future expenses, and the entire amount of all special assessments, shall be held by the Association in trust for the Owners of all Lot and Units, as their interests may appear.

Section 10. Owner Liability for Specific Damage.

Owners who, as a result of their own, or their representatives, tenants, family members, or guests' intentional misconduct, misuse, negligence, failure to maintain or otherwise, cause damage to any portion of the Common Areas, or to the property of any other Unit Owner, or who in any way impair the quiet enjoyment of the other Unit Owners, shall be directly liable to the Association for all damages so caused, including but not limited to the costs of repair and any attorney's fees and costs incurred by the Association as a result of such damage, and a special assessment may be levied therefor against such Owner or Owners. Such special assessments shall be subject to all of the provisions hereof relating to other assessments, including, but not limited to, the lien and foreclosure procedures.

Section 11. Rents.

In addition to all remedies provided for herein, if an assessment is not paid within thirty (30) days after the due date, and the delinquent Owner's Unit is occupied by a tenant, the association may demand that the tenant pay to the Association the subsequent rental payments and continue to make such payments until all the monetary obligations of the parcel owner related to the parcel have been paid in full to the Association and the Association releases the tenant or until the tenant discontinues tenancy in the parcel, pursuant to the provisions of Fla. Stat. § 720.3085(8).

ARTICLE VII RULES AND REGULATIONS

Section 1. **Rules and Regulations**

A. The Association shall have the right to establish, by vote of a majority of the Board of Directors, reasonable Rules and Regulations

1. governing the use and maintenance of the Common Areas, Pedestrian Areas, Lake Banks and facilities;
2. governing the collection of assessments;
3. to protect the health, safety, welfare and recreational opportunities of the Members of the Association, their families residing with them, their guests and tenants, the community and the general public;
4. to protect the right of Owners to the quiet enjoyment of their Units and the Common Areas and all facilities;
5. governing the lease or rental of Units, including but not limited to the right to require that all tenants submit to a background check and deposit a reasonable security deposit to cover potential damage to the Common Areas, Pedestrian Areas, Lake Banks and facilities;
6. governing the use of Units for commercial purposes; and
7. governing the right of Owners to have pets.

B. The Association shall have the right to establish, by vote of a majority of the Board of Directors, administrative fees, attorney's fees and a fee schedule for the administration of the Association and the enforcement of the Rules and Regulations. Any fees assessed against an Owner or Unit shall be treated as an assessment subject to the provisions for the collection of assessments as set forth in Article VI hereof.

C. Every Owner shall comply with any and all Rules and Regulations adopted by the Association.

Section 2. **Enforcement.**

Failure of an Owner to comply with such rules and regulations shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. The Association shall have the right to suspend voting rights and use of Common Areas as specified in Article IV, Section 2.

Section 3. **Fines.**

In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees, or employees to comply with any rule or regulation, provided the following procedures are adhered to:

A. Notice: The Association shall notify by mail the Owner and, if applicable, to any tenant, licensee, or invitee of the Owner of the infraction or infractions at least 14 days prior to the imposition of a fine or suspension of rights. Such notice shall inform the Owner that he or she may request a hearing contesting the fine or suspension. If the Owner does not request a hearing, the Association may impose the fine or suspension upon the expiration of the 14 day notice period and provide written notice by mail of such fine or suspension to the Owner.

B. Hearing: If, pursuant to Section A, above, an Owner requests a hearing to contest a fine or suspension, the Association shall set a hearing before a committee of at least three members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. If the committee by majority vote, approves the fine or suspension, the Association shall impose the fine or suspension and provide written notice by mail of such fine or suspension to the Owner.

C. Penalties: The Association may levy a fine of up to \$100 per violation, against any Owner or any Owner's tenant, guest, or invitee for the failure of the Owner of the parcel or its occupant, licensee, or invitee to comply with any provision of this Declaration, the Association Bylaws, or the Rules and Regulations of the Association. A fine may be levied for each day of a continuing violation, with a single notice and opportunity for hearing. The continuing fine may be assessed until the violation ceases and may exceed \$1,000 in the aggregate.

D. Payment of Penalties: Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of the penalties.

E. Collection of Fines: Fines shall be created as an assessment subject to the provisions for the collection of

assessments as set forth in Article VI hereof.

F. Application of Penalties: All monies received from fines shall be allocated as directed by the Board of Directors.

G. Non-exclusive Remedy:

These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association by be otherwise legally entitled; however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

Section 4. Initial Rules and Regulations. Attached hereto as Schedule A are the initial rules and regulations of the Association which are incorporated herein by reference and which may be modified, in whole or in part, at any time by the Board.

Section 5. Limitations on Unit rental.

Commencing on the date of this amendment, a cap is hereby placed on the total number of Units in the Association that may be rented to third parties (including family members), as follows:

- A.** The Association is comprised of single-family residences and, without express permission from the Association, no Unit Owner shall allow occupancy of their Unit by more than one family. To remedy violations of this provision, the Association may, at its sole discretion, impose fines against the Unit Owner, impose an assessment surcharge against the Unit and Unit Owner to cover additional maintenance costs incurred by the Association, and/or evict the excess occupants pursuant to the Florida Statutes governing residential evictions. In the event of such eviction proceedings, the violating Unit Owner will be liable for all attorney's fees and costs incurred by the Association.
- B.** No more than 25 Units (30% of the total Units in the Association) may be rented to or occupied by third parties (any person other than the Unit owner cohabitating with his or her immediate family) at any given time, as follows:
 - 1. Unit owners must personally occupy their Unit for a period of two (2) years from the date of their purchase of the Unit, before they will be allowed to rent their Unit to third parties.
 - 2. In order to rent their Unit, Unit owners must apply in writing to the Association manager. Each applicant will be ranked on a first come/first served basis, and once the maximum number of rentals has been reached, new rental availability (based on the three year roll-over set forth below, Unit sale or re-occupancy by owners) will be granted to owners in the rental applicant list based on the applicants' first come/first served priority.
 - 3. Each Unit owner granted a right to rent their Unit will hold that right for three (3) consecutive years, at which time they will move to the end of the rental applicant list.
 - 4. Current owners (owners as of the date of this Amendment) may opt-out of the provisions of this Section if they provide written notice of their intent to opt-out to the Association by certified mail by October 8, 2015. The Association may, at its sole discretion, impose an assessment surcharge against Owners which, through their opt-out, cause the number of rental units to exceed 25 units to cover additional maintenance costs incurred by the Association from excessive rentals.

Section 6. Limitations on Commercial and Large Vehicles.

- A.** Third party renters cannot park any commercial vehicle (vehicles with commercial markings or license plates) within the Properties, either within Unit assigned parking spaces or in visitor parking.
- B.** Unit owners and renters are not permitted to park any vehicle within the Properties, either within Unit assigned parking spaces or in visitor parking, that exceeds the Class 2b gross vehicle weight rating (GVWR), which is defined as weighing between 8501–10000 lbs. (3856–4536 kg). Vehicles such as the Ford F250, Dodge Ram 1500, and Chevrolet Silverado 1500 are Class 2b vehicles and are examples of the largest type of vehicle permitted.

- C. The foregoing limitations do not apply to commercial vehicles and large vehicles that are parked temporarily (not overnight or for extended periods) for delivery or construction purposes. All commercial vehicles and large vehicles that will be parked in the Property for a period longer than three (3) hours must have a parking pass issued by the Association manager. Any commercial vehicles and large vehicles improperly parked shall be subject to towing/ booting at the Unit owner's expense.

ARTICLE VIII ARCHITECTURAL CONTROL; GENERAL POWERS

Section 1. Members of Committee.

The Architectural Control Committee, sometimes referred to in this Declaration as the Committee, shall consist of three (3) members. The initial members of the Committee shall consist of persons designated by Developer. Each of said persons shall hold office until all Units planned for the Development have been constructed and conveyed, or sooner at the option of Developer. Thereafter, each new member of the Committee shall be appointed by the Board of Directors and shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. Members of the Committee may be removed at any time without cause. The Board of Directors shall have the right to appoint and remove all members of the Committee.

Section 2. Review of Proposed Construction.

Subject to Section 9 below, no building, fence, wall or other structure or improvement [including landscaping] shall be commenced, painted, erected or maintained in the Development nor shall any addition, change or alteration visible from the exterior be made. nor shall any awning, canopy or shutter be attached to or placed upon outside walls or roofs of buildings or other improvements, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by the Committee. The Committee shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the Development as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. If the proposed construction, alterations or additions are to common elements of a Patio Home, said approval shall also be subject to the prior approval of the Patio Home Association.

The Committee may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Committee may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plans submitted for approval. The Committee shall have thirty (30) days after delivery of all required materials to approve or reject any such plans and if not rejected within such 30-day period, said plans shall be deemed approved. The Committee herein shall be the ultimate deciding body and its decisions shall take precedence over all others.

All changes and alterations shall also be subject to all applicable permit requirements and to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees.

Section 3. Meetings of the Committee.

The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time, by resolution unanimously adopted in writing, designate a committee representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 8 hereof. In the absence of such designation, the vote of any two (2) members of the Committee shall constitute an act of the Committee.

Section 4. No Waiver of Future Approvals.

The approval of the Committee of any proposals of plans and specifications or drawings for any work done or proposed, in connection with any other matter requiring the approval and consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

Section 5. Compensation of Members.

The members of the Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

Section 6. Inspection of Work.

Inspection of work and correction of defects therein shall proceed as follows:

- A. Upon the completion of any work for which approved plans are required under this Article VIII, the applicant shall give written notice of completion to the Committee.
- B. Within sixty (60) days thereafter, the Committee or its duly authorized representative may inspect such improvement. If the Committee finds that such work was not effected in substantial compliance with the approved plans, it shall notify the Applicant in writing of such non-compliance within such sixty (60) day period, specifying the particulars of non-compliance and shall require the Applicant to remedy the same.
- C. If upon the expiration of thirty (30) days from the date of such notification, the Applicant shall have failed to remedy such non-compliance, the committee shall notify the Board in writing of such failure. The Board shall then determine whether there is a non-compliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a non-compliance exists, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Applicant does not comply with the Board ruling within such period, the Board, at its option, may either remove the non-complying improvement or remedy the non-compliance, and the Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Applicant to the Association, the Board shall levy a special assessment against such Applicant for reimbursement.
- D. If for any reason the Committee fails to notify the Applicant of any non-compliance within sixty (60) days after receipt of said written notice of completion from the Applicant, the improvement shall be deemed to have been made in accordance with said approved plans.

Section 7. Non-Liability of Committee Members.

Neither the Committee nor any member thereof, nor its duly authorized Committee representative, shall be liable to the Association, or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance or non-performance of the Committee's duties hereunder, unless due to the willful misconduct or bad faith of a member and only that member shall have any liability. The Committee shall review and approve or disapprove all plans submitted to it for any proposed improvements, alteration or addition solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the Development. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

Section 8. Variance.

The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require. Such a variance must be evidenced in writing which must be signed by at least two (2) members of the Committee. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variances were granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the premises, including, but not limited to, zoning ordinances and set-back lines or requirements imposed by any governmental or municipal authority, or architectural committees having jurisdiction.

Section 9. Developer's Exemption.

Developer shall be exempt from the provisions hereof with respect to alterations and additions desired to be affected by Developer and shall not be obligated to obtain Committee approval for any construction or changes in

construction which the Developer may elect to make at any time.

Section 10. General Powers of the Association.

The Association (and the Committee, as appropriate) shall have the absolute power to veto any action taken or contemplated to be taken, and the Association shall have the absolute power to require specific action to be taken, by any patio home, or townhome, created or to be created by the Developer in connection with appropriate sections of the Declaration.

**ARTICLE IX
GENERAL PROVISIONS**

Section 1. Duration.

The covenants and restrictions of this Declaration shall run with and bind The Properties, and shall insure to the benefit of and be enforceable by the Developer, the Association, any patio home, townhome, or the Owner of any land subject to this Declaration, and their respective legal representatives, heirs, successors and assigns, for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of 66-2/3s of the Lots agreeing to revoke said covenants has been recorded. No such agreement to revoke shall be effective unless made and recorded three (3) years in advance of the effective date of such agreement and unless written notice of the proposed agreement is sent so every Owner at least ninety (90) days in advance of any action taken.

Section 2. Notice.

Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement.

Enforcement of these covenants and restrictions shall be accomplished by means of a proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association, the Developer, any other association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. These covenants may also be enforced by any Architectural Control Board established in other covenants that may from time to time be recorded by Developer.

Section 4. Severability.

Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or application in other circumstances, all of which shall remain in full force and effect. .

Section 5. Amendment.

In addition to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges and liens of this Declaration may be amended, changed or added to at any time and from time to time upon the execution and recordation of any instrument executed by the Developer, for so long as it holds title to any Lot affected by this Declaration; or alternatively, by approval at a meeting of Owners holding not less than 66-2/3% of the votes of the membership of the Association, provided that so long as the Developer is the owner of any Lot affected by this Declaration, the Developer's consent must be obtained if such amendment, in the sole opinion of the Developer, affects its interest.

Section 6. Conflict.

This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and Bylaws of the Association and the Articles shall take precedence over the Bylaws.

Section 7. Effective Date.

This Declaration shall become effective upon its recordation in the Dade County Public Records.

**ARTICLES OF INCORPORATION OF
ARBORGATE PATIO HOMES AT KENDALL LAKES EAST, HOMEOWNERS' ASSOCIATION INC.**

WE, the undersigned, hereby associate ourselves together for the purpose of forming a non-profit corporation under the law of the State of Florida, pursuant to Florida Statute 617, et seq. and hereby certify as follows:

ARTICLE I

The name of the corporation shall be: ARBORGATE PATIO HOMES AT KENDALL LAKES EAST, HOMEOWNERS' ASSOCIATION INC., a Florida corporation not for profit.

ARTICLE II

The general purpose of this non-profit corporation shall be as follows: To be the Association for the operation of ARBORGATE PATIO HOMES AT KENDALL LAKES EAST, HOMEOWNERS' ASSOCIATION INC., Restrictions and Protective Covenants created pursuant to the provisions of the Declaration and as such Association, to operate and administer said Common Areas of the Properties and carry out the functions and duties of said HOMEOWNERS' ASSOCIATION as set forth in the Declaration of Restrictions and Protective Covenants Homeowners' Association.

ARTICLE III

All persons who are owners of Patio Home Units within said Properties shall automatically be members of this corporation. Such membership shall automatically terminate when such person is no longer the owner of a Patio Home Unit. Membership in this corporation shall be limited to such Patio Home unit owners. Subject to the foregoing, admission to and termination of membership shall be governed by the Declaration of Restrictions and Protective Covenants filed for said HOMEOWNERS' ASSOCIATION among the public records of Dade County, Florida.

ARTICLE IV

This corporation shall have perpetual existence.

ARTICLE V

The names and residences of the subscribers to these Articles of Incorporation are as follows:

ULISES CARBÓ – 13701 N. Kendall Drive, Miami, EL 33186
R.A. DAVENPORT – 13701 N. Kendall Drive, Miami, FL 33186
STEPHEN MASSON – 13701 N. Kendall Drive, Miami, EL 33186

ARTICLE VI

Section 1.

The affairs of the corporation shall be managed and governed by a Board of Directors composed of three (3) members. The Directors, subsequent to the first Board of Directors, shall be elected at the annual meeting of the membership for a term of one (1) year, or until their successors shall be elected and shall qualify. Provisions for such election, and provisions respecting the removal, Disqualification and resignation of Directors and for filling vacancies on the Directorate, shall be established by the Bylaws.

Section 2.

The principal officers of the corporation shall be:

President
Secretary
Treasurer

who shall be elected from time to time in the manner set forth in the Bylaws adopted by the Corporation.

ARTICLE VII

The names of the officers who are to serve until the first election of officers, pursuant to the terms of the Declaration of Restrictions and Protective Covenants and Bylaws. are as follows:

ULISES CARBÓ, President
R. A. DAVENPORT, Secretary
STEPHEN MASSON, Treasurer

ARTICLE VIII

The following persons shall constitute the first Board of Directors and shall serve until the first election of the Board of Directors at the first regular meeting of the membership:

ULISES CARBÓ
R. A. DAVENPORT
STEPHEN MASSON

ARTICLE IX

The Bylaws of the corporation shall initially be made and adopted by its first Board of Directors.

Prior to the time that the property described in Article I hereinabove has been submitted to HOMEOWNERS' ASSOCIATION by the recording of the Declaration of Restrictions and Protective Covenants, said first Board of Directors shall have full power to amend, alter or rescind said Bylaws by a majority vote.

After the recording of the Declaration of Restrictions and Protective Covenants, the Bylaws may be amended, altered, supplemented or modified by the membership at the annual meeting or at a duly convened special meeting of the membership, attended by a majority of the membership, by vote, as follows:

A. If the proposed change has been approved by the unanimous approval of the Board of Directors, then it shall require only a majority vote of the membership to be adopted,

B. If the proposed change has not been approved by the unanimous vote of the Board of Directors, then the proposed change must be approved by three-fourths (3/4) of the total vote of the membership.

ARTICLE X

Amendments to these Articles of Incorporation may be proposed by any Member or Director and shall be adopted in the same manner as is provided for the amendment of the Bylaws as set forth in Article IX above. Said amendments shall be effective when a copy thereof, together with an attached certificate of its approval, by the Membership sealed with the corporate seal, signed by the Secretary/Treasurer, or an Assistant Secretary, and executed and acknowledged by the President, has been filed with the Secretary of State, and all filing fees paid.

ARTICLE XI

This corporation shall have all of the powers set forth in Florida Statute 617.02 I, all of the powers set forth in the Declaration of Restrictions and Protective Covenants and exhibits annexed thereto including the power to contract for the management of the Properties and any recreational facilities leased to the Association.

ARTICLE XII

There shall be no dividends paid to any of the Members nor shall any part of the income of the corporation be distributed to its Board of Directors or Officers. In the event there are any excess receipts over disbursements as a result of performing services, such excess shall be either refunded to the unit owners or kept by the Association and applied against the Association's expenses for the following year as shall be determined by a vote of the unit owners subject to approval by the Board of Directors of the Association. The corporation may pay compensation in a reasonable amount to its Members,

**BYLAWS
of
ARBORGATE PATIO HOMES AT KENDALL LAKES EAST,
HOMEOWNERS' ASSOCIATION INC.**

A Florida Corporation Not for Profit

ARTICLE I

Identity:

The operation of the Association known as ARBORGATE PATIO HOMES AT KENDALL LAKES EAST HOMEOWNERS' ASSOCIATION, INC., shall be governed according to these Bylaws which are attached as an Exhibit to the Declaration of Restrictions and Protective Covenants which creates said Association.

The Association whose name appears at the end of this instrument is a Florida corporation not for profit, organized and existing under the laws of the State of Florida for the purpose of administering the properties created by the Declaration of Restrictions and Protective Covenants for Arborgate Patio Homes at Kendall Lakes East to which these Bylaws are attached.

1. The provisions of these Bylaws are applicable to the Properties and the terms and provisions hereof are expressly subject to the terms and provisions of the Articles of Incorporation and in the Declaration of Restrictions and Protective Covenants which will be recorded in the Public Records of Dade County, Florida, at the time said property is deeded to the Homeowners' Association, the terms and provisions of said Articles of Incorporation and Declaration of Restrictions and Protective Covenants, as the same may be hereafter amended, shall be controlling wherever the same may be in conflict with these Bylaws.
2. All members of the Association and their invitees, including, without limitation, all present or future owners and tenants of dwelling units in the properties or any of the facilities thereof in any manner, are subject to these Bylaws, the Articles of Incorporation and the Declaration of Restrictions and Protective Covenants.
3. The office of the Association shall be at the site of the premises of the residence of business address of the then President of the Association or at such other place as may be established by resolution of the Board of Directors.
4. The fiscal year of the Association shall be the calendar year.
5. The seal of the Association shall bear the name of the Association, the word Florida, the words Corporation Not for Profit and the year of incorporation, an impression of which seal is as follows:

ARTICLE II

Definitions:

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

- A. Association** shall mean and refer to ARBORGATE PATIO HOMES AT KENDALL LAKES EAST HOMEOWNERS' ASSOCIATION, INC., a Florida corporation not for profit, which is to be incorporated.
- B. The Properties** shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof, which are described in Exhibit A.
- C. Common Areas** shall mean and refer to:
The area described in Exhibit A attached hereto and made apart hereof and such additional parcels of land as may from time to time be designated by Developer as Common Areas under these covenants and restrictions each such designation to be by recorded instrument; together with the landscaping and any improvements thereon, including without limitation all structures, recreational facilities, open spaces, lakes, off-street parking areas, private streets, sidewalks, street lights, and entrance features, but excluding any public utility installations thereon.

- D. Lot** shall mean and refer to any lot on the plat of Arborgate Patio Homes at Kendall Lakes East.
- E. Owner** shall mean and refer to the record owner whether one or more persons or entities, of the fee simple title to any Lot or Unit situated upon The Properties.
- F. Members** shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1, hereof.
- G. Unit** shall mean and refer to any dwelling unit in any multi-dwelling building, which land is designated by Developer by recorded instrument to be subject to these covenants and restrictions.
- H. Landscaping and Pedestrian Areas** shall mean and refer to (i) strips of land abutting dedicated road surfaces, within The Properties. All references in this instrument to recording data refer to the Public Records of Dade County, Florida.

ARTICLE III

Membership and Voting Privileges:

Membership in the Association will be limited to owners of the Townhouse units in the Properties wherein the Association has been created by virtue of the Declaration of Restrictions and Protective Covenants to operate and manage the Properties. Transfer of Unit ownership, either voluntarily or by operation of law, shall terminate membership in the Association, and said membership is to become vested in the transferee.

The vote of the owner(s) of a Unit owned by more than one natural person, as renames in common, joint tenants (except a husband and wife as tenants by the entirety), a partnership, or any other association of natural persons, or by a corporation, a trust, or any other entity shall be cast or otherwise exercised, at all meetings at which members of the Association are entitled to vote or otherwise act, by one natural person designated by the owner(s) of such-Unit as the person designated to vote on behalf of said Unit.

The unanimous vote of the Unit owners' total votes, shall decide any question unless the Declaration of Restrictions and Protective Covenants, Bylaws and Articles of Incorporation of the Association shall provide otherwise.

The presence in person or by proxy of 50% plus 1 of the unit owners' vote shall constitute a quorum.

Votes may be cast in person or by proxy. All proxies shall be in writing and signed by the person entitled to vote, notarized, and shall be filed with the Secretary prior to the meeting in which they are to be used and shall be valid only for the particular meeting designated therein. When the unit is owned by a husband and wife and they wish to designate a third person by proxy to cast the vote for said Unit, both husband and wife must execute the proxy naming the third person.

ARTICLE IV

Meetings of the Membership:

A. Place:

All meetings of the Association shall be held at the Patio Homes property, or at such other place and at such time as shall be designated by the Board of Directors of the Association and stated in the Notice of the meeting, and shall be open to all unit owners.

B. Notices:

The Secretary of the Association shall have the duty to notice all special or annual meetings by delivering or mailing by certified mail a Notice stating the time and place thereof to each unit owner of record at least fourteen (14) days prior to the said meeting. Notices shall be mailed to the unit owners as they appear on the books of the Association. Also, Notices of the meetings shall be posted conspicuously forty-eight (48) hours in advance for the attention of unit owners except in an emergency.

C. Annual Meetings:

The annual meetings shall be held at 8:00 p.m. Eastern Standard Time on the first Thursday of March for the

purpose of transacting any business authorized to be transacted by the members; provided, however, that if that day is a legal holiday, the meeting shall be held at the same hour on the next secular day following- At the annual meeting, each unit owner shall designate the person who shall be a member of the Board of Directors (subject to the provisions of Article III above), and shall transact such other business as may properly be brought before the meeting.

D. Special Meetings:

Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute, may be called by either director in writing to all members, which request shall state the purpose or purposes of the proposed meeting. Business transacted at all special meetings shall be confined to the objects stated in the Notice thereof.

E. Waiver and Consent:

Whenever the vote of members at a meeting is required or permitted by any provision of these Bylaws, to be taken in connection with any action of the Association, the meeting and vote of members may be dispensed with, if all of the members who would have been entitled to vote upon the action if such meeting were held shall consent, in writing, to such action being taken; however, notice of such action shall be given to all members unless all members approve such action.

F. Adjourned Meetings:

If any meeting of members cannot be organized because a quorum of voting members is not present, either in person or by proxy, the meeting may be adjourned from time to time until a quorum is present.

G. Approval or Disapproval:

Approval or disapproval of a unit owner upon any matter, whether or not the subject of an Association meeting, shall be by the voting members; provided, however, that where a unit is owned jointly by a husband and wife and they have not designated one of them as a voting member, their joint approval or disapproval shall be required where they are both present, or in the event only one is present, the person present may cast the vote without establishing the concurrence of the absent person.

H. Minutes of Meetings:

Minutes of all meetings of unit owners and of the Board of Directors shall be kept in a business-like manner and be available for inspection by unit owners and Board members at all reasonable times.

ARTICLE V

Officers:

- A.** The Board shall elect a President and a Secretary/Treasurer which shall be the principal officers of the Association. Both officers shall be members of the Board of Directors of the Association. These officers will serve for one (1) year terms and shall be selected annually by the Board of Directors at the organizational meeting of each new Board of Directors. The annual organizational meeting of each newly elected Board of Directors shall be immediately following the annual meeting of the Association or within seven (7) days after said meeting.
- B.** The President and Secretary/Treasurer shall serve until their successors are elected and installed in their respective offices, At the request of the Board of Directors of the Association the past-President and past Secretary/Treasurer may serve in an assistant capacity for a period of thirty (30) days following the election of new officers in order to insure a smooth transition.
- C.** The President shall be the chief executive officer of the Association. He shall have all the powers and duties which are usually vested in the office of the President of a corporation not for profit, including but not limited to the power to appoint committees from among the members from time to time, as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association. He shall have such additional powers as the Board of Directors of the Association may designate.
- D.** The Secretary/Treasurer shall issue notices of all Board of Directors meetings and all meetings of the Unit owners; he/she shall attend and keep the minutes of the meetings; he/she shall have charge of all of the books of the Association as well as all records and papers, except those kept by the Treasurer. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

The Secretary/Treasurer shall have custody of the Association's funds and securities, if any, and he shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association. He shall deposit all monies and other valuable effects in the name of and to the credit of the Association in such depositories as may be designated from time to time by the Board of Directors. The books shall reflect an account for each Unit in the manner required by § 111 (7) of the Condominium Act.

The Secretary/Treasurer shall disburse the funds of the Association as may be ordered by the Board of Directors in accordance with these Bylaws, making proper vouchers for such disbursements, and shall render to the President and Board of Directors at the regular meetings of the Board of Directors, or whenever they may require, an account of all or his transactions as Secretary/Treasurer and of the financial condition of the Association.

The Secretary/Treasurer shall collect assessments, if any, and shall promptly report the status of collections and of all delinquencies to the Board of Directors. He/She shall give status reports to potential transferees on which reports the transferees may reply.

- E. The officers of the Association shall serve without compensation. Should any vacancy arise the Board of Directors shall name a successor.

ARTICLE VI

Directors:

- A. The first Board of Directors of the Association shall consist of three (3) persons who shall be the subscribers to the Articles; succeeding Boards of Directors shall consist of three (3) persons. All Directors must be members of the Association, except those Directors designated by the Developer. The term of each Director's service shall extend until the next annual meeting of the Association, and thereafter until his/her successor is duly elected and qualified.

- B. The first Board of Directors of the Association who shall hold office and serve until their successors have been elected and qualified shall consist of the following:

ULISES CARBO
R. A. DAVENPORT
STEPHEN MASSON

- C. The organizational meeting of a newly elected Board of Directors of the Association shall be held immediately following the annual membership meeting or within seven (7) days of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary provided a quorum shall be present.

- D. Any vacancies in the Board of Directors shall require a special meeting of the Association for the election of a new Director, or if waived, the unit owner who has the right to appoint said director shall choose a successor or successors who shall hold office for the balance of the unexpired term in respect to which such vacancy occurred.

- E. The Board of Directors of the Association, acting in unison, shall have the powers and duties necessary for the administration of the affairs of the Association, and may do all such acts and things as are now by law or by the Declaration of Restrictions and Protective Covenants or these Bylaws directed to be exercised and done by unit owners. These powers shall specifically include, but shall not be limited to, the following:

1. To exercise all powers specifically set forth the Declaration of Restrictions and Protective Covenants and Bylaws, and all powers incidental thereto.
2. To make assessments, collect said assessments, and use and expend the assessments to carry out the purposes and powers of the Association.
3. To employ, dismiss and control the personnel necessary for the maintenance and operation of the project, and of the common areas and facilities, including the right and power to employ attorneys, accountants, contractors and other professionals as the need arises.

4. To make and amend regulations respecting the operation and use of the common acres for the Properties.
 5. To contract for the management of the condominium and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Declaration(s).
- F. The Board of Directors may establish a schedule of regular meetings to be held at such time and place as The Board of Directors may designate.
- G. Special meetings of the Board of Directors may be called by either Director by giving five (5) days notice, in writing, to the other member of the Board of Directors of the time and place of said meeting. All notices of special meetings shall state the purpose of the meeting. g.
- H. Before or at any meeting of the Board of Directors, any Director may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.
- I. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at such meetings at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors, both members are not present, the Director present may adjourn the meeting from time to time. At each such adjourned meeting, any business which might have been transacted at the meeting, as originally called, may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring the Minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.
- J. No Directors' fees shall be paid by the Association.

ARTICLE VII

Parliamentary Rules:

Robert's Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles, these Bylaws or the laws of Florida.

ARTICLE VIII

Assessments:

The Board of Directors shall fix and levy from time to time the sum or sums necessary and adequate for the common expenses of the Properties, as the same may be determined from time to time by the Board of Directors.

The funds for the management of the Association shall be deposited in such banks and depositories as may be determined by the Board of Directors, upon resolutions approved by the Board of Directors, and shall be withdrawn only upon checks and demands for money signed by both members of the Board of Directors. Obligations of the Association shall also be signed by both members of the Board of Directors.

Either unit owner may demand an audit of the accounts of the Association to be made annually. Said audit shall be prepared by such accountant as the Board of Directors determine and a copy of said report shall be available to the members of the Association in the office of said Association and with the Treasurer of the Association. Such reports shall be available not later than three (3) months after the end of the year for which the report is made. The cost of such audit shall be paid for by the unit owner demanding such audit,

Any payments or receipts of the Association, whether from unit owners or otherwise, paid during the year in excess of the operating expenses and other common expenses of the Association shall be either refunded to the unit owners or kept by the Association and applied against the Association's expenses for the following year as shall be determined by a vote of the unit owners, subject to approval by the Board of Directors of the Association.

The fiscal year for the Association shall begin on the first day of each year; provided, however, that the Board of Directors is expressly authorized to change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed by the Internal Revenue Code of the United States of America at such time as the Board of Directors deems it advisable.

ARTICLE IX

Notices:

Notices shall be sent in accordance with the provisions of these Bylaws and the Declaration of Restrictions and Protective Covenants to which these Bylaws are attached.

ARTICLE X

Liability and Termination of Ownership:

The liability of a unit owner shall survive termination of ownership in the Unit for any unpaid assessment or other obligation. Nor shall termination of ownership and membership impair any rights or remedies which the Association may have against such former owner and member arising out of or in any way connected with such ownership and membership and the covenants and obligations which are inherent in such ownership

ARTICLE XI

Amendments:

These Bylaws may be amended, altered or added to at any meeting of the unit owners, either special or annual meeting, attended by a majority of the membership, as follows:

- A. If the proposed change has been approved by the unanimous approval of the Board of Directors, then it shall require only a majority vote of the membership to be adopted.
- B. If the proposed change has not been approved by the unanimous vote of the Board of Directors, then the proposed change must be approved by three-fourths (3/4) of the total vote of the membership.
- C. No change to these Bylaws shall be valid unless set forth in or annexed to a duly recorded amendment to the Homeowners' Association Declaration of Restrictions and Protective Covenants to which these Bylaws are attached.
- D. If at any time an amendment to these Bylaws shall be invalidated by a court having jurisdiction over their validity, then the previously contained paragraph or phrase shall be automatically reinstated.

ARTICLE XII

Defaults:

- A. In the event of a violation (other than the non-payment of an assessment) by the unit owner of the provisions of the Declaration of Restrictions and Protective Covenants, the Association, by direction of its Board of Directors may notify the unit owner by written notice of said breach, transmitted by mail, and if such violation shall continue for a period of thirty (30) days from date of the notice, the Association, through its Board of Directors, shall have the right to treat such violation as an intentional and inexcusable and material breach of the Declaration of Restrictions and Protective Covenants, of the Bylaws, and the Association may then, at its option, have the following elections:
 - 1. An action of law to recover for its damage on behalf of the Association or on behalf of the other unit owners;
 - 2. An action in equity to enforce performance on the part of the unit owner; or
 - 3. An action in equity for such equitable relief as may be necessary under the circumstances, including injunctive relief.
- B. Upon finding by the Court that the violation complained of is willful and deliberate, the unit owner so violating shall reimburse the Association for reasonable attorney's fees incurred by it in bringing such action. Failure on the part of the Association to maintain such action at law or in equity within thirty (30) days from the date of a written request, signed by a unit owner, to bring an action in equity or suit on account of the violation in the manner provided for by law. Any violations which are deemed by the Board of Directors to be a hazard to public health may be corrected immediately as an emergency matter by the Association, and the cost thereof shall be charged to the unit owner as a specific item which shall be alien against said unit with the same force and effect as if the charge were a part of the common expenses.

- C. Each Unit owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees. Nothing herein contained however, shall be construed so as to modify any waiver by an insurance company or rights of subrogation. The expense for any maintenance, repair or replacement, as provided in this section, shall be charged to said Unit owner, as a specific item which shall be a lien against said Unit with the same force and effect as if the charge were a part of the common expenses.
- D. In any proceeding arising because of an alleged default by a unit owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by the Court.

ARTICLE XIII

Miscellaneous:

- A. The failure of the Association or of a unit owner to enforce any right, provision, covenant or condition which may be granted by the Condominium documents shall not constitute a waiver of the right of the Association or unit owner TO enforce such right, provision, covenant or condition for the future.
- B. All rights, remedies, and privileges, granted to the Association or unit owner pursuant to any terms, provisions, covenants or conditions of the Declaration of Restrictions and Protective Covenants to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such other party by applicable documents, or at law or in equity.
- C. Wherever the masculine singular form of the pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, wherever the context so requires.
- D. Should any of the provisions, sections or covenants herein contained be found to be void or voidable or unenforceable at law or in equity, the remaining provisions of this instrument shall nevertheless be and remain in full force and effect

ARTICLE XIV

The proposed annual budget of common expenses is attached hereto as an Exhibit to these Bylaws and Declaration of Restrictions and Protective Covenants creating Arbogate Patio Homes at Kendall Lakes East, Homeowners' Association, Inc. The proposed annual budget is expressly incorporated herein by reference and made part hereof.

THE FOREGOING WAS ADOPTED AS THE BYLAWS OF ARBORGATE PATIO HOMES AT KENDALL LAKES EAST. HOMEOWNERS ASSOCIATION INC., AT THE FIRST MEETING OF ITS BOARD OF DIRECTORS;

APPROVED:

President _____

Secretary _____

Treasurer _____

CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE SERVICE OF PROCESS WITHIN THIS STATE. NAMING AGENT UPON WHOM PROCESS MAY BE SERVED.

In compliance with the laws of Florida, the following is submitted:

First-That desiring to organize under the laws of the State of Florida with its principal office, as indicated in the foregoing articles of incorporation, at City of Miami, County of Dade, State of Florida, the corporation named in said articles has named CARLOS A. RODRIGUEZ, located at 3144 Coral Way, Miami, Florida, 53145, as its statutory registered agent.

Having been named the statutory agent of the above corporation at the place designated in this certificate, I hereby accept the same and agree to act in this capacity, and agree to comply with the provisions of Florida law relative to keeping the registered office open.

CARLOS A. RODRIGUEZ, Registered Agent

DATED this ____ day of _____, 19 ____

EXHIBIT A

Legal Description

All of ARBORGATE PATIO HOMES, the Plat thereof recorded in Plat Book 119, Page 87, of the Public Records of Dade County, Florida, and such other parcels of land added hereto by supplemental declaration from time to time.

