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SECOND
AMENDED AND RESTATED
DECLARATION OF CLUB MEMBERSHIP
AND
PROTECTIVE COVENANTS
FOR
CALLAWAY GREENS

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SECOND AMENDED AND RESTATED
DECLARATION OF CLUB MEMBERSHIP AND PROTECTIVE COVENANTS
FOR CALLAWAY GREENS

A Declaration of Protective Covenants, recorded September 5, 1996, in Official Records Book 2741, beginning at Page 1911, Lee County, Florida Public Records, subjected the real property described in Exhibit "A" attached hereto to the covenants, conditions, and restrictions, and easements and provisions set forth therein. The Declaration was subsequently Amended and Restated January 21, 1997 and recorded on January 27, 1997 in Official Records Book 2785 beginning at Page 2157 with amendments subsequently recorded in O.R. Book 2828, Page 3326; O.R. Book 2986, Page 2896; O.R. Book 3086, Page 4045; O.R. Book 3418, Page 0738; O.R. Book 3528, Page 0135; and O.R. Book 3544 Page 1219. Submission of the real property described in Exhibit "A" attached hereto to the covenants, hereafter set forth and the easements to persons created by that document remain effective. The real Property to be held, owned, sold, transferred, conveyed and occupied subject to the covenants, hereinafter set forth, which shall be binding upon all persons having any right, title or interest in or to the subject real property, and their heirs, successors and assigns and shall constitute covenants running with the land is hereby ratified.

The name of the homeowners association created to operate the Community is CALLAWAY GREENS HOMEOWNERS ASSOCIATION, INC., (hereinafter called the "Association."), a Florida Not-For-Profit Corporation. The Declarant has turned control of the Association to the Members of the Association and pursuant to the provisions of the Declaration and Association documents, the Association Members approved the Second Amended and Restated Declaration of Club Membership and Protective Covenants for Callaway Greens.

STATEMENT OF DECLARATION

ARTICLE I

INTENT OF DECLARATION

This Declaration is for the purpose of enhancing and protecting the value, attractiveness and desirability of the lots and facilities constituting the subdivision of this single-family residential community. The Association hereby declares that the Property is held, sold, conveyed, encumbered, leased, occupied and improved subject to the covenants, conditions, restrictions, easements and provisions hereinafter set forth. The submission of the aforesaid Community to this Declaration and to the Act as defined in subsection 2.1 is hereby ratified.

ARTICLE 2

DEFINITIONS

Section 2.1 "Act" means the Homeowner Association Act (Chapter 720 of the Florida Statutes) as it now exists or as may be amended from time to time including the definitions therein contained.

Section 2.2 "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of Callaway Greens Homeowners Association, Inc., as filed with the Secretary of State of Florida, and as may be amended from time to time.

Section 2.3 "Assessment" or "Assessments" shall mean and refer to those charges, fees and/or obligations set forth in Article 10 hereof.

Section 2.4 "Association" shall mean and refer to Callaway Greens Homeowners Association, Inc., a Florida not-for-profit corporation, its successors or assigns, whose purpose is to administer the Property in accordance with the provisions of this Declaration.

Section 2.5 "Association Member" shall mean and refer to a person who is entitled to membership in the Association, as provided in the Articles of Incorporation. By-laws and this Declaration.

Section 2.6 "Base Assessment" shall mean and refer to Assessments levied against all Members in the Property to fund Common Expenses.

Section 2.7 "Benefit Assessment" shall mean and refer to Assessments levied against Owners benefiting from a special service or amenity for the cost incurred for providing such service or amenity, or for sanctions levied in accordance with this Declaration.

Section 2.8 "Board of Directors" or "Board" shall be the elected body of the Association having its normal meaning under Florida corporate law.

Section 2.9 "By-Laws" shall mean and refer to the By-Laws of Callaway Greens Homeowners Association, Inc. as may be amended from time to time. The By-laws are attached to this Declaration as Exhibit "B". Amendments to the By-laws shall be recorded in the Public Records of Lee County, Florida.

Section 2.10 "Club" shall mean and refer to Gateway Golf & Country Club, Inc., a Florida not-for-profit corporation, its successors or assigns, whose purpose is to own, operate and administer the Club Facilities in accordance with the Membership Plan.

Section 2.11 "Club Facilities" shall mean and refer to the real and personal property operated as a golf and social country club by the Club, as the same exists from time to time.

Section 2.12 "Club Member" shall mean and refer to a Person entitled to use a Golf Membership or Clubhouse Membership under this Declaration.

Section 2.13 "Clubhouse Memberships" shall refer to the equity clubhouse memberships in the Club.

Section 2.14 "Common Area" or "Common Property" shall be an inclusive term referring to all real and personal property, if any, dedicated to, owned by, or held by the Association and intended for the use in accordance with this Declaration. Currently the personal property of the Association consists of the lake fountains.

Section 2.15 "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association for maintenance, operation and other services required or authorized to be performed by the Association, all as may be found to be necessary or appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the Association.

Section 2.16 "Declarant" shall mean and refer to Bay Colony - Gateway, Inc. or its successors.

Section 2.17 "Declaration" shall mean and refer to this Second Amended and Restated Declaration of Protective Covenants for Callaway Greens as the same may be amended from time to time.

Section 2.18 "Exclusive Common Property" shall mean and refer to the equity golf and clubhouse memberships designated for the benefit of a particular Home(s).

Section 2.19 "First Mortgagee" shall mean and refer to any Institutional lender who holds a first mortgage on a Home and who has notified the Association in writing of its holdings.

Section 2.20 "Golf Memberships" shall mean and refer to the equity golf memberships in the Club.

Section 2.21 "GSD" shall mean and refer to Gateway Services District, a community development district established in accordance with Florida Statutes, Chapter 190.

Section 2.22 "Home" shall mean and refer to a portion of the Property intended for occupancy for a single family and shall include single family lots and single-family detached houses. The term shall include all portions of the lot owned as well as any structures thereon.

Section 2.23 "Institutional Lender" shall mean and refer to a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, qualified pension, profit sharing, IRA accounts or trusts, or lender generally recognized in the community as an institutional lender.

Section 2.24 "Master Association" shall mean and refer to Gateway Greens Community Association, Inc., a Florida not-for-profit corporation, its successors or assigns.

Section 2.25 "Master Declaration" shall mean and refer to the Declaration and General Protective Covenants for Gateway Greens Community recorded in Official Record Book 1977, Page 1367, et seq. of the Public Records of Lee County, Florida. as amended or supplemented from time to time.

Section 2.26 "Membership Plan" shall mean and refer to the Plan for the Offering of Equity Memberships in Gateway Golf & Country Club, as amended from time to time in accordance with its terms.

Section 2.27 "Neighborhood Standards" shall mean the standards of conduct, maintenance, or other activity generally prevailing throughout the Property. Such standards may be more specifically determined by the Board of Directors. Neighborhood Standards shall be part of the Rules and Regulations and must not conflict with the Master Declaration.

Section 2.28 "Owner" shall mean and refer to the record title holder, whether one (1) or more persons or entities, of the fee simple title to any Home situated within or upon the Property. Owners shall not include any mortgagee unless and until such mortgagee has acquired title to a Home pursuant to an action for foreclosure or any proceeding in lieu of foreclosure. If a Home is sold under a recorded contract for deed, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner.

Section 2.29 "Person" means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

Section 2.30 "Plat" or "Plats" shall mean any plat or plats recorded in the Public Records of Lee County, Florida, affecting any portion of or all of the Property.

Section 2.31 "Property" shall mean and refer to the real property described in Exhibit 'A' attached hereto and any additions thereto.

Section 2.32 "Rules and Regulations" shall mean the rules and regulations adopted by the Board as same may be amended from time to time.

Section 2.33 "Single Family Lots" shall mean and refer to Lots 1 through 42, inclusive, of Block B and Lots 1 through 25, inclusive, of Block C according to the Re-Plat of Gateway Phase 22A recorded in the Public Records of Lee County, Florida.

Section 2.34 "Special Assessment" shall mean and refer to Assessments levied in accordance with Article 10, Section 10.4 of this Declaration.

Section 2.35 "Villa Lots" shall mean and refer to Lots 1 through 31, inclusive, of Block A, according to the Plat of Gateway Phase 22 recorded or to be recorded in the Public Records of Lee County, Florida.

ARTICLE 3

PROPERTY RIGHTS AND PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO

Section 3.1 Property. The real property held, transferred, sold, conveyed and occupied subject to this Declaration is the Property.

Section 3.2 Enjoyment of Common Properties. Every Owner of a Home shall have a right to use and enjoy the Common Properties for their intended purpose, subject to this Declaration as it may be amended from time to time, Rules and Regulations and subject to any restrictions or limitations contained in any deed, bill of sale or other instrument conveying such property to the Association. Any Owner of a Home may delegate his or her right of enjoyment to the members of his or her family, lessees and social invitees, as applicable, subject to this Declaration, reasonable regulation by the Board and in accordance with Rules and Regulations adopted from time to time.

Section 3.3 Enjoyment of Club Membership. Each Owner subject to approval of the Application for Membership and payment of all dues, fees, charges and assessments properly imposed by the Club shall be entitled to designate an individual or family occupying the Home as the user of the Club Membership. An Owner's rights and privileges to use and to designate others to use the Club Facilities shall be subject to the conditions of the Membership Plan. A lessee or occupant of a Home may be designated to use the Club Facilities only in accordance with the Membership Plan.

ARTICLE 4

ASSOCIATION MEMBERSHIP

Section 4.1 Membership. No Owner of a Home, whether one (1) or more Persons, shall have more than one (1) membership per Home. In the event the Owner of a Home is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights of an Association Member to vote may be exercised by the Association Member or the Association Member's spouse, subject to the provision of this Declaration and the By-Laws. In the event an Association Member is a corporation, partnership, trust or other entity or joint form of ownership, voting rights may only be exercised by the individuals listed on a certificate filed with the Secretary of the Association. Association Membership shall be appurtenant to and may not be separated from ownership of Home. Change of Association Membership shall be established by recording in the Public Records of Lee County, Florida, a deed or other instrument conveying record fee title to the Home and by the delivery to the Association of a copy of such recorded instrument. The Owner designated by such instrument shall, by said Owner's acceptance of such instrument, become an Association Member, and the Association Membership of the prior owner shall be terminated.

Section 4.2 Association Member and Voting. Members shall be all record Owners of Homes. Voting on Association matters requiring a vote of the Members will be cast by the Members in accordance with this Declaration and the By-Laws. Members shall be entitled to one (1) equal vote for each Home in which they hold the interest required for membership.

Section 4.3 Master Association Membership. Each Home shall be governed by the Master Declaration, as well as this Declaration. Each Owner shall be a member of and be required to pay assessments to the Master Association.

ARTICLE 5

GATEWAY GOLF AND COUNTRY CLUB MEMBERSHIP

Section 5.1 Issuance. Each Certificate of Club Membership shall be issued by the Club directly to the Owner of a Home and not to, or in the name of, the Association. Such Owner's Club Membership may only be sold as Exclusive Common Property appurtenant to title to the Home and in accordance with the Membership Plan.

Section 5.2 Approval Of Application. On or before the date an agreement to purchase or sell a Home is entered into by any Person, the purchaser under the purchase and sale agreement shall complete and execute an Application for Membership in the form provided by the Club for Golf Membership or Clubhouse Membership, as applicable. The Club will review and act on the approval of the application within the time frame prescribed in the Membership Plan. All purchase and sale agreements for Homes shall be deemed to be automatically contingent upon the approval of the purchaser's Application for Membership in the Club. Upon the resale or transfer of a Home, the resale purchaser or transferee shall be required to apply and be approved for Club Membership. The resale purchaser

or transferee shall be required to pay the Club the transfer fee or any other applicable fees as provided in the Membership Plan. If the resale purchaser's application is not acted upon favorably by the Club, the sale of the Home shall not be closed by the Owner. Use of the Club facilities and the requirement of Club Membership is deemed material to the uniform development and maintenance of a community of owners with similar interests. If a transferee's application is not acted upon favorably by the Club, the Owner may elect to rent the home without the membership.

Section 5.3 Rights of Club Members. All rights and obligations of Club Members shall be exercised directly and performed by the holder of the Club Membership in accordance with the Membership Plan, the Articles of Incorporation, By-Laws and Rules and Regulations of the Club in all cases without any involvement or participation by the Association.

ARTICLE 6

MAINTENANCE OF PROPERTY

Section 6.1 Preamble. The responsibility for the maintenance of the Property is divided between the Association, Master Association, GSD and the Owners. Interior maintenance of structures is the responsibility of each Owner. Maintenance of the exterior to Homes unless otherwise provided in this Declaration, the Master Declaration or by Plat, is the responsibility of the Owner thereof. Any dedicated or deeded Common Area shall be the maintenance responsibility of the Association. The Board of Directors has the right to require the Owners to maintain their property in accordance with the Neighborhood Standards. It is the responsibility of the Owner to keep the property (including improvements) in a neat and attractive condition and remove all objectionable debris or material as may be located on their Lot or Home. After notice by the Board of Directors to correct deficient maintenance, if said deficiencies remain uncured, then the Board of Directors shall have the right to employ maintenance people to perform maintenance work as shall be prescribed by the Board of Directors and for the purpose the Members grant unto the Board of Directors, its agents, employees, and all others designated by the Board of Directors, the right to enter upon the property of any Member for the purpose of completing such maintenance work, all without liability or responsibility, criminal or civil, for trespass or any other action. The cost of such work required by the Board of Directors to cure maintenance deficiencies (together with an overhead surcharge equal to 10% of such cost) shall be assessed against the Owner and his Home as provided herein. The rights provided to the Association hereunder shall be in addition to the rights of the Master Association under the Master Declaration.

Section 6.2 Maintenance by Association. The Association shall maintain and keep in good repair the Common Property. Such maintenance will be funded as hereinafter provided. Each Owner hereby grants to the Association and its assigns a non-exclusive easement to access the Common Property for the purpose of performing maintenance hereunder.

The Association may contract with any Person for the management of all or part of the Property for purposes of carrying out all or a portion of the maintenance services provided for in the Declaration.

In the event the Association shall fail to carry out any of its maintenance activities hereunder, then any aggrieved Owner(s) or the Master Association may seek to specifically enforce the provisions of this Declaration subject to the terms and provisions hereof.

6.2.1 The Association's maintenance responsibility to the Homes shall be limited to (a) periodic landscape maintenance including lawn maintenance, tree and shrubbery pruning, fertilizing, weed and insect control, mulching and replacement of sprinkler heads damaged during landscape maintenance, all irrigation maintenance repairs above ground to include sprinkler heads, time clocks and below ground valves, excluding resetting time clocks due to power interruptions and line breaks, and (b) exterior pressure cleaning of structures, exclusive of roofs, driveways, parking areas, walkways and patios. The Association does not assume any responsibility for replacement of trees, shrubbery, landscape, roofs, driveways, walkways or improvements on structures on a Lot. In the event of a major storm that does extensive damage to the trees throughout the neighborhood, the Board, in its sole discretion, may decide to use Association funds to upright overturned trees and/or to remove trees damaged beyond rejuvenation.

6.2.2 The Association shall determine, in its sole discretion, the timing of performing its maintenance responsibilities, including without limitation intervals between maintenance procedures.

6.2.3 Each owner agrees on behalf of himself, his family, guests and invitees to hold the Association harmless from any property damage or personal injury occurring during maintenance of the Owner's Home as provided above, except to the extent caused by gross negligence of employees of the Association or its agents or contractors.

6.2.4 Each Owner hereby grants to the Association and its assigns a non-exclusive easement to access the Home and exterior portions of structures thereon for the purpose of performing maintenance hereunder.

6.2.5 Each Owner shall pay to the Association, as part of the Common Assessment, a fair and reasonable allocation of expenses incurred by the Association for performing maintenance on all Homes hereunder. Such amounts shall be determined solely by the Board of Directors and are dependent on the type of the lots platted within the Property.

6.2.6 Each Owner shall be responsible for maintenance services necessary to properly irrigate the Home, including electric. The obligation shall include the responsibility to provide for maintaining continuous power to any irrigation timer or pump for the Home. The Owner shall provide the Association with an emergency contact who has access to the Home, in the event electric is not available to irrigate the Lot. If after reasonable notice to the Owner and emergency contact, electric service is not provided or restored to the irrigation system, the Association may contract an irrigation truck to irrigate landscaping and assess the Owner the cost thereof, together with an administrative charge of ten percent (10%) of such amount, as a Benefit Assessment.

Section 6.3 Owner's Responsibility. Each Owner shall maintain his or her Home and all structures, parking areas, landscaping and other improvements thereon, unless such maintenance is the responsibility of the Association, or is deeded otherwise. In the event a Home is going to be unoccupied for a consecutive period of one (1) month or longer, the Association requires the Owner to designate a responsible firm or individual to undertake his or her general maintenance responsibilities, which responsibilities shall include, at a minimum maintaining exterior appearance, safeguarding the property to prepare for severe weather and repairing the property in the event of any damage therefrom. The name(s) and address of such firm or individual shall be furnished to the Association.

All maintenance required by this Section 6.3 shall be performed in a manner consistent with the Neighborhood Standards. If any Owner fails properly to perform his or her maintenance responsibility, the Association shall have the right but not the obligation, to maintain such property and assess all costs incurred by the Association (together with an administrative surcharge equal to ten percent (10%) of such amount) against the Home and the Owner thereof as a Benefit Assessment. Except when entry is required due to an emergency situation, the Association shall afford the Owner a minimum of seven (7) day's notice and an opportunity to cure the problem prior to entry.

Section 6.4 Master Association Responsibility. The Master Association shall maintain all property owned, dedicated or leased to the Master Association in accordance with the provisions of the Master Declaration.

Section 6.5 GSD Responsibility. GSD shall maintain property it owns or which has been dedicated to GSD by Plat. GSD may maintain other property by agreement with the owner of such property.

ARTICLE 7

INSURANCE AND CASUALTY LOSSES

Section 7.1 Insurance. The Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain blanket all-risk coverage insurance for all insurable improvements on the Common Property.

The Association shall not have any insurance responsibility for any Home or the Master Association common area.

The Board may also obtain a public liability policy covering the Common Area, the Association, and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents, and, if available at a reasonable cost, directors' and officers' liability insurance.

Premiums for all insurance acquired by the Association shall be a Common Expense.

Section 7.2 Individual Insurance. By virtue of taking title to a Home subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Home. Each Owner of a Home further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his Home, the Owner shall remove all debris within sixty (60) days and complete repair or reconstruction of the damaged structure within one (1) year in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with the Master Declaration. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner of the Home may decide not to rebuild or not to reconstruct, in which case the Owner shall clear the Home of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction, sod and install an underground irrigation system for the Home and thereafter the Home shall be maintained in a neat and attractive condition consistent with the Neighborhood Standard.

ARTICLE 8

NO PARTITION

Except as is permitted in this Declaration or amendments thereto, there shall be no judicial partition of the Common Property or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any judicial partition unless the particular Property has been removed from the provisions of this Declaration.

ARTICLE 9

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 9.1 Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Property, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines, and exclusion from the Property of any contractor, subcontractor, agent or other invitee who fails to comply with the provisions of such rules and regulations. The Board shall, in addition, have the power to seek relief in any court for violations or to abate unreasonable disturbances. Imposition of sanctions shall be subject to the procedures for disciplinary action provided in the By-Laws of the Association and applicable law. Fines shall be deemed as Benefit Assessments.

Section 9.2 Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE 10

ASSESSMENTS

Section 10.1 Creation of Assessments. There are hereby created Assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors to be commenced at the time and in the manner set forth in this Article. There shall be three (3) types of Assessments: (a) Base Assessments for Common Expenses; (b) Special Assessments as described in Section 10.4 below; and (c) Benefit Assessments as described in Section 10.5 below.

Base Assessments shall be allocated One (1) assessment per Home subject to this Declaration.

All Assessments, together with interest (at a rate not to exceed the highest rate allowed by applicable usury law or two percent per month, whichever is less) as computed from the date the delinquency first occurs, late charges, costs, and reasonable attorney's fees, shall be a charge on the Home (and improvements) to which they pertain and shall be a continuing lien upon such property against which each assessment is made. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who owned such Home at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable to the time of conveyance, except as otherwise provided in this Section.

The Association shall, upon the written request of any Owner, furnish, within ten (10) days after such written request, to any Owner liable for any type of Assessment, a certificate in writing signed by an officer or agent of the Association setting forth whether, such Assessment has been paid as to the Owner's Home. Such certificate shall be conclusive evidence of payment to the Association of such Assessment therein stated to have been paid. The Association may require the advance payment of a processing fee for the issuance of each such certificate.

The Base Assessments shall be paid in advance in quarterly installments, and any Benefit Assessments shall be paid monthly in advance or as incurred.

No Owner may waive or otherwise exempt himself from liability for Assessments, including, by way of illustration and not limitation, by non-use of Common Property or abandonment of his property. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. The Owner of any Home, by acceptance of a deed therefore, whether or not it shall be expressed in any such deed, shall be deemed to covenant and agree to pay the Assessments. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 10.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the proper maintenance, replacement, repair and management of the Property and in particular for operation of the Association and fulfilling its obligations under the Declaration and all documents and agreements executed in connection herewith.

Section 10.3 Computation of Base Assessment. It shall be the duty of the Board annually to prepare a budget covering the estimated expenses of the Association during the coming year. It shall be the duty of the Board at least fifteen (15) days prior to the meeting of the Board at which the budget will be discussed to mail the budget to all Members. The budget may include a capital contribution establishing a reserve fund, in accordance with a reserve budget separately prepared. The Board shall cause a copy of the expense budget, and the notice of the Base Assessment amount, to be delivered to each Owner at least thirty (30) days prior to the beginning of each fiscal year. The budget and Base Assessments shall be determined by the Board of Directors in their sole and absolute discretion.

The Base Assessment to be levied for the coming year against each Property subject to assessment shall be computed as follows: a) that portion which all owners benefit from equally (ie. administration, fountain, insurance and taxes, etc.) by dividing the budgeted expenses by the total number of assessment units within the Property subject to Assessment and b) that portion which is related to the Association performing maintenance on the Homes (ie. landscaping and pressure cleaning, etc.) shall be based on the series classification of signature and master series and shall be calculated in the same manner as was established by the Declarant and which the Association will continue to follow.

Section 10.4 Special Assessments. In addition to the Assessments authorized by Section 10.2 hereof, the Association may levy Special Assessments applicable to that year only, provided any such assessment which would exceed that years Common Expenses for such year shall require the affirmative vote of a majority of the Members of the Association. Such Special Assessment shall be for the purpose of defraying, in whole or in part, the cost of any acquisition, construction or reconstruction, or any unexpected or unbudgeted expense or repair. An owner's proportionate share of the special assessment shall be apportioned in the same manner as the base assessments.

Section 10.5 Benefit Assessments. The Board of Directors of the Association may impose a Benefit Assessment upon any Owner whose use or treatment of a Home increases the maintenance cost to the Association above that which would result from compliance by the Owner with this Declaration or a Supplemental Declaration. The Board of Directors may also levy a Benefit Assessment for costs of remedial actions taken in accordance with this Declaration. The amount of such Assessment shall be equal to such cost increase and may be enforced in the manner provided for any other Assessment. Any charge imposed by the Association for functions performed under Article VI or any fine imposed shall be deemed a Benefit Assessment.

Section 10.6 Lien for Assessments. Upon recording of a notice of lien on any Home there shall exist a perfected lien for unpaid Assessments prior and superior to all liens placed of record after the date of this Declaration, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any First Mortgage of record made in good faith and for value by an Institutional Lender.

The lien of the Association, when delinquent, may be enforced by suit, judgment and foreclosure.

The Association, acting on behalf of its Members, shall have the power to bid for the Home at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Home is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no Assessments shall be levied on it; and (c) each other Home shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have been charged to the property owned by the Association, had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Assessments and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 10.7 Subordination of the Lien to First Mortgage. The lien of Assessments, including interest, late charges (subject to the limitations of Florida law), and costs (including attorney's fees) provided for herein, shall be effective as of the date of recording of the Original Declaration and be subordinate to the lien of an Institutional Mortgagee's first mortgage upon any Home. The sale or transfer of any Home shall not affect the Assessment lien and the Association's right to seek a personal judgement against the previous owner. However, the sale or transfer of any Home which is subject to foreclosure of an Institutional Mortgagee's first mortgage or is conveyed by deed in lieu of foreclosure, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Home from lien rights for any Assessments thereafter becoming due. Such unpaid Assessments shall be deemed to be Common Expenses collectible from Owners of all the Homes including such acquirer, its successors and assigns.

Section 10.8 Assessment Roster. The Board of Directors of the Association or its' designated agent shall maintain a roster of Owners and Assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection.

ARTICLE 11

CONSTRUCTION STANDARDS

All property which is now or may hereafter be subjected to this Declaration is subject to review and architectural and site plan review by the Master Association. In addition to the requirements established within or in accordance with the Master Declaration, the following standards shall govern structures and improvements to Homes. These standards shall be for the benefit of and may be enforced by the Master Association and, if the Master Association fails to enforce the same, the Association may enforce the construction standards set forth in this Article.

Section 11.1 No Waiver of Future Approvals. The approval of any proposals or plans and specifications or drawings for any work done or proposed, 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 matter whatever subsequently or additionally submitted for approval or consent.

Section 11.2 Variance. The Master Association may authorize variances from compliance with any of their guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances shall not preclude the denial of a variance in other similar circumstances. For purposes of this Section, the inability to obtain the issuance of any permit, or the terms of any financing shall not necessarily be considered a hardship warranting a variance.

Section 11.3 Building Height. No structure shall exceed two (2) stories in height or be erected over a height of 25 feet measured from the finished grade of the Home. The height of the building shall be measured as the vertical distance from grade to the highest point of the roof surface of a flat or Bermuda roof, to the deck line of a mansard roof and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. No structure shall have more than two (2) floor levels (stories).

Section 11.4 Building Size. Each single family dwelling erected or constructed shall contain a minimum of one thousand four hundred (1,400) square feet of air-conditioned floor area. The method of determining square foot area of proposed buildings and structures or additions and enlargements thereto shall be to multiply the outside horizontal dimensions of the building or enlargements at each floor level. Garages, porches, patios, terraces and other similar structures shall not be taken into account in calculating the minimum square foot area required.

Section 11.5 Setbacks. All dwellings and other ancillary structures shall comply with minimum setbacks as follows. All measurements shall be to the nearest point of a structure which shall be defined as the exterior wall.

VILLA LOTS:	Front (w/side entry garage)	-10'
	Front (w/front entry garage)	-20'
	Side	- 7'
	Rear (principal structure)	-20'
	Rear (accessory structure)	-10'

SINGLE FAMILY

LOTS:

	Front (w/side entry garage)	-15'
	Front (w/front entry garage)	-20'
	Side	- 7'
	Rear (principal structure)	-20'
	Rear (accessory structure)	-10' (20' from lake control elevation)

Section 11.6 Roofs. Pitched roofs shall be required over all portion of structures except as may be otherwise permitted herein, and shall have a minimum pitch of 6:12, except that deviation from the minimum pitch may be approved by the Master Association. All roofs shall be constructed of S-shaped cement tile. A mansard, lesser pitched or flat roof may be permitted over porches, Florida rooms, storage rooms and utility rooms only if approved in writing by the Master Association. The total of mansard, lesser pitched and flat roof areas approved, if any, shall not comprise over 40% of the total roof area.

Section 11.7 Garages, Enclosures and Mailboxes.

(a) Each dwelling unit shall have a garage which shall accommodate not less than two (2) automobiles unless the Master Association approves in writing a garage which shall accommodate more than two (2) automobiles. All garage doors must be equipped with automatic door openers and closers. When ingress and egress to the garage is not desired, the garage doors must remain closed. Repair of vehicles shall be permitted only inside the garage. No garage or enclosed storage area shall be allowed which is detached from the dwelling unit. No carport or unenclosed storage area shall be allowed.

(b) All enclosures (screen or unscreened), including spa, hot tub and swimming pool enclosures shall be located, constructed and maintained only as approved by the Master Association and shall be of compatible design, color and materials to the dwelling unit. Rear screened enclosures on all lots shall be constructed of dark bronze aluminum with dark screening unless otherwise approved in writing by the Master Association.

(c) The Owner's mailbox must be approved by the Master Association. All mailboxes must be maintained in good condition as determined by the Master Association.

ARTICLE 12

USE RESTRICTIONS

Section 12.1 Use Restrictions. The lands herein described may be used only for single family dwellings and related purposes. No business buildings may be erected on said land. No business may be conducted on any part hereof, nor shall any building or any portion thereof be used or maintained as a professional or business office, except as approved by the Master Association in writing.

Section 12.2 Leasing of Homes.

Definition. "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Home by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

Leasing Provisions. Homes may be rented only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Homes or assignment of leases. The terms of leasing shall be in accordance with the Master Declaration. A lessee may be entitled to use the Club Facilities upon designation in accordance with the Membership Plan.

ARTICLE 13

GENERAL PROVISIONS

Section 13.1 Term. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of thirty (30) years from the date the original Declaration was recorded, after which time they shall be automatically extended for successive periods of ten (10) years each, unless an instrument in writing, signed by two-thirds of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to terminate the same, in which case this Declaration shall be terminated as specified therein.

Section 13.2 Amendment. This Declaration may be amended in the following manner:

13.2.1 Method Of Proposal. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than one-third (1/3) of the voting interest of the Association.

13.2.2 Notice. The subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

13.2.3 Adoption. The amendment may be approved at a meeting by a majority of the voting interests present in person or by proxy at a duly called meeting of the members. However, the percentage of votes necessary to amend a specific clause shall be not less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

13.2.4 Recording. Any amendment to be effective must be recorded in the Public Records of Lee County, Florida. Amendments shall be binding on all Owners.

Section 13.3 Indemnification. The Association shall indemnify and hold harmless every officer, director, and committee member against any and all expenses, including counsel and paralegal fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 13.4 Easements for Utilities, Etc. There is hereby reserved unto the Association and designees (which may include, without limitation, Lee County, Florida, GSD and any utility company), blanket easements upon, over, across, and under all of the Properties of ingress and egress; dispensing maintenance chemicals; installation, replacing, repairing, relocating and maintaining restricted access and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewer, meter boxes, telephones, gas and electricity; provided, the exercise of this easement shall not unreasonably interfere with the construction or use of improvements on any Home and, except in an emergency, entry into any Home shall be made only after reasonable notice to the Owner or occupant thereof.

Without limiting the generality of the foregoing, there are hereby reserved for the local water, electric and gas supplier easements across all Homes for ingress, egress, installation, reading, replacing, repairing, and maintaining meter boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property, except as may be approved by the Master Association.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate, recordable document, the Master Association shall have the right to grant such easement over the Properties without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Property.

Section 13.5 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 13.6 Right of Entry. The Association shall have the right, but not the obligation, to enter into any Home for emergency and safety reasons, to abate nuisances (including, without limitation, false burglar alarms) and to inspect for the purpose of ensuring compliance with this Declaration, the By-Laws and the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include, but not be limited to, the right of the Association to enter a home to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Board.

Section 13.7 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless such litigation, together with an assessment to cover anticipated legal fees and costs are approved by a vote of the Members representing seventy-five percent (75%) of the total votes in the Association. This Section shall not apply, however, to (a) actions brought by the Association against parties other than the Declarant to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of Assessments as provided herein, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. In the event the Association brings suit against the Declarant, the Association shall assess all Owners (other than the Declarant) for the costs and fees thereof and no funds from Base Assessments may be used for such purpose. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 13.8 Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of the Master Association and the Association may, but shall not be required to, enforce those of the Master Association. In the event of conflict between or among such covenants and restrictions, and provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of the Association shall be subject and subordinate to those of the Master Association. The foregoing priorities shall apply, but not be limited to, the liens for Assessments created in favor of the Association.

Section 13.9 Compliance. Every Owner and occupant of any Home, their guests and invitees, shall comply with all lawful provisions of this Declaration, the By-Laws and Rules and Regulations of the Association. Failure, to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Owner.

Section 13.10 Notice of Transfer of Home. In the event that any Owner desires to sell or otherwise transfer title of his or her Home, (by sale, gift or judicial decree) such Owner shall give the Board of Directors or its' designated agent at least fifteen (15) days prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board of Directors may reasonably require. Until such written notice is received, the transferor shall remain jointly and severally liable with the transferee for all obligations of the Owner of the Home, including payment of all Assessments, notwithstanding the transfer of title to the Home.

Section 13.11 Documents to Grantees. All Home Owners shall be obligated to deliver the documents (or copies thereof, which may be obtained from the Association) containing this Declaration, the Master Association Declaration, organizational documents of the Association and Master Association, the Membership Plan, and all other declarations and documents which would bind the purchaser to any grantee of such Owners.

Section 13.12 Dissolution of Association. The Association shall not be dissolved nor shall it dispose of any real property contained within the Common Area, by sale or otherwise (except to an entity organized for the purpose of owning and maintaining such Common Areas), without the prior approval of all Owners, their mortgagees and any governmental agencies having jurisdiction over the Property.

Section 13.13 Disclaimer of Association Liability. Notwithstanding anything contained herein or in the Articles of Incorporation, By-Laws, any rules or regulations of the Associations or any other document governing or binding the Associations (collectively, the "Association Documents"), the Associations shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any owner, member, occupant or user of any portion of the Callaway Greens Community, or their guests, invitees, agents, servants, contractors or subcontractors or for any property of any such persons. Without limiting the generality of the foregoing:

(a) It is the express intent of the Association Documents that the various provisions thereof which are enforceable by the associations and which govern or regulate the use of the Callaway Greens Community, have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the Callaway Greens Community and the value thereof; and

(b) The Association is not empowered, and has not been created, to act as an agency which enforces or insures compliance with the laws of the State of Florida or Lee County or the prevention of tortuous activities.

Each Member (by virtue of his acquisition of a home) and each other person having an interest in or lien upon, or making any use of, any portion of the Callaway Greens Community (by virtue of accepting such interest or lien or making such use) shall be bound by this article and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against which the liability of the Associations has been disclaimed in this article. Each member does hereby release associates and the Associations from all liability from injury and/or accidental death due to hurricane conditions and all effects and results thereof.

IN WITNESS WHEREOF, the subscribers have affixed their signatures the day and year set forth below.

This Second Amended and Restated Declaration was duly adopted by the required percentage of voting interests at a meeting on APRIL 18, 2005

IN WITNESS WHEREOF, we have affixed our hands this 19th day of APRIL 2005 at Lee County, Florida.

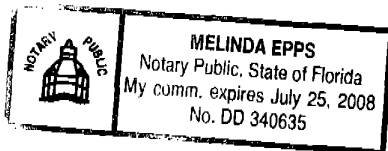
WITNESSES: <u>SUSAN DELIHAS</u> Printed Name: <u>LAURENCE JONES</u> Printed Name:	CALLAWAY GREENS HOMEOWNERS ASSOCIATION, INC. A Florida not for profit corporation By: <u>Warren D. Whitworth</u> Print Name: <u>Warren D. Whitworth</u> President Attest: <u>Barbara Tursky</u> Print Name: <u>Barbara Tursky</u> Secretary
---	---

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 19 day of APRIL, 2005 by Warren Whitworth as President and Barbara Tursky as Secretary of Callaway Greens Homeowners Association, Inc., a Florida not for profit corporation, on behalf of the Corporation. They are personally known to me or have provided a drivers license as identification.

Notary Public Melinda Epps
Printed Name: Melinda Epps


My commission expires: July 25, 2008




JOINDER

BAY COLONY-GATWAY, INC., a Delaware corporation, the Declarant of the DECLARATION AND GENERAL PROTECTIVE COVENANTS FOR GATEWAY GREENS COMMUNITY, joins in the execution of the Second Amended And Restated Declaration Of Protective Covenants for CALLAWAY GREENS to which this Joinder is attached.

Signed, sealed and delivered in the presence of:


Print: Cathleen Smith


Print: Joyce E. Van Deusen

BAY COLONY - GATEWAY, INC.,
a Delaware corporation

By: 
Name: Timothy Oak
Title: Vice President

OK 6/3/05

STATE OF FLORIDA
COUNTY OF LEE

The foregoing Joinder was acknowledged before me this 6th day of June, 2005 by Timothy Oak, as Vice President of **BAY COLONY-GATEWAY, INC.**, a Delaware corporation, on behalf of the corporation, who is personally known to me or has produced his N/A as identification.

WITNESS my hand and official seal this 6th day of June, 2005.

My commission expires: 5/20/06





Notary Public, State of Florida
Joyce E. Van Deusen
Printed Name of Notary Public
DD 118229
Notary Commission Number

EXHIBIT "A"

LEGAL DESCRIPTION

Gateway Phase 22, according to the plat thereof recorded in Plat Book 58, Pages 76 through 80, inclusive and as amended by Amendment recorded in O.R. Book 3544 PG 1219, of the Public Records of Lee County, Florida

AND

Gateway Phase 22A according to the plat thereof recorded in Plat Book 61, Pages 69 through 71, inclusive, of the Public Records of Lee County, Florida.

AMENDED AND RESTATED
ARTICLES OF INCORPORATION
FOR
CALLAWAY GREENS HOMEOWNERS ASSOCIATION, INC.
(A NOT-FOR-PROFIT CORPORATION)

These are the Amended and Restated Articles of Incorporation for the Callaway Greens Homeowners Association, Inc., originally filed with the Florida Department of State the 25th day of June 1996 under Charter Number N96000003382. Matters of only historical interest have been omitted. Amendments included have been added pursuant to F.S. 617.

ARTICLE 1

NAME

The name of the corporation is CALLAWAY GREENS HOMEOWNERS ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Association", The Declaration of Protective Covenants as "Declaration", these Articles of Incorporation as the "Articles", and the By-laws of the Association as the "By-laws".

ARTICLE 2

PURPOSE

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Statute 720 for Homeowner Associations (the "Act") for the operation of that certain Association located in Lee County, Florida, and known as Callaway Greens (the "Association").

ARTICLE 3

DEFINITIONS

The terms used in these Articles shall have the same definitions and meaning as those set forth in the Declaration of Protective Covenants recorded in the Public Records of Lee County, Florida, unless herein provided to the contrary, or unless the context otherwise requires.

ARTICLE 4

POWERS

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

Section 4.1 Common Law and Statutory Powers. The Association shall have all of the common law and statutory powers of a corporation not-for-profit under the Laws of Florida law, as the same may be amended or supplemented, that are not in conflict with the provisions of these Articles or of the Act.

Section 4.2 Necessary Powers. The Association shall have all the powers and duties set forth in the Act except as limited by these Articles and the By-laws, and all of the powers and duties reasonably necessary to operate the Association pursuant to the Declaration, as all may be amended from time to time, including but not limited to the following:

A. The power to fix, levy and collect adequate Assessments against Homes, as provided for in the Declaration.

B. The power to expend monies assessed and collected for the purpose of paying the expenses of the Association.

C. The power to manage, control, operate, maintain, repair and improve the Common Property, if any.

D. The power to insure and keep insured the Common Property, if any.

E. The power to employ the personnel required for the operation and management of the Association.

F. The power to make reasonable Rules and Regulations and to amend the same from time to time.

G. The power to enforce by any legal means the provisions of these Articles, the By-laws, the Declaration and the Rules and Regulations promulgated by the Association from time to time.

H. The power to select depositories for the Association's funds, and to determine the manner of receiving, depositing, and disbursing those funds and the form of checks and the person or persons by whom the same shall be signed, when not signed as otherwise provided in the By-laws.

I. The power to enter into a contract for the management of the association or the maintenance of the property per the Declaration.

J. The power to appoint committees as the Board of Directors may deem appropriate.

K. The power to collect delinquent Assessments and fines by suit or otherwise, to abate nuisances and to fine, enjoin or seek damages from Owners for violation of the provisions of the Declaration, these Articles of Incorporation, the By-laws or the Rules and Regulations.

Section 4.3 Association Property. All funds and the titles to all properties acquired by or deeded to the Association, and the proceeds thereof shall be held in the name of the Association for the benefit of the Owners in accordance with the provisions of the Declaration, these Articles and the By-laws.

Section 4.4 Distribution of Income. The Association shall make no distribution of income to its members, Directors or Officers. Nothing herein shall prohibit the Association from reimbursing its directors, officers and committee members for all expenses reasonably incurred in performing services rendered to the Association.

Section 4.5 Limitations. The powers of the Association shall be subject to and be exercised in accordance with the provisions of the Declaration, the By-laws and the Gateway Greens Master Declaration.

ARTICLE 5

MEMBERSHIP

Section 5.1 Qualifications Of Membership. The qualifications for membership and the manner of admission and termination shall be as provided in the By-laws of the Association.

Section 5.2 Voting Rights. The Association Members shall have the right to vote only on Association matters as provided in the Declaration, By-laws and applicable law.

ARTICLE 6

BOARD OF DIRECTORS

Section 6.1 Number and Qualifications. A Board consisting of the number of Directors determined by the By-laws shall manage the property, business and affairs of the Association. All Directors shall be Association Members.

Section 6.2 Duties and Powers. The Board of Directors shall be the persons who will manage the corporate affairs of the Association and are vested with the management authority thereof. The Board of Directors will be responsible for the administration of the Association and will have the authority to control the affairs of the Association, as are more fully set forth in the Declaration and the By-laws of the Association.

Section 6.3 Election / Removal. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the By-laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-laws.

ARTICLE 7

OFFICERS

The officers designated in the Bylaws shall administer the affairs of the Association. The officers shall be elected by the Board of Directors of the Association at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. The By-laws may provide for the removal from office of officers, for filling vacancies, and for the duties of the officers.

ARTICLE 8

BY-LAWS

The By-laws of this Corporation may be altered, amended or repealed in the manner provided in the By-laws.

ARTICLE 9

CONSTRUCTION

These Articles of Incorporation and the By-laws of the Association shall be construed, in case of any ambiguity or lack of clarity, to be consistent with the provisions of the Declaration. In the event of any conflict between the terms of the Declaration, these Articles of Incorporation or the By-laws, the following order of priority shall apply: the Declaration, the Articles of Incorporation and the By-laws.

ARTICLE 10

AMENDMENTS

These Articles may be amended in the following manner:

Section 10.1 Method Of Proposal. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than one-third (1/3) of the voting interest of the Association.

Section 10.2 Notice. The subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

Section 10.3 Adoption. The amendment may be approved at a meeting by a majority of the voting interests present in person or by proxy at a duly called meeting of the members. However, the percentage of votes necessary to amend a specific clause shall be not less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

Section 10.4 Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of the applicable Florida Statutes, and a copy certified by the Secretary of State shall be recorded in the public records of Lee County, Florida.

ARTICLE 11

REGISTERED OFFICE ADDRESS AND NAME OF REGISTERED AGENT

The registered office address and the name of the registered agent of the corporation shall be as determined by the Board of Directors from time to time.

IN WITNESS WHEREOF, the subscribers have affixed their signatures the day and year set forth below.

These Amended and Restated Articles of Incorporation were duly adopted by the required percentage of voting interests at a meeting on APRIL 18, 2005

IN WITNESS WHEREOF, we have affixed our hands this 19th day of APRIL 2005 at Lee County, Florida.

WITNESSES: <u>SUSAN DELIHAS</u> Printed Name: <u>LAURENCE JONES</u> Printed Name:	CALLAWAY GREENS HOMEOWNERS ASSOCIATION, INC. A Florida not for profit corporation By: <u>Warren D. Whitworth</u> Print Name: <u>warren D. wh. twort</u> President Attest: <u>Barbara Tursky</u> Print Name: <u>Barbara Tursky</u> Secretary
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STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 19 day of April, 2005 by Warren Whitworth as President and Barbara Tursky as Secretary of Callaway Greens Homeowners Association, Inc., a Florida not for profit corporation, on behalf of the Corporation. They are personally known to me or have provided a drivers license as identification.

Notary Public Melinda Epps
Printed Name: Melinda Epps

My commission expires: July 25, 2008

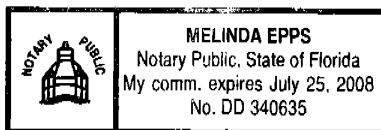


EXHIBIT “B”

AMENDED AND RESTATED
BY-LAWS
FOR
CALLAWAY GREENS HOMEOWNERS ASSOCIATION, INC.

CALLAWAY GREENS HOMEOWNERS ASSOCIATION, INC.

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AMENDED AND RESTATED
BY-LAWS
OF
CALLAWAY GREENS HOMEOWNERS ASSOCIATION, INC.

ARTICLE I.

Identity

Section 1. **Name.** The name of the corporation is Callaway Greens Homeowners Association, Inc. (the "Association").

Section 2. **Principal Office.** The principal office of the Association shall be at the Association, or at such other place as may be designated by the Board.

Section 3. **Adoption.** These By-Laws have been adopted as the By-Laws of the Association.

Section 4. **Definitions.** Terms used in these By-Laws which are defined in the Second Amended and Restated Declaration of Protective Covenants for Callaway Greens (the "Declaration") shall have the same meaning in these By-Laws as in the Declaration.

ARTICLE II.

**Powers and Duties of the Association
and the Exercise Thereof**

The Association shall have all powers granted to it by Florida law, the Declaration, the Articles of Incorporation, and these By-Laws, all of which shall be exercised by its Board of Directors unless the exercise thereof is otherwise restricted in the Declaration, the Articles, these By-Laws or by law.

ARTICLE III.

Membership

Each Owner of a Home shall be a Member of the Association. Members shall have the right to vote only on Association matters requiring a membership vote pursuant to the Declaration, Articles of Incorporation, By-Laws, or Florida law. Voting rights of a Member will be suspended for the nonpayment of regular assessments that are delinquent in excess of 90 days.

ARTICLE IV.

Meetings of Association Members

Section 1. **Date and Place of Meetings.** Meetings of the Association Members shall be held on the date and at the place designated by the Board of Directors.

Section 2. **Annual Meetings of Association Members.** An annual meeting of the Association Members shall be held each year in March. Subject to Article V, at each annual meeting, the Association Members shall elect the Board of Directors of the Association and may conduct such other business as may be properly brought before the meeting.

Section 3. Special Meetings. The President of the Association may call special meetings of the Association Members. In addition, it shall be the duty of the President to call a special meeting of the Association Members if so directed by a majority of the Board of Directors upon a petition signed by at least ten percent (10%) of the total vote of the Association Membership. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meetings. Written or printed notice stating the place, day and hour of any meeting of the Association Members shall be delivered by mail to each Association Member, not less than twenty (20) days before the date of such meeting, by or at the direction of the President or the Secretary. In addition, such notice shall be posted in a conspicuous place within Callaway Greens on a temporary sign at least forty-eight (48) hours prior to the time of the meeting and shall remain displayed until the meeting has concluded.

The notice of a meeting shall be deemed delivered when deposited in the United States mail addressed to the Association Member at his or her address as it appears on the records of the Association.

Section 5. Quorum. The presence in person or by proxy of Association Members representing thirty percent (30 %) of the total votes in the Association shall constitute a quorum at all meetings of the Association.

Section 6. Adjournment of Meetings. If any meeting of Association Members cannot be held because a quorum is not present, a majority of the Association Members who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Association Members in the manner prescribed in Section 4.

Section 7. Vote Required. When a quorum is present at any meeting, a majority of the vote represented by the Association Members represented (in person or by proxy) at such meeting shall decide any question brought before the meeting, unless the Declaration, the Articles of Incorporation, these By-Laws or any applicable law provides otherwise.

Section 8. Proxies. Association Members may vote by proxy. In lieu of proxies, sealed ballots shall be utilized for election of directors.

Section 9. Conduct of Meetings. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

Section 10. Action Without a Meeting. Any action which may be taken at a meeting of the Association Members, may be taken without a meeting if written consent setting forth the action so taken is signed by a majority of Association Members.

ARTICLE V.

Election of Board of Directors

Section 1. Number of Directors. The governance and administration of the affairs of the Association shall be vested in a Board of Directors. The number of directors of the Association shall be five (5).

Section 2. Election of Directors. At the annual meeting of Association Members the Board of Directors shall be elected by the Association. Directors shall serve for terms of two (2) years.

Section 3. Qualifications for Election. All directors shall be Association Members.

Section 4. Nomination of Directors. Any Association Members may nominate any Association Members for election to the Board by filing the nomination with the Board of Directors.

The names of any nominees, after having been certified by the Secretary or any other officer, that they are qualified for election and have been nominated in accordance with the provisions of these By-Laws, shall be included in any proxy mailing to the Association Members. All candidates shall have a reasonable opportunity to communicate their qualifications to the Association Members and to solicit votes.

Nominations, with an appropriate second by an Association Member, may also be made from the floor at the annual meeting of Association Members.

Section 5. Removal of Directors and Vacancies. Any director may be removed, with or without cause, by the majority vote of the Association Members who were entitled to elect such director. Upon removal of a director, a successor shall be elected by the party entitled to elect or appoint the director so removed to fill the vacancy for the remainder of the term of such director.

Any elected director who is delinquent in the payment of any Assessment or other charges due the Association for more than thirty (30) days may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the remaining directors. In the event of the death, disability, or resignation of a director elected by the Association Members, the members of the Board may elect a successor to fill the vacancy for the remainder of the term of such director.

Section 6. Compensation. No director shall receive a salary or any other compensation whatsoever from the Association for acting as such, but shall be entitled to be reimbursed for expenses reasonably incurred on behalf of the Association.

Section 7. Fiduciary Duty. The directors shall act in good faith in a manner they reasonably believe to be in the best interests of the development of Callaway Greens and the purpose of the Association.

ARTICLE VI.

Meetings of Board of Directors

Section 1. Organizational Meeting. The organizational meeting of the Board of Directors shall be held within ten (10) days after the annual meeting of the Association Members at such time and place as shall be fixed by the Board of Directors.

Section 2. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least four (4) regular meetings shall be held during each fiscal year with at least one (1) per quarter, provided, however, that the annual meeting shall constitute a regular meeting. Notice of the time and place of any meeting, other than an annual meeting, shall be communicated to the directors not less than seven (7) days prior to the meeting. Notices of meetings and the purpose of the meeting, shall also be posted in a conspicuous place within Callaway Greens on a temporary sign at least forty-eight (48) hours prior to the time of the meeting, unless the meeting is an emergency special meeting. The sign and notice shall remain displayed continuously from the time of the posting until the meeting has concluded.

An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Written notice of any meeting at which special assessments will be considered or at which amendments to rules regarding parcel use will be considered, must be mailed to the Association Members and posted in a conspicuous place within Callaway Greens on a temporary sign not less than fourteen (14) days prior to the meeting and shall remain displayed until the meeting has concluded.

Section 3. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President or by any three (3) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by personal delivery, first class mail or telephone not less than seven (7) days prior to the date of the meeting, unless the special business is of a nature which, in the President's discretion, requires more immediate action, and then a minimum of twenty-four (24) hours notice shall be deemed sufficient.

Section 4. Waiver of Notice. Any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as when taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the director(s) not present sign(s) a written waiver of notice. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 5. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If any meeting of the Board of Directors cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 6. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

Section 7. Open Meetings. Association Members have the right to attend all meetings of the Board and to speak on any matter placed on the agenda by petition of the voting interests. The petition is a petition to the Board to address an item of business, which is signed by at least twenty (20) percent of the total voting interests in the Association. If such a petition is received, the Board at its next regular Board meeting or at a Special meeting, but not later than sixty (60) days after receipt of the petition, must take the petitioned item up on the agenda. The Board shall give all Association Members notice of the meeting in accordance with Article 6, Section 2. Each Association Member shall have the right to speak on each matter placed on the agenda by petition, provided that the Association Member signs the sign-up sheet, if one is provided, or submits a written request to speak prior to the meeting. The Board, at its discretion, may establish a time limit for each Association Member to speak. Other than addressing the petitioned item at the meeting, the Board is not obligated to take any other action requested by the petition.

Section 8. Telephone Meetings. Any regular or special meeting of the Board of Directors may be held by telephone conference, at which each participating director can hear and be heard by all other participating directors.

Section 9. Action Without a Meeting. Any action to be taken at a meeting of the directors or any action that may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as an unanimous vote.

ARTICLE VII.

Officers

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer to be elected from among the members of the Board of Directors. The Board of Directors may appoint from such other officers, including one (1) or more Assistant Secretaries and one (1) or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary or President and Treasurer.

Section 2. Election, Term of Office and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors during a fiscal year. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed by a majority vote of the Board of Directors in the sole discretion of the Board of Directors and the removal of a director who also is an officer shall automatically act as a removal from such director's position as an officer.

Section 4. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified in the notice and unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective.

ARTICLE VIII.

Duties of Officers

The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as are from time to time specifically conferred or imposed by the Board of Directors.

Section 1. President. The President shall be the chief executive officer of the Association and shall:

- (a) Act as presiding officer at all meetings of the Association Members and the Board of Directors.
- (b) Call special meetings of the Association Members and the Board of Directors.
- (c) Sign, with the Secretary or Treasurer if the Board of Directors so requires, all checks, contracts, promissory notes and other instruments on behalf of the Association, except those which the Board of Directors specifies may be signed by other persons.
- (d) Perform all acts and duties usually required of a chief executive to ensure that all orders and resolutions of the Board of Directors are carried out.
- (e) Act as an ex-officio member of all committees and render an annual report at the annual meeting of Association Members.

Section 2. Vice President. The Vice President, in the absence or disability of the President, shall exercise the powers and perform the duties of the President. The Vice President also shall assist the President generally, and exercise other powers and perform other duties as shall be prescribed by the directors.

Section 3. Secretary. The Secretary shall have the following duties and responsibilities:

- (a) Attend all regular and special meetings of the Association Members and the Board of Directors and keep all records and minutes of proceedings thereof or cause the same to be done.
- (b) Have custody of the corporate seal, if any, and affix the same when necessary or required.
- (c) Attend to all correspondence on behalf of the Board of Directors, prepare and serve notice of meetings and keep membership books.
- (d) Have custody of the minute book of the meetings of the Board of Directors and Association Members and act as agent for the transfer of the corporate books.

Section 4. Treasurer. The Treasurer shall:

(a) Receive monies as shall be paid into his hands for the account of the Association and disburse funds as may be ordered by the Board of Directors, taking proper vouchers for disbursements and be custodian of all contracts, leases and other important documents of the Association which he shall keep or cause to be kept safely deposited.

(b) Supervise the keeping of accounts of all financial transactions of the Association in books belonging to the Association and deliver the books to his successor. He shall prepare and distribute to all of the members of the Board of Directors prior to each annual meeting, and whenever else required, a summary of the financial transactions and condition of the Association from the preceding year. He shall make a full and accurate report on matters and business pertaining to his office to the Association Members at the annual meeting and make all reports required by law.

(c) The Treasurer may have the assistance of an accountant or auditor, who shall be employed by the Association. In the event the Association enters into a management agreement, it shall be proper to delegate any or all of the Treasurer's functions to the management agent as is deemed appropriate by the Board of Directors.

ARTICLE IX.

Discipline

Section 1. Enforcement. The Board of Directors shall have the power to impose reasonable fines. In the event that any Owner, tenant, guest or invitee violates the Declaration, these By-Laws or the Rules and Regulations, and a fine is imposed, the fine shall first be assessed against the occupant residing therein; however, if the fine is not paid by the occupant within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Association. Fines are considered Benefit Assessments. The failure of the Board of Directors to enforce any provision of the Declaration or By-Laws shall not be deemed a waiver of the right of the Board of Directors to do so thereafter.

Section 2. Notice. Prior to imposition of any sanction hereunder, the Board of Directors or its delegate shall serve the accused with written notice describing (a) the nature of the alleged violation, (b) the proposed sanction to be imposed, (c) a period of not less than fourteen (14) days within which the alleged violator may present a written request to the Board of Directors for a hearing; and (d) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge has been requested within fourteen (14) days of the notice.

Section 3. Hearing. If a hearing is requested within the allotted fourteen (14) day period, the hearing shall be held by a grievance committee consisting of at least three (3) members appointed by the Board. At least fourteen (14) days notice of the hearing shall be given to the person sought to be fined. A written decision of the committee shall be submitted to the Board and the violator. The Board shall hold a meeting and determine whether to impose a fine, if the committee proposes a fine. If the committee does not agree with the fine, the fine may not be levied. The Board of Directors may suspend any proposed sanction if the violation is cured within fourteen (14) days after the notice of hearing was sent. Any suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions by any Person.

Section 4. Penalties. The Board may impose a fine against the violator up to the maximum allowed by law. A fine may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing, provided that no such fine shall exceed the amount allowed by law.

Section 5. Legal Proceedings. Should the Association be required to initiate legal proceedings to collect a duly levied fine, the prevailing party shall be entitled to an award of costs and a reasonable attorney's fee. Home Owners shall be jointly and severally liable for the payment of fines levied against tenants, guests, invitees, or other occupants.

Section 6. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association may elect to enforce any provisions of the Declaration, these By-Laws or the Rules and Regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the violator shall pay all costs, including reasonable attorneys' and paralegals' fees actually incurred by the Association.

ARTICLE X.

Fiscal Management

Section 1. Fiscal Year. The fiscal year of the Association shall commence upon the first day of January and conclude on the thirty-first day of December.

Section 2. Depositories. The funds of the Association shall be deposited in federally insured bank accounts in accordance with resolutions approved by the Board of Directors. The funds shall be used only for lawful purposes of the Association.

Section 3. Expenses. The receipts and expenditures of the Association may be credited and charged to accounts as the Board of Directors may determine, in accordance with good accounting practices as set forth in Section 7 below.

Section 4. Reserve Accounts. The Association may establish and maintain an adequate reserve account solely for the periodic maintenance, repair and replacement of the Common Property.

Section 5. Budget. The Board of Directors shall adopt a budget for each fiscal year that shall include the estimated funds required to defray the expenses of the Association for the fiscal year in accordance with good accounting practices as set forth in Section 6 below.

Section 6. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

- (a) accrual accounting (exclusive of depreciation and amortization), as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by a manager, Board Member, or any person authorized to act on behalf of the Association by the Board.
- (e) any financial or other interest which a manager, Board Member, or any person authorized to act on behalf of the Association by the Board may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;
- (f) financial reports shall be prepared for the Association at least annually; and
- (g) accounting records of the Association shall be maintained for at least seven (7) years after the date of the records.

Section 7. Agreements, Contracts and Deeds. All agreements, contracts, deeds and other instruments of the Association shall be executed by the President and one other officer of the Board.

Section 8. Books and Records.

(a) Inspection by Owners and Mortgagees. The Declaration; Articles of Incorporation; By-Laws; Rules and Regulations; Supplements; Amendments to the Declaration, Articles of Incorporation, By-Laws; membership register; books of account; minutes of meetings of the Association Members, the Board of

Directors, and committees; current insurance policies; association contracts; and copies of plans, permits, warranties, and other items provided by the Declarant, shall be made available for inspection and copying by any Mortgagee, Owner or by his or her duly appointed representative at any reasonable time at the office of the Association. Such records shall include a record of receipts and expenditures and accounts for each Owner, which accounts shall designate the names and addresses of the Owners, the due dates and amount of each Assessment, the amounts paid upon the account and the balance due. Books and records of the Association shall be kept at the Association office and shall be maintained for a period of at least seven (7) years after the date of the books and records.

(b) Rules for Inspection. The Board of Directors shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and a copy of relevant documents at the expense of the Association.

Section 9. Insurance. The Association shall procure, maintain and keep in full force and effect insurance as may be required by the Declaration to protect the interests of the Association and the Owners.

ARTICLE XI.

Miscellaneous

Section 1. Parliamentary Rules. Robert's Rules of Order (then current edition) shall govern the conduct of Association proceedings when not in conflict with Florida law, the Articles of Incorporation, the Declaration, or these By-Laws.

Section 2. Construction. If there are conflicts between the provisions of Florida law, the Articles of Incorporation, the Declaration and/or these By-Laws, the provisions of Florida law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

Section 3. Validity. If any By-Law or Rule or Regulation is adjudicated to be invalid, such fact shall not affect the validity of any other By-Law or Rule or Regulation.

Section 4. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid:

- (a) if to an Owner or Association Member, at the address as it appears on the records of the Association.
- (b) if to Tenants or Occupants, to the mailing address for the Home.
- (c) if to the Association, the Board of Directors, or the Manager, at the principal office of the Association or the manager, if any, or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section.

Section 5. New Technology.

(a) Signature Requirements. Any requirement for a signature under the association documents may be satisfied by a digital signature meeting the requirements of applicable law.

(b) Use of New Technology. Due to the ongoing development of new technologies and corresponding changes in business practices, to the extent permitted by law now or in the future: (1) any notice required to be sent or received; (2) any signature, vote, consent, or approval required to be obtained; or (3) any payment required to be made, under the association documents may be accomplished using the most advanced technology available at that time if such use is a generally accepted business practice.

Section 6. Amendments. These By-Laws may be amended in the following manner:

Section 6.1 Method Of Proposal. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than one-third (1/3) of the voting interest of the Association.

Section 6.2 Notice. The subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

Section 6.3 Adoption. The amendment may be approved at a meeting by a majority of the voting interests present in person or by proxy at a duly called meeting of the members. However, the percentage of votes necessary to amend a specific clause shall be not less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

Section 6.4 Recording. Any amendment to be effective must be recorded in the Public Records of Lee County, Florida.

IN WITNESS WHEREOF, the subscribers have affixed their signatures the day and year set forth below.

These Amended and Restated By-Laws were duly adopted by the required percentage of voting interests at a meeting on APRIL 18, 2005

IN WITNESS WHEREOF, we have affixed our hands this 19th day of APRIL 2005 at Lee County, Florida.

WITNESSES: <u>SUSAN DELIHAS</u> Printed Name: <u>LAURENCE JONES</u> Printed Name:	CALLAWAY GREENS HOMEOWNERS ASSOCIATION, INC. A Florida not for profit corporation By: <u>Warren D. Whitworth</u> Print Name: <u>Warren D. Whitworth</u> President Attest: <u>Barbara Tursky</u> Print Name: <u>Barbara Tursky</u> Secretary
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STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 19 day of April, 2005 by Warren Whitworth as President and Barbara Tursky as Secretary of Callaway Greens Homeowners Association, Inc., a Florida not for profit corporation, on behalf of the Corporation. They are personally known to me or have provided a drivers license as identification.

Notary Public Melinda Epps
Printed Name: Melinda Epps

My commission expires: July 25, 2008

