STATE OF FLORIDA

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES**

STATE OF FLORIDA

DEPARTMENT OF BUSINESS AND

PROFESSIONAL REGULATION,

DIVISION OF FLORIDA CONDOMINIUMS,

TIMESHARES, AND MOBILE HOMES,

Petitioner,

1. CASE NO. «CaseNumber»

«Respondent»

Respondent.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/

**CONSENT ORDER**

Petitioner, the State of Florida, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes (Division), and «Respondent» (Respondent), stipulate and agree to the terms and issuance of this Consent Order, pursuant to sections 120.57 and 718.501, Florida Statutes, as follows:

**PRELIMINARY STATEMENT**

1. The Division is the state "agency," as defined by section 120.52, Florida Statutes, statutorily responsible for the enforcement of the Florida Condominium Act, chapter 718, Florida Statutes, and the administrative rules promulgated thereunder.
2. The Division has investigated Respondent for certain alleged violations of chapter 718, Florida Statutes, in Division investigative case number «CaseNumber».
3. Respondent desires to resolve this investigation without formal administrative or judicial proceedings that might otherwise be available.
4. Respondent and the Division agree that the statutory citations referenced in this Consent Order are intended to reference the correct statutory citations for the years in which the violations occurred as well as the Division's proper enforcement authority, and that any errors in such statutory citations are not substantive or prejudicial to either party.

**STATEMENT OF FACTS**

1. The Division is the state agency charged with enforcing chapter 718, Florida Statutes, the Condominium Act, and the Division’s administrative rules. «Condominium» is a "residential condominium," as defined in section 718.103(23), Florida Statutes, containing «NumberOfUnits» residential units and located in «CondoCity», Florida.
2. At all times material hereto, the respondent was a “developer”, as defined in 718.103(16), Florida Statutes, of the «Association». Respondent controlled the association and was responsible for the association’s operations, duties and responsibilities under chapter 718, Florida Statutes, and the association’s governing documents since «DateOfDeveloperControl».
3. **State additional relevant facts**

**CONCLUSIONS OF LAW**

1. The Division has jurisdiction over these proceedings pursuant to chapters 120 and 718, Florida Statutes, and is authorized to enter into this Consent Order, assess civil penalties, and consider evidence of mitigation of violations, pursuant to sections 120.57 and 718.501(1)(d), Florida Statutes.
2. **State additional relevant conclusions of law**
3. Respondent agrees that there is competent substantial evidence to support the foregoing conclusions of law.

# AGREEMENT

1. **Civil Penalty and other relief:**
   1. Respondent shall remit to the Division a civil penalty in the amount of «PenaltyInFullWords» dollars ($«PenaltyInNumeral») by certified check, cashier's check, or money order made payable to **DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION** as a condition precedent to the Division's execution of this Consent Order.
   2. Respondent agrees to post a copy of this Consent Order, as signed by both parties, in a conspicuous place on the condominium property or where notice for meetings is normally posted for 30 continuous days. Posting should begin no later than two (2) business days after receiving the copy of the Consent Order, as signed by both parties, from the Division. Respondent shall, within forty-five (45) days after receipt of this Consent Order, as signed by both parties, provide the Division with evidence of compliance with this requirement by means of an affidavit signed by the responsible party attesting to the positing of the Consent Order on the condominium property.
   3. Respondent agrees to maintain its copy of this Consent Order as part of the association's official records, in accordance with section 718.111(12), Florida Statutes, and rule 61B-23.002(7)(b), Florida Administrative Code.
   4. Respondent agrees that all items it has agreed to remit, provide, submit or in any way furnish to the Division shall be sent by certified mail, return-receipt requested to the following address:

**Bureau of Compliance**

**Division of Florida Condominiums, Timeshares, and Mobile Homes**

**Department of Business and Professional Regulation**

**2601 Blair Stone Road**

**Tallahassee, Florida 32399-1030**

1. Respondent agrees that its duties pursuant to this Consent Order shall not be discharged until all items that Respondent has agreed to remit, provide, submit or in any way furnish to the Division have actually been received by the Division at the address above.
2. **Attorney's fees** **and prevailing party**. The Division and Respondent agree that Respondent, through the rendition of this Consent Order, is not a "prevailing small business party" as that term is defined by section 57.111, Florida Statutes, and it is mutually agreed that Respondent shall bear its own costs and attorney's fees that are in any way associated with this action.
3. **Duress**. Respondent acknowledges and agrees that it has entered into this Consent Order without duress and for the uses and purposes stated in this order.
4. **Effectiveness**. This Consent Order is effective on the last date executed below and upon its issuance it shall be a final administrative order. This Consent Order is fully enforceable by the Division under the provisions of sections 120.69 and 718.501, Florida Statutes.
5. **Failure to Comply**. As acknowledged and agreed between the Division and Respondent, this Consent Order is directly enforceable by petition to the Circuit Court of Leon County, Florida, as provided by section 120.69, Florida Statutes. For any violation by Respondent of the provisions of this Consent Order, Respondent understands that the Division shall bring such action as is necessary to seek compliance with chapter 718, its administrative rules, and the provisions of this Consent Order. This Consent Order does not constitute a waiver of the rights of Respondent to a contested hearing on any subsequent alleged violation of this order.
6. **Future actions**. Nothing in this order shall be construed to waive or restrict the Division's right to initiate any action against Respondent pursuant to chapters 120 and 718, Florida Statutes, including, but not limited to, administrative or civil action or referral for criminal prosecution if facts or information not presently known or available to the Division come to its attention subsequent to the execution of this Consent Order. The Division expressly reserves all rights to pursue such remedies should a cause of action exist. This agreement shall be binding upon the parties their successors, and assigns.
7. **Releases**. Respondent waives, releases and forever discharges the Division and its employees, agents, and representatives from any and all causes of action in law or in equity, which Respondent may have arising out of this administrative proceeding. The Division accepts this release and waiver by Respondent without in any way acknowledging or admitting that any such cause of action does or may exist.
8. **Time.** Time is of the essence in this Consent Order.
9. **Waivers**. Respondent knowingly and voluntarily waives:

(a) any right to an administrative hearing provided by chapters 120 and 718, Florida Statutes;

(b) any right to the issuance of a recommended order by an administrative law judge from the Division of Administrative Hearings or from the Division; and

(c) any and all rights to object to or challenge in any judicial proceeding, including but not limited to, an appeal pursuant to section 120.68, Florida Statutes, any aspect, provision or requirement concerning the content, issuance, procedure or timeliness of this Consent Order.

1. **Entire Agreement.** This Consent agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or agreements other than those contained herein and this document shall supersede all previous communications, representations, and or agreements whether written or verbal, between the parties hereto.

**WHEREFORE,** Respondent, «Respondent», by its duly authorized representative, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, pursuant to the following certified resolution agrees to the terms, conditions and issuance of this Consent Order on this \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2018.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title

State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

THE FOREGOING INSTRUMENT, CONSENT ORDER, WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_\_ DAY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2018 BY \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

WHO PRODUCED IDENTIFICATION IN THE FORM OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ WHICH WAS EXAMINED BY ME, AND WHO (DID)/(DID NOT) TAKE AN OATH, AND ACKNOWLEDGE THAT HE/SHE IS THE PERSON WHO EXECUTED THE FOREGOING INSTRUMENT.

(SEAL)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Notary Public

State of Florida.

My Commission Expires:

**DONE AND ORDERED** in Tallahassee, Leon County, Florida this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2018.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Kevin Stanfield, Director

Division of Florida Condominiums,

Timeshares, and Mobile Homes

Department of Business and

Professional Regulation

2601 Blair Stone Road

Tallahassee, Florida 32399-1030

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of this Consent Order has been furnished by U. S. Certified Mail to:

«Respondent»

«RegisteredAgentName»

«RegisteredAgentAddress»

«RegisteredAgentCityStateZip» this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2018.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AGENCY CLERK’S OFFICE

Copies furnished to:

Daniel Brown

Financial Examiner/Analyst II

Bureau of Compliance

2601 Blairstone Road

Tallahassee, FL 32399