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C LEWIS

**COVER LETTER**

TO: Amendment Section  
Division of Corporations

NAME OF CORPORATION: BRICKELL HARBOUR CONDOMINIUM ASSOCIATION, INC.

DOCUMENT NUMBER: 750157

The enclosed *Articles of Amendment* and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

MICHAEL L. HYMAN, ESQ.

Name of Contact Person

SIEGFRIED RIVERA HYMAN LERNER DE LA TORRE MARS SOBEL

Firm/ Company

201 ALHAMBRA CIRCLE, 11TH FLOOR

Address

CORAL GABLES, FLORIDA 33134

City/ State and Zip Code

JJAIME@SRHL-LAW.COM

E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

MICHAEL L. HYMAN, ESQ.

at ( 305 ) 442-3334

Name of Contact Person

Area Code & Daytime Telephone Number

Enclosed is a check for the following amount made payable to the Florida Department of State:

- |  |   |  |   |
|--|---|--|---|
| <input type="checkbox"/> \$35 Filing Fee | <input type="checkbox"/> \$43.75 Filing Fee & Certificate of Status | <input type="checkbox"/> \$43.75 Filing Fee & Certified Copy (Additional copy is enclosed) | <input checked="" type="checkbox"/> \$52.50 Filing Fee Certificate of Status Certified Copy (Additional Copy is enclosed) |
|--|---|--|---|

**Mailing Address**  
Amendment Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

**Street Address**  
Amendment Section  
Division of Corporations  
Clifton Building  
2661 Executive Center Circle  
Tallahassee, FL 32301

This instrument prepared by:  
Shari Wald, Esquire  
SIEGFRIED, RIVERA, HYMAN LERNER,  
DE LA TORRE, MARS & SOBEL, P.A.  
201 Alhambra Circle, 11<sup>th</sup> Floor  
Coral Gables, Florida 33134

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750157

**CERTIFICATE OF**  
**THE AMENDED AND RESTATED ARTICLES OF INCORPORATION OF**  
**BRICKELL HARBOUR CONDOMINIUM ASSOCIATION, INC.**

THIS CERTIFICATE OF AMENDMENT AND RESTATEMENT is executed this 19<sup>th</sup> day of May, 2016 by BRICKELL HARBOUR CONDOMINIUM ASSOCIATION, INC., a Florida Not For Profit Corporation (hereinafter referred to as the "Association").

WHEREAS, the Association has been established for operation, in accordance with the Declaration of Condominium for Brickell Harbour, a Condominium as Amended and Restated and recorded on September 29, 1980, in Official Records Book 10674, at Page 717 of the Public Records of Miami-Dade County, Florida, and as amended in the Second Amended and Restated Declaration of Condominium recorded on January 13, 2016, in Official Records Book 29923, at Page 4802 of the Public Records of Miami-Dade County, Florida and all amendments and exhibits thereto (the "Declaration"); and

WHEREAS, the Articles of Incorporation of the Association are set forth within the Declaration in Official Records Book 10674, at Page 778 and Official Records Book 29923, at Page 4879 of the Public Records of Miami-Dade County, Florida (the "Articles of Incorporation"); and

WHEREAS, pursuant to Article IX of the Articles of Incorporation, the approval of a majority of the Unit Owners was required to proceed with the amendment to the Articles of Incorporation. The President of the Board of Directors of the Association hereby certifies that the Amended and Restated Articles of Incorporation of Brickell Harbour Condominium Association, Inc., was approved by the affirmative vote of a majority of the Voting Members present at a duly noticed Special Meeting of the Voting Members on May 10<sup>th</sup>, 2016 at which a quorum of the Voting Members was attained in person or by proxy.

NOW THEREFORE, the Association does hereby state as follows:

1. The above Recitals are true and correct and are incorporated herein by reference.
2. The Association hereby amends and restates all of the provisions of the original Articles of Incorporation and the Amended and Restated Articles of Incorporation of the BRICKELL HARBOUR CONDOMINIUM ASSOCIATION, INC., formed under Chapter 617, Florida Statutes, as amended and restated in the form attached hereto and incorporated herein as Exhibit "A".

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seal this 19<sup>th</sup> day of May, 2016.

Witnesses:

Print Name: William Lucena

Print Name: STANLEY SPENCER

Print Name: DOSOLADO

Print Name: Jo Ann Long

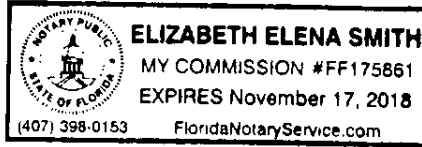
BRICKELL HARBOUR CONDOMINIUM ASSOCIATION,  
INC., a Florida Not For Profit Corporation

By: Steven Greenberg  
Steven Greenberg, President

By: Adriana D. Tio  
Adriana D. Tio, Secretary

CERTIFICATE OF THE AMENDED AND RESTATED ARTICLES OF INCORPORATION OF BRICKELL HARBOUR CONDOMINIUM ASSOCIATION, INC.  
Page 2

STATE OF FLORIDA            )  
  )SS  
COUNTY OF MIAMI-DADE    )



The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of May, 2016, by **Steven Greenberg**, as **President** and **Adriana D. Tio**, as **Secretary** of **BRICKELL HARBOUR CONDOMINIUM ASSOCIATION, INC.**, a Florida Not For Profit Corporation, on behalf of the corporation. They (who are personally known to me) / (who have produced \_\_\_\_\_ as identification) and (did) / (did not) take an oath.

Elizabeth Elena Smith  
Notary Public - State of Florida  
Print Name: Elizabeth Smith  
My Commission Expires: 11/17/18

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# EXHIBIT "A"

TO THE CERTIFICATE OF AMENDED AND RESTATED ARTICLES OF INCORPORATION OF  
BRICKELL HARBOUR CONDOMINIUM ASSOCIATION, INC.

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**AMENDED & RESTATED ARTICLES OF INCORPORATION** 2016 MAY 26 PM 2: 31

**OF**

**BRICKELL HARBOUR CONDOMINIUM ASSOCIATION, INC.**

**(A CORPORATION NOT FOR PROFIT)**

THE UNDERSIGNED, hereby associate themselves for the purpose of forming a corporation not for profit under Chapter 617, Florida Statutes, and certify as follows:

**ARTICLE I.**

**NAME**

The name of this corporation is BRICKELL HARBOUR CONDOMINIUM ASSOCIATION, INC.

**ARTICLE II.**

**PURPOSE**

The purpose for which this Association is organized is the operation and management of the Condominium which is to be created upon lands located in Miami-Dade County, Florida described in Exhibit "A" attached hereto, and known as BRICKELL HARBOUR, a Condominium (the "Condominium").

The Association is to undertake the performance of and to carry out the acts and duties incident to the administration of the operation and management of the condominium in accordance with the terms, provisions, conditions, and authorizations contained in these Articles of Incorporation, and which may be contained in these Articles of Incorporation, and which may be contained in the Declaration of Condominium (the "Declaration" which will be recorded among the Public Records of Miami-Dade County, Florida, encompassing the real property described above and the improvements thereon that are submitted to condominium ownership

and to own, maintain, manage, operate, lease, sell, trade and otherwise deal with such property, whether real or personal, as may be necessary and convenient in the administration of the Condominium.

The Association shall make no distributions of income to its members, directors or officers.

### ARTICLE III.

#### POWERS

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

1. The Association shall have all the common law and statutory powers of a corporation not for profit which are not in conflict with the terms of these Articles, the Declaration of Condominium, the By-Laws or the Condominium Act.

2. The Association shall have all the powers and duties granted to the Association by Chapter 718, Florida Statute, as amended from time to time. The Association shall have all the powers reasonably necessary to implement the purposes of the Association, and all of the powers granted to it in the Declaration after the Declaration is recorded among the Public Records of Miami-Dade County, Florida. Without limiting the generality of the foregoing, the Association shall have power:

- (a) To make and collect assessments, fees and other charges against members as Unit Owners and to use the proceeds thereof in the exercise of its powers and duties.
- (b) To buy, own, operate, lease, sell, trade and mortgage both real and personal property as may be necessary or convenient in the administration of the Condominium.
- (c) To make and amend reasonable rules and regulations for the maintenance, conservation and use of the eCondominium pProperty and for the health, comfort, safety and welfare of the Unit Owners.

- (d) To approve or disapprove the leasing, transfer, mortgaging, ownership and possession of the Units as may be provided by the Declaration.
- (e) To contract for the management and maintenance of the Condominium Property and to delegate to such contractors all powers and duties of the Association, except those which may be required by the Declaration to have approval of the Board of Directors or the Unit Owners as members of the Association.
- (f) To maintain, repair, replace, reconstruct, add to and operate the Condominium Property, and other property acquired or leased by the Association for use by the Unit Owners.
- (g) To purchase insurance upon the Condominium Property and insurance for the protection of the Association, its officers, directors, and members as Unit Owners.
- (h) To employ personnel to perform the service required for the proper operation of the Condominium.
- (i) To modify, amend or renew or apply to terminate the Submerged Sovereignty Land Lease and to perform all obligations pursuant thereto.
- (j) To enforce by legal means the provisions of the Condominium Act, the Declaration, these Articles, the By-Laws, and the rules and regulations for the use of the Condominium Property.

3. All funds and the titles of all properties acquired by the Association and their proceeds shall be held for the benefit and use of the members in accordance with the provisions of the Declaration, these Articles and the By-Laws.

4. The Association shall make no distribution of income to its members, directors or officers.



5. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions hereof and of the Declaration, the By-Laws and the Condominium Act.

#### **ARTICLE IV.**

##### **MEMBERS**

The qualification of members, the manner of their admission to membership and termination of such membership and voting by such members shall be as follows:

1. All Unit Owners shall be members of the Association. The owners of the Commercial Area Units, being Unit Owners, shall also be members of the Association.

2. Membership in the Association shall be established by recording in the Public Records of Miami-Dade County, Florida, a deed or other instrument establishing a change of record title to a Condominium Parcel in the Condominium and the notification in writing to the Association of the recording information. The new record owner designated by such instrument thereby becomes a member of the Association. The membership of the prior owner shall thereby terminate. ~~The Developer to the extent of the ownership of Units is a member of the Association, holding memberships equal to the number of units it holds.~~

3. The share of a member in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to the individual Unit.

4. Members of the Association shall be entitled to one (1) vote for each Commercial or Residential Unit owned by such member and one-third (1/3) vote for each Dock Unit owned by such a member. If the Unit is jointly owned by two or more persons (or by a corporation) the joint owners or the corporation, as the case may be, shall designate one person who shall exercise

the right to vote permitted for each Unit owned. All in all, there shall be a total of one hundred and seventy two (172) ~~sixty four (164)~~ votes comprising the vote of the Association. The voting rights will be exercised in the manner provided by the By-Laws of the Association.

5. The By-Laws shall provide for an annual meeting of members, and may make *provisions for regular and special meetings of members other than the annual meeting.*

## ARTICLE V.

### DIRECTORS

1. The property, business and affairs of the Association shall be managed by a Board consisting of the number of directors determined by the By-Laws, but which shall consist of not less than three (3) directors. ~~Directors need not be members of the Association or Owners of Units in the Condominium.~~

2. All of the duties and powers of the Association existing under the Condominium Act, the Declaration, these Articles and the By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Unit Owners, or Institutional Mortgagees ~~or the Developer~~ when such approval is specifically required.

3. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by and subject to the qualifications in 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.

4. ~~The Developer of the Condominium shall appoint the members of the first Board of Directors who shall hold office for the period described in the By-Laws.~~

~~5~~ The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and have qualified, as provided in the By-Laws, are as follows:

<u>Name</u>	<u>Addresses</u>
Robin A. Wilson	415 Madison Avenue New York, N.Y. 10017
Peter H. Wenzel	1110 Brickell Avenue Suite 404 Miami, Florida 33131
Yale Mosk	1110 Brickell Avenue Suite 404 Miami, Florida 33131

#### ARTICLE VI.

The affairs of the Association shall be administered by the officers holding the offices designated in the By-Laws. The officers shall be elected by the Board of Directors of the Association at the first meeting following the annual meeting of the members of the Association and shall serve at the ~~pleasure~~request 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. ~~The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:~~

<u>NAME</u>	<u>ADDRESSES</u>	<u>OFFICE</u>
Peter H. Wenzel	1110 Brickell Avenue Suite 404 Miami, Florida 33131	PRESIDENT
Robin A. Wilson	415 Madison Avenue New York, N.Y. 10017	VICE-PRESIDENT
Yale Mosk	1110 Brickell Avenue Suite 404	SECRETARY/ TREASURER

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Miami, Florida 33131

5. A Director shall discharge his duties as a director, including any duties as a member of a Committee: in good faith; with the care an ordinary prudent person in a like position would exercise under similar circumstances; and in a manner reasonably believed to be in the best interests of the Association. Unless a Director has knowledge concerning a matter in question that makes reliance unwarranted, a Director, in discharging his duties, may rely on information, opinions, reports or statements, including financial statements and other data, if prepared or presented by: one or more officers or employees of the Association whom the Director reasonably believes to be reasonable and competent in the manners presented; legal counsel, public accountants or other persons as to matters the Directors reasonably believes are within the persons' professional or expert competence; or a Committee of which the Director is not a member if the Director reasonably believes the Committee merits confidence. A Director is not liable for any action taken as a director, or any failure to take action, if he performed the duties of his office in compliance with the foregoing standards.

## ARTICLE VII.

### INDEMNIFICATION

1. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by, or in the right of the Association) by reason of the fact that he is or was a director, employee, officer or agent of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and in a manner

he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or misfeasance or malfeasance in the performance of his duty to the Association unless and only to the extent that the court in which action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnify for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

2. To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 above or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

3. Any indemnification under Section 1 above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 1 above. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of

directors who were not parties to such action, suit or proceeding, or (b) if such quorum is not obtainable, or, even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or by a majority of the members of the Association.

4. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suits or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article VII.

5. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any By-Law, agreement, vote of members or otherwise, both as to action in his official capacity while holding such office or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs and personal representatives of such person.

6. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving, at the request of the Association, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

**ARTICLE VIII.**

**BY-LAWS**

~~The first By-Laws of the Association shall be those By-Laws appended to the Declaration of Condominium and may be altered, amended or rescinded in the manner provided by said By-Laws, by an affirmative vote of a majority of the owners of the Units.~~

**ARTICLE IX.**

**AMENDMENTS**

~~1. Until such time as the Developer, has completed and closed the sales of all of the condominium units in the condominium for which this Association will operate, the Articles of Incorporation may be amended as to any of the particulars contained herein by the Developer in its sole discretion, and in addition thereof, the proceedings of all meetings of the Association shall have no effect unless approved by the Developer as to the amendment of the condominium documents. This right is subject, however, to the provisions that the Developer cannot make any substantial change in the purpose of the Association.~~

2. 1. These Articles of Incorporation may also be amended in the following manner:

(a) Notice of the subject matter of the proposed amendment shall be included in a notice of any regular and special meeting at which such proposed amendment is considered.

(b) A resolution approving a proposed amendment may be proposed by either a majority of the Board of Directors or by one-third (1/3~~d~~) of the Membership of the Association, and after being proposed and approved by one of said bodies, it must be submitted for approval and thereupon receive approval by the other body. Such approval must be by an affirmative vote of a majority of the votes of the members of the Association; and such approval must be by an affirmative vote of two-thirds (2/3~~d~~) of the members of the Board of Directors.

(c) Provided, however, that no amendment shall make any changes in the qualifications for membership nor in the voting rights or property rights of members, nor any changes in Sections 3, 4, and 5 of Article III, entitled "Powers" without the approval in writing of all members and the joinder of all record owners of mortgages upon Units. No amendment shall be made that is a conflict with the Condominium Act, the Declaration or By-Laws, ~~nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of or reserved to the Developer, or an affiliate of the Developer, unless the Developer shall join in the execution of the amendment.~~

**ARTICLE X.**

**TERM**

The term of the Association shall be the life of the Condominium, unless the Association is terminated sooner by the ~~unanimous~~ action of its members. The Association shall be terminated by the termination of the Condominium in accordance with the Declaration.

**ARTICLE XI.**

**SUBSCRIBERS**

~~The names and addresses of the subscribers to these Articles of Incorporation are:~~

<u>Name</u>	<u>Addresses</u>
<del>Robin A. Wilson</del>	<del>415 Madison Avenue New York, N.Y. 10017</del>
<del>Peter H. Wenzel</del>	<del>1110 Brickell Avenue Suite 404 Miami, Florida 33131</del>
<del>Yale Mosk</del>	<del>1110 Brickell Avenue Suite 404 Miami, Florida 33131</del>



**ARTICLE XII**

**RESIDENT AGENT**

The Resident Agent of the Association for purposes of accepting service of process shall be Samuel I. Leff, Esq., 1367 N.E. 162<sup>nd</sup> Street, North Miami Beach, Florida 33162. Michael L. Hyman, Esq., 201 Alhambra Circle, 11<sup>th</sup> Floor, Coral Gables, Florida 33134 or such individual as designated by the Association.

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