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CONDOMINIUM
COOPERATIVE AND
COMMUNITY
ASSOCIATIONS
CIVIL LITIGATION
PERSONAL INJURY
FAMILY LAW
LAND USE LAW
ESTATES AND TRUSTS

* FLA. BOARD CERTIFIED SPECIALIST IN CONDOMINIUM
AND PLANNED DEVELOPMENT LAW

** FLA. SUPREME COURT CERTIFIED MEDIATOR

February 28, 2019

Secretary of State
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314

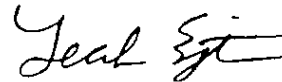
Re: Certificate of Amendment
Midnight Cove II Association, Inc.

To Whom It May Concern:

Please find enclosed an original Certificate of Amendment and attached Amendment to the Articles of Incorporation for the above-referenced corporation and a check in the amount of \$35.00 for the filing fee.

Thank you for your assistance in this matter.

Sincerely,



Leah E. Ellington

LEE/pft
Enclosure

CERTIFICATE OF AMENDMENT

AMENDED AND RESTATED ARTICLES OF INCORPORATION

MIDNIGHT COVE II ASSOCIATION, INC.

We hereby certify that the attached Amended and Restated Articles of Incorporation were approved and adopted at a meeting of the membership held on January 24, 2019, by the affirmative vote of not less than seventy percent (70%) of the entire voting interests of the Association present (in person or by proxy) and voting, which is sufficient for adoption under Section 10.4 of the Articles of Incorporation.

DATED this 18 day of February, 2019.

Witnesses:

sign

print

sign

print

Witnesses:

sign

print

sign

print

MIDNIGHT COVE II ASSOCIATION, INC.

By:

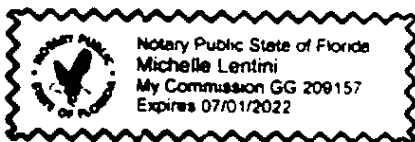
Frank Donovan, President

Attest:

Eugene Doyle, Secretary

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 18 day of February, 2019, by Frank Donovan, as President of Midnight Cove II Association, Inc., on behalf of the corporation. He is personally known to me or has produced _____ as identification.



NOTARY PUBLIC

sign

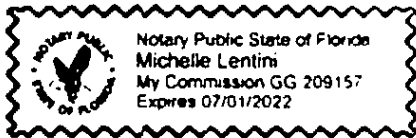
print

State of Florida at Large (Seal)

My Commission expires:

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 18 day of February, 2019, by Eugene Doyle, as Secretary of Midnight Cove II Association, Inc., on behalf of the corporation. He is personally known to me or has produced _____ as identification.



NOTARY PUBLIC
sign Michelle Lentini
print Michelle Lentini
State of Florida at Large (Seal)

My Commission expires:

Prepared by: Leah E. Ellington, Esq.
2033 Main Street, Suite 403
Sarasota, FL 34237

Prepared by and return to:
Leah E. Ellington, Esquire
Lobeck & Hanson, P.A.
2033 Main Street, Suite 403
Sarasota, Florida 34237
(941) 955-5622 (Telephone)
(941) 951-1469 (Facsimile)

FILED

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CLERK OF DISTRICT COURT
MIDNIGHT COVE II ASSOCIATION, INC.

AMENDED AND RESTATED

ARTICLES OF INCORPORATION

OF

MIDNIGHT COVE II ASSOCIATION, INC.

ARTICLE 1.

NAME OF CORPORATION AND PRINCIPAL OFFICE

The name of the corporation shall be MIDNIGHT COVE II ASSOCIATION, INC. (herein "the Association"). The principal office of the Association shall be located at 6327 Midnight Pass Road, Sarasota, Florida 34242. The Association Board of Directors (herein "the Board") may change the location of the principal office of the Association from time to time.

ARTICLE 2.

PURPOSE

The purpose for which the Association is organized is to provide an entity pursuant to Chapter 718 of the Florida Statutes for the operation of that certain condominium located in Sarasota County, Florida, and known as Midnight Cove II. A Condominium (the "Condominium").

ARTICLE 3.

DEFINITIONS

The terms used herein shall have the same definitions as stated in the Declaration of Condominium and the Condominium Act unless the context requires otherwise. If there is a dispute over the proper definition of a vague or ambiguous term which is not otherwise defined by the Declaration of Condominium or by the Condominium Act, the Board shall provide a reasonable definition of the term or may adopt any standard dictionary definition of the term.

ARTICLE 4. POWERS

4.1 GENERAL POWERS. The Association shall have all of the statutory and common law powers of a corporation not for profit and all of the powers and duties set forth in the Florida Not for Profit Corporation Act (Chapter 617, Florida Statutes), the Condominium Act, the Declaration, these Articles, and Bylaws of the Association, all as amended from time to time, except as may be limited or otherwise provided by these Articles or by law. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration and Bylaws.

4.2 SPECIFIC POWERS. The Association shall have all of the powers and duties reasonably necessary to operate the Condominium pursuant to the Declaration as it may be amended from time to time. The Association's specific powers include but are not limited to the following:

A. To make and collect Assessments 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, and trade both real and personal property as may be necessary or convenient in the administration of the Condominium.

C. To maintain, repair, replace, reconstruct, add to, and operate the Condominium Property and other property acquired or leased by the Association for use by Unit Owners.

D. To purchase insurance upon the Condominium Property and insurance for the protection of the Association, its officers, Directors, and members as Unit Owners.

E. To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Condominium Property and for the health, comfort, safety, and welfare of the Unit Owners.

F. To approve or disapprove the leasing, transfer, mortgaging, ownership, and possession of Units as may be provided by the Declaration.

G. To enforce by legal means the provisions of the Act, the Declaration, these Articles, the Bylaws, and the Rules and Regulations for the use of the Condominium Property.

H. To contract for the management of the Condominium and any facilities used by the Unit Owners, and to delegate to the party with whom such contract has been entered into all of the powers and duties of the Association except those which require specific approval of the Board or the membership of the Association.

I. To employ personnel to perform the services required for proper operation of the Condominium.

J. To make contracts and incur liabilities, borrow money at such rates of interest as the Association may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage and pledge of all or any of its property, franchises, or income.

4.3 CONDOMINIUM PROPERTY. 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 Bylaws.

4.4 DISTRIBUTION OF INCOME. The Association shall make no distribution of income to its Members, Directors or officers.

4.5 LIMITATION. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration and the Bylaws.

ARTICLE 5. MEMBERS AND VOTING RIGHTS

5.1 MEMBERSHIP. The Members of the Association shall consist of all of the record Owners of Units in the Condominium, and after termination of the Condominium shall consist of those who were Members at the time of the termination and their successors and assigns.

5.2 ASSIGNMENT. The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit for which that share is held.

5.3 VOTING. On all matters upon which the membership shall be entitled to vote, there shall be only one (1) vote for each Unit, which vote shall be exercised or cast in the manner provided by the Declaration and Bylaws. Any person or entity owning more than one (1) Unit shall be entitled to one (1) vote for each Unit owned.

5.4 MEETINGS. The Bylaws shall provide for an annual meeting of Members, and may make provision for regular and special meetings of Members other than the annual meeting.

ARTICLE 6. TERM

The term for which this Association is to exist shall be perpetual, unless sooner dissolved pursuant to provisions of Chapter 617 of the Florida Statutes, as amended from time to time, or other pertinent law.

**ARTICLE 7.
BOARD OF DIRECTORS**

7.1 NUMBER AND QUALIFICATION. The property, business and affairs of the Association shall be managed by a Board consisting of the number of Directors determined by the Bylaws. Each Director must be a Member or the spouse of a Member.

7.2 DUTIES AND POWERS. All of the duties and powers of the Association existing under the Condominium Act, the Declaration, these Articles, and the Bylaws shall be exercised exclusively by the Board, its agents, contractors, or employees, subject only to approval by Unit Owners when such approval is specifically required.

7.3 ELECTION; REMOVAL. Directors of the Association shall be elected at the annual meeting of the Members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board shall be filled in the manner provided by the Bylaws.

**ARTICLE 8.
OFFICERS**

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

**ARTICLE 9.
BYLAWS**

The Bylaws of the Association may be amended as provided in the Bylaws.

**ARTICLE 10.
AMENDMENTS**

These Articles may be amended in the following manner:

10.1 PROPOSAL OF AMENDMENTS. An amendment may be proposed by the President of the Association, a majority of the Directors, or by twenty-five percent (25%) of the entire Voting Interests.

10.2 PROPOSED AMENDMENT FORMAT. Proposals to amend these Articles shall contain the full text of the provision to be amended. New words shall be underlined and words to be deleted shall be lined-through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying the following or something substantially similar:

"SUBSTANTIAL REWORDING OF ARTICLE. SEE ARTICLE NUMBER ____ FOR PRESENT TEXT."

10.3 NOTICE. Copies of proposed amendments shall be included in the notice of any meeting at which a proposed amendment is to be considered or in connection with documentation for action without a meeting.

10.4 ADOPTION OF AMENDMENTS. A resolution for the adoption of a proposed amendment may be adopted by a vote of seventy percent (70%) of the entire Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present. Amendments correcting errors, omissions or scrivener's errors may be executed by the officers of the Association, upon Board approval, without need for Association membership vote.

10.5 EFFECTIVE DATE. An amendment when adopted shall become effective upon being recorded in the Sarasota County Public Records and filed with the Secretary of State.

10.6 AUTOMATIC AMENDMENT. These Articles shall be deemed amended, if necessary, so as to make the same consistent with the provisions of the Declaration. Whenever Chapter 718, Florida Statutes; Chapter 617, Florida Statutes; or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in these Articles, the Board may operate the Association pursuant to the less stringent requirements. The Board, without a vote of the Owners, may adopt by majority vote, amendments to these Articles as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and 718 of the Florida Statutes, or such other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

10.7 PROVISIO. Provided, however, that no amendment shall change the configuration of any Unit or the share in the Common Elements appurtenant to it, or increase the Owner's share of the Common Expenses, unless the record Owner of the Unit concerned and all record Owners of the mortgages on such Unit shall join in the execution of the amendment, and all other Owners approve the amendment.

ARTICLE 11. INDEMNIFICATION

11.1 INDEMNITY. The Association shall indemnify any officer, Director, or committee member who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she is or was a Director, officer, or committee member of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding, unless (i) a court of competent jurisdiction

finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he or she did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he or she had reasonable cause to believe his or her conduct was unlawful, and (ii) such court also determines specifically that indemnification should be denied. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she 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 or her conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their officers, Directors, and committee members as permitted by Florida law.

11.2 DEFENSE. To the extent that a Director, officer, or committee member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 12.1 above, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

11.3 ADVANCES. Expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected Director, officer, or committee member to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Association as authorized by this Article 12.

11.4 MISCELLANEOUS. The indemnification provided by this Article 12 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of members, or otherwise, and shall continue as to a person who has ceased to be a Director, officer, or committee member and shall inure to the benefit of the heirs and personal representatives of such person.

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

11.6 AMENDMENT. Anything to the contrary herein notwithstanding, the provisions of this Article 12 may not be amended without the approval in writing of all persons whose interest would be adversely affected by such amendment.

11.7 DELEGATION. To the extent permitted by law, the powers and duties of the Directors and officers may be delegated for the purpose of management.

**ARTICLE 12.
REGISTERED OFFICE AND REGISTERED AGENT**

The registered office of the Association shall be located at 2033 Main Street, Suite 403, Sarasota, Florida 34237, and the registered agent at such address will be Daniel Lobeck. The Board may change the registered agent and office from time to time as permitted by law.