

H91435
Florida Department of State
Division of Corporations
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MERGER OR SHARE EXCHANGE

Flagler System Management, Inc.

Certificate of Status	0
Certified Copy	1
Page Count	06
Estimated Charge	\$78.75

2024 JAN 31 PM 2:24

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FEB 17

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January 30, 2024

FLORIDA DEPARTMENT OF STATE

Division of Corporations

FLAGLER SYSTEM MANAGEMENT, INC.
THE BREAKERS HOTEL
ONE SOUTH COUNTY ROAD
PALM BEACH, FL 33480US

SUBJECT: FLAGLER SYSTEM MANAGEMENT, INC.
REF: H91435

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FILED

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refax the complete document, including the electronic filing cover sheet.

The effective date must be specific and cannot be prior to the date of filing.

As a condition of a merger, pursuant to s.605.0212(8) and/or s.607.1622 (8), Florida Statutes, each party to the merger must be active and current in filing its annual reports with the Department of State through December 31 of the calendar year in which the articles of merger are submitted for filing.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6050.

Tammi Cline
Regulatory Specialist II Supervisor

FAX Aud. #: H24000040127
Letter Number: 924A00002047

ARTICLES OF MERGER
OF
FLAGLER HOLDINGS NORTH CAROLINA, INC.
a North Carolina corporation
WITH AND INTO
FLAGLER SYSTEM MANAGEMENT, INC.
a Florida corporation

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H914

Pursuant to the Sections 607.1101 – 607.1101 of the Florida Statutes, the following Articles of Merger are submitted to merge the following corporations (the “Merger”) in accordance with Act:

FIRST: The exact name, entity type, and jurisdiction of the merging entity is as follows:

FLAGLER HOLDINGS NORTH CAROLINA, INC., a North Carolina corporation (the “Merging Company”); and

SECOND: The exact name, entity type, and jurisdiction of the surviving entity is as follows:

FLAGLER SYSTEM MANAGEMENT, INC., a Florida corporation (the “Surviving Corporation”).

THIRD: A copy of the Plan of Merger (the “Plan of Merger”) is attached hereto as Exhibit “A” and is incorporated by reference into these Articles of Merger as if fully restated herein.

FOURTH: The Merger is permitted by the laws of the State of North Carolina, the domestic jurisdiction of the Merging Company, and was unanimously approved by joint written consent of the director and the sole shareholder of the Merging Company, Flagler System, Inc., pursuant to Section 54-161 of the North Carolina General Statutes, dated as of January 23, 2024.

FIFTH: The merger is permitted by the laws of the State of Florida, the domestic jurisdiction of the Surviving Corporation, and was unanimously approved by joint written consent of the director and the sole shareholder of the Surviving Corporation, Flagler System, Inc., pursuant to Sections 607.1101, 607.0704, and 607.0821 of the Florida Statutes, dated as of January 23, 2024.


SIXTH: The effective date and time of the Merger shall be January 30, 2024 at 11:59 p.m. Eastern Time (the “Effective Time”).

[Signatures hereto contained on following page.]

IN WITNESS WHEREOF, each of the constituent corporations has caused these Articles of Merger to be signed in its corporate name and on its behalf by its duly authorized officer as of the 23rd day of January, 2024.

THE MERGING COMPANY:

FLAGLER HOLDINGS NORTH CAROLINA, INC.,
a North Carolina corporation

By: 
Name: Darren Hirsowitz
Title: Vice President, Treasurer, Assistant Secretary

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THE SURVIVING CORPORATION:

FLAGLER SYSTEM MANAGEMENT, INC.,
a Florida corporation

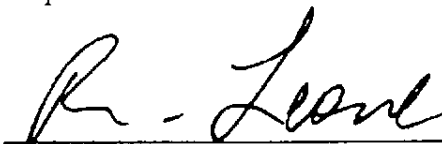
By: 
Name: Paul N. Leone
Title: President and Chief Executive Officer

EXHIBIT A**AGREEMENT AND PLAN OF MERGER****AGREEMENT AND PLAN OF MERGER**

This AGREEMENT AND PLAN OF MERGER (the "Agreement"), is entered into as of January 23, 2024, by and between FLAGLER SYSTEM MANAGEMENT, INC., a Florida corporation ("Surviving Corporation"), and FLAGLER HOLDINGS NORTH CAROLINA, INC., a North Carolina corporation (the "Company").

WHEREAS, the respective Boards of Directors of the Surviving Corporation and the Company have each approved and adopted this Agreement and the transactions contemplated by this Agreement, in each case after making a determination that this Agreement and such transactions are advisable and fair to, and in the best interests of, such corporation and its sole shareholder, Flagler System, Inc.;

WHEREAS, pursuant to the transactions contemplated by this Agreement and on the terms and subject to the conditions set forth herein, the Company, in accordance with the North Carolina General Statutes (the "North Carolina Act") and the Florida Business Corporation Act (the "Florida Act"), will merge with and into the Surviving Corporation, with the Surviving Corporation as the surviving corporation (the "Merger"); and

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Merger. Upon the terms and subject to the conditions set forth in this Agreement, and in accordance with Sections 54-159 and 54-164 of the North Carolina Act and Sections 607.1101 – 607.11101 of the Florida Act, the Company shall be merged with and into the Surviving Corporation at the Effective Time (as hereinafter defined). Following the Effective Time, the separate corporate existence of the Company shall cease, and the Surviving Corporation shall continue as the surviving corporation. The effects and consequences of the Merger shall be as set forth in this Agreement, the North Carolina Act and the Florida Act.

2. Effective Time.

(a) Subject to the provisions of this Agreement, the parties shall duly prepare, execute and file articles of merger (the "NC Articles of Merger") complying with Section 54-162 of the North Carolina Act with the Secretary of State of the State of North Carolina and (ii) articles of merger (the "FL Articles of Merger") complying with Section 607.1109 of the Florida Act, in each case with respect to the Merger. The Merger shall become effective at 11:59 p.m. (Eastern Time) on January 23, 2024 (the "Effective Time").

(b) The Merger shall have the effects set forth in the North Carolina Act, including without limitation, Section 54-163 of the North Carolina Act, and Section 607.11101 of the Florida Act. Without limiting the generality of the foregoing, from the Effective Time, (i) all the properties, rights, privileges, immunities, powers, and franchises of the Company shall vest in the Surviving Corporation, as

the Surviving Corporation, and all debts, liabilities, obligations and duties of the Company shall become the debts, liabilities, obligations and duties of the Surviving Corporation, as the Surviving Corporation.

3. Organizational Documents. The Bylaws of the Surviving Corporation in effect at the Effective Time shall be the bylaws of the Surviving Corporation until thereafter amended as provided therein or by the Florida Act, and the Articles of Incorporation of the Surviving Corporation in effect at the Effective Time, shall be the Articles of Incorporation of the Surviving Corporation until thereafter amended as provided therein or by the Florida Act.

4. Directors and Officers. The directors and officers of the Surviving Corporation immediately prior to the Effective Time shall be the directors of the Surviving Corporation from and after the Effective Time and shall hold office until the earlier of their respective death, resignation or removal or their respective successors are duly elected or appointed and qualified in the manner provided for in the Articles of Incorporation and Bylaws of the Surviving Corporation or as otherwise provided by the Florida Act.

5. Conversion of Securities. At the Effective Time, by virtue of the Merger and without any action on the part of the Surviving Corporation or the Company or the holders of shares of capital stock of the Company:

(c) each share of common stock of the Company, par value \$1.00 per share ("Company Common Stock"), issued and outstanding immediately prior to the Effective Time shall, without any action on the part of the holders thereof, be canceled and retired and will cease to exist, and no consideration will be delivered in exchange therefor; and

(b) each share of common stock of the Surviving Corporation, par value \$1.00 per share ("Surviving Corporation Common Stock"), issued and outstanding immediately prior to the Effective Time shall, without any action on the part of the holders thereof, remain unchanged and continue to remain outstanding and the current shareholders of the Surviving Corporation shall continue to own the same number of shares of the Surviving Corporation Common Stock as such shareholders owned prior to the Effective Time.

6. Entire Agreement. This Agreement, together with the Statement of Merger and Articles of Merger, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, representations and warranties and agreements, both written and oral, with respect to such subject matter.

7. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

8. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.

9. Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

10. Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so

waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

11. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

12. Governing Law. This Agreement and all transactions contemplated by this Agreement shall be governed by, and construed and enforced in accordance with, the internal laws of the State of Florida without regard to principles of conflicts of laws.

13. Jurisdiction and Venue. The parties acknowledge that a substantial portion of the negotiations, anticipated performance and execution of this Agreement occurred or shall occur in Palm Beach County, Florida. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought exclusively in the courts of record of the State of Florida in Palm Beach County or the United States District Court, Southern District of Florida – West Palm Beach. Each party consents to the exclusive jurisdiction of such Florida court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such Florida court. Service of any court paper may be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws, rules of procedure or local rules.

14. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Signature Page Follows]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement and Plan of Merger as of the date first above written.

FLAGLER HOLDINGS NORTH CAROLINA, INC.,
a North Carolina corporation

/s/ Darren Hirsowitz

By: _____

Name: Darren Hirsowitz

Title: Vice President, Treasurer, Assistant Secretary

FLAGLER SYSTEM MANAGEMENT, INC.,
a Florida corporation

/s/ Paul N. Leone

By: _____

Name: Paul N. Leone

Title: President and Chief Executive Officer

2024 JAN 30 11:19:54