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FLORIDA PROFIT/NON PROFIT CORPORATION  
VIA FLAGLER CONDOMINIUM ASSOCIATION, INC.

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**ARTICLES OF INCORPORATION  
OF  
VIA FLAGLER CONDOMINIUM ASSOCIATION, INC.**

The undersigned incorporator, for the purpose of forming a corporation not for profit pursuant to the laws of the State of Florida, hereby adopts the following Articles of Incorporation:

**ARTICLE I.  
NAME**

The name of this corporation is: **VIA FLAGLER CONDOMINIUM ASSOCIATION, INC.** (the "Association").

**ARTICLE II.  
PURPOSE AND LOCATION**

The purposes of the Association are those purposes as are authorized by the Declaration of Via Flagler, a Condominium, recorded (or to be recorded) in the Public Records of Palm Beach County Florida, as hereafter amended and/or supplemented from time to time (the "Declaration"). All of the definitions set forth in the Declaration are hereby incorporated herein by this reference. The further purposes of the Association are to preserve the values and amenities in Via Flagler, a Condominium (the "Condominium") and to maintain the Common Elements thereof for the benefit of the Owners who become Members of the Association.

The principal office and mailing address of the Association shall be at 439 Worth Avenue, Palm Beach, FL 33480, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at its principal office or at such other place as may be permitted by the Act.

**ARTICLE III.  
MEMBERS**

The qualification of members and the manner of their admission shall be as follows: Any approved person or persons who hold title in fee simple to a unit in the Condominium shall by virtue of such ownership be a member of the Association. Provided however, that transfer of membership shall be made only as a part of and incident to the transfer of ownership of a Condominium unit ("Unit") with such transfers being subject to and controlled by the transfer procedures set forth in the Declaration. After receiving approval of the Association required by the Declaration, change of membership in the Association shall be established by recording in the Public Records of Palm Beach County, Florida, a deed or other instrument establishing record title to a Unit in the condominium. Each new member shall deliver a copy of the recorded instrument to the Association within a reasonable time following such recordation. Such delivery is not required for initial conveyances by T3 Family Investments, LLC, a Florida limited liability company, its successors and assigns, as the developer of the Condominium ("Developer"). The owner designated by such recorded instrument thereby becomes a member of the Association and the membership of the previous owner is thereby terminated. After termination of the Condominium, the Association shall consist of those who were members at time of such termination and their successors and assigns.

**ARTICLE IV.  
CORPORATE EXISTENCE**

The Association shall exist perpetually.

**ARTICLE V.  
INCORPORATOR**

The name and residence of the incorporator is as follows:

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David W. Frisbie  
439 Worth Avenue  
Palm Beach, FL 33480

The rights and interests of the incorporator shall automatically terminate when these Articles are filed with the Secretary of State.

#### **ARTICLE VI. MANAGEMENT**

**A. Corporate Affairs.** The affairs of the Association are to be managed by a Board of three (3) Directors who will be appointed by the Developer as provided for in the By-Laws. Subsequent Boards shall be composed of three (3) Directors as provided for in the By-Laws. Directors need not be Members of the Association.

**B. Standards.** A Director shall discharge his or her 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 or her 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 Director 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 or she performed the duties of his office in compliance with the foregoing standards.

#### **ARTICLE VII. OFFICERS**

The names of the Officers who are to serve until the first election or appointment under the Articles of Incorporation are:

David W. Frisbie	-	President
Robert Frisbie	-	Vice President
Cody Crowell	-	Secretary/Treasurer

#### **ARTICLE VIII. DIRECTORS**

The number of persons constituting the first Board of Directors shall be three (3), and their names and addresses are as follows:

David W. Frisbie  
439 Worth Avenue  
Palm Beach, FL 33480

Robert Frisbie  
439 Worth Avenue  
Palm Beach, FL 33480

Cody Crowell  
439 Worth Avenue  
Palm Beach, FL 33480

Subject to the rights of the Developer to appoint members of the Board of Directors as hereinafter stated, the members of the Board of Directors shall be elected by the Unit Owners (or the authorized representatives, officers or employees of a corporation or other organization which is a Unit Owner) at the annual meeting of the Unit Owners as provided in the By-Laws of the Association and shall be owners of Units in the Condominium (or a person designated by an owner in the event that an owner is not a natural person).

When Unit Owners other than the Developer own fifteen percent (15%) or more of the Units of the Condominium, the Unit Owners other than Developer shall be entitled to elect no less than one-third of the members of the Board of Directors. Unit Owners other than Developer are entitled to elect not less than a majority of the members of the Board of Directors of the Association upon the earlier of:

- (a) Three (3) years after fifty percent (50%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers;
- (b) Three (3) months after ninety percent (90%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers;
- (c) When all the Units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by Developer in the ordinary course of business;
- (d) When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by Developer in the ordinary course of business;
- (e) When Developer files a petition seeking protection in bankruptcy;
- (f) When a receiver for Developer is appointed by a circuit court and is not discharged within 30 days after such appointment, unless the court determines within 30 days after appointment of the receiver that transfer of control would be detrimental to the Association or its members;
- (e) Seven (7) years after recordation of the Declaration of Condominium; or
- (f) Developer so declaring by written notice to the Unit Owners.

Until such time as Unit Owners other than Developer are entitled to elect one or more members of the Board of Directors as provided above, Developer shall be entitled to designate and appoint all members of the Board of Directors. Developer is entitled to elect at least one (1) member of the Board of Directors as long as Developer holds for sale in the ordinary course of business at least one (1) Unit in the Condominium. Following the time that Developer relinquishes control of the Association, Developer may exercise the right to vote any Units owned by Developer in the same manner as any other Unit Owner except for purposes of reacquiring control of the Association or selecting the majority members of the Board of Directors.

Developer shall be entitled to designate and appoint all directors whom the other Unit Owners shall not be entitled to elect. Directors appointed by Developer shall not be required to be owners or residents of Units in the Condominium. Any successor of Developer designated in the manner provided in the Declaration shall be entitled to the rights of Developer stated in this paragraph.

#### ARTICLE IX. BY-LAWS

The first By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended, or rescinded in the manner provided in the By-Laws and the Declaration.

## ARTICLE X. AMENDMENTS

**A. Notice.** Notice of a proposed amendment of these Articles of Incorporation shall be included in the notice of any meeting at which the proposed amendment is to be considered and shall be otherwise given in the time and manner provided in Chapter 617, Florida Statutes and in Chapter 718, Florida Statutes (the "Condominium Act"). Such notice shall contain the proposed amendment or a summary of the changes to be affected thereby.

**B. Adoption.** Amendments of these Articles of Incorporation shall be proposed and adopted in the manner provided in Chapter 617, Florida Statutes and in the Condominium Act (the latter to control over the former to the extent provided for in the Condominium Act).

**C. Amendment Limitation.** No amendment of these Articles of Incorporation shall make any changes in the qualifications for membership, nor in the voting rights or property rights of Unit Owners, nor any changes in Articles XIII or XIV of these Articles of Incorporation, without the approval in writing of all Unit Owners and the joinder of all record owners of mortgages upon Units. No amendment shall be made that is in conflict with the Condominium Act or the Declaration, nor shall any amendment make any changes which would in any way adversely affect any of the rights, privileges, powers or options herein provided in favor of or reserved to the Developer and/or Institutional First Mortgagee (as defined in the Declaration), unless the affected Developer and/or the affected Institutional First Mortgagee, as applicable, shall join in the execution of the amendment. No amendment to this Section shall be effective.

**D. Developer Amendments.** Notwithstanding anything herein contained to the contrary, to the extent lawful, the Developer may amend these Articles of Incorporation consistent with, or not prohibited by, the provisions of the Declaration allowing certain amendments to be effected by the Developer alone.

**E. Recording.** A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the public records of Palm Beach County, Florida with an identification on the first page thereof of the book and page of said public records where the Declaration was recorded which contains, as an exhibit, the initial recording of these Articles.

## ARTICLE XI. VOTES

Each Unit in the Condominium shall have one (1) full indivisible vote. All votes shall be exercised or cast in the manner provided by the Declaration and By-Laws.

## ARTICLE XII. POWERS

The Association shall have all of the common law and statutory powers of a corporation not-for-profit under the laws of Florida, except as expressly limited or restricted by the terms of these Articles, the Declaration, the By-Laws or the Condominium Act. The Association shall have all of the powers and duties set forth in the Condominium Act, except as limited by these Articles, the By-Laws, and the Declaration (to the extent they are not in conflict with the Condominium Act) and 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 and the By-Laws, as they may be amended from time to time. 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, provided that in the event of conflict, the provisions of the Condominium Act shall control over those of the Declaration and By-Laws.

### ARTICLE XIII. INDEMNIFICATION PROVISIONS

A. **Indemnities.** The Association shall indemnify any person who was or is a party to any proceeding (other than an action by, or in the right of, the Association) by reason of the fact that he or she is or was a director, officer, employee or agent (each, an "Indemnitee") of the Association, against liability incurred in connection with such proceeding, including any appeal thereof, if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any proceeding by judgment, order, settlement, or 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 interests of the Association or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

B. **Indemnification.** The Association shall indemnify any person, who was or is a party to any proceeding by, or in the right of, the Association to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee, or agent of the Association against expenses and amounts paid in settlement not exceeding, in the judgment of the board of directors, the estimated expense of litigating the proceeding to conclusion, actually and reasonably incurred in connection with the defense or settlement of such proceeding, including any appeal thereof. Such indemnification shall be authorized if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association, except that no indemnification shall be made under this Article XIII, subsection B in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable unless, and only to the extent that, the court in which such proceeding was brought, or any other court of competent jurisdiction, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

C. **Indemnification for Expenses.** 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 proceeding referred to in Article XIII, subsection A or B, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses actually and reasonably incurred by him or her in connection therewith.

D. **Determination of Applicability.** Any indemnification under Article XIII, subsection A or B, unless pursuant to a determination 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 under the circumstances because he or she has met the applicable standard of conduct set forth in Article XIII, subsection A or B. Such determination shall be made:

1. By the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such proceeding;
2. If such a quorum is not obtainable or, even if obtainable, by majority vote of a committee duly designated by the Board of Directors (in which vote directors who are parties may participate) consisting solely of two (2) or more Directors not at the time parties to the proceeding;
3. By independent legal counsel:
  - a. selected by the Board of Directors prescribed in paragraph 1 or the committee prescribed in paragraph 2; or
  - b. if a quorum of the Directors cannot be obtained under paragraph 1 and the committee cannot be designated under paragraph 2, selected by majority vote of the full Board of Directors (in which vote Directors who are parties may participate); or
4. By a majority of the voting interests of the Unit Owners who were not parties to such

proceeding.

**F. Determination Regarding Expenses.** Evaluation of the reasonableness of expenses and authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible. However, if the determination of permissibility is made by independent legal counsel, persons specified by Article XIII, subsection D.3. shall evaluate the reasonableness of expenses and may authorize indemnification.

**F. Advancing Expenses.** Expenses incurred by an officer or director in defending a civil or criminal proceeding may be paid by the Association in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if he or she is ultimately found not to be entitled to indemnification by the Association pursuant to this Article XIII. Expenses incurred by other employees and agents may be paid in advance upon such terms or conditions that the Board of Directors deems appropriate.

**G. Exclusivity: Exclusions.** The indemnification and advancement of expenses provided pursuant to this Article XIII are not exclusive, and the Association may make any other or further indemnification or advancement of expenses of any of its directors, officers, employees, or agents, under any law, agreement, vote of shareholders or disinterested directors, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office. However, indemnification or advancement of expenses shall not be made to or on behalf of any director, officer, employee, or agent if a judgment or other final adjudication establishes that his or her actions, or omissions to act, were material to the cause of action so adjudicated and constitute:

1. A violation of the criminal law, unless the director, officer, employee, or agent had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful;
2. A transaction from which the director, officer, employee, or agent derived an improper personal benefit; or
3. Willful misconduct or a conscious disregard for the best interests of the Association in a proceeding by or in the right of the Association to procure a judgment in its favor or in a proceeding by or in the right of the Unit Owners.

**H. Continuing Effect.** Indemnification and advancement of expenses as provided in this Article XIII shall continue, unless otherwise provided when authorized or ratified, to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person, unless otherwise provided when authorized or ratified.

**I. Application to Court.** Notwithstanding the failure of the Association to provide indemnification, and despite any contrary determination of the Board or of the Unit Owners in the specific case, a director, officer, employee, or agent of the Association who is or was a party to a proceeding may apply for indemnification or advancement of expenses, or both, to the court conducting the proceeding, to the circuit court, or to another court of competent jurisdiction. On receipt of an application, the court, after giving any notice that it considers necessary, may order indemnification and advancement of expenses, including expenses incurred in seeking court-ordered indemnification or advancement of expenses, if it determines that:

1. The director, officer, employee, or agent is entitled to mandatory indemnification under Article XIII, subsection A or B, in which case the court shall also order the Association to pay the director reasonable expenses incurred in obtaining court-ordered indemnification or advancement of expenses;
2. The director, officer, employee, or agent is entitled to indemnification or advancement of expenses, or both, by virtue of the exercise by the Association of its power pursuant to Article XIII, subsection G; or
3. The director, officer, employee, or agent is fairly and reasonably entitled to indemnification or advancement of expenses, or both, in view of all the relevant circumstances, regardless of whether such person met the standard of conduct set forth in Article XIII, subsection A, subsection B, or subsection G, unless (a) a court of competent jurisdiction determines, after all available appeals have been exhausted or not

pursued by the proposed indemnitee, that he or she did not act in good faith or acted in a manner he or she reasonably believed to be not in, or 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 conduct was unlawful, and (b) such court further specifically determines that indemnification should be denied. The termination of any 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 or did act in a manner which he or she reasonably believed to be not in, or 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 that his conduct was unlawful.

J. **Definitions.** For purposes of this Article XIII, the term "expenses" shall be deemed to include attorneys' fees, including those for any appeals; the term "liability" shall be deemed to include obligations to pay a judgment, settlement, penalty, fine, and expenses actually and reasonably incurred with respect to a proceeding; the term "proceeding" shall be deemed to include any threatened, pending, or completed action, suit, or other type of proceeding, whether civil, criminal, administrative or investigative, and whether formal or informal; and the term "agent" shall be deemed to include a volunteer; the term "serving at the request of the Association" shall be deemed to include any service as a director, officer, employee or agent of the Association that imposes duties on such persons.

K. **Amendment.** Anything to the contrary herein notwithstanding, no amendment to the provisions of this Article XIII shall be applicable as to any party eligible for indemnification hereunder who has not given his prior written consent to such amendment.

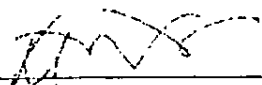
#### ARTICLE XIV. DISTRIBUTION OF INCOME; DISSOLUTION

The Association shall not pay a dividend to its members and shall make no distribution of income to its members, directors or officers, and upon dissolution, all assets of the Association shall be transferred only to another nonprofit corporation or a public agency or as otherwise authorized by the Florida Not For Profit Corporation Act (Chapter 617, Florida Statutes) or a plan of termination adopted pursuant to the Declaration.

#### ARTICLE XV. REGISTERED AGENT

The name of the registered agent and place for service of process shall be David W. Frisbie, whose address is: 439 Worth Avenue, Palm Beach, FL 33480.

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation this 20 day of March, 2019.

  
\_\_\_\_\_  
David W. Frisbie, Incorporator

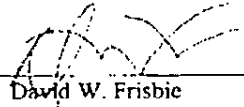
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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA



**ACCEPTANCE OF APPOINTMENT AS REGISTERED AGENT**

Having been named as the registered agent and to accept service of process for the above-stated Florida corporation not-for-profit, at the place designated in these Articles, **DAVID W. FRISBIE** hereby accepts the appointment as registered agent and agrees to act in this capacity. **DAVID W. FRISBIE** further agrees to comply with the provisions of all statutes relating to the proper and complete performance of its duties, and is familiar with, and accepts, the obligations of the position as registered agent as provided for in Chapter 617, Florida Statutes.

By: \_\_\_\_\_

  
David W. FrisbieDate: as of the 20<sup>th</sup> day of March, 2019.

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19 MAR 22 AM 9:01  
DAVID W. FRISBIE  
TALLAHASSEE, FLORIDA