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Florida Department of State

Division of Corporations

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FLORIDA PROFIT/NON PROFIT CORPORATION

Bijou Bay Harbor Condominium Association, Inc.

Certificate of Status	1
Certified Copy	0
Page Count	12
Estimated Charge	\$78.75

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ARTICLES OF INCORPORATION
OF
BIJOU BAY HARBOR
CONDOMINIUM ASSOCIATION, INC.
A Corporation Not For Profit

We, the undersigned, for the purpose of forming a not for profit corporation in accordance with the laws of the State of Florida, hereby adopt the following Articles of Incorporation:

ARTICLE I
NAME AND PRINCIPAL ADDRESS

The name and principal address of the corporation shall be BIJOU BAY HARBOR CONDOMINIUM ASSOCIATION, INC. (the "**Condominium Association**"). The principal mailing address of the Condominium Association shall be at 9521 East Bay Harbor Drive, Bay Harbor Islands, Florida 33154.

ARTICLE II
PURPOSE

The purpose of the Condominium Association shall be to administer the operation and management of Bijou Bay Harbor, a Condominium (the "**Condominium**"), to be established as a condominium in accordance with the Florida Condominium Act (the "**Act**") upon certain land (the "**Land**") situated in Miami-Dade County, Florida (the "**County**"); and to perform the acts and duties incident to the operation and management of the Condominium in accordance with the provisions of these Articles of Incorporation, the Bylaws of the Condominium Association which will be adopted (the "**Bylaws**"), and the Declaration of Condominium (the "**Declaration**" capitalized terms used but not otherwise defined herein will have the meaning set forth in the Declaration), which will be recorded in the Public Records of the County, if and when the Land, and the improvements constructed thereon, are submitted to the condominium form of ownership; and to own, operate, encumber, lease, manage, sell, convey, exchange, and otherwise deal with the Land, the improvements and such other property, real and/or personal, as may be or become part of the Condominium (the "**Condominium Property**") to the extent necessary or convenient in the administration of the Condominium. The Condominium Association shall be conducted as a not for profit organization for the benefit of its members.

ARTICLE III
POWERS

The Condominium Association shall have the following powers:

A. All of the powers and privileges granted to corporations not for profit under the laws pursuant to which this corporation is chartered.

B. All of the powers reasonably necessary to implement and effectuate the purposes of the Condominium Association, including, without limitation, the power, authority and right to:

1. Make, establish and amend reasonable rules and regulations governing use of the Units and Common Elements in and of the Condominium, as such terms are defined in the Declaration.

2. Levy and collect assessments against members of the Condominium Association to defray the Common Expenses of the Condominium, as provided in the Declaration and the Bylaws; including the right to levy and collect assessments for the purpose of acquiring, owning, holding, operating, leasing, encumbering, selling, conveying, exchanging,

managing and otherwise dealing with the Condominium Property, including the Units, which may be necessary or convenient in the operation and management of the Condominium and in accomplishing the purposes set forth in the Declaration.

3. Maintain, repair, replace, operate and manage the Condominium Property, including the right to reconstruct Improvements after casualty and further to improve and add to the Condominium Property.

4. To assume all of Developer's and/or its affiliates' responsibilities to the Town of Bay Harbor Islands (the "**Town**") and/or County, and/or its or their governmental and quasi-governmental subdivisions and similar entities of any kind with respect to the Condominium Property (including, without limitation, any and all obligations imposed by any permits or approvals issued by the Town and/or County, all as same may be amended, modified or interpreted from time to time) and, in either such instance, the Condominium Association shall indemnify and hold Developer and its affiliates harmless with respect thereto in the event of the Condominium Association's failure to fulfill those responsibilities.

5. Contract for the management of the Condominium and, in connection therewith, to delegate powers and duties of the Condominium Association to the extent and in the manner permitted by the Declaration, the Bylaws and the Act.

6. To buy, accept, own, operate, lease, sell, trade and mortgage both real and personal property in accordance with the provisions of the Declaration.

7. To purchase insurance covering the Condominium Property its Officers, Directors and Unit Owners.

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

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

10. To execute all documents or consents, on behalf of all Unit Owners (and their mortgagees), required by all governmental and/or quasi-governmental subdivisions and similar entities of any kind in connection with land use and development matters (including, without limitation, plats, waivers of plat, unities of title, covenants in lieu thereof, etc.), and in that regard, each Unit Owner, by acceptance of the deed to such Unit Owner's Unit, and each mortgagee of a Unit, by acceptance of a lien on said Unit, appoints and designates the President of the Condominium Association as such Unit Owner's and mortgagee's agent and attorney-in-fact to execute any and all such documents or consents.

11. Enforce the provisions of these Articles of Incorporation, the Declaration, the Bylaws, and all rules and regulations governing use of the Condominium which may be established from time to time.

12. Exercise, undertake and accomplish all of the rights, duties and obligations which may be granted to or imposed upon the Condominium Association in the Declaration and the Act.

ARTICLE IV MEMBERS

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

A. The record Unit Owners (as defined in the Declaration) of all Units in the Condominium from time to time shall be members of the Condominium Association, and no other persons or entities shall be entitled to membership, except as provided for in Paragraph E, Article IV hereof.

B. The Unit Owner of each Unit shall become a member of the Condominium Association automatically upon and simultaneously with receipt of a deed or other conveyance of record evidencing the transfer of legal title to a Unit from Developer, or in the case of a conveyance by a grantee or remote grantee of Developer, upon receipt of a deed or other conveyance of record evidencing the transfer of legal title to a Unit in accordance with the provisions of Article 5 of the Declaration. Membership in the Condominium Association may not be transferred separate and apart from a conveyance of the Unit. Membership in the Condominium Association shall terminate upon conveyance or transfer of the Unit, whether voluntary or involuntary; provided, that nothing herein contained shall be construed as terminating the membership of any person or entity owning fee title to or a fee ownership interest in two (2) or more Units at any time while such person or entity shall retain fee title to or a fee ownership interest in any Unit.

C. The interest of a member in the funds and assets of the Condominium Association cannot be assigned, hypothecated, transferred or encumbered in any manner, except as an appurtenance to the Unit(s) owned by such member. The funds and assets of the Condominium Association shall be expended, held or used only for the benefit of the membership and for the purposes authorized herein, in the Declaration, and in the Bylaws.

D. On all matters on which the membership shall be entitled to vote, there shall be one (1) vote appurtenant to each Unit. If a Unit Owner owns more than one (1) Unit, the Unit Owner shall be entitled to one (1) vote for each Unit owned.

E. Until such time as the Condominium is established by recordation of the Declaration, the membership of the Condominium Association shall be comprised of the subscribers to these Articles, each of whom shall be entitled to cast a vote on all matters upon which the membership would be entitled to vote.

ARTICLE V TERM OF EXISTENCE

The Condominium Association shall have perpetual existence, unless dissolved in accordance with applicable law.

ARTICLE VI OFFICE

The principal office of the Condominium Association shall be located in Florida, but the Condominium Association may maintain offices and transact business in such places, within or without the State of Florida, as may from time to time be designated by the Board of Directors. All books and records of the Condominium Association shall be kept at its principal office or such other place as may be permitted by the Act.

ARTICLE VII OFFICERS

The affairs of the Condominium Association shall be managed by the President of the Condominium Association, assisted by the Vice President, Secretary and Treasurer (collectively, the "Officers"), subject to the directions of the Board of Directors. The Board of Directors, or the President with the approval of the Board of Directors, may employ a managing agent, agency, and/or other managerial and supervisory personnel or entity to administer or assist in the administration of the operation and management of the Condominium and the affairs of the Condominium Association, and any and all such person(s) and/or entity(ies) may be so employed without regard to whether any such person or entity is a member of the Condominium Association or a Director or officer of the Condominium Association, as the case may be.

ARTICLE VIII
BOARD OF DIRECTORS

The number of members on the first Board of Directors, who shall serve until their successors are designated by Bijou Bay Harbor, LLC, a Delaware limited liability company ("Developer"), or elected at the first annual meeting of the Condominium Association following recordation of the Declaration of Condominium, shall be three (3). The number of members of succeeding Boards of Directors shall also be three (3), or as otherwise provided from time to time by the Bylaws, and they shall be elected by Developer or the members of the Condominium Association at the annual meetings of the membership as provided by the Bylaws. Each of the members of all succeeding Boards of Directors shall be members of the Condominium Association or shall be authorized representatives, officers or employees of a corporate member of the Condominium Association, except for those Directors who are appointed by the Developer.

When (but not before) Unit Owners other than Developer own fifteen percent (15%) or more of the Units in the Condominium that will be operated ultimately by the Condominium Association, the Unit Owners other than Developer will be entitled to elect, as a group and in a manner to be provided in the Bylaws, at least one-third (1/3) of the members of the Board of Directors of the Condominium Association. Unit Owners of the Condominium other than Developer will be entitled to elect, as a group and in a manner to be provided in the Bylaws, at least a majority of the members of the Board of Directors of the Condominium Association (the "Turnover") upon the first to occur (the "Turnover Date") of:

- A. three (3) years after fifty percent (50%) of the Units that will be operated ultimately by the Condominium Association have been conveyed to purchasers;
- B. three (3) months after ninety percent (90%) of the Units that will be operated ultimately by the Condominium Association have been conveyed to purchasers;
- C. when all the Units that will be operated ultimately by the Condominium 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 circuit court and is not discharged within thirty (30) days after such appointment, unless the court determines within thirty (30) days after the appointment of the receiver that transfer of control would be detrimental to the Condominium Association or its members; or
- G. seven (7) years after the date of the recording of the certificate of a surveyor and mapper pursuant to Section 718.104(4)(e), Florida Statutes, or the recording of an instrument that transfers title to a Unit in the Condominium which is not accompanied by a recorded assignment of Developer rights in favor of the grantee of such Unit, whichever occurs first.

Developer shall have the right to elect all members of the Board of Directors of the Condominium Association which Unit Owners other than Developer are not entitled to elect. Developer shall have the right (but shall not be obligated) 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 five percent (5%) of the Units. Following the Turnover, Developer may exercise the right to vote in elections for members of the Board of Directors of the Condominium Association in the same manner as any other Unit Owner of the Condominium Association, except for the purpose of reacquiring control of the Condominium Association or selecting a majority of the members of the Board of Directors. So long as Developer holds at least one (1) Unit for sale in the ordinary course of business, none of the following actions may be taken without the

approval in writing of Developer: (i) assessment of Developer as a Unit Owner for capital improvements and (ii) any action by the Condominium Association that would be detrimental to the sales of Units by Developer; provided, however, an increase in assessments for Common Expenses without discrimination against Developer shall not be deemed to be detrimental to the sales of Units.

ARTICLE IX
REMOVAL OF OFFICERS

The Board of Directors shall elect and may by majority vote separate or remove from office the President, Vice President, Secretary and Treasurer. The President shall be elected from the membership of the Board of Directors, but no other officer need be a Director. The same person may hold two (2) offices, the duties of which are not incompatible; provided, however, that the office of President and Vice President shall not be held by the same person, nor shall the office of President and Secretary be held by the same person.

ARTICLE X
INITIAL BOARD OF DIRECTORS

The names and addresses of the members of the first Board of Directors, who, subject to the provisions of the laws of Florida, these Articles of Incorporation and the Bylaws, shall hold office until the first annual meeting of the Condominium Association after recordation of the Declaration, and thereafter until their successors are selected and have qualified, are as follows:

<u>Name</u>	<u>Address</u>
Andres Villarreal	9521 East Bay Harbor Drive Bay Harbor Islands, Florida 33154
Robert Morales	9521 East Bay Harbor Drive Bay Harbor Islands, Florida 33154
Felipe Arias	9521 East Bay Harbor Drive Bay Harbor Islands, Florida 33154

ARTICLE XI
INITIAL OFFICERS

The Officers of the Condominium Association, who shall hold office until their successors are elected pursuant to these Articles of Incorporation and the Bylaws, and have qualified, shall be the following:

<u>Title</u>	<u>Name</u>
President	Andres Villarreal
Secretary/Treasurer	Robert Morales
Vice President	Felipe Arias

ARTICLE XII
BYLAWS

The original Bylaws of the Condominium Association shall be adopted by the approval of a majority of the subscribers to the Articles of Incorporation at a meeting at which each of the subscribers are present, and, thereafter, the Bylaws may be amended, altered or rescinded only in the manner set forth in such Bylaws.

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ARTICLE XIII
INDEMNIFICATION

A. The Condominium Association shall indemnify any person who was or is a party to any proceeding by reason of the fact that he is or was a Director, employee, Officer, agent or committee member (each, an "Indemnitee") of the Condominium Association, against liability incurred by him in connection with such proceeding, unless (1) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or acted in a manner he reasonably believed to be not in, or opposed to, the best interest of the Condominium Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (2) 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 reasonably believed to be not in, or opposed to, the best interest of the Condominium Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe that his conduct was unlawful.

B. The Condominium Association shall indemnify any person, who was or is a party to any proceeding by or in the right of the Condominium Association to procure a judgment in its favor by reason of the fact that he is or was a Director, Officer, employee, agent or committee member of the Condominium 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 reasonably believed to be in, or not opposed to, the best interests of the Condominium Association, except that no indemnification shall be made under this subsection 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. To the extent that an Indemnitee has been successful on the merits or otherwise in defense of any proceeding referred to in Paragraphs A or B, Article XIII above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses actually and reasonably incurred by him in connection therewith.

D. Expenses incurred by an Officer or Director in defending a civil or criminal proceeding shall be paid by the Condominium Association in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the affected Director or Officer to repay such amount if he is ultimately found not to be entitled to indemnification by the Condominium Association as authorized pursuant to this Article XIII. Expenses incurred by other Indemnitees may be paid in advance upon such terms and condition as the Board of Directors deems appropriate.

E. Any indemnification under Paragraphs A or B, Article XIII, unless pursuant to a determination by a court, shall be made by the Condominium Association only as authorized in the specific case upon a determination that indemnification of the Director, Officer, employee, agent or committee member is proper under the circumstances because he has met the applicable standard of conduct set forth in Paragraphs A or B, Article XIII. 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 Directors who are parties

may participate) consisting solely of two or more Directors not at the time parties to such proceeding;

3. By independent legal counsel:

- i. selected by the Board of Directors prescribed in subparagraph (1) or the committee prescribed in subparagraph (2); or
- ii. if a quorum of the Directors cannot be obtained for subparagraph (1) and the committee cannot be designated under subparagraph (2), selected by majority vote of the full Board of Directors (in which Directors who are parties may participate); or

4. By a majority of the voting interests of the members of the Condominium Association who were not parties to such proceeding.

F. 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 Paragraph E(3), Article XIII shall evaluate the reasonableness of expenses and may authorize indemnification.

G. The indemnification and advancement of expenses provided by this Article 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. However, indemnification shall not be made to or on behalf of, and all advanced expenses shall be repaid by, any Indemnitee if a judgment, or other final adjudication establishes that his 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 Indemnitee 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, agent or committee member derived an improper personal benefit; or (3) willful misconduct or a conscious disregard for the best interests of the Condominium Association in a proceeding by or in the right of the Condominium Association to procure a judgment in its favor. The indemnification and advancement of expenses provided by this Article XIII shall continue, unless otherwise provided when authorized or ratified, as to a person who has ceased to be a Director, Officer, employee, agent or committee member and shall inure to the benefit of the heirs and personal representatives of such person, unless otherwise provided when authorized or ratified.

H. The Condominium Association shall have the power to purchase and maintain insurance on behalf of any person who is or was an Indemnitee of the Condominium Association, or is or was serving, at the request of the Condominium Association, as a Director, Officer, employee, agent or committee member 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 Condominium Association would have the power to indemnify him against such liability under the provisions of this Article XIII.

I. Despite any contrary determination of the Board of Directors to provide indemnification in any particular case, an Indemnitee of the Condominium 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.

J. 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; and 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 Condominium Association" shall be deemed to include any service as a Director, Officer, employee, agent or committee member of the Condominium Association that imposes duties on such persons.

K. Anything to the contrary herein notwithstanding, no amendment to the provisions of this Article XIII shall be applicable as to any Indemnitee who has not given his prior written consent to such amendment.

ARTICLE XIV AMENDMENTS

An amendment or amendments to these Articles of Incorporation may be proposed by the Board of Directors of the Condominium Association acting upon a vote of the majority of the Directors, or by Unit Owners of a majority of the Units, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to these Articles of Incorporation being proposed by the Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Condominium Association, or the acting chief executive officer in the absence of the President, who shall thereupon call a special meeting of the members of the Condominium Association for a date not sooner than fourteen (14) days or later than sixty (60) days from the receipt of the proposed amendment or amendments, and it shall be the duty of the Secretary to give each member written notice of such meeting stating the time and place of the meeting and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be given in the same manner as notice of the call of a special meeting of the members as the procedure for giving such notice is described in the Bylaws; provided, that the proposed amendments to these Articles of Incorporation may be considered and voted upon at annual meetings of the members. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail, addressed to the member at their post office address as it appears on the records of the Condominium Association, with postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver when filed in the records of the Condominium Association, whether before, during or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such meeting the amendment or amendments proposed must be approved by an affirmative vote of Developer, so long as the Developer holds at least one (1) Unit for sale in the ordinary course of business, and Unit Owners of at least seventy-five percent (75%) of the Units which are represented in person or by proxy as allowed by applicable law at any meeting at which a quorum is present in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments of these Articles of Incorporation shall be transcribed and certified in such form as may be necessary to file the same in the office of the Department of State of the State of Florida. A certified copy of each such amendment of these Articles of Incorporation shall be recorded in the Public Records of the County, within thirty (30) days from the date on which the same is filed in the office of the Department of State. Notwithstanding the foregoing provisions of this Article XIV, no amendment to these Articles of Incorporation which shall abridge, amend or alter the right of Developer to designate and select members of the Board of Directors of the Condominium Association, as provided in Article VIII hereof, may be adopted or become effective without the prior written consent of Developer.

ARTICLE XV INITIAL REGISTERED AGENT

Corporate Creations Network Inc. is hereby designated as the registered agent of the Condominium Association, and 801 US Highway 1, North Palm Beach, Florida 33408 is hereby designated as the registered office of the Condominium Association.

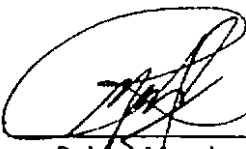
ARTICLE XVI
INCORPORATOR

The name and address of the incorporator of the Condominium Association (the "Incorporator") is:

<u>Name</u>	<u>Address</u>
Robert Morales	1050 Kane Concourse Bay Harbor Islands, Florida 33154

[Signature page follows]

IN WITNESS WHEREOF, the Incorporator has hereunto set his/her hand this 7th day of August, 2020.

By 
Name: Robert Morales
Title: Incorporator

FILED
Aug 07, 2020 08:00 AM
Secretary of State

**CERTIFICATE DESIGNATING REGISTERED AGENT
AND REGISTERED OFFICE**

In compliance with Florida Statutes Sections 48.091 and 617.0202 the following is submitted:

BIJOU BAY HARBOR CONDOMINIUM ASSOCIATION, INC., desiring to organize as a not for profit corporation under the laws of the State of Florida, has designated 801 US Highway 1, North Palm Beach, Florida 33408, as its initial Registered Office and has named Corporate Creations Network Inc., located at said address as its initial Registered Agent.

By: 

Name: Robert Morales

Title: Incorporator

Having been named Registered Agent for the above stated corporation, at the designated Registered Office, the undersigned hereby accepts said appointment and agrees to comply with the provisions of Florida Statutes Section 48.091 relative to keeping open said office. The undersigned further agrees to comply with the provisions of all statutes relating to the proper and complete performance of the undersigned's duties, and the undersigned is familiar with and accepts the obligations of the undersigned's position as registered agent.

By: 

Kristen Espinales, Special Secretary on Behalf of
Corporate Creations Network Inc.

Title: Registered Agent