

N23341

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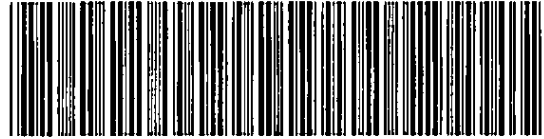
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COVER LETTER

Department of State
Amendment Section
Division of Corporations
P. O. Box 6327
Tallahassee, FL 32314

SUBJECT: The Colony Homeowners Association, Inc.

CORPORATE NAME

Enclosed are an original and one (1) copy of the restated articles of incorporation and a check for:

☐ \$35.00 ☐ \$43.75
Filing Fee Filing Fee
 & Certificate of Status

☒ \$43.75 ☐ \$52.50
Filing Fee Filing Fee,
& Certified Copy Certified Copy
 & Certificate of
 Status

ADDITIONAL COPY REQUIRED

FROM: Christopher J. Shields, Esq.

Name (Printed or typed)

1833 Hendry Street

Address

Fort Myers, FL 33901

City, State & Zip

(239) 336-6245

Daytime Telephone number

Wayne@sunsetmgmt.com

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

NOTE: Please provide the original and one copy of the document.

ARTICLES OF RESTATEMENT
FOR
ARTICLES OF INCORPORATION
OF
THE COLONY HOMEOWNERS ASSOCIATION, INC.

2022 SEP 22 PM 03:01

Name of Corporation: THE COLONY HOMEOWNERS ASSOCIATION, INC.

Document Number: N23341

Pursuant to the provisions of Section 617.1007, Florida Statutes, this **Florida Not-For-Profit Corporation** adopts the following Amended and Restated Articles of Incorporation:

Restated Articles:

---SEE ATTACHED---

AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF THE COLONY HOMEOWNERS ASSOCIATION, INC.

The date of Adoption was: September 8, 2022

Adoption of Amendment(s) (check one):

☒ The restated articles of incorporation contain amendments which required member approval. The attached Amended and Restated Articles of Incorporation of The Colony Homeowners Association, Inc., were adopted by the members and the number of votes cast for the amendment was sufficient for approval.

☐ There are no members or members entitled to vote on the amendment(s). The amendment(s) was/were adopted by the Board of Directors.

Consolidation: These adopted amended and restated articles of incorporation supersede the original articles of incorporation and all amendments to them.

Signed this 13th day of September, 2022.

Sign: Sandra L P Grubaud

Print: SANDRA L P GRUBAUD

Title: President

EXHIBIT "B"

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
THE COLONY HOMEOWNERS ASSOCIATION, INC.**

2002 SEP 22 PM 12:51

These are the Amended and Restated Articles of Incorporation of The Colony Homeowners Association, Inc. The original Articles of Incorporation were filed with the Florida Department of State on November 6, 1987, under Document Number N23341.

For historical reference, the street address of the initial principal office and the initial mailing address was 1400 Gulfshore Blvd. North, Suite 214, Naples, Florida 33940. The names of the original incorporators were Louis X. Amato, Marilyn D. Nelson, and Diane M. Hall. The street address of the initial registered office was 1400 Gulf Shore Blvd. North, Naples, Florida 33940 and the name of the initial registered agent was Louis X. Amato. The name and address of the current registered agent and registered office is Steven Mackesy, C/o Florida Sunset MGMT 16956 McGregor Blvd, Ft. Myers, Florida 33908. The Board of Directors may, from time to time, change the designation of the principal office, the mailing address of the corporation, the registered office and the registered agent, in the manner provided by law.

1. NAME. The name of the corporation continues to be The Colony Homeowners Association, Inc. (the "Master Association").

2. DEFINITIONS. The definitions set forth in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Colony, as amended from time to time (the "Declaration") and the Act shall apply to terms used in these Articles.

3. TERM OF EXISTENCE. The Master Association shall have perpetual existence; however, if the Master Association is dissolved, the property consisting of the Surface Water Management System shall be transferred to and maintained as set forth in Article 13 of these Articles.

4. PURPOSE. The purpose for which the Master Association is formed is to provide for the maintenance, preservation and architectural control of the Lots and Common Area within that certain tract of property described in Exhibit "A" to the Declaration which is incorporated by reference herein and made a part hereof and which property is hereinafter referred to as the "Community" or "Properties", and to promote the health, safety and welfare of the residents within the above described property and any additions thereto as may hereafter be brought within the jurisdiction of this Master Association in the exercise of its powers.

5. POWERS. In the furtherance of this purpose, the powers of the Master Association shall include and be governed by the following:

5.1 General. The Master Association shall have all of the common-law and statutory powers of a corporation not for profit under the laws of Florida that are not in conflict with the provisions of the Declaration, these Articles or the Bylaws or prohibited by law.

5.2 Enumeration. The Master Association shall have all the powers set forth in Chapters 617 and 720, Florida Statutes, as amended from time to time, except as limited by the Declaration, these Articles and the Bylaws (all as amended from time to time), and all of the powers reasonably necessary to operate the Community including but not limited to the following:

5.2.1 To adopt the annual budget and to determine the annual assessments, by and through its Board of Directors in the sole discretion of the Board of Directors.

5.2.2 To fix and make assessments against each Lot, Commercial Area, Dwelling Unit, Living Unit, or Commercial Unit in the Community and collect the assessment made against a Lot, Commercial Area, Dwelling Unit, Living Unit, or Commercial Unit together with the costs of collection, including a reasonable attorney's fee, and interest and late fees thereon from the date due at the maximum rate then allowable by law, from the Owner or Owners thereof by any lawful means, including the foreclosure of the lien which the Master Association has against the Lot, Commercial Area, Dwelling Unit, Living Unit, or Commercial Unit for the payment of assessments;

5.2.3 To borrow money from such lenders and upon such terms as the Board of Directors of the Master Association may deem appropriate and to pledge the assets of the Master Association, including the right of the Master Association to make and collect assessments, as security for the repayment thereof, with the prior assent of a majority of the voting interests;

5.2.4 To use and expend the proceeds of assessments and borrowings to pay the debts and obligations of the Master Association and otherwise in a manner consistent with the purposes for which this Master Association is formed;

5.2.5 To review the plans and specifications of proposed improvements intended to be constructed on any Lot, Commercial Area, or Parcel to determine whether they comply with the terms and provisions of the Governing Documents of the Master Association, and, if they comply, approve them, and if they do not comply, disapprove them;

5.2.6 To maintain, repair, replace, reconstruct, add to, and operate the Master Association property and other property acquired or leased by the Master Association for use by Owners together with the areas within the Community intended for the common use and benefit of the Owners, to the extent not maintained by others, including, but without limitation, the lakes, ditches, canals and other water retention and drainage systems, the streets, curbs, gutters, medians, entryways, common sewers and storm sewers and the other common utilities, including common telephone, cable television and electronic transmission cables;

5.2.7 To purchase and maintain one or more insurance policies insuring the Master Association's property against loss, damage or destruction, insuring the Master Association against liability to others, and protecting the Master Association, its Officers, Directors and Members;

5.2.8 To contract for the management of the Master Association and any facilities used by the Owners, and to delegate to the party with whom such contract has been entered into all of the powers and duties of the Master Association except those which require specific approval of the Board of Directors or the Membership of the Master Association;

5.2.9 To employ personnel to perform the services required for proper operation of the Master Association;

5.2.10 To do and perform anything required by these Articles, the Bylaws or the Declaration to be done by an Owner, but not done timely by the Owner, at the cost and expense of the Owner;

5.2.11 To do and perform any obligations imposed upon the Master Association by the Declaration and to enforce by any legal means the provisions of these Articles, the Bylaws and the Declaration;

5.2.12 To have and exercise any and all powers, rights and privileges which a corporation organized under Chapter 617, Florida Statutes, may not have or hereafter have or exercise;

5.2.13 To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Master Association;

5.2.14 To dedicate, sell or transfer all or any part of the Common Area, including roadways, to any public agency, authority or utility. No such dedication or transfer shall be effective unless an instrument has been signed by a majority of the Board of Directors agreeing to such dedication or transfer;

5.2.15 Grant easements as to the Common Area to public and private utility companies including cable television, and to public bodies or governmental agencies or other entities or persons, with or without cost or discharge, at the sole discretion of the Board of Directors, where convenient, desirable or necessary in connection with the development of the Properties, and the providing of utility and other services thereto; and

5.2.16 From time to time to adopt, alter, amend and rescind reasonable rules and regulations governing the use of the Lots, Commercial Areas, Dwelling Units, Living Units, Commercial Units, Parcels, Common Areas and Master Association property, which rules and regulations shall be consistent with the rights and duties established by the Declaration and with the provisions of these Articles of Incorporation.

5.2.17 To take necessary steps, in the sole discretion of the Board of Directors, to enforce the Governing Documents of the Master Association, including without limitation the power to levy fines and suspensions for violations of the same.

6. MEMBERS AND VOTING.

6.1. Membership. As per Article 4 of the Amended and Restated Declaration, there are currently nine (9) Members of the Master Association and their constituent allocable voting shares are set forth below. Each of the nine (9) Members may exercise their weighted vote on all membership matters including the election of Directors.

Brookdale Senior Living	12.85 Units
Colony Pointe II	190 Units
Musa at Daniels	300 Units
First Church Nazarene	37.15 Units
Manorcare	50 Units
Colony Pointe Phase I	33 Units
Williamsburg Condo I	19 Units
Williamsburg Condo II	16 Units
Williamsburg Condo III	22 Units
<hr/>	
Total Voting Interests	680 Units

6.2. Voting Rights. To the extent a Parcel has been developed into a Neighborhood which is operated by a Neighborhood Association, then the Neighborhood Association is considered the Member which is entitled to represent its constituent Owners within its Neighborhood and vote on behalf of its Neighborhood Owners on Master Association Membership matters. The respective votes and voting weight are set forth in Section 6.1 above.

6.3. Action without Meetings. Except for the holding of the annual meeting and annual election of Directors, any action required or permitted to be taken at a meeting of the Members may be taken by mail without a meeting if written consents or other instruments expressing approval of the action proposed to be taken are signed and returned as provided in the Bylaws.

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

8. DIRECTORS.

8.1 Number and Qualification. The property, business and affairs of the Master Association shall be managed by a Board consisting of the number of Directors determined by the Bylaws, but which shall consist of not less than five (5) Directors. Each Director must be a record Owner of legal title to a Lot, Commercial Area, Dwelling Unit, Living Unit, Commercial Unit or

Parcel within a Member of the Master Association or the spouse of such Owner, i.e., the record Owner of title to a property in the Community or the spouse of such Owner.

8.2 Duties and Powers. All of the duties and powers of the Master Association existing under Chapters 617 and 720, Florida Statutes, the Declaration, these Articles, the Bylaws and the Rules and Regulations (all as amended from time to time) shall be exercised exclusively by the Board of Directors, subject only to approval by Members when such approval is specifically required.

8.3 Election; Removal. Directors of the Master 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 of Directors shall be filled in the manner provided by the Bylaws.

9. BYLAWS. The Bylaws of this Master Association may be altered, amended or repealed in the manner provided in the Bylaws.

10. AMENDMENTS. These Articles may be amended at any time in the following manner:

10.1 Proposal of Amendments. An amendment may be proposed by the Board of Directors or by written petition of at least one-fourth (1/4th) of the voting interests.

10.2 Adoption of Amendments. A proposed amendment may be adopted by a vote of at least two-thirds (2/3rds) of the entire Membership or voting interests of the Master Association, provided that notice of the text of each proposed amendment was sent to the Members with notice of the meeting. Amendments correcting errors, omissions or scrivener's errors may be executed by the Officers of the Master Association, upon Board approval, without need for Master Association Membership vote.

10.3 Effective Date. An amendment when adopted shall become effective after being recorded in the Lee County Public Records according to law and filed with the Secretary of State according to law.

11. INDEMNIFICATION.

11.1 Indemnity. The Master 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, by reason of the fact that he is or was a director, employee, officer, or agent of the Master Association, against expenses (including reasonable attorneys' fees and paraprofessional fees at trial and upon appeal), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceedings, 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 Master Association, and, with respect to any criminal action or proceeding, has no reasonable cause to believe his conduct was unlawful.

11.2 Limitations on Indemnification. Notwithstanding the foregoing, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have adjudged to be liable for gross negligence or intentional misconduct in the performance of his duties to the Master Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

11.3 Effect of Termination of Action. 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 Master Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

11.4 Expenses. To the extent that a Director, Officer, employee or agent of the Master Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 11.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and paraprofessional fees at trial and upon appeal) actually and reasonably incurred by him in connection therewith.

11.5 Approval. Any indemnification under Section 11.1 above (unless ordered by a court) shall be made by the Master 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 has met the applicable standard of conduct set forth in Section 11.1 above. Such determination shall be made (a) by the Board 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 voting interests of the Members.

11.6 Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Master Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in any specific case upon receipt of an undertaking by or on behalf of the affected Director, Officer, employee or agent to repay such amount until such time it shall ultimately be determined that he was not entitled to be indemnified by the Master Association as authorized in this Article 11.

11.7 Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the Bylaws, agreement, vote of Members 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.

12. TRANSACTIONS IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED.

No contract or transaction between the Master Association and one or more of its Directors or Officers, or between the Master Association and any other corporation, partnership, association or other organization in which one or more of its Directors or Officers are directors or officers, or have a financial interest, shall be invalid, void or voidable solely for this reason, or solely because the Director or Officer is present at or participated in the meeting of the Board or Committee thereof which authorized the contract or transaction, or solely because his or their votes are counted for such purpose. No Director or Officer of the Master Association shall incur liability by reason of the fact that he is or may be interested in any such contract or transaction. Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a Committee which authorized the contract transaction.

13. DISSOLUTION OF ASSOCIATION. The Master Association may be dissolved with the consent given in writing and signed by not less than two-thirds (2/3rds) of the voting interests of the members. Upon dissolution of the Master Association, other than incident to a merger or consolidation, the assets of the Master Association, and in particular the Surface Water Management System, shall be dedicated to an appropriate public agency or governmental entity to be used for purposes similar to those for which this Master Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization devoted to such similar purposes. This provision may not be amended without the written consent and approval of the South Florida Water Management District.

14. DECLARATION OF INTENTION. It is intended that the Master Association be eligible for treatment as a tax-exempt organization described in Section 528 of the Internal Revenue Code of 1954, as amended, or in the corresponding provisions of any subsequent legislation.

15. MISCELLANEOUS.

15.1 Gender. Whenever a masculine or singular pronoun is used in these Articles, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

15.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

15.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Articles, the Declaration shall prevail over the provisions of these Articles.

FWPDATA\CS\FORMS\CONDO-Amendment - Copy\The Colony A&R Articles of Inc 5-25-22.docx