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Prepared by and Return to:  
Kevin T. Wells, Esq.  
Law Offices of Wells | Olah, P.A.  
1800 Second Street, Suite 808  
Sarasota, Florida 34236  
(941) 366-9191 (Telephone)

**CERTIFICATE OF AMENDMENT**

**ARTICLES OF INCORPORATION  
OF  
BAY HARBOUR CONDOMINIUM, INC.  
(Division of Corporation's Document Number: N94000001482)**

Pursuant to the provisions of Section 617.1006, Florida Statutes, this Florida Not For Profit Corporation adopts the following amendment(s) to its Articles of Incorporation:

- A. If amending name, enter the new name of the corporation: N/A.
- B. Enter new principal office address, if applicable: N/A.
- C. Enter new mailing address, if applicable: N/A.
- D. If amending the registered agent and/or registered office address in Florida, enter the name of the new registered agent and/or the new registered office address: N/A.
- E. If amending or adding additional Articles, enter change(s) here: See attached documents

The date of each amendment(s) adoption: The Members adopted the attached amendments on: January 11, 2021.

Effective Date if applicable: immediately upon filing with the Division of Corporations.

**Adoption of Amendments: (CHECK ONE)**

- ☒ The amendment(s) was/were adopted by the members and the number of votes cast for the amendment(s) was/were 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.

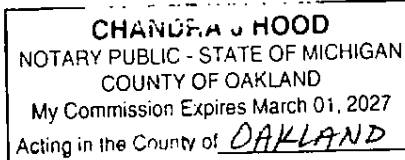
DATED this 28 day of Feb, 2021.

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DIVISION OF CORPORATIONS  
TALLAHASSEE, FLORIDA

**BAY HARBOUR CONDOMINIUM, INC.,**  
a Florida not for Profit Corporation

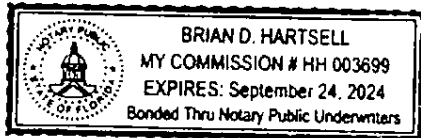
By: Debbie Shapiro  
Debbie Shapiro, President (Corporate Seal)

STATE OF Michigan  
COUNTY OF OAKLAND



The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this 1 day of March, 2021, by Debbie Shapiro as the President of **BAY HARBOUR CONDOMINIUM, INC.**, a Florida corporation, on behalf of the corporation, who is personally known to me or has produced NA as identification.

NOTARY PUBLIC



Sign: Brian D Hartsell  
Print: BRIAN D HARTSELL  
State of FLORIDA at Large (Seal)  
My Commission expires: 9/24/24

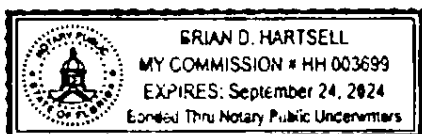
Attest:

By: Tara Gorman  
Tara Gorman, Secretary

STATE OF FL.  
COUNTY OF Sarasota

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this 1 day of March, 2021, by Tara Gorman as Secretary of **BAY HARBOUR CONDOMINIUM, INC.**, a Florida corporation, on behalf of the corporation, who is personally known to me or has produced NA as identification.

NOTARY PUBLIC



Sign: Brian D Hartsell  
Print: BRIAN D HARTSELL  
State of FLORIDA at Large (Seal)  
My Commission expires: 9/24/24

**BAY HARBOUR CONDOMINIUM, INC.**  
**AMENDED AND RESTATED ARTICLES OF INCORPORATION**

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**AMENDED AND RESTATED**  
**ARTICLES OF INCORPORATION**  
**OF**  
**BAY HARBOUR CONDOMINIUM, INC.**  
a Florida Not For Profit Corporation

*[Substantial rewording of Articles of Incorporation. See existing Articles of Incorporation and amendments thereto for present text.]*

The Members of **BAY HARBOUR CONDOMINIUM, INC.**, a Florida not for profit corporation, hereby adopt these Amended and Restated Articles of Incorporation. The original Articles of Incorporation were filed with the Florida Secretary of State, Division of Corporations on March 25, 1994 as Document Number N94000001482. The original Declaration of Restrictions, Reservations, Covenants, Conditions and Easements for **BAY HARBOUR APARTMENTS, A CONDOMINIUM** ("Declaration") was recorded at Official Records Book 0865, Page 0001 *et seq.* of the Public Records of Sarasota County, Florida.

**ARTICLE 1.**  
**NAME OF CORPORATION AND PRINCIPAL OFFICE**

The name of this not for profit corporation shall be **BAY HARBOUR CONDOMINIUM, INC.** ("Association"). The street address of the principal office of the Association is 450 Gulf of Mexico Drive, Longboat Key, FL 34228. The Association's Board of Directors may change the address and location of the principal office of the Association from time to time.

**ARTICLE 2.**  
**TERM OF EXISTENCE**

The Association shall exist perpetually unless dissolved according to law.

**ARTICLE 3.**  
**PURPOSES**

**3.1 Purposes.** The purposes for which the Association is organized is to provide an entity pursuant to Chapter 718, Florida Statutes ("Condominium Act") for the administration and operation of **BAY HARBOUR, A CONDOMINIUM** ("Condominium"), located in Sarasota County, Florida and to perform all acts provided in the Condominium Documents and Florida law.

**3.2 Distribution of Income.** The Association is organized as a Florida not for profit corporation. As such, it shall issue no stock and make no distribution of income to its Members, directors or officers. The general nature of the business to be conducted by the Association shall be the operation and management of the affairs and property of the Condominium, and to perform all acts provided in the Declaration and the Condominium Act.

## **ARTICLE 4. POWERS**

**4.1 Common Law and Statutory Powers.** The Association's Board of Directors ("Board" or "Board of Directors") shall have all of the common law and statutory powers of a corporation not for profit, not in conflict with the terms of these Articles of Incorporation, the Association Bylaws, the Declaration or the Condominium Act.

**4.2 Specific Powers.** The Board of Directors shall have all of the powers and duties set forth in the Condominium Act and Chapter 617, Florida Statutes ("Florida Not for Profit Corporation Act"). The Board of Directors shall also have all the powers and duties set forth in the Declaration and the Association Bylaws, as they may be amended from time to time, and all of the powers and duties reasonably necessary to operate the Condominium and the Association pursuant to the Declaration and the Condominium Act, including but not limited to, the following:

A. To make, amend and collect annual Assessments and Special Assessments against Members as Unit Owners to defray the Common Expenses and losses of the Association.

B. To use the proceeds of Assessments in the exercise of its powers and duties.

C. To maintain, repair, alter, improve, replace, administer and operate the Condominium Property, which shall include the irrevocable right of access to each Unit during reasonable hours when necessary for the inspection, maintenance, repair or replacement of any Common Elements or any portion of the Units to be maintained by the Association pursuant to the Declaration or as necessary to inspect and/or prevent damage to the Common Elements or a Unit or Units.

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

E. To reconstruct improvements after casualty and to further improve the Condominium Property.

F. To make and amend reasonable Rules and Regulations regarding the Common Elements, Limited Common Elements, the Condominium Units and the operation and administration of the Association.

G. To approve or disapprove the ownership, transfer and lease of a Unit, as more fully provided in the Condominium Documents.

H. To enforce by legal means the provisions of the Condominium Act, the Declaration, these Articles of Incorporation, the Bylaws and the Rules and Regulations.

I. To contract for the management, operation, administration and maintenance of the Condominium Property and to delegate to such contractor any powers and duties of the Association, except such as are specifically required by the Declaration, these Articles of Incorporation, the Bylaws or by the Condominium Act to have the approval of the Board of Directors or the membership.

J. To employ personnel for reasonable compensation to perform the services required for proper administration and operation of the Association and the Condominium Property.

K. To enter into agreements acquiring leaseholds, membership and other possessory or use interests in lands or facilities, whether or not contiguous to the lands of the Condominium Property, intended to provide for the enjoyment, recreation or other use benefits of the unit owners.

L. To purchase, acquire or take title to Units within the Condominium for any purpose and to hold lease, sell, mortgage, use or convey such Units on terms and conditions approved by the Board of Directors.

M. To grant, modify, move, relocate and/or terminate easements over, under or through the Common Elements or Association Property.

N. To sue and be sued, and the authority to negotiate and settle such lawsuits.

O. To borrow money and secure the same by assigning Assessments, lien rights, Assessment collection authority, and by execution of mortgages encumbering the Association real property (but not the Common Elements) and to acquire property or interests therein encumbered by mortgages which are to be paid or assumed by the Association.

P. To create, modify, and disband committee(s).

Q. To further alter and improve the Condominium Property, both real and personal, and to purchase realty and items of furniture, personal property, furnishings, and equipment, subject to the other provisions of the Condominium Documents.

R. To exercise such other powers and authority to do and perform every act and thing necessary and proper in the conduct of its business for the accomplishment of its purposes as set forth in the Condominium Documents and as permitted by the laws of Florida.

S. To name and authorize a non-mandatory sale and/or rental agent for Units in this Condominium.

T. To use the proceeds of Assessments to encourage and facilitate social interaction among the Owners, renters and occupants of the Units.

**4.3 Emergency Powers.** In the event of an emergency as defined herein, the Board of Directors may exercise the emergency powers and any other powers authorized by the provisions of Section 718.1265, Florida Statutes, and Sections 617.0207 and 617.0303, Florida Statutes, all as amended from time to time. For purposes of this Section 4.3 only, an emergency exists during a period of time that the Condominium, or the immediate geographic area in which the Condominium is located, is subject to: a state of emergency declared by civil or law enforcement authorities; a hurricane watch or warning as issued by a governmental authority; a partial or complete evacuation order issued by civil or law enforcement authorities; the declaration of a federal or state "disaster area" status; or catastrophe, whether natural or manmade, which seriously damages, or threatens to seriously damage the physical existence of the Condominium. During an emergency as defined herein, the Board of Directors may exercise the following emergency powers:

A. Conduct meetings of the Board of Directors and membership meetings with notice given as is practicable. Such notice may be given in any practicable manner, including, but not limited to, publication, telephone, radio, United States mail, electronic mail, the Internet, public service announcements, and conspicuous posting in the Condominium or any other means the Board of Directors deems reasonable under the circumstances. Notice of Board



of Directors' decisions may be communicated as provided herein. The Directors in attendance at such a meeting of the Board of Directors, if more than one (1) Director, shall constitute a quorum.

B. Cancel and reschedule any membership meeting, committee meeting or meeting of the Board of Directors.

C. Name as interim assistant officers' persons who are not directors, which assistant officers shall have the same authority as the executive officers to whom they are assistants during the state of emergency to accommodate the incapacity or unavailability of any officer of the Association.

D. Relocate the Association's principal address or designate alternative principal addresses.

E. Enter into agreements with governmental agencies, local counties and municipalities to assist counties and municipalities with debris removal and other emergency assistance.

F. Implement a disaster plan before or immediately following the event for which a state of emergency is declared which may include, but is not limited to, electricity; water, sewer, or security systems; or heating, ventilating and air conditioners.

G. Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board of Directors, determine any portion of the Condominium unavailable for entry or occupancy by Unit Owners, tenants, guests, occupants, or invitees to protect the health, safety, or welfare of such persons.

H. Require the evacuation of the Condominium in the event of a mandatory evacuation order in the locale in which the Condominium is located. Should any Unit Owner, tenant, guest, occupant, or invitee fail or refuse to evacuate the Condominium where the Board of Directors has required evacuation, the Association shall be immune from any and all liability or injury to persons or property arising from such failure or refusal.

I. Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board of Directors, determine whether the Condominium Property can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the Declaration

J. Mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of mold, mildew or fungus by removing and disposing of wet drywall, insulation, carpet, carpet pad, wood flooring, tile, baseboards, air ducts, insulation, cabinetry, any and all personal property or belongings of a Unit Owner or occupant, including but not limited to furniture, clothes, mattresses, and all other fixtures on or within the Common Elements, Association Property or the Units, even if the Unit Owner is obligated by the Declaration or Florida law to insure or replace those fixtures and to remove personal property from a Unit.

K. Contract, on behalf of any Unit Owner, for items or services for which Unit Owners are otherwise individually responsible for, but which are necessary to prevent further damage to the Common Elements, Condominium Property or Association Property. In such event, the Unit Owner on whose behalf the Board of Directors has contracted shall be responsible for reimbursing the Association for the actual costs of the items or services, and the Association may use any Assessment and claim of lien authority provided by Section 718.116, Florida Statutes, or the Declaration, to enforce collection of such charges.

L. Regardless of any provision to the contrary and even if such authority does not specifically appear in the Declaration, the Articles of Incorporation, or the Bylaws, the Board of Directors may levy one or more Special Assessments without a vote of the Unit Owners.

M. Without Unit Owner approval, borrow money and pledge Association assets as collateral to fund emergency repairs and carry out the duties of the Association when operating funds are insufficient. This paragraph does not limit the general authority of the Association to borrow money, subject to such restrictions as are contained in the Articles of Incorporation, the Declaration, or the Bylaws.

N. Corporate action taken in good faith to meet the emergency needs of the Association or its Members shall bind the Association; have the rebuttable presumption of being reasonable and necessary; and may not be used to impose liability on a Director, Officer, or employee of the Association. An officer, director, or employee of the Association acting in good faith and in accordance with this Article 4, Section 4.3 herein shall only be liable for willful misconduct.

The special powers authorized in Article 4, Section 4.3 herein shall be limited to the time period reasonably necessary to protect the health, safety, and welfare of the Condominium Property, the Association and Association Property, the Unit Owners, tenants, guests, occupants and invitees and shall be reasonably necessary to mitigate further damage and make emergency repairs to the Common Elements and Association Property.

**4.4 Assets Held in Trust.** All funds and the titles of all properties acquired by the Association and the proceeds thereof shall be held in trust for the Members in accordance with the provisions of the Condominium Act, the Declaration, these Articles of Incorporation and the Bylaws.

**4.5 Limitation on Exercise of Powers.** The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Condominium Act, the Declaration, these Articles of Incorporation and the Bylaws.

## **ARTICLE 5. MEMBERS**

**5.1 Membership in Association.** All persons owning a vested present interest in the fee title to any of the Condominium Units in **BAY HARBOUR, A CONDOMINIUM** as evidenced by a duly recorded proper instrument in the Public Records of Sarasota County, Florida, shall be Members of the Association. Membership shall terminate automatically and immediately as a Member's vested interest in the fee title to a Unit terminates, except that upon termination of the entire condominium project, the membership shall consist of those who were Members at the time of each termination, as more fully provided in the Declaration. In the event a Unit is owned by a legal entity other than a natural person, the officer, director, or other official so designated by such legal entity shall exercise its membership rights.

**5.2 Change of Membership.** After the Association approves of a conveyance of a Condominium Unit as provided in the Declaration, the change of membership in the Association shall be evidenced in the Association's records by delivery to the Secretary of a copy of the recorded deed or other instrument of conveyance.

**5.3 Voting Rights.** Subject to a voting right being suspended pursuant to Section 718.303, Florida Statutes, the Owner of each Unit is entitled to one (1) vote as a Member of the Association. The manner of exercising voting rights shall be determined by the Declaration, these Articles of Incorporation and the Bylaws. There shall be no

vote for a Unit owned by the Association or held in a court appointed receivership. Owners of more than one Unit shall be entitled to cast one vote for each Unit owned. A vote is not divisible.

## **ARTICLE 6. REGISTERED OFFICE AND REGISTERED AGENT**

The registered office of the Association shall be at 1800 Second Street, Suite 808, Sarasota, Florida 34236 and the registered agent at such address shall be Kevin T. Wells, Esq. of the Law Offices of Kevin T. Wells, P.A. The Board of Directors may change the Association's registered office or agent from time to time in the manner provided by law.

## **ARTICLE 7. BOARD OF DIRECTORS**

**7.1 Board of Directors.** The affairs of the Association shall be managed by the Board of Directors, composed as provided in the Bylaws, but in no event consisting of less than three (3) directors. A director must fulfill all requirements of eligibility provided in Florida law, the Association Bylaws and in the Declaration.

**7.2 Election of Directors.** Directors of the Association shall be elected at the annual meeting of Members in the manner determined by the Association Bylaws and the Condominium Act. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Association Bylaws and the Condominium Act.

## **ARTICLE 8. ORIGINAL INCORPORATORS**

The names and street addresses of the original incorporators to these Articles of Incorporation are as follows:

Egon Scheil, 450 Gulf of Mexico Drive, Longboat Key, FL 34228  
Leonard Dietch, 450 Gulf of Mexico Drive, Longboat Key, FL 34228  
Gordon A. Guthrie, 450 Gulf of Mexico Drive, Longboat Key, FL 34228

## **ARTICLE 9. OFFICERS**

The affairs of the Association shall be administered, as directed by the Board, by the officers and assistant officers designated in the Association Bylaws. The Board of Directors shall elect officers at its organizational Board meeting following the annual meeting of the Members of the Association. Officers serve at the pleasure of the Board of Directors.

## **ARTICLE 10. INDEMNIFICATION OF OFFICERS AND DIRECTORS**

**10.1 Indemnity.** The Association shall indemnify any officer, director, or committee member who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she is or was a director, officer, or committee member of the Association, against expenses (including attorney fees and appellate attorney fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with

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

**10.2 Defense.** To the extent that a director, officer, or committee member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 10.1 above, or in defense of any claim, issue, or matter therein, he or she shall be indemnified for expenses (including attorney fees and appellate attorney fees) actually and reasonably incurred by him or her in connection therewith.

**10.3 Advances.** Expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected director, officer, or committee member to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized by this Article 10.

**10.4 Miscellaneous.** The indemnification provided by this Article 10 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of Members, or otherwise, and shall continue as to a person who has ceased to be a director, officer, or committee member and shall inure to the benefit of the heirs and personal representatives of such person.

**10.5 Insurance.** The Association has the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, or agent of the Association, or a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Article 10.

## **ARTICLE 11. BYLAWS**

The Bylaws of the Association may be altered, amended or rescinded in the manner provided in the Bylaws.

## **ARTICLE 12. AMENDMENTS**

Amendments to the Articles of Incorporation shall be proposed and adopted in the following manner:

**12.1 Notice and Proposal.** Notice of the subject matter or proposed amendments shall be included in or with the notice of the membership meeting at which the amendment will be considered. An amendment to these Articles of Incorporation may be proposed by the Board of Directors or by at least twenty percent (20%) of the Association's

Voting Interests. Upon an amendment to these Articles of Incorporation being properly proposed, such proposed amendment shall be transmitted to the President of the Association or other officer of the Association in the absence of the President, who shall thereupon call a special meeting of the Members of the Association for a date not sooner than fourteen (14) days nor later than sixty (60) days from receipt of the proposed amendment. It shall be the duty of the Secretary to give to each Member proper and timely notice of such a membership meeting in the manner provided for in the Bylaws.

**12.2 Approval of Amendments.** An amendment to the Articles of Incorporation shall be adopted upon the affirmative approval of at least a Majority of the total Voting Interests of the Association. Members not present, in person or by proxy, at the membership meeting considering the amendment may express their approval in writing, provided that such written approval is delivered to the Association Secretary or Manager prior to or at the membership meeting.

**12.3 Automatic Amendment.** These Articles of Incorporation may be amended by the Board of Directors, if necessary, to make the same consistent with the provisions of the Declaration. Whenever Chapters 617 or 718, Florida Statutes, or other applicable Florida or Federal laws or administrative regulations, are subsequently amended so that these Articles of Incorporation are inconsistent with the applicable law or administrative rules, the Board of Directors, without a vote of the Members, may, but shall not be under a duty or obligation to, adopt by Majority vote of the Board, amendments to these Articles of Incorporation to make them consistent.

**12.4 Limitation on Amendments.** No amendment to these Articles of Incorporation shall be made which conflicts with the Condominium Act or the Declaration.

**12.5 Certification.** A copy of each amendment to the Articles of Incorporation shall be filed with the Florida Secretary of State, Division of Corporations, and shall be recorded in the Public Records of Sarasota County, Florida, along with a certificate of amendment executed by the appropriate officers of the Association attesting that the amendment has been lawfully adopted.

## **ARTICLE 13. MISCELLANEOUS**

**13.1 Definitions and Interpretation.** Terms used in these Articles of Incorporation shall have the same meaning as defined in the Declaration or the Condominium Act. The Board of Directors is responsible for interpreting the provisions of the Declaration, the Bylaws, the Articles of Incorporation, and the Rules and Regulations. The Board of Directors' interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board of Directors is not wholly unreasonable shall conclusively establish the validity of such interpretation.

**13.2 Conflicts.** The term "Condominium Documents," as used in these Articles of Incorporation and elsewhere shall include the Declaration of Condominium, Articles of Incorporation, Bylaws, the Plats, Surveys, Plot Plans, and graphic descriptions of improvements of record, and all other exhibits to the original Declaration of Condominium. In the event of an actual or implied conflict in the Condominium Documents, the Condominium Documents shall control in the following order: (1) Declaration, (2) Articles of Incorporation, (3) Bylaws, and (4) Rules and Regulations

**13.3 Gender.** The use of the term "he," "she," "his," "hers," "their," "theirs" and all other similar pronouns should be construed to include all genders and encompass the plural as well as the singular.

**13.4 Severability.** In the event that any Section, clause, paragraph or other provision of the Articles of Incorporation is deemed invalid, it shall be deemed severed and the remaining provisions of the Articles of Incorporation shall remain valid and in full force and effect.

**13.6 Headings.** The headings of paragraphs or sections herein are for convenience purposes only, and shall not be used to alter or interpret the provisions therein.