

# PD2000042049

FAVESE, HAVERFIELD, DALTON, HARRISON & JENSEN, L.L.P.  
A FLORIDA LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AND COUNSELORS AT LAW  
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FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
02 SEP 18 PM 3:59

CHARLES PT PHOENIX  
(239) 336-6253

PLEASE REPLY TO  
FORT MYERS OFFICE

September 3, 2002

Division of Corporations  
Department of State  
P. O. Box 6327  
Tallahassee, Florida 32314

000007547540--0  
-09/05/02--01066--004  
\*\*\*\*\*43.75 \*\*\*\*\*43.75

Re: **Tru-Flo Plumbing of Florida, Inc.**

Dear Sir or Madam:


Enclosed herewith is an original and one copy of the Amended and Restated Articles of Incorporation for Tru-Flo Plumbing of Florida, Inc. A check in the amount of \$43.75 is enclosed and is allocated as follows:

\$35.00 - filing fee  
\$ 8.75 - certified copy

Please certify and return one copy of the Amended and Restated Articles of Incorporation. If you have any questions or concerns, I can be reached at (239) 336-6253.

Thank you for your cooperation in this matter.

Respectfully,

  
Jackie Charmforoush  
Legal Assistant to  
Charles PT Phoenix, Esq.

V SHEPARD SEP 19 2002

CPTP/jkc  
Enclosures

T:\WPDATA\cp\Tru-Flo of Florida\Corporate Documents\CorpLtr.wpd

*Amended & Restated Art. & N/C*

4635 S. DEL PRADO BLVD.  
P.O. BOX 100088  
CAPE CORAL FLORIDA 33910-0088  
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WEST PALM BEACH, FLORIDA 33415  
(561) 471-1366  
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FLORIDA DEPARTMENT OF STATE

Jim Smith  
Secretary of State

September 12, 2002

JACKIE CHARMFOROUSH  
PAVESE, HAVERFIELD, ET AL, L.L.P.  
POST OFFICE DRAWER 1507  
FORT MYERS, FL 33902-1507

SUBJECT: TRU-FLOW PLUMBING OF FLORIDA, INC.  
Ref. Number: P02000042049

We have received your document for TRU-FLOW PLUMBING OF FLORIDA, INC. and your check(s) totaling \$. However, the enclosed document has not been filed and is being returned for the following correction(s):

Our records indicate the current name of the entity is as it appears on the enclosed computer printout. Please correct the name throughout the document.

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

If you have any questions concerning the filing of your document, please call (850) 245-6909.

Velma Shepard  
Document Specialist

Letter Number: 202A00052342

*Rec'd 9/18*

## **AMENDED AND RESTATED ARTICLES OF INCORPORATION**

### **For a Domestic Corporation**

*Pursuant to Section 607.1006(1) of the 2001 Florida Statutes, the undersigned executes the following articles ("Articles"), all to be effective upon filing, for purposes of amending and restating the Articles of Incorporation of Tru-Flow Plumbing of Florida, Inc., a corporation formed under the laws of the State of Florida, to wit Chapter 607 of the 2001 Florida Statutes, ("the Corporation"), and originally filed with the Florida Department of State on the 11th day of April 2002:*

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
02 SEP 18 PM 3:59

#### **ARTICLE I**

The name of the corporation is:

Tru-Flo Plumbing of Florida, Inc.

#### **ARTICLE II**

The principal office shall be located at  
5700 Grillet Place, Fort Myers, in the County of Lee, State of Florida.

The mailing address is  
3460 Dix Road, Lincoln Park, Michigan 48146.

#### **ARTICLE III**

The Corporation shall adopt bylaws that conform to these Articles by unanimous consent of the initial shareholders ("Bylaws"). The Bylaws shall always be construed to conform to these Articles or, if any paragraph or section of the Bylaws cannot be reasonably construed to conform to these Articles, each offensive paragraph and/or section of the Bylaws shall be stricken as if it had never been adopted into the Bylaws so that the Bylaws conform to these Articles. The Bylaws shall otherwise be amendable and/or address matters not specifically precluded by these Articles. This Article controls all contradictory provisions of the other Articles, if any.

#### **ARTICLE IV**

Pursuant to Sections 607.0801(1) and 607.0732(1)(a) of the 2001 Florida Statutes, the Corporation will have no board of the directors, but shall, instead, act under the direction of the shareholders (each a

"Shareholder"), always pursuant to these Articles and the Bylaws. The Shareholders shall, nonetheless, bear all of the fiduciary responsibilities of directors pursuant to State of Florida law, as well as the laws of any other jurisdiction, when acting in decisional, administrative, custodial, and other capacities with respect to the Corporation's powers that are normally associated with directors as set forth in Section 607.0801(2) of the 2001 Florida Statutes.

## **ARTICLE V**

The total authorized shares:

1. Common Shares: Ten thousand (10,000) One and No/100 Dollars (\$1.00) par value Class A shares; no other classes are authorized.
2. Preferred Shares: None authorized.

The shares in the Corporation shall be of one class, each share maintaining proportional voting rights. Distributions shall be made in accordance with the Florida Business Corporation Act and as otherwise specified in these Articles and the Bylaws.

Except because of the provisions governing the issuance of new shares by unanimous vote and subject to the Shareholder shortfall provisions of these Articles and the Bylaws, each Shareholder shall have preemptive rights to purchase shares in cash pro rata based on the Shareholder's shares divided by all issued and outstanding shares pursuant to any offering by the Corporation.

The shares shall have no further rights or preferences other than those specifically mandated by the Florida Business Corporation Act or as otherwise specified in these Articles or the Bylaws.

The shares shall be limited in that all shares, including every portion thereof, shall be subject to the Corporation's right of first refusal ("Right of First Refusal"). This Right of First Refusal provides that all shares must be offered to the Corporation before sale or other transfer to any other person or entity, whether then a Shareholder or not, under the exact terms of the proposed sale or transfer, so long as the proposed sale or transfer is the result of a bona-fide offer and not merely a sham transaction.

The shares are further limited in that all Shareholders must be natural persons and citizens of the United States of America, and must consent to an election to be treated as a small business corporation within the meaning of Subchapter S of the Internal Revenue Code of 1986, as amended, ("IRC") by executing all documents necessary to effect the IRC Subchapter S election.

If adopted by the Shareholders, the shares may be further limited by encumbrances arising from the shareholder shortfall provisions of the Bylaws.

The shares shall have no other limitations other than those specifically mandated by the Florida Business Corporation Act or as specified in these Articles or the Bylaws.

#### **ARTICLE VI**

The initial registered agent is  
Charles PT Phoenix, Esq.

Service of process may be made on the registered agent at  
1833 Hendry Street, in the City of Fort Myers, County of Lee, State of  
Florida, with the postal zip code being 33901.

#### **ARTICLE VII**

The incorporator is  
Charles PT Phoenix, Esq.

The address of the incorporator is  
1833 Hendry Street, in the City of Fort Myers, in the County of Lee,  
State of Florida, with the postal zip code being 33901.

#### **ARTICLE VIII**

The Corporation may engage in any activity permitted by the Florida Business Corporation Act, as well as the other laws of the State of Florida, subject always to limitations of all other jurisdictions in which the Corporation acts.

## **ARTICLE IX**

In accordance with the dividend distribution rules of the Bylaws, the Corporation shall distribute to the Shareholders, prior to the fifteenth (15<sup>th</sup>) day of the third (3<sup>rd</sup>) month following the close of the Corporation's taxable year, or as soon thereafter as determined in accordance with the IRC, ("Tax Distribution Date") the lesser of (i) the Net Cash Flow, as defined infra, if any; or (ii) the collective distributive share, as defined by and calculated in accordance with the IRC, of all the Shareholders multiplied by the highest income tax rate set forth in IRC 1 ("Tax Distribution"). The Shareholders may forego or reduce the Tax Distribution for any particular Tax Distribution Date upon the unanimous vote, or unanimous, written, affirmative consent, of all of the Shareholders within thirty (30) days of the particular Tax Distribution Date for which the Shareholders consider foregoing or reducing a Tax Distribution; but, the Tax Distribution requirements of this Article shall never be waived, estopped or otherwise prevented by any preceding election by the Shareholders to forego or reduce a Tax Distribution. "Net Cash Flow" means the lesser of (i) the net change of the Corporation's cash balances during the prior taxable year calculated in accordance with generally accepted accounting principles; or (ii) the Corporation's cash balances at the end of the year, less reasonable reserves for working capital and projected cash requirements, including projected expenses and contingent liabilities, but not including capital investments and reinvestments that are not necessary to the Corporation as a going concern, all calculated in accordance with generally accepted accounting principles as limited by the IRC.

## **ARTICLE X**

If shares are certificated, all stock certificates shall clearly bear legends indicating that the shares are issued subject to restrictions on transferability, in reliance upon the existence of exemptions from federal and state securities laws and with other rights, limitations, preferences and elections as expressed in these Articles.

## **ARTICLE XI**

Additional Shareholders may be admitted to the Corporation upon the unanimous vote of all of the Shareholders of the Corporation.

## **ARTICLE XII**

Except as a result of business operations, these Articles and the Bylaws shall always be construed such that the Corporation will qualify for and continue to satisfy the requirements of IRC Subchapter S, including Department of the Treasury, Internal Revenue Service regulations, rulings, procedures and other pronouncements thereunder. If any section, paragraph, sentence or term of these Articles and/or the Bylaws cannot be reasonably construed to conform to IRC Subchapter S, each offensive section, paragraph, sentence and/or term of these Articles and/or the Bylaws shall be stricken as if it had never been adopted into these Articles and/or the Bylaws so that these Articles and/or the Bylaws conform to IRC Subchapter S.

## **ARTICLE XIII**

The Articles may only be amended, superceded or repealed upon the unanimous vote, or unanimous, written, affirmative consent, of all of the Shareholders.

## **ACKNOWLEDGMENT**

I, the secretary of the Corporation, with due authority pursuant to an affirmative written consent of the Shareholders sufficient for approval of these Articles, execute these Articles this 23<sup>rd</sup> day of July 2002.



Charles PT Phoenix, Esq., Secretary