

Mar 23 2012 11:00AM Buchanan Ingersoll & Rooney LLP No. 4383 Page 1 of 1
P02000050653

Florida Department of State
Division of Corporations
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Division of Corporations
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**COR AMND/RESTATE/CORRECT OR O/D RESIGN
T&C CENTER, INC.**

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Amend

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WAR 23 2012
T. ROBERTS

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COVER LETTER

TO: Amendment Section
Division of Corporations

NAME OF CORPORATION: T&C Center, Inc.

DOCUMENT NUMBER: P02000050653

The enclosed *Articles of Amendment* and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

Richard N. Schermer, Esq.

Name of Contact Person

Buchanan Ingersoll & Rooney PC

Firm/ Company

19950 West Country Club Drive, Suite 101

Address

Aventura, Florida

City/ State and Zip Code

dhalberstein@bellsouth.net

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

For further information concerning this matter, please call:

Richard N. Schermer, Esq.

at (305) 933-5600

Name of Contact Person

Area Code & Daytime Telephone Number

Enclosed is a check for the following amount made payable to the Florida Department of State:

☒ \$35 Filing Fee

☐ \$43.75 Filing Fee &
Certificate of Status

☒ \$43.75 Filing Fee &
Certified Copy
(Additional copy is
enclosed)

☐ \$52.50 Filing Fee
Certificate of Status
Certified Copy
(Additional Copy
is enclosed)

Mailing Address

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

Street Address

Amendment Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

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FILED

2012 MAR 23 PM 3:11

SECRETARY OF STATE
TALLAHASSEE, FLORIDAArticles of Amendment
to
Articles of Incorporation
of

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T&C Center, Inc.

(Name of Corporation as currently filed with the Florida Dept. of State)

P02000050653

(Document Number of Corporation (if known))

Pursuant to the provisions of section 607.1006, Florida Statutes, this *Florida Profit Corporation* adopts the following amendment(s) to its Articles of Incorporation:

A. If amending name, enter the new name of the corporation:

The new name must be distinguishable and contain the word "corporation," "company," or "incorporated" or the abbreviation "Corp.," "Inc.," or "Co.," or the designation "Corp.," "Inc.," or "Co.". A professional corporation name must contain the word "chartered," "professional association," or the abbreviation "P.A."

B. Enter new principal office address, if applicable:

(Principal office address MUST BE A STREET ADDRESS)

C. Enter new mailing address, if applicable:

(Mailing address MAY BE A POST OFFICE BOX)

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:

Name of New Registered Agent

(Florida street address)

New Registered Office Address:

(City)

, Florida

(Zip Code)

New Registered Agent's Signature, if changing Registered Agent:

I hereby accept the appointment as registered agent. I am familiar with and accept the obligations of the position.

Signature of New Registered Agent, if changing

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If amending the Officers and/or Directors, enter the title and name of each officer/director being removed and title, name, and address of each Officer and/or Director being added:
(Attach additional sheets, if necessary)

Please note the officer/director title by the first letter of the office title:

P = President; V = Vice President; T = Treasurer; S = Secretary; D = Director; TR = Trustee; C = Chairman or Clerk; CEO = Chief Executive Officer; CFO = Chief Financial Officer. If an officer/director holds more than one title, list the first letter of each office held. President, Treasurer, Director would be PTD.

Changes should be noted in the following manner. Currently John Doe is listed as the PST and Mike Jones is listed as the V. There is a change, Mike Jones leaves the corporation, Sally Smith is named the V and S. These should be noted as John Doe, PT as a Change, Mike Jones, V as Remove, and Sally Smith, SV as an Add.

Example:

X Change PT John Doe
X Remove V Mike Jones
X Add SV Sally Smith

Type of Action (Check One)	Title	Name	Address
1) <u>Change</u> <u>X</u> Add Remove	<u>D</u>	<u>Jennifer Enslain</u>	<u>20201 NE 23rd Court</u> <u>North Miami Beach, FL 33180</u>
2) <u>Change</u> <u>X</u> Add Remove	<u>D</u>	<u>Cecilia Salk</u>	<u>18831 NE 22nd Avenue</u> <u>North Miami Beach, FL 33180</u>
3) <u>Change</u> Add Remove			
4) <u>Change</u> Add Remove			
5) <u>Change</u> Add Remove			
6) <u>Change</u> Add Remove			

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E. If amending or adding additional Articles, enter change(s) here:
(attach additional sheets, if necessary). (Be specific)

See Schedule A attached hereto.

F. If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself:
(if not applicable, indicate N/A)

The date of each amendment(s) adoption: March 15, 2012

Effective date if applicable: _____
(no more than 90 days after amendment file date)

Adoption of Amendment(s) **(CHECK ONE)**

☒ The amendment(s) was/were adopted by the shareholders. The number of votes cast for the amendment(s) by the shareholders was/were sufficient for approval.

☐ The amendment(s) was/were approved by the shareholders through voting groups. The following statement must be separately provided for each voting group entitled to vote separately on the amendment(s):

"The number of votes cast for the amendment(s) was/were sufficient for approval

by _____"
(voting group)

☐ The amendment(s) was/were adopted by the board of directors without shareholder action and shareholder action was not required.

☐ The amendment(s) was/were adopted by the incorporators without shareholder action and shareholder action was not required.

Dated 3/20/12

Signature [Signature]

By a director, president or other officer - if directors or officers have not been selected, by an incorporator - if in the hands of a receiver, trustee, or other court appointed fiduciary by that fiduciary)

Daniel Halberstein

(Typed or printed name of person signing)

President

(Title of person signing)

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SCHEDULE A

TO ARTICLES OF AMENDMENT
TO ARTICLES OF INCORPORATION
OF
T&C CENTER, INC. (the "Corporation")

Pursuant to the provision of Section 607.1006, Florida Statutes, this Florida Profit Corporation amends its Articles of Incorporation filed on May 7, 2002 and adopts the following amendments to its Articles of Incorporation as follows:

ARTICLE SIXTH of the Articles of Incorporation is hereby deleted in its entirety and restated as follows:

SIXTH: The purpose of the Corporation shall be limited to serving as the general partner of T&C Center, Ltd., a Florida limited partnership (the "**Property Owner**"), owning, operating, managing and leasing the property commonly known as Town and Country Shopping Center (the "**Property**") and activities incidental thereto. The Corporation shall be prohibited from incurring indebtedness of any kind except in its capacity as general partner of the Partnership for mortgage loan and other indebtedness (the "**Indebtedness**") incurred in favor of UBS Real Estate Securities Inc. and its successors and assigns with respect to the Indebtedness ("**Lender**") and trade payables incurred in the ordinary course of business.

ARTICLE SEVENTH of the Articles of Incorporation is hereby deleted in its entirety and restated as follows:

SEVENTH: The following provisions regulate the internal affairs of the Corporation:

1. A unanimous vote of the Board of Directors, including the Independent Director, is required to take or cause the Property Owner to take any of the following actions:

- (a) causing the Corporation or the Property Owner to become insolvent;
- (b) commencing any case, proceeding or other action on behalf of the Corporation or the Property Owner under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors;
- (c) instituting proceedings to have the Corporation or the Property Owner adjudicated as bankrupt or insolvent;
- (d) consenting to the institution of bankruptcy or insolvency proceedings against the Corporation or the Property Owner;

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- (e) filing a petition or consent to a petition seeking reorganization, arrangement, adjustment, winding-up, dissolution, composition, liquidation or other relief on behalf of the Corporation or the Property Owner of its debts under any federal or state law relating to bankruptcy;
- (f) seeking or consenting to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the Corporation or the Property Owner or a substantial portion of the properties of the Corporation or the Property Owner;
- (g) making any assignment for the benefit of the Corporation's or the Property Owner's creditors;
- (h) admit in writing the Corporation's or the Property Owner's inability to pay its debts generally as they become due;
- (i) declare or effectuate a moratorium on the payment of any of the Corporation's or the Property Owner's obligations; or
- (j) taking any action or causing the Corporation or the Property Owner to take any action in furtherance of any of the foregoing.

When voting with respect to any of the matters set forth this Section 1, each Independent Director shall consider only the interests of the Corporation or the Property Owner, including its or their creditors.

2. For so long as the Indebtedness is outstanding, the Corporation shall not:

- (a) amend the Certificate of Incorporation;
- (b) engage in any business activity other than as set forth in Article SIXTH;
- (c) withdraw as a general partner of the Property Owner;
- (d) dissolve, liquidate, consolidate, merge, or sell all or substantially all of the Corporation's assets or cause the Property Owner to dissolve, liquidate, consolidate, merge, or sell all or substantially all of its assets;
- (e) transfer its interest or a portion thereof in the Property Owner, except as expressly permitted under the loan documents executed in connection with the Indebtedness; or
- (f) upon the commencement of a voluntary or involuntary bankruptcy proceeding by or against the Corporation or the Property Owner, the Corporation shall not seek a supplemental stay or otherwise pursuant to Section 105 or any other provision of Title 11, United States Code, or any other debtor relief law (whether statutory, common law, case law, or

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otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, to stay, interdict, condition, reduce or inhibit the ability of Lender to enforce any rights of Lender against any guarantor or indemnitor of the secured obligations or any other party liable with respect thereto by virtue of any indemnity, guaranty or otherwise.

3. The Corporation shall, and the Corporation shall require the Property Owner to:
- (a) not commingle its assets with those of any other entity and hold its assets in its own name;
 - (b) conduct its own business in its own name;
 - (c) maintain bank accounts, books, records, accounts and financial statements separate from any other entity;
 - (d) maintain its books, records, resolutions and agreements as official records and separate from any other entity;
 - (e) be solvent and pay its own liabilities out of its own funds;
 - (f) maintain adequate capital in light of contemplated business operations;
 - (g) observe all corporate or other organizational formalities;
 - (h) maintain an arm's length relationship with its affiliates;
 - (i) pay the salaries of its own employees and maintain a sufficient number of employees in light of contemplated business operations;
 - (j) not guarantee or become obligated for the debts of any other entity or hold out its credit as being available to satisfy the obligations of others;
 - (k) not acquire obligations or securities of affiliates or shareholders;
 - (l) not make loans to any other person or entity;
 - (m) allocate fairly and reasonably any overhead for shared office space;
 - (n) use separate stationery, invoices, and checks;
 - (o) not pledge its assets for the benefit of any other entity;
 - (p) hold itself out as a separate entity and correct any known misunderstanding regarding its separate identity;
 - (q) not identify itself or any of its affiliates as a division or part of the other;

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- (r) will file its own tax returns; and
- (s) otherwise comply with the provisions set forth in Section 4.2 of that certain Notice of Future Advance, Mortgage Modification, Extension and Spreader Agreement and Security Agreement executed by the Property Owner in connection with the Indebtedness.

4. The Board of Directors is to consider the interests of the Corporation's creditors and the Property Owner's creditors in connection with all corporate actions.

ARTICLE EIGHTH of the Articles of Incorporation is hereby deleted in its entirety.

ARTICLE TENTH of the Articles of Incorporation is hereby amended to add the following as the last sentence:

TENTH: Notwithstanding anything contained herein to the contrary, any and all Corporation obligations to indemnify its directors and officers shall not constitute a claim against the Corporation, as long as the Loan is outstanding.

ARTICLES TWELFTH, THIRTEENTH, FOURTEENTH, and FIFTEENTH are hereby added as follows to the Articles of Incorporation:

TWELFTH: The Board of Directors is expressly authorized to adopt, amend, or repeal the By-Laws of the Corporation upon the conditions set forth in the By-Laws.

THIRTEENTH: Elections of directors need not be by written ballot unless the By-Laws of the Corporation shall otherwise provide.

FOURTEENTH: A director or officer of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director; provided however, that the foregoing shall not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under the Florida Business Corporation Act, or (iv) for any transaction from which the director of the Corporation derived an improper financial benefit. If the Florida Business Corporation Act is hereafter amended to permit further elimination or limitation of the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Florida Business Corporation Act as so amended. Any repeal or modification of this Article FOURTEENTH by the stockholders of the Corporation or otherwise shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

FIFTEENTH: For so long as the Indebtedness is outstanding, the Board of Directors of the Corporation shall include one (1) Independent Director, and such Independent Director may not be removed or replaced except after the occurrence of one or more of the following with respect to any Independent Director: (i) any act or omission by such Independent Director that constitutes systematic, persistent or willful disregard of such Independent Director's duties, or

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(ii) such Independent Director has been indicted or convicted for any crime or crimes of moral turpitude or dishonesty or for any violation of any applicable legal requirements, and unless such entity provides Lender with not less than three (3) Business Days' prior notice of (1) any proposed removal of any Independent Director, together with a statement as to the reasons for such removal, and (2) the identity of the proposed replacement Independent Director, together with a certification that such replacement satisfies the requirements set forth herein relating to an Independent Director. As used herein, the term "Independent Director" shall mean an individual who (i) has at least three (3) years prior employment experience and continues to be employed as an independent director, independent manager or independent member by CT Corporation, Corporation Service Company, National Registered Agents, Inc., Wilmington Trust Company (or wholly owned subsidiary offering independent director services), Stewart Management Company, Lord Securities Corporation or, if none of those companies is then providing professional independent directors, independent managers and independent members, another nationally-recognized company that provides such services and which is reasonably approved by Lender; (ii) is not an independent director or independent manager of more than two (2) Affiliates of the Corporation; and (iii) is not, and has never been, and will not, while serving as an Independent Director, be, any of the following: (A) a stockholder, director, manager, officer, employee, partner, member, attorney or counsel of the Corporation, any Affiliate of the Corporation or any direct or indirect equity holder of any of them, (B) a creditor, customer, supplier, service provider (including provider of professional services) or other Person who derives any of its purchases or revenues from its activities with the Corporation or any Affiliate of the Corporation (other than a nationally-recognized company that routinely provides professional independent directors, independent managers or independent members and other corporate services to the Corporation or any Affiliate of the Corporation in the ordinary course of its business), (C) a member of the immediate family of any such stockholder, director, manager, officer, employee, partner, member, creditor, customer, supplier, service provider or other Person, or (D) a Person controlling or under common control with any of (A), (B) or (C) above. A natural person who satisfies the foregoing definition other than clause (iii)(A) or (iii)(B) shall not be disqualified as a result of clause (iii)(A) or (iii)(B) by reason of being an Independent Director, or having been or becoming an Independent Director of, an Affiliate of the Corporation that is not in the chain of ownership of such entity and that is required by a creditor to be a "single purpose entity"; provided that such Independent Director has and/or will at all times be employed by a company that routinely provides professional independent directors, independent managers or independent members and the fees or other compensation that such individual earns by serving as an Independent Director of one or more Affiliates of the Corporation in any given year constitute, in the aggregate, less than five percent (5%) of such individual's income for such year. As used herein, the term "Person" shall mean any individual, corporation, partnership, joint venture, limited liability company, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing. As used herein, the term "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a Person, whether through ownership of voting securities, by contract or otherwise ("controlled" and "controlling" shall have correlative meanings).

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