

Division of Corporations

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P03000117468

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DIVISION OF CORPORATIONS

BASIC AMENDMENT

BISCAYNE LANDING, INC.

Certificate of Status	0
Certified Copy	1
Page Count	07
Estimated Charge	\$43.75

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**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
BISCAYNE LANDING, INC.**

The undersigned, Brett M. Dill, being a Vice President of Biscayne Landing, Inc., Florida corporation (the "Corporation"), hereby states as follows on behalf of the Corporation:

1. The Corporation was incorporated as "Biscayne Landing, Inc." on October 21, 2003, the date on which the Articles of Incorporation were filed with the Secretary of State of the State of Florida under Document Number P03000117468.

2. Pursuant to the requirements of Sections 607.1006 and 607.1007 of the Florida Business Corporation Act, the undersigned hereby certifies, attests and serves notice that the Articles of Incorporation of the Corporation are hereby amended and restated to read in their entirety as follows:

ARTICLE I - NAME

The name of the Corporation is Biscayne Landing, Inc.

ARTICLE II - PRINCIPAL OFFICE AND MAILING ADDRESS

The principal office and mailing address of the Corporation is:

18755 Biscayne Boulevard
Aventura, Florida 33180

ARTICLE III - PURPOSE

The Corporation's sole business and purpose is to (a) hold one hundred percent (100%) of the membership interests in, and act as the sole manager of, Biscayne Landing, LLC, a Florida limited liability company (the "Company"), (b) hold one hundred percent (100%) of the membership interests in, and act as the sole manager of North Miami Housing GP, LLC, a Florida limited liability company ("NMHGP"), (c) hold a fifty percent (50%) interest, as a limited partner, in North Miami Housing, Ltd., a Florida limited partnership ("NMH" and together with the Company and NMHGP, the "Entities", and individually, an "Entity"), pursuant to and in accordance with the organizational documents of each of the Corporation and the Entities, and for no other purpose; and (d) to engage in such other lawful activities permitted to corporations by the applicable laws of the State of Florida as are incidental, necessary or appropriate to the foregoing.

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ARTICLE IV - CAPITAL STOCK

The aggregate number of shares which the Corporation shall have authority to issue is One Thousand (1,000) shares of common stock, each share having a par value of \$1.00.

ARTICLE V - REGISTERED OFFICE AND AGENT

The street address of the registered office of the Corporation is:

18755 Biscayne Boulevard
Aventura, Florida 33180;

and the name and address of the registered agent of the Corporation are:

Theodore R. Stotzer
321 East Hillsboro Boulevard
Deerfield Beach, Florida 33441

ARTICLE VI - COMMENCEMENT

The Corporation commenced on October 21, 2003, the date on which the Articles of Incorporation were filed with the Secretary of State of the State of Florida under Document Number P03000117468.

ARTICLE VII - INCORPORATOR

The name and address of the incorporator of the Corporation were:

Theodore R. Stotzer
321 East Hillsboro Boulevard
Deerfield Beach, Florida 33441

ARTICLE VIII - INDEPENDENT DIRECTOR

In conjunction with the filing of these Amended and Restated Articles of Incorporation with the Secretary of State of the State of Florida, an Independent Director (as hereinafter defined) shall be elected and shall hold office until the first annual meeting of the shareholders and until such individual's successor has been elected and qualified or until such individual's earlier resignation or removal or until the Indebtedness has been satisfied in full. The name of the initial Independent Director shall be Andy Link.

At all times during which any portion of the Indebtedness is outstanding and during which the board of directors of the Corporation shall take, or shall be required to take, any action in such capacity, there will be at least one member of the Corporation's board of directors (the "Independent Director") who shall not have been at the time of such individual's appointment, and may not have been at any time during the preceding five (5) years:

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(A) a stockholder, officer, attorney, counsel, employee or partner of the Corporation or a stockholder, director, officer, attorney, counsel, employee, partner or member of any of the Corporation's stockholders, subsidiaries or affiliates;

(B) a creditor, customer, supplier, or other person who derives any of its purchases or revenues from its activities with the Corporation or any of its stockholders, subsidiaries or affiliates, or any Entity or any of their members, subsidiaries or affiliates;

(C) a person or other entity controlling or under common control with any such stockholder, partner, supplier or customer; or

(D) a member of the immediate family of any such stockholder, officer, director, partner, employee, supplier or customer or any other director of the Corporation or an Entity.

No Independent Director owes a fiduciary duty or other obligation to the other members of the board of directors or any shareholders of the Corporation, or any affiliate thereof, nor to any successor board members and/or shareholders (except as may specifically be required by the statutory law of any applicable jurisdiction), and each board member and shareholder, including each successor thereto, will consent to the foregoing by virtue of such person's appointment to the board and/or purchase of shares of stock of the Corporation, no further act or deed of any member being required to evidence such consent. The Independent Director's fiduciary duty and other obligations with regard to such action under or in connection with the Corporation's organizational documents and the Entities' organizational documents (as applicable) will be owed to any of the Corporation or the Entities (including their creditors).

ARTICLE IX - SEPARATENESS PROVISIONS

Notwithstanding anything contained herein to the contrary, until the Indebtedness is paid in full, the Corporation will not, without the unanimous consent of its board of directors, including the Independent Director, at any relevant time do any of the following:

(A) engage in any business or activity other than those set forth in these Amended and Restated Articles of Incorporation or cause or allow the Company to engage in any business or activity other than as set forth in the Company's organizational documents;

(B) incur any indebtedness or assume or guaranty any indebtedness of any other entity, other than the Acquisition Loan (as defined below), or to borrow money or incur indebtedness on behalf of the Company other than normal trade accounts payable and lease obligations in the ordinary course of business, or to grant consensual liens on the Company's property, other than the loan to be made to the Company by Fremont Investment & Loan (the "Loan") and other indebtedness expressly permitted under any and all documents evidencing the Loan (collectively, the "Loan Documents");

(C) dissolve or liquidate, in whole or in part;

(D) cause or consent to the dissolution or liquidation, in whole or in part, of Company;

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(E) consolidate or merge with or into any other entity or convey or transfer or lease its property and assets substantially as an entirety to any entity;

(F) cause or permit Company to consolidate or merge with or into any other entity or to convey or transfer or lease its property and assets substantially as an entirety to any entity;

(G) with respect to Company or the Corporation, institute proceedings to be adjudicated bankrupt or insolvent, or consent to the institution or bankruptcy or insolvency proceedings against it, or file a petition seeking or consenting to reorganization or relief under any applicable federal or state law relating to bankruptcy, or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of Company or the Corporation or a substantial part of property of Company or the Corporation, or make any assignment for the benefit of creditors, or admit in writing its inability to pay its debts generally as they become due, or take corporate action in furtherance of any such action;

(H) amend Articles III, VIII and IX of these Amended and Restated Articles of Incorporation; or

(I) withdraw as managing member of the Company or sell or otherwise dispose of, or permit the Company to issue any membership interests in the Company.

Notwithstanding anything contained herein to the contrary, until the indebtedness evidenced by the Loan Documents (the "Indebtedness") is paid in full, the Corporation will at all relevant times:

(a) not own any asset or property other than its equity interests in the Entities and any incidental rights relative thereto;

(b) not engage in any business other than the management and operation of the Company and NMHGP, and conduct and operate its business as presently conducted and operated;

(c) not enter into any contract or agreement with any affiliated entity, or any principal, guarantor or indemnitor pursuant to the Loan Documents, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than such party;

(d) not incur any indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than: (i) trade and operational debt incurred in the ordinary course of business with trade creditors and in amounts as are normal and reasonable under the circumstances and except as contemplated in the Loan Documents; and (ii) the loan from Biscayne Holdings, LLC (formerly known as Biscayne Landing, LLC) ("Biscayne Holdings") to Corporation, in the original principal amount of \$360,000,000 (the "Acquisition Loan"), upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than such party as evidenced by (A) that certain Promissory Note executed by the Corporation in favor of Biscayne Holdings dated as of January 1, 2004, and (B) that certain Pledge Agreement entered into by and between Biscayne Holdings and the Corporation dated as of January 1, 2004;

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(e) not make any loans or advances to any third party (including any affiliated entity or any principal, guarantor or indemnitor pursuant to the Loan Documents), and not acquire obligations or securities of its affiliated entities;

(f) pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its own assets;

(g) do and cause to be done all things necessary to observe organizational formalities and preserve its existence;

(h) not amend, modify or otherwise change its organizational documents, subject to the limitations set forth in Article IX, subsection (H) above;

(i) maintain all of its books, records, financial statements and bank accounts separate from those of its affiliated entities;

(j) file a consolidated tax return with the Company but only because such consolidated tax return is required by applicable law, with footnotes identifying the separate assets and liabilities of Company;

(k) maintain its books, records, resolutions and agreements as official records;

(l) be, and at all times hold itself out to the public as, a legal entity separate and distinct from any other entity (including any affiliated entity and any principal, guarantor or indemnitor pursuant to the Loan Documents), correct any misunderstandings regarding its status as a separate entity, conduct business in its own name, not identify itself or any of its affiliated entities as a division or part of the other, and maintain and utilize separate stationary, invoices and checks;

(m) not dissolve, wind up or liquidate, in whole or in part, or consolidate or merge with or into any other person or entity;

(n) not commingle its funds or other assets with those of any affiliated entity or any principal, guarantor or indemnitor pursuant to the Loan Documents, or any other person;

(o) maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any affiliated entity or any principal, guarantor or indemnitor pursuant to the Loan Documents, or any other person;

(p) not guaranty, become obligated for, or hold itself out to be responsible for the debts or obligations of any other person or entity, or the decisions or actions respecting the daily business or affairs of any other person or entity, or pledge its assets for the benefit of any other person or entity, except in connection with the Acquisition Loan and the Loan; and

(q) pay the salaries of all of its own employees.

All property owned by an Entity will be owned by such Entity as an entity and, insofar as permitted by applicable law, the Corporation will have no ownership interest in any property of

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an Entity in its individual name or right, and the Corporation's interest in any such Entity will be personal property for all purposes.

The bankruptcy, death, dissolution, liquidation, termination or adjudication of incompetency of the Corporation shall not cause the termination or dissolution of an Entity, and the business of an Entity will continue. Upon any such occurrence, the trustee, receiver, executor, administrator, committee, guardian or conservator of the Corporation shall have all the rights of the Corporation for the purpose of settling or managing its estate or property, subject to satisfying conditions precedent to the admission of such assignee as a substitute member or partner (as applicable) of any such Entity. The transfer by such trustee, receiver, executor, administrator, committee, guardian or conservator of any membership or partnership interest (as applicable) in an Entity will be subject to all of the restrictions, hereunder to which such transfer would have been subject if such transfer had been made by such bankrupt, deceased, dissolved, liquidated, terminated or incompetent member or partner (as applicable) of such Entity.

ARTICLE X – AMENDMENT

Subject to the limitations set forth in Article IX, the Corporation reserves the right to amend or repeal any provisions contained in these Amended and Restated Articles of Incorporation, or any amendment thereto, and any right conferred upon the shareholders is subject to this reservation.

ARTICLE XI – BY-LAWS

Subject to the limitations set forth in Article IX, the power to alter, amend or repeal the By-laws of the Corporation shall be vested in each of the Board of Directors and the shareholders of the Corporation. Subject to the limitations set forth in Article IX, the shareholders of the Corporation may amend or adopt a by-law that fixes a greater quorum or voting requirement for shareholders (or voting groups of shareholders) than is required by law.

ARTICLE XII – INDEMNIFICATION

The Corporation shall indemnify any officer, director or incorporator, or any former officer, director or incorporator, of the Corporation to the fullest extent permitted by law.

This amendment and restatement of the Articles of Incorporation has been duly and unanimously authorized and directed by Joint Unanimous Written Consent of Directors and Shareholders of the Corporation dated as of October 17, 2004. This amendment and restatement of the Articles of Incorporation supersedes the original Articles of Incorporation of the Corporation.

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IN WITNESS WHEREOF, these Amended and Restated Articles of Incorporation have been executed by the undersigned in his capacity as aforesated as of the 18th day of October, 2004 on behalf of the Corporation.


Brett M. Dill, Vice President