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P04 000047823

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WELLINGTON HOSPITALITY, INC.**

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ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
WELLINGTON HOSPITALITY, INC.

Pursuant to the provisions of Section 607.1006, Florida Statutes, the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation ("Articles of Amendment") to be effective if and when, and only if and when, the Loan, as described below, has been made to the Borrower, and these Articles of Amendment will be void *ab initio* and of no force or effect if the Loan has not been made to the Borrower within thirty (30) days after the date of the filing of these Articles of Amendment:

1. The name of the corporation is Wellington Hospitality, Inc. (the "Corporation").
2. The Corporation's Articles of Incorporation were filed with the Florida Department of State on March 16, 2004 (the "Articles of Incorporation"). The Document Number for the Corporation is P04000047823. The Articles of Incorporation were subsequently amended by Articles of Amendment to Articles of Incorporation filed with the Florida Department of State on December 18, 2013 (the "2013 Amendment").
3. The terms and provisions of these Articles of Amendment were affirmatively approved by the Board of Directors and shareholders of the Corporation as of December 9, 2022. The number of votes cast pursuant to such consent was sufficient for approval of the Articles of Amendment. The Articles of Amendment shall be effective upon filing with the Department of State of the State of Florida.
4. Article X, SPE PROVISIONS, as added to the Articles of Incorporation by the 2013 Amendment, is hereby deleted from the Articles of Incorporation and replaced with the following:

"ARTICLE X. SPE PROVISIONS"

1. Additional Definitions.
 - (a) "Bylaws" shall mean the bylaws of the Corporation, as such Bylaws may be amended, restated or otherwise modified from time to time.
 - (b) "Certificate" shall mean the Articles of Incorporation of the Corporation, as such Certificate may be amended, restated or otherwise modified from time to time.
 - (c) "Lender" shall mean LMF COMMERCIAL, LLC, a Delaware limited liability company, and its successors and/or assigns.

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- (d) "Loan" shall mean that certain loan from Lender to Wellington Hospitality, L.L.P., a Florida limited liability limited partnership ("Borrower") in the principal sum of Twenty One Million and No/100 Dollars (\$21,000,000.00) as evidenced by, among other documents, the Loan Agreement;
- (e) "Loan Agreement" shall mean that certain Loan Agreement entered into by and between Lender, as lender, and Borrower, as borrower, in connection with the Loan, as the same may be amended, restated or otherwise modified from time to time;
- (f) "SPE Provisions" shall mean all of the representations, warranties and covenants set forth in this Article X.
- (g) All other terms used, but not defined, in these SPE Provisions, shall have the meanings ascribed to them in the Loan Agreement.
2. SPE Provisions Prevail. In the event of any conflict between the terms of these SPE Provisions and any other provision set forth in this Certificate or in any other organizational document of the Corporation, the terms set forth in these SPE Provisions shall prevail.
3. Third Party Beneficiary. For so long as the Debt or any portion thereof remains outstanding, the Lender shall be an intended third party beneficiary of this Certificate with respect to these SPE Provisions.
4. No Amendment. For so long as the Debt or any portion thereof remains outstanding, the Corporation shall not amend, terminate or otherwise alter the provisions of these SPE Provisions without Lender's prior written consent.
5. Separateness Covenants. Notwithstanding any provision of this Certificate or of any other organizational document of the Corporation to the contrary, so long as the Debt or any portion thereof remains outstanding, unless expressly permitted under the Loan Documents or expressly approved by Lender in writing, at all times prior to, on and after the date hereof the Corporation:
- (a) is organized solely for the purpose of acting as a general partner of the Borrower;
- (b) has not engaged and will not engage in any business or activity unrelated to acting as a general partner of the Borrower;
- (c) has not owned and will not own any assets other than the general partnership interest in the Borrower;
- (d) has not engaged in, sought or consented to and will not engage in, seek or consent to any dissolution, division, winding up, liquidation, consolidation, merger, sale of all or substantially all of its assets, or transfer of its partnership or membership

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interests (if such entity is a general partner in a limited partnership or a member in a limited liability company):

(e) has preserved and will preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its organization or formation and will not without the prior written consent of Lender, amend, modify, terminate or fail to comply with the provisions of its Organizational Documents, or consent to or suffer the amendment, modification, termination or breach of any of the Organizational Documents, or amend, modify, terminate or fail to comply with, or consent to or suffer the amendment, modification, termination or breach of any Organizational Documents of any entity in which it owns an interest:

(f) has not owned and will not own any subsidiary or make any investment in any person or entity other than Borrower:

(g) has not commingled and will not commingle its assets with the assets of any of its general partners, managing members, shareholders, Affiliates, principals or of any other person or entity:

(h) has not incurred and will not incur any Indebtedness, other than, the following: (i) the Debt and (ii) unsecured trade payables and operational debt not evidenced by a note and in an aggregate amount not exceeding one percent (1%) of the original principal amount of the Loan at any one time; provided that any Indebtedness incurred pursuant to clause (ii) shall be (A) outstanding not more than sixty (60) days and (B) incurred in the ordinary course of business. No Indebtedness, other than the Debt, may be secured (senior, subordinate or pari passu) by the Property;

(i) has maintained and will maintain its financial statements, accounting records, bank accounts and other entity documents separate and apart from those of the partners, members, shareholders, principals and Affiliates of such entity, and has not permitted and will not permit its assets to be listed as assets on the financial statement of any other entity except that such entity's financial position, assets, results of operations and cash flows may be included in the consolidated financial statements of an Affiliate of such entity in accordance with GAAP; provided, however, that any such consolidated financial statement shall contain a note indicating that its separate assets and liabilities are neither available to pay the debts of the consolidated entity nor constitute obligations of the consolidated entity;

(j) has not entered into or been a party to and will not enter into or be a party to any contract or agreement with any general partner, managing member, shareholder, principal or Affiliate of Borrower, any Guarantor, or any general partner, managing member, shareholder, principal or Affiliate thereof, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's length basis with third parties:

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(k) has maintained and will 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 other Person;

(l) has not made and will not make any loans to any third party;

(m) has held itself out and identified itself and will hold itself out and identify itself to the public as a legal entity separate and distinct from any other Person;

(n) has conducted and will conduct its business solely in its own name, in order not (i) to mislead others as to the identity with which such other party is transacting business, or (ii) to suggest that such entity is responsible for the debts of any third party (including any general partner, managing member, shareholder, principal or Affiliate of such entity, but not including any Single Purpose Entity limited partnership of which such entity is expressly permitted to be a general partner in accordance with the terms hereof);

(o) is and will endeavor to remain solvent and pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall become due;

(p) has maintained and will endeavor to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(q) has filed and will file its own tax returns, if any, as may be required under applicable law, to the extent such entity is (1) not part of a consolidated group filing a consolidated return or returns or (2) not treated as a division solely for tax purposes of another taxpayer, and has paid and will pay any taxes so required to be paid under applicable law;

(r) has allocated and will allocate fairly and reasonably any overhead expenses that are shared with an Affiliate, including paying for office space and services performed by any employee of an Affiliate;

(s) has maintained and will maintain a sufficient number of employees, if any, in light of its contemplated business operations and pay the salaries of its own employees from its own funds;

(t) has not failed and will not fail to correct any known misunderstanding regarding the separate identity of such entity;

(u) has held and will hold its assets in its own name and has conducted and will conduct its business in its own name;

(v) has paid and will pay its own liabilities and expenses;

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(w) has observed and will observe all corporate, limited liability company or limited partnership formalities, as applicable;

(x) has not and will not assume or guarantee or become obligated for the debts of any other Person or hold out its credit as being available to satisfy the obligations of any other Person except by virtue of its status as a Single Purpose Entity general partner of a Single Purpose Entity limited partnership that has been approved by Lender;

(y) has not and will not acquire obligations or securities of its partners, members or shareholders or any other Affiliate;

(z) maintains and uses and will maintain and use separate stationery, invoice and checks bearing its name;

(aa) has not pledged and will not pledge its assets for the benefit of any other Person;

(bb) has not and will not have any obligation to, and will not, indemnify its partners, officers, directors or members, as the case may be, unless such an obligation is fully subordinated to the Debt and will not constitute a claim against it in the event that cash flow in excess of the amount required to pay the Debt is insufficient to pay such obligation;

(cc) except for Guarantor's obligations under the Loan Documents, does not and will not have any of its obligations guaranteed by any Affiliate of such entity;

(dd) has complied and will comply with all of the terms and provisions contained in its Organizational Documents;

(ee) has acted and will continue to act in a manner to make the statement of facts contained in its Organizational Documents true and correct;

(ff) has considered and will continue to consider the interests of its creditors in connection with all actions;

(gg) Intentionally Deleted;

(hh) Intentionally Deleted;

(ii) Intentionally Deleted;

(jj) Intentionally Deleted;

(kk) Intentionally Deleted;

(ll) Intentionally Deleted;

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(nn) will not, without the unanimous consent of its board of directors or managers, (A) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any applicable insolvency, bankruptcy, liquidation or reorganization statute, (B) seek or consent to the appointment of a receiver, liquidator or any similar official for such entity or a substantial portion of its assets or properties, (C) take any action that might cause such entity to become insolvent, (D) make an assignment for the benefit of creditors, (E) admit in writing such entity's inability to pay its debts generally as they become due, (F) declare or effectuate a moratorium on the payment of any obligations, or (G) take any action in furtherance of any of the foregoing; and

(nn) agrees that Lender is an intended third party beneficiary of the "special purpose" and "separateness" provisions of such Organizational Documents.

5. The Articles of Amendment were adopted by the Board of Directors and the shareholders of the Corporation. The number of votes cast for the amendment was sufficient for approval.

6. Except as hereby amended, the Articles of Incorporation of the Corporation shall remain the same.

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Dated: December 9, 2022.

WELLINGTON HOSPITALITY, INC.,
a Florida corporation

By: 

Name: Robert Guarini

Title: President

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