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Florida Department of State
Division of Corporations
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FLORIDA PROFIT/NON PROFIT CORPORATION
IRTO/Flex Corp.

Certificate of Status	1
Certified Copy	1
Page Count	07
Estimated Charge	\$87.50

B2/25/14
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#738 P.002/008

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ARTICLES OF INCORPORATION
In compliance with Chapter 607 and/or Chapter 621, F.S. (Profit)

ARTICLE I NAME
The name of the corporation shall be: IRTO/Flex Corp.

ARTICLE II PRINCIPAL OFFICE
Principal street address

130 Via Mariposa
Palm Beach Gardens, FL 33418

Mailing address, if different is:

Same

ARTICLE III PURPOSE
The purpose for which the corporation is organized is: Any lawful purpose, as limited by the Rider to these Articles of Incorporation, attached hereto and made a part hereof.

ARTICLE IV SHARES
The number of shares of stock is: 100

ARTICLE V INITIAL OFFICERS AND/OR DIRECTORS

Name and Title: Jerome N. Block, President

Address: 130 Via Mariposa
Palm Beach Gardens, FL 33418

Name and Title:

Address:

Name and Title: David F. Wilshin, Vice President

Address: 1 Purchase Hills Drive
Purchase, NY 10577

Name and Title:

Address:

Name and Title:

Address:

Name and Title:

Address:

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(con't.)

Name and Title:	_____	Name and Title:	_____
Address:	_____	Address:	_____
	_____		_____
	_____		_____

ARTICLE VI REGISTERED AGENT

The name and Florida street address (P.O. Box NOT acceptable) of the registered agent is:

Name: Jerome N. Block
Address: 130 Via Mariposa
Palm Beach Gardens, FL 33418

ARTICLE VII INCORPORATOR

The name and address of the Incorporator is:

Name: William L. Brewer, Esq.
Address: Zeichner Eilman & Krause LLP
1211 Avenue of the Americas, New York, NY 10036

Having been named as registered agent to accept service of process for the above stated corporation at the place designated in this certificate, I am familiar with and accept the appointment as registered agent and agree to act in this capacity


Required Signature/Registered Agent

Date

I submit this document and affirm that the facts stated herein are true. I am aware that the false information submitted in a document to the Department of State constitutes a third degree felony as provided for in §817.155, F.S.


Required Signature/Incorporator

2-18-14
Date

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RIDER TO CERTIFICATE OF INCORPORATION

The following provisions are incorporated into the Certificate of Incorporation for IRTO/Flex Corp. (the "Corporation"):

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 this Certificate of Incorporation of the Corporation, as such Certificate may be amended, restated or otherwise modified from time to time.
- (c) "Lender" shall mean Cantor Commercial Real Estate Lending, L.P., a Delaware limited partnership, and its successors and/or assigns.
- (d) "Loan" shall mean that certain loan from Lender to IR Port Chester LLC, a Florida limited liability company, Richard M. Brand LLC, a Florida limited liability company and Independence Realty - Tampa Office/Flex, LLC, a Florida limited liability company (collectively, "Borrower") in the principal sum of SEVENTEEN MILLION FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$17,500,000), 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 Rider to Certificate of Incorporation;
- (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 Rider to Certificate of Incorporation 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.

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- (l) (i) has not commingled, and will not commingle, its funds or assets with those of any other Person and (ii) has not participated and will not participate in any cash management system with any other Person;
- (m) has held and will hold its assets in its own name;
- (n) has conducted and shall conduct its business in its name or in a name franchised or licensed to it by an entity other than an Affiliate of itself or of Borrower, except for business conducted on behalf of itself by another Person under a business management services agreement that is on commercially reasonable terms, so long as the manager, or equivalent thereof, under such business management services agreement holds itself out as an agent of the Corporation;
- (o) has maintained and will maintain its books, bank accounts, balance sheets, financial statements, accounting records and other entity documents separate from any other Person and has not permitted, and will not permit, its assets to be listed as assets on the financial statement of any other entity except as required by GAAP; provided, however, that appropriate notation shall be made on any such consolidated statements to indicate its separateness from such Affiliate and to indicate that its assets and credit are not available to satisfy the debt and other obligations of such Affiliate or any other Person and such assets shall be listed on its own separate balance sheet;
- (p) has paid and will pay its own liabilities and expenses, including the salaries of its own employees, out of its own funds and assets, and has maintained and will maintain a sufficient number of employees in light of its contemplated business operations;
- (q) has observed and will observe all corporate formalities;
- (r) has had no and will have no Indebtedness (including loans, whether or not such loans are evidenced by a written agreement);
- (s) has not assumed or guaranteed or become obligated for, and will not assume or guarantee or become obligated for, the debts of any other Person and has not held out and will not hold out its credit as being available to satisfy the obligations of any other Person except as permitted pursuant to this Certificate;
- (t) has not acquired and will not acquire obligations or securities of its partners, members or shareholders or any other Affiliate;
- (u) has allocated and will allocate, fairly and reasonably, any overhead expenses that are shared with any Affiliate, including, but not limited to, paying for shared office space and services performed by any employee of an Affiliate;
- (v) has maintained and used, now maintains and uses, and will maintain and use, separate stationery, invoices and checks bearing its name, which stationery, invoices, and checks utilized by the Corporation or utilized to collect its funds or

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pay its expenses have borne, shall bear its own name and have not borne and shall not bear the name of any other entity unless such entity is clearly designated as being the Corporation's agent;

- (w) has not pledged and will not pledge its assets for the benefit of any other Person;
- (x) has held itself out and identified itself, and will hold itself out and identify itself, as a separate and distinct entity under its own name or in a name franchised or licensed to it by an entity other than an Affiliate of itself or of Borrower and not as a division or part of any other Person, except for services rendered under a business management services agreement with an Affiliate that complies with the terms contained in the clause immediately below, so long as the manager, or equivalent thereof, under such business management services agreement holds itself out as an agent of the Corporation;
- (y) 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;
- (z) has not made and will not make loans to any Person or hold evidence of indebtedness issued by any other Person or entity (other than cash and investment-grade securities issued by an entity that is not an Affiliate of or subject to common ownership with such entity);
- (aa) has not identified and will not identify its shareholders or any Affiliate of any of them, as a division or part of it, and has not identified itself, and shall not identify itself, as a division of any other Person;
- (bb) has not entered into or been a party to, and will not enter into or be a party to, any transaction with its members or Affiliates except (i) in the ordinary course of its business and on terms which are intrinsically fair, commercially reasonable and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party, and (ii) in connection with the Loan Documents;
- (cc) other than capital contributions and distributions permitted under the terms of its organizational documents, has not entered into or been a party to, and shall not enter into or be a party to, any transaction with any of its members or Affiliates except in the ordinary course of its business and on terms which are commercially reasonable terms comparable to those of an arm's length transaction with an unrelated third party;
- (dd) has not had and shall not have any obligation to, and has not indemnified and shall not indemnify its officers, directors or members, as the case may be, in each case unless such an obligation or indemnification is fully subordinated to the Loan and shall not constitute a claim against it or Borrower in the event that its or Borrower's cash flow is insufficient to pay the Loan;

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- (ee) does not and will not have any of its obligations guaranteed by any Affiliate;
 - (ff) has complied and will comply with all of the terms and provisions contained in its organizational documents and cause statements of facts contained in its organizational documents to be and to remain true and correct; and
 - (gg) has not permitted and shall not permit any Affiliate or constituent party independent access to its bank accounts.
6. Prohibited Transfers. For so long as the Debt or any portion thereof remains outstanding, the Corporation shall not allow direct or indirect transfers of shares in the Corporation that would violate the provisions of the Loan Documents, including but not limited to Section 5.2.10 of the Loan Agreement.
7. Subordination of Indemnification Obligations. For so long as the Loan or any portion thereof remains outstanding, the Corporation's obligations under this Certificate or the Bylaws, if any, to indemnify its director and officers, members or managers, as applicable, is hereby fully subordinate to the Loan and the Loan Documents and no indemnity payment from funds of the Corporation (as distinct from funds from other sources, such as insurance) of any indemnity under this Certificate or the Bylaws, if any, shall be payable from amounts allocable to any other person pursuant to the Loan Documents.
8. Certain Duties of Independent Director. Notwithstanding any duty otherwise existing at law or in equity, to the fullest extent permitted by law, the Independent Director shall consider only the interests of the Corporation, including its respective creditors, in acting or otherwise voting on the matters referred to in Section 5(g) above. Except for duties to the Corporation as set forth in the immediately preceding sentence (including duties to the shareholders and the Corporation's creditors solely to the extent of their respective economic interests in the Corporation but excluding (a) all other interests of the shareholders, (b) the interests of other Affiliates of the Corporation, and (c) the interests of any group of Affiliates of which the Corporation is a part), the Independent Director shall not have any fiduciary duties to the shareholders or any other Person bound by this Certificate or the Bylaws, provided, however, the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing.

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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) was, is and will be organized solely for the purpose of acting as managing member of Borrower, and owning an interest in Borrower;
 - (b) has not been, is not, and will not be engaged, in any business unrelated to acting as managing member of Borrower or owning an interest in Borrower;
 - (c) has not had, does not have, and will not have, any assets other than its membership interest in Borrower;
 - (d) has not engaged, sought or consented to, and will not engage in, seek or consent to, any dissolution, winding up, liquidation, consolidation, merger, sale of all or substantially all of its assets, transfer of shares or amendment of this Certificate or the Bylaws with respect to the matters set forth in these SPE Provisions;
 - (e) has, and will continue to have, at least one (1) Independent Director;
 - (f) directly owns at least one-half-of-one percent (0.5%) of the equity of the Borrower;
 - (g) has not caused or allowed, and will not cause or allow the directors, shareholders, or managers of the Corporation to take any Bankruptcy Action, either with respect to itself or Borrower, in each case unless the Independent Director of the Corporation shall have consented in writing to such action
 - (h) has been, is and intends to remain solvent and has paid and shall pay its debts and liabilities from its then available assets (including a fairly-allocated portion of any personnel and overhead expenses that it shares with any Affiliate) as the same shall become due, and has maintained and shall 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;
 - (i) has not failed, and will not fail, to correct any known misunderstanding regarding the separate identity of the Corporation and has not and shall not identify itself as a division of any other Person;
 - (j) has maintained and will maintain its accounts, books and records separate from any other Person and has filed and will file its own tax returns, except to the extent that it has been or is required to file consolidated tax returns by law;
 - (k) has maintained and will maintain its own records, books, resolutions and agreements;