

May 12 2017 9:05AM

LOCKE LORD LLP

561-655-8713

P. 1

Division of Corporations

Page 1 of 1

**Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet**

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

((H17000130602 3)))



H170001306023ABCU

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To:

Division of Corporations
Fax Number : (850) 617-6380

From:

Account Name : LOCKE LORD LLP
Account Number : 075410001517
Phone : (561) 820-0260
Fax Number : (888) 325-9197

****Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.****

Email Address: Marc@PrimeVenturesInc.com

**COR AMND/RESTATE/CORRECT OR O/D RESIGN
SAN FELASCO NURSERIES, INC.**

Certificate of Status	0
Certified Copy	1
Page Count	06
Estimated Charge	\$43.75

Electronic Filing Menu

Corporate Filing Menu

Help

<https://efile.sunbiz.org/scripts/efilcovr.exe>

5/12/2017

MAY 15 2017
C MCNAIR

RECEIVED

MAY 12 PM 12:43

STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

17 MAY 12 PM 4:42

STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

DocuSign Envelope ID: 61F87D28-64F1-4266-AB09-E1E84F8438AD

(((H17000130602 3)))

**THIRD AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
SAN FELASCO NURSERIES, INC.**

San Felasco Nurseries, Inc. (the "*Corporation*"), a corporation organized and existing under and by virtue of the Florida Business Corporation Act, as amended (the "*FBCA*"), does hereby certify that:

1. The name of this Corporation is San Felasco Nurseries, Inc. and the Corporation was originally formed on October 8, 1973. This Corporation's original Articles of Incorporation were filed with the Department of State of the State of Florida, pursuant to the FBCA, effective October 8, 1973, as amended by: (i) the Amended and Restated Articles of Incorporation filed with the Department of State of the State of Florida on April 14, 2016, and further corrected by Articles of Correction filed April 29, 2016, and a second filing of Articles of Correction, also filed April 29, 2016; and (ii) the Second Amended and Restated Articles of Incorporation filed with the Department of State of the State of Florida on October 13, 2016 (as so amended and restated, the "*Articles of Incorporation*").

2. The following resolutions amending and restating the Corporation's Articles of Incorporation, were approved by the Corporation's Board of Directors (the "*Board*") by written action in lieu of a meeting dated as of May 5, 2017 and by the shareholders holding a majority of the issued and outstanding shares of Common Stock of the Corporation by written action in lieu of a meeting dated as of May 5, 2017 in accordance with the provisions of Section 607.0704 and 607.0821 of the FBCA. The number of votes cast by the shareholders was sufficient for approval of the Corporation's Third Amended and Restated Articles of Incorporation.

3. The Articles of Incorporation of the Corporation are hereby amended and restated in their entirety as follows:

ARTICLE I. NAME

The name of the Corporation shall be San Felasco Nurseries, Inc.

ARTICLE II. NATURE OF BUSINESS

This Corporation may engage or transact in any or all lawful activities or business permitted under the laws of the United States, the State of Florida or any other state, country, territory or nation.

ARTICLE III. CAPITAL STOCK

The total number of shares of capital stock that the Corporation shall be authorized to

AM 63316992.3

(((H17000130602 3)))

DocuSign Envelope ID: E1F87D29-64F1-4266-AB09-E1E54F8438AD

(((H17000130602 3)))

issue is Two Million (2,000,000) shares, consisting of: Two Million shares of Common Stock, par value of \$0.01 ("*Common Stock*"), of which (i) Two Hundred Thousand (200,000) shares are hereby designated "*Class A Common Stock*" and (ii) One Million Eight Hundred Thousand (1,800,000) shares are hereby designated "*Class B Common Stock*."

A. Class A Common Stock.

(a) **Voting.** The holders of Class A Common Stock are entitled to one vote for each share of Class A Common Stock held at all meetings of stockholders (and written actions in lieu of meetings); ~~provided, however,~~ that if any proposed amendment to these Third Amended and Restated Articles of Incorporation would adversely affect the terms of Class A Common Stock in a manner that is not substantially similar to the effect on Class B Common Stock, in addition to any other votes required by law, approval of such amendment shall require the vote of a majority of the holders of Class A Common Stock voting as a single class. Except as provided by law or by the other provisions of these Third Amended and Restated Articles of Incorporation, holders of Class A Common Stock shall vote together with all of the holders of Common Stock as a single class.

(b) **Dividends.** At such time that any cash dividend or distribution (each hereinafter a "*Dividend*") is approved and declared by the Board, Thirty-Five percent (35%) of such aggregate Dividend amount will be allocated pro rata to the holders of Class A Common Stock, and Sixty-Five percent (65%) of such aggregate Dividend amount will be allocated pro rata to the holders of Class B Common Stock. At such time as the holders of Class A Common Stock have received an aggregate amount of such Dividends equal to the aggregate amount of the Class A Original Issue Price (as defined below), then all Dividends thereafter will be allocated pro-rata to all holders of shares of Common Stock. The "*Class A Original Issue Price*" shall mean \$35.214379619298 per share multiplied by the number of shares of Class A Common Stock originally issued to such holders (prior to any appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Class A Common Stock).

(c) **Liquidation.** The holders of the Class A Common Stock shall be entitled to share ratably, along with the holders of Class B Common Stock, upon any liquidation, dissolution or winding up of the affairs of the Corporation (voluntary or involuntary), all assets of the Corporation which are legally available for distribution, if any, remaining after payment of all debts and other liabilities.

B. Class B Common Stock.

DocuSign Envelope ID: 51F87D29-84F1-4288-AB03-E1E34F8438AD

(((H17000130602 3)))

(a) **Voting.** The holders of Class B Common Stock are entitled to one vote for each share of Class B Common Stock held at all meetings of stockholders (and written actions in lieu of meetings); ~~provided, however,~~ that if any proposed amendment to these Third Amended and Restated Articles of Incorporation would adversely affect the terms of Class B Common Stock in a manner that is not substantially similar to the effect on Class A Common Stock, in addition to any other votes required by law, approval of such amendment shall require the vote of a majority of the holders of Class B Common Stock voting as a single class. Except as provided by law or by the other provisions of these Third Amended and Restated Articles of Incorporation, holders of Class B Common Stock shall vote together with all of the holders of Common Stock as a single class.

(b) **Dividends.** At such time that any cash Dividend, is approved and declared by the Board, Thirty-Five percent (35%) of such aggregate Dividend will be allocated pro rata to the holders of Class A Common Stock, and Sixty-Five percent (65%) of such aggregate Dividend will be allocated pro rata to the holders of Class B Common Stock. At such time as the holders of Class A Common Stock have received an aggregate amount of such Dividends equal to the aggregate amount of the Class A Original Issue Price (as defined above), then all Dividends thereafter will be allocated pro-rata to all holders of Common Stock.

(c) **Liquidation.** The holders of the Class B Common Stock shall be entitled to share ratably, along with the holders of Class A Common Stock, upon any liquidation, dissolution or winding up of the affairs of the Corporation (voluntary or involuntary), all assets of the Corporation which are legally available for distribution, if any, remaining after payment of all debts and other liabilities.

ARTICLE IV. ADDRESS

The street address of the principal office of the Corporation is 7404 NW 126th St, Gainesville, FL 32653 and the mailing address is PO Box 14986, Gainesville, FL 32604.

The street address of the registered office of the Corporation is 7404 NW 126th St, Gainesville, FL 32653 and the name of the initial registered agent of the Corporation at that address is Marc Meisel.

ARTICLE V. TERM OF EXISTENCE

This Corporation is to exist perpetually.

ARTICLE VI. INDEMNIFICATION

A. The Corporation shall to the fullest extent permitted by law indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation, or is or

DocuSign Envelope ID: 61F87D2B-64F1-4288-AB09-E1E54F8438AD

(((H17000130602 3)))

was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

B. The Corporation may pay in advance any expenses (including attorneys' fees) that may become subject to indemnification under paragraph A above if the person receiving the advance payment of expenses undertakes in writing to repay such payment if it is ultimately determined that such person is not entitled to indemnification by the Corporation under paragraph A above.

C. The indemnification provided by paragraph A above shall not be exclusive of any other rights to which a person may be entitled by law, bylaw, agreement, vote or consent of stockholders or directors, or otherwise.

D. The indemnification and advance payment provided by paragraphs A and B above shall continue as to a person who has ceased to hold a position named in paragraph A above and shall inure to such person's heirs, executors, and administrators.

E. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or who serves or served at the Corporation's request as a director, officer, employee, agent, partner, or trustee of another corporation or of a partnership, joint venture, trust, or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have power to indemnify such person against such liability under paragraph A above.

F. If any provision in this Article shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and, to the extent possible, effect shall be given to the intent manifested by the provision held invalid, illegal, or unenforceable.

ARTICLE VII. CERTAIN LIMITATIONS ON LIABILITY OF DIRECTORS

Except to the extent that the FBCA prohibits the elimination or limitation of liability of directors for breach of the duties of a director, no director of the Corporation shall have any personal liability for monetary damages for any statement, vote, decision, or failure to act, regarding corporate management or policy. No amendment to or repeal of this provision shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment.

ARTICLE VIII. SHAREHOLDER QUORUM AND VOTING

The shareholders may adopt or amend a bylaw that fixes a greater quorum or voting requirement for shareholders than is required by the FBCA, provided, however, that the adoption or amendment of a bylaw that adds, changes, or deletes a greater quorum or voting requirement for shareholders must meet the same quorum requirement and be adopted by the same vote and

(((H17000130602 3)))

May 12 2017 9:06AM

LOCKE LORDE LLP

561-655-8719

p.6

DocuSign Envelope ID: B1F87D29-84F1-4288-AB09-E1ED4F8438AD

((H17000130602 3)))

voting groups required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

[Signature Page Follows]

AM 633169V2.3

5

((H17000130502 3)))

((H17000130802 3)))

DocuSign Envelope ID: 81F87D29-84F1-4286-AB00-E1E84F8438AD

I, Marc Meisel, the President of the Corporation, for the purpose of amending and restating the Corporation's Articles of Incorporation pursuant to the FBCA, do hereby make this certificate, hereby declaring and certifying that this is my act and deed on behalf of the Corporation, and the facts herein stated are true, and accordingly hereunto set my hand this 5th day of May, 2017.



Marc Meisel, President

*Signature Page to San Felasco Nurseries, Inc.
Third Amended & Restated Articles of Incorporation*

AM 63316992.3

((H17000130802 3)))