

# 245840

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## COR AMND/RESTATE/CORRECT OR O/D RESIGN

THE DENISON CORP.

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TR 10-31-08

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Articles of Amendment  
to  
Articles of Incorporation  
of

The Denison Corp.

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

245840

(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: \_\_\_\_\_

New Registered Office Address: \_\_\_\_\_  
(Florida street 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*

**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)*

<u>Title</u>	<u>Name</u>	<u>Address</u>	<u>Type of Action</u>
_____	_____	_____	<input type="checkbox"/> Add
_____	_____	_____	<input type="checkbox"/> Remove
_____	_____	_____	<input type="checkbox"/> Add
_____	_____	_____	<input type="checkbox"/> Remove
_____	_____	_____	<input type="checkbox"/> Add
_____	_____	_____	<input type="checkbox"/> Remove

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

The existing Article VII of the Amended and Restated Articles of Incorporation of The Denison Corp., adopted May 17, 2004, is hereby deleted in its entirety and replaced with the newly adopted Article VII, Special Purpose Entity Provisions, as set forth in the attached document (5 pages).

**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)*

N/A

The date of each amendment(s) adoption: OCTOBER 29, 2008

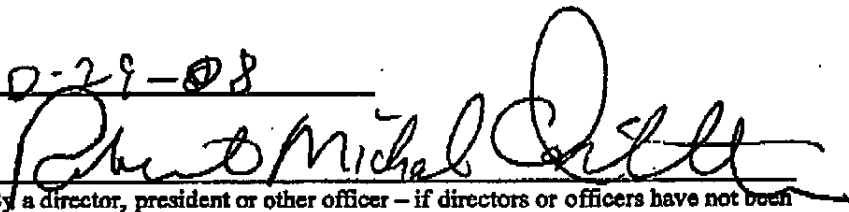
Effective date if applicable: OCTOBER 31, 2008  
(no more than 90 days after amendment file date)

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 Class A shareholders  
 (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 10-29-08

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)

Robert Michael Quittner  
(Typed or printed name of person signing)

President  
(Title of person signing)

The existing ARTICLE VII of the Amended and Restated Articles of Incorporation of The Denison Corp. (the "Company"), adopted May 17, 2004, is hereby deleted in its entirety and replaced with the newly adopted ARTICLE VII as follows:

## ARTICLE VII

### SPECIAL PURPOSE ENTITY PROVISIONS

Notwithstanding any other provision of these Articles of Incorporation, any other organizational documents or any provisions of law that empowers THE DENISON CORP., a Florida corporation (the "Company"), the following provisions shall be operative and controlling so long as the loan (the "Loan") by PRUDENTIAL MORTGAGE CAPITAL COMPANY, LLC, a Delaware limited liability company, or its successors and/or assigns (collectively, the "Lender") to the Company is outstanding:

1. The sole purpose of the Company is to acquire, own, hold, maintain and operate those certain parcels of real property, together with all improvements located thereon, located at 532-560 Lincoln Road, in the City of Miami Beach, in the County of Miami-Dade, State of Florida (the "Property") together with such other activities as may be necessary or advisable in connection with the ownership of the Property. The Company shall not engage in any business, and it shall have no purpose, unrelated to the Property and shall not acquire any real property or own assets (other than cash) other than those related to the Property and/or otherwise in furtherance of the limited purposes of the Company.
2. The Company shall have no authority to perform any act in violation of any (a) applicable laws or regulations or (b) any agreement between the Company and the Lender.
3. The Company shall not:
  - (a) make any loans to any shareholders or any Affiliates (as defined below);
  - (b) except as permitted by the Lender in writing, sell, encumber (except with respect to Lender) or otherwise transfer or dispose of all or substantially all of the properties of the Company (a sale or disposition will be deemed to be "all or substantially all of the properties of the Company" if the sale or disposition includes the Property or if the total value of the properties sold or disposed of in such transaction and during the twelve months preceding such transaction is sixty six and two thirds percent (66-2/3%) or more in value of the Company's total assets as of the end of the most recently completed corporate fiscal year);

(c) to the fullest extent permitted by law, dissolve, wind up or liquidate the Company;

(d) merge, consolidate or acquire all or substantially all of the assets of an Affiliate of same or other person or entity;

(e) change the nature of the business of the Company; or

(f) except as permitted by the Lender in writing, amend, modify or otherwise change these Articles of Incorporation (or, after securitization of the Loan, only if the Company receives (i) confirmation from each of the applicable rating agencies that such amendment, modification or change would not result in the qualification, withdrawal or downgrade of any securities rating and (ii) permission of the Lender in writing).

4. The Company shall not, and no person or entity on behalf of the Company shall, without the prior written affirmative vote of one hundred percent (100%) of the Board of Directors: (a) institute proceedings to be adjudicated bankrupt or insolvent; (b) consent to the institution of bankruptcy or insolvency proceedings against it; (c) file a petition seeking, or consenting to, reorganization or relief under any applicable federal or state law relating to bankruptcy; (d) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Company or a substantial part of its property; (e) make any assignment for the benefit of creditors; (f) admit in writing its inability to pay debts generally as they become due or declare or effect a moratorium on its debts; or (g) take any corporate action in furtherance of any such action.

5. The Company shall have no indebtedness or incur any liability other than (a) unsecured debts and liabilities for trade payables and accrued expenses incurred in the ordinary course of its business of operating the Property, provided, however, that such unsecured indebtedness or liabilities (i) are in amounts that are normal and reasonable under the circumstances, but in no event, to exceed in the aggregate two percent (2%) of the outstanding principal amount of the Loan, plus the current year's real estate taxes and insurance expenses and (ii) are not evidenced by a note and are paid when due, but in no event for more than sixty (60) days from the date that such indebtedness or liabilities are incurred and (b) the Loan. No indebtedness other than the Loan shall be secured (senior, subordinated or pari passu) by the Property.

6. The Company shall at all times observe the applicable legal requirements for the recognition of the Company as a legal entity, under Florida law, separate from any Affiliates of same, including, without limitation, as follows:

(a) The Company shall maintain its principal executive office and telephone and facsimile numbers separate from that of any Affiliate of same and shall conspicuously identify such office and numbers as its own or shall allocate by written agreement fairly and reasonably any rent, overhead and expenses for

shared office space. Additionally, the Company shall use its own separate stationery, invoices and checks which reflect its separate address, telephone number and facsimile number.

(b) The Company shall maintain correct and complete financial statements, accounts, books and records and other entity documents separate from those of any Affiliate of same or any other person or entity. The Company shall prepare unaudited quarterly and annual financial statements on a tax basis.

(c) The Company shall maintain its own separate bank accounts, payroll and correct, complete and separate books of account.

(d) The Company shall file or cause to be filed its own separate state and federal tax returns, except that it shall not file separate federal income tax returns if deemed a disregarded entity.

(e) The Company shall hold itself out to the public (including any of its Affiliates' creditors) under the Company's own name and as a separate and distinct corporate entity, under Florida law, and not as a department, division or otherwise of any Affiliate of same.

(f) The Company shall observe, under Florida law, all customary formalities regarding the corporate existence of the Company, including holding meetings and maintaining current and accurate minute books separate from those of any Affiliate of same.

(g) The Company shall hold title to its assets in its own name and act solely in its own name and through its own duly authorized officers and agents. No Affiliates of same shall be appointed or act as agent of the Company, other than, as applicable, a property manager with respect to the Property.

(h) Investments shall be made in the name of the Company directly by the Company or on its behalf by brokers engaged and paid by the Company or its agents.

(i) Except as required by Lender, the Company shall not guarantee, pledge or assume or hold itself out or permit itself to be held out as having guaranteed, pledged or assumed any liabilities or obligations of any person or entity, including any Affiliate of the Company, nor shall it make any loan, except as permitted in the loan agreement with the Lender.

(j) The Company is and will be solvent.

(k) Assets of the Company shall be separately identified, maintained and segregated. The Company's assets shall at all times be held by or on behalf of the Company and if held on behalf of the Company by another entity, shall at all

times be kept identifiable (in accordance with customary usages) as assets owned by the Company. This restriction requires, among other things, that (i) Company funds shall be deposited or invested in the Company's name, (ii) Company funds shall not be commingled with the funds of any Affiliate of same or other person or entity, (iii) the Company shall maintain all accounts in its own name and with its own tax identification number (notwithstanding being a disregarded entity), separate from those of any Affiliate of same or other person or entity, and (iv) Company funds shall be used for the business of the Company.

(l) The Company shall maintain its assets in such a manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of any Affiliate of same or other person or entity.

(m) The Company shall pay or cause to be paid its own liabilities and expenses of any kind, including but not limited to salaries of its employees, only out of its own separate funds and assets, and shall maintain a sufficient number of employees in light of its contemplated business operations.

(n) The Company shall at all times be adequately capitalized to engage in the transactions contemplated at its formation.

(o) The Company shall not do any act which would make it impossible to carry on the ordinary business of the Company.

(p) All data and records (including computer records) used by the Company or any Affiliate of same in the collection and administration of any loan shall reflect the Company's ownership interest therein.

(q) None of the Company's funds shall be invested in securities issued by, nor shall the Company acquire the indebtedness or obligation of, any Affiliate of same.

(r) When acting on matters subject to the vote of the Directors, notwithstanding that the Company is not then insolvent, the Directors shall take into account the interest of the Company's creditors, to the maximum extent consistent with applicable law.

(s) The Company shall maintain an arm's length relationship with each of its Affiliates and may enter into contracts or transact business with its Affiliates only on commercially reasonable terms that are no less favorable to the Company than is obtainable in the market from a person or entity that is not an Affiliate of same.

(t) The Company shall correct any misunderstanding that is known by the Company regarding its name or separate identity, under Florida law.



For purposes of these Articles of Incorporation, Affiliate means any person or entity, which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with a specified person or entity. For purposes hereof, the terms "control", "controlled", or "controlling" with respect to a specified person or entity shall include, without limitation, (i) the ownership, control or power to vote ten percent (10%) or more of (x) the outstanding shares of any class of voting securities or (y) beneficial interests, of any such person or entity, as the case may be, directly or indirectly, or acting through one or more persons or entities, (ii) the control in any manner over the shareholder(s) or the election of more than one director or trustee (or persons exercising similar functions) of such person or entity, or (iii) the power to exercise, directly or indirectly, control over the management or policies of such person or entity.

7. To the extent the federal income tax attributes of the Company are reported on the return of any other entity, whether as a consolidated entity or disregarded entity, the return shall contain a note indicating that the Company is a separate legal entity and (i) its assets or credit are not available to pay or satisfy the obligations or liabilities of the other members of the consolidated group and, except for federal income tax liabilities, its obligations or liabilities do not constitute obligations or liabilities of the other members of the consolidated group and (ii) the assets or credit of the other members of the consolidated group are not available to pay or satisfy the obligations or liabilities of the Company and except for federal income tax liabilities, the obligations or liabilities of the other members of the consolidated group do not constitute obligations or liabilities of the Company.

[END OF ARTICLE VII]