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TALLAHASSEE, FL 32301

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222-1092

City State Zip Phone

CORPORATION(S) NAME

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Restated  
Articles

Palms of Delray, Inc.

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

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RESTATED ARTICLES OF INCORPORATION  
OF  
PALMS OF DELRAY, INC.

97 NOV 10 PM 1:31  
FILED  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Section 607.1007, Florida Statutes, the undersigned corporation hereby restates its Articles of Incorporation, filed in the Department of State of the State of Florida on April 3, 1986 to read as follows:

ARTICLE I  
NAME

The name of this corporation is "PALMS OF DELRAY, INC.", a Florida corporation, hereinafter referred to as the "Corporation".

The principal place of business of the Corporation is 1100 Linton Boulevard, Suite C-9, Delray Beach, Florida 33444.

ARTICLE II  
NATURE OF BUSINESS

The nature of the business to be conducted and promoted by the Corporation is to engage solely in the following activities:

1. To own, hold, sell, assign, transfer, operate, lease, mortgage, pledge and otherwise deal with that certain parcel of real property, together with all improvements located thereon, in the City of Delray Beach, Palm Beach County, Florida (the "Property") being more particularly described as follows:

Tracts 1,2,3, and 4 of PLAT OF AMENDED  
REPLAT OF PARCEL 1, LINTON CENTER,  
according to the Plat thereof, recorded in  
Plat Book 67 at Pages 3 through 7, of the  
Public Records of Palm Beach County,  
Florida.

2. To exercise all powers enumerated in the Florida Business Corporation Act necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth above.

**ARTICLE III**  
**POWERS**

Subject to the restrictions set forth herein, the Corporation shall have the following powers:

A. To own, purchase, convey, sell, mortgage, administer, manage, operate, maintain, improve, and repair the Property.

B. To grant, modify and terminate easements, and to dedicate portions of the Property to any public or quasi-public agency, authority or utility company for road rights-of way, ingress and egress, public utility, drainage and irrigation purposes.

C. To borrow money for the purposes of carrying out the powers and duties of the Corporation.

D. To obtain insurance to protect the Corporation against loss, and to pay taxes assessed the Property and/or the responsibility of the Corporation.

E. To employ personnel necessary to perform the obligations and duties required of or performed by the Corporation, and for which the Corporation is responsible, or to contract with others for the performance of such obligations and/or duties. Without limitation, the Corporation is specifically authorized to enter into a management agreement with a management company, including a management company affiliated with the Corporation, pursuant to which such management company will manage, maintain and operate the Property, will submit budgets to the Corporation for approval by the Board of Directors of the Corporation, and will perform

such other duties as may be agreed to from time to time, and in connection therewith, to pay the management company a reasonable fee for such services.

**ARTICLE IV**  
**CAPITAL STOCK**

The maximum number of shares of stock that the Corporation is authorized to have outstanding at any one time is five hundred (500) shares of common stock having \$1 par value per share.

**ARTICLE V**  
**ADDRESS**

The street address of the registered office of the Corporation is 1100 Linton Boulevard, Suite C-4, Delray Beach, Florida 33444, and the name of the registered agent of the Corporation at that address is Richard H. Critchfield.

**ARTICLE VI**  
**BOARD OF DIRECTORS**

1. Number. The affairs of the Corporation will be managed by the Board of Directors of the Corporation (the "Board"). The number of Directors on the Board shall be determined pursuant to the By-Laws and in any event shall always be an odd number. In the absence of a determination of a different number of Directors, the Board shall consist of three (3) Board Members.

2. Election or Appointment. All Directors elected or appointed shall be elected or appointed in the manner provided by the By-Laws of the Corporation.

**ARTICLE VII**  
**INDEMNIFICATION**

1. Indemnification. Every director and officer of the Corporation shall be indemnified by the Corporation to the fullest extent permitted or authorized by current or future legislation or judicial or administrative decisions (but, in the case of any such future legislation or decisions, only to the extent that it permits the Corporation to provide broader indemnification rights than permitted prior to such legislation or decisions) against all expenses and liabilities, including attorneys' fees, reasonably incurred by, or imposed upon him in connection with any threatened, pending or completed civil, criminal, administrative or investigative proceeding (the "Proceeding") to which he may be a party, or in which he may become involved as a witness, by reason of his being or having been a director or officer of the Corporation, whether or not he is a director or officer at the time such expenses are incurred, except in such cases where the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interests of the Corporation. The foregoing right of indemnification shall be in addition to, and not exclusive of, any other right of indemnification to which a director or officer may be entitled. Each director or officer of the Corporation to whom indemnification rights under this Article VIII have been granted shall be referred to as an "Indemnified Person".

Notwithstanding the foregoing, the Corporation shall indemnify an Indemnified Person in connection with a Proceeding (or part thereof) initiated by such Indemnified Person only if authorization for such Proceeding (or part thereof) was not denied by the Board prior to sixty (60) days after receipt of notice thereof from such person.

2. Advance of Costs, Charges and Expenses. Costs, charges and expenses (including attorneys' fees) incurred by an Indemnified Person in defending a Proceeding shall be paid by the Corporation to the fullest extent permitted or authorized by current or future legislation or current or future judicial or administrative decisions (but, in the case of any such future legislation or decisions only to the extent that it permits the Corporation to provide broader rights to advance costs, charges and expenses than permitted prior to such legislation or decisions) in advance of the final disposition of such Proceeding, upon receipt of an undertaking by or on behalf of the Indemnified Person to repay all amounts so advanced in the event that it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation as authorized in this Article and upon such other terms and conditions as the Board may deem appropriate. The Corporation may, upon approval of the Indemnified Person, authorize the Corporation's counsel to represent such person in any Proceeding, whether or not the Corporation is a party to such Proceeding. Such authorization may be made by the Board, including directors who are parties to such Proceeding.

3. Procedure For Indemnification. Any indemnification or advance under this Article shall be made promptly and in any event within sixty (60) days, upon the written request of the Indemnified Person. The right to indemnification or advances as granted by this Article shall be enforceable by the Indemnified Person in any court of competent jurisdiction, if the Corporation denies such request under this Article, in whole or in part, or if no disposition thereof is made within sixty (60) days. Such Indemnified Person's costs and expenses incurred in connection with successfully establishing his right to indemnification, in whole or in part, in any subsection shall also be indemnified by the Corporation. It shall be a defense to any such action that the claimant has not met the standard of conduct, if any, required by current or future legislation or by current or future judicial or administrative decisions for indemnification (but, in the case of any such future legislation or decisions, only to the

extent that it does not impose a more stringent standard of conduct than permitted prior to such legislation or decisions), but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including the Board or any committee thereof or its independent legal counsel) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he has met the applicable standard of conduct, if any, nor the fact that there has been an actual determination by the Corporation (including the Board or any committee thereof or its independent legal counsel) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

4. Survival of Indemnification. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any agreement, vote of disinterested directors or recommendation of counsel or otherwise, both as to actions in such person's official capacity and as to actions in another capacity while holding such office, and shall continue as to an Indemnified Person who has ceased to be a director and/or officer and shall inure to the benefit of the heirs, executors and administrators of such a person. All rights to indemnification under this Article shall be deemed to be a contract between the Corporation and each Indemnified Person who serves or served in such capacity at any time while this Article is in effect. Any repeal or modification of this Article or any repeal or modification of relevant provisions of the Florida Business Corporation Act or any other applicable laws shall not in any way diminish any rights to indemnification of such Indemnified Person, or the obligations of the Corporation arising hereunder, for claims relating to matters occurring prior to such repeal or modification.

5. Insurance. In the event that the cash flow from the Property, after payment of all operating expenses, debt service and applicable reserves, is sufficient, the Corporation may purchase and maintain insurance on behalf of any person who is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise (including serving as a fiduciary of an employee benefit plan), against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article VIII or of the applicable provisions of the Florida Business Corporation Act.

6. Savings Clause. If this Article or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each Indemnified Person as to costs, charges and expenses (including attorneys' fees, judgments, fines and amounts paid in settlement with respect to any Proceeding, including an action by or in the right of the Corporation, to the full extent permitted by any applicable portion of this Article that shall not have been invalidated and as permitted by applicable law.

7. Limitation. This Article VII is subject to the limitations set forth in Article X below.

**ARTICLE VIII**  
**AMENDMENTS TO ARTICLES**

Subject to the provisions of Article X, amendments to these Articles shall be proposed and adopted in the following manner:



1. Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

2. Adoption. A resolution for the adoption of a proposed amendment to the Articles may be proposed by either the Board or by any stockholder of the Corporation having not less than ten percent (10%) of all of the votes which may be cast by all of the stockholders of the Corporation. Directors and stockholders not present in person or by proxy at a meeting considering an amendment may express their approval or disapproval in writing, provided the approval or disapproval is delivered to the Secretary of the Corporation within ten (10) days after the meeting at which the amendment is considered. Approval of an amendment to the Articles must be by either:

A. Not less than a majority of the entire Board, and not less than seventy-five (75%) percent of all of the votes which may be cast by all of the stockholders; or

B. The unanimous consent of the entire Board.

#### **ARTICLE IX** **TERM**

This Corporation shall have perpetual existence.

#### **ARTICLE X** **SPECIAL LIMITATION**

The Corporation shall only incur indebtedness in an amount necessary to operate and maintain the Property. In addition, for so long as the mortgage made by the Corporation in favor of Legg Mason Real Estate Services, Inc., a Pennsylvania corporation, its successors or assigns (the "First Mortgage") encumbers any portion of the Property, the Corporation shall not incur, assume, or guaranty any indebtedness other than the note secured by the First Mortgage and trade payables in the ordinary course of business. For so

long as the First Mortgage encumbers any portion of the Property, the Corporation shall not dissolve or liquidate, or consolidate or merge with or into any other entity, or convey or transfer any of its properties or assets or transfer any of its shares of stock to any entity. For so long as the First Mortgage encumbers any portion of the Property, the Corporation will not voluntarily commence a case with respect to itself, as debtor, under the Federal Bankruptcy Code or any similar federal or state statute without the unanimous consent of the Board. For so long as the First Mortgage encumbers any portion of the Property, no amendment to this certificate of incorporation or to the By-Laws of the Corporation may be made without first obtaining approval of the mortgagee holding the First Mortgage.

Any indemnification of the Corporation's directors and officers shall be fully subordinate to any obligations respecting the Property (including, without limitation, the First Mortgage) and such indemnification shall not constitute a claim against the Corporation in the event that cash flow from the Property after payment of all operating expenses, debt service and applicable reserves, is not sufficient to pay the sums due to the parties entitled to indemnification.

For so long as the First Mortgage encumbers any portion of the Property, in order to preserve and ensure its separate and distinct corporate identity, in addition to the other provisions set forth in this certificate of incorporation, the Corporation shall conduct its affairs in accordance with the following provisions:

1. It shall establish and maintain an office through which its business shall be conducted separate and apart from those of its parent and any affiliate and shall allocate fairly and reasonably any overhead for shared office space.

2. It shall maintain corporate records and books of account separate from those of its parent and any affiliate.

3. It shall maintain its bank accounts separate from those of any other person or entity.

4. The Board shall hold appropriate meetings (or act by unanimous consent) to authorize all appropriate corporate actions.

5. It shall observe all corporate formalities.

6. It shall not commingle assets with those of its parent, any affiliate or any other person.

7. It shall conduct its own business in its own name.

8. It shall maintain financial statements separate from its parent, any affiliate and any other person.

9. It shall pay any liabilities out of its own funds, including salaries of any employees, not funds of its parent, any affiliate or any other person.

10. It shall maintain an arm's length relationship with its parent and any affiliate.

11. It shall not guarantee or become obligated for the debts of any other entity, including its parent or any affiliate, or hold out its credit as being available to satisfy the obligations of others.

12. It shall not acquire the obligations or securities of its affiliates or its shareholders.

13. It shall use stationary, invoices and checks separate from its parent and any affiliate.

14. It shall not pledge its assets for the benefit of any other entity, including its parent and any affiliate.

15. It shall hold itself out as an entity separate from its parent and any affiliate and shall correct any known misunderstanding regarding its separate identity.

16. It shall, in connection with taking corporate action, take into account the interests of its creditors as well as the interests of the Corporation.

For purpose of this Article X, the following terms shall have the following meanings:

"affiliate" means any person controlling or controlled by or under common control with the parent, including, without limitation (i) any person who has a familial relationship, by blood, marriage or otherwise with any director, officer or employee of the Corporation, its parent, or any affiliate thereof and (ii) any person which receives compensation for administrative, legal or accounting services from the Corporation, its parent or any affiliate. For purposes of this definition, "control" when used with respect to any specified person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"parent" means, with respect to a corporation, any other person owning or controlling, directly or indirectly, fifty percent (50%) or more of the voting stock of the corporation.

"person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization, other business organization or government or any agency or political subdivision thereof.

WHEREFORE, the undersigned persons, who constitute all of the members of the Board, after having obtained the prior written approval of all of the stockholders of the Corporation

at a meeting of the stockholder(s) of the Corporation held on November 5, 1997, have hereunder affixed their signatures to these Restated Articles of Incorporation on this 7th day of November, 1997.

*Mark Walsh*

Mark Walsh -President

*Michael Walsh*

Michael Walsh -Vice President

STATE OF FLORIDA  
COUNTY OF PALM BEACH

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State of Florida and in the County of Palm Beach to take acknowledgements, personally appeared Mark Walsh and Michael Walsh, who executed the foregoing Restated Articles of Incorporation of Palms of Delray, Inc., a Florida corporation, and they acknowledged to and before me that they did so voluntarily and for the purposes set forth herein, and each of whom is personally known to me.

WITNESS my hand and official seal in the State and County last aforesaid this 7 day of November, 1997.

*Robbin Goldstein*

Notary Public, State of Florida

Name: ROBBIN GOLDSTEIN

Commission or Serial No.:

CC613585

My Commission Expires:

1-14-2001



Robbin Goldstein  
My Commission CC613585  
Expires January 14 2001