

Division of Corporations

P98000063099

Florida Department of State

Division of Corporations

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DIVISION OF CORPORATIONS

BASIC AMENDMENT

NORTH PALM PROPERTIES, INC.

Table with 2 columns: Description and Count/Amount. Rows include Certificate of Status (1), Certified Copy (1), Page Count (10), and Estimated Charge (\$52.50).

1542780-0013

ATTN: M. WAGONER

Amended & Restated

Fax Audit No. H01000122251

AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
NORTH PALM PROPERTIES, INC.

FILED
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DIVISION OF CORPORATIONS
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This document (the "Amended Articles") contains an amendment and restatement of the Articles of Incorporation of North Palm Properties, Inc. (the "Corporation") (Document No. P98000063099), which was originally filed with the Florida Secretary of State on July 17, 1998. These Amended Articles were duly adopted by written consent of the sole shareholder and director of the Corporation dated as of December 14, 2001, and are being filed in accordance with 607.1003 and 607.1007 of the Florida Business Corporation Act.

ARTICLE 1

The name of the corporation shall be North Palm Properties, Inc., a Florida corporation.

ARTICLE 2

This corporation shall have perpetual existence until dissolved by law.

ARTICLE 3

Notwithstanding anything in these Amended Articles to the contrary, unless and until that certain loan (the "Loan") from KeyBank National Association (together with its successors and assigns, the "Lender") to North Palm Properties, Ltd., a Florida limited partnership ("Borrower"), evidenced and secured by certain loan documents ("Loan Documents") including, without limitation, a mortgage, deed of trust or deed to secure debt (the "Security Instrument") encumbering the real property commonly known as North Palm Marketplace located in Palm Beach County, Florida, together with related personal property (collectively, the "Property"), has been paid in full in accordance with the terms and provisions of such Security Instrument and other Loan Documents the Corporation shall (i) engage in no other business activity and have no

other purpose other than holding a general partnership interest in the Partnership, (ii) not incur, create, or assume any indebtedness or liabilities, secured or unsecured, direct or contingent, other than indebtedness that represents unsecured trade payables or accrued expenses occurring in the normal course of business of owning its partnership interest in the Borrower that is due and payable within thirty (30) days after the date incurred, and (iii) not acquire or own any assets other than its partnership interest in the Borrower. Until such time as the Loan has been paid in full in accordance with the terms of the Security Instrument and other Loan Documents, the Corporation's purpose shall be to serve as general partner of Borrower with all the rights, powers, obligations and liabilities of the general partner under the partnership agreement of Borrower and to take any action necessary to accomplish the same. From and after the time the Loan has been paid in full in accordance with the terms of the Security Instrument and other Loan Documents, the general purpose of the corporation shall be to transact any lawful business for which corporations may be incorporated under the Florida Business Corporation Act.

ARTICLE 4

The principal place of business and mailing address of this corporation shall be

300 S.E. 2nd Street

Ft. Lauderdale, Florida 33301

ARTICLE 5

The number of shares of stock that the Corporation is authorized to have outstanding at any one time is One Thousand Shares (1,000) of common stock with a par value of ONE (\$1.00) Dollar per share.

Each Stockholder of the Corporation shall have the right to purchase, subscribe for, or receive a right or rights to purchase or subscribe for, at the par value thereof, a pro rata portion of:

(1) Any stock of any class that the Corporation may issue or sell, whether or not exchangeable for any stock of the Corporation of any class or classes, and whether or not of unissued shares authorized by the Articles of Incorporation as originally filed or by any amendment thereof or out of shares of stock of the Corporation acquired by it after the issuance thereof, and whether issued for cash, labor done, personal property, or real property, or lease thereof, or

(2) Any obligation that the Corporation may issue or sell which is convertible into or exchangeable for any stock of the Corporation of any class or classes, or to which is attached or pertinent any warrant or warrants or other instrument or instruments conferring on the holder the right to subscribe for or purchase from the Corporation any shares of its stock of any class or classes.

ARTICLE 6

The name and address of the registered agent is:

Patricia Jones
 c/o Stiles Corporation
 300 S.E. 2nd Street
 Ft. Lauderdale, Florida 33301

ARTICLE 7

The number of Directors constituting the Board of Directors of the Corporation is one (1), and his name and address is as follows:

Terry W. Stiles
 c/o Stiles Corporation
 300 S.E. 2nd Street
 Ft. Lauderdale, Florida 33301

ARTICLE 8

No contract or other transaction between the Corporation and any other corporation, and no act of the Corporation shall be affected in any way or invalidated by the fact that any of the Directors of the Corporation are pecuniarily or otherwise interested in, or are Directors or officers of such other corporation. Any Director individually, or any firm which any Director may be a member, may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the Corporation, provided that the fact that he or such firm is related by virtue of such attribution, shall be disclosed or shall have been known to the Board of Directors or such members thereof as shall be present at any meeting of the Board of Directors at which action upon such contract or transaction shall be taken; and any Director of the Corporation who is so interested may be counted in determining the existence of a quorum at any meeting of the Board of Directors which shall authorize any such contract or transaction, and may vote thereat to authorize any such contract or transaction, with like force and effect as if he were not such Director or officer of such other Corporation or not so interested.

ARTICLE 9

A. Stockholder Agreements: The Corporation and its Stockholders or the Stockholders among themselves, may enter into agreements, restricting the transferability or encumbrance of the stock of the Corporation. Such agreements may confer upon the Corporation or the Stockholders, or both an option of first refusal or mandatory purchase in the event of such transfer or encumbrance. Such agreements may include such restrictions during the lifetime or upon the death or legal incompetence of any Stockholder. Nothing in these Amended Articles or the By-Laws shall be construed to authorize a transfer of such stock upon the books of the Corporation in violation of such agreements.

B. Indemnification of Directors and Officers. The Corporation shall indemnify any Director or Officer who by virtue of his being a Director or Officer of this Corporation, is made a party to any action or proceeding, except when such Director or Officer is adjudicated guilty of malfeasance in the discharge of his duties to the Corporation. Indemnification shall be for all reasonable expenses incurred as a result of such action or proceeding. Notwithstanding anything contained in these Amended Articles to the contrary, any obligations of the Corporation to indemnify its officers and directors are hereby fully subordinated to its obligations respecting the Property and shall not constitute a claim against the Corporation in the event that cash flow in excess of amounts required to pay holders of any debt pertaining to the Property is insufficient to pay such obligations.

C. Director's Liability: No Director shall be liable to the Corporation for any loss or damage suffered on account of any action taken or omitted in good faith, if such Director exercised the same degree of care that a prudent man would have exercised in the conduct of his own affairs. In any action or proceeding brought by or on behalf of the Corporation against a Director, which results in a decision in favor of the Director, the Corporation shall reimburse the Director for all reasonable expenses incurred by him in the course of the action or proceedings.

ARTICLE 10

Notwithstanding anything in these Amended Articles to the contrary, until such time as the Loan has been paid in full in accordance with the terms and provisions of the Security Instrument and other Loan Documents, the Corporation shall not:

- (a) take any "Bankruptcy Action", which is defined to include without limitation:
 - (i) take any action that might cause the Corporation or the Borrower to become insolvent;

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- (ii) commencing any case, proceeding or other action on behalf of the Corporation or the Borrower or otherwise seek relief under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors;
 - (iii) instituting proceedings to have the Corporation or the Borrower adjudicated as bankruptcy or insolvent;
 - (iv) consenting to the institution of bankruptcy or insolvency proceedings against the Corporation or the Borrower;
 - (v) filing a petition or consenting to a petition seeking reorganization, arrangement, adjustment, winding-up, dissolution, composition, liquidation or other relief of its debts on behalf of the Corporation or the Borrower under any federal or state law relating to bankruptcy;
 - (vi) seeking or consenting to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the Corporation or the Borrower or a substantial portion of its assets or properties;
 - (vii) admitting in writing the Corporation's or the Borrower's inability to pay debts generally as they become due;
 - (viii) making any assignment for the benefit of the Corporation's or the Borrower's creditors; or
 - (ix) taking any action in furtherance of the foregoing;
- (b) dissolve, liquidate or terminate in whole or in part, or consolidate with or merge into any person or entity, or sell, transfer or otherwise dispose of or encumber all or substantially all of its assets, or change its legal structure;
- (c) amend or recommend the amendment of the Bylaws, these Amended Articles, other than an amendment to Article 1, 4, 6 or 7, or any other formation or organizational document unless (i) Lender consents to such amendment and (ii) following any securitization of the Loan, the applicable rating agencies confirm in writing that such change will not result in the qualification, withdrawal or downgrade of any securities ratings;
- (d) fail to preserve its existence as an entity duly organized, validly existing and in good standing (if required) under the applicable laws of the jurisdiction of its organization or formation;
- (e) terminate or fail to comply with the provisions of its organizational documents; or

- (f) engage in any business or activity that is inconsistent in any way with the purposes of the Corporation as set forth above.

ARTICLE 11

Notwithstanding anything in these Amended Articles to the contrary, until such time as the Loan has been paid in full in accordance with the terms and provisions of the Security Instrument and other Loan Documents, the Corporation shall:

- (a) not commingle its assets with those of any other entity;
- (b) hold its assets in its own name;
- (c) conduct its own business in its own name;
- (d) maintain its bank accounts, books, records and financial statements separate from those of any other person or entity, and not permit the listing of its assets or the financial statements of any other person or entity;
- (e) maintain its books, records, resolutions and agreements as official records;
- (f) pay its own liabilities out of its own funds;
- (g) maintain adequate capital in light of its contemplated business operations;
- (h) observe all corporate and other organizational formalities;
- (i) maintain an arm's-length relationship with Affiliates and enter into transactions with Affiliates and enter into transactions with Affiliates only on a commercially reasonable basis;
- (j) pay the salaries of only its own employees and maintain a sufficient number of employees in light of contemplated business operations;
- (k) not guarantee or become obligated for the debts of any other entity or hold out its credit as being available to satisfy the obligations of others;
- (l) not acquire the obligations or securities of its Affiliates or owners, including its partners, members or shareholders;
- (m) not make loans or advances to any other person or entity;
- (n) allocate fairly and reasonably any overhead for shared office space;
- (o) use separate stationery, invoices and checks;

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- (p) file its own tax returns (unless prohibited by applicable laws from doing so);
- (q) not pledge its assets for the benefit of any other person or entity;
- (r) hold itself out as a separate entity, and not fail to correct any known misunderstanding regarding its separate identity;
- (s) not identify itself as a division or subsidiary of any other entity; and
- (t) observe, and cause Borrower to observe, the single purpose entity and separateness covenants and requirements set forth in the Security Instrument.

ARTICLE 12

Notwithstanding anything in these Amended Articles to the contrary, until such time as the Loan has been paid in full in accordance with the terms and provisions of the Security Instrument and other Loan Documents, to the fullest extent permitted by applicable law, the shareholders and directors of the Corporation shall at all times take into account the interests of the Lender as well as the interests of its shareholders in connection with all matters subject to the consideration or vote of the shareholders or directors.

ARTICLE 13

Notwithstanding anything in these Amended Articles to the contrary, until such time as the Loan has been paid in full in accordance with the terms and provisions of the Security Instrument and other Loan Documents, the Corporation's assets shall be utilized at all times to satisfy any and all of the Corporation's obligations and liabilities then due and payable to Lender in accordance with the Security Instrument and other Loan Documents prior to paying or distributing any such proceeds to satisfy other obligations or liabilities of the Corporation.

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ARTICLE 14

Except as otherwise provided in clause (c) of Article 10, these Amended Articles may be amended upon approval by a vote of Fifty-One percent (51%) of the stock entitled to vote at a duly called shareholders meeting.

ARTICLE 15

As used herein, the following terms shall have the meanings set forth below:

"Affiliate" means a person or entity that directly or indirectly (through one or more intermediaries) controls, is controlled by, or is under the common control of or with, the person or entity specified.

"Control" means, (i) whether directly or indirectly, ownership or control of the power to vote ten percent (10%) or more of the outstanding equity interests of any such entity, (ii) the control in any manner of the election of more than one director or trustee (or persons exercising similar functions) of such entity, or (iii) the possession, of the power to direct or cause the direction of the management and/or policies of such entity, whether through the ownership of voting securities, by contract, or otherwise.

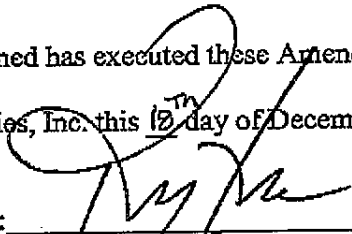
"Person" means any individual, corporation, partnership, limited liability company, joint venture association, joint stock company, trust (including any beneficiary thereof), unincorporated organization, or government or any agency or political subdivision thereof.

ARTICLE 16

To the extent these Amended and Restated Articles of Incorporation conflict with any other organizational or formation document of the Corporation, these Amended and Restated Articles of Incorporation shall control.

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IN WITNESS WHEREOF, the undersigned has executed these Amended and Restated Articles of Incorporation of North Palm Properties, Inc. this 12th day of December, 2001.

By: 
Name: Rocco Ferrera
Title: vice president