

Division of Corporations

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## LIMITED LIABILITY AMENDMENT

SAVANNAH ASSOCIATES OF SARASOTA, L.L.C.

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**AMENDED and RESTATED**

**ARTICLES OF ORGANIZATION OF**

**SAVANNAH ASSOCIATES OF SARASOTA, L.L.C.**  
(A Florida Limited Liability Company)

The undersigned certifies that the date of filing of the initial articles of organization was the 20th day of December, 2002. The following amended and restated articles of organization were adopted by the limited liability company on the 2 day of April, 2003.

**ARTICLE I**

**NAME AND PRINCIPAL PLACE OF BUSINESS**

The name of the limited liability company shall be **SAVANNAH ASSOCIATES OF SARASOTA, L.L.C.**, and its principal office and mailing address is c/o John A. Moran, 22 South Links Avenue, Suite 300, Sarasota, FL 34236, in the County of Sarasota, State of Florida, but it shall have the power of authority to establish branch offices at any other place or places as the members may designate.

**ARTICLE II**

**PURPOSES AND POWERS**

In addition to the powers authorized by the laws of the State of Florida for limited liability companies, the general nature of the business or businesses to be transacted, and which the limited liability company is authorized to transact, shall be as follows:

1. To engage in any activity or business authorized under the Florida statutes.
2. In general, to carry on any and all incidental business; to have and exercise all the powers conferred by the laws of the State of Florida, and to do any and all things set forth in these Articles to the same extent as a natural person might or could do.
3. To purchase or otherwise acquire, undertake, carry on, improve, or develop, all or any of the business, good will, rights, assets, and liabilities of any person, firm, association, or corporation carrying on any kind of business of a similar nature to that which this limited liability company is authorized to carry on, pursuant to the provisions of these Articles; and to hold, utilize, and in any manner dispose of the rights and property so acquired.

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4. To enter into and make all necessary contracts for its business with any person, entity, partnership, association, corporation, domestic or foreign, or of any domestic or foreign state, government, or governmental authority, or of any political or administrative subdivision, or department, and to perform and carry out, assign, cancel, or rescind any of such contracts.

5. To exercise all or any of the limited liability company powers, and to carry out all or any of the purposes, enumerated in these Articles and otherwise granted or permitted by law, while acting as agent, nominee, or attorney-in-fact for any persons or corporations, and perform any service under contract or otherwise for any corporation, joint stock company, association, partnership, firm, syndicate, individual, or other entity, and in this capacity or under this arrangement develop, improve, stabilize, strengthen, or extend the property and commercial interest of the property and to aid, assist, or participate in any lawful enterprise in connection with or incidental to the agency, representation, or service, and to render any other service or assistance it may lawfully do under the laws of the State of Florida, providing for the formation, rights, privileges, and immunities of limited liability companies for profit.

6. To do everything necessary, proper, advisable, or convenient for the accomplishment of any of the purposes, or the attainment of any of the objects, or the furtherance of any of the powers set forth in these Articles, either alone or in association with others incidental or pertaining to, or going out of, or connected with its business or powers, provided the same shall not be inconsistent with the laws of the State of Florida.

The several clauses contained in this statement of the general nature of the business or businesses to be transacted shall be construed as both purposes and powers of this limited liability company, and statements contained in each clause shall, except as otherwise expressed, be in no way limited or restricted by reference to or inference from the terms of any other clause. They shall be regarded as independent purposes and powers.

Nothing contained in these Articles shall be deemed or construed as authorizing or permitting, or purporting to authorize or permit the limited liability company to carry on any business, exercise any power, or do any act which a limited liability company may not, under Florida laws, lawfully carry on, exercise, or do.

For so long as any obligations under the Promissory Note (as amended, modified or supplemented from time to time (the "Note")) dated March 25, 1998 originally made by Dine Realty, Inc., a Florida corporation in favor of Merrill Lynch Credit Corporation evidencing a loan in the original principal amount of \$3,200,000.00 (the "Loan") or any of the documents evidencing, securing or governing the Loan, including without limitation the Multifamily Mortgage, Security Agreement, Assignment of Rents and Fixture Filing (as amended, modified or supplemented from time to time, the "Mortgage," collectively with the Note, the "Loan Documents"), which Loan Documents were subsequently assigned to Norwest Bank Minnesota, National Association n/k/a Wells Fargo Bank, N.A., as Trustee for the registered holders of Commercial Mortgage Acceptance Corp., Commercial Mortgage Pass-Through Certificates, Series 1998-C2 (the "Lender") and were

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assumed by the Company pursuant to a Consent and Assumption Agreement with Limited Release, remain outstanding, the Company shall not:

(a) dissolve or terminate or materially amend the terms of its certificate of incorporation, articles of organization, operating agreement or partnership agreement, as applicable.

(b) enter into any transaction of merger or consolidation, or liquidate or dissolve itself (or suffer any liquidation or dissolution), or acquire by purchase or otherwise all or substantially all the business or assets of, or any Stock or other evidence of beneficial ownership of, any Person;

(c) guarantee or otherwise become liable on or in connection with any obligation of any other Person;

(d) at any time own any encumbered asset other than (i) the Property, and (ii) incidental personal property necessary for the operation of the Property;

(e) at any time be engaged directly or indirectly, in any business other than the ownership, management and operation of the Property;

(f) enter into any contract or agreement with any general partner, principal, member or Affiliate of Borrower or any Affiliate of the general partner or member of Borrower except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's-length basis with third parties other than an Affiliate;

(g) incur, create or assume any indebtedness, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (i) the Loan, and (ii) indebtedness which represents trade payables or accrued expenses incurred in the ordinary course of business of owning and operating the Property; no other debt will be secured (senior, subordinate or pari passu) by the Property;

(h) make any loans or advances to any third party (including any Affiliate);

(i) become insolvent or fail to pay its debt from its assets as the same shall become due;

(j) fail to do all things necessary to preserve its existence as a Single-Purpose Entity, and will not, nor will any partner, limited or general, member or shareholder thereof, amend, modify or otherwise change its partnership certificate, partnership agreement, articles of incorporation or by-laws in a manner which adversely affects Borrower's existence as a Single-Purpose Entity;

(k) fail to conduct and operate its business as presently conducted and operated;

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(l) fail to maintain books and records and bank accounts separate from those of its Affiliates, including its members or general partners, as applicable.

(m) fail to at all times hold itself out to the public as a legal entity separate and distinct from any other entity (including any Affiliate thereof, including the general partner or any member of Borrower or any Affiliate of the general partner or any member of Borrower, as applicable;

(n) fail to file its own tax returns;

(o) fail to 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;

(p) seek the dissolution or winding up, in whole or in part, of Borrower;

(q) commingle the funds and other assets of Borrower with those of any general partner, any member, any Affiliate or any other Person;

(r) fail to 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 or any other Person; and

(s) hold itself out to be responsible for the debts or obligations of any other Person

Terms used herein, but not defined herein, shall have the meanings ascribed to them in the Mortgage.

ARTICLE III

EXERCISE OF POWERS

All limited liability company powers shall be exercised by or under the authority of, and the business and affairs of this limited liability company shall be managed under the direction of, the members of this limited liability company. This Article may be amended from time to time in the regulations of the limited liability company by a majority vote of the members of the limited liability company.

Notwithstanding anything to the contrary contained herein, until such time as the Loan is repaid in full, this Article shall not be modified or amended without the prior written consent of the Lender.

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**ARTICLE IV**

**MANAGEMENT**

This limited liability company is to be initially managed by its Members. The name and address of the person who shall serve as Managing Member is as follows:

Linda S. Macaskill  
1416 Cedar Bay Lane  
Sarasota, FL 34231

**ARTICLE V**

**MEMBERSHIP RESTRICTIONS**

Members shall have the right to admit new members by majority consent. Contributions required of new members shall be determined as of the time of admission to the limited liability company.

A member's interest in the limited liability company may not be sold or otherwise transferred except with majority written consent of all members, as well as pursuant to any and all applicable provisions of the Company's Regulations and Operating Agreement and Company's Comprehensive Buy-Sell Agreement. Notwithstanding the previous sentence, in the event that the Articles of Organization and/or the Company's Regulations and Operating Agreement are inconsistent with the transfer of Membership interest provisions of the Company's Comprehensive Buy-Sell Agreement, if in effect, the Comprehensive Buy-Sell Agreement shall control.

On the death, retirement, resignation, expulsion, bankruptcy, or dissolution of a member, or the occurrence of any other event that terminates the continued membership of a member in the limited liability company, the remaining members shall have the right to continue the business on majority consent of the remaining members.

Notwithstanding anything to the contrary contained herein, until such time as the Loan is repaid in full, no member shall sell, assign, transfer, give, pledge, encumber, or in any other way dispose of its interest as a member of the Company should such a transfer violate any provisions of the Mortgage.

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ARTICLE VI

**PROFITS AND LOSSES**

(a) Profit Sharing. The members shall be entitled to the net profits arising from the operation of the limited liability company business that remain after the payment of the expenses of conducting the business of the limited liability company. Each member shall be entitled to the distributive share of the profits specified as follows:

Profits shall be allocated in accordance with the Company's Capital Account balances.

Additionally, the distributive share of the profits shall be determined and paid to the members each year as determined by the members.

(b) Losses. All losses that occur in the operation of the limited liability company business shall be paid out of the capital of the limited liability company and the profits of the business, or, if these sources are insufficient to cover such losses, by the members in the following shares:

Losses shall be allocated in accordance with the Company's Capital Account balances.

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ARTICLE VII

**DURATION**

The date and time when the existence of the limited liability company shall commence as of the date of filing with the Department of State, State of Florida. This limited liability company shall exist perpetually, or until dissolved in a manner provided by law, or as provided in the regulations adopted by the members.

Notwithstanding anything to the contrary contained herein, until such time as the Loan is repaid in full, the Company shall not dissolve or terminate without the prior written consent of the Leader.

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**ARTICLE VIII**

**INITIAL REGISTERED OFFICE AND REGISTERED AGENT**

The address of the initial registered office of the limited liability company is 22 South Links Avenue, Suite 300, Sarasota, FL 34236, County of Sarasota, State of Florida, and the name of the company's initial registered agent at that address is John A. Moran, c/o Dunlap & Moran, P.A.

The undersigned, being an authorized representative, or member, of the limited liability company, certifies that this instrument constitutes the Amended and Restated Articles of Organization of SAVANNAH ASSOCIATES OF SARASOTA, L.L.C.

Executed by the undersigned on April 2, 2003.

*Linda S. Macaskill*

Linda S. Macaskill  
Manager and Sole Member

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