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## LIMITED LIABILITY AMENDMENT

## US CAPITAL HOLDINGS, LLC

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**AMENDED AND RESTATED ARTICLES OF ORGANIZATION  
OF  
US CAPITAL HOLDINGS, LLC**

The undersigned Manager of US CAPITAL HOLDINGS, LLC, pursuant to Section 608.411 of the Florida Limited Liability Company Act, hereby submits the following Amended and Restated Articles of Organization (the "Articles") and in connection therewith certifies as follows:

1. The name of this limited liability company is **US CAPITAL HOLDINGS, LLC**.
2. The company was originally organized on February 13, 2004, under document number L04000011755.
3. These Amended and Restated Articles of Organization were adopted by the Managers and Members of the Company on September 17, 2004 by Written Consent in Lieu of a Joint Special Meeting, and pursuant to which a sufficient number of votes necessary for approval was received.
4. The Articles of Organization (the "Original Articles Organization") of **US CAPITAL HOLDINGS, LLC** are hereby Amended and Restated as follows:

**I. Name and Mailing Address**

The name of the limited liability company is **US CAPITAL HOLDINGS, LLC** (the "Company"). The principal and mailing office of the Company shall be located at 321 N. University Drive, Mail Management Office, Plantation, Florida 33324. The Company may have such other offices, either within or without the state as the Board of Managers may designate or as the business of the Company may require.

**II. Duration**

This Company shall exist on the date of filing of the Original Articles of Organization with the Secretary of State of the State of Florida. The duration of the Company shall be perpetual.

**III. Registered Office and Agent**

The street address of the initial registered office of this Company is 2 South Biscayne Boulevard, Suite 3400, Miami, Florida 33131 and the name of the initial registered agent of this Company at that address is Valdes-Fauli Corporate Services, Inc.

**IV. Purpose**

The Company's purpose and business shall consist of owning all of the membership interests in **US CAPITAL/FASHION MALL, LLC**, a Delaware limited liability company ("US Capital/Fashion Mall"), which entity is organized for the sole purpose of purchasing, owning and operating that certain real property commonly referred to as the "Plantation Fashion Mall" located in Plantation, Broward County, Florida (the "Property"), and which purchase will be financed by a loan (the "Loan") from **SCORE FINANCIAL CORPORATION**, a Pennsylvania corporation (together with its successors and assigns, the "Lender"), and in connection with such Loan the Company will execute the Guaranty of Recourse Obligations, Environmental Indemnity Agreement and such other documents as any manager of the Company may deem necessary or desirable in connection with the transactions contemplated by the

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Loan Agreement. Without limitation to the foregoing, the Company shall be authorized to engage in any other lawful business purpose and to do any and all things necessary, convenient, or incidental to the foregoing purposes.

#### V. Separateness/Operations Matters

So long as US Capital/Fashion Mall's obligations under the Loan Agreement and Loan Documents by and between US Capital/Fashion Mall and the Lender shall remain outstanding (it being understood and agreed that, for purposes of this Article V, the Loan shall not be deemed outstanding if the Loan has been satisfied or refinanced), notwithstanding anything to the contrary contained in these Articles, in the Company's Operating Agreement, or, to the extent permitted by law, any provision of law that otherwise so empowers the Company, this Article V shall control and shall not be amended or modified without prior written consent of the Lender and satisfaction of the Rating Agency Condition (as defined herein) and as otherwise required by the terms and conditions of the Operating Agreement.

The Company has taken and will take the steps set forth in the Operating Agreement to ensure at all times that the Company and US Capital/Fashion Mall operates and maintains its legal status as an independent entity separate and distinct from any other Person ("Separateness Criteria").

#### VI. Management

The Company shall be managed by a Board of Managers as follows:

(i) The Company shall have not less than two (2) nor more than five (5) managers, who shall initially be appointed by the Members. The number of managers may be increased or decreased from time to time by the Members of the Company. The Board of Managers shall not amend these Articles or the Company's Operating Agreement without the written consent of the Members.

(ii) Notwithstanding any other provision of these Articles and any provision of law that otherwise so empowers the Company, the Company shall not, without the consent of the Lender, sell, convey, mortgage, grant, bargain, encumber, pledge, assign or transfer any interest, direct or indirect, in US Capital/Fashion Mall or any part thereof, whether voluntarily or involuntarily, in violation of the covenants and conditions set forth in the loan agreement ("Loan Agreement") and related loan documents ("Loan Documents") by and between the US Capital/Fashion Mall and Lender and relating to the Loan.

(iii) Notwithstanding any other provision of these Articles and any provision of law that otherwise so empowers the Company, the Company shall cause US Capital/Fashion Mall not to, without the consent of the Lender, do any of the following:

(a) sell, convey, mortgage, grant, bargain, encumber, pledge, assign or transfer any interest, direct or indirect, in US Capital/Fashion Mall, the Property or any part thereof, whether voluntarily or involuntarily, in violation of the covenants and conditions set forth in the Loan Agreement and Loan Documents by and between US Capital/Fashion Mall and Lender;

(b) create, incur, assume or suffer to exist any lien on any portion of the Property except as permitted in the Loan Documents;

(c) enter into any line of business other than the ownership and operation of the Property;

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(d) cancel or otherwise forgive or release any claim or debt (other than termination of Leases in accordance herewith) owed to US Capital/Fashion Mall by any Person, except for adequate consideration and in the ordinary course of US Capital/Fashion Mall's business;

(e) initiate or consent to any zoning reclassification of any portion of the Property, or seek any variance under any existing zoning ordinance or use or permit the use of any portion of the Property in any manner that could result in such use becoming a non-conforming use under any zoning ordinance or any other applicable land use law, rule or regulation;

(f) purchase or own any property other than the Property;

(g) not suffer, permit or initiate the joint assessment of the Property (i) with any other real property constituting a tax lot separate from the Property, and (ii) with any portion of the Property which may be deemed to constitute personal property, or any other procedure whereby the lien of any taxes which may be levied against such personal property shall be assessed or levied or charged to the Property;

(h) change its principal place of business from the address set forth on the first page of the Loan Agreement without first giving Lender thirty (30) days prior notice;

(i) execute modifications to any operating agreement if such modifications will have a material adverse effect on the use, operation or value (including the Underwritable Cash Flow as defined in the Loan Agreement) of the Property, taken as a whole, or the ability of US Capital/Fashion Mall to pay its obligations in respect of the Loan.

## VII. Indemnification Provisions

This Company shall indemnify to the fullest extent permitted under and in accordance with the laws of the State of Florida 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/she is or was a manager or officer of the Company, or is or was serving at the request of the Company as a manager, officer, trustee, employee or agent of or in any other capacity with another company, corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, unless such person breached or failed to perform his duties as a manager, officer, employee or agent of the Company and such breach constitutes:

- (i) a violation of criminal law, unless the manager, officer, employee or agent had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful;
- (ii) a transaction from which the manager, officer, employee or agent derived an improper personal benefit, either directly or indirectly; or

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- (iii) recklessness or an act or omission which was committed in bad faith or with malicious purpose in a manner exhibiting wanton and willful disregard for human rights, safety, or property.

A judgment or other final adjudication against a manager, officer, employee or agent of the Company in any criminal proceeding for violation of criminal law shall estop such person from contesting the fact that his breach or failure to perform constitutes a violation of the criminal law, but such judgment or other final adjudication shall not estop such person from establishing that he had reasonable cause to believe that his conduct was lawful or had no reasonable cause to believe that his conduct was unlawful.

Notwithstanding any provision hereof to the contrary, any indemnification claim against the Company arising under these Articles, the Operating Agreement, any voting trust agreement, any other organizational document of the Company or the laws of the state of organization of the Company shall be fully subordinate to any obligations of the Company arising under the Loan Agreement or any other Loan Document, and shall only constitute a claim against the Company to the extent of, and shall be paid by the Company in monthly installments only from, the Company's pro rata share in distributions by the Company of the excess of net operating income of the Company for any month over all amounts then due under the Loan Agreement and the other Loan Documents.

#### **VIII. Definitions**

As used in these Articles, the following terms shall have the following meanings:

**"Affiliate"** means, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by or is under common ownership or control with such Person or is a director or officer of such Person or of an Affiliate of such Person. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management, policies or activities of a Person, whether through ownership of voting securities, by contract or otherwise.

**"Debt"** means the outstanding principal amount of the Loan together with all interest accrued and unpaid thereon (including, without limitation, any interest that would accrue on the outstanding principal amount of the Loan through and including the end of any applicable Interest Period, even if such Interest Period extends beyond any applicable Monthly Payment Date, prepayment date or the Maturity Date) and all other sums (including, without limitation, the Prepayment Fee, the Spread Maintenance Premium and any Breakage Costs) due to Lender in respect of the Loan under the Note, this Agreement, the Mortgage, the Environmental Indemnity or any other Loan Document.

**"Indebtedness"** means, for any Person, without duplication: (i) all indebtedness of such Person for borrowed money, for amounts drawn under a letter of credit, or for the deferred purchase price of property for which such Person or its assets is liable, (ii) all unfunded amounts under a loan agreement, letter of credit, or other credit facility for which such Person would be liable if such amounts were advanced thereunder, (iii) all amounts required to be paid by such Person as a guaranteed payment to partners or a preferred or special dividend, including any mandatory redemption of shares or interests, (iv) all indebtedness guaranteed by such Person, directly or indirectly, (v) all obligations under leases that constitute capital leases for which such Person is liable, and (vi) all obligations of such Person under interest rate swaps, caps, floors, collars and other interest hedge agreements, in each case whether such Person is liable contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations such Person otherwise assures a creditor against loss.

**"Independent Manager"** means an individual who, except in his or her capacity as an Independent Manager of the US Capital/Fashion/Mall is not at the time of initial appointment, or at any time while

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serving as an Independent Manager, and may not have been at any time during the preceding five years (i) a shareholder, trustee, member, manager, officer, employee, partner, attorney or counsel of the US Capital/Fashion Mall or any Affiliate thereof, (ii) a creditor, customer, supplier or other Person who derives any of its purchases or revenues from its activities with the US Capital/Fashion Mall or any Affiliate thereof, (iii) a Person or other entity controlling or under common control with any such member, manager, partner, customer, supplier or other Person or (iv) a member of the immediate family of any such member, manager, officer, employee, partner, customer, supplier or other Person. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management, policies or activities of a Person, whether through ownership of voting securities, by contract or otherwise. A natural person who satisfies the foregoing definition other than subparagraph (b) shall not be disqualified from serving as an Independent Manager of the US Capital/Fashion Mall if such individual is an Independent Manager provided by a nationally-recognized company that provides professional independent managers (a "Professional Independent Manager") and other corporate services in the ordinary course of its business. A natural person who otherwise satisfies the foregoing definition other than subparagraph (a) by reason of being the independent manager of a "special purpose entity" affiliated with the US Capital/Fashion Mall shall not be disqualified from serving as an Independent Manager of the US Capital/Fashion Mall if such individual is either (i) a Professional Independent Manager or (ii) the fees that such individual earns from serving as independent manager of affiliates of the US Capital/Fashion Mall constitute in the aggregate less than five percent (5%) of such individual's annual income. Notwithstanding the immediately preceding sentence, an Independent Manager may not simultaneously serve as Independent Manager of the US Capital/Fashion Mall and independent manager of a special purpose entity that owns a direct or indirect equity interest in the US Capital/Fashion Mall or a direct or indirect interest in any co-borrower with the US Capital/Fashion Mall. For purposes of this paragraph, a "special purpose entity" is an entity, whose organizational documents contain restrictions on its activities and impose requirements intended to preserve the such entity's separateness that are substantially similar to the Special Purpose Provisions of this Agreement.

"Lien" means any mortgage, deed of trust, lien, pledge, hypothecation, assignment, security interest, or any other encumbrance, charge or transfer of, on or affecting the Property or any portion thereof or Borrower, or any interest therein, including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, the filing of any financing statement, and mechanic's, materialmen's and other similar liens and encumbrances.

"Material Action" means (i) to file any insolvency, or reorganization case or proceeding, (ii) to institute proceedings to have US Capital/Fashion/Mall, US Capital or the Company be adjudicated bankrupt or insolvent, (iii) to institute proceedings under any applicable insolvency law, (iv) to seek any relief under any law relating to relief from debts or the protection of debtors, (v) to consent to the filing or institution of bankruptcy or insolvency proceedings against US Capital/Fashion/Mall, US Capital or the Company, (vi) to file a petition seeking, or consent to, reorganization or relief with respect to US Capital/Fashion/Mall, US Capital or the Company under any applicable federal or state law relating to bankruptcy or insolvency, (vii) to seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian, or any similar official of or for US Capital/Fashion/Mall, US Capital or the Company or a substantial part of its property, (viii) to make any assignment for the benefit of creditors of US Capital/Fashion/Mall, US Capital or the Company, (ix) to admit in writing US Capital/Fashion/Mall's, US Capital's or the Company's inability to pay its debts generally as they become due, or (x) to take action in furtherance of any of the foregoing.

"Permitted Encumbrances" means, collectively, (i) the Liens and security interests created by the Loan Documents, (ii) all Liens, encumbrances and other matters disclosed in the Title Insurance Policy, (iii) Liens, if any, for Taxes imposed by any Governmental Authority not yet due or delinquent, and (iv)

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such other title and survey exceptions as Lender has approved or may approve in writing in Lender's sole discretion.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any other entity, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing, or any other entity.

"Rating Agency Condition" means with respect to any action taken at any time after the Loan evidenced and secured by the Loan Documents has been sold or assigned to a securitization trust, that each rating agency rating (i) the Loan, (ii) any pool of loans of which the Loan forms a part, or (iii) any securities issued in connection with a securitization of the Loan or such pool of loans, shall have notified US Capital/Fashion/Mall in writing that such action will not result in a reduction, withdrawal, downgrade or qualification of the then current rating by such rating agency of (i), (ii) or (iii).

"Special Member" means upon such Person's admission to US Capital/Fashion/Mall as a member of US Capital/Fashion/Mall pursuant to Section 4.1(26) of US Capital/Fashion/Mall's Amended and Restated Operating Agreement, a person acting as Springing Member, in such person's capacity as a member of US Capital/Fashion/Mall. A Special Member shall only have the rights and duties expressly set forth in US Capital/Fashion/Mall's Amended and Restated Operating Agreement.

#### **IX. Conflicts**

Notwithstanding anything to the contrary in the Articles, in the event of a conflict between these Articles and the Operating Agreement, the terms of the Operating Agreement shall control.

SIGNATURE ON THE FOLLOWING PAGE

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IN WITNESS WHEREOF, the undersigned authorized person has executed this Amended and Restated Articles of Organization on behalf of US CAPITAL HOLDINGS, LLC this 17th day of September, 2004.

By:   
Guang Yang, Manager and Authorized Representative

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