

Division of Corporations

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**LLC AMND/RESTATE/CORRECT OR M/MG RESIGN****VANGUARD REAL ESTATE LLC**

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**AMENDED AND RESTATED ARTICLES OF ORGANIZATION  
For a Domestic Limited Liability Company**

Pursuant to Section 608.411(3), Florida Statutes, the undersigned executes the following articles ("Articles"), all to be effective upon filing, for purposes of amending and restating the Articles of Organization of Vanguard Real Estate LLC, a limited liability company formed under the laws of the State of Florida, to wit Chapter 608, Florida Statutes, ("the Company"), and originally filed with the Florida Department of State on the 28<sup>th</sup> day of February 2006:

**ARTICLE I**

The name of the limited liability company is:

**VANGUARD REAL ESTATE LLC**

**ARTICLE II**

The principal office will be located at

2013 S. McCall Road, in Englewood, County of Sarasota, State of Florida, with the postal zip code being 34223.

The mailing address is

2013 S. McCall Road, Englewood, Florida 34223.

**ARTICLE III**

The Company may engage in any activity permitted by the Florida Limited Liability Company Act, as well as the other laws of the State of Florida, subject always to limitations of all other jurisdictions in which the Company acts.

**ARTICLE IV**

The Company will adopt an operating agreement that conforms to these Articles by unanimous consent of the Initial managers ("Operating Agreement"). The Operating Agreement will always be construed to conform to these Articles or, if any paragraph or section of the Operating Agreement cannot be reasonably construed to conform to these Articles, each offensive paragraph and/or section of the Operating Agreement will be stricken as if it had never been adopted into the Operating Agreement so that the Operating Agreement conforms to these Articles. The Operating Agreement will otherwise be amendable and/or address matters not specifically precluded by these Articles. This Article controls all contradictory provisions of the other Articles, if any.

**ARTICLE V**

The Company will act under the direction of the managers (each a "Manager"), always pursuant to these Articles and the Operating Agreement.

**ARTICLE VI**

The membership interests in the Company will be of one class, each membership interest maintaining voting rights proportional to the Member's membership interest. Equity,

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profits and losses will be allocated and distributed in accordance with the Operating Agreement.

Except because of the provisions governing the admittance of new Members by unanimous vote, each Member will have preemptive rights to purchase membership interests in cash pro rata based on the Member's proportional voting rights pursuant to any offering by the Company.

Except as provided in the Operating Agreement on the Operating Agreement's effective date, the membership interests will be further limited in that all membership interests, including every portion thereof, will be subject to the Company's and the Members' rights of first refusal as expressed in the Operating Agreement on the Operating Agreement's effective date.

The membership interests are further limited in that all Members must be natural persons and citizens of the United States of America and must consent to the Company electing to be treated as an association taxable as a corporation and an election to, then, be treated as a small business corporation within the meaning of Subchapter S of the Internal Revenue Code of 1986, as amended, ("IRC") by executing all documents necessary to effect the IRC Subchapter S election.

The membership interests will have no other limitations other than those specifically mandated by the Florida Limited Liability Company Act or as specified in these Articles or the Operating Agreement.

#### ARTICLE VII

In accordance with the distribution rules of the Operating Agreement, the Company will distribute to the Members, prior to the fifteenth (15<sup>th</sup>) day of the calendar month following the close of each calendar quarter, or as soon thereafter as possible as in accordance with the IRC, ("Tax Distribution Date") the amount that the Company will distribute to the Members on the Tax Distribution Dates, and is fifty percent (50%) of the lesser of (i) the Net Cash Flow, as defined infra, if any; or (ii) "Ordinary business income (loss)," as defined by and calculated in accordance with the IRC on Department of the Treasury, Internal Revenue Service Form 1065, U.S. Return of Partnership Income multiplied by the highest income tax rate set forth in IRC 1 (but in no event will the Company make a negative distribution as a result) ("Tax Distribution"). The Members may forego or reduce the Tax Distribution for any particular Tax Distribution Date upon a unanimous vote within thirty (30) days of the particular Tax Distribution Date for which the Members consider foregoing or reducing a Tax Distribution; but, the Tax Distribution requirements of this Article will never be waived, estopped or otherwise prevented by any preceding election by the Members to forego or reduce a Tax Distribution.

"Net Cash Flow" means the lesser of (i) the net change of the Company's cash balances during the prior taxable year calculated in accordance with generally accepted accounting principles; and (ii) the Company's cash balances at the end of the year, less reasonable reserves for working capital and projected cash requirements, including projected expenses and contingent liabilities, but not including capital investments and reinvestments that are not necessary to the Company as a going concern, all calculated in accordance with generally accepted accounting principles as limited by the IRC. The balance of Net Cash Flow, if any, may be distributed to each Member in proportion to

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the Membership Interests at times and in amounts as Members determine in accordance with the Operating Agreement.

Members may, by a majority Vote, compel the Company to make distributions of specified amounts and property, and at specified times.

No withdrawing Member is entitled to receive any distribution or the value of the Member's Membership Interest as a result of withdrawal from the Company prior to the Company's liquidation, except as specifically provided in the Operating Agreement.

No Member is entitled to the return of, or interest on, that Member's capital contributions, except as otherwise provided in the Operating Agreement.

#### ARTICLE VIII

The Company will exist in perpetuity, unless dissolved pursuant to the *Florida Limited Liability Company Act* or as provided in the Operating Agreement.

#### ARTICLE IX

All documents evidencing membership interests will clearly bear legends indicating that the membership interests are issued subject to restrictions on transferability, in reliance upon the existence of exemptions from federal and state securities laws and with other rights, limitations, preferences and elections as expressed in these Articles.

#### ARTICLE X


Additional Members may be admitted to the Company upon the unanimous vote of all of the Members of the Company.

#### ARTICLE XI

The Articles may only be amended, superseded or repealed upon the unanimous vote, or unanimous, written, affirmative consent, of all of the Members.

#### ACKNOWLEDGMENT

I, an authorized representative of the Company, and without personally assuming or ratifying any prior contracts or promises made on behalf of the Company by any person or entity prior to the Company's formation, if any, execute these Articles this 23<sup>rd</sup> day of October 2006.

  
Charles PT Phoenix, Esq.

FROM PHOENIX LAW PARTNERS

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**VANGUARD REAL ESTATE LLC**  
**Manager Listing**

**The Initial Manager of the Company is:**

**Matthew Whitnack**