

Division of Corporations

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Florida Department of State  
Division of Corporations  
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## BASIC AMENDMENT

## FINE HOTELS MANAGER CORP.

Certificate of Status	0
Certified Copy	1
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Amendment

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**ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF**

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**FINE HOTELS MANAGER CORP.**

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(present name)

*Pursuant to the provisions of section 607.1006, Florida Statutes, this Florida profit corporation adopts the following articles of amendment to its articles of incorporation:*

**FIRST:** Amendment(s) adopted: *(indicate article number(s) being amended, added or deleted)*

**See Exhibit A attached hereto.**

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**SECOND:** If an amendment provides for an exchange, reclassification or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself, are as follows:

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**THIRD:** The date of each amendment's adoption: January 31, 2001

**FOURTH:** Adoption of Amendment(s) (CHECK ONE)

- ☒ The amendment(s) was/were approved by the shareholders. The number of votes cast for the amendment(s) was/were sufficient for approval.
- ☐ The amendment(s) was/were approved by the shareholders through voting groups. The following statement must be separately provided for each voting group entitled to vote separately on the amendment(s):

"The number of votes cast for the amendment(s) was/were sufficient for approval by \_\_\_\_\_ voting group"

- ☐ The amendment(s) was/were adopted by the board of directors without shareholder action and shareholder action was not required.
- ☐ The amendment(s) was/were adopted by the incorporators without shareholder action and shareholder action was not required.

Signed this 31st day of January, 2001

Signature



(By the Chairman or Vice Chairman of the Board of Directors, President or other officer if adopted by the shareholders)

OR

(By a director if adopted by the directors)

OR

(By an incorporator if adopted by the incorporators)

Daniel Frank

Typed or printed name

Assistant Vice President

Title

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**EXHIBIT A**  
**TO ARTICLES OF AMENDMENT TO**  
**ARTICLES OF INCORPORATION**  
**OF**  
**FINE HOTELS MANAGER CORP.**

**First (Continued)**

I. Article III, "General Purposes", shall be deleted in its entirety and shall be replaced with the following:

**Article III. General Purposes**

1. To develop, construct, own, lease, manage, operate, and conduct hotels, motels, inns, restaurants, cafes, and bars in any city or town in the United States or any foreign country, and in any of said places, to carry on, conduct, and manage any and all business and activities incident to and forming a part of the business of developing, constructing, owning, leasing, managing, operating, and conducting any and all such hotels, motels, inns, restaurants, cafes, and bars, wherever the same may be situated; to carry on the business of hotel keepers, innkeepers, restaurant keepers, including the buying, selling, and dealing in provisions of all kinds, wines, liquors, cigars, and tobacco; and generally, to do any and all things and to perform any and all acts incident to the business hereinbefore stated.

To act as partner in one or more limited partnerships, trustee in one or more land trusts or nominee trusts and/or as a member and/or manager of one or more limited liability companies and/or stockholder of one or more companies.

To engage in the business, as principal, agent, or broker and on commission or otherwise, of buying, selling, mortgage, exchanging, leasing, letting, granting or licensing, improving, developing, repairing, managing, holding for investment, or otherwise maintaining and operating real property of every kind and every kind of estate, right, or interest therein or pertaining thereto.

To take and hold title to real estate, leasehold interests and personal property, as nominee on behalf of other corporations, associations, partnerships, or individuals and not on its own behalf and to convey the same and to perform any incidental transactions in connection therewith, for and on behalf of such other corporations, associations, partnerships and individuals for whom it shall hold title.

It is intended that the corporation is organized for and may conduct and transact any and all lawful business authorized and not prohibited by the Florida Business Corporation Act, as the same may be, from time to time, amended.

2. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Corporation to the contrary, including, without limitation,

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Article III, Section 1 above, the following shall govern for so long as the Loan (as hereafter defined) is held by Lender (as hereafter defined): The nature of the business and of the purposes to be conducted and promoted by the Corporation is to engage solely in the activity of acting as the manager of the property known as the Hotel Royal Plaza and located at 1905 Hotel Plaza Boulevard, Lake Buena Vista, Florida. The Corporation shall 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 herein.

III. Article V, "Initial Officers", shall be deleted in its entirety and shall be replaced with the following:

Article V. Initial Officers/Directors

President	Thomas Fitzgibbons c/o Fine Hotels Corp. One Washington Street Wellesley, MA 02481
Treasurer/Director	Gerald S. Fineberg c/o Fine Hotels Corp. One Washington Street Wellesley, MA 02481
Secretary	Kenneth M. Goldberg c/o Bernkopf, Goodman & Baseman LLP 125 Summer Street Boston, MA 02110
Assistant Secretary	Joseph Donovan c/o Fine Hotels Corp. One Washington Street Wellesley, MA 02481
Assistant Vice President	Daniel Frank c/o Fine Hotels Corp. One Washington Street Wellesley, MA 02481

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III. The following "Additional Conditions" shall be added to these Articles of Incorporation:

**Additional Conditions**

The following paragraphs and Article III, Section 2 above also form part of these Articles of Incorporation for so long as any leasehold mortgage lien in connection with a loan (the "Loan") by and between Credit Suisse First Boston Mortgage Capital LLC or its successors and/or assigns, as lender (collectively, "Lender"), and HRP Associates Limited Partnership, a Florida limited partnership ("Borrower"), is held by Lender on the Property, and until such time as additional Articles of Amendment are filed with the office of the Florida Secretary of State removing such provisions from the Articles of Incorporation of the Corporation:

1. **Certain Prohibited Activities**

Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Corporation to the contrary, the following shall govern: The Corporation shall only incur indebtedness in an amount necessary to manage the Property. For so long as a leasehold mortgage lien exists on the Property, the Corporation shall not assume, or guaranty any indebtedness unless approved by Lender. The Corporation shall not consolidate or merge with or into any other entity or convey or transfer its properties and assets substantially as an entirety to any entity unless (i) the entity (if other than the Corporation) formed or surviving such consolidation or merger or that acquired by conveyance or transfer of the properties and assets of the Corporation substantially as an entirety (a) shall be organized and existing under the laws of the United States of America or any State or the District of Columbia, (b) shall include in its organizational documents the same limitations set forth in this Additional Conditions, Section 1 and in this Additional Conditions, Section 4, and (c) shall expressly assume the due and punctual performance of the Corporation's obligations; and (ii) immediately after giving effect to such transaction, no default or event of default under any agreement to which it is a party shall have been committed by this corporation and be continuing. For so long as a leasehold mortgage lien exists on the Property, without first obtaining approval of the Lender, (i) the Corporation shall not liquidate or dissolve the Corporation in whole or in part, and (ii) no material amendment to these Articles or to the Corporation's Bylaws may be made.

2. **Bankruptcy**

The Corporation shall not, without the affirmative vote of 100 percent of the Board of Directors, institute, with respect to either the Corporation, proceedings to be adjudicated bankrupt or insolvent; or consent to the institution of bankruptcy or insolvency proceedings against it; or file a petition for itself seeking, or consenting to, reorganization or relief under any applicable federal or state law relating to bankruptcy; or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) or a substantial part of its property; or make any assignment for the benefit of creditors; or admit in writing its inability to pay its debts generally as they become due; or take any corporate action in furtherance of any such action.

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### 3. Indemnification

Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Corporation to the contrary, the following shall govern: Any indemnification shall be fully subordinated to any obligations respecting the Corporation or the Property and shall not constitute a claim against the Corporation in the event that cash flow is insufficient to pay such obligations.

### 4. Separateness Covenants

The Corporation shall at all times observe the applicable legal requirements for the recognition of the Corporation as a legal entity separate from any Affiliates (as defined below), including, without limitation, as follows:

(a) The Corporation shall maintain its principal executive office and telephone and facsimile numbers separate from that of any Affiliate and shall conspicuously identify such office and numbers as its own. Additionally, the Corporation shall use its own separate stationery, invoices and checks which reflect its separate address, telephone number and facsimile number, as appropriate.

(b) The Corporation shall maintain its corporate records and books and accounts separate from those of any Affiliate or any other entity. The Corporation shall prepare unaudited quarterly and annual financial statements, and the Corporation's financial statements shall substantially comply with generally accepted accounting principles.

(c) The Corporation shall maintain its own separate bank accounts, payroll and correct, complete and separate books of account.

(d) The Corporation shall hold itself out to the public (including any Affiliate's creditors) under the Corporation's own name and as a separate and distinct corporate entity and not as a department, division or otherwise of any Affiliate.

(e) All customary formalities regarding the corporate existence of the Corporation, including holding meetings of or obtaining the consent of its Board of Directors, as appropriate, and its stockholders and maintaining current and accurate minute books separate from those of any Affiliate, shall be observed.

(f) The Corporation shall act solely in its own corporate name and through its own duly authorized officers and agents. No Affiliate shall be appointed or act as agent of the Corporation.

(g) Investments shall be made in the name of the Corporation directly by the Corporation or on its behalf by brokers engaged and paid by the Corporation or its agents.

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(h) Except as required by the Lender, the Corporation shall not guarantee or assume or hold itself out or permit itself to be held out as having guaranteed or assumed any liabilities or obligations of any Affiliate, nor shall it make any loan, except as permitted in these Articles or the Corporation's By-laws.

(i) The Corporation is and will be solvent and shall pay its own liabilities, indebtedness and obligations of any kind, including all administrative expenses, from its own separate assets.

(j) Assets of the Corporation shall be separately identified, maintained and segregated. The Corporation's assets shall at all times be held by or on behalf of the Corporation and if held on behalf of the Corporation by another entity, shall at all times be kept identifiable (in accordance with customary usages) as assets owned by the Corporation. This restriction requires, among other things, that corporate funds shall not be commingled with those of any Affiliate and it shall maintain all accounts in its own name and with its own tax identification number, separate from those of any Affiliate.

(k) The Corporation shall not take any action if, as a result of such action, the Corporation would be required to register as an investment company under the Investment Company Act of 1940, as amended.

(l) The Corporation shall at all times be adequately capitalized to engage in the transactions contemplated at its formation.

(m) All data and records (including computer records) used by the Corporation or any Affiliate in the collection and administration of any loan shall reflect the Corporation's ownership interest therein.

(n) None of the Corporation's funds shall be invested in securities issued by any Affiliate.

(o) The Corporation shall maintain an arm's length relationship with its parent and any Affiliate.

"Affiliate" means any person or entity other than the Corporation (i) which owns beneficially, directly or indirectly, more than 50 percent of the outstanding shares of the common stock or which is otherwise in control of the Corporation, (ii) of which more than 50 percent of the outstanding voting securities are owned beneficially, directly or indirectly, by any person or entity described in clause (i) above, or (iii) which is controlled by any person or entity described in clause (i) above; provided that for the purposes of this definition the term "control" and "controlled by" shall have the meanings assigned to them.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof),



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unincorporated organization, or government or any agency or political subdivision  
thereof.

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