

P21000020091

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

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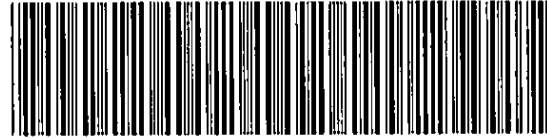
(Business Entity Name)

(Document Number)

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- ☐ **CERTIFIED COPY** \_\_\_\_\_
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- xx** **FILING** AMEND \_\_\_\_\_

1. **KOLL COTTON MANAGER, INC.**  
(CORPORATE NAME AND DOCUMENT #)
2. \_\_\_\_\_  
(CORPORATE NAME AND DOCUMENT #)
3. \_\_\_\_\_  
(CORPORATE NAME AND DOCUMENT #)
4. \_\_\_\_\_  
(CORPORATE NAME AND DOCUMENT #)
5. \_\_\_\_\_  
(CORPORATE NAME AND DOCUMENT #)
6. \_\_\_\_\_  
(CORPORATE NAME AND DOCUMENT #)

**SPECIAL  
INSTRUCTIONS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**COVER LETTER**

**TO:** Amendment Section  
Division of Corporations

**NAME OF CORPORATION:** Koll Cotton Manager, Inc.

**DOCUMENT NUMBER:** P21000020091

The enclosed *Articles of Amendment* and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

Kevin A. Denti, Esquire

Name of Contact Person

Kevin A. Denti, P.A.

Firm/ Company

2180 Immokalee Road - Suite #316

Address

Naples, Florida 34110

City/ State and Zip Code

kdenti@dentiaw.com

E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

Kevin A. Denti, Esquire

at ( 239 )

260-8111

Name of Contact Person

Area Code & Daytime Telephone Number

Enclosed is a check for the following amount made payable to the Florida Department of State:

☒ \$35 Filing Fee

☐ \$43.75 Filing Fee &  
Certificate of Status

☐ \$43.75 Filing Fee &  
Certified Copy  
(Additional copy is  
enclosed)

☐ \$52.50 Filing Fee  
Certificate of Status  
Certified Copy  
(Additional Copy  
is enclosed)

**Mailing Address**

Amendment Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

**Street Address**

Amendment Section  
Division of Corporations  
The Centre of Tallahassee  
2415 N. Monroe Street, Suite 810  
Tallahassee, FL 32303

Articles of Amendment  
to  
Articles of Incorporation  
of

Koll Cotton Manager, Inc.

(Name of Corporation as currently filed with the Florida Dept. of State)

P21000020091

(Document Number of Corporation (if known))

Pursuant to the provisions of section 607.1006, Florida Statutes, this *Florida Profit Corporation* adopts the following amendment(s) to its Articles of Incorporation:

**A. If amending name, enter the new name of the corporation:**

*The new name must be distinguishable and contain the word "corporation," "company," or "incorporated" or the abbreviation "Corp.," "Inc.," or "Co.," or the designation "Corp.," "Inc.," or "Co.". A professional corporation name must contain the word "chartered," "professional association," or the abbreviation "P.A."*

**B. Enter new principal office address, if applicable:**  
(Principal office address MUST BE A STREET ADDRESS)

**C. Enter new mailing address, if applicable:**  
(Mailing address MAY BE A POST OFFICE BOX)

**D. If amending the registered agent and/or registered office address in Florida, enter the name of the new registered agent and/or the new registered office address:**

Name of New Registered Agent:

(Florida street address)

New Registered Office Address:

(City)

Florida

(Zip Code)

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**New Registered Agent's Signature, if changing Registered Agent:**

*I hereby accept the appointment as registered agent. I am familiar with and accept the obligations of the position.*

\_\_\_\_\_  
*Signature of New Registered Agent, if changing*

**Check if applicable**

☐ The amendment(s) is/are being filed pursuant to s. 607.0120 (11) (c), F.S.

If amending the Officers and/or Directors, enter the title and name of each officer/director being removed and title, name, and address of each Officer and/or Director being added:

(Attach additional sheets, if necessary)

Please note the officer/director title by the first letter of the office title:

P = President; V= Vice President; T= Treasurer; S= Secretary; D= Director; TR= Trustee; C = Chairman or Clerk; CEO = Chief Executive Officer; CFO = Chief Financial Officer. If an officer/director holds more than one title, list the first letter of each office held. President, Treasurer, Director would be PTD.

Changes should be noted in the following manner. Currently John Doe is listed as the PST and Mike Jones is listed as the V. There is a change, Mike Jones leaves the corporation, Sally Smith is named the V and S. These should be noted as John Doe, PT as a Change, Mike Jones, V as Remove, and Sally Smith, SV as an Add.

Example:

<input checked="" type="checkbox"/> Change	<u>PT</u>	<u>John Doe</u>
<input type="checkbox"/> Remove	<u>V</u>	<u>Mike Jones</u>
<input type="checkbox"/> Add	<u>SV</u>	<u>Sally Smith</u>

<u>Type of Action</u> (Check One)	<u>Title</u>	<u>Name</u>	<u>Address</u>
1) <input type="checkbox"/> Change	_____	_____	_____
<input type="checkbox"/> Add			_____
<input type="checkbox"/> Remove			_____
2) <input type="checkbox"/> Change	_____	_____	_____
<input type="checkbox"/> Add			_____
<input type="checkbox"/> Remove			_____
3) <input type="checkbox"/> Change	_____	_____	_____
<input type="checkbox"/> Add			_____
<input type="checkbox"/> Remove			_____
4) <input type="checkbox"/> Change	_____	_____	_____
<input type="checkbox"/> Add			_____
<input type="checkbox"/> Remove			_____
5) <input type="checkbox"/> Change	_____	_____	_____
<input type="checkbox"/> Add			_____
<input type="checkbox"/> Remove			_____
6) <input type="checkbox"/> Change	_____	_____	_____
<input type="checkbox"/> Add			_____
<input type="checkbox"/> Remove			_____

**E. If amending or adding additional Articles, enter change(s) here:**

*(Attach additional sheets, if necessary). (Be specific)*

All provisions contained in the Additional Sheet attached to the Articles of Incorporation, as previously amended, are hereby  
deleted in their entirety, and are further hereby replaced with the Additional Sheet attached hereto.

**F. 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:**

*(if not applicable, indicate N/A)*

The date of each amendment(s) adoption: \_\_\_\_\_, if other than the date this document was signed.

Effective date if applicable: \_\_\_\_\_  
(no more than 90 days after amendment file date)

Note: If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.

Adoption of Amendment(s) (CHECK ONE)

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

☐ The amendment(s) was/were adopted by the shareholders. The number of votes cast for the amendment(s) by the shareholders 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)

March 19, 2021  
Dated \_\_\_\_\_

Signature \_\_\_\_\_

(By a director, president or other officer if directors or officers have not been selected, by an incorporator if in the hands of a receiver, trustee, or other court appointed fiduciary by that fiduciary)

Walter S. Hagenbuckle

(Typed or printed name of person signing)

President/Director

(Title of person signing)

## ADDITIONAL SHEET

1. The following provisions shall be added to the end of Article III:

Notwithstanding the foregoing, the Corporation shall be considered a Special Purpose Bankruptcy Remote Entity. For purposes hereof, a "Special Purpose Bankruptcy Remote Entity" means a Corporation which at all times since its formation has not and at all times thereafter until the Indebtedness is paid in full will not:

- (a) engage in any business or activity other than managing **KOLL COTTON CENTER LLC**, a Florida limited liability company ("Company"), which Company owns the Mortgaged Premises, and for transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing;
- (b) acquire or own any assets other than such incidental equipment as may be necessary for managing the Company;
- (c) merge into or consolidate with any Person, or dissolve, terminate, liquidate in whole or in part, or transfer, divide or otherwise dispose of all or substantially all of its assets or change its legal structure;
- (d) fail to observe all organizational formalities, or fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the applicable Laws of the jurisdiction of its organization or formation, or amend, modify, terminate or fail to comply with the provisions of its organizational documents;
- (e) own any subsidiary, or make any investment in, any Person;
- (f) commingle its assets with the assets of any other Person;
- (g) incur any Debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than trade and operational indebtedness incurred in the ordinary course of business with trade creditors, provided that such indebtedness is (A) unsecured, (B) not evidenced by a note, (C) on commercially reasonable terms and conditions, and (D) due not more than sixty (60) days past the date incurred and paid on or prior to such date; provided, however, the aggregate amount of the indebtedness described above shall not exceed at any time two percent (2%) of the outstanding principal amount of the Indebtedness. No Debt other than the Indebtedness may be secured (subordinate or *pari passu*) by the Mortgaged Premises;
- (h) fail to maintain all of its books, records, financial statements and bank accounts separate from those of its affiliates and any constituent party. The Corporation's assets have not and will not be listed as assets on the financial statement of any other Person; provided, however, that the Corporation's assets may be included in a consolidated financial statement of its affiliates provided that (1) appropriate



notation shall be made on such consolidated financial statements to indicate the separateness of the Corporation and such affiliates and to indicate that the Corporation's assets and credit are not available to satisfy the debts and other obligations of such affiliates or any other Person and (2) such assets shall be listed on the Corporation's own separate balance sheet. The Corporation has maintained and will maintain its books, records, resolutions and agreements as official records;

- (i) enter into any contract or agreement with any officer, director, shareholder, principal or affiliate, 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 unaffiliated third parties;
- (j) maintain its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;
- (k) assume or guaranty the debts of any other Person, hold itself out to be responsible for the debts of any other Person, or otherwise pledge its assets for the benefit of any other Person or hold out its credit as being available to satisfy the obligations of any other Person;
- (l) make any loans or advances to any Person;
- (m) fail to file its own tax returns unless prohibited by applicable Law from doing so (except that the Corporation may file or may include its filing as part of a consolidated federal tax return, to the extent required and/or permitted by applicable Law, provided that, there shall be an appropriate notation indicating the separate existence of the Corporation and its assets and liabilities);
- (n) fail either to hold itself out to the public as a legal entity separate and distinct from any other Person and not as a division or part of any other Person or to conduct its business solely in its own name or fail to correct any known misunderstanding regarding its separate identity;
- (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 (to the extent there exists sufficient cash flow from the Mortgaged Premises to do so after the payment of all operating expenses and debt service and shall not require any equity owner to make additional capital contributions to the Corporation);
- (p) without the prior unanimous written consent of all of its directors and the consent of the Independent Director, (1) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any Debtor Relief Laws (for purposes hereof, "Debtor Relief Laws" shall mean any Federal, state, or local law, domestic or foreign, as now or hereafter in effect relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement, composition, extension or adjustment of debts, or any similar law affecting the rights of creditors, including the United States Bankruptcy Code, as in effect from time to

time), (2) seek or consent to the appointment of a receiver, liquidator or any similar official, (3) take any action that might cause such entity to become insolvent, or (4) make an assignment for the benefit of creditors;

- (q) fail to allocate shared expenses (including, without limitation, shared office space) or fail to use separate stationery, invoices and checks;
- (r) fail to remain solvent, to pay its own liabilities (including, without limitation, salaries of its own employees) from its own funds or fail to maintain a sufficient number of employees in light of its contemplated business operations (in each case to the extent there exists sufficient cash flow from the Mortgaged Premises to do so); or
- (s) acquire obligations or securities of its shareholders or other affiliates, as applicable, or identify its shareholders or other affiliates, as applicable, as a division or part of it.

All capitalized terms used in this Section not otherwise defined shall have the meaning set forth in the Loan Agreement as defined herein. In the event of any conflict between capitalized terms used in this Section and the Loan Agreement, the Loan Agreement shall control.

2. The following provisions shall be added as new Article IX:

- (i) All times there shall be at least one (1) duly appointed member of the Corporation's board of directors (hereinafter each shall be referred to as an "Independent Director") reasonably satisfactory to the Administrative Agent who shall not have been at the time of such individual's initial appointment, and (a) shall not have been at any time during the preceding five (5) years, and shall not be at any time while serving as Independent Director, (1) a shareholder (or other equity owner) of, or an officer, director (other than in its capacity as Independent Director), partner, member or employee of, the Company or the Corporation or any of their respective shareholders, partners, members, subsidiaries or affiliates (other than a nationally-recognized company that routinely provides professional independent managers and other corporate services to the Company or any of its equityholders or affiliates in the ordinary course of its business), (2) a customer of, or supplier to, or other Person who derives any of its purchases or revenues from its activities with, the Company or the Corporation or any of their respective shareholders, partners, members, subsidiaries or affiliates, (3) a Person who Controls or is under common Control with any such shareholder, officer, director, partner, member, employee supplier, customer or other Person, or (4) a member of the immediate family of any such shareholder, officer, director, partner, member, employee, supplier, customer or other Person, and (b) shall be engaged by the Corporation in connection with an Approved ID Provider (which shall expressly include CT Corporation, Corporation Service Company, National Registered Agents, Inc., Wilmington Trust Company, Stewart Management Company, and Lord Securities Corporation). Each Independent Director at the time of their initial engagement shall have had at least three (3) years prior experience as an independent director to a company or a corporation in the

business of owning and operating commercial properties similar in type and quality to the Mortgaged Premises.

- (ii) The Corporation will at all times have at least one (1) Independent Director. The Independent Director may not be removed or replaced without cause and unless such entity provides Lender with not less than three (3) business days' prior written notice of: (a) any proposed removal of the Independent Director, together with a statement as to the reasons for such removal; and (b) the identity of the proposed replacement Independent Director, together with a certification that such replacement satisfies the requirements set forth in these Articles. All right, power, and authority of the Independent Director shall be limited to the extent necessary to exercise those rights and perform those duties specifically set forth in Article III, Subsection (p) above, and the Independent Director shall otherwise have no authority to bind the Corporation. The Independent Director will not be personally liable to the Corporation, its stockholders, or any other person for monetary damages to the fullest extent provided by Florida law. If Florida law is amended after the date of the filing hereof to authorize corporate action further eliminating or limiting the personal liability of the Independent Director, then the liability of an Independent Director of the Corporation will be eliminated or limited to the fullest extent permitted by the Florida law, as so amended. No repeal or modification of these Articles will apply to or have any effect on the liability or alleged liability of any Independent Director of the Corporation for or with respect to any acts or omissions of such Independent Director occurring prior to such repeal or modification. The Corporation shall indemnify any officer, director (including the Independent Director), and any former officer or director (including the Independent Director) to the fullest extent permitted by Florida law.

3. The following provisions shall be added as new Article X:

Capitalized terms not otherwise defined in these Articles of Incorporation shall have the meanings as defined in the Loan Agreement.

- (i) "Administrative Agent" shall mean **VOYA INVESTMENT MANGMENT LLC**, a Delaware limited liability company, together with its affiliates, successors and assigns.
- (ii) "Loan Agreement" shall mean that certain Loan Agreement between Administrative Agent, in its capacity as administrative agent on behalf of the "Lenders" (as defined therein), and the Company.
- (iii) "Mortgaged Premises" shall mean 4050 E. Cotton Center Boulevard, Phoenix, Arizona.