

P96000047828

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COVER LETTER

TO: Amendment Section
Division of Corporations

NAME OF CORPORATION: LONDON ASSOCIATES, INC

DOCUMENT NUMBER: P96000047828

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

Please return all correspondence concerning this matter to the following:

Rich Lovell
Name of Contact Person
Amera Associates
Firm/ Company
2900 University Drive
Address
Coral Springs, FL 33065
City/ State and Zip Code
RLovell@ameracorporation.com
E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

Rich Lovell at (954) 753-9500
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:

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|---|--|---|--|
| <input checked="" type="checkbox"/> \$35 Filing Fee | <input type="checkbox"/> \$43.75 Filing Fee & Certificate of Status | <input type="checkbox"/> \$43.75 Filing Fee & Certified Copy (Additional copy is enclosed) | <input type="checkbox"/> \$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
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

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SECOND ARTICLES OF AMENDMENT TO ARTICLES OF INCORPORATION
OF
LONDON ASSOCIATES, INC.

DOCUMENT NUMBER P96000047828

The name of the Corporation is London Associates, Inc. ("Corporation").

The Articles of Incorporation ("Articles") are hereby amended as follows:

1. The following is hereby added to the Articles:

"ARTICLE XIV: Single Purpose Entity Requirements. Notwithstanding any other provision contained in these Articles, Corporation has complied and, so long as any obligation under the Loan is outstanding, shall comply with the following single purpose entity requirements ("Single Purpose Entity Requirements") in order to maintain its status as a separate entity and to avoid any confusion or potential consolidation with any Affiliate:

(a) **Limited Purpose.** The sole purpose conducted or promoted by the Corporation since its organization and at least during the term of the Loan is to engage only in the following activities:

- (i) to hold a general partner's interest in London Associates, Ltd., a Florida limited partnership ("Borrower") and act in such capacity in accordance with and subject to the Borrower's organizational documents and the Loan Documents;
- (ii) to enter into and perform its obligations under the Loan Documents;
- (iii) to sell, transfer, service, convey, dispose of, pledge, assign, borrow money against, finance, refinance or otherwise deal with the Property to the extent permitted under the Loan Documents; and
- (iv) to engage in any lawful act or activity and to exercise any powers permitted to corporations organized under the laws of the State of Florida that are related or incidental to and necessary, convenient or advisable for the accomplishment of the above mentioned purposes.

(b) **Limitations on Indebtedness, Actions.** Notwithstanding anything to the contrary in these Articles or in any other document governing the formation, management or operation of the Borrower, the Borrower since its organization has not and shall not:

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- (i) guarantee any obligation of any Person, including any Affiliate, or become obligated for the debts of any other Person or hold out its credit as being available to pay the obligations of any other Person;
- (ii) engage, directly or indirectly, in any business other than as required or permitted to be performed under this Section;
- (iii) incur, create or assume any indebtedness or liabilities other than (A) the Loan, (B) unsecured trade payables incurred in the ordinary course of its business that are related to the ownership and operation of the Property, do not exceed two percent (2%) of the outstanding balance of the Loan, are not evidenced by a note and which must be paid within sixty (60) days from the date incurred, and (C) such as are otherwise expressly permitted under the Loan Documents; no indebtedness, other than the Loan, may be secured by the Property;
- (iv) make or permit to remain outstanding any loan or advance to, or own or acquire any stock or securities of, any Person, except that the Borrower may invest in those investments permitted under the Loan Documents;
- (v) to the fullest extent permitted by law, engage in any dissolution, liquidation, consolidation, merger, sale or other transfer of any of its assets outside the ordinary course of the Borrower's business;
- (vi) buy or hold evidence of indebtedness issued by any other Person (other than cash or investment-grade securities);
- (vii) form, acquire or hold any subsidiary (whether corporate, partnership, limited liability company or other) or own any equity interest in any other entity, other than its interest in the Borrower;
- (viii) own any asset or property other than the Property and incidental personal property necessary for the ownership or operation of the Property;
- (ix) take any Material Action without the unanimous written approval of all of the Borrower; or
- (x) amend, modify or otherwise change these Articles with respect to the Single Purpose Entity Requirements in this Section XIV.

(c) Separateness Covenants. In the conduct of the Borrower's operations since its organization and so long as any obligation under the Loan is outstanding it has observed and will continue to observe the following covenants:

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- (i) maintain books and records and bank accounts separate from those of any other Person;
- (ii) maintain its assets in such a manner that it is not costly or difficult to segregate, identify or ascertain such assets;
- (iii) comply with all organizational formalities necessary to maintain its separate existence;
- (iv) hold itself out to creditors and the public as a legal entity separate and distinct from any other entity;
- (v) maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other Person and not have its assets listed on any financial statement of any other Person; except that the Corporation's assets may be included in a consolidated financial statement of its Affiliate so long as appropriate notation is made on such consolidated financial statements to indicate the separateness of the Corporation from such Affiliate and to indicate that the Corporation's assets and credit are not available to satisfy the debts and other obligations of such Affiliate or any other Person;
- (vi) prepare and file its own tax returns separate from those of any Person to the extent required by applicable law, and pay any taxes required to be paid by applicable law;
- (vii) allocate and charge fairly and reasonably any common employee or overhead shared with Affiliates;
- (viii) not enter into any transaction with Affiliates except on an arm's-length basis on terms which are intrinsically fair and no less favorable than would be available for unaffiliated third parties, and pursuant to written, enforceable agreements;
- (ix) conduct business in its own name, and use separate stationery, invoices and checks;
- (x) not commingle its assets or funds with those of any other Person;
- (xi) not assume, guarantee or pay the debts or obligations of any other Person;
- (xii) correct any known misunderstanding as to its separate identity;
- (xiii) not permit any Affiliate to guarantee or pay its obligations (other than limited guarantees and indemnities set forth in the Loan Documents);

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- (xiv) not make loans or advances to any other Person;
- (xv) pay its liabilities and expenses out of and to the extent of its own funds;
- (xvi) maintain a sufficient number of employees in light of its contemplated business purpose and pay the salaries of its own employees, if any, only from its own funds;
- (xvii) maintain adequate capital in light of its contemplated business purpose, transactions and liabilities; provided, however, that the foregoing shall only apply to the extent that there is positive net cash flow at the Property 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; and
- (xviii) cause the managers, officers, employees, agents and other representatives of the Corporation to act at all times with respect to the Corporation consistently and in furtherance of the foregoing and in the best interests of the Corporation.

Failure of the Corporation to comply with any of the foregoing covenants or any other covenants contained in these Articles shall not affect the status of the Corporation as a separate legal entity. “

2. The following is hereby added to the end of Article X:

“...provided however, that so long as any obligation with respect to the Loan is outstanding, no indemnity payment from funds of the Corporation (as distinct from funds from other sources, such as insurance) of any indemnity under this Article X shall be payable from amounts allocable to any other Person pursuant to the Loan Documents.

Notwithstanding the foregoing provisions, any indemnification set forth in this Article X shall be fully subordinate to the Loan and, to the fullest extent permitted by law, shall not constitute a claim against Corporation in the event that the Corporation's cash flow is insufficient to pay its Obligations. “

3. The following definitions are hereby added to Article XV:

"Material Action" means to file any insolvency or reorganization case or proceeding, to institute proceedings to have the Corporation be adjudicated bankrupt or insolvent, to institute proceedings under any applicable insolvency law, to seek any relief under any law relating to relief from debts or the protection of debtors, to consent to the filing or institution of bankruptcy or insolvency proceedings against the Corporation, to file a petition seeking, or consent to, reorganization or relief with respect to the Corporation under any applicable federal or state law

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relating to bankruptcy or insolvency, to seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian, or any similar official of or for the Corporation or a substantial part of its property, to make any assignment for the benefit of creditors of the Corporation, to admit in writing the Corporation's inability to pay its debts generally as they become due, or to take action in furtherance of any of the foregoing.

"Loan" means that certain first lien mortgage loan in the original principal amount of Twenty Million Dollars (\$20,000,000.00) made by MACQUARIE US TRADING LLC, a Delaware limited liability company, d/b/a Principal Commercial Capital ("Lender") to Borrower.

"Loan Documents" shall mean:

- a. Amended and Restated Renewal, Replacement Promissory Note, in the amount of \$20,000,000.00 ("Note")
- b. Amended and Restated Mortgage and Security Agreement, Assignment of Leases, and Rents,
- c. Fixture Filing and Security Agreement ("Mortgage")
- d. Guaranty
- e. Loan Agreement
- f. Cash Management Agreement
- g. Deposit Account Control Agreement
- h. Environmental Indemnity Agreement
- i. Assignment of Management Agreement and Subordination of Management Fees Agreement
- j. Any other Loan Documents in the discretion of Corporation or Borrower necessary or incidental to completion of the Loan as contemplated by the Loan Application, as may be amended, between Borrower and Lender

"Person" means any individual, corporation, partnership, joint venture, joint stock association, business or other trust, unincorporated organization, governmental authority or any other form of entity.

"Property" means that certain parcel of real estate including improvements thereon and located at 600 through 680 North Federal Highway, in the City of Fort Lauderdale, Broward County, State of Florida.

"Rating Agency" or "Rating Agencies" shall mean each of Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., Moody's Investor Service, Inc., Fitch, Inc. and DBRS, Inc., or any successor thereto or any other nationally-recognized statistical rating agency which has been approved by Lender.

"Affiliate" means with respect to any Person, any other Person directly or indirectly Controlling or Controlled by or under direct or indirect common Control with such Person.

