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ACCOUNT NO. : 072100000032

REFERENCE : 574725 9725B

AUTHORIZATION : *Patricia*

COST LIMIT : \$ 43.75

FILED
00 FEB -3 PM 2:06
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ORDER DATE : February 3, 2000

ORDER TIME : 10:09 AM

ORDER NO. : 574725-005

CUSTOMER NO: 9725B

CUSTOMER: Doug Lewis, Esq
Roetzel & Andress
Trainon Centre, Third Floor
850 Park Shore Drive
Naples, FL 34103

300003122319--2

DOMESTIC AMENDMENT FILING

NAME: VANAIR, INC.

G. COULLIETTE FEB 03 2000

EFFECTIVE DATE:

XX ARTICLES OF AMENDMENT
XX RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY
 PLAIN STAMPED COPY
 CERTIFICATE OF GOOD STANDING

RECEIVED
00 FEB -3 AM 10:40
DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

CONTACT PERSON: Erika Carlson

EXAMINER'S INITIALS: _____

**CERTIFICATE OF RESTATEMENT OF
ARTICLES OF INCORPORATION
OF
VANAIR, INC.,
a Florida corporation**

FILED
00 FEB -3 PM 2:06
TALLAHASSEE, FLORIDA
SECRETARY OF STATE

VANAIR, INC., a Florida corporation, hereby amends and restates its Articles of Incorporation as follows:

FIRST: Attached hereto as Exhibit "A" is a copy of the Amended and Restated Articles of Incorporation of Vanair, Inc., a Florida corporation (the "Corporation").

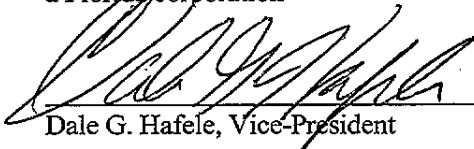
SECOND: The Amended and Restated Articles of Incorporation contain amendments to the Articles of Incorporation which require approval by the assent of fifty-one percent (51%) of the shareholders of the Corporation.

THIRD: The Amended and Restated Articles of Incorporation were adopted and approved by unanimous vote of the shareholders of the Corporation on January 31, 2000, and the number of votes cast for the amendment by the shareholders was sufficient for approval.

FOURTH: The duly adopted Amended and Restated Articles of Incorporation supersede the original Articles of Incorporation and all amendments thereto.

Executed this 27th day of February, 2000.

VANAIR, INC.,
a Florida corporation


Dale G. Hafele, Vice-President

STATE OF FLORIDA)

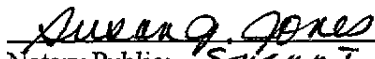
) ss:

COUNTY OF LEE)

BEFORE ME, personally appeared, this 2nd day of February, 2000, Dale G. Hafele, Vice-President of Vanair, Inc., a Florida corporation, and he acknowledged that he executed the foregoing Certificate of Restatement for the uses and purposes therein expressed. Dale G. Hafele is (X) personally known to me or () presented his driver's license as identification.



Susan Janeen Jones
My Commission CC594041
Expires Oct 16, 2000


Notary Public: Susan T. Jones
My Commission expires: 10/16/2000

AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF

VANAIR, INC.,
a Florida corporation

The undersigned, for the purpose of operating a corporation under the Florida General Corporation Act, does hereby adopt the following Amended and Restated Articles of Incorporation.

ARTICLE I

The name of the corporation is Vanair, Inc., a Florida corporation (the "Corporation").

ARTICLE II

The duration of the Corporation is perpetual commencing upon the filing of these Articles of Incorporation with the Secretary of the State of Florida.

ARTICLE III

The Corporation's business and purpose shall consist solely of the following:

- (a) To acquire a general partnership interest in and act as the general partner of Vanair Partners, Ltd., a Florida limited partnership (the "Partnership"), which is engaged solely in the ownership, operation and management of the real estate project known as Naples Walk Shopping Center located in Collier County, Florida (the "Property"), pursuant to and in accordance with these Articles of Incorporation and the Limited Partnership Agreement of the Partnership ("Partnership Agreement"); and
- (b) to engage in such other lawful activities permitted to corporations by the General Corporation Laws of the State of Florida as are incidental, necessary or appropriate to the foregoing.

ARTICLE IV

The Corporation is authorized to issue Seven Thousand Five Hundred (7,500) shares in the aggregate, which shares shall be of a single class of common stock and shall have a par value of One Dollar (\$1.00) per share.

EXHIBIT "A"

ARTICLE V

The street address of the initial registered office of the Corporation is c/o North American Properties - Southeast, Inc., 12995 South Cleveland Avenue, Suite 214, Fort Myers, Florida, 33907 and the name of its initial Registered Agent at such address is Dale G. Hafele. The principal office of the Corporation is located at c/o North American Properties - Southeast, Inc., 12995 South Cleveland Avenue, Suite 214, Fort Myers, Florida 33907.

ARTICLE VI

The Corporation shall have at least one (1) Director. The initial Board of Directors of the Corporation shall be comprised of four (4) Directors whose names and addresses are:

Thomas L. Williams	212 East Third Street, Suite 300 Cincinnati, Ohio 45202
W. Joseph Williams, Jr.	212 East Third Street, Suite 300 Cincinnati, Ohio 45202
Richard W. Grote	212 East Third Street, Suite 300 Cincinnati, Ohio 45202
Thomas D. Grote	212 East Third Street, Suite 300 Cincinnati, Ohio 45202

ARTICLE VII

The name and address of the incorporator is:

Dale G. Hafele
12995 South Cleveland Avenue, Suite 214
Fort Myers, Florida 33907

ARTICLE VIII

These Articles of Incorporation may be amended by the assent of fifty-one percent (51%) of the shareholders of the Corporation.

ARTICLE IX

- (a) At all times at which the directors of the Corporation shall take, or shall be required to take, any action in such capacity and until such time as all obligations of the Partnership secured by the Property pursuant to the terms of the first lien Mortgage in favor of Amresco Capital, L.P., a Delaware limited partnership (the "Mortgage") have been paid in full, there shall be at least one Independent Director. "Independent Director" shall mean a director of the Corporation who is not and has not been at any time during the preceding five (5) years: (i) a stockholder, director, officer, employee or partner of the Corporation or any of its affiliates; (ii) a customer, supplier or other person who delivers more than 10% of its purchases or revenues from its activities with the Corporation or any of its affiliates; (iii) a person or other entity controlling or under common control with any such stockholder, partner, customer, supplier or other person; or (iv) a member of the immediate family of any such stockholder, director, officer, employee, partner, customer, supplier or other person. (As used herein, the term "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a person or entity, whether through ownership of voting securities, by contract or otherwise.)
- (b) With the consent of the initial stockholders of the Corporation, which consent the initial stockholders believe to be in the best interest of the initial stockholders and the Corporation, no Independent Director shall, with regard to any action to be taken under or in connection with this Article, owe a fiduciary duty or other obligation to the initial stockholders nor to any successor stockholders (except as may specifically be required by the statutory law of any applicable jurisdiction), and every stockholder, including each successor stockholder, shall consent to the forgoing by virtue of such stockholder's purchase of shares of capital stock of the Corporation, no further act or deed of any stockholder being required to evidence such consent. Instead, such director's fiduciary duty and other obligations with regard to such action under or in connection with this Article shall be owed to the Corporation (including its creditors). In addition, no Independent Director may be removed unless his or her successor has been elected.
- (c) Notwithstanding any other provision of these Articles and any provision of law that otherwise so empowers the Corporation, the Corporation shall not, without the unanimous consent of the Board of Directors, including the Independent Director, do any of the following:
 - (i) engage in any business or activity other than those set forth in Article III or cause or allow the Partnership to engage in any business or activity other than as set forth in its Partnership Agreement;
 - (ii) incur any indebtedness or assume or guaranty any indebtedness of any other entity, other than the Mortgage and indebtedness permitted therein and normal trade accounts payable in the ordinary course of business;
 - (iii) cause the Partnership to incur any indebtedness or to assume or guaranty any indebtedness of any other entity, other than the Mortgage and indebtedness permitted therein and normal trade accounts payable in the ordinary course of business;

- (iv) dissolve or liquidate, in whole or in part;
- (v) cause or consent to the dissolution or liquidation, in whole or in part, of the Partnership;
- (vi) consolidate or merge with or into any other entity or convey or transfer or lease its property and assets substantially as an entirety to any entity;
- (vii) cause the Partnership to consolidate or merge with or into any other entity or to convey or transfer or lease its Property and assets substantially as an entirety to any entity.
- (viii) with respect to the Corporation or the Partnership, institute proceedings to be adjudicated bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against it, or file a petition 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) of the Corporation or the Partnership or a substantial part of the property of the Corporation or the Partnership, 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 corporate action in furtherance of any such action;
- (ix) amend Articles III, IX, X and XI of these Articles of Incorporation of the Corporation or approve an amendment to Sections 1.3, 3.2, 3.10, 6.5, 10.1 or 15.1 of the Limited Partnership Agreement governing the Partnership; or
- (x) withdraw as general partner of the Partnership.

So long as any obligations secured by the Mortgage remain outstanding and not paid in full, the Corporation shall have no authority to take any action in terms (i) through (vii) and (ix) and (x) above without the consent of the holder of the Mortgage.

ARTICLE X

The Corporation shall:

- (a) maintain books and records and bank accounts separate from those of any other person;
- (b) maintain its bank accounts and all its other assets separate from those of any other person or entity;
- (c) hold regular Board of Director and stockholder meetings, as appropriate, to conduct the business of the Board of Director, and observe all other Board of Director formalities;

- (d) hold itself out to creditors and the public as a legal entity separate and distinct from any other entity;
- (e) prepare separate tax returns and financial statements, or if part of a consolidated group, then it will be shown as a separate member of such group;
- (f) allocate and charge fairly and reasonably any common employee or overhead shared with affiliates;
- (g) transact all business with affiliates on an arm's-length basis and to enter into transactions with affiliates on a commercially reasonable basis;
- (h) conduct business in its own name, and use separate stationery, invoices and checks;
- (i) not commingle its assets or funds with those of any other person;
- (j) not assume, guarantee or pay the debts or obligations of any other person;
- (k) to pay its own liabilities and expenses only out of its own funds;
- (l) to pay salaries of its own employees from its own funds;
- (m) to maintain sufficient number of employees in light of its contemplated business operations;
- (n) not to hold out its credit as being available to satisfy the obligations of any other person or entity;
- (o) not to acquire the obligations or securities of its affiliates or owners, including partners, members or shareholders, as appropriate;
- (p) not to make loans to any other person or entity or to buy or hold evidence of indebtedness issued by any other person or entity (other than cash and investment grade securities);
- (q) not to pledge its assets for the benefit of any other person or entity other than the holder of the Mortgage;
- (r) to correct any known misunderstanding regarding its separate identity;
- (s) not to identify itself as a division of any other person or entity; and
- (t) to maintain adequate capital in light of its contemplated business operations.

ARTICLE XI

No transfer of any direct or indirect ownership interest in the Corporation such that the transferee

owns more than a 49% interest in the Corporation (or such other interest as specified in the Mortgage or by a rating agency) may be made unless such transfer is conditioned upon the delivery of an acceptable non-consolidation opinion to the holder of the Mortgage and to any applicable rating agency concerning, as applicable, the Corporation, the new transferee and/or their respective customers.

ARTICLE XII

The Corporation may be dissolved with the assent of not less than two-thirds (2/3) of the shareholders.

IN WITNESS WHEREOF, the undersigned Vice-President of this Corporation has executed these Amended and Restated Articles of Incorporation this 2nd day of February, 2000.

VANAIR, INC.,
a Florida corporation


Dale G. Hafele, Vice-President

STATE OF FLORIDA)
)SS:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 2nd day of February, 2000, by Dale G. Hafele, Vice-President of Vanair, Inc., a Florida corporation, on behalf of the corporation, who ☒ is personally known to me, or who ☐ has produced _____ as identification.

(SEAL)



Susan Janeen Jones
My Commission CC594041
Expires Oct 16, 2000


NOTARY PUBLIC

Name: Susan J. Jones

(Type or Print)

My Commission Expires: 10/16/2000