

P97000093045

4/14/98

FLORIDA DIVISION OF CORPORATIONS
PUBLIC ACCESS SYSTEM
ELECTRONIC FILING COVER SHEET

11:05 AM

((H98000007028 7)))

TO: DIVISION OF CORPORATIONS

FAX #: (850) 922-4000

FROM: ATLAS, PEARLMAN, TROP & BORKSON, P.A.
CONTACT: BEVERLY F BRYAN
PHONE: (954) 763-1200

ACCT#: 076247002423

FAX #: (954) 766-7800

NAME: VAMA HOLDING CORP.

AUDIT NUMBER.....H98000007028

DOC TYPE.....BASIC AMENDMENT

CERT. OF STATUS..0

PAGES..... 8

CERT. COPIES.....1

DEL.METHOD.. FAX

EST.CHARGE.. \$87.50

NOTE: PLEASE PRINT THIS PAGE AND USE IT AS A COVER SHEET. TYPE THE FAX
AUDIT NUMBER ON THE TOP AND BOTTOM OF ALL PAGES OF THE DOCUMENT

** ENTER 'M' FOR MENU. **

ENTER SELECTION AND <CR>:
[#1] ☐ COMPUSER ☐ MENU

☐ 0:03:50 ☐ 11:06am Capture Off

RECEIVED
98 APR 14 PM 12:50
DIVISION OF CORPORATIONS

FILED
98 APR 14 PM 1:21
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Amendment
4/14/98
DC

**ARTICLES OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION
OF
VAMA HOLDING CORP.**

FILED
98 APR 14 PM 1:21
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to Section 607.0602 of the Business Corporation Act of the State of Florida, the undersigned President of VAMA HOLDING CORP., a corporation organized and existing under and by virtue of the Business Corporation Act of the State of Florida ("Corporation"), bearing document number P97000093045, does hereby certify that the following is a true and correct copy of resolutions duly adopted by the Board of Directors of the Company (the "Board of Directors") by unanimous written consent dated January 8, 1998, which constituted all requisite action on the part of the Company for adoption of such resolutions.

WHEREAS, the Articles of Incorporation of the Corporation authorizes 500,000 shares of preferred stock, par value \$.001 per share, of which no shares are issued and outstanding.

WHEREAS, the Board of Directors is authorized at any time and from time to time, to provide for the issuance of shares of preferred stock in one or more series, with such voting powers, full or limited, or without voting powers, and with such designations, preferences and relations, participating, optional or other special rights, qualifications, limitations or restrictions thereof.

WHEREAS, the Board of Directors desires, pursuant to its authority as aforesaid, to designate a new series of preferred stock, set the number of shares constituting such series and fix the rights, preferences, privileges and restrictions of such series.

Charles B. Pearlman, Esq., Florida Bar No. 235547
Atlas, Pearlman, Trop & Borkson, P.A.
200 E Las Olas Blvd., Suite 1900
Ft. Lauderdale, FL 33301
(954) 763-1200

H98000007028
97/5531.100/100003

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby designates a new series of preferred stock and, in accordance therewith, Article IV entitled, "Capital Stock" of the Articles of Incorporation of this Corporation is hereby deleted in its entirety and replaced with the following:

ARTICLE IV
CAPITAL STOCK

The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 2,000,000 shares, par value \$.001 per share, consisting of (i) 1,000,000 shares of Class A Common Stock, par value \$.001 per share, (ii) 500,000 shares of Class B Common Stock, par value \$.001 per share, and (iii) 500,000 shares of Preferred Stock, par value \$.001 per share (the "Preferred Stock"). The terms of the Class A Common Stock, Class B Common Stock and Preferred Stock are set forth below in subsections (A), (B) and (C).

(A) The Class A Common Stock and the Class B Common Stock (collectively referred to as the "Common Stock") shall be equal in all respects, except that (i) other than as required under Florida law, holders of Class B Common Stock shall not be entitled to vote, and (ii) the shares of Class B Common Stock may be converted into shares of Class A Common Stock, on a one for one basis, by resolution duly adopted by a majority of the Corporation's Board of Directors.

(B) The Corporation shall have authority to issue 250,000 shares of Preferred Stock to be designated Series A Preferred Stock, \$.001 par value per share (the "Series A Preferred Stock"), and the voting powers, full or limited, or no voting powers, and the

H98000007028

designations, preferences and relative, participating, optional or other special rights, and qualifications, or restrictions of the Series A Preferred Stock shall be as follows:

1. Dividends. (a) Holders of Series A Preferred Stock shall be entitled to receive, when and as declared by the board of directors from funds legally available therefore, cash dividends at the rate of ten percent (10%) per annum, based upon a value of such shares in the amount of Twelve Dollars (\$12.00) per share. Dividends on the Series A Preferred Stock shall be calculated on the basis of a three hundred sixty (360) day year, shall accrue daily commencing one hundred eighty (180) days from the original issue date, and shall begin to accrue on such date whether or not earned or declared and whether there are profits, surplus or other funds of the Corporation available for the payment of dividends. Dividends shall be payable semiannually. The dividends shall be cumulative and shall not bear interest, and are payable before any dividends on the Common Stock are paid or set apart, so that if any year dividends amounting to ten percent (10%) shall not have been paid thereon, the deficiency shall be paid before any dividends are paid on or set apart for the Common Stock. The registered holder of the Series A Preferred Stock on an applicable record date for any dividend payment will be entitled to receive such dividend payment and any other accrued and unpaid dividends which accrued prior to such dividend payment date, without regard to any sale or disposition of such Series A Preferred Stock subsequent to the applicable record date but prior to the applicable dividend payment date. Except as otherwise provided herein, if at any time the Corporation pays less than the total amount of dividends then accrued on account of the Series A Preferred Stock, such payment shall be distributed ratably among holders of the Series A Preferred Stock based upon the number of shares held by each holder. As used in this subparagraph 1(a), "Common

97/5531.100/100003

H98000007028

Stock" shall also include any capital stock of any class of the Corporation hereafter authorized, which is entitled to unlimited dividend rights.

(b) In addition to the dividend payable pursuant to subsection (a), above, holders of Series A Preferred Stock, as a class, shall be entitled to receive a dividend equal to the difference between (i) fifteen percent (15%) of the annual "net income" (as hereinafter defined), if any, of the Corporation and (ii) the aggregate dividend payable pursuant to subsection (a), above (the "Income Dividend"). The Income Dividend shall be paid, pro-rata, to the holders of Series A Preferred Stock. For purposes hereof, "net income" shall mean net income as certified by the Chief Financial Officer of the Corporation, which certification, absent manifest error, shall be binding on the Corporation and the holders of the Series A Preferred Stock. The Chief Financial Officer's certification shall be delivered to holders of Series A Preferred Stock annually, within one hundred twenty (120) days following the end of each fiscal year of the Corporation, based upon the results of operation of the Corporation for the most recently completed fiscal year. No Income Dividend shall be payable or accrued for any fiscal year, unless the Corporation achieves net income for that fiscal year.

(c) The foregoing to the contrary notwithstanding, the declaration and payment of all dividends required hereunder shall, at all times, be subject to the laws of the State of Florida, and the Corporation shall neither declare nor pay any dividend in violation of Florida law.

2. Restrictions on Transfer. Each certificate evidencing shares of Series A Preferred Stock (and any Class A Common Stock issuable upon the conversion of the Series A

Preferred Stock) shall bear the following legend (and any additional legend required by applicable law or rule) on the face thereof:

"The shares of preferred stock represented by this certificate have not been, and the shares of common stock to be issued upon conversion hereof, when issued, will not have been registered under the securities act of 1933, as amended, or qualified under state securities laws and may not be sold, pledged or otherwise transferred unless (a) covered by an effective registration statement under the securities act and qualified under applicable state securities laws, or (b) the Corporation has been furnished with an opinion of counsel acceptable to the Corporation to the effect that no registration and qualification is legally required for such transfer."

3. Limitations on Corporate Action. So long as at least one-third of the shares of Series A Preferred Stock are outstanding, the Corporation (except upon the affirmative vote of the holders of a majority of the then outstanding shares of the Series A Preferred Stock) will not:

(a) issue any equity security (or make any commitments to issue any equity pursuant to any debt instrument, warrant, option or otherwise) senior to the Series A Preferred Stock with respect to dividends, redemption or liquidation rights; or

(b) amend or repeal any provision of, or add any provision to, the certificate of incorporation or by-laws, in each case if such action would adversely alter the relative preferences, powers, rights and privileges of, or the qualifications, limitations and restrictions provided for the benefit of, the Series A Preferred Stock.

4. Liquidation Preference. (a) In the event of any liquidation, dissolution, or winding up of the affairs of the Corporation, whether voluntary or involuntary, except as set forth in subparagraph (b) below, the holders of the Series A Preferred Stock shall be entitled, before any assets of the Corporation shall be distributed among or paid over to the holders of the

Common Stock, to be paid \$12.00 per share plus the amount of any dividend previously declared with respect to the Series A Preferred Stock and remaining unpaid.

(b) If, upon such liquidation, dissolution or winding up, the assets of the Corporation distributable as aforesaid among the holders of the Series A Preferred Stock shall be insufficient to permit the payment to such holders of at least the amounts provided in subparagraph (a) above, plus the amount of any unpaid dividend, as aforesaid, the entire assets shall be distributed pro rata among the holders of the Series A Preferred Stock based upon their respective liquidation preferences as set forth in subparagraph (a) above. The amounts distributable to the holders of Series A Preferred Stock under subparagraph (a) above shall be adjusted equitably for subdivisions (by stock splits, stock dividends or otherwise), combinations (by reverse stock splits or otherwise) or other recapitalizations of the Series A Preferred Stock. The good faith determinations of the Corporation's Board of Directors with respect to any such equitable adjustments shall be conclusive and binding on the holders of Series A Preferred Stock.

(c) Written notices of liquidation, dissolution or winding up, stating a payment date and the place where said payments shall be made, shall be given to holders of the Series A Preferred Stock not less than twenty (20) days prior to the payment date stated therein.

5. Voting Rights. Except as otherwise required by law, the holders of the Series A Preferred Stock shall not be entitled to notice of any meeting of the shareholders of the Corporation or to vote upon any matter submitted to the common shareholders of the Corporation for a vote.

6. Conversion. There are no mandatory or optional conversion privileges attributable to the Series A Preferred Stock.

7. Redemption. (a) At any time commencing eighteen (18) months following the original issue date of the Series A Preferred Stock, the Corporation shall have the right, but not the obligation, to redeem all of the then outstanding shares of Series A Preferred Stock, at a redemption price equal to \$13.00 per Preferred Share, plus all declared but unpaid dividends to the date fixed for redemption.

(b) At any time commencing three (3) years from the original issue date of the Series A Preferred Stock, holders of Series A Preferred Stock shall have the right to require the Corporation to redeem the Preferred Shares for a redemption price of \$14.00 per Preferred Share, plus all unpaid dividends to the date fixed for redemption; provided, however, that in the event holders of twenty five percent (25%) or more of the Preferred Shares demand redemption during any sixty (60) day period, the Company may pro-rate such redemption among the requesting holders up to a maximum of fifty percent (50%), with the balance of the redemption price to be evidenced by the Company's promissory note payable over a period of two (2) years.

(c) Any shares of Series A Preferred Stock which shall at any time have been redeemed shall, after such redemption, have the status of authorized but unissued preferred stock, without designation as to series, until such stock is again designated as part of a particular series by the Corporation's Board of Directors.

(C) The Corporation shall have authority to issue 250,000 shares in additional series of preferred stock as the Board of Directors of the Corporation by vote of a majority of its members, subject to limitations prescribed by law and the provisions of subsection (B)(3) of these Articles of Amendment, may designate for issuance by resolution or resolutions thereof

H98000007028

establishing and setting forth the number of shares to be included in each such series, the voting powers, full or limited, or no voting powers, and the designations, preferences and relative, participating or other special rights, and qualifications, or restrictions of such additional series of preferred stock.

IN WITNESS WHEREOF, the undersigned, being the President of this Corporation, has executed these Articles of Amendment as of January 8, 1998.

VAMA HOLDING CORP.
a Florida Corporation

By: 
Brentley C. Martin, President

97/5531.100/100003

8

H98000007028