

**STATE OF GEORGIA**  
**Secretary of State**  
**Corporations Division**  
**313 West Tower**  
**2 Martin Luther King, Jr. Dr.**  
**Atlanta, Georgia 30334-1530**

**CERTIFICATE OF RESTATED ARTICLES**

I, Brian P. Kemp, the Secretary of State and the Corporation Commissioner of the State of Georgia, hereby certify under the seal of my office that

**ARC PROPERTY GROUP, INC**  
a Georgia Domestic Profit Corporation

has amended and filed duly restated articles on **07/12/2006** in the Office of the Secretary of State and has paid the required fees as provided by Title 14 of the Official Code of Georgia Annotated. Attached hereto is a true and correct copy of said restated articles.

WITNESS my hand and official seal in the City of  
Atlanta and the State of Georgia on 08/28/2015



  
Brian P. Kemp  
Secretary of State

**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF ARC PROPERTY GROUP, INC**

**These Amended and Restated Articles of Incorporation of Arc Property Group, Inc. amend and restate, in their entirety, the original Articles of Incorporation of Arc Property Group, Inc. dated July 11, 2006 and filed in the Office of the Secretary of State of the State of Georgia on July 12, 2006.**

ARC PROPERTY GROUP, INC, a corporation organized and existing under the laws of the State of Georgia, hereby certifies the following.

1.

The name of the corporation is ARC PROPERTY GROUP, INC (the "Corporation").

2.

Pursuant to Section 14-3-1005 of the Georgia Business Corporation Code, these Articles of Amendment, amend and restate the Corporation's Articles of Incorporation (the "Articles of Incorporation"). These Articles of Amendment and Restatement were duly adopted by the shareholders of the Corporation in accordance with the provisions of Section 14-3-1003 of the Georgia Business Corporation Code on August 24, 2015.

3.

Effective the date of filing, the Articles of Incorporation of the Corporation as heretofore amended or supplemented are hereby further amended and restated to read in the entirety as follows:

**ARTICLE I.**

The name of the corporation is:

ARC PROPERTY GROUP, INC

**ARTICLE II.**

The corporation shall have authority to issue not more than 1,500 shares of Common Stock, and par value of each of such shares is \$0.01.

**ARTICLE III.**

The initial registered office of the corporation shall be at 5990 Western Hills Drive, Norcross, Georgia 30071. The initial registered agent of the corporation at such address shall be Vinod Javer.

#### ARTICLE IV.

The mailing address of the initial principal office of the corporation is:

5990 Western Hills Drive, Norcross, Georgia 30071

#### ARTICLE V. LIMITED PURPOSE

Notwithstanding any provision hereof to the contrary, the following shall govern:

The nature of the business and of the purposes to be conducted and promoted by the Corporation, is to engage solely in the following activities:

(i) To acquire that certain parcels of real property, together with all improvements located thereon, in the City of Atlanta, State of Georgia, commonly known as the "Holiday Inn Express - Atlanta Airport" located at 3833 Princeton Lakes Court SW, Atlanta, Georgia (the "Property").

(ii) To own, hold, sell, assign, transfer, operate, lease, mortgage, pledge and otherwise deal with the Property.

(iii) To exercise all powers enumerated under Georgia law necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

#### ARTICLE VI. CERTAIN PROHIBITED ACTIVITIES

Notwithstanding any provision hereof to the contrary and for so long as a mortgage lien exists on any portion of the Property, the following shall govern:

(i) The Corporation shall only incur indebtedness in an amount necessary to acquire, operate and maintain the Property and shall not incur, assume, or guaranty any other indebtedness.

(ii) The Corporation will not voluntarily commence a case with respect to itself, as debtor, under the Federal Bankruptcy Code or any similar federal or state statute without the unanimous consent of the Board of Directors.

(iii) For so long as a mortgage lien exists on any portion of the Property, no material amendment to the corporation's certificate of incorporation or to these By-Laws may be made without first obtaining approval of the mortgagees holding first mortgages on any portion of the Property.

#### ARTICLE VII. SEPARATENESS COVENANTS

Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Corporation to the contrary and for so long as a mortgage lien exists on any portion of the Property, in order to preserve and ensure its separate and distinct identity, in addition to the other provisions set forth in these Articles, the Corporation shall conduct its affairs in accordance with the provisions set forth herein below. The Corporation shall, and the directors of the Corporation shall cause the Corporation to:

- (i.) not own any asset or property other than (A) the Property, and (B) incidental personal property necessary for the ownership, management or operation of the Property;
- (ii.) not engage in any business or activity other than the acquisition, ownership, management and operation of the Property and the Corporation will conduct and operate its business as presently conducted and operated;
- (iii.) not enter into any contract or agreement with any affiliate of the Corporation, any constituent party of the Corporation or any affiliate of any constituent party, except upon terms and conditions that are intrinsically fair, commercially reasonable, and no less favorable to it than those that would be available on an arm's-length basis from an unrelated third party;
- (iv.) not incur any indebtedness other than (i) the debt evidenced by the first mortgage lien on the Property (the "Debt") and (ii) unsecured trade payables and operational debt not evidenced by a note and in an aggregate amount not exceeding one percent (1%) of the original principal amount of the note evidencing the debt secured by the Property at any one time; provided that any indebtedness incurred pursuant to clause (ii) shall be (A) outstanding not more than sixty (60) days and (B) incurred in the ordinary course of business. No indebtedness, other than the Debt, may be secured (senior, subordinate or pari passu) by the Property;
- (v.) not make any loans or advances to any other person (including any affiliate of the Corporation, any constituent party of the Corporation or any affiliate of any constituent party), and not acquire obligations or securities of its affiliates;
- (vi.) will do and cause to be done, all things necessary to observe its organizational formalities and preserve its existence;
- (vii.) will not terminate or fail to comply with the provisions of its organizational documents;
- (viii.) not amend, modify or otherwise change, its organizational documents;
- (ix.) maintain all of its books, records, financial statements and bank accounts separate from those of its affiliates and any other person and not permit its assets to be listed as assets on the financial statement of any other person;
- (x.) file its own tax returns (to the extent the Corporation was or is required to file any tax returns) and not file a consolidated federal income tax return with any other person;
- (xi.) maintain its books, records, resolutions and agreements as official records;

- (xii.) hold itself out to the public as, a legal entity separate and distinct from any other entity (including any affiliate of the Corporation or any constituent party of the Corporation) and correct any known misunderstanding regarding its status as a separate entity;
- (xiii.) conduct business in its own name and not identify itself or any of its affiliates as a division or department or part of the other;
- (xiv.) maintain and utilize separate stationery, invoices and checks bearing its own name;
- (xv.) 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;
- (xvi.) not, nor shall any constituent party of the Corporation, seek or effect the liquidation, dissolution, winding up, consolidation or merger, in whole or in part, of the Corporation, any sale or other transfer of all or substantially all of its assets or any sale or other transfer outside the ordinary course of business;
- (xvii.) not commingle funds or other assets of the Corporation with those of any affiliate or constituent party or any other person, and has held and will hold all of its assets in its own name;
- (xviii.) maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any affiliate or constituent party or any other person;
- (xix.) not assume, guarantee or become obligated for the debts of any other person and does not and will not hold itself out to be responsible for or have its credit available to satisfy the debts or obligations of any other person;
- (xx.) Its Board of Directors shall hold appropriate meetings (or act by unanimous consent) to authorize all appropriate corporate actions, and in authorizing such actions, shall observe all corporate formalities. The Board of Directors, at all times shall include (and the Corporation shall at all times cause to be included) at least **one** (1) duly appointed individual (an **"Independent Director"**) of the Corporation, whom (i) has at least three (3) years prior employment experience and continues to be employed as an independent director, independent manager or independent member by CT Corporation, Corporation Service Company, National Registered Agents, Inc., Wilmington Trust Company, Stewart Management Company, Lord Securities Corporation or, if none of those companies is then providing professional independent directors, independent managers and independent members, another nationally-recognized company that provides such services and which is reasonably approved by the mortgagees holding first mortgages on any portion of the Property ("Lender"); (ii) is not on the board of directors or managers of more than two (2) affiliates of the Corporation; and (iii) is not, and has never been, and will not, while serving as an Independent Director be, any of the following: (A) a stockholder, director, manager, officer, employee, partner, member, attorney or counsel of the Corporation, any affiliate of the Corporation or any direct or indirect equity holder of any of them, (B) a creditor, customer, supplier, service provider (including provider of professional services) or other person who derives any of its purchases or revenues from its activities with the Corporation or any affiliate of the Corporation (other than a nationally-recognized company that routinely provides professional independent directors, independent managers or independent members and other

corporate services to the Corporation or any affiliate of the Corporation in the ordinary course of its business), (C) a member of the immediate family of any such stockholder, director, manager, officer, employee, partner, member, creditor, customer, supplier, service provider or other person, or (D) a person controlling or under common control with any of (A), (B) or (C) above. A natural person who satisfies the foregoing definition other than clause (iii) shall not be disqualified as a result of clause (iii)(A) by reason of being, having been or becoming an Independent Director of an affiliate of the Corporation that is not in the direct chain of ownership of the Corporation and that is required by a creditor to be a "single purpose entity"; provided that such Independent Director is, was or will be employed by a company that routinely provides professional independent directors, independent managers or independent members. A natural person who satisfies the foregoing definition other than clause (iii) shall not be disqualified as a result of clause (iii)(A) or (iii)(B) by reason of being, having been or becoming an Independent Director of a "single purpose entity" affiliated with the Corporation; provided that the fees or other compensation that such individual earns by serving as an Independent Director of one or more affiliates of the Corporation in any given year constitute, in the aggregate, less than five percent (5%) of such individual's income for such year. No Independent Director may be removed or replaced without cause, and unless the Corporation provides any first lien mortgagee with not less than three (3) business days' prior notice. As used in this subsection, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management, policies or activities of such person, whether through ownership of voting securities, by contract or otherwise and the terms "controlled" and "controlling" shall have correlative meanings;

(xxi.) conduct its business so that the assumptions made with respect to the Corporation in the bankruptcy insolvency opinion provided in connection with the funding of loan evidenced by the first lien mortgage on the Property shall be true and correct in all respects;

(xxii.) not permit any affiliate or constituent party independent access to its bank accounts;

(xxiii.) remain solvent and pay its own liabilities and expenses, including the salaries of its own employees (if any) from its own funds, and maintain a sufficient number of employees (if any) in light of its contemplated business operations;

(xxiv.) compensate each of its consultants and agents from its funds for services provided to it and pay from its assets all obligations of any kind incurred;

(xxv.) not, without the unanimous consent of all of its directors (including each Independent Director), as applicable, (A) file a bankruptcy, insolvency or reorganization petition or otherwise institute insolvency proceedings or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally, (B) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the Corporation or for all or any portion of the Corporation's assets or properties, (C) take any action that might cause such entity to become insolvent, (D) make any assignment for the benefit of the Corporation's creditors, (E) admit in writing such entity's inability to pay its debts generally as they become due, (F) declare or effectuate a moratorium on the payment of any obligations, or (G) take any action that might cause the Corporation to become insolvent;

(xxvi.) maintain an arm's-length relationship with its affiliates;

- (xxvii.) allocate fairly and reasonably for any overhead expenses that are shared with any affiliate, including shared personnel and shared office space;
- (xxviii.) not, except in connection with the loan evidenced by the first lien mortgage on the Property, pledge its assets or properties for the benefit of any other Person;
- (xxix.) consider the interests of the Corporation's creditors in connection with all actions;
- (xxx.) not, except in connection with the Loan, have any of its obligations guaranteed by any affiliate;

For the purposes of this Article VII, the following terms shall have the following meanings:

(i) "affiliate" means, as to any person, any other person that (i) directly or indirectly, owns ten percent (10%) or more of legal, beneficial or economic interests in such person, (ii) is in control of, is controlled by or is under common ownership or control with such person, (iii) is a director or officer of such person or of an affiliate of such Person and/or (iv) is the spouse, issue or parent of such person or of an affiliate of such person. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management, policies or activities of a Person, whether through ownership of voting securities, by contract or otherwise and the terms "controlled" and "controlling" shall have correlative meanings.

(ii) "person" means any individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any other entity, any Governmental Authority and any fiduciary acting in such capacity on behalf of any of the foregoing

(iii) "cause" means, with respect to an Independent Director, (i) any acts or omissions by such Independent Director that constitute systematic, persistent or willful disregard of such Independent Director's duties, or (ii) such Independent Director has been indicted or convicted for any crime or crimes of moral turpitude or dishonesty or for any violation of any legal requirements.

(iv) any capitalized term not defined herein shall have the same meaning as provided in the certain Loan Agreement between Corporation and Lender.

#### ARTICLE VIII INDEMNIFICATION


Notwithstanding any provision hereof to the contrary, the following shall govern: Any indemnification shall be fully subordinated to any obligations respecting the Property, including, without limitation the first mortgage on the Property, and shall not constitute a claim against the Corporation in the event that cash flow is insufficient to pay such obligations.

This amendment was duly approved by the Board of Directors of the Corporation and the Shareholders of the Corporation on August 24, 2015, in accordance with the provisions of O.C.G.A. 14-3-1003.

IN WITNESS WHEREOF, the Corporation has caused these Amended and Restated Articles of Incorporation to be signed in its name and on its behalf by its President on this 24th day of October, 2015.

THE UNDERSIGNED, acknowledges these Amended and Restated Articles of Incorporation to be the corporate act of the Corporation; and as to all matters or facts required to be verified under oath, the undersigned President acknowledges that, to the best of his knowledge, information, and belief, these matters and facts are true in all material respects, and that this statement is made under the penalties for perjury.

**ARC PROPERTY GROUP, INC**  
*a Georgia corporation*

By:   
Name: Manner J. Patel  
Title: President

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CORPORATIONS DIVISION