

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
MSR Hotels & Resorts, Inc.	FORMERLY CNL Hotels & Resorts, Inc.	08/24/2007	CORPORATION: MARYLAND
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Ashford Tampa International Hotel Partnership, LP		
<b>Street Address:</b>	14185 Dallas Parkway, Suite 1100		
<b>Internal Address:</b>	Attn: Legal Dept		
<b>City:</b>	Dallas		
<b>State/Country:</b>	TEXAS		
<b>Postal Code:</b>	75254		
<b>Entity Type:</b>	LIMITED PARTNERSHIP: DELAWARE		
<b>PROPERTY NUMBERS Total: 1</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
Registration Number:	2977778	PELAGIA	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(407)540-2702		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
<b>Phone:</b>	407-650-1289		
<b>Email:</b>	cmcknight@cnlhotels.com		
<b>Correspondent Name:</b>	MSR Hotels & Resorts, Inc.		
<b>Address Line 1:</b>	420 South Orange Avenue, Suite 600		
<b>Address Line 2:</b>	Legal Dept., Carol McKnight		
<b>Address Line 4:</b>	Orlando, FLORIDA 32801-3313		
<b>NAME OF SUBMITTER:</b>	/Carol McKnight 407-650-1289/		
<b>Signature:</b>	/MSR Hotels & Resorts, Inc./		
<b>Date:</b>	08/28/2007		

OP \$40.00 2977778

**Total Attachments: 21**

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ASSIGNMENT OF TRADEMARK

CNL Hotels & Resorts, Inc., ("Assignor"), a corporation of the state of Maryland having an address of 420 South Orange Avenue, Suite 700, Orlando, Florida 32801, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, transfers and assigns to **Ashford Tampa International Hotel Partnership, LP** ("Assignee"), a limited partnership of the state of Delaware having an address of 14185 Dallas Parkway, Suite 1100, Dallas, TX 75254, all right, title and interest Assignor has or may have in and to the word trademark "PELAGIA", Registration Number 2,977,778, including all goodwill associated therewith.

CNL HOTELS & RESORTS, INC.  
MSR Hotels & Resorts, Inc.

Date: 8/24/07

By: [Signature]  
Daniel C. Wright, Vice President  
ASSIGNOR

STATE OF Massachusetts  
COUNTY OF Suffolk

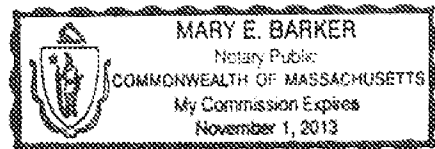
Sworn to and subscribed before me this 24 day of August, 2007.

Personally known to me       Produced identification \_\_\_\_\_

[Signature]  
Notary Public's Signature

(SEAL)

MARY E. BARKER  
Notary Public's Printed Name



# CORPORATE CHARTER APPROVAL SHEET

**\*\*EXPEDITED SERVICE\*\***

**\*\* KEEP WITH DOCUMENT \*\***

DOCUMENT CODE 13A BUSINESS CODE 03

# 204430765

Close \_\_\_\_\_ Stock \_\_\_\_\_ Nonstock \_\_\_\_\_

P.A. \_\_\_\_\_ Religious \_\_\_\_\_

Merging (Transferor) \_\_\_\_\_

Surviving (Transferee) \_\_\_\_\_



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ID # D04430765 ACK # 1000361994609976  
LIBER: B01099 FOLIO: 0980 PAGES: 0020  
MSR HOTELS & RESORTS, INC.

04/12/2007 AT 03:39 P WO # 0001391801

New Name MSR Hotels & Resorts, Inc.

### FEES REMITTED

Base Fee: <u>100</u>	<input checked="" type="checkbox"/>	Change of Name
Org. & Cap. Fee: _____		Change of Principal Office
Expedite Fee: <u>50</u>		Change of Resident Agent
Penalty: _____		Change of Resident Agent Address
State Recordation Tax: _____		Resignation of Resident Agent
State Transfer Tax: _____		Designation of Resident Agent and Resident Agent's Address
Certified Copies _____		Change of Business Code
Certificates _____		
Copy Fee: _____		Adoption of Assumed Name
Certificate of Status Fee: _____		
Personal Property Filings: _____		
Mail Processing Fee: _____		
Other: _____		Other Change(s)
TOTAL FEES: <u>150</u>		

Credit Card \_\_\_\_\_ Check  Cash \_\_\_\_\_

Code 007

Documents on \_\_\_\_\_ Checks

Attention: \_\_\_\_\_

Approved By: [Signature]

Keyed By: [Signature]

COMMENT(S):

Mail: Name and Address

THE CORPORATION TRUST INCORPORATED  
300 E LOMBARD ST.  
BALTIMORE MD 21202-3219

Stamp Work Order and Customer Number HERE

CUST ID: 0001948763  
WORK ORDER: 0001391801  
DATE: 04-13-2007 02:58 PM  
AMT. PAID: \$150.00

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ARTICLES OF AMENDMENT AND RESTATEMENT

OF

CNL HOTELS & RESORTS, INC.

CNL Hotels & Resorts, Inc., a Maryland corporation (the "Corporation"), having its principal office in the State of Maryland as set forth below, hereby certifies to the Maryland State Department of Assessments and Taxation that:

FIRST: The Corporation desires to and does hereby, amend and restate its charter as currently in effect.

SECOND: The following provisions are all the provisions of the charter currently in effect and as hereinafter amended and restated in accordance with the Maryland General Corporation Law (the "MGCL").

ARTICLE I

NAME

The name of the corporation is:

MSR Hotels & Resorts, Inc.

ARTICLE II

PURPOSES

The purposes for which the Corporation is formed are to invest in, own, renovate, expand, improve, finance ( including, without limitation, loans to affiliates), lease, manage, maintain, operate and dispose of real estate, other investments related to real estate and securities of entities that engage in any of the foregoing activities, (ii) to engage in any other activities necessary, related or incidental to the foregoing and (iii) to engage in any other lawful business for which corporations may be organized under the MGCL. The foregoing purposes shall be in no way limited or restricted by reference to, or inference from, the terms of any other clause of the provisions of these Articles of Incorporation, as they may be amended or supplemented from time to time (the "Charter"), and each shall be regarded as independent. The foregoing purposes are also to be construed as powers of the Corporation. The Corporation also shall have all of the general powers granted by law to Maryland corporations and all other powers not inconsistent with law that are appropriate to promote and attain its purposes.

2001 APR 12 P 3:39  
ASSESSMENT & TAXATION  
CORPORATION

ARTICLE III

PRINCIPAL OFFICE ADDRESS

The address of the principal office of the Corporation is c/o The Corporation Trust Incorporated, 300 East Lombard Street, Baltimore, Maryland 21202.

ARTICLE IV

THE RESIDENT AGENT

The name of the resident agent of the Corporation is The Corporation Trust Incorporated, and the address of the resident agent is 300 East Lombard Street, Baltimore, Maryland 21202.

ARTICLE V

BOARD OF DIRECTORS

5.1 General Powers; Action by Committee. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors (the "Board") and, except as otherwise expressly provided by law, the Charter or the bylaws of the Corporation, as amended, restated or otherwise modified from time to time (the "Bylaws"), all of the powers of the Corporation shall be vested in the Board. The Charter shall be construed with a presumption in favor of the grant of power and authority to the directors of the Board (the "Directors"). Any action that the Board is empowered to take may be taken on behalf of the Board by a duly authorized committee thereof except to the extent limited by Maryland law, the Charter or the Bylaws. A majority of the Board shall constitute a quorum and the affirmative vote of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board.

5.2 Number. The number of Directors of the Corporation initially shall be three (3), which number may be increased or decreased pursuant to the Bylaws, but shall never be less than the minimum number required by the MGCL. No reduction in the number of Directors shall cause the removal of any Director from office prior to the expiration of his or her term.

5.3 Initial Board. The names of the Directors, who shall act as such until the first (1<sup>st</sup>) annual meeting of stockholders and until their successors are duly elected and qualified, are:

Michael Franco

Michael Quinn

John Buza

5.4 Term; Election. Directors shall be elected at each annual meeting of stockholders and shall hold office until their successors are duly elected and qualified, or until their earlier removal or resignation.

5.5 Removal and Resignation of Directors.

(a) Removal. Any Director may be removed from the Board, with or without cause, by the unanimous written consent of those stockholders entitled to vote generally for the election of directors or by the affirmative vote of a majority of all the votes entitled to be cast generally for the election of Directors at a duly called and held meeting of the stockholders of the Corporation entitled to vote on the matter.

(b) Resignation. Any Director may resign from the Board or any committee thereof at any time by written notice to the Board, effective upon execution and delivery to the Corporation of such notice or upon any future date specified in the notice.

5.6 Vacancies. Any vacancy occurring on the Board for any reason, except as a result of an increase in the number of Directors, may be filled by a majority vote of the remaining Directors, notwithstanding that such majority is less than a quorum. Any vacancy occurring on the Board as a result of an increase in the number of Directors may be filled by a majority vote of the entire Board (as constituted prior to the increase). A Director elected to fill a vacancy shall hold office until the next annual meeting of stockholders and until his or her successor is duly elected and qualified. In the event of a vacancy on the Board, the remaining Directors, except as otherwise provided by law, may exercise the powers of the full Board until such vacancy is filled.

5.7 Specific Powers and Authority of the Board. In addition to, and without limitation of, the general grant of power and authority to the Board under Section 5.1, the determination as to any of the following matters, made by the Board or by an officer of the Corporation pursuant to the direction of the Board consistent with the Charter and in the absence of the actual receipt of an improper benefit in money, property or services or active and deliberate dishonesty established by a court, shall be final and conclusive and shall be binding upon the Corporation and every holder of shares of its Capital Stock (as defined in Section 6.1 below): (i) the amount of the net income of the Corporation for any period and the amount of assets at any time legally available for the payment of dividends, redemption of its Capital Stock or the payment of other distributions on its Capital Stock; (ii) the amount of paid-in surplus, net assets, other surplus, annual or other net profit, net assets in excess of capital, undivided profits or excess of profits over losses on sales of assets; (iii) the amount, purpose, time of creation, increase or decrease, alteration or cancellation of any reserves or charges and the propriety thereof (whether or not any obligation or liability for which such reserves or charges shall have been created shall have been paid or discharged); (iv) the fair value, or any sale, bid or asked price to be applied in determining the fair value, of any asset owned or held by the Corporation; (v) any matters relating to the acquisition, holding or disposition of any assets by the Corporation; (vi) the execution and performance by the Corporation of one or more agreements with any person, corporation, association, company, trust, partnership (limited or general) or other organization (each an "Advisor") whereby, subject to the supervision and control of the Board, any such Advisor shall render or make available to the Corporation managerial, investment, advisory, administrative and/or related services, office space or other services and facilities (including, if deemed advisable by the Board, the management, supervision or administration of the investments of the Corporation) upon such terms and conditions as may be provided in such agreement or agreements (including, if deemed fair and equitable by the Board,

the compensation payable thereunder by the Corporation); (vii) any and all matters relating to any subscription agreement for Capital Stock (as defined in Section 6.1 below), including any and all determinations, and the delegation to any officer or obligee of the Corporation of the right to make any and all determinations, related to the making of any assessments, capital calls or demands for payment pursuant thereto, the waiver from time to time of any defaults of any subscriber party thereto, and the release of any such subscriber, in whole or in part, from its obligations thereunder; or (viii) any other matter relating to the business and affairs of the Corporation.

## ARTICLE VI

### STOCK

6.1 Authorized Stock. The total number of shares of capital stock which the Corporation has authority to issue (the "Capital Stock") is two million (2,000,000) shares, initially consisting of (i) one million (1,000,000) shares of common stock, par value \$.01 per share ("Common Stock") and (ii) one million (1,000,000) shares of preferred stock, par value \$.01 per share ("Preferred Stock"). The aggregate par value of all the shares of all classes of Capital Stock is \$20,000. If shares of Capital Stock are classified or reclassified into shares of another class of stock pursuant to this Article VI, the number of authorized shares of the former class shall be automatically decreased and the number of authorized shares of the latter class shall be automatically increased, in each case by the number of shares so classified or reclassified, so that the aggregate number of shares of Capital Stock of all classes that the Corporation has authority to issue shall not be more than the total number of shares of Capital Stock set forth in the first sentence of this paragraph. The Board may, with the approval of a majority of all Directors, and without any action by the stockholders, amend the Charter from time to time to increase or decrease (but not below the number of such shares then outstanding) the aggregate number of shares of Capital Stock or the number of shares of Capital Stock of any class or series that the Corporation has authority to issue.

6.2 Common Stock. Except as provided by law or in this Article VI:

(a) Voting Rights.

(i) The holders of shares of Common Stock shall be entitled to vote for the election of Directors and on all other matters on which the holders of Common Stock are required or entitled to vote, and each holder of shares of Common Stock shall be entitled to one vote for each share of Common Stock held by such stockholder.

(ii) Notwithstanding any provision of law permitting or requiring any action to be taken or approved by the affirmative vote of the holders of shares of Common Stock entitled to cast a greater number of votes, any such action shall be effective and valid if taken and approved by the affirmative vote of holders of shares of Common Stock entitled to cast a majority of all of the votes entitled to be cast on such action.

(iii) Any contract, transaction or act of the Corporation or of the Board which shall be approved or ratified by a majority of the aggregate voting power of the shares of



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Common Stock held by stockholders representing a quorum at any annual meeting, or at any special meeting called for such purpose at which a quorum of such stockholders is present, shall so far as permitted by law be as valid and as binding as though approved or ratified by every stockholder of the Corporation.

(b) Dividend Rights.

(i) The Corporation shall pay dividends and distributions on the Common Stock when, as and if authorized and declared by the Board out of funds legally available for that purpose. Holders of Common Stock shall be entitled to receive such dividends and other distributions in cash, stock or property of the Corporation as may be authorized and declared by the Board upon the Common Stock out of any assets or funds of the Corporation legally available therefor, but only when, as and if authorized and declared by the Board from time to time. The holders of Common Stock shall share ratably in any such dividend or distribution.

(ii) Before payment of any dividends or other distributions, there may be set aside out of any assets of the Corporation available for dividends or other distributions such sum or sums as the Board may from time to time think proper as a reserve fund for existing or reasonably anticipated expenses, liabilities and obligations of the Corporation, and the Board may modify or abolish any such reserve in the manner in which it was created.

(iii) In determining whether a distribution may be made (other than upon voluntary or involuntary liquidation), by dividend, redemption or other acquisition of Capital Stock of the Corporation or otherwise, no effect shall be given to amounts that would be needed, if the Corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights, if any, upon dissolution of stockholders whose preferential rights, if any, on dissolution are superior to those receiving the distribution.

(iv) Subject to applicable law, the Corporation shall be entitled to pay dividends and distributions out of any source of funds legally available, including, without limitation, the proceeds of the issuance by the Corporation of equity securities and/or indebtedness. Subject to any restrictions or limitations, if any, as may be set forth in this Charter or the Bylaws of the Corporation, the Directors may from time to time authorize and declare and pay to stockholders dividends or distributions in cash, property or other assets of the Corporation or in securities of the Corporation or from any other source as the Directors in their discretion shall determine.

(v) If the Board determines that consent dividends within the meaning of Section 565 of the Internal Revenue Code of 1986, as amended and in effect from time to time, as interpreted by the applicable regulations thereunder (the "Code"), with respect to a taxable year are necessary or appropriate to ensure or maintain the status of the Corporation as a real estate investment trust (a "REIT") for federal income tax purposes and/or avoid the imposition of any federal income or excise tax, the Board may exercise any rights that the Corporation has to require the holders of Common Stock (and any other Persons (as defined in Section 8.1 below)) to take any and all actions necessary or appropriate under the Code, any regulations promulgated thereunder, any court decision or any administrative positions of the

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United States Department of Treasury (including any Internal Revenue Service forms or other forms) to result in consent dividends sufficient to maintain the REIT status of the Corporation and/or avoid federal income or excise tax for such taxable year.

(c) Rights Upon Liquidation. Upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the net assets of the Corporation available for distribution to the holders of Common Stock shall be distributed pro rata to such holders in proportion to the number of shares of Common Stock held by each.

6.3 Preferred Stock. The Board may classify any unissued shares of Preferred Stock and reclassify any previously classified but unissued shares of Preferred Stock of any series from time to time, into one or more series of Capital Stock. The dividend, voting and other rights, qualifications and limitations of the shares of any class or series of Preferred Stock shall be as set forth in the articles supplementary establishing such class or series of Preferred Stock as adopted by the Board.

6.4 Classification of Stock. Subject to any limitations prescribed by law, the Bylaws, or this Charter, the Board is expressly authorized to classify or reclassify any unissued shares of Capital Stock from time to time, in one or more classes or series of such Capital Stock and, by filing articles supplementary with the State Department of Assessments and Taxation of the State of Maryland, to establish or change from time to time the number of shares to be included in each such class or series, and to fix the preferences or other rights, voting powers, restrictions, limitations as to dividends and distributions, qualifications and terms and conditions of redemption of each class or series. For purposes of this Charter, references to "Common Stock" shall include all classes or series of such Common Stock.

6.5 Issuance of Stock. The Board may authorize the issuance from time to time of shares of Capital Stock of any class or series, whether now or hereafter authorized, for such consideration as the Board may deem advisable (or without consideration in the case of a stock split or dividend), subject to such restrictions or limitations, if any, as may be set forth in the Bylaws or this Charter. Such shares may be certificated or uncertificated.

6.6 Ambiguity. In the case of an ambiguity in the application of any of the provisions of this Article VI, the Board shall have the power to determine the application of the provisions of this Article VI with respect to any situation based on the facts known to it.

6.7 Severability. Each provision of this Article VI shall be severable and an adverse determination as to any such provision shall in no way affect the validity of any other provision.

6.8 Charter and Bylaws. All persons who shall acquire Capital Stock in the Corporation shall acquire the same subject to the provisions of the Charter and the Bylaws.

ARTICLE VII

LIMITATION ON APPRAISAL AND PREEMPTIVE RIGHTS

No holder of any Capital Stock or any other securities of the Corporation, whether now or hereafter authorized, shall be entitled to exercise the rights of an objecting stockholder under Title 3, Subtitle 2 of the MGCL, nor shall any such holder, solely in its capacity as such, have any preferential or preemptive rights to subscribe for or purchase any Capital Stock or any other securities of the Corporation.

ARTICLE VIII

RESTRICTIONS ON OWNERSHIP AND TRANSFER OF EQUITY STOCK.

8.1 DEFINITIONS. For the purpose of this Article VIII, the following terms shall have the following meanings:

“BENEFICIAL OWNERSHIP.” The term “Beneficial Ownership” shall mean ownership of Capital Stock by a Person, whether the interest in the shares of Capital Stock is held directly or indirectly (including by a nominee), and shall include interests that would be treated as owned through the application of Section 544 of the Code, as modified by Section 856(h)(1)(B) of the Code, provided, however, that in determining the number of shares Beneficially Owned by a Person, no share shall be counted more than once. Whenever a Person Beneficially Owns shares of Capital Stock that are not actually outstanding (e.g., shares issuable upon the exercise of an option or the conversion of a convertible security) (“Option Shares”), then, whenever this Articles of Amendment and Restatement requires a determination of the percentage of outstanding shares of a class of Capital Stock Beneficially Owned by such Person, the Option Shares Beneficially Owned by such Person shall also be deemed to be outstanding. The terms “Beneficial Owner,” “Beneficially Owns” and “Beneficially Owned” shall have the correlative meanings.

“BUSINESS DAY.” The term “Business Day” shall mean any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions in New York, New York are authorized or required by law, regulation or executive order to close.

“CHARITABLE BENEFICIARY.” The term “Charitable Beneficiary” shall mean one or more beneficiaries of the Trust as determined pursuant to Section 8.3(f) of this Article VIII, provided that each such organization must be described in Section 501(c)(3) of the Code and contributions to each such organization must be eligible for deduction under each of Sections 170(b)(1)(A), 2055 and 2522 of the Code.

“CODE.” The term “Code” means the Internal Revenue Code of 1986, as amended.

“CONSTRUCTIVE OWNERSHIP.” The term “Constructive Ownership” shall mean ownership of Capital Stock by a Person, whether the interest in the shares of Capital Stock is

held directly or indirectly (including by a nominee), and shall include interests that would be treated as owned through the application of Section 318(a) of the Code, as modified by Section 856(d)(5) of the Code. The terms "Constructive Owner," "Constructively Owns" and "Constructively Owned" shall have the correlative meanings.

"INITIAL DATE." The term "Initial Date" shall mean the first date after the time at which this Articles of Amendment and Restatement is first filed with the Maryland State Department of Assessments and Taxation of the State of Maryland on which the Capital Stock of the Corporation is owned by not less than one hundred (100) Persons.

"MARKET PRICE." The term "Market Price" on any date shall mean, with respect to any class or series of outstanding shares of Capital Stock, the fair market value of such Capital Stock, as determined in good faith by the Board.

"NON-TRANSFER EVENT." The term "Non-Transfer Event" shall mean any event or other change in circumstances, other than a purported Transfer, including, without limitation, any change in the value of any shares of Capital Stock.

"PERSON." The term "Person" shall mean an individual, corporation, partnership, estate, trust (including a trust qualified under Sections 401(a) or 501(c)(17) of the Code), a portion of a trust permanently set aside for or to be used exclusively for the purposes described in Section 642(c) of the Code, association, private foundation within the meaning of Section 509(a) of the Code, joint stock company, limited liability company or other entity and also includes a group as that term is used for purposes of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended.

"PROHIBITED OWNER." The term "Prohibited Owner" shall mean, with respect to any purported Transfer or Non-Transfer Event, any Person who, but for the provisions of Section 8.2(a) of this Article VIII, would beneficially own (within the meaning of Section 856(a)(5) of the Code), Beneficially Own or Constructively Own shares of Capital Stock and, if appropriate in the context, shall also mean any Person who would have been the record or actual owner of the shares that the Prohibited Owner would have so owned.

"REIT." The term "REIT" shall mean a real estate investment trust as defined in the REIT Provisions of the Code.

"REIT PROVISIONS OF THE CODE." The term "REIT Provisions of the Code" shall mean Parts II and III of Subchapter M of Chapter 1 of Subtitle A of the Code or any successor statute.

"RESTRICTION TERMINATION DATE." The term "Restriction Termination Date" shall mean the first day after the Initial Date on which the Board determines that it is no longer in the best interests of the Corporation to attempt to, or continue to, qualify as a REIT or that compliance with the restrictions and limitations on Beneficial Ownership, Constructive Ownership and Transfers of shares of Capital Stock set forth herein is no longer required in order for the Corporation to qualify as a REIT.

"TRANSFER." The term "Transfer" shall mean any issuance, sale, transfer, gift, assignment, devise or other disposition, as well as any other event that causes any Person to acquire Beneficial Ownership or Constructive Ownership, or any agreement to take any such actions or cause any such events, of Capital Stock or the right to vote or receive dividends on Capital Stock, including (a) the granting or exercise of any option (or any disposition of any option) or entering into any agreement for the sale, transfer or other disposition (or of Beneficial Ownership or Constructive Ownership) of Capital Stock, (b) any disposition of any securities or rights convertible into or exchangeable for Capital Stock or any interest in Capital Stock or any exercise of any such conversion or exchange right and (c) Transfers of interests in other entities that result in changes in Beneficial or Constructive Ownership of Capital Stock; in each case, whether voluntary or involuntary, whether owned of record, Constructively Owned or Beneficially Owned and whether by operation of law or otherwise. The terms "Transferring" and "Transferred" shall have the correlative meanings.

"TRUST." The term "Trust" shall mean any trust provided for in Section 8.3(a) of this Article VIII.

"TRUSTEE." The term "Trustee" shall mean the Person unaffiliated with the Corporation and a Prohibited Owner that is appointed by the Corporation to serve as trustee of the Trust.

## 8.2 CAPITAL STOCK.

### (a) OWNERSHIP LIMITATIONS.

#### (i) Basic Restrictions.

(1) At any time prior to the Restriction Termination Date, no Person shall Beneficially Own or Constructively Own shares of Capital Stock to the extent that such Beneficial Ownership or Constructive Ownership of Capital Stock would result in (A) the Corporation failing to qualify as a REIT; (B) any Person Constructively Owning shares of Capital Stock to the extent that such Constructive Ownership would cause any income of the Corporation that would otherwise qualify as "rents from real property" for purposes of Section 856(d) of the Code to fail to qualify as such; provided, that the Board may waive the ownership restriction contained in this Section 8.2(a)(i)(1) in its sole discretion, and on such terms and subject to such limitations as the Board determines in its sole discretion, if it determines that such ownership of shares of Capital Stock would not, now or in the future, result in sufficient income failing to qualify as "rents from real property" to cause the Corporation to fail to qualify as a REIT; or (C) any Person Beneficially Owning shares of Capital Stock to the extent that such Beneficial Ownership would cause the Corporation to be "closely held" within the meaning of Section 856(h) of the Code (determined without regard to Section 856(h)(2)).

(2) During the period commencing on the Initial Date and prior to the Restriction Termination Date, no Person shall Transfer shares of Capital Stock, if such Transfer, if effective, would result in the Capital Stock being beneficially owned by less than one hundred (100) Persons (determined under the principles of Section 856(a)(5) of the Code).

(ii) If any Transfer or Non-Transfer Event occurs which, if effective or otherwise, would result in any Person Beneficially Owning, Constructively Owning or beneficially owning (within the meaning of Section 856(a)(5) of the Code), as applicable, shares of Capital Stock in violation of Section 8.2(a)(i)(1) or (2) of this Article VIII:

(1) then that number of shares of the Capital Stock the Beneficial Ownership, Constructive Ownership or beneficial ownership (within the meaning of Section 856(a)(5) of the Code), as applicable, of which otherwise would cause such Person to violate Section 8.2(a)(i)(1) or (2) of this Article VIII (rounded up to the nearest whole share) shall be automatically transferred to a Trust for the benefit of a Charitable Beneficiary, as described in Section 8.3 of this Article VIII, effective as of the close of business on the Business Day prior to the date of such Transfer or Non-Transfer Event, and such Person (or, if different, the direct or beneficial owner of such shares) shall acquire no rights in such shares (or shall be divested of its rights in such shares); or

(2) if the transfer to the Trust described in clause (1) of this sentence would not be effective for any reason to prevent the violation of Section 8.2(a)(i)(1) or (2) of this Article VIII, then the Transfer of that number of shares of Capital Stock that otherwise would cause any Person to violate Section 8.2(a)(i)(1) or (2) of this Article VIII shall be void ab initio, and the intended transferee shall acquire no rights in such shares of Capital Stock.

(b) REMEDIES FOR BREACH.

(i) If the Board or any duly authorized committee thereof shall at any time determine in good faith that a Transfer or Non-Transfer Event has taken place that results in a violation of Section 8.2(a)(i) of this Article VIII or that a Person intends to acquire or has attempted to acquire Beneficial Ownership, Constructive Ownership or beneficial ownership (within the meaning of Section 856(a)(5) of the Code) of any shares of Capital Stock in violation of Section 8.2(a)(i) of this Article VIII (whether or not such violation is intended), the Board or a committee thereof shall take such action as it deems advisable to refuse to give effect to or to prevent such Transfer or otherwise prevent such violation, including, without limitation, causing the Corporation to redeem shares, refusing to give effect to such Transfer on the books of the Corporation or instituting proceedings to enjoin such Transfer; provided, however, that any Transfer or attempted Transfer in violation of Section 8.2(a)(i) of this Article VIII shall automatically result in the transfer to the Trust described above, and, where applicable, such Transfer shall be void ab initio as provided above irrespective of any action (or non-action) by the Board or a committee thereof.

(c) NOTICE OF RESTRICTED TRANSFER. Any Person who acquires or attempts or intends to acquire Beneficial Ownership, Constructive Ownership or beneficial ownership (within the meaning of Section 856(a)(5) of the Code) of shares of Capital Stock that will or may violate Section 8.2(a)(i) of this Article VIII or any Person who held or would have owned shares of Capital Stock that resulted in a transfer to the Trust pursuant to the provisions of Section 8.2(a)(ii) of this Article VIII shall immediately give written notice to the Corporation of such event or, in the case of such a proposed or attempted transaction, give at least fifteen (15) days prior written notice, and shall provide to the Corporation such other information as the

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Corporation may request in order to determine the effect, if any, of such Transfer on the Corporation's status as a REIT.

(d) **OWNERS REQUIRED TO PROVIDE INFORMATION.** Prior to the Restriction Termination Date, each Person who is a Beneficial Owner or Constructive Owner of Capital Stock and each Person (including the stockholder of record) who is holding Capital Stock for a Beneficial or Constructive Owner shall provide to the Corporation such information as the Corporation may request, in good faith, in order to determine the Corporation's status as a REIT, to comply with the REIT Provisions of the Code and to comply with any requirements of any taxing authority or governmental authority (or to determine any such compliance).

(e) **REMEDIES NOT LIMITED.** Nothing contained in this Section 8.2 of this Article VIII shall limit the authority of the Board to take such other action as it deems necessary or advisable to protect the Corporation and the interests of its stockholders in preserving the Corporation's status as a REIT.

(f) **AMBIGUITY.** In the case of an ambiguity in the application of any of the provisions of this Section 8.2 of this Article VIII, Section 8.3 of this Article VIII, or any definition contained in Section 8.1 of this Article VIII, the Board shall have the power to determine the application of the provisions of this Section 8.2 of this Article VIII or Section 8.3 of this Article VIII or any such definition with respect to any situation based on the facts known to it. In the event Section 8.2 of this Article VIII or 8.3 of this Article VIII requires an action by the Board and this Amended and Restated Certificate of Incorporation fails to provide specific guidance with respect to such action, the Board shall have the power to determine the action to be taken so long as such action is not contrary to the provisions of Sections 8.1, 8.2 or 8.3 of this Article VIII. Absent a decision to the contrary by the Board (which the Board may make in its sole and absolute discretion), if a Person would have (but for the remedies set forth in Section 8.2(b) of this Article VIII acquired or retained Beneficial Ownership, Constructive Ownership or beneficial ownership (within the meaning of Section 856(a)(5) of the Code) of Capital Stock in violation of Section 8.2(b) of this Article VIII, such remedies (as applicable) shall apply first to the shares of Capital Stock which, but for such remedies, would have been Beneficially Owned, Constructively Owned or beneficially owned (within the meaning of Section 856(a)(5) of the Code), but not actually owned, by such Person, and then pro rata among the Persons who actually own such shares of Stock based upon the relative number of the shares of Capital Stock held by each such Person.

### 8.3 TRANSFER OF CAPITAL STOCK IN TRUST.

(a) **OWNERSHIP IN TRUST.** Upon any purported Transfer, Non-Transfer Event or other event described in Section 8.2(a)(ii) of this Article VIII that would result in a transfer of shares of Capital Stock to a Trust, such shares of Capital Stock shall be deemed to have been transferred to the Trustee as trustee of a Trust for the exclusive benefit of one or more Charitable Beneficiaries. Such transfer to the Trustee shall be deemed to be effective as of the close of business on the Business Day prior to the purported Transfer, Non-Transfer Event or other event that results in the transfer to the Trust pursuant to Section 8.2(a)(ii) of this Article VIII. The Trustee shall be appointed by the Corporation and shall be a Person unaffiliated with

the Corporation and any Prohibited Owner. Each Charitable Beneficiary shall be designated by the Corporation as provided in Section 8.3(f) of this Article VIII.

(b) **STATUS OF SHARES HELD BY THE TRUSTEE.** Shares of Capital Stock held by the Trustee shall be issued and outstanding shares of Capital Stock of the Corporation. The Prohibited Owner shall have no rights in the shares held by the Trustee. The Prohibited Owner shall not benefit economically from ownership of any shares held in trust by the Trustee, shall have no rights to dividends or other distributions and shall not possess any rights to vote or other rights attributable to the shares held in the Trust.

(c) **DIVIDEND AND VOTING RIGHTS.** The Trustee shall have all voting rights and rights to dividends or other distributions with respect to shares of Capital Stock held in the Trust, which rights shall be exercised for the exclusive benefit of the Charitable Beneficiary. Any dividend or other distribution paid after the shares have been automatically transferred to the Trustee pursuant to Section 8.2(a)(ii) of this Article VIII hereof, but prior to the discovery by the Corporation that the shares of Capital Stock have been transferred to the Trustee shall be paid by the recipient of such dividend or distribution to the Trustee immediately upon discovery of the facts giving rise to such transfer of shares to the Trustee and any dividend or other distribution authorized but unpaid shall be paid when due to the Trustee. Any dividend or distribution so paid to the Trustee shall be held in trust for the Charitable Beneficiary. The Prohibited Owner shall have no voting rights with respect to shares held in the Trust and, subject to Delaware law, effective as of the date that the shares of Capital Stock have been transferred to the Trustee, the Trustee shall have the authority (at the Trustee's sole discretion) (i) to rescind as void any vote cast by a Prohibited Owner after the shares have been automatically transferred to the Trustee pursuant to Section 8.2(a)(ii) of this Article VIII hereof, but prior to the discovery by the Corporation that the shares of Capital Stock have been transferred to the Trustee and (ii) to recast such vote in accordance with the desires of the Trustee acting for the benefit of the Charitable Beneficiary; provided, however, that if the Corporation has already taken irreversible corporate action, then the Trustee shall not have the authority to rescind and recast such vote. Notwithstanding the provisions of Section 8.2(a)(i) of this Article VIII, until the Corporation has received notification that shares of Capital Stock have been transferred into a Trust, the Corporation shall be entitled to rely on its share transfer and other stockholder records for purposes of preparing lists of stockholders entitled to vote at meetings, determining the validity and authority of proxies and otherwise conducting votes of stockholders.

(d) **SALE OF SHARES BY TRUSTEE.** Within twenty (20) days of receiving notice from the Corporation that shares of Capital Stock have been transferred to the Trust, the Trustee of the Trust shall sell the shares held in the Trust to a Person, designated by the Trustee, whose ownership of the shares will not violate the ownership limitations set forth in Section 8.2(a)(i) of this Article VIII. Upon such sale, the interest of the Charitable Beneficiary in the shares sold shall terminate and the Trustee shall distribute the net proceeds of the sale to the Prohibited Owner and to the Charitable Beneficiary as provided in this Section 8.3(d) of this Article VIII. The Prohibited Owner shall receive the lesser of (1) the price paid by the Prohibited Owner for the shares or, if the Prohibited Owner did not give value for the shares in connection with the event causing the shares to be held in the Trust (e.g., in the case of a gift, devise or other such transaction), the Market Price of the shares on the day of the event causing the shares to be held in the Trust and (2) the price per share received by the Trustee (net of any



commissions and other expenses of sale) from the sale or other disposition of the shares held in the Trust. The Trustee may reduce the amount payable to the Prohibited Owner by the amount of dividends and distributions which have been paid to the Prohibited Owner and are owed by the Prohibited Owner to the Trustee pursuant to Section 8.3(c) of this Article VIII. Any net sales proceeds in excess of the amount payable to the Prohibited Owner shall be immediately paid to the Charitable Beneficiary. If, after the shares have been automatically transferred to the Trustee pursuant to Section 8.2(a)(ii) of this Article VIII hereof, but prior to the discovery by the Corporation that shares of Capital Stock have been transferred to the Trustee, such shares are sold by a Prohibited Owner, then (i) such shares shall be deemed to have been sold on behalf of the Trust and (ii) to the extent that the Prohibited Owner received an amount for such shares that exceeds the amount that such Prohibited Owner was entitled to receive pursuant to this Section 8.3(d) of this Article VIII, such excess shall be paid to the Trustee upon demand.

(e) **PURCHASE RIGHT IN STOCK TRANSFERRED TO THE TRUSTEE.** Shares of Capital Stock transferred to the Trustee shall be deemed to have been offered for sale to the Corporation, or its designee, by the Trustee at a price per share equal to the lesser of (i) the price per share in the transaction that resulted in such transfer to the Trust (or, in the case of a devise or gift, the Market Price at the time of such devise or gift) and (ii) the Market Price on the date the Corporation, or its designee, accepts such offer. The Corporation may reduce the amount payable to the Trustee by the amount of dividends and distributions which has been paid to the Prohibited Owner and are owed by the Prohibited Owner to the Trustee pursuant to Section 8.3(c) of this Article VIII. The Corporation may pay the amount of such reduction to the Trustee for the benefit of the Charitable Beneficiary. The Corporation shall have the right to accept such offer until the Trustee has sold the shares held in the Trust pursuant to Section 8.3(d) of this Article VIII. Upon such a sale to the Corporation, the interest of the Charitable Beneficiary in the shares sold shall terminate and the Trustee shall distribute the net proceeds of the sale to the Prohibited Owner.

(f) **DESIGNATION OF CHARITABLE BENEFICIARIES.** By written notice to the Trustee, the Corporation shall designate one or more nonprofit organizations to be the Charitable Beneficiary of the interest in the Trust such that (i) the shares of Capital Stock held in the Trust would not violate the restrictions set forth in Section 8.2(a)(i) of this Article VIII in the hands of such Charitable Beneficiary and (ii) each such organization must be described in Section 501(c)(3) of the Code and contributions to each such organization must be eligible for deduction under each of Sections 170(b)(1)(A), 2055 and 2522 of the Code.

8.4 **ENFORCEMENT.** The Corporation is authorized specifically to seek equitable relief, including injunctive relief, to enforce the provisions of this Article VIII.

8.5 **NON-WAIVER.** No delay or failure on the part of the Corporation or the Board in exercising any right hereunder shall operate as a waiver of any right of the Corporation or the Board, as the case may be, except to the extent specifically waived in writing.

8.6 **LEGEND.** Each certificate for shares (if such shares are certificated) of Common Stock, Series A Preferred Stock and other Capital Stock subject to the transfer restrictions of this Article VIII, including each certificate issued to any transferee, shall be stamped or otherwise imprinted with a conspicuous legend in substantially the following form (in addition to any other

legend required by applicable law), unless in the opinion of counsel for the Corporation such legend (or any portion thereof) shall no longer be required:

“THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR REGISTERED OR QUALIFIED UNDER ANY OTHER SECURITIES LAWS, AND MANY NOT BE OFFERED OR SOLD WITHOUT SUCH REGISTRATION OR QUALIFICATION, UNLESS AN EXEMPTION THEREFROM IS AVAILABLE.”

“THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS SET FORTH IN THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION AND AMENDED AND RESTATED MSR HOTELS & RESORTS, INC., AND MAY NOT BE SOLD, ASSIGNED, TRANSFERRED, PLEDGED OR OTHERWISE DISPOSED OF, WHETHER BY MERGER, CONSOLIDATION OR OTHERWISE BY OPERATION OF LAW EXCEPT IN COMPLIANCE THEREWITH.”

In lieu of the foregoing legend, each certificate for shares of Common Stock may state that the Corporation will furnish a full statement of the information required by Section 2-211(b) of the Corporations and Associations Article of the Annotated Code of Maryland to a stockholder on request and without charge.

#### ARTICLE IX

##### RIGHTS AND POWERS OF CORPORATION, BOARD OF DIRECTORS AND OFFICERS

In carrying on its business, or for the purpose of attaining or furthering any of its objects, the Corporation shall have all of the rights, powers and privileges granted to corporations by the laws of the State of Maryland, as well as the power to do any and all acts and things that a natural person or partnership could do as now or hereafter authorized by law, either alone or in partnership or conjunction with others. In furtherance and not in limitation of the powers conferred by statute, the powers of the Corporation and of the Directors and stockholders shall include the following:

9.1 Conflicts of Interest. Any Director or officer individually, or any firm of which any Director or officer may be a member, or any corporation or association of which any such Director or officer may be a director or officer or in which any Director or officer may be interested as the holder of greater than ten percent (10%) of its stock or otherwise, may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the Corporation, and, in the absence of fraud, no contract or other transaction shall be thereby affected or invalidated; provided, however, that Section 2-419 of the MGCL shall have been complied with and (a) such fact shall have been disclosed or shall have been known to the Board or the committee thereof that approved such contract or transaction and such contract or transaction shall have been approved or ratified by the affirmative vote of a majority of the

disinterested Directors, or (b) such fact shall have been disclosed or shall have been known to the stockholders entitled to vote, and such contract or transaction shall have been approved or ratified by a majority of the votes cast by the stockholders entitled to vote, other than the votes of shares owned of record or beneficially by the interested Director or corporation, firm or other entity, or (c) the contract or transaction is fair and reasonable to the Corporation. Any Director of the Corporation who is also a director or officer of or interested in such other corporation or association, or who, or the firm of which he is a member, is so interested, may be counted in determining the existence of a quorum at any meeting of the Board which shall authorize any such contract or transaction, and in determining the requisite vote of Directors with like force and effect as if he were not such director or officer of such other corporation or association or were not so interested or were not a member of a firm so interested.

9.2 Amendment of the Charter. Except as otherwise specifically provided herein, the Corporation reserves the right, from time to time, to make any amendment of the Charter, now or hereafter authorized by law, including any amendment which alters the contract rights, as expressly set forth in the Charter, of any outstanding Capital Stock. Whenever any vote of the holders of Capital Stock is required to amend or repeal any provision of the Charter, then, notwithstanding any provision of Maryland law requiring a greater proportion, the affirmative vote of a majority of the outstanding shares of Capital Stock of the Corporation entitled to vote on such amendment or repeal shall be sufficient to amend or repeal any provision of the Charter; provided, however, that, in addition to any other vote required by the Charter or Maryland law, the affirmative vote of not less than eighty percent (80%) of the outstanding shares of Capital Stock entitled to vote on such amendment or repeal shall be required to amend or repeal this provision or any of the provisions of Article X or XI of the Charter.

## ARTICLE X

### LIMITATION OF STOCKHOLDER LIABILITY; INDEMNIFICATION; EXPRESS EXCULPATORY CLAUSES IN INSTRUMENTS

10.1 Limitation of Stockholder Liability. No stockholder shall be liable for any debt, claim, demand, judgment or obligation of any kind of, against or with respect to the Corporation by reason of his being a stockholder, nor shall any stockholder be subject to any personal liability whatsoever, in tort, contract or otherwise, to any Person in connection with the property or the affairs of the Corporation by reason of his being a stockholder.

10.2 Indemnification. The Corporation shall be obligated, to the maximum extent permitted by Maryland law in effect from time to time, to indemnify, and to pay or reimburse reasonable expenses in advance of final disposition of a proceeding to: (a) any individual who is a present or former director or officer of the Corporation or (b) any individual who, while a director or officer of the Corporation and at the request of the Corporation, serves or has served as a director, officer, partner or trustee of another corporation, REIT, partnership, joint venture, trust, employee benefit plan or any other enterprise from and against any claim or liability to which such person may become subject or which such person may incur by reason of his or her service in such capacity. The Corporation shall have the power, with the approval of the Board, to provide such indemnification and advancement of expenses to a person who served a

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predecessor of the Corporation in any of the capacities described in (a) or (b) above and to any employee or agent of the Corporation or a predecessor of the Corporation.

10.3 Express Exculpatory Clauses In Instruments. Neither the stockholders nor the directors, officers, employees or agents of the Corporation shall be liable under any written instrument creating an obligation of the Corporation by reason of their being stockholders, directors, officers, employees or agents of the Corporation, and all Persons shall look solely to the Corporation for the payment of any claim under or for the performance of that instrument. The omission of the foregoing exculpatory language from any instrument shall not affect the validity or enforceability of such instrument and shall not render any stockholder, director, officer, employee or agent liable thereunder to any third party, nor shall the directors or any officer, employee or agent of the Corporation be liable to anyone as a result of such omission.

## ARTICLE XI

### LIMITATION OF LIABILITY

11.1 Limitation of Director and Officer Liability. To the maximum extent that Maryland law in effect from time to time permits limitation of the liability of directors and officers of a corporation, no present or former director or officer of the Corporation shall be liable to the Corporation or its stockholders for money damages. Neither the amendment nor repeal of this Article XI, nor the adoption or amendment of any other provision of the Charter or Bylaws inconsistent with this Article XI, shall apply to or affect in any respect the applicability of the preceding sentence with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

## ARTICLE XII

### MISCELLANEOUS

12.1 Provisions in Conflict with Law or Regulations.

(a) The provisions of the Charter are severable, and if the Directors shall determine that any one or more of such provisions are in conflict with the REIT provisions of the Code, or other applicable federal or state laws, to the maximum extent allowed by the MGCL, the conflicting provisions shall not be given effect and shall be deemed never to have constituted a part of the Charter, even without any amendment of the Charter pursuant to Section 9.2 hereof; provided, however, that such determination by the Directors shall not affect or impair any of the remaining provisions of the Charter or render invalid or improper any action taken or omitted prior to such determination. No Director shall be liable for making or failing to make such a determination.

(b) If any provision of the Charter or any application of such provision shall be held invalid or unenforceable by any federal or state court having jurisdiction, such holding shall not in any manner affect or render invalid or unenforceable such provision in any other jurisdiction, and the validity of the remaining provisions of the Charter shall not be affected.

Other applications of such provision shall be affected only to the extent necessary to comply with the determination of such court.

12.2 Duration. The duration of the Corporation shall be perpetual.

**THIRD:** The amendment to and restatement of the Charter as hereinabove set forth have been duly advised by the Board and approved by the stockholder of the Corporation as required by law.

**FOURTH:** The current address of the principal office of the Corporation in Maryland is as set forth in Article III of the foregoing amendment and restatement of the Charter.

**FIFTH:** The name and address of the current resident agent of the Corporation in Maryland is as set forth in Article IV of the foregoing amendment and restatement of the Charter.

**SIXTH:** The number of directors of the Corporation and the names of those currently in office are as set forth in Article V of the foregoing amendment and restatement of the Charter.

**SEVENTH:** The total number of shares of stock which the Corporation had authority to issue immediately prior to this amendment and restatement of the Charter was 3,675,000,000, consisting of 3,000,000,000 common shares, \$0.01 par value per share, 75,000,000 Preferred Shares, \$0.01 par value per share and 600,000,000 excess shares, \$0.01 par value. The aggregate par value of all shares of stock having par value was \$36,750,000.

**EIGHTH:** The total number of shares of stock which the Corporation has authority to issue pursuant to the foregoing amendment and restatement of the Charter is 2,000,000, consisting of 1,000,000 shares of Common Stock, par value \$.01 per share, and 1,000,000 shares of Preferred Stock, par value \$.01 per share. The aggregate par value of all shares of stock having par value is \$20,000.

**NINTH:** The undersigned Senior Vice President acknowledges these Articles of Amendment and Restatement to be the corporate act of the Corporation and as to all matters or facts required to be verified under oath, the undersigned Senior Vice 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.

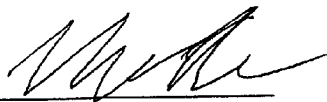
[Signature Page Follows]

IN WITNESS WHEREOF, the Corporation has caused these Articles of Amendment and Restatement to be signed in its name and on its behalf by its Vice President and attested to by its Vice President as of this 12 day of April, 2007.



Name: Peter Harned  
Title: Vice President

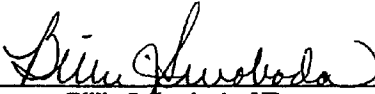
ATTEST:



Name: Michael Quinn  
Title: Vice President

**I hereby consent to act as resident agent in Maryland for the entity named in the attached document.**

**The Corporation Trust Incorporated**

  
Billie J. Swoboda, VP

CUST ID:0001948763  
WORK ORDER:0001391801  
DATE:04-13-2007 02:58 PM  
AMT. PAID:\$150.00