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BY-LAWS  
OF  
VENTANA OWNERS ASSOCIATION, INC.  
A FLORIDA CORPORATION NOT-FOR-PROFIT

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BY-LAWS  
OF  
VENTANA OWNERS ASSOCIATION, INC.

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BY-LAWS  
OF  
VENTANA OWNERS ASSOCIATION, INC.  
A FLORIDA CORPORATION NOT-FOR-PROFIT

VENTANA OWNERS ASSOCIATION, INC. (the "ASSOCIATION") is Florida corporation not-for-profit which has been organized pursuant to the provisions of Chapter 617, Florida Statutes, for the purposes stated in its Articles of Incorporation (the "ARTICLES"), these BY-LAWS, and in that certain Declaration of Covenants, Conditions, Restrictions, Easements and Reservations for VENTANA (the "DECLARATION") dated March 1, 1995 and recorded on 3-10, 1995 in Official Records Book 3461 at Pages 1665 et seq. of the hereby adopted by the Board of Directors of the ASSOCIATION as the BY-LAWS of the ASSOCIATION, to wit:

ARTICLE I

DEFINITIONS

The definitions of terms set forth in the DECLARATION and in the ARTICLES are hereby specifically incorporated into these BY-LAWS by reference thereto as if they were fully set forth herein verbatim and at length, and such defined terms shall have the same meanings in the context of these BY-LAWS as is ascribed to them in the context of the DECLARATION and the ARTICLES.

ARTICLE II

NAME AND PRINCIPAL OFFICE

- 2.1 Name. The name of the ASSOCIATION is VENTANA OWNERS ASSOCIATION, INC.
- 2.2 Principal Office. The principal office of the ASSOCIATION shall initially be located at 492 E. EAU GALLIE BLVD, INDIAN HARBOUR BEACH, FLORIDA 32937, until another office is otherwise designated by the BOARD of the ASSOCIATION; but meetings of the members and directors of the ASSOCIATION may be held, upon proper notice, at such other places within Brevard County, Florida, as may from time to time be designated by the BOARD.

ARTICLE III

CORPORATE SEAL

The ASSOCIATION shall have a seal in circular form having within its circumference the words: "VENTANA OWNERS ASSOCIATION, INC."

ARTICLE IV

OBJECTS AND PURPOSES

The ASSOCIATION has been created and established for the objects and purposes of, and shall have exclusive jurisdiction over and the sole responsibility for, the ownership, administration, management, operation, regulation, care, maintenance, repair, restoration, replacement, preservation and protection of the COMMON PROPERTY; the establishment, levy, imposition, enforcement and collection of all ASSESSMENTS for which provision is made in the DECLARATION; and the promotion and advancement of the health, safety and general welfare of the members of the ASSOCIATION, and all having to do with and being related to VENTANA.

## ARTICLE V

### POWERS AND DUTIES

The powers and duties of the ASSOCIATION shall be as set forth in the DECLARATION and ARTICLES, which are specifically incorporated into these BY-LAWS by reference thereto as if they were fully set forth herein verbatim and at length, as the same may be amended from time to time. Any amendments to the powers and duties of the ASSOCIATION as specified in the ARTICLES shall be and hereby are similarly incorporated into these BY-LAWS by reference.

## ARTICLE VI

### MEMBERSHIP AND VOTING RIGHTS

The qualifications for membership in the ASSOCIATION, the manner of admission to membership in the ASSOCIATION, the voting rights of members in the ASSOCIATION, the limitations on such membership and voting rights, and the manner of termination of membership in the ASSOCIATION shall all be as set forth in the DECLARATION and the ARTICLES, which are specifically incorporated into these BY-LAWS by reference thereto as if they were fully set forth herein verbatim and at length, as the same may be amended or modified from time to time. Any amendments to the DECLARATION or the ARTICLES having to do with membership and voting rights in the ASSOCIATION shall be and hereby are similarly incorporated into these BY-LAWS by reference.

## ARTICLE VII

### MEETINGS OF MEMBERS

- 7.1 Annual Meetings. The annual meeting of the members of the ASSOCIATION shall be held on the second Wednesday in February of each year, or other such time in January or February as deemed appropriate by the BOARD. The first annual meeting of members shall be held on such date in February of a year deemed appropriate by the BOARD, then held annually thereafter.
- 7.2 Special Meetings. Special meetings of the members may be called at any time for any purpose permitted pursuant to the terms and provisions of the DECLARATION, the ARTICLES or these BY-LAWS, when directed by the President or by a majority of the members of the BOARD, or upon the written request of members who have a right to vote not less than one-fourth (1/4) of all of the total voting power of the ASSOCIATION from time to time.
- 7.3. Notice of Meetings. Notice of any meetings, whether regular or special, shall be given to the members in writing by or at the direction of the Secretary of the ASSOCIATION or such other PERSON as is authorized to call the meeting, subject to Section 17.8 of the DECLARATION.
  - 7.3.1 Time of Delivery and Contents. Notice of any meeting, whether regular or special, shall be given at least ten (10) days in advance of the meeting for which such notice is given, and shall include in general the nature of the business to be transacted at such meeting; provided, however, that if the business of any meeting shall involve an election of directors of the ASSOCIATION otherwise governed by Article X of these BY-LAWS or any action governed by the DECLARATION or the ARTICLES, notice of such meeting shall be given as therein provided.

- 7.4 Who May Attend. In the event any LOT is owned by more than one PERSON, all co-OWNERS of the LOT may attend any meeting of the members. In the event any LOT is owned by a corporation, any director or officer of the corporation may attend any meeting of the members. However, the vote for any LOT shall be cast in accordance with the provision of Article VI of these BY-LAWS. INSTITUTIONAL LENDERS have the right to attend all members meetings.
- 7.5 Quorum. The presence at the meeting of members of the ASSOCIATION, or their proxies, entitled to cast fifty-one percent (51%) of the votes of the entire membership shall constitute a quorum for any action of members governed by these BY-LAWS.
- 7.6 Voting; Proxies. At all meetings of members held pursuant to this Article VII, each member shall be entitled to vote either in PERSON or by proxy. All proxies shall be in writing and signed by the member voting by such proxy, and shall be filed with the Secretary of the ASSOCIATION prior to the roll call at the meeting at which such proxies are to be exercised. Proxies shall be valid only for the particular meeting or meetings specified therein. In the event that a LOT is owned jointly by two or more co-OWNERS, and if said co-OWNERS have not designated one (1) of them as the voting member with respect to such LOT, then a proxy, to be valid and exercisable by a third party, must be signed by all such co-OWNERS.

Notwithstanding anything to the contrary set forth in this Article VII, every proxy shall automatically cease upon sale, transfer, devise, or other disposition by the member of such member's LOT.

- 7.7 Majority Vote. Unless otherwise provided in these BY-LAWS, or pursuant to the DECLARATION or the ARTICLES, matters approved by a majority vote of the members voting in PERSON or by proxy at meeting at which a quorum is present, shall constitute official action by the members of the ASSOCIATION.
- 7.8 Adjournments. Any meeting may be adjourned or continued by a majority vote of the members present in PERSON or by proxy and entitled to vote, or if no member entitled to vote is present, then any officer of the ASSOCIATION may adjourn the meeting from time to time. If any meeting is adjourned or continued to another time or place, it shall not be necessary to give any notice of the adjourned meeting, if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and any business may be transacted at the adjourned meeting that might have been transacted at the original meeting. If the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, notice of the adjourned meeting may be given to members not present at the original meeting, without giving notice to the members which were present at such meeting.
- 7.9 Organization. At each meeting of the members, the President, the Vice President, or any PERSON chosen by a majority of the members present, in that order, shall act as Chairman of the meeting. The Secretary, or in his absence or inability to act, any PERSON appointed by the Chairman of the meeting, shall act as Secretary of the meeting.
- 7.10 Order of Business. The order of business at the annual meetings of the members shall be:
- 7.10.1 Determination of chairman of the meeting;
  - 7.10.2 Calling of the roll and certifying of proxies;
  - 7.10.3 Proof of notice of meeting or waiver of notice;
  - 7.10.4 Reading and disposal of any unapproved minutes;
  - 7.10.5 Election of inspectors of election;
  - 7.10.6 Determination of number of directors;
  - 7.10.7 Election of directors;

- 7.10.8 Reports of directors, officers, or committees;
- 7.10.9 Unfinished business;
- 7.10.10 New business; and
- 7.10.11 Adjournment

- 7.11 Minutes. The minutes of all meetings of the members shall be kept in a book available for inspection by the members or their authorized representatives, and the directors, at any reasonable time. The ASSOCIATION shall retain these minutes for a period of not less than seven years.
- 7.12 Actions Without a Meeting. Any action required or permitted to be taken at any annual or special meeting of the members of the ASSOCIATION, may be taken without a meeting, without prior notice, and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members entitled to vote thereon were present and voted. Within ten days after obtaining such authorization by written consent, notice shall be given to those members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action. If a LOT is owned by more than one PERSON or by a corporation, the consent for such LOT need only be signed by one PERSON who would be entitled to cast the vote for the LOT as a co-OWNER pursuant to Section VI of these BY-LAWS.

#### ARTICLE VIII

##### LIABILITY SURVIVES TERMINATION OF MEMBERSHIP

The termination of membership in the ASSOCIATION shall not relieve or release any such former member from any liability or obligations incurred pursuant to the DECLARATION, the ARTICLES, these BY-LAWS or the RULES AND REGULATIONS of the ASSOCIATION, or such membership in the ASSOCIATION, or impair any rights or remedies which the ASSOCIATION may have against such former member arising out of or in any way connected with membership in the ASSOCIATION.

#### ARTICLE IX

##### BOARD OF DIRECTORS

- 9.1 Purpose. The property, business and affairs of the ASSOCIATION shall be managed and governed by a BOARD of the ASSOCIATION.
- 9.2 Number. The number of directors on the BOARD from time to time shall never be less than three (3) nor more than nine (9), but shall always be an odd number. The number of directors shall be determined from time to time by the BOARD, and may be increased or decreased by the BOARD from time to time, but shall never be less than three (3).
- 9.3 Qualification. Except for the initial directors designated in Section 7.6 of the ARTICLES and any directors thereafter from time to time appointed or elected by the DEVELOPER, all directors of the ASSOCIATION must be members of the ASSOCIATION in good standing.
- 9.4 Term of Office. The Directors shall serve for a period of one year ending on the date of the annual meeting, or until such director's resignation or removal, pursuant to the DECLARATION, the ARTICLES, and these BY-LAWS.



9.5 Resignation. Any director may resign at any time by giving written notice of his resignation to another director or officer. Any such resignation shall take effect at the time specified therein or, if the time when such resignation is to become effective is not specified therein, immediately upon its receipt, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

9.6 Removal of Directors.

9.6.1 Developer-Appointed Directors. Any director appointed by the Developer may be removed only by the Developer.

9.6.2 By the Board: Any director other than a director appointed by the DEVELOPER may be removed by a majority vote of the remaining directors, if such director: (a) has been absent for the last three consecutive BOARD meetings, and/or adjournments and continuances of such meetings; or (b) is an OWNER and has been delinquent for more than thirty (30) days after written notice in the payment of ASSESSMENTS or other moneys owned to the ASSOCIATION.

9.6.2 By the Membership: Any director other than a director appointed by the DEVELOPER may be removed with or without cause by the vote of a majority of the members of the ASSOCIATION at a special meeting of the members called by not less than ten percent (10%) of the members of the ASSOCIATION expressly for that purpose. The vacancy on the BOARD caused by any such removal may be filled by the members at such meeting or, if the members shall fail to fill such vacancy, by the BOARD, as in the case of any other vacancy on the BOARD.

9.7 Vacancies. Vacancies in the BOARD may be filled by a majority vote of the directors then in office, though less than a quorum, or by a sole remaining director, and a director so chosen shall hold office until the next annual election and until his successor is duly elected, unless sooner displaced. If there are no directors, then a special election of the members shall be called to elect the directors. Notwithstanding anything contained herein to the contrary, the DEVELOPER at all times shall have the right to appoint the maximum number of directors permitted by the ARTICLES, and any vacancies on the BOARD may be filled by the DEVELOPER to the extent that the number of directors then serving on the BOARD which were appointed by the DEVELOPER is less than the number of directors the DEVELOPER is then entitled to appoint.

In the event the ASSOCIATION fails to fill vacancies on the BOARD sufficient to constitute a quorum in accordance with these BY-LAWS, any OWNER may apply to the Circuit Court of the COUNTY for the appointment of a receiver to manage the affairs of the ASSOCIATION. At least thirty (30) days prior to applying to the Circuit Court, the LOT OWNER shall mail to the ASSOCIATION a notice describing the intended action giving the ASSOCIATION the opportunity to fill the vacancies. If during such time the ASSOCIATION fails to fill the vacancies, the LOT OWNER may proceed with the petition.

If a receiver is appointed, the ASSOCIATION shall be responsible for the salary of the receiver, court costs, and attorneys' fees. The receiver shall have all powers and duties of a duly constituted member of the BOARD, and shall serve until the ASSOCIATION fills vacancies on the BOARD sufficient to constitute a quorum.

9.8 Directors Appointed by the DEVELOPER. Notwithstanding anything contained herein to the contrary, the DEVELOPER shall have the right to appoint the maximum number of directors in accordance with the privileges granted to the DEVELOPER pursuant to the ARTICLES. All directors appointed by the DEVELOPER shall serve at the pleasure of the DEVELOPER, and the DEVELOPER shall have the absolute right, at any time, and in its sole discretion, to remove any director appointed by it, and to replace such director with another PERSON to serve on the BOARD.

Replacement of any director appointed by the DEVELOPER shall be made by written instrument delivered to any officer or any other director, which instrument shall specify the name of the PERSON designated as successor director. The removal of any director and the designation of his successor by the DEVELOPER shall become effective immediately upon delivery of such written instrument by the DEVELOPER.

- 9.9 Past President as Member Ex-Officio. In addition to the directors of this ASSOCIATION, as set forth in Section 9.2 of these BY-LAWS, the immediate past President of the ASSOCIATION, shall become an ex-officio member of the BOARD, for the year immediately following his term of office as President, but shall not be entitled to vote, unless said immediate past President remains on the BOARD by virtue of his election to or continued service on the BOARD, as otherwise provided herein.
- 9.10 Compensation. Subject to the provisions of Section 4.4.5 of the ARTICLES, no director shall receive compensation for any service which such director may render to or on behalf of the ASSOCIATION. However, any director may be reimbursed for the actual amount of expenses reasonably incurred by such director in the performance of his duties as a director or officer of the ASSOCIATION.
- 9.11 Powers and Duties. The directors shall have the right to exercise all of the powers and duties of the ASSOCIATION, express or implied, existing under these BY-LAWS, the ARTICLES, the DECLARATION, or as otherwise provided by statute or law.

#### ARTICLE X

##### ELECTION OF DIRECTORS; NOMINATIONS COMMITTEE; ELECTION COMMITTEE

- 10.1 Election. Election to the BOARD shall be in the following manner:

- 10.1.1 Initial Election by Association. Within sixty (60) days after the members other than the DEVELOPER are entitled to elect any directors, as provided in the ARTICLES, or within sixty (60) days after the DEVELOPER notifies the ASSOCIATION that it waives its right to appoint one or more directors, the ASSOCIATION shall call and give not less than twenty (20) days nor more than forty-five (45) days notice of a special meeting of the members to elect any directors the members are then entitled to elect, or to replace the appropriate number of directors previously appointed by the DEVELOPER.

Such special meeting may be called and the notice given by any member if the ASSOCIATION fails to do so. At such special meeting, the members shall be required to elect any directors which they are entitled to elect and, if they fail to do so, any directors appointed by DEVELOPER which would have been replaced by any directors elected by the members may resign without further liability or obligation to the ASSOCIATION.

In the event such a special meeting is called and held, at the meeting the members may elect not to hold the next

- 10.1.2 Election by Association. Except as provided in this Section 10.1, the members of the ASSOCIATION shall elect directors at the annual members' meetings.
- 10.2 Nominations at Meeting. At the meeting of the members of the ASSOCIATION at which directors are to be elected, the members present at such meeting shall be entitled to nominate any members of the ASSOCIATION for election to the BOARD. All such nominations made by members at such meeting must be seconded by another member present at such meeting.
- 10.3 Ballots. All elections to the BOARD shall be made on written ballots, unless dispensed with by unanimous consent, which shall:
- a. describe the vacancies to be filled;
  - b. set forth the names of those nominated by the Nominations Committee for such vacancies; and
  - c. contain a space for a write-in vote by the members for each vacancy.
- Each voting member shall receive one ballot and such voting member shall exercise on any one ballot only one vote for each vacancy shown thereon.
- 10.4 Vote at Meeting. All voting for directors of the ASSOCIATION shall be by written ballot, unless dispensed with by unanimous consent, and may be as follows:
- In Person or By Proxy at Meeting. All members of the ASSOCIATION, and their proxies, present at the meeting at which such election of directors is held shall be entitled to vote at such meeting by delivery to the Election Chairman, who shall be appointed by the President or other presiding officer, of either: (i) the completed written ballot delivered to each member in accordance with Section 10.3 of these BY-LAWS; or (ii) a complete substitute ballot provided by the Secretary of the ASSOCIATION at the meeting at which such election of directors is held.
- 10.5 Election: Vote Tabulation. Upon receipt of the written ballots from the members or their proxies present at the meeting at which directors are to be elected, the Election Chairman shall do the following:
- 10.5.1 Tabulate Votes. Tabulate all of the votes of the members and proxies present at the meeting, and all of the votes received by the Election Chairman.
  - 10.5.2 Announce Director(s). Announce the name or names of the director or directors, if any, elected by the members pursuant to the DECLARATION and ARTICLES.
  - 10.5.3 Announce Other Directors. Announce the names of the other directors appointed by the DEVELOPER.
- 10.6 Secrecy. The aforesaid election and vote tabulation procedures shall be undertaken by the Election Chairman in such a manner that the vote of any member or proxy shall not be disclosed to any PERSON, even to the Election Chairman.

## ARTICLE XI

### POWERS AND DUTIES OF THE BOARD

- 11.1 Powers and Duties, Generally. All of the powers and duties of the ASSOCIATION as are, respectively, conferred and imposed upon it pursuant to Chapter 617 Florida Statutes, the DECLARATION, the ARTICLES and these BY-LAWS shall be exercised by and through the BOARD.

- 11.2 Specific Powers and Duties. The BOARD shall, in addition to those general and specific powers and duties as are, respectively, conferred and imposed upon the ASSOCIATION as set forth in Article V of these BY-LAWS, have the following specific powers and duties:
- 11.2.1 Call Meetings. To call special meetings of the members whenever it deems necessary; provided, also, that the BOARD shall call a special meeting of the members at any time upon written request of one-fourth (1/4) of the voting power of the ASSOCIATION.
  - 11.2.2 Keep Records. To cause to be kept a complete record of all of its acts and all affairs of the ASSOCIATION, including specifically, but without limitation, financial records and accounts in accordance with Article XVII of these BY-LAWS.
  - 11.2.3 Elect Officers, Etc. In accordance with Section 14.2 of these BY-LAWS, to elect all officers of the ASSOCIATION, and with respect to such officers prescribe such duties as the BOARD may deem expedient.
  - 11.2.4 Hire and Fire Employees and Agents. To hire and fire such employees and agents of the ASSOCIATION, as it deems necessary to carry out and discharge the duties and responsibilities of the ASSOCIATION including, without limitation, a manger or executive director of the ASSOCIATION who shall not be an elected officer or director of the ASSOCIATION, in accordance with the terms and provisions of any contracts or employment or agency between the ASSOCIATION and such employees or agents, and with respect to such employees and agents to prescribe their duties any fix their compensation as the BOARD may deem expedient; all subject, however, to the provisions of Section 4.3.7 of the ARTICLES.
  - 11.2.5 Supervise Officers, Etc. To supervise and direct all officers, employees and agents of the ASSOCIATION, and to see that their duties are properly performed.
  - 11.2.6 Approve Budget. To cause to be prepared, and to receive review and approve budgets for cost and expenses incurred, or to be incurred, (a) in connection with up-keep and maintenance of the COMMON PROPERTY, including, without limitation, the COMMON STREETS AND ROADS, the SURFACE WATER MANAGEMENT SYSTEM, the security system, and the cable television system (if any), and (b) in connection with the performance of all other duties of the ASSOCIATION as set forth in the DECLARATION, the ARTICLES and these BY-LAWS.
  - 11.2.7 Prepare Membership Roster. To prepare a roster of all members and their LOTS and the status of all ASSESSMENTS applicable thereto, which shall be kept at the offices of the ASSOCIATION and be open to inspection by any member in the presence of an officer or other employee of the ASSOCIATION designated by the BOARD at any reasonable time during normal business hours.
  - 11.2.8 Adopt RULES AND REGULATIONS. To adopt, publish and enforce the RULES AND REGULATIONS governing the use of the COMMON PROPERTY and the facilities incident thereto and the personal conduct of the members and their guests thereon, as more particularly set forth in the DECLARATION.
  - 11.2.9 Require Bonding. To require and cause, at the expense of the ASSOCIATION, all or any officers or employees of the ASSOCIATION having fiscal responsibilities for the ASSOCIATION to be bonded, as the BOARD may deem appropriate.

- 11.2.10 Exercise Powers and Discharge Duties. To generally exercise all powers, rights and privileges of the ASSOCIATION and to generally discharge all duties, obligations and responsibilities of the ASSOCIATION, as the same are conferred by and imposed in the DECLARATION, the ARTICLES and these BY-LAWS, and to take any action which it deems necessary or advisable in connection therewith.

## ARTICLE XII

### MEETINGS OF THE BOARD

- 12.1 All Business. The business and affairs of the ASSOCIATION may be transacted by the BOARD at any regular or special meeting.
- 12.2 Regular Meeting. Regular meetings of the BOARD may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but not less often than semi-annually.
- 12.3 Special Meeting. Special meetings of the BOARD shall be held when called by the President or by a majority of directors after not less than two (2) days' notice to each director.
- 12.4 Majority Vote. Matters approved by a majority vote of the directors present at a meeting of the BOARD at which a quorum is present shall constitute official action of the BOARD, except as may be otherwise specifically provide or required by the terms and provisions of the DECLARATION, the ARTICLES or these BY-LAWS.
- 12.5 Waiver of Notice and Consent. The transaction of any business at any meeting of the BOARD, however called and noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum is present and, if either before or after the meeting, each of the directors not present signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed by the Secretary of the ASSOCIATION with the corporate records of the ASSOCIATION and made a part of the minutes of the meeting.
- 12.6 Action Taken Without a Meeting. The directors shall have the right to take any action in absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.
- 12.7 Quorum. A majority of the members of the BOARD from time to time shall constitute a quorum thereof. If at any meeting of the BOARD there shall be less than a quorum present, the majority of those directors present may adjourn the meeting from time-to-time until a quorum is present. In the case of the adjournment of a meeting, no further notice of the adjourned meeting need be given unless otherwise determined by a majority of those directors present at the time of adjournment.
- 12.8 Open Meeting. Any meeting of the BOARD of the ASSOCIATION shall be open to all members of the ASSOCIATION for purposes of observation. Member participation at BOARD meeting may or may not be permitted within the sole and absolute discretion of the BOARD.
- 12.9 Minutes. Except as otherwise provided in these BY-LAWS, minutes of all meetings of the BOARD and any committee thereof shall be kept in a business-like manner and shall be available for inspection by any director or member of the ASSOCIATION at any time during normal business hours. The Secretary of the ASSOCIATION shall keep the minutes of all meetings of the BOARD.

- 12.10 Presiding Officer. The presiding officer at all meetings of the BOARD shall be the President of the ASSOCIATION and in his or her absence the Vice President shall preside. In the absence of the President or Vice President, the directors present at such meeting shall designate a presiding officer from among themselves.

### ARTICLE XIII

#### PARLIAMENTARY RULES

All meetings of the members of the ASSOCIATION and all meetings of the BOARD of the ASSOCIATION shall be governed by the latest edition of Robert's Rules of Order; with any terms or provisions of the DECLARATION, the ARTICLES or these BY-LAWS, then the applicable terms and provisions of the DECLARATION, the ARTICLES or these BY-LAWS shall control.

### ARTICLE XIV

#### OFFICERS

- 14.1 Officers. The day to day business and affairs of the ASSOCIATION shall be administered by a President, Vice President, Secretary, Assistant Secretary, Treasurer, and such other officers as the BOARD may from time to time by resolution determine. The offices of Vice President, Secretary and Treasurer, or any other offices may be combined from time to time by the BOARD in its discretion, except that the office of President shall not be combined with any other office. All officers of the ASSOCIATION must be members of the BOARD.
- 14.2 Election. Except as provided in Section 8.5 of the ARTICLES with respect to the designation of the initial officers of the ASSOCIATION, the officers shall be elected by the vote at a meeting of the directors held immediately following the termination of the annual meeting of the members at which the directors are elected.
- 14.3 Term. All officers shall hold office for a term of one (1) year or until their successors are elected, but may be removed from office by the BOARD, with or without cause, at any time.
- 14.4 President. The President of the ASSOCIATION shall preside at all meetings of the BOARD are carried out, and shall sign all notes, contracts, leases, mortgages, deeds and all other written instruments required to be executed by or on behalf of the ASSOCIATION.
- 14.5 Vice President. The Vice President of the ASSOCIATION shall perform all the duties of the President in the absence of the President and shall have such other duties as may from time to time be imposed upon him by the BOARD.
- 14.6 Secretary. The Secretary of the ASSOCIATION shall be the Secretary of the BOARD.

The Secretary shall record the votes and keep or cause to be kept the minutes of all meetings of the BOARD and members of the ASSOCIATION in a minute book or books to be kept for that purpose; shall keep all other records of the ASSOCIATION; shall see that all notices are duly given as required by law and as provided in accordance with the DECLARATION, the ARTICLES, the BY-LAWS or the RULES AND REGULATIONS of the ASSOCIATION; shall record in a book kept for that purpose the names of all members of the ASSOCIATION together with their addresses as filed by such members; shall together with the President or Vice President sign all notes, contracts, leases, mortgages, deeds and all other instruments (other than checks) executed by or on behalf of the ASSOCIATION; and shall, in general, perform all duties incident to the office of Secretary and such duties as from time to time may be assigned by the President or imposed by the BOARD.

- 14.7 Assistant Secretary. The Assistant Secretary of the ASSOCIATION shall perform all duties of the Secretary in the absence of the Secretary and shall otherwise assist the Secretary in the performance of the Duties, responsibilities and obligations of the Secretary as set forth therein, and shall have such other duties as from time to time may be assigned by the President or imposed by the BOARD.
- 14.8 Treasurer. The Treasurer of the ASSOCIATION shall receive and deposit in appropriate bank accounts all monies of the ASSOCIATION and shall disburse such funds as directed by resolution of the BOARD; provided, however, that a resolution of the BOARD shall not be necessary for disbursements of funds made in the ordinary course of business of the ASSOCIATION conducted within the limits of the budget adopted by the BOARD. Further, the Treasurer shall sign all checks of the ASSOCIATION.

Additionally, the Treasurer shall keep or cause to be kept proper books of account of the ASSOCIATION; shall supervise and assist in the preparation of an annual budget and other financial statements of the ASSOCIATION; shall establish adequate reserves in accordance with the DECLARATION and as required by law; shall select and utilize, with the approval of the BOARD a Certified Public Accountant for the ASSOCIATION; and shall, in general, perform all duties incident to the financial affairs of the ASSOCIATION, and such other duties as may from time to time be assigned by the President or imposed by the BOARD.

## ARTICLE XV

### FISCAL MANAGEMENT

- 15.1 Fiscal Year. The fiscal year of the ASSOCIATION shall be the calendar year.
- 15.2 Accounting; Accounts. The ASSOCIATION shall use the cash basis method of accounting and shall maintain accounting records in accordance with good accounting practices, which shall be open to inspection in accordance with Section 16.1 of these BY-LAWS. Written summaries of the accounting records shall be prepared by or caused to be prepared by the Treasurer and shall be made available at least annually to the members of the ASSOCIATION. Such records shall include, but not be limited to, a record of all receipts and expenditures, and an accurate account for each LOT which shall designate the name and address of the OWNER thereof, the amount of the Regular ASSESSMENTS and all other ASSESSMENTS, if any, assessed against or charged to such LOT, the amounts and due dates for payment of same, and the amounts paid upon the account and the balance due thereunder.
- 15.3 ASSESSMENTS. All ASSESSMENTS, whether Regular ASSESSMENTS, Special ASSESSMENTS, Capital Expenditure ASSESSMENTS or Individual Lot ASSESSMENTS, shall be fixed, assessed, levied, enforced and collected in accordance with, and pursuant to, the terms and provisions of the DECLARATION.
- 15.4 Budget. The BOARD shall adopt an annual budget for the ASSOCIATION after review of the proposed annual budget and financial statements prepared by the Treasurer.
- 15.5 Deposit of Funds. The monies of the ASSOCIATION, whether collected by ASSESSMENTS or otherwise, shall be deposited in accounts in such bank or banks as shall be designated from time to time by the BOARD. Withdrawal of monies from such accounts shall be only by checks signed by such officers as are authorized pursuant to Article XIV of these BY-LAWS. All sums collected by the ASSOCIATION from ASSESSMENTS or any other source may be commingled in a single fund or divided into more than one fund, as determined by the BOARD; provided, however, that all reserve funds shall be maintained as, and deposited in, a separate bank account, and shall be used only for the purpose or purposes for which such reserve fund is created and maintained, unless said reserves have been waived by the BOARD.

- 15.6 **Financial Statements.** Financial statements of the ASSOCIATION, including, without limitation, a statement of income and expenses and a balance sheet shall be made annually by the Treasurer and approved by the BOARD in accordance with Section 14.8 of these BY-LAWS, and a copy thereof shall be furnished to each member of the ASSOCIATION not later than the first day of April of the year following the year for which the statements are prepared. The BOARD may, at its option, elect to have a review or an audit made by an auditor, accountant, or Certified Public Accountant.

## ARTICLE XVI

### BOOKS AND RECORDS

- 16.1 **Accounting Records.** All accounting records of the ASSOCIATION shall be open to inspection by members of the ASSOCIATION or their respective authorized representatives at reasonable times in the presence of an officer of the ASSOCIATION designated by the BOARD. Such authorization as a representative of a member must be in writing and signed by the PERSON giving such authorization and dated not more than fifteen (15) days prior to such inspection.
- 16.2 **Other Books, Etc.** All books, records, minutes, and papers of the ASSOCIATION shall be kept by the ASSOCIATION at the ASSOCIATION office and shall at all times during reasonable business hours, be subject to the inspection of any member in the presence of an officer of the ASSOCIATION designated by the BOARD, unless waived by the BOARD.

## ARTICLE XVII

### COMPLIANCE AND DEFAULT

- 17.1 **Violations.** In the event of a violation (other than the non-payment of an ASSESSMENT) by a member of any of the provisions of the DECLARATION or of the ARTICLES, these BY-LAWS, or the RULES AND REGULATIONS of the ASSOCIATION, the ASSOCIATION, through its BOARD, may notify the violating member by written notice in accordance with Section 17.8 of the DECLARATION of such violation and demand that such violation cease and be discontinued immediately and direct that any damages or injury caused thereby be immediately repaired or corrected at the sole cost and expense of the violating member.

If such violation shall continue for a period of two (2) days from date of such notice as aforesaid, or for other such unreasonable period determined by the BOARD, the ASSOCIATION, through its BOARD, shall have the right to treat such violation as an intentional, inexcusable and material breach of the DECLARATION, or the ARTICLES, these BY-LAWS, or the RULES AND REGULATIONS of the ASSOCIATION, as appropriate, and the ASSOCIATION may then, at its option, elect to undertake any of the rights provided to the ASSOCIATION in the DECLARATION, the ARTICLES and these BY-LAWS, including, without limitation, the following:

- 17.1.1 **Action at Law.** The ASSOCIATION may undertake an action at law against the violating member to recover for damages suffered by or on behalf of the ASSOCIATION or its members; and/or
- 17.1.2 **Action in Equity: Specific Performance.** The ASSOCIATION may undertake an action in equity against the violating member to enforce specific performance on the part of the violating member; and/or
- 17.1.3 **Action in Equity: Injunctive Relief.** The ASSOCIATION may undertake an action in equity against the violating member for such equitable relief as may be necessary under the circumstances, including injunctive relief.



- 17.1.4 Assessment of Fines. The ASSOCIATION may, subject to Section 15.5 of the DECLARATION, assess a reasonable fine and collection fee for each violation. Fines may be assessed for each violation, but no more frequently than daily. The OWNER must be given reasonable written notification of the ASSESSMENT of a fine, and reasonable time to remedy the violation.
- 17.2 Emergency Action. Notwithstanding the foregoing provisions of this Article XVII any violations which are deemed by the BOARD to be hazard to public health may be corrected immediately as an emergency matter by the ASSOCIATION and the cost thereof shall be charged to the violating member as and Individual Lot ASSESSMENT in accordance with the terms and provisions of the DECLARATION.
- 17.3 Non-payment of ASSESSMENTS. In the event of non-payment of the ASSESSMENTS pursuant to the DECLARATION, the ASSOCIATION, through its BOARD, shall be entitled to exercise all of the rights conferred upon the ASSOCIATION in the DECLARATION, including, without limitation, the right to impose, collect, enforce and foreclose any lien for ASSESSMENTS in accordance with the terms and provisions of the DECLARATION.
- 17.4 Negligence or Carelessness of Member. Each member shall be liable for the costs and expenses incurred by the ASSOCIATION for any maintenance, repair or replacement rendered necessary by said member's acts, neglect or carelessness or by that of the member's family, guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of any insurance carried by the ASSOCIATION.
- Such liability shall include, without limitation, any increase in insurance rates occasioned by the use, misuse, occupancy or abandonment of any LOT or any COMMON PROPERTY, or the appurtenances thereto. Nothing herein contained, however, shall be construed so as to constitute any waiver by any insurance company of its rights of subrogation. The costs and expenses for and maintenance, repair or replacement required, as provided in this Section 17.4 shall be charged to said member as an Individual Lot ASSESSMENT pursuant to the DECLARATION.
- 17.5 Costs and Attorneys' Fees. In any proceeding arising because of an alleged default by a member under the DECLARATION, or the ARTICLES, these BY-LAWS or the RULES AND REGULATIONS of the ASSOCIATION, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees, including costs and reasonable attorneys' fees on appeal, as may be determined by the Court.
- 17.6 No Waiver of Rights. The failure of the ASSOCIATION or of any member to enforce any right, provision, covenant or condition which may be granted by the DECLARATION, the ARTICLES, these BY-LAWS or the RULES AND REGULATIONS of the ASSOCIATION shall not constitute a waiver of the right of the ASSOCIATION or any member to enforce such right, provision, covenant or condition in the future.
- 17.7 Election of Remedies. All rights, remedies and privileges granted to the ASSOCIATION or any other party pursuant to any terms provisions, covenants or conditions or the DECLARATION, the ARTICLES, these BY-LAWS or the RULES AND REGULATIONS of the ASSOCIATION, or at law or in equity, shall be deemed to be cumulative and the exercise of any one (1) or more of the same shall not be deemed to constitute an election of the remedies, not shall it preclude the party exercising the same, or any other party, from exercising such other and additional rights, remedies or privileges as may be granted by the DECLARATION, the ARTICLES, these BY-LAWS or the RULES AND REGULATIONS of the ASSOCIATION, or at law or in equity.

#### ARTICLE XVIII

##### PARAMOUNT RIGHTS OF DEVELOPER; CONFLICTS

- 18.1 Paramount Rights of DEVELOPER. With respect to any rights, privileges or powers reserved by, conferred upon or granted to the DEVELOPER pursuant to the DECLARATION, all of the terms and provisions of these

BY-LAWS shall be subject to the terms and provisions of the DECLARATION, and the rights, privileges and powers, so reserved by, conferred upon or granted to the DEVELOPER pursuant to the terms and provisions of the DECLARATION shall be deemed to be paramount to any provisions of these BY-LAWS or any amendments hereto, which in any manner purport to limit or restrict any such rights, privileges and powers.

- 18.2 Conflicts. In the case of any conflict between the ARTICLES and these BY-LAWS, the terms and provisions of the ARTICLES shall control; and in the case of any conflict between the DECLARATION and these BY-LAWS, the terms and provisions of the DECLARATION shall control.

## ARTICLE XIX

### AMENDMENTS

- 19.1 Vote of Directors. These BY-LAWS may be changed, amended, modified or repealed, and any new BY-LAWS of the ASSOCIATION may be adopted, only by resolution approved by at least two-thirds (2/3) of the members of the BOARD at a regular or special meeting of the BOARD duly called for such purpose.
- 19.2 Limitations on Amendment. Notwithstanding anything to the contrary set forth in the DECLARATION, the ARTICLES or these BY-LAWS of the ASSOCIATION, these BY-LAWS may not be changed, amended, modified or rescinded in any fashion or respect which would result in any change, amendment, modification, diminution or elimination of, or otherwise affect the rights privileges of or benefits accruing hereunder to, either the DEVELOPER, the City, the St. Johns Water Management District without first receiving the prior written consent and approval of the DEVELOPER and such other of these parties as may be or whose rights, privileges, benefits or interest may be adversely or otherwise affected by any such amendment to these BY-LAWS.
- 19.3 Instrument of Amendment. Any resolution of the BOARD amending, modifying, or repealing any provisions of, or adding any provisions to, these BY-LAWS shall identify the particular ARTICLES and sections affected and set forth the exact language of such modification, amendment, or addition, or of the provisions repealed. A copy of each such resolution, certified by the Secretary of the ASSOCIATION, and a copy thereof shall be delivered to each member in accordance with the provisions of Section 17.8 of the DECLARATION.

IN WITNESS WHEREOF, we, being all of the initial directors of VENTANA OWNERS ASSOCIATION, INC. have hereunto set our hands and seals this 16 day of December, 1994 as evidence of the adoption of these BY-LAWS by the initial BOARD OF DIRECTORS of VENTANA OWNERS ASSOCIATION, INC.

BY: TIMOTHY F. MCWILLIAMS  
PRESIDENT

BY: JOSEPH DIPRIMA, VICE PRESIDENT/TREASURER

BY: ROSEANN DIPRIMA-MCWILLIAMS, SECRETARY

*[Handwritten signatures and a circular notary seal for Margaret A. Utecht]*

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of December, 1994 by TIMOTHY F. MCWILLIAMS, PRESIDENT/VENTANA of VENTANA OWNERS ASSOCIATION, INC., a Florida corporation authorized to do business in the State of Florida, on behalf of said corporation.

MY COMMISSION EXPIRES:



*Margaret A. Utecht*

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 16 day of December, 1994 by JOSEPH DIPRIMA, VICE PRESIDENT/TREASURER of VENTANA OWNERS ASSOCIATION, INC., a Florida corporation authorized to do business in the State of Florida, on behalf of said corporation.

STATE OF FLORIDA  
COUNTY OF BREVARD



*Margaret A. Utecht*

The foregoing instrument was acknowledged before me this 16 day of December, 1994 by ROSEANN DIPRIMA-MCWILLIAMS, SECRETARY of VENTANA OWNERS ASSOCIATION, INC., a Florida corporation authorized to do business in the State of Florida, on behalf of said corporation.

MY COMMISSION EXPIRES:



*Margaret A. Utecht*

MY COMMISSION EXPIRES:

NOTARY PUBLIC