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FLORIDA NON-PROFIT CORPORATION
VERANO AT DELRAY CONDOMINIUM ASSOCIATION, INC.

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H05000134261 3

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**ARTICLES OF INCORPORATION
OF
VERANO AT DELRAY CONDOMINIUM ASSOCIATION, INC.**

The undersigned incorporator, desiring to form a corporation not for profit under Chapter 61 Florida Statutes, as amended, hereby adopts the following Articles of Incorporation:

**ARTICLE 1
NAME**

The name of the corporation shall be **VERANO AT DELRAY CONDOMINIUM ASSOCIATION, INC.**, which is hereinafter referred to as the "Association."

**ARTICLE 2
OFFICE**

The principal office and mailing address of the Association shall be at 1805 Palm Cove Boulevard, Delray Beach, Florida 33445, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at its principal office.

**ARTICLE 3
PURPOSES AND POWERS**

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act as it exists on the date hereof (the "Act") for the operation of that certain condominium located in Palm Beach County, Florida, and known as **VERANO AT DELRAY CONDOMINIUM** (the "Condominium").

**ARTICLE 4
DEFINITIONS**

The terms used in these Articles shall have the same definitions and meanings as those set forth in the Declaration of the Condominium to be recorded in the Public Records of Palm Beach County, Florida, unless herein provided to the contrary, or unless the context otherwise requires.

**ARTICLE 5
POWERS**

The powers of the Association shall include and be governed by the following:

- 5.1 **General** The Association shall have all of the common-law and statutory powers of a corporation not for profit under the Laws of Florida, except as expressly limited or restricted by the terms of these Articles, the Declaration, the By-Laws or the Act
- 5.2 **Enumeration** The Association shall have all of the powers and duties set forth in the Act, except as limited by these Articles, the By-Laws and the Declaration (to the extent that they are not in conflict with the Act), and all of the powers and duties reasonably necessary to operate the Condominium pursuant to the Declaration and as more particularly described in the By-Laws, as they may be amended from time to time, including, but not limited to, the following:
 - (a) To make and collect Assessments and other charges against members as Unit Owners (whether or not such sums are due and payable to the Association), and to use the proceeds thereof in the exercise of its powers and duties.
 - (b) To buy, accept, own, operate, lease, sell, trade and mortgage both real and personal property in accordance with the provisions of the Declaration.
 - (c) To maintain, repair, replace, reconstruct, add to and operate the Condominium Property and/or Association Property, and other property acquired or leased by the Association.
 - (d) To purchase insurance upon the Condominium Property and Association Property and insurance for the protection of the Association, its officers, directors and Unit Owners
 - (e) To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Condominium Property and Association Property and for the health, comfort, safety and welfare of the Unit Owners
 - (f) To enforce by legal means the provisions of the Act, the Declaration, these Articles, the By-Laws, and the rules and regulations for the use of the Condominium Property and Association Property

H05000134261 3

H05000134261 3

- (g) To contract for the management and maintenance of the *Condominium Property* and/or *Association Property* (including, without limitation, the operation and maintenance of the *Surface Water Management System* facilities) and to authorize a management agent (which may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the *Common Elements* and *Association Property* with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the *Condominium Act*, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association
 - (h) To employ personnel to perform the services required for the proper operation of the *Condominium* and the *Association Property*.
 - (i) To execute all documents or consents, on behalf of all Unit Owners (and their mortgagees), required by all governmental and/or quasi-governmental agencies in connection with land use and development matters (including, without limitation, plats, waivers of plat, unities of title, covenants in lieu thereof, etc.), and in that regard, each Unit Owner, by acceptance of the deed to such Owner's Unit, and each mortgagee of a Unit owner by acceptance of a lien on said Unit, appoints and designates the President of the Association as such Unit Owner's and mortgagees agent and attorney-in-fact to execute, any and all such documents or consents.
 - (j) To operate and maintain the *Surface Water Management System* facilities, including all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas and wetland mitigation areas.
- 5.3 Association Property. All funds and the title to all properties acquired by the Association and their proceeds shall be held for the benefit and use of the members in accordance with the provisions of the Declaration, these Articles and the By-Laws.
- 5.4 Distribution of Income; Dissolution. The Association shall not pay a dividend to its members and shall make no distribution of income to its members, directors or officers, and upon dissolution, all assets of the Association shall be transferred only to another non-profit corporation or a public agency or as otherwise authorized by the Florida Not For Profit Corporation Act (Chapter 617, Florida Statutes)
- 5.5 Limitation. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions hereof and of the Declaration, the By-Laws and the Act, provided that in the event of conflict, the provisions of the Act shall control over those of the Declaration and By-Laws.

**ARTICLE 6
MEMBERS**

- 6.1 Membership. The members of the Association shall consist of all of the record title owners of Units in the *Condominium* from time to time, and after termination of the *Condominium*, shall also consist of those who were members at the time of such termination, and their successors and assigns. In the event that a Unit is owned by a legal entity (e.g., other than a natural person), then the officer, director or other official so designated by such legal entity shall exercise such Owner's membership rights, as more particularly set forth herein and in the By-Laws.
- 6.2 Assignment. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit for which that share is held.
- 6.3 Voting. On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each Unit. All votes shall be exercised or cast in the manner provided by the Declaration and By-Laws. Any person or entity owning more than one Unit shall be entitled to cast the aggregate number of votes attributable to all Units owned
- 6.4 Meetings. The By-Laws shall provide for an annual meeting of members, and may make provision for regular and special meetings of members other than the annual meeting.

**ARTICLE 7
TERM OF EXISTENCE**

The Association shall have perpetual existence, unless dissolved in accordance with applicable law. In the event the Association is dissolved, the control or right of access to the portion of the Association Property containing any *Surface Water Management System* facilities shall be conveyed or dedicated to an appropriate governmental unit or public utility and that if not accepted by such

H05000134261 3

governmental unit or public utility, then the Surface Water Management System facilities shall be conveyed to a non-profit corporation similar to the Association

**ARTICLE 8
INCORPORATOR**

The name and address of the Incorporator of this Corporation is

<u>NAME</u>	<u>ADDRESS</u>
Randy Kohana	400 Madison Avenue, Suite 2B New York, New York 10017

**ARTICLE 9
OFFICERS**

The affairs of the Association shall be administered by the officers holding the offices designated in the By-Laws. The officers shall be elected by the Board of Directors of the Association at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. The By-Laws may provide for the removal from office of officers, for filling vacancies and for the duties and qualifications of the officers. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors or they resign are as follows:

President:

Randy Kohana	400 Madison Avenue, Suite 2B New York, New York 10017
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Vice President:

Michael C. Zerner	400 Madison Avenue, Suite 2B New York, New York 10017
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Secretary/Treasurer:

Steven C. Smith	400 Madison Avenue, Suite 2B New York, New York 10017
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**ARTICLE 10
DIRECTORS**

- 10.1 Number and Qualification. The property, business and affairs of the Association shall be managed by a board consisting of the number of directors determined in the manner provided by the By-Laws, but which shall consist of not less than three (3) directors. Directors need not be members of the Association.
- 10.2 Duties and Powers. All of the duties and powers of the Association existing under the Act, the Declaration, these Articles and the By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Unit Owners when such approval is specifically required.
- 10.3 Election; Removal. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by and subject to the qualifications set forth in the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.
- 10.4 Term of Developer's Directors. The Developer of the Condominium shall appoint the members of the first Board of Directors and their replacements who shall hold office for the periods described in the By-Laws.
- 10.5 First Directors. The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected or they resign and have taken office, as provided

Randy Kohana	400 Madison Avenue, Suite 2B New York, New York 10017
Michael C. Zerner	400 Madison Avenue, Suite 2B New York, New York 10017
Steven C. Smith	400 Madison Avenue, Suite 2B New York, New York 10017

H05000134261 3

- 10.6 **Standards.** A Director shall discharge his duties as a director, including any duties as a member of a Committee: in good faith; with the care an ordinary prudent person in a like position would exercise under similar circumstances; and in a manner reasonably believed by such Director to be in the best interests of the Association or not opposed to the best interests of the Association. Unless a Director has actual knowledge concerning a matter in question that makes reliance unwarranted, a Director, in discharging his duties, may rely on information, opinions, reports or statements, including financial statements and other data, if prepared or presented by one or more officers or employees of the Association whom the Director reasonably believes to be reasonable and competent in the manners presented, legal counsel, accountants, management or other agents, consultants, architects, or engineers or other persons or entities as to matters the Director reasonably believes are or should be within the persons' professional or expert competence; or a Committee of which the Director is not a member if the Director reasonably believes the Committee merits confidence or has no reason to believe the Committee does not merit confidence. A Director is not liable for any action taken as a director, or any failure to take action, if he performed the duties of his office in compliance with the foregoing standards. The foregoing standards are hereinafter collectively referred to as the "Standard of Care").

ARTICLE 11 INDEMNIFICATION

- 11.1 **Indemnities.** The Association shall indemnify any person who was, will be or is a party to any proceeding by reason of the fact that he is or was a director, officer, employee or agent (each, an "Indemnitee") of the Association, against liability losses and expenses incurred in connection with such proceeding, including any appeal thereof, if he acted in accordance with the Standard of Care and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in accordance with the Standard of Care or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. Indemnitee shall be presumed to have acted in good faith if it acted in accordance with the Standard of Care and/or had no reason to believe such action, or failure to act, was unlawful or if such action or failure to act was consistent with advice received from any other Indemnitee or an attorney.
- 11.2 **Indemnification.** The Association and the Unit Owners shall indemnify any person, who was, will be or is a party to any proceeding, or any threat of same, whether by or in the right of the Association to procure a judgment in its favor or by any other party whatsoever by reason of the fact that he is or was a director, officer, employee, or agent of the Association against any and all losses, liabilities and expenses suffered, sustained, incurred or required to be paid by any Indemnitee. Such indemnification shall be provided if such person acted in accordance with the Standard of Care and, with respect to criminal matters, had no reasonable cause to believe that his conduct was unlawful. To the extent permitted by law, any and all Indemnitees shall be fully indemnified.
- 11.3 **Indemnification for Expenses.** To the extent that a director, officer, employee, or agent of the Association has incurred, will or may incur any losses, liabilities or expenses (as such terms are defined in subsection 11.8 below), he shall be indemnified against such losses, liabilities and expenses actually and reasonably incurred by him in connection therewith. See subsection 11.5 for further details regarding the Association's advancement of such expenses.
- 11.4 **Determination of Applicability.** Notwithstanding anything to the contrary contained herein, in the absence of an adjudication by a court of competent jurisdiction after final appeal that the Indemnitee is not entitled to indemnification hereunder, including the situation where a claim is not pending before a court of competent jurisdiction, the Association shall automatically indemnify such Indemnitee as further provided herein.
- 11.5 **Advancing Expenses.** Expenses incurred by an officer or director in defending a civil or criminal proceeding, or the threat of same, shall be paid by the Association, as such expenses are incurred, in advance of the final disposition of such proceeding. Expenses incurred by other employees and agents may be paid in advance upon such terms or conditions that the Board of Directors deems appropriate.
- 11.6 **Exclusivity; Exclusions.** The indemnification and advancement of expenses provided pursuant to this section are not exclusive, and the Association may make any other or further indemnification or advancement of expenses of any of its directors, officers, employees, or agents, under any bylaw, agreement, vote of shareholders or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office.
- 11.7 **Continuing Effect.** Indemnification and advancement of expenses as provided in this Article 11 shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.
- 11.8 **Definitions.** For purposes of this Article 11, the term "expenses" shall be deemed to include attorneys' fees and related "out-of-pocket" expenses, including those for any appeals, those

H05000134261 3

amounts paid in settlement, actually and reasonably incurred in connection with the defense or settlement of such proceeding and also including, without limitation, any costs of investigation and attorneys' or experts' fees and disbursements based upon or arising from any and all claims, demands, actions, suits, or proceedings, civil, criminal, administrative or investigative, the term "liability" shall be deemed to include obligations to pay a judgment, settlement, penalty, fine, and expenses actually and reasonably incurred with respect to a proceeding; the term "losses" shall be deemed to include any and all damages, judgments, penalties, obligations, claims, actions, causes of action (actual or threatened, matured or unmatured, known or unknown, contingent or otherwise) suits, losses, liabilities, proceedings, diminutions in value, fines, costs, attorneys fees and any and all other expenses incurred by such party; the term "proceeding" shall be deemed to include any threatened, pending, or completed action, suit, or other type of proceeding, whether civil, criminal, administrative or investigative, and whether formal or informal, and the term "agent" shall be deemed to include a volunteer; the term "serving at the request of the Association" shall be deemed to include any service as a director, officer, employee or agent of the Association that imposes duties on, and which are accepted by, such persons.

- 11.9 **Effect** The indemnification provided by this Article 11 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any applicable law, agreement, vote of members or otherwise.
- 11.10 **Amendment.** Anything to the contrary herein notwithstanding, no amendment to the provisions of this Article 11 shall be applicable as to any party potentially eligible for or seeking indemnification hereunder who has not given his prior written consent to such amendment.
- 11.13 **Insurance Proceeds.** Notwithstanding anything to the contrary contained in this Article 11, if it is determined by a court of competent jurisdiction after final appeal that an officer or director is liable or is not entitled to indemnification hereunder, the applicable party shall first look to the proceeds of any applicable insurance for the satisfaction of any claims.
- 11.14 **Attorneys Fees.** In the event of any dispute arising out of or in connection with the indemnifications provided under this Article 11, the prevailing party shall be entitled to recover all costs and expenses incurred, including reasonable attorneys' fees, which shall include, but not be limited to, such fees incurred prior to the institution of litigation or in litigation, including trial and appellate review

ARTICLE 12 BY-LAWS

The first By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided in the By-Laws and the Declaration.

ARTICLE 13 AMENDMENTS

Amendments to these Articles shall be proposed and adopted in the following manner

- 13.1 **Notice.** Notice of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered and shall be otherwise given in the time and manner provided in Chapter 617, Florida Statutes. Such notice shall contain the proposed amendment or a summary of the changes to be affected thereby.
- 13.2 **Adoption.** Amendments shall be proposed and adopted in the manner provided in Chapter 617, Florida Statutes and in the Act (the latter to control over the former to the extent provided for in the Act)
- 13.3 **Limitation.** No amendment shall make any changes in the qualifications for membership, nor in the voting rights of members, nor any changes in 5.3, 5.4 or 5.5, without the approval in writing of all members and the joinder of all record owners of mortgages upon Units. No amendment shall be made that is in conflict with the Act, the Declaration or the By-Laws, nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of or reserved to the Developer and/or Institutional First Mortgagees, unless the Developer and/or the Institutional First Mortgagees, as applicable, shall join in the execution of the amendment. No amendment to this paragraph 13.3 shall be effective without the approval in writing of all members and the joinder of all record owners of mortgages upon Units.
- 13.4 **Developer Amendments.** Notwithstanding anything herein contained to the contrary, to the extent lawful, the Developer may amend these Articles consistent with the provisions of the Declaration allowing certain amendments to be effected by the Developer alone.
- 13.5 **Recording.** A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the public records of Palm Beach County, Florida with an identification on the first page thereof of the book and page of said public records where the Declaration was recorded which contains, as an exhibit, the initial recording of these Articles

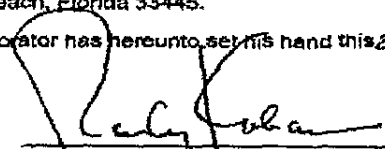
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H05000134261 3

**ARTICLE 14
REGISTERED OFFICE;
ADDRESS AND NAME OF REGISTERED AGENT**

Until changed, Sherry Vohra, shall be the registered agent of the Association and the registered office shall be at 1805 Palm Cove Boulevard, Delray Beach, Florida 33445.

IN WITNESS WHEREOF, the aforesaid incorporator has hereunto set his hand this 25th day of May, 2005.



RANDY KOHANA, President

ACCEPTANCE BY REGISTERED AGENT

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED CORPORATION, AT THE PLACE DESIGNATED IN ARTICLE 14 OF THESE ARTICLES OF INCORPORATION, THE UNDERSIGNED HEREBY AGREES TO ACT IN THIS CAPACITY, AND FURTHER AGREES TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER AND COMPLETE DISCHARGE OF HER DUTIES.

Dated this 26 day of May, 2005.



Sherry Vohra, Registered Agent

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