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CT CORPORATION SYSTEM

660 EAST JEFFERSON STREET

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TALLAHASSEE, FL 32301

Address  
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City State Zip Phone

CORPORATION(S) NAME

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TALLAHASSEE, FLORIDA

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-01/27/98--01090--015  
\*\*\*\*\*52.50 \*\*\*\*\*52.50

UF Acquisition Corp.

merger

Ultrafloir Corporation

800002413528--9  
-01/27/98--01090--014  
\*\*\*\*\*70.00 \*\*\*\*\*70.00

- ☐ Profit  
☐ NonProfit  
☐ Limited Liability Co.  
☐ Foreign

☐ Amendment

☐ Dissolution/Withdrawal

☐ Mark

- ☐ Limited Partnership  
☐ Reinstatement

- ☐ Annual Report  
☐ Reservation

- ☐ Other  
☐ Change of R.A.  
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V21203

ARTICLES OF MERGER  
Merger Sheet

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MERGING:

UF ACQUISITION CORP., a Florida corporation P97000106411

,

INTO

**ULTRAFLOA CORPORATION**, a Florida corporation, V21203

File date: January 16, 1998

Corporate Specialist: Annette Hogan



FLORIDA DEPARTMENT OF STATE  
Sandra B. Mortham  
Secretary of State

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January 20, 1998

CT Corporation System  
660 East Jefferson St,  
Tallahassee, FL 32301

SUBJECT: ULTRAFLOA CORPORATION  
Ref. Number: V21203

We have received your document for ULTRAFLOA CORPORATION and check(s) totaling \$122.50. However, your check(s) and document are being returned for the following:

The document must contain written acceptance by the registered agent, (i.e. "I hereby am familiar with and accept the duties and responsibilities as registered agent for said corporation/limited liability company"); and the registered agent's signature.

The registered agent for the surviving corporation is changing. Please see Exhibit I.

If you have any questions concerning the filing of your document, please call (850) 487-6907.

Annette Hogan  
Corporate Specialist

Letter Number: 898A00002882

**ARTICLES OF MERGER  
OF  
UF ACQUISITION CORP.  
INTO  
ULTRAFLOA CORPORATION**

98 JAN 16 AM 9:36  
FILED  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Section 607.1105 of the Florida Business Corporation Act, the undersigned corporations do hereby make and execute these Articles of Merger for the purpose of merging UF Acquisition Corp. into UltraFlora Corporation (the "Merger"):

(a) The Plan of Merger is as follows:

1. The name of each corporation to be merged is UF Acquisition Corp., a Florida corporation ("UFAC"), and UltraFlora Corporation, a Florida corporation ("UltraFlora"). The name of the surviving corporation is UltraFlora Corporation.

2. At the time the Merger is effective (the "Effective Time"), each issued and outstanding share of the common stock of UFAC, par value \$0.01 per share ("UFAC Common Stock"), shall be converted by reason of the Merger, without any action on the part of the holders thereof, into and become one share of the common stock of UltraFlora ("UltraFlora Common Stock"). The shares of UFAC Common Stock so converted shall cease to exist as such and shall exist only as shares of UltraFlora Common Stock.

3. At the Effective Time, all the shares of UltraFlora Common Stock issued and outstanding immediately prior to the Effective Time shall be converted by reason of the Merger, without any action on the part of the holders thereof, into the right to receive \$2,750,000 in cash (the "Cash Consideration") and \$2,750,000 in shares of the common stock of USA Floral Products, Inc. ("USAF Common Stock"). In addition to the Cash Consideration and the USAF Common Stock, for each \$1.00 by which UltraFlora's earnings before interest and taxes for the year ended December 31, 1997 ("1997 EBIT") exceeds \$431,000, the holders of UltraFlora Common Stock shall receive \$6.00 (the "Earn-Out Consideration"). The Earn-Out Consideration shall be paid in USAF Common Stock valued at the average of the closing price on the NASDAQ National Market per share of USAF Common Stock for each trading day for the thirty day calendar period ending December 31, 1997 (the "Earn-Out Price").

4. No fractional shares of USAF Common Stock shall be issued in the Merger. All fractional shares of USAF Common Stock that a holder of UltraFlora Common Stock would otherwise be entitled to receive as a

result of the Merger shall be aggregated and if a fractional share of USAF Common Stock results from such aggregation, such holder shall be entitled to receive, in lieu thereof, an amount in cash determined by multiplying (i) the Earn-Out Price by (ii) the fraction of a share of USAF Common Stock to which such holder would otherwise have been entitled, as the case may be.

5. At the Effective Time, the Articles of Incorporation and Bylaws of UFAC shall be amended and restated in their entirety to be as set forth on Exhibits I and II hereto, respectively.

(b) The Effective Time of the Merger shall be January 16, 1998.

(c) The Plan of Merger was duly adopted by the sole shareholder of UFAC on January 16, 1998. The Plan of Merger was duly adopted by the shareholders of UltraFlora on January 16, 1998.

[Execution Page Following]

Dated: January 16, 1998

UF ACQUISITION CORP.

By:   
Robert J. Poirier, President

ULTRAFLOA CORPORATION

By: \_\_\_\_\_  
Paul Schwartz, President

JAN-15-1998 16:51 FROM MORGAN, LEWIS-MIAMI

TO

97897799 P.02

Dated: January 16, 1998

UF ACQUISITION CORP.

ULTRAFLOA CORPORATION

By: \_\_\_\_\_  
Robert J. Poirier, President


By:   
Paul Schwartz, President

EXHIBIT I

AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
ULTRAFLOA CORPORATION

ARTICLE I

Name

The name of the corporation is:

UltraFlora Corporation

ARTICLE II

Principal Office

The street address of the principal office of the corporation shall be:

1950 N.W. 89th Place  
Miami, Florida 33172

The board of directors of the corporation, or an officer of the corporation acting under the authority of the board of directors, is authorized to change the principal office of the corporation from time to time without amendment to these Articles of Incorporation.

ARTICLE III

Authorized Shares

The aggregate number of shares which the corporation shall have authority to issue is one thousand (1,000) shares of common stock. The par value of each such share shall be \$.01 per share.



#### ARTICLE IV

##### Registered Office and Agent

The street address of the corporation's registered office is:

1200 S. Pine Island Road  
Plantation, FL 33324

The name of the corporation's registered agent at that office is CT Corporation System.

#### ARTICLE V

##### Subscribers

The name and address of each subscriber to these Articles of Incorporation is as follows:

<u>Name</u>	<u>Address</u>
U.S.A. Floral Products, Inc.	1025 Thomas Jefferson Street, N.W. Suite 600 West Washington, D.C. 20007

#### ARTICLE VI

##### Purpose and Powers

The corporation is organized for the purpose of transacting any and all lawful business for which corporations may be incorporated under the Florida Business Corporation Act and under the laws of any jurisdiction in which the corporation may operate. The corporation shall have all lawful powers necessary or appropriate to conduct such business including, but not limited to, all corporate powers which corporations may have under the Florida Business Corporation Act.

## ARTICLE VII

### Board of Directors

The number of directors constituting the board of directors is one; provided however, the number of directors may be changed from time to time by amendment to the bylaws. The name and address of the individual who is to serve as the sole member of the board of directors is:

Robert Poirier

1025 Thomas Jefferson Street  
Suite 600 West  
Washington, DC 20007

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

HAVING BEEN NAMED AS REGISTERED AGENT AND TO RECEIVE SERVICE OF PROCESS FOR THE ABOVE STATED CORPORATION AT THE PLACE DESIGNATED IN THESE PROVISIONS, I HEREBY ACCEPT THE APPOINTMENT AS REGISTERED AGENT AND AGREE TO ACT IN THIS CAPACITY. I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES, AND I AM FAMILIAR WITH AND ACCEPT THE OBLIGATIONS OF MY POSITION AS REGISTERED AGENT.

CT CORPORATION SYSTEM

DATE: 1-21-98

BY: Connie Bryan

Connie Bryan,  
Special Assistant Secretary

EXHIBIT II

AMENDED AND RESTATED  
BYLAWS  
OF  
ULTRAFLOA CORPORATION  
(a Florida corporation)

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## ARTICLE I

### Offices

Section 1.01. Principal Office. The principal office of the corporation in the State of Florida, which may be the registered office, shall be established at such place as the board of directors shall from time to time determine.

Section 1.02. Registered Office. The registered office of the corporation in the State of Florida shall be at the office of its registered agent as stated in the articles of incorporation or as the board of directors shall from time to time determine.

Section 1.03 Other Offices. The corporation may have additional offices at such other places, either within or without the State of Florida, as the board of directors may from time to time determine or the business of the corporation may require.

## ARTICLE II

### Meetings of Shareholders

Section 2.01. Annual Meeting. The annual meeting of shareholders shall be held after the close of each fiscal year on such date and at such time as determined by the board of directors. The shareholders entitled to vote at such meeting shall elect the directors and shall transact such other business as may properly be brought before the meeting.

Section 2.02. Special Meetings. Special meetings of the shareholders of the corporation may be called, for any purpose or purposes permitted by law, by the board of directors on its own initiative and shall be called by the board of directors upon written request by the chairman of the board, president of the corporation, or, upon delivery to the secretary of one or more written demands for the meeting describing the purpose or purposes for which it is to be held, by the holders of not less than ten percent of all the shares entitled to be cast on any issue proposed to be considered at the proposed special meeting. Notice of such meeting shall be given by the secretary as provided herein. Only business within the purpose or purposes described in the special meeting notice may be conducted at a special shareholders' meeting.

Section 2.03. Place of Meetings. All meetings of the shareholders of the corporation shall be held at such place within or without the State of Florida as shall be designated from time to time by the board of directors and stated in the notice of such meeting or in a duly executed waiver of notice thereof.

Section 2.04. Voting Lists. The officer or agent of the corporation having charge of the stock transfer books for shares of the corporation shall make, at least ten days before each



meeting of shareholders, a complete list of the shareholders entitled to vote at the meeting and any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each shareholder, which list shall be kept on file at the place identified in the meeting notice in the city where the meeting will be held or the corporation's principal place of business or at the office of its registrar or transfer agent for a period of at least ten days prior to the meeting, and shall be subject to inspection by any shareholder at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting, and shall be subject to the inspection of any shareholder during the whole time of the meeting. The original share ledger or transfer book, or a duplicate thereof, shall be prima facie evidence as to who are the shareholders entitled to examine such list or share ledger or transfer book, or to vote, in person or by proxy, at any meeting of the shareholders.

Section 2.05. Fixing of a Record Date. The board of directors may fix in advance a date as the record date for any determination of shareholders entitled to notice of, or to vote at, any meeting of shareholders, or entitled to payment of a dividend or allotment of any rights or privileges, such date in any case to be not more than seventy days and, in the case of a meeting of shareholders, not less than ten days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken.

If no record date is fixed for the determination of shareholders entitled to notice of, or to vote at, a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which the secretary mails the notice of the meeting or the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of shareholders.

When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof, unless the board of directors fixes a new record date under this section for the adjourned meeting. The board of directors shall fix a new record date if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

Section 2.06. Notice of Meetings. Written notice stating the place, day and hour of every meeting of the shareholders shall be given by the secretary to each shareholder entitled to vote at such meeting, either personally or by first class mail, at least ten days, but not more than sixty days, prior to the day named for the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States first-class mail postage prepaid, addressed to the shareholder at the shareholder's address as it appears on the stock transfer books of the corporation.

Section 2.07. Precondition to Delivery of Notice of Special Meeting of Shareholders Called by Shareholders. The secretary shall inform shareholders who have delivered a written request for a special meeting and otherwise complied with Section 2.02 of the reasonably estimated costs of preparing and mailing a notice of the meeting, and, on payment of these costs to

the corporation, the secretary shall deliver notice of such meeting to each shareholder entitled thereto.

Section 2.08. Quorum. The presence, in person or by proxy, of shareholders entitled to cast a majority of the votes which all shareholders are entitled to cast shall constitute a quorum for such meeting. Treasury shares, shares of this corporation's stock which are owned by another corporation the majority of the voting stock of which is owned by this corporation, and shares of this corporation's stock held by another corporation in a fiduciary capacity for the benefit of this corporation shall not be counted in determining the total number of outstanding shares for voting purposes at any given time. After a quorum has been established at a shareholders' meeting, the subsequent withdrawal of shareholders, so as to reduce the number of shareholders entitled to vote at the meeting below the number required for a quorum, shall not affect the validity of any action taken at the meeting or any adjournment thereof. When a specified item of business is required to be voted on by any class or series of stock, a majority of the shares of such class or series shall constitute a quorum for transaction of such item of business by that class or series.

Section 2.09. Adjournment. When a meeting which is properly called is adjourned 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 at the adjourned meeting any business may be transacted that might have been transacted on the original date or place of the meeting. If, however, after the adjournment the board of directors fixes a new record date for the adjourned meeting, a notice of the adjourned meeting shall be given to each shareholder of record on the new record date entitled to vote at such meeting.

The holders of a majority of the shares represented, and who would be entitled to vote at a meeting if a quorum were present, where a quorum is not present, may adjourn such meeting from time to time.

Section 2.10. Organization. At every meeting of the shareholders, the chairman of the board, if there be one, or in the case of a vacancy in the office or absence of the chairman of the board, one of the following officers present in the order stated: the vice chairman of the board, if there be one, the president, the vice presidents in their order of rank and then seniority, or a chairman chosen by the shareholders entitled to cast a majority of the votes which all shareholders present in person or by proxy are entitled to cast, shall act as chairman, and the secretary, or, in the secretary's absence, an assistant secretary, or, in the absence of both the secretary and any assistant secretaries, a person appointed by the chairman, shall act as secretary.

Section 2.11. Voting. If a quorum is present at any meeting, action on a matter (other than the election of directors) is approved if the votes cast in favor exceed the votes cast in opposition, unless the question is one for which, by express provision of the law or of the articles of incorporation or these bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question.

Except as may be otherwise provided in the articles of incorporation, every shareholder of record shall have the right, at every shareholders' meeting, to one vote for every share of stock of the corporation standing in the shareholder's name on the books of the corporation. A shareholder may vote either in person or by proxy.

Treasury shares, shares of this corporation's stock which are owned, directly or indirectly, by another corporation the majority of the voting stock of which is owned by this corporation, and shares of this corporation's stock held by another person or corporation in a fiduciary capacity for the benefit of this corporation shall not be entitled to vote at any meeting of shareholders.

At each election for directors, every shareholder entitled to vote for directors shall have the right to vote the number of shares owned by the shareholder for as many persons as there are directors to be elected at that time.

Shares standing in the name of another corporation, domestic or foreign, may be voted by the officer, agent or proxy designated by the bylaws of the corporate shareholder; or, in the absence of any applicable bylaw, by such person as the board of directors of the corporate shareholder may designate. Proof of such designation may be made by presentation of a certified copy of the bylaws or other instrument of the corporate shareholder. In the absence of any such designation, or in case of conflicting designation, by the corporate shareholder, the chairman of the board, president, any vice president, secretary and treasurer of the corporate shareholder shall be presumed to possess, in that order, authority to vote such shares.

Shares held by an administrator, executor, guardian or conservator may be voted by such person, either in person or by proxy, without a transfer of such shares into the name of such person.

Shares standing in the name of a trustee may be voted by such trustee, either in person or by proxy, but no trustee shall be entitled to vote shares held by such trustee without a transfer of such shares into the name of such trustee. Shares held by or under the control of a receiver, a trustee in bankruptcy proceedings, or an assignee for the benefit of creditors may be voted by such person or the name of such person's nominee, without the transfer thereof into such person's name.

A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee or the nominee of the pledgee shall be entitled to vote the shares so transferred.

Section 2.12. Proxies. Every shareholder entitled to vote at a meeting of shareholders or to express consent to corporate action in writing without a meeting may authorize another person or persons to so act by proxy in accordance with applicable laws.

Section 2.13. Action by Shareholders Without a Meeting. Unless otherwise provided in the articles of incorporation, any action required to be taken at any annual or special meeting of shareholders of the corporation, or any action which may be taken at any annual or special meeting of the shareholders, may be taken without a meeting, without prior notice and without a vote, if one or more consents in writing, setting forth the action so taken, shall be dated and signed by the holders of outstanding stock 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 shares entitled to vote thereon were present and voted, and delivered to the corporation by delivery to its principal office in Florida, its principal place of business, the corporate secretary, or another officer or agent of the corporation having custody of the minute book. If any class of shares is entitled to vote thereon as a class, such written consent shall be required of the holders of a majority of the shares of such class and of the total shares entitled to vote. No written consent shall be effective to take the corporate action referred to therein unless, within sixty days of the date of the earliest dated consent delivered in the manner set forth above, written consents signed by the holders of the number of shares required to take action are delivered to the corporation by delivery as set forth above.

### ARTICLE III

#### Board of Directors

Section 3.01. Powers and Duties. All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation shall be managed under the direction of, a board of directors, except as may be otherwise provided in the Florida Business Corporation Act or the articles of incorporation.

A director shall perform his or her duties as a director, including duties as a member of any committee of the board of directors upon which the director may serve, in good faith, in a manner the director reasonably believes to be in the best interests of the corporation, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. In performing his or her duties, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

- (1) one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented,
- (2) counsel, public accountants or other persons as to matters which the director reasonably believes to be within such person's professional or expert competence, or
- (3) a committee of the board of directors upon which the director does not serve, duly designated in accordance with provisions of the articles of incorporation or these bylaws, as to matters within its designated authority, which committee the director reasonably believes to merit confidence.

A director shall not be considered to be acting in good faith if the director has knowledge concerning the matter in question that would cause such reliance described in the preceding subsection to be unwarranted.

A person who performs his or her duties in compliance with this section shall not be liable for any action taken as a director or any failure to take any action.

A director of the corporation who is present at a meeting of the board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless the director votes against such action or abstains from voting in respect thereto because of an asserted conflict of interest.

Section 3.02. Qualification and Election. Unless otherwise provided in the articles of incorporation, directors need not be residents of the State of Florida or shareholders in the corporation. Except in the case of vacancies, directors shall be elected by the shareholders. Upon the demand of any shareholder or a proxy at any meeting of shareholders for the election of directors, the chairman of the meeting shall call for and shall afford a reasonable opportunity for the making of nominations for the office of director. Any shareholder or the shareholder's proxy may nominate as many persons for the office of director as there are positions to be filled by providing the secretary with a written acceptance of nomination as director executed by each nominee. If nominations for the office of director have been called for as provided herein, only candidates who have been nominated in accordance herewith shall be eligible for election. If the board of directors is classified with respect to the power to elect directors or with respect to the terms of directors and if, due to a vacancy or vacancies, or otherwise, directors of more than one class are to be elected, each class of directors to be elected at the meeting shall be nominated and elected separately. The candidates receiving the greatest number of votes, up to the number of directors to be elected, shall be elected directors.

Section 3.03. Number and Term of Office. The board of directors shall consist of one director. The number of directors may be increased or decreased from time to time by amendment to these bylaws, but no decrease shall have the effect of shortening the term of any incumbent director. Each director shall serve until the next annual meeting of the shareholders and until his or her successor shall have been elected and qualified or until his or her earlier resignation, removal from office or death.

Section 3.04. Organization. At every meeting of the board of directors, the chairman of the board, if there be one, or in the absence of the chairman of the board, the president of the corporation or a chairman chosen by a majority of the directors present, shall preside, and the secretary or any person appointed by the chairman of the meeting shall act as secretary of the meeting.

Section 3.05. Place of Meetings. Meetings of the board of directors of the corporation, regular or special, may be held either within or without the State of Florida.

Section 3.06. Annual Meetings. The board of directors shall hold an annual meeting each year immediately following the annual meeting of the shareholders at the place where such meeting of the shareholders was held for the purpose of election of officers and consideration of any other business that may be properly brought before the meeting. Notice of such annual meetings need not be given to either old or new members of the board of directors.

Section 3.07. Regular Meetings. If the board of directors determines to hold regular meetings, such meetings shall be held on such dates as designated by the board of directors. Notice of such regular meetings need not be given to any member of the board of directors.

Section 3.08. Special Meetings. Special meetings of the board of directors may be called by a majority of the directors, the chairman of the board or the president on two days' prior written notice.

Section 3.09. Action by Written Consent Without a Meeting. Any action of the board of directors or of any committee thereof, which is required or permitted to be taken at a regular or special meeting, may be taken without a meeting if a consent in writing, setting forth the action so to be taken, signed by all of the members of the board of directors or of the committee, as the case may be, is filed in the minutes of the proceedings of the board of directors or committee.

Section 3.10. Conference Telephone Meetings. One or more members of the board of directors may participate in meetings of the board of directors or a committee of the board of directors by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at such meeting.

Section 3.11. Quorum. A majority of the directors in office shall be present at each meeting in order to constitute a quorum for the transaction of business. An interested director may be counted in determining the presence of a quorum at a meeting of the board of directors which authorizes, approves or ratifies a contract or transaction in which such director has an interest.

Section 3.12. Voting. Except as otherwise specified in the articles of incorporation or these bylaws or provided by statute, the acts of a majority of the directors present at a meeting at which a quorum is present shall be the acts of the board of directors.

Section 3.13. Adjournment. A majority of the directors present, regardless of whether or not a quorum exists, may adjourn any meeting of the board of directors, to another time and place and no notice of any adjourned meeting need be given, other than by announcement at the meeting.

Section 3.14. Compensation. The board of directors shall have the authority to fix the compensation of directors. Directors may be reimbursed their expenses incurred in the

performance of their duties as directors. Directors may be provided with such retirement pensions and benefits as the board of directors may determine from time to time.

Section 3.15. Resignations. Any director of the corporation may resign at any time by giving written notice to the president or the secretary of the corporation. Such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.16. Vacancies. Any vacancy occurring in the board of directors, including any vacancy created by reason of an increase in the number of directors, may be filled by the affirmative vote of a majority of the remaining directors, or by the shareholders in the manner provided in the Florida Business Corporation Act. A director elected to fill a vacancy shall hold office only until the next election of directors by the shareholders.

Section 3.17. Removal. The shareholders may remove one or more directors from office, with or without cause, by a vote or written consent of the holders of a majority of the shares then entitled to vote (unless the articles of incorporation provide that directors may be removed only for cause). In case the board of directors or any such class of the board of directors, or any one or more directors be so removed, new directors may be elected at the same meeting or by the same written consent.

Section 3.18. Executive and Other Committees. The board of directors, by resolution adopted by a majority of the entire board of directors, may designate from among its members an executive committee and one or more other committees, each committee to consist of two or more directors. The board of directors may designate as alternate members of any such committee, one or more directors who may replace any absent or disqualified member at any meeting of the committee.

The executive committee or such other such committee shall have and exercise all of the authority of the board of directors to the extent provided in the resolution designating the committee, except that no such committee of the board of directors shall have the authority of the board to:

- (1) approve or recommend to shareholders actions or proposals required by law to be approved by shareholders;
- (2) fill vacancies on the board of directors or any committee thereof;
- (3) amend or repeal these bylaws;
- (4) authorize or approve the reacquisition of shares unless pursuant to a general formula or method specified by the board of directors; or

(5) authorize or approve the issuance or sale of or contract for the sale of shares or determine the designation and relative rights, preferences and limitations of a voting group unless within limits specifically prescribed by the board of directors.

A majority of the directors in office designated to a committee, or directors designated to replace them as provided in this section, shall be present at each meeting to constitute a quorum for the transaction of business and the acts of a majority of the directors in office designated to a committee or their replacements shall be the acts of the committee.

Each committee shall keep regular minutes of its proceedings and report such proceedings periodically to the board of directors.

Sections 3.05, 3.08, 3.09, 3.10 and 3.11 shall be applicable to committees of the board of directors.

## ARTICLE IV

### Notice and Waiver of Notice

Section 4.01. Notice. Whenever written notice is required to be given to any director under the provisions of the articles of incorporation, these bylaws or the Florida Business Corporation Act, it shall be given by personal delivery, facsimile transmission, delivery to an overnight courier service or representative, deposit in the United States first-class mail, or by certified or registered mail, addressed to the address of such person appearing on the books of the corporation, or supplied by such person to the corporation for the purpose of notice. A notice of a meeting shall specify the place, day and hour of the meeting. Notices to shareholders shall be given as provided in Section 2.06 hereof.

Section 4.02. Waiver of Notice. Whenever any notice is required to be given under the Florida Business Corporation Act, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Except in the case of a special meeting of shareholders, neither the business to be transacted at, nor the purpose of, the meeting need be specified in the waiver of notice of such meeting.

Attendance of a person, either in person or by proxy, at any meeting, shall constitute a waiver of notice of such meeting, in the manner provided in the Florida Business Corporation Act unless: (a) in the case of a shareholders meeting, (i) the shareholder objects at the beginning of the meeting to holding the meeting or transacting business at the meeting or (ii) with respect to a matter that is not within the purpose or purposes described in the meeting notice, the shareholder objects when the matter is presented; and (b) in the case of a directors' or committee meeting, the director states, at the beginning of the meeting or promptly upon arrival at the meeting, any objection to the transaction of business because the meeting is not lawfully called or convened.



## ARTICLE V

### Officers

Section 5.01. Number and Qualification. The officers of the corporation shall consist of such officers and agents as may be appointed by the board of directors. One person may hold more than one office. Officers may but need not be directors or shareholders of the corporation. The board of directors may elect from among the members of the board of directors a chairman of the board who, if elected, shall be an officer of the corporation. A duly appointed officer may appoint one or more officers or assistant officers to the extent authorized by the board of directors.

Section 5.02. Election and Term of Office. Except such officers as may be elected pursuant to Section 5.03, the officers of the corporation shall be appointed to hold office until the next annual organizational meeting of directors and until a successor shall have been duly elected and qualified, or until death, resignation or removal.

Section 5.03. Subordinate Officers, Committees and Agents. The board of directors may from time to time elect such officers and appoint such committees, employees or other agents as the board of directors deems the business of the corporation may require, to hold office for such period, have such authority, and perform such duties as are provided in these bylaws, or as the board of directors may delegate.

Section 5.04. The Chairman of the Board. The chairman of the board, if elected, shall be the chief executive officer of the corporation and have general powers of supervision, direction and control over the business and operations of the corporation, subject to the authority of the board of directors. The chairman of the board shall preside at all meetings of the shareholders and of the board of directors, and shall perform such other duties as may from time to time be requested by the board of directors.

Section 5.05. The President. The president shall be the chief operating officer of the corporation and shall have general supervision, direction and control over the business and operations of the corporation, subject however, to the authority of the chairman of the board and the board of directors. If the board of directors fails to elect a chairman of the board, then the president shall also be the chief executive officer of the corporation. The president shall sign, execute and acknowledge, in the name of the corporation, deeds, mortgages, bonds, contracts or other instruments except in cases where the signing and execution thereof shall be expressly delegated by the board of directors, or by these bylaws, to some other officer or agent of the corporation; and, in general, shall perform all duties incident to the office of president and such other duties as from time to time may be assigned by the chairman of the board and board of directors.

Section 5.06. The Vice Presidents. The vice presidents, if any, shall perform duties as may from time to time be assigned to them by the board of directors, the chairman of the board or the president.

Section 5.07. The Secretary. The secretary shall attend all meetings of the board of directors and committees thereof and shall record the time and place of holding of such meeting, whether regular or special, and if special, how authorized, the notice given, the names of those present at directors' meetings or the number of shares present or represented at shareholders' meetings in books to be kept for that purpose; shall see that notices are given and records and reports properly kept and filed by the corporation as required by law; shall be the custodian of the seal of the corporation and see that it is affixed to all documents to be executed on behalf of the corporation under its seal; and, in general, shall perform all duties incident to the office of secretary, and such other duties as may from time to time be assigned by the board of directors, the chairman of the board or the president.

Section 5.08. The Treasurer. The treasurer, if any, shall have or provide for the custody of the funds or other property of the corporation and shall keep a separate book account of the same to his credit as treasurer; shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the corporation, including, but not limited to, accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital-surplus and shares; shall collect and receive or provide for the collection and receipt of moneys earned by or in any manner due to or received by the corporation; shall deposit all funds in custody as treasurer in such banks or other places of deposit as the board of directors may from time to time designate; shall, whenever so required by the board of directors, render an accounting showing transactions as treasurer and the financial condition of the corporation; and, in general, shall discharge such other duties as may from time to time be assigned by the board of directors, the chairman of the board or the president. The books of account shall be open at all reasonable times to inspection by any director.

Section 5.09. Salaries and Compensation. The salaries, if any, of the officers elected by the board of directors shall be fixed from time to time by the board of directors or by such officer as may be designated by resolution of the board of directors. The salaries or other compensation of any officers, employees and agents elected, appointed or retained by an officer or committee to which the board of directors has delegated such a power shall be fixed from time to time by such officer or committee. No officer shall be prevented from receiving such salary or other compensation by reason of the fact that he or she is also a director of the corporation.

Section 5.10. Resignations. Any officer or agent may resign at any time by giving written notice of resignation to the board of directors or to the president or the secretary of the corporation. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5.11. Removal. Any officer, committee member, employee or agent of the corporation may be removed, either for or without cause, by the board of directors or other authority which elected or appointed such officer, committee member or other agent.

Section 5.12. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or any other cause, shall be filled by the board of directors or by the officer or committee to which the power to fill such office has been delegated, as the case may be.

## ARTICLE VI

### Certificates of Stock, Transfer

Section 6.01. Share Certificates Issuance. Every shareholder shall be entitled to have a certificate representing all shares to which the shareholder is entitled; and such certificate shall be signed (either manually or in facsimile) by the chairman of the board, if any, or by the president or a vice president and by the secretary or any assistant secretary of the corporation and may be sealed with the corporate seal or a facsimile thereof. In the event any officer who has signed, or whose facsimile signature has been placed upon any share certificate shall have ceased to be such officer because of death, resignation or otherwise, before the certificate is issued, it may be issued with the same effect as if the officer had not ceased to be such at the date of its issue. Certificates representing shares of the corporation shall otherwise be in such form as provided by statute and approved by the board of directors. Every certificate exchanged or returned to the corporation shall be marked "CANCELED", with the date of cancellation.

Section 6.02. Transfer. Transfers of shares shall be made on the books of the corporation upon surrender of the certificates therefor, endorsed by the person named in the certificate or by an attorney lawfully constituted in writing.

Section 6.03. Registered Shareholders. Except as otherwise expressly set forth in these bylaws, the corporation shall be entitled to recognize a person registered on its books in whose name any shares of the corporation are registered as the absolute owner thereof with the exclusive rights to receive dividends, and to vote such shares as owner. Except as otherwise provided by law, the corporation shall not be bound to recognize any equitable or other claim regardless of whether the corporation shall have express or other notice thereof.

Section 6.04. Lost, Destroyed or Mutilated Certificates. The holder of any shares of the corporation shall notify the corporation of any loss, destruction or mutilation of the certificates therefor, and the board of directors may, in its discretion, cause new certificates to be issued to the holder, upon satisfactory proof of such loss, destruction or mutilation and, if the board of directors shall so determine, the deposit of a bond in such form and in such sum, and with such surety or sureties, as it may direct.

## ARTICLE VII

### **Indemnification of Directors, Officers, Employees and Agents**

Section 7.01. Directors, Officers, Employees and Agents. The corporation shall indemnify any person who was or is a party or is threatened to be made a party (which shall include the giving of testimony or similar involvement) to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by, or in the right of the corporation) by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, including any appeal thereof, if he or she acted in good faith in a manner he or she reasonably believed to be in, or not opposed to the best interests of the corporation, and with respect to any criminal action or proceedings, had no reasonable cause to believe that his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not create, of itself, a presumption that the person did not act in good faith or in a manner which he or she reasonably believed to be in, or not opposed to, the best interest of the corporation or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

The corporation shall indemnify any person who was or is a party, or is threatened to be made a party (which shall include the giving of testimony or similar involvement), to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement (to the extent permitted by law), including any appeal thereof. Such indemnification shall be authorized if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable unless, and only to the extent that, the court in which such proceeding was brought, or any other court of competent jurisdiction, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

Section 7.02. Expenses. To the extent that a director, officer, employee or agent of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to above, or in any defense of any claim, issue or matter therein, the corporation

shall indemnify such person against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

Section 7.03. Determination of Standard of Conduct. Any indemnification hereunder, unless pursuant to a determination by a court, shall be made by the corporation as authorized upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth above. Such determination shall be made either (1) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such proceeding, (2) by majority vote of a committee duly designated by the board of directors consisting of two or more directors not at the time parties to the proceeding, (3) by the shareholders who were not parties to such action, suit or proceedings, or (4) by independent legal counsel selected in accordance with the provisions of the Florida Business Corporation Act in a written opinion.

Section 7.04. Advance Expenses. Expenses including attorney's fees incurred in defending any action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized in the manner provided above or upon receipt of any undertaking by or on behalf of the director, officer, employee or agent to repay such amount, unless it shall ultimately be determined that he or she is not entitled to be indemnified by the corporation as authorized herein.

Section 7.05. Benefit. The indemnification provided by this Article VII shall be in addition to the indemnification rights provided pursuant to the Florida Business Corporation Act and shall not be deemed exclusive of any other rights to which person seeking indemnification may be entitled under any by law, agreement, vote of shareholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent of the corporation and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 7.06. Insurance. The corporation shall be empowered to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against liability asserted against such person and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the corporation would have the power to indemnify such person against such liability under the provisions contained herein.

Section 7.07. No Rights of Subrogation. Indemnification herein shall be a personal right and, the corporation shall have no liability under this Article VII to any insurer or any person, corporation, partnership, association, trust or other entity (other than the heirs, executors or administrators of such person) by reason of subrogation, assignment or succession by any other means to the claim of any person to indemnification hereunder.

Section 7.08. Indemnification for Past Directors. Indemnification as provided in this section 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.

Section 7.09. Affiliates. For the purposes of this Article VII, references to "the corporation" include all constituent corporations absorbed in a consolidation or merger, as well as the resulting or surviving corporation, so that any person who is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise shall stand in the same position under the provisions of this Article VII with respect to the resulting or surviving corporation as such person would if he or she had served the resulting or surviving corporation in the same capacity.

Section 7.10. Reliance and Non-Exclusivity. Each person who shall act as an authorized representative of the corporation shall be deemed to be doing so in reliance upon such rights of indemnification as are provided in this Article VII.

Section 7.11. Other Indemnifications. The corporation shall have the power to make any other or further indemnification, except an indemnification against gross negligence or willful misconduct, under any bylaw, agreement, vote of shareholders or disinterested directors, or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office.

Section 7.12. Amendments. The provisions of this Article VII relating to indemnification and to the advancement of expenses shall constitute a contract between the corporation and each of its directors and officers which may be modified as to any director or officer only with that person's consent or as specifically provided in this section. Notwithstanding any other provision of these bylaws relating to their amendment generally, any repeal or amendment of this Article VII which is adverse to any director or officer shall apply to such director or officer only on a prospective basis, and shall not limit the rights of a director or officer to indemnification or to the advancement of expenses with respect to any action or failure to act occurring prior to the time of such repeal or amendment.

## ARTICLE VIII

### Miscellaneous

Section 8.01. Checks. All checks or demands for money and notes of the corporation shall be signed by such officer or officers or such other person or persons as the board of directors may designate from time to time.

Section 8.02. Dividends. The board of directors, at any regular or special meeting thereof, subject to any restrictions contained in the articles of incorporation, may declare and pay

dividends upon the shares of the corporation's stock in cash, property or the corporation's shares in accordance with the Florida Business Corporation Act.

Section 8.03. Deposits. All funds of the corporation shall be deposited from time to time to the credit of the corporation in such financial institutions or other depositaries as the board of directors may approve or designate.

Section 8.04. Fiscal Year. The fiscal year of the corporation shall end on the 31st day of December in each year.

Section 8.05. Severability. The provisions of these bylaws shall be separable each from any and all other provisions of these bylaws, and if any such provision shall be adjudged to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, or the powers granted to this corporation by the articles of incorporation or bylaws.