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**DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS FOR
INSPIRATION AT SOUTH POINTE**

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR INSPIRATION AT SOUTH POINTE (this “Declaration”) is made this _____ day of _____ 2021, by **ZP 354 FORT MYERS GOAT FARM, LLC**, a Florida limited liability company (the “Declarant”), for itself and its successors, grantees, and assigns.

PREMISES:

WHEREAS, the Declarant owns that certain commercial development known as Inspiration at South Pointe (the “Development”), which Development is located on certain Land (as defined in Article 1 below) in Lee County, Florida; and

WHEREAS, to preserve, protect and enhance the values of the property in the Development, and the general health, safety and welfare of the Owners (as defined in Article 1 below), to provide for maintenance of common infrastructure, and to create certain ingress, egress, drainage, and utility easements over the Common Areas (as defined in Article 1 below), the Declarant deems it desirable to subject the Development to certain covenants, conditions, and restrictions; and

WHEREAS, to provide a means for meeting the purposes and intents herein set forth, Inspiration at South Pointe Owners Association, Inc., a Florida not-for-profit corporation (the “Association”), has been incorporated; and

WHEREAS, the Declarant may, in its sole discretion, from time to time, convey, lease or grant a license or other use right to lands within the Development to the Association (which must accept the same), for the purpose of maintenance, landscaping, drainage, recreation or other purposes for the use and benefit of the Members (as defined in Article 1 below), their permittees, tenants and guests.

NOW, THEREFORE, the Declarant hereby declares that the Land is and shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the provisions of this Declaration, which shall run with the Land and be binding on all parties having any right, title or interest in the Land or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. Nothing herein contained, and no violation of these covenants, conditions and restrictions shall invalidate or impair the lien of any mortgage or deed of trust given in good faith and for value. Further, the express intent of the Declarant is that substantive contract rights created hereunder shall not be retroactively affected by legislation enacted subsequent to the recording of this Declaration.

1. **DEFINITIONS.** The following definitions shall apply to the terms used in this Declaration and its recorded exhibits:

1.1 **“Assessment”** means a share of the funds required for the payment of the expenses of the Association which from time to time is assessed against the Members, including without limitation annual assessments and special assessments, as authorized by Article 7 of this Declaration.

1.2 **“Association”** means Inspiration at South Pointe Owners Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

1.3 **“Association Documents”** means the Articles of Incorporation, Bylaws, and Rules and Regulations (as defined below) of the Association.

1.4 **“Board”** means the Board of Directors of the Association.

1.5 **“Inspiration at South Pointe”** is the name of the Development.

1.6 **“Common Areas”** means the real and personal property maintained by the Association, whether or not owned by or dedicated to it, for the general benefit of the Members and the Land. The Common Areas shall include, but not be limited to, the surface water management system, roadways and common utilities facilities, if any, all as may be dedicated to the Association on a recorded subdivision plat for the Development.

1.7 **“County”** means Lee County, Florida.

1.8 **“Declarant”** means ZP 354 FORT MYERS GOAT FARM, LLC, a Florida limited liability company, its successors or assigns.

1.9 **“Development”** means all real property comprising Inspiration at South Pointe and the improvements thereon, which is more particularly depicted on **Exhibit B** attached hereto.

1.10 **“Governing Documents”** means this Declaration and the Association Documents.

1.11 **“Land”** means the land subject to this Declaration, as described in **Exhibit A** attached hereto.

1.12 **“Member”** means any or all persons or entities entitled to membership in the Association, as provided in the Governing Documents.

1.13 **“Owner”** means the record Owner of legal title to any of the Tracts (as defined below), including the Declarant.

1.14 **“Rules and Regulations”** means rules and regulations established by the Association regarding use of the Common Areas.

1.15 **“SFWMD”** means South Florida Water Management District.

1.16 “**Structure**” means any improvement installed, built or constructed, the use of which requires a more or less permanent location on the ground, or which is attached to something having a permanent location on the ground. The term shall be construed as if followed by the words “or part thereof.”

1.17 “**Tract**” shall mean any platted portion of the Land designed as a Tract on a recorded subdivision plat for the Development, as well as any improvements thereon, including Tract 1, Tract 2 and Tract 3, as depicted on **Exhibit B** attached hereto.

1.18 “**Voting Interests**” means the arrangement established in Article 4 of this Declaration and in Section 2 of the Bylaws of the Association by which Members are entitled to vote in the affairs of the Association.

2. **GENERAL DEVELOPMENT PLAN.**

2.1 **Permitted Use.** Each Tract shall be used only for those uses and purposes as are permitted by the requisite zoning unless the deed on such Tract is more restrictive than the zoning in which case the restriction in the deed shall control. It is anticipated that Tract 1 shall be developed with multi-family uses and related amenities and Tract 2 and Tract 3 shall be developed in the future as commercial retail outparcels.

2.2 **Withdrawal.** The Declarant reserves the right to amend this Declaration at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of the Land then owned by the Declarant or its affiliates from the provisions of this Declaration to the extent included originally in error or as a result of any changes whatsoever in the development plans for the Land desired to be effected by the Declarant; provided, however, that such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Land. Any withdrawal of land not owned by the Declarant shall require the written consent or joinder of the then-Owner(s) and, if applicable, mortgagee(s) of such land, but not of any others

3. **THE ASSOCIATION’S PURPOSES AND POWERS.** The primary purposes of the Association are to operate, maintain and repair the Common Areas; to enforce restrictive covenants applicable to the Development; and to take such other action as the Association is authorized or required to take with regard to the Development pursuant to the Governing Documents.

3.1 **Common Areas.** The Association shall operate, maintain and repair all property and related improvements designated by the Declarant as Common Areas, regardless of whether legal right to that property has been formally conveyed to the Association. The costs of operating, maintaining and repairing the Common Areas and the facilities located thereon or connected therewith shall be assessed against all Tracts in accordance with the provisions of Section 7.2 below.

3.2 **Articles of Incorporation.** The Articles of Incorporation of the Association are attached hereto as **Exhibit C**.

3.3 **Bylaws.** The Bylaws of the Association are the Bylaws attached hereto as **Exhibit D**, as they may be amended from time to time.

4. **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION.**

(A) **Membership.** Every person or entity who is a record Owner of a fee interest in any Tract shall be a Member of the Association which membership shall be appurtenant to, and not be separated from title to a Tract. Notwithstanding anything else to the contrary set forth in this Article 4, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association.

(B) **Voting Rights.** Subject to the restrictions and limitations hereinafter set forth, until such time as each Tract within the Development is developed with buildings and related improvements, each Member shall be entitled to that number of votes which is equal to (i) the total number of acres (rounded to the nearest whole acre) owned by that Member divided by (ii) the total acreage of the overall Development. Once each Tract within the Property is developed with buildings and related improvements, each Member shall be entitled to that number of votes which is a fractional portion (rounded up to the nearest 1,000 square feet), the numerator of which is the gross square footage of buildings constructed on each Owner's Tract and the denominator of which is the total gross square footage of buildings within the Development. When one or more persons holds such interest or interests in any Tract, all such persons shall be Members, and the vote(s) for such Tract shall be exercised as they among themselves determine, or as provided by applicable covenants or restrictions, but in no event shall more than one (1) vote be cast with respect to each one thousand (1,000) square feet or with respect to each one (1) acre, whichever applies. The votes for any Tract cannot be divided for any issue and must be voted as a whole. Notwithstanding the foregoing, so long as the Declarant owns at least one (1) acre within the Development, the Declarant shall be entitled to appoint two (2) of the three (3) members of the Board of Directors of the Association. In the event that a mortgagee or other party acquires title to a Tract through foreclosure or deed in lieu of foreclosure, such party shall have the voting rights last held by the Owner of the Tract to which title was so acquired.

(C) **General Matters.** When reference is made herein or in the Association Documents to a majority or specific percentage of Members, such reference shall be deemed to be reference to a majority or specific percentage of the Voting Interests of Members at a duly constituted meeting of the Members.

4.1 **Association Rights and Easements.** Members and each Member's permittees, licensees, occupants, tenants and invitees, shall have the non-exclusive right to use the Common Areas, subject to:

(A) The right of the Association, by and through its Board of Directors, to adopt the annual budget and to determine the annual assessments to be paid by Members;

(B) The right of the Association, by and through its Board of Directors, to grant nonexclusive easements over, across or through the Common Areas;

(C) The right of the Association, by and through its Board of Directors, to take such steps as are reasonably necessary to protect the Common Areas;

(D) The right of the Association, by and through its Board of Directors, to close or restrict access to the Common Areas for limited periods of time to conduct special events, including those intended primarily to benefit the Declarant or its leasing and/or sales efforts;

(E) The right of the Association, by and through its Board of Directors, to regulate parking and traffic on the roads and streets, and road rights-of-way within the Development, including without limitation the use of access gates or speed bumps;

So long as the Declarant is a Member, any and all rights of Members, and any and all restrictions, limitations, and conditions that a Member shall be subject to, shall not be amended without the consent of the Declarant.

4.2 **Maintenance of Common Areas.** The Association shall at all times maintain in good repair and manage, operate and replace as often as necessary, the Common Areas, and to the extent not otherwise provided for, the paving, drainage structures, landscaping, improvements and other Structures thereon (except public utilities situated on the Common Areas, if any), all such work to be done as ordered by the Board of Directors of the Association. Without limiting the generality of the foregoing, the Association shall assume all of the Declarant's and its affiliates' responsibilities to Lee County and its governmental and quasi-governmental subdivisions and similar entities (including the SFWMD) of any kind with respect to the maintenance of the Common Areas.

All work pursuant to this Section 4.2 and all expenses incurred or allocated to the Association pursuant to this Declaration shall be paid for by the Association through assessments imposed in accordance herewith. No Owner may waive or otherwise escape liability for assessments by non-use (whether voluntary or involuntary) of the Common Areas or abandonment of the right to use the Common Areas.

5. GENERAL COVENANTS AND USE RESTRICTIONS.

5.1 **Surface Water Management Systems, Lakes, and Wet Retention Ponds.** The Association shall be responsible for the operation and maintenance of all surface water management systems, ditches, canals, lakes, and water retention ponds in the Development. Copies of all current and future SFWMD permits shall be maintained by the Association's Registered Agent for the Association's benefit.

All surface water management systems within the Development which are accepted by or constructed by the Association, excluding those areas (if any) maintained by the County, will be the ultimate responsibility of the Association, which may enter a Tract and make whatever alterations, improvements or repairs that are deemed necessary to provide or restore proper water management. The cost shall be a common expense of the Association.

(A) Without limiting any rights of the Declarant hereunder, no Structure of any kind shall be constructed or erected in or on, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow or volume of water in, any portion of any water management area including, but not limited to, lakes, ponds, swales, drainage ways, or wet retention ponds or areas intended for the accumulation of runoff waters, without the specific written permission of the Association.

(B) No Owner or other person shall unreasonably deny or prevent access to water management areas for maintenance, repair, or landscaping purposes by the Declarant, the Association, or any appropriate governmental agency that may reasonably require access. Non-exclusive easements for such purposes are hereby specifically reserved and created.

(C) No Tract or Common Area shall be increased in size by filling in any lake, pond or other water retention or drainage areas which it abuts. No entity or person shall fill, dike, rip-rap, block, divert or change the established water retention and drainage areas that have been or may be created without the prior written consent of the Association. No entity or person other than the Declarant or the Association may draw water for irrigation or other purposes from any lake, pond or other water management area, nor is any boating, swimming, or wading in such areas allowed.

(D) Nothing in this Section 5.1 shall be construed to allow any entity or person to construct any new water management facility, or to alter any stormwater management systems or conservation areas, without first obtaining the necessary permits from all governmental agencies having jurisdiction, including SFWMD.

(E) The Association shall be responsible for collecting assessments for the operation, maintenance and, if necessary, replacement of the surface water management system, as provided in this Section 5.1.

5.2 **Open Space.** Any Land subjected to this Declaration and designated as open space, landscape buffer, or words of similar import on any plat, declaration of covenants and restrictions, official site plan approved by the applicable government authority, permit or other document shall be preserved and maintained as open space. If such land or an easement over such land has been conveyed or dedicated to the Association, the Association shall preserve and maintain such land. No development may occur on such land except Structures or improvements which promote the use and enjoyment of the land for open space purposes.

5.3 **Restrictive Covenants.** The Land shall be used for purposes that are consistent with the zoning ordinances and regulations governing the Land.

(A) No portion of the Land shall be used for any of the following purposes: automobile, truck or recreational vehicle dealerships (for leasing or selling); adult video store or adult book store; adult entertainment club or strip club/bar; bar (however a bar included within and incidental to a permitted restaurant use shall be allowed); night club; massage business, with the exception of so-called "high end"

massage businesses (similar to Massage Envy or Spa Sydell); “head shop” or store selling marijuana or drug paraphernalia (provided, however, the sale of CBD and/or hemp shall be permitted); place of betting or gambling; tattoo parlor or body piercing establishment; or any establishment whose products are primarily displayed or stored outdoors.

6. COMMON AREAS; CONVEYANCE, USE AND MAINTENANCE.

6.1 **Designation.** The Declarant shall have the right and the power, in its sole discretion, to determine which parts of the Development, if any, shall be Common Areas, and to convey, lease or grant a license or other right to use real property within the Development to the Association as Common Areas. Any such conveyance, lease or grant of license or use right given to the Association may be exclusive or non-exclusive, so that persons or entities other than the Association may or may not have a right, power, duty, or privilege with respect to all or any part of any real property so conveyed, leased, licensed or the use of which has been granted. The Association must accept from the Declarant, any such conveyance, lease, grant of license or grant of use right. The Association shall not accept from any person other than the Declarant, a conveyance, lease, grant of license or grant of use right except upon the prior written approval of the Declarant.

6.2 **Maintenance and Alteration.** Except as otherwise provided herein, the Association shall maintain, repair and replace any and all improvements constructed on the Common Areas, including, without limitation, all common landscaping; roads, rights-of-way, street or access easements and utility easements, tracts and/or facilities dedicated to the Association; conservation and preservation areas; recreational areas; the components of the irrigation systems, including, but not limited to, the tap into the main line, timers, switching devices and heads, drainage structures, utility lines, walkways, light fixtures, and other Structures. Additionally, where the Common Areas are contiguous to the right-of-way of a road, the Association shall maintain all landscaping (if any) between the Common Areas and the pavement within such right-of-way.

6.3 **Partition, Subdivision and Encumbrance.** Except as hereinafter provided, should legal title to the Common Areas, or any portion thereof, becomes vested in the Association, the Common Areas shall not be abandoned, partitioned, subdivided, alienated, released, transferred, hypothecated, or otherwise encumbered, without first obtaining the approval of not less than two-thirds (2/3) of the Voting Interests of all Members. The foregoing shall not be construed to limit the authority of the Association through its Board of Directors to grant such easements over, across and through the Common Areas, as may be necessary for the effective and efficient operation of the facilities or for the general benefit of the Members. Nothing herein shall be construed to prohibit judicial partition of any Tract owned in co-tenancy.

6.4 **Association’s Rights and Powers.** No Common Areas shall be used in violation of any Rules and Regulations established by the Association pursuant to the provisions of this Declaration or the Bylaws of the Association.

6.5 **Expansion or Modification of Common Areas.** Additions or modifications to the Common Areas may be made, so long as they are not inconsistent with the applicable

governmental regulations; however, the Declarant shall not be obligated to make any additions or modifications to the Common Areas. The Declarant further reserves the right to change the configuration or legal description of the Common Areas due to changes in development plans so long as any such change does not adversely affect the use of the Tracts, materially increase the financial obligations for the Tracts or materially interfere with any easement rights held by a Tract Owner.

7. COVENANT FOR MAINTENANCE ASSESSMENTS.

7.1 **Creation of the Lien and Personal Obligation for Assessments.** Except as provided elsewhere herein, the Declarant, for all Tracts now or hereafter located within the Land, hereby covenants and agrees, and each Owner of any Tract by acceptance of a Deed or other conveyance thereof, whether or not it shall be so expressed in such Deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association annual assessments and charges for the operation of the Association for the operation, maintenance, and repair of the Common Areas as provided herein, including such reasonable reserves as the Association may deem necessary, and all other charges and assessments hereinafter referred to or lawfully imposed by or on the Association, all such assessments to be fixed, established and collected from time to time as herein provided.

Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge and continuing lien upon the Tract against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the obligation of the person or entity who is the Owner of such Tract at the time the assessment fell due and all subsequent Owners until paid, except as provided in Section 7.8 below.

7.2 **Types of Assessments.** Each assessment levied hereunder shall be one (1) of the following types (although two (2) or more types of assessments may be payable by an Owner as a single sum):

(A) **Common Assessments** shall be for those expenses which are incurred primarily for the benefit of all Owners, as such primary benefit is determined by the Board of Directors. By way of example only, Common Assessments shall be levied for expenses relating to Common Areas.

(B) **Special Assessments** shall be for those expenses which otherwise would be Common Assessments but for the fact that they are of a non-recurring and/or unforeseen nature (i.e., are such that they cannot be paid by budgeting therefor as part of Common Assessments), including, without limitation, the costs of capital additions or uninsured casualty losses. Also, Special Assessments shall be subject to the special requirements set forth below in the same manner as increases in the maximum annual rate of assessments, except for those levied per this Section 7.2 with respect to restoration after casualty losses. Notwithstanding the foregoing, no special assessment may be levied for any substantial addition to or a material

alteration of any Common Area without the consent of not less than two-thirds (2/3) of the Voting Interests of all Members.

(C) **Uniform Rate of Common and Special Assessments.** Common Assessments and Special Assessments shall be at a uniform rate for each Tract upon which a Structure has been constructed and at a uniform rate for Tracts upon which no Structure has been constructed and in accordance with the proportionate share of each Owner's membership interest as calculated in Section 4(B) above; provided, however, to the extent the Owner of a Tract requests additional services to be provided to or for the benefit of a particular Tract or Structure by the Association, the costs of such additional services shall be charged to such Owner as part of the such Owner's Common Assessment.

7.3 **Establishment of Budgets and Assessments.** The Board of Directors shall, by appropriate resolution duly adopted, establish the first operating budget for the Association (including Common Assessments, if applicable) and the rates of assessments thereunder in accordance with this Section 7.3. After adopting the initial budget and assessments as provided above, the Board of Directors shall fix the amount of the assessment against the Tracts subject to the Association's jurisdiction for each assessment period, to the extent practicable, at least sixty (60) days in advance of such date or period, and shall, at that time, prepare a roster of the Tracts and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto thirty (30) days prior to the date payment of the first installment thereof is due, except as to Special Assessments. In the event no such notice of the assessments for a new assessment period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein.

The Association, through the action of its Board of Directors, shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more persons, firms or corporations (including affiliates of the Declarant) for management services, including the administration of budgets and assessments as herein provided.

7.4 **Purpose of Assessments.** The assessments levied by the Association shall be used for the purposes expressed in this Article 4 and for such other purposes as the Association shall have within its powers and from time to time elect to undertake.

7.5 **Date of Commencement of Annual Assessments; Due Dates.** The Common Assessments provided for herein on the date (which shall be the first day of a month) fixed by the Board shall be the date of commencement and shall be applicable through December 31st of that year. The Common Assessments shall be imposed for the year beginning January 1st and ending December 31st and shall be payable in advance, in periodic installments if so determined by the Board of Directors (absent which determination they shall be payable quarterly). The due date of any Special Assessment shall be fixed in the Board Resolution authorizing such assessment.

7.6 **Effect of Non-Payment of Assessment; the Personal Obligation; the Lien; Remedies of the Association.** If the assessments (or installments) provided for herein are not paid on the date(s) when due (being the date(s) specified herein or pursuant hereto), then such

assessments (or installments) shall be delinquent and shall, together with the late charges, interest and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the applicable Tract(s) until paid, which shall bind such property in the hands of the then Owner, his heirs, representatives, successors and assigns. Except as provided in Section 7.7 below to the contrary, the obligation of Owner to pay such assessment shall pass to his successors in title and recourse may be had against either or both.

Further, all overdue sums (regardless of whether they are accelerated or not) shall bear interest from the dates when due until paid at the lesser rate of eighteen percent (18%) per annum or the permissible rate per annum allowed by law. The Association may bring an action at law against the Owner(s) personally obligated to pay the same, may record a Claim of Lien (as evidence of its lien rights as hereinabove provided for) against the Tract on which the assessments and interest are unpaid, may foreclose the lien against the Tract on which the assessments and interest are unpaid, or may pursue one or more of such remedies at the same time or successively, and reasonable attorneys' fees and costs actually incurred in preparing and filing the Claim of Lien and the Complaint, if any, and prosecuting same, in such action shall be added to the amount of such assessments and interest secured by the lien, and in the event a judgment is obtained, such judgment shall include all such sums as above provided and reasonable attorneys' fees actually incurred, together with the costs of the action, through all applicable appellate levels.

In addition to the rights of collection of assessments stated in this Section 7.6, any and all persons and/or entities acquiring title to or an interest in a Tract as to which the assessment is delinquent, including, without limitation, persons acquiring title by operation of law and by judicial sales, shall not be entitled to the possession of such Tract or the enjoyment of the Common Areas until such time as all unpaid and delinquent assessments and other sums due and owing from the selling Owner have been fully paid; provided, however, that the provisions of this sentence shall not be applicable to the mortgagees and purchasers contemplated by Section 7.7 below.

All assessments, interest, attorneys' fees and other sums provided for herein shall accrue to the benefit of the Association.

7.7 **Subordination of the Lien.** The lien of the assessments provided for in this Article 7 shall be subordinate to real property tax and assessment liens and the lien of any first mortgage; provided, however, that any such mortgage lender, when in possession, or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgage lender or its affiliate acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgage lender, shall hold title subject to the liability and lien of any assessment coming due after such foreclosure (or conveyance in lieu of foreclosure). Any unpaid assessment which cannot be collected as a lien against any Tract by reason of the provisions of this Section 7.7 shall be deemed to be an assessment divided equally among, payable by and a lien against all Tracts subject to assessment by the Association, including the Tract(s) as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

8. COVENANT AND RULE ENFORCEMENT: DISPUTE RESOLUTION.

8.1 **Generally.** The Association has the power to enforce the Rules and Regulations.

8.2 **Owner and Member Compliance.** The protective covenants, conditions, restrictions and other provisions of the Governing Documents shall apply to all Owners, as well as to any other person or entity occupying any Tract. Failure of an Owner to notify any person or entity of the existence of the covenants, conditions, restrictions, and other provisions of the Governing Documents shall not in any way act to limit or divest the Declarant or the Association of the power to enforce these provisions. Each Owner shall be responsible for any and all violations by his occupants, tenants, licensees, invitees or guests, and by the guests, licensees and invitees of his tenants and occupants, at any time.

8.3 **Litigation.** Unless expressly provided otherwise, Declarant or any Owner has the right to enforce, by any appropriate proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, charges, rules, and regulations now or hereafter imposed by, or pursuant to, the provisions of this Declaration. Failure by Declarant or any Owner to enforce any covenant, restriction, rule, or regulation shall not constitute a waiver of the right to do so at any time. Furthermore, the SFWMD shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration that relate to the maintenance, operation and repair of the surface water management system.

8.4 **Damages and Attorney's Fees.** Damages shall not be conclusively deemed adequate relief for any breach or violation of the Governing Documents. Any person or entity entitled to enforce any provision thereof shall be entitled to relief by way of injunction, as well as any other available relief either at law or in equity. The prevailing party in a proceeding to enforce any provision of the Governing Documents, or to enjoin violation or breach of any provision hereof, or recover damages on account of such breach, against any person or entity shall be entitled to recover reasonable attorney's fees and court costs (including those resulting from appellate proceedings).

8.5 **Non-Liability of Declarant.** The Declarant shall not be liable or responsible for any violation of the Governing Documents by any person other than itself, and its officers, agents and employees.

8.6 **Enforcement of Maintenance.** The beneficiaries of the stormwater management system and other infrastructure, including the SFWMD, shall have the right to enforce the provisions of the Governing Documents including a civil action for an injunction and penalties against the Association to compel it to correct any outstanding problems with the surface water management system facilities, roads, utilities, or in mitigation or conservation areas under the responsibility or control of the Association.

8.7 **Association's Right of Entry.** For the purpose of performing the duties authorized by this Article 8, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any portion of a Tract at reasonable hours on any day and perform such duties so long as such right does not materially interfere with the use and operation of a Tract. In case of emergency repairs, access will be permitted at any time with only such notice as is practically affordable under the circumstances.

9. **GOVERNMENTAL REQUIREMENTS.**

9.1 **Preamble.** The development and use of the Land is governed by the County, the SFWMD and other governmental and quasi-governmental entities. Accordingly, this Article 9 has been adopted for the purpose of including in this Declaration certain provisions required by such entities.

9.2 **SFWMD.** It shall be the responsibility of each Owner, at the time of construction of any Structure, to comply with the construction plans for the surface water management system serving the Land. No Owner may construct or maintain any Structure, or undertake or perform any activity in the wetlands, buffer areas or upland conservation areas described in the SFWMD permit and/or recorded plat for the applicable portion of the Land, unless prior approval is received from the SFWMD. No Amendment to this Declaration shall be made which amends this Section 9.2 without the prior written consent of SFWMD

9.3 **DISCLAIMER OF LIABILITY OF ASSOCIATION.** NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ASSOCIATION DOCUMENTS, THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE LAND INCLUDING, WITHOUT LIMITATION, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(A) IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE LAND HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE LAND AND THE VALUE THEREOF.

(B) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES.

(C) ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS TRACT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE LAND (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS ARTICLE 9 AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS ARTICLE 9.

AS USED IN THIS ARTICLE 9, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING, ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS

ARTICLE 9 SHALL ALSO INURE TO THE BENEFIT OF THE DECLARANT, WHICH SHALL BE FULLY PROTECTED HEREBY.

10. DURATION OF COVENANTS; TERMINATION; AMENDMENT.

10.1 **Duration of Covenants.** The covenants, conditions, easements and restrictions in this Declaration shall run with and bind the Land, and shall inure to the benefit of and be enforceable by the Association, the Declarant and any Owner, their respective legal representatives, heirs, successors, and assigns, for an initial period to expire on the ninety-ninth (99th) anniversary of the date of recording this Declaration in the Public Records of Lee County, Florida. Upon the expiration of said initial period, this Declaration shall be automatically renewed and extended for an unlimited number of successive ten (10) year periods, upon the expiration of each ten (10) year renewal period for an additional ten (10) year period, until terminated as provided below.

10.2 **Termination.** This Declaration may be terminated at any time if such termination is approved by seventy-five percent (75%) or more of the Voting Interests of all Members. Written notice of any meeting at which a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given at least forty-five (45) days in advance of said meeting. If the Members vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Association at which the resolution was adopted, the date that notice of the meeting was given, the total number of votes cast in favor of the resolution, and the total number of votes cast against the resolution. The certificate shall be recorded in the public records of the County, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration. The termination shall be effective on the date the Certificate is recorded in the public records.

10.3 **Amendments.** This Declaration may be amended at any time. Except as otherwise specifically provided, amendments to this Declaration may be proposed by the Board of Directors or by written petition of Members collectively holding at least one-fourth (1/4) of the Voting

Interests of all Members. Further, any amendment that materially and adversely affects the rights of an Owner shall not be effective against that Owner without the affected Owner's written consent. This Section 10.3 shall be subject to the Declarant's right to amend this Declaration as provided in Section 10.10 below.

10.4 **Procedure.** Upon any amendment(s) to this Declaration being proposed as provided in Section 10.3 above, the proposed amendment(s) shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice has been given.

10.5 **Vote Required.** Except as otherwise provided by law, or by specific provision of this Declaration, a proposed amendment to this Declaration shall be adopted if it is approved at an annual or special meeting by at least two-thirds (2/3) of the Voting Interests of the Members present, in person or by proxy and voting, provided that notice of the text of each proposed amendment was sent to the Members with notice of the meeting.

10.6 **Certificate; Recording.** A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be executed by an officer of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of the County. The certificate must set forth the location in the public records of the County where this Declaration was originally recorded.

10.7 **Limitations on Amendments.** Regardless of any other provision in this Declaration, no amendment of the Governing Documents, and no termination or amendment of this Declaration, can be effective to change the Association's responsibilities for the stormwater management system, unless the amendment has been consented to in writing by the SFWMD. Any proposed amendment which would affect the stormwater management system must be submitted to the SFWMD for a determination of whether the amendment necessitates a modification of the surface water management permit.

10.8 **Exceptions.** Wherever in this Declaration the consent, approval, or affirmative vote of two-thirds (2/3) or more of the Voting Interests of all Members is required to authorize or take a particular action, the language requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to authorize or take the action. This provision does not apply to amendments by the Declarant.

10.9 **Amendment of Provision Relating to Declarant.** As long as the Declarant owns any interest in any Tract, no amendment shall have the effect of changing any provision relating specifically to the Declarant without its written consent.

10.10 **Amendment by Declarant.** In addition to any other right of amendment or modification provided for in this Declaration, in which case those provisions shall apply, the Declarant, may, in its sole discretion, by an instrument filed of record, unilaterally modify, enlarge, amend, waive or add to the covenants, conditions, restrictions and other provisions of this Declaration, and any recorded exhibit hereto. This right shall expire at such time as the Declarant no longer owns any interest in any of the Tracts.

10.11 **Limitations on Voting Amendments.** No amendment to any of the Governing Documents shall be effective to change any Member's voting rights as set forth in Section 2.2 of the Bylaws, or the provisions of Sections 10.9 or 10.10 above, unless all Members affected first consent in writing to said amendment.

11. GENERAL AND PROCEDURAL PROVISIONS.

11.1 **Other Documents; Rules of Construction.** The Declarant and the Association shall have such rights, powers, duties, and privileges as are set forth in the Governing Documents. Notwithstanding anything in this Declaration to the contrary, in the event of conflict between any provisions of this Declaration and the Association Documents, the provisions of this Declaration shall control.

11.2 **Severability.** If any covenant, condition, restriction or other provision of this Declaration is held to be invalid in whole or in part by any court of competent jurisdiction, such invalid covenant, condition, restriction or other provision(s) shall in no way affect the validity of the remaining provisions of this Declaration, all of which shall remain in full force and effect.

11.3 **Merger or Consolidation of Association.** Upon a merger or consolidation of the Association with another corporation as provided by law, the Association's rights, obligations and property may, by operation of law, be transferred to the surviving or consolidated association, and the surviving or consolidated corporation shall administer this Declaration.

11.4 **Dissolution.** If the Association is dissolved other than by a merger or consolidation as provided for in Section 11.3 above, each Tract shall continue to be subject to the assessments provided for in Section 8 above, and each Owner shall continue to be personally obligated to the Declarant or the successor or assigns of the Association (as the case may be) for such assessment to the extent that such assessments are required to enable the Declarant or any such successors or assigns acquiring any real property previously owned by the Association to properly maintain, operate and preserve it.

11.5 **Gender; Number.** Wherever in this Declaration the context so requires, the singular number shall include the plural, and the converse; and the use of any gender shall be deemed to include all genders.

11.6 **Notices.**

(A) **To Declarant.** Notices to the Declarant as may be required herein shall be in writing and delivered or mailed to the Declarant at P.O. Box 2628, Wilmington, NC 28402, Attn: General Counsel, or at any other location designated by the Declarant.

(B) **To the Association.** Notices to the Association shall be in writing and delivered or mailed to the Association at 111 Princess Street, Wilmington, NC 28401 Attn: General Counsel, or at any other location designated by the Association.

(C) **To Owners.** Notices to any Owner as may be required herein shall be in writing and shall be delivered or mailed to the Owner at the address shown on the deed recorded in the public records of the County, or at any other location designated by such Owner.

11.7 **Construction.** The provisions of this Declaration shall be liberally interpreted and construed to

provide maximum flexibility consistent with the general development plan and the purposes set forth herein, including those set forth in the Premises.

11.8 **Captions, Headings and Titles.** Captions, headings, capitalization of certain words, and titles inserted throughout the Governing Documents are for convenience only, and in no way shall such captions, headings or titles define, limit, or in any way affect the subject matter, content or interpretation of the terms and provisions of the Governing Documents.

11.9 **Interpretation.** The Board of Directors of the Association shall be responsible for interpreting the provisions of the Governing Documents. Their interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by Association legal counsel that an interpretation adopted by the Board is not wholly unreasonable shall conclusively establish the validity of such interpretation.

11.10 **Applicable Statutes.** The validity, application, and construction of this Declaration and its exhibits shall be governed by the Laws of Florida, as they exist on the date of recording this Declaration.

11.11 **Rights Limited to Express Terms of Governing Documents.** Every Member of the Association acknowledges that his or her rights, duties or obligations are limited to the express terms of the Governing Documents. Every prospective Member should make his decision to purchase within Inspiration at South Pointe based upon the terms and conditions set out in the Governing Documents, which contain the entire understanding of the parties, and no prior or present agreements or representations shall be binding upon the Declarant unless included in the Governing Documents.

Oral representations cannot be relied upon as correctly stating the representations of the Declarant. For correct representations, reference should be made to the Governing Documents.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed in their respective names by the undersigned, duly authorized officers, the day and year first above written.

“DECLARANT”

Signed, sealed and delivered in the presence of:

ZP 354 FORT MYERS GOAT FARM, LLC,
a Florida limited liability company

Name: _____

By: _____

Name: _____

Name: _____

Its: _____

STATE OF _____

COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, by means of physical presence or online notarization, an officer duly authorized to take acknowledgements, personally appeared _____, who is _____ of ZP 354 FORT MYERS GOAT FARM, LLC, a Florida limited liability company, and acknowledged before me that he executed the foregoing Declaration in the name of and on behalf of said limited liability company.

WITNESS my hand and official seal in the County and State aforesaid, this _____ day of _____, 2021.

Notary Public, State of Aforesaid
Printed Name: _____
Commission Number: _____
Commission expires: _____

EXHIBIT "A"

Land

EXHIBIT “B”

Development

EXHIBIT “C”

**ARTICLES OF INCORPORATION
OF
INSPIRATION AT SOUTH POINTE PROPERTY OWNERS ASSOCIATION, INC.**

ARTICLE I

The name of the corporation is INSPIRATION AT SOUTH POINTE PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation (the “Association”). All terms defined in the Declaration of Covenants, Conditions, Easements and Restrictions for Inspiration at South Pointe (the “Declaration”), to which these Articles shall be attached as an exhibit prior to recording, shall be used herein with the same meanings as defined therein.

ARTICLE II

The nature of the business to be transacted shall be to engage in any activity or business permitted under the laws of the United States and of the State of Florida, pursuant to Chapter 617 of the Florida Statutes. The Association is incorporated for the purpose of providing an entity for the operation of a mixed-use development known as Inspiration at South Pointe, located in Lee County, Florida.

The Association is incorporated and shall exist upon a non-stock basis as a not-for-profit corporation under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any Member, Director or officer of the Association. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of an Association not-for-profit under Florida law, including those powers set forth in Chapter 617, Florida Statutes, except as limited or modified by these Articles, the Declaration, or the Bylaws of the Association, and it shall have all of the powers and duties reasonably necessary to operate the Development pursuant to the Declaration as it may hereafter be amended including, but not limited to, the following:

- A. To levy and collect assessments against all Members of the Association to defray the costs, expenses and losses of the Association, and to use the proceeds of assessments in the exercise of its power and duties.
- B. To own, lease, maintain, repair, replace or operate the Common Areas.
- C. To purchase insurance upon the Common Areas for the protection of the Association and its Members.
- D. To reconstruct improvements after casualty and to make further improvements of the Common Areas.

E. To make, amend and enforce reasonable rules and regulations governing the use of the Common Areas and the operation of the Association.

F. To sue and be sued, and to enforce the provisions of the Declaration, these Articles and the Bylaws of the Association.

G. To contract for the management and maintenance of the Common Areas and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Declaration to be exercised by the Board of Directors or the membership of the Association.

H. To employ accountants, attorneys, architects or other professional personnel to perform the services required for proper operation of the Properties.

I. To acquire, own and convey real property and to enter into agreements or acquire leaseholds, easements, memberships and other possessory or use interests in lands or facilities. It has this power whether or not the lands or facilities are contiguous to the lands of the Development, if they are intended to provide enjoyment, recreation or other use or benefit to the Members.

J. To borrow or raise money for any purposes of the Association; to draw, make, accept, endorse, execute and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other negotiable or non-negotiable instruments and evidence of indebtedness; and to secure the payment of any thereof, and of the interest therein, by mortgage pledge, conveyance or assignment in trust, of the whole or any part of the rights or property of the Association.

K. To enforce the conditions of the permit issued by South Florida Water Management District ("SFWMD") for the Development.

L. To be the responsible entity to operate and maintain the surface water management system as permitted by SFWMD, including but not limited to, all lakes, retention areas, culverts and related appurtenances.

Except as provided herein and in the Declaration, all funds and title to all property acquired by the Association shall be held for the benefit of the Members in accordance with the provisions of the Declaration, these Articles and the Bylaws.

ARTICLE III

The Association shall have perpetual existence.

ARTICLE IV

The membership shall be as stated in the Declaration.

ARTICLE V

The street address of the initial principal office of the Association is 111 Princess Street, Wilmington, NC 28411. The name of the initial registered agent of the Association is Jeffrey L. Zimmer and the address of the initial registered office is _____.

Having been named to accept service of process for INSPIRATION AT SOUTH POINTE PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, I hereby agree to act in this capacity and I further agree to comply with the provisions of all statutes relative to the property and complete performance of my duties.

Accepted by: _____
 Name: _____
 Title: _____

ARTICLE VI

The number of Directors shall consist of three (3) or more. Directors shall be elected, or appointed to fill a vacancy, in accordance with the Bylaws of the Association.

ARTICLE VII

The name and mailing address of the Directors, President, Vice President and Secretary/Treasurer, who, subject to the Bylaws of the Association shall hold office for the first year of existence of this Association or until his or her successor is elected and has qualified, are:

NAME:	ADDRESS:
Jeffrey Zimmer	111 Princess St, Wilmington NC 28411
Lowell Zimmer	111 Princess St, Wilmington NC 28411
Landon Zimmer	111 Princess St, Wilmington NC 28411

ARTICLE VIII

The Association is empowered to do and perform all acts reasonably necessary to accomplish the purposes of the Association, which acts are not inconsistent with the powers provided for in Chapter 617, Florida Statutes.

ARTICLE IX

The name and address of the incorporator of the corporation is as follows:

NAME: Jeffrey L. Zimmer	111 Princess St, Wilmington NC 28411
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ARTICLE X

Bylaws of the Association may be adopted, made, altered or rescinded by the Directors at any regular meeting or any special meeting called for that purpose, so long as they are not inconsistent with the provision of these Articles.

ARTICLE XI

Amendment to the Articles of Incorporation may be proposed by any Director at any regular or special business meeting of the Board of Directors at which a majority is present and, if obtaining a two-thirds (2/3) vote of the Board of Directors present and voting at such meeting properly called and noticed as provided in the Bylaws, shall be submitted to a vote of the membership. If approved by Members collectively holding at least two-thirds (2/3) of the total Voting Interests at a meeting of the Members properly called and noticed as provided in the Bylaws, such Amendment shall be forwarded to the Secretary of State of the State of Florida and filed and shall become effective upon issuance, by said officer, of a certificate reflecting same.

ARTICLE XII

The Association may be dissolved with the assent given in writing and signed by Members collectively holding not less than two-thirds (2/3) of the total Voting Interests. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any not-for-profit association, trust or other organization to be devoted to such similar purposes.

ARTICLE XIII

To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities, including attorneys' fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a Director or officer of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication established that his actions or omissions to act were material to the cause adjudicated and involved:

- A. Willful misconduct or a conscious disregard for the best interest of the Association, in a proceeding brought by or on behalf of the Association.
- B. A violation of criminal law, unless the Director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.
- C. A transaction from which the Director or officer derived an improper personal benefit.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approved such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a Director or officer may be entitled.

These Articles of Incorporation were adopted and approved by the Board of Directors effective as of _____, 2021 and Member approval was not required.

IN WITNESS WHEREOF, the undersigned, being the incorporator of the corporation for the purpose of forming a corporation under the laws of the State of Florida do make, subscribe, acknowledge and file the foregoing Articles of Incorporation, hereby certifying that the facts therein stated as true, and accordingly set our hands and seals this ____ day of _____, 2021.

Name: _____

STATE OF _____

COUNTY OF _____

I HEREBY CERTIFY that on this ____ day of _____, 2021, the undersigned authority, personally appeared _____, by means of (*check one*) physical presence or online notarization, who is (*check one*) is personally known to me or has produced a valid driver's license as identification, and who executed the foregoing Articles of Incorporation and acknowledged to me that he/she executed said Articles freely and voluntarily and for the purposes expressed therein.

WITNESS my hand and official seal at _____ said County and State the date aforesaid.

Notary Public, State of _____
My Commission No.: _____
My Commission Expires: _____

EXHIBIT "E"

BYLAWS OF INSPIRATION AT SOUTH POINTE PROPERTY OWNERS ASSOCIATION, INC.

1. **GENERAL.** These are the Bylaws of INSPIRATION AT SOUTH POINTE PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation (hereinafter the "Association"), incorporated for the purposes set forth in the Articles of Incorporation.

1.2 Principal Office. The principal office of the Association shall initially be located at 111 Princess St, Wilmington, NC 28411 and subsequently at such other place as may be established by resolution of the Board of Directors.

1.2 Definitions. All terms defined in the Declaration of Covenants, Conditions, Easements and Restrictions for Inspiration at South Pointe (the "Declaration"), to which these Bylaws shall be attached as an exhibit prior to recording, shall be used herein with the same meanings as defined therein.

2. **MEMBERSHIP AND VOTING RIGHTS.** The membership shall be as more fully set forth in Article 4 of the Declaration.

2.1 Membership. Every person or entity who or which is a record owner of a fee or undivided fee interest in any Tract which is subject to the Declaration shall be a Member of the Association, provided that any such person or entity who merely holds record ownership as security for the performance of an obligation shall not be a Member of the Association.

2.2 Voting Rights. Each Member shall have the voting rights set forth in the Declaration. In the event a Mortgagee or other party acquires title to a Tract through foreclosure or deed in lieu of foreclosure, such party shall have the voting rights last held by the owner of the Tract to which title was so acquired.

2.3 General Matters. When reference is made herein, or in the Declaration, Bylaws, management contracts, or otherwise, to a majority or specific percentage of the Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of the Members present at a duly constituted meeting thereof (i.e., one for which proper notice has been given and at which a quorum exists).

2.4 Rights and Privileges of Members. Every Member shall have the right to: (1) Have its vote cast by his voting representative at the meetings of the Members; (2) Serve on the Board if elected; (3) Serve on committees; and (4) Attend membership meetings. Each Member is encouraged to take an active interest in Association affairs.

3. MEMBERS' MEETINGS.

3.1 Annual Meeting. The annual meeting shall be held in Lee County or as shall be determined by the Directors during either March or April of each year, at a day, place and time designated by the Board of Directors, for the purpose of electing Directors and transacting any other business duly authorized to be transacted by the Members.

3.2 Special Members' Meetings. Special Members' meetings must be held whenever called for by the President, a majority of the Directors, and upon receipt of a written request signed by Members collectively holding at least ten percent (10%) of the total Voting Interests.

3.3 Quorum. A quorum shall be attained at a Members meeting by the presence in person of Members holding at least ten percent (10%) of the total Voting Interests.

3.4 Vote Required to Transact Business. The acts or resolution approved by at least a majority of the votes cast at a duly called meeting at which a quorum has been attained shall be the act of the Members, unless a higher vote is specifically required by law or by the Governing Documents.

3.5 Notice of Meetings. Written notice of meetings shall be mailed or hand-delivered to the Members. The notices must be mailed or delivered by the Association not less than fourteen (14) days prior to the date of the meeting.

3.6 Minutes. Minutes of all meetings of the Members must be maintained in written form, or in another form that can be converted into written form within a reasonable time.

3.7 Action by Members without a Meeting. Except for the holding of the Annual Meeting and annual election of Directors, any action required or permitted to be taken at a meeting of the Members may be taken by mail without a meeting if written instruments expressing approval of the action proposed to be taken are signed and returned by Members holding not less than the Voting Interests that would be necessary to take such action at a meeting at which all of the Voting Interests were present and voting.

4. BOARD OF DIRECTORS. The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles of Incorporation, and these Bylaws, shall be exercised by the Board, subject to the approval or consent of the Members only when such is expressly required.

4.1 Powers. The Board shall have the authority to:

(A) Manage and control the affairs of the Association;

(B) Appoint and remove, at its pleasure, all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient. Nothing in these Bylaws shall be construed to prohibit the employment of any Member, officer or Director of the Association in any capacity whatsoever;

(C) Establish, levy, assess and collect any assessment or charge provided for in the Governing Documents;

(D) Adopt, amend or revoke rules and regulations relating to the use of Common Areas, and such sanctions for noncompliance therewith, as it may deem necessary for the best interest of the Association and its Members;

(E) Negotiate and enter into contracts for the maintenance and operation of the Common Areas;

(F) Make improvements to the Common Areas;

(G) Acquire property, real or personal, and enter into agreements with any persons, including Declarant, relating to the orderly transfer of property from said person to the Association and such other matters as the Board may deem appropriate; and

(H) Perform all other acts not inconsistent with law or the Governing Documents and necessary for the proper functioning of the Association.

4.2 Management by Directors. The property, business and affairs of the Association shall be managed and conducted by a Board of Directors of no fewer than three (3) nor more than five (5), as determined per Section 4.4 below. The Board of Directors shall be elected by the Members at the Annual Meeting.

4.3 Vacancies. If a Director shall for any reason cease to be a Director, the remaining Directors shall appoint a successor to fill the vacancy for the balance of the unexpired term, provided that a vacancy in a seat previously filled by a Declarant appointee or a person elected by the Members shall be filled with a similarly situated person.

4.4 Term of Office. Directors elected by the Members shall serve commencing upon their election and continuing until the next Annual Meeting of the Association and subsequently until his successor is duly elected and has taken office, or until he is removed in the manner elsewhere provided.

4.5 Regular Meetings. Regular meetings of the Board shall be held at such time and place in Lee County, Florida, or as shall be determined from time to time by the Directors.

4.6 Special Meetings. Special meetings of the Board are all meetings other than the annual organizational meeting and regular meetings. Special meetings may be called by the President, the Secretary, or by a majority of the Directors. Not less than two (2) days' notice of a special meeting shall be given to each Director, personally or by mail, facsimile, telephone or telegram, which notice shall state the time, place, and purposes of the meeting. Business conducted at a special meeting shall be limited to the items specified in the notice of the meeting.

4.7 Waiver of Notice by Directors. Any Director may waive notice of a Board meeting before or after the meeting, and such waiver shall be deemed equivalent to the receipt of notice. Attendance at a meeting by any Director constitutes waiver of notice, unless that Director objects to the lack of notice at the beginning of the meeting.

4.8 Board Meetings; Notice to Members. A meeting of the Board of Directors occurs whenever a quorum of the Board gathers and conducts Association business. All meetings of the Board shall be open to all Members, except as otherwise provided by law.

4.9 Vote Required. Except as otherwise required by law or the Governing Documents, the acts approved by a majority of the Directors present and voting at a duly called Board meeting at which a quorum exists shall constitute the acts of the Board of Directors.

5. OFFICERS.

5.1 Officers and Elections. The executive officers of the Association shall be a President and Vice-President, who must be Directors of the Association, a Treasurer and a Secretary, all of whom shall be elected annually by majority vote of the Board of Directors. Any officer may be removed, with or without cause, by vote of a majority of all Directors at any meeting. Any person except the President may hold two or more offices. The Board of Directors shall, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall deem necessary to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; shall preside at all meetings of the Members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. The President shall execute bonds, mortgages and other contracts or documents requiring the seal of the Association, except where such are permitted by law to be otherwise executed, and the power to execute is delegated by the Board of Directors to another officer or agent of the Association.

5.3 Vice Presidents. The Vice President(s), in the order of their seniority, if applicable, shall, in the absence or disability of the President, perform the duties and exercise the powers of the President and perform such other duties as the Board of Directors shall prescribe.

5.4 Secretary. The Secretary shall attend the meetings of the Board and meetings of the Members, and shall record all votes and the minutes of all proceedings in a book or books to be kept for the purpose, and shall perform like duties for the standing committees when required. The Secretary shall give, or cause to be given, notice of all meetings of the Members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. The Secretary shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the Governing Documents.

5.5 Treasurer. The Treasurer shall have responsibility for the collection, safe-keeping, and disbursement of funds and securities of the Association, shall cause to be kept full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors, and prepare the budget for the Association. He shall disburse the funds of the Association, making proper vouchers for such disbursements, and shall render to the President and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all transactions and of the financial condition of the Association.

6. FISCAL MATTERS. The provisions for assessments and fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions:

6.1 Depository. The Association shall maintain its accounts in federally insured accounts at financial institutions doing business in the United States as may be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board. The Board may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities, and other similar investment vehicles, provided they are federally insured, or backed by the full faith and credit of the United States.

6.2 Budget. The Board of Directors shall, at a November meeting each year, adopt a budget of general expenses for the next fiscal year. The budget must reflect estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the Association, the Declarant, or another person. The Association shall provide each Member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the Member. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and expense classifications.

6.3 Reserves. The Board may establish in the budgets one or more reserve accounts for contingencies, operating expenses, repairs, improvements, capital expenditures or deferred maintenance. The purpose of the reserves is to provide financial stability and to avoid the need for special assessments.

The amounts proposed to be so reserved shall be shown in the proposed annual budgets each year. These funds may be spent only for purposes for which they were reserved, unless another use is approved by unanimous consent of the entire Board.

6.4 Fidelity Bonds. The Treasurer, and all other officers who are authorized to sign checks, and all Directors and employees of the Association handling or responsible for Association funds, shall be bonded in such amounts as determined by the Board of Directors. The premiums on such bonds shall be paid by the Association. The requirements of this section may be waived by the Board.

6.5 Accounts and Accounting Procedures. The financial and accounting records of the Association, must be kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least seven (7) years.

6.6 Financial Reporting. The Association shall prepare an annual financial report within sixty (60) days after the close of the fiscal year. The Association shall, within ten (10) business days after the report is prepared, provide each Member with a copy of the report, or a written notice that a copy of the financial report is available upon request at no charge to the Member.

6.7 Audits. A formal certified audit of the accounts of the Association, if required by law or requested by Members collectively holding a majority of the total Voting Interests, or by a majority of the Board of Directors, shall be made by an independent certified public accountant, and a copy of the audit report shall be available on request to each Member.

6.8 Application of Payments and Commingling of Funds. All monies collected by the Association may be commingled, for investment purposes only, in a single fund, or divided into two or more funds, as determined by the Board of Directors. The books and records of the Association shall be kept in conformity to generally accepted accounting principles, and the audit and accounting guide for Common Interest Realty Associations of the American Institute of Certified Public Accountants. All payments on account by an Owner shall be applied as to interest, delinquencies, costs and attorney fees, other charges, and annual or special assessments, in such manner and amounts as the Board of Directors may determine, or as may be required by law.

6.9 Fiscal Year. The fiscal year for the Association shall begin on the first day of January each year. The Board of Directors may change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed in the Internal Revenue Code of the United States.

6.10 Payment of Assessments. Assessments shall be collected as set forth in the Declaration.

7. AMENDMENT OF BYLAWS. These Bylaws may be amended from time to time by resolution adopted by a majority of the Board of Directors and approved by Members collectively holding two-thirds (2/3) of the total Voting Interests, so long as no amendment impairs or dilutes any right or title of a Member vested in it under a deed or other recorded instrument applicable to the Tract owned by such Member unless made in accordance with provision of such deed or instrument.

8. MISCELLANEOUS.

8.1. Gender Number. Whenever the masculine or singular form of the pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

8.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

8.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration or the Articles of Incorporation of the Association, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of these Bylaws and, as provided in the Declaration, the Declaration shall prevail over any inconsistent provision in the Articles of Incorporation.