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MELLOW CAPE VENTURES LAND

CONDOMINIUM ASSOCIATION, INC.

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**MELLOW CAPE VENTURES LAND
CONDOMINIUM ASSOCIATION, INC.**

ARTICLES OF INCORPORATION

The undersigned Incorporator, for the purpose of forming a not-for-profit corporation pursuant to the laws of the State of Florida hereby adopts the following Articles of Incorporation:

ARTICLE I

NAME

The name of the Corporation shall be Mellow Cape Ventures Land Condominium Association, Inc. The principal address of the corporation is 35 NE Pine Island Road, Cape Coral, FL 33909. For convenience, the Corporation shall be referred to in this instrument as the "Association" or the "Corporation," these Articles of Incorporation as the "Articles," and the By-Laws of the Association as the "By-Laws."

ARTICLE II

PURPOSE

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act, Chapter 718, Florida Statutes as it exists on the date hereof (the "Act") for the operation of that certain condominium to be known as Mellow Cape Ventures Land Condominium (the "Condominium").

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ARTICLE III

DEFINITIONS

The terms used in these Articles shall have the same definitions and meaning as those set forth in the Declaration of Condominium ("Declaration") for the Condominium, and the By-laws of the Association, unless herein provided to the contrary, or unless the context otherwise requires. In construing these Articles, the use of any gender shall include every other gender.

ARTICLE IV

POWERS

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

4.1 General. The Association shall have all of the common law and statutory powers of a not-for-profit corporation under the laws of Florida that are not in conflict with the provisions of these Articles, the Declaration, the By-Laws or of the Act.

4.2 Enumeration. The Association shall have all the powers and duties set forth in the Act, except as limited by these Articles, the By-Laws and the Declaration (to the extent that they are not in conflict with the Act), and all of the powers and duties reasonably necessary to operate the Condominium pursuant to its Declaration and as more particularly described in the By-Laws, as they may be amended from time to time, including, but not limited to, the following:

A. To make and collect Assessments and other charges against Members as Unit Owners, and to use the proceeds thereof in the exercise of its powers and duties.

B. To buy, own, operate, lease, sell and trade both real and personal property as may be necessary or convenient in the administration of the Condominium.

C. To maintain, repair, replace, reconstruct, add to, and operate the Condominium Property, and other property acquired or leased by the Association.

D. To purchase insurance upon the Condominium and insurance for the protection of the Association, its officers, directors, and Members as Unit Owners.

E. To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Condominium Property and for the health, comfort, safety and welfare of the Unit Owners.

F. To approve or disapprove the leasing, transfer, mortgaging, ownership and possession of Units as may be provided by the Declaration.

G. To enforce by legal means the provisions of the Act, the Declaration, these Articles, the By-laws, and the rules and regulations for the use of the Condominium Property, subject, however, to the limitation regarding assessing Units owned by the Developer for fees and expenses relating in any way to claims or potential claims against the Developer as set forth in the Declaration and/or By-Laws .

H. To contract for the management and maintenance of the Condominium Property and to authorize a management agent (which may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Elements with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.

I. To employ personnel to perform the services required for proper operation, maintenance, conservation, and use of the Condominium.

J. To enter into agreements with other parties for easements or sharing arrangements as the Board of Directors may deem in the best interests of the Condominium.

K. The power to acquire title to property upon the vote of 66-2/3% of all the voting interests of the Units (for the purchase of Units at a foreclosure sale no Unit Owner approval is required); to make and collect Assessments and other charges against Unit Owners and to otherwise hold, regulate, administer, convey, lease, maintain, repair, replace and mortgage the Association Property, including the right to grant, modify or move easements which are part of or cross the Common Elements or Association Property.

4.3 Assets of the Association. All funds and the titles of all properties acquired by the Association and their proceeds shall be held for the benefit and use of the Members in accordance with the provisions of the Declaration, these Articles, and the By-Laws.

4.4 Limitation. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration, the By-laws and the Act, provided that in the event of conflict, the provisions of the Act shall control over those of the Declaration and By-Laws.

4.5 Distribution of Income; Dissolution. The Association shall make no distribution of income to its members, directors or officers, and upon dissolution, all assets of the Association shall be transferred only to another not for profit corporation or a public agency or as otherwise authorized by the Florida Not For Profit Corporation Statute.

ARTICLE V

MEMBERS

5.1 Membership. The Members of the Association shall consist of all of the record Owners of Units in the Condominium; and, after termination of the Condominium, if same shall occur, the Members of the Association shall consist of those who are Members at the time of the termination, and their successors and assigns. New members shall deliver a true copy of the recorded deed or other instrument of acquisition of title to the Association. .

5.2 Assignment. The share of a Member in the funds and assets of the Association, in its common elements and its common surplus, and membership in this Association, cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit for which that share is held.

5.3 Voting. On all matters as to which the members of the Association shall be entitled to vote, Unit 1 shall be entitled to five (5) vote(s) cast by the designated Owner thereof, Unit 2 shall be entitled to one (1) vote(s) cast by the designated Owner thereof, and Unit 3 shall be entitled to one (1) vote(s) which vote(s) shall be exercised or cast in the manner provided by the Declaration and By-Laws. Any person or entity owning more than one Unit shall be entitled to the respective vote(s) for each Unit owned.

5.4 Meetings. The By-laws shall provide for an annual meeting of Members, and may make provision for regular and special meetings of Members other than the annual meeting.

ARTICLE VI

TERM OF EXISTENCE

The Association shall have perpetual existence.

ARTICLE VII

INCORPORATOR

The name and address of the incorporator to these Articles is as follows:

<u>NAME</u>	<u>ADDRESS</u>
Christopher Scuderi	35 NE Pine Island Road Cape Coral, FL 33909

ARTICLE VIII

OFFICERS

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

President:	Christopher Scuderi 35 NE Pine Island Road Cape Coral, FL 33909
Vice President/Treasurer:	Carol Scuderi 35 NE Pine Island Road Cape Coral, FL 33909
Secretary:	Robert Casatelli 2333 Dam Road Tega Cay, SC 29708

ARTICLE IX

DIRECTORS

9.1 Number and Qualification. The property, business and affairs of the Association shall be managed by a board consisting of the number of directors determined by the By-laws, but which shall consist of not less than three (3), and which shall always be an odd number. During Developer control, Directors need not be Unit Owners; provided, however, upon turnover, each Director, other than any Developer appointed or elected Director, shall be a Unit Owner.

9.2 Duties and Powers. All of the duties and powers of the Association existing under the Act, the Declaration, these Articles and the By-laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Unit Owners when such approval is specifically required.

9.3 Election; Removal. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the By-laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-laws.

9.4 Term of Declarant's Directors. The Developer of the Condominium shall appoint the members of the first Board of Directors who shall hold office for the periods described in the By-laws.

9.5 First Directors. The names and addresses of the members of the first Board of Directors, who shall hold office until their successors are elected and have taken office, as provided in the By-Laws, are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Christopher Scuderi	35 NE Pine Island Road Cape Coral, FL 33909
Carol Scuderi	35 NE Pine Island Road Cape Coral, FL 33909
Robert Casatelli	2333 Dam Road Tega Cay, SC 29708

ARTICLE X

INDEMNIFICATION

10.1 Indemnity. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a director, employee, officer or agent of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, unless (a) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he acted with fraudulent or criminal intent and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (b) such court further specifically determines that indemnification should be denied. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the proposed indemnitee acted fraudulently, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe that his or her conduct was unlawful.

10.2 Expenses. A director, officer, employee or agent of the Association shall be indemnified and promptly defended in any action, suit or proceeding referred to in Section 10.1 above, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith in defense of any claim referred to in Section 10.1 herein. Assessments may be made by the Association to cover any expenses or other amounts to be paid by the Association in common with the indemnification provided herein.

10.3 Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding through all available appeals upon receipt of an undertaking by or on behalf of the affected director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association as authorized in this Article 10.

10.4 Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of members or otherwise, and 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 and personal representatives of such person.

10.5 Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against them and incurred by them in any such capacity, or arising out of their status as such, whether or not the Association would have the power to indemnify them against such liability under the provisions of this Article.

10.6 Amendment. Anything to the contrary herein notwithstanding, the provisions of this Article 10 may not be amended without the prior written consent of all persons whose interest would be adversely affected by such amendment.

ARTICLE XI

BY-LAWS

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

ARTICLE XII

AMENDMENTS

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

12.1 Notice. Notice of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered and shall be otherwise given in the time and manner provided in Chapter 617, Florida Statutes. Such notice shall contain the proposed amendment or a summary of the changes to be affected thereby.

12.2 Adoption. Amendments shall be proposed and adopted in the manner provided in Chapter 617, Florida Statutes and in the Act (the latter to control over the former to the extent provided for in the Act).

12.3 Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of the applicable Florida Statutes, and a copy certified by the Secretary of State shall be recorded in the Public Records of Lee County, Florida.

12.4 Developer Amendments. To the extent lawful, the Developer may amend these Articles consistent with the provisions of the Declaration, including, the Articles of the Declaration allowing certain amendments to be effected by the Developer alone.

12.5 Limitation. No amendment shall make any changes in the qualifications for membership, nor in the voting rights or property rights of members, nor any changes in Sections 4.3, 4.4 or 4.5 of Article 4, entitled "Powers", without the approval in writing of all members and the joinder of all record owners of mortgages upon Units. No amendment shall be made that is in conflict with the Act, the Declaration or the By-Laws, nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of or reserved to the Developer, or an affiliate, successor or assign of the Developer, unless the Developer shall join in the execution of the amendment. No amendment to this paragraph 12.5 shall be effective.

ARTICLE XIII **ADDRESS**

The principal place of business of the Corporation shall be located at 35 NE Pine Island Road, Cape Coral, FL 33909, but the Corporation may maintain offices and transact business in such other places within or without the State of Florida as may from time to time be designated by the Board of Directors.

ARTICLE XIV

INITIAL REGISTERED OFFICE ADDRESS AND NAME OF REGISTERED AGENT

The initial registered office of this Corporation shall be located at Becker & Poliakoff, P.A., One East Broward Boulevard, Suite 1800, Fort Lauderdale, Florida 33301, and the initial registered agent of the Corporation at that address is Jennifer Bales Drake, Esq.

IN WITNESS WHEREOF, the Incorporator has affixed his signature this 30th day of May, 2023.

By: *Christopher Scuderi*
Christopher Scuderi, Incorporator

ACCEPTANCE BY REGISTERED AGENT

Having been named to accept service of process for the above stated non-profit corporation, at the place designated in article xv of these articles of incorporation, the undersigned hereby agrees to act in this capacity, and further agrees to comply with the provisions of all statutes relative to the proper and complete discharge of her duties.

Dated this 30th day of May, 2023.

Jennifer Bates Drake
Jennifer Bates Drake
Registered Agent

STATE OF FLORIDA)
 :SS
COUNTY OF LEE)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, on this 30th day of May, 2023, by Christopher Scuderi, who is personally known to me () or who produced FL Drivers License as identification, and he acknowledged the execution thereof to be his free act and deed, on behalf of the company for the uses and purposes therein mentioned.

Janet Dunnigan
Notary Public, State of Florida at Large

My commission expires:
9-1-2025

