

Division of Corporations

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**CERTIFICATE OF AMENDMENT  
TO THE ARTICLES OF INCORPORATION  
OF SOUTH ROYAL CORPORATION**

The undersigned does hereby certify, solely in his capacity as the Vice President of the corporation:

The corporation's name is SOUTH ROYAL CORPORATION.

The Amended and Restated Articles of Incorporation of SOUTH ROYAL CORPORATION, pursuant to Florida Statutes, are amended as set forth in Exhibit A, attached hereto and incorporated herein.

The Amended and Restated Articles of Incorporation were approved by the shareholders of the corporation holding all outstanding common shares of the corporation, that being the only voting group entitled to vote on this amendment, and all outstanding shares were voted therefore, that number being sufficient for approval by that voting group.

I certify that the foregoing is true and correct.

SOUTH ROYAL CORPORATION  
A Florida corporation

By: R. Todd Smith  
R. Todd Smith, Vice President

Date: 8/21/2014

SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
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**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION**

These Amended and Restated Articles of Incorporation fully amend, restate and supersede the Amended Articles of Incorporation previously filed by the Corporation on June 12, 1998, except to the extent the provisions of the Amended Articles of Incorporation state they survive amendment, and the Articles of Incorporation previously filed by the Corporation on February 5, 1988, and any other amendments previously filed.

- FIRST:** The name of said Corporation shall be: South Royal Corporation.
- SECOND:** The place in Florida where its principal office is to be located is in the County of Lee, at 1538 Cape Coral Parkway, Cape Coral, Florida 33904.
- THIRD:** The corporation exists for a single purpose and that purpose is to own, operate, manager, encumber, mortgage, and sell the real property improved by a hotel located at 1538 Cape Coral Parkway, Cape Coral, Florida, 33904 and commonly known as the Holiday Inn Express (the "Property"), together with such other activities as may be necessary or advisable in connection with the ownership of the Property. Except for the purpose set forth herein, the Corporation shall not be authorized to perform any other purpose, to engage in any other business, to acquire any real property other than the Property, or own assets other than those related to the Property.
- FOURTH:** The maximum number of shares of all classes which the Corporation is authorized to have outstanding is One Thousand (1,000), all of which shall have a par value of One Dollar (\$1.00).
- FIFTH:** The Board of Directors is hereby authorized to fix and determine and to vary the amount of working capital of the Corporation, to determine whether any, and if any, what part of the surplus, however created or arising, shall be used or disposed of or declared in dividends to pay shareholders, and without action by the shareholders, to use and apply such surplus, or any part thereof, or such part of the stated capital of the Corporation as is lawfully permitted, at any time or from time to time, in the purchase or acquisition of shares of any class, voting trust certificates for shares, bonds, debentures, notes, scrip, warrants, obligations, evidences of indebtedness of the Corporation, or other securities of the Corporation, to such extent or amount in such manner and upon such terms as the board of directors shall deem expedient.
- SIXTH:** Every statute of the State of Florida hereafter enacted, whereby the rights or privileges of shareholders of a corporation organized under the General Corporation Law of said state are increased, diminished, or in any way affected, or whereby effect is given to any action authorized, ratified, or approved by less than all the shareholders of any such corporation, shall apply to the Corporation and shall be binding upon every shareholder therefor to the same extent as if such

statute had been in full force at the date of the filing of these Articles of Incorporation.

**SEVENTH:** A director or officer of the Corporation shall not be disqualified by his office from dealing or contracting with the Corporation as a vendor, purchaser, employee, agent, or otherwise. No transaction, contract, or act of the Corporation shall be void, voidable, or in any way affected or invalidated by reason of the fact that any of the following is in any way interested in such transaction, contract, or act: (i) any director or officer, (ii) any firm of which any director or officer is a member, (iii) any corporation of which any director or officer is a shareholder, director, or trustee, or (iv) any trust of which any director or officer is a trustee or beneficiary. No director or officer shall be accountable or responsible to the Corporation for or in respect of any transaction, contract, or act of the Corporation or for any gains or profits directly or indirectly realized by him by reason of the fact that he, any firm of which he is a member, any corporation of which he is a shareholder, director, or trustee, or any trust of which he is a trustee or beneficiary, is in any way interested in such transaction, contract, or act; provided the fact that such director or officer or such firm, corporation, or trust is so interested shall have been disclosed or shall have been known to the board of directors. Any director may be counted in determining the existence of a quorum at any meeting of the board of directors which shall authorize or take action in respect to any such contract, transaction, or act, and may vote thereat to authorize, ratify, or approve any such contract, transaction, or act. Any officer of the Corporation may take any action within the scope of his authority respecting such contract, transaction, or act with like force and effect as if he were not interested in such transaction, contract, or act. Without limiting or qualifying the foregoing, if in any judicial or other inquiry, suit, cause, or proceeding, the question of whether a director or officer of the Corporation has acted in good faith is material, then notwithstanding any statute or rule of law or of equity to the contrary (if any there be), his good faith shall be presumed, in the absence of proof to the contrary, by clear and convincing evidence.

**EIGHTH:** The Corporation, through its board of directors, shall have the right and power to repurchase any of its outstanding shares at such price and upon such terms as may be agreed upon between the Corporation and the selling shareholder or shareholders.

**NINTH:** Notwithstanding any provision of any statute of the State of Florida, now or hereafter in force, requiring for any purpose the vote of the holders of shares entitling them to exercise two-thirds or any other proportion of the voting power of the Corporation or of any class or classes of shares thereof, any action, unless otherwise expressly required by statute, may be taken by the vote of the holders of the shares entitling them to exercise a majority of the voting power of the Corporation or of such class or classes.

**TENTH:** No person shall be liable to the Corporation for any loss or damage suffered by it on account of any action taken or omitted by him as a director or officer of the

Corporation in good faith, if such person (i) exercised or used the same degree of care and skill as a prudent person would have exercised or used in the same circumstance, or (ii) took or omitted such action in reliance upon advice of counsel for the Corporation or upon statements made or information furnished by officers or employees of the Corporation which he has reasonable grounds to believe, or upon a financial statement of the Corporation as prepared by an officer or employee of the Corporation in charge of its accounts or certified by a public accountant or firm, or (iii) in good faith considered the assets to be of their book value or followed what such person believed to be sound accounting and business practices.

In case any claim, action, suit, or proceeding shall be made or brought against any present or future director or officer of the Corporation, or his heirs, executors, and administrators, on account of action taken or omitted to be taken by such director or officer of the Corporation, the Corporation shall indemnify such present or future director or officer, his heirs, executors and administrators, against all or any portion of any expenses actually and necessarily incurred by him in connection with the defense of any such claim, action, suit, or proceeding (whether or not he continues to be a director or officer at the time of incurring such expense), such expenses to include any amount paid upon any judgment and the amount of any reasonable settlement made with a view to curtailment of costs of litigation. The Corporation shall not, however, indemnify any such director or officer with respect to any matter as to which he shall be finally adjudged in any such action, suit, or proceeding to be liable for negligence or misconduct in the performance of duty, nor in respect to any matter on which any settlement or compromise shall be effected, if the total expense, including the amount paid upon such settlement, shall substantially exceed the expense which might reasonably be incurred by such director or officer in conducting such litigation to a final conclusion.

The provisions of this paragraph shall be in addition to and not in limitation of any other rights, indemnities, or limitations of liability to which any director or officer may be entitled as a matter of law. Notwithstanding any repeal of this paragraph or any other amendment thereof, the foregoing indemnification shall be binding upon the Corporation (subject only to the exceptions herein above set forth) as to all claims, actions, suits, or proceedings, and expenses connected therewith and settlements thereof, as above provided, arising out of matters which occur during, or are attributable to, the period to any such repeal or amendment.

[text continued on the next page]

Notwithstanding any other provision of these Articles, any other organizational documents or any provisions of law that empowers the Corporation, the following provisions shall be operative and controlling so long as the loan (the "Loan") by Prudential Mortgage Capital Company, LLC or its successors and/or assigns (collectively, the "Lender") to the Corporation is outstanding:

**ELEVENTH:** Until such time as the Loan is indefeasibly paid in full, the Corporation:

1. shall not engage, either directly or indirectly, in any business other than the ownership, management and operation of the Property;
2. shall not own any asset other than (a) the Property, and (b) personal property necessary for the operation of the Property;
3. shall not liquidate or dissolve (or suffer any liquidation or dissolution), or enter into any transaction of merger or consolidation or acquire by purchase or otherwise all or substantially all the business or assets of, or any stock or other evidence of beneficial ownership of any entity;
4. shall not incur any debt, secured or unsecured, direct or contingent (including, but not limited to, guaranteeing any obligation), other than (a) the Loan, and (b) advances or trade payables or accrued expenses incurred in the ordinary course of business of operating the Property not outstanding for more than sixty (60) days from the date incurred with trade creditors and in an amount not to exceed two (2%) percent of the original principal balance of the Loan in the aggregate; and no debt other than the Loan will be secured;
5. shall not, nor shall any director, officer or shareholder thereof, as applicable, amend, modify or otherwise change these Amended and Restated Articles of Incorporation, the Corporation's bylaws or any other formation agreement or document of the Corporation, as applicable, in a manner which adversely affects the Corporation's existence as a single purpose bankruptcy remote entity, except as required by Lender;
6. shall hold itself out to creditors and the public as a legal entity separate and distinct from any other entity, and shall maintain its principal executive office and telephone and facsimile numbers separate from that of any Affiliate of same and shall conspicuously identify such office and numbers as its own or shall allocate by written agreement fairly and reasonably any rent, overhead, common expenses and expenses for shared office space. Additionally, the Corporation shall use its own separate stationery, invoices and checks which reflect its separate address, telephone number and facsimile number;
7. shall maintain correct and complete financial statements, accounts, books and records and other entity documents separate and apart from those of any Affiliate of same or any other person or entity. The Corporation shall prepare quarterly and annual financial statements, and the Corporation's financial statements shall substantially comply with generally accepted accounting principles;
8. shall maintain its own separate bank accounts, payroll and correct, complete and separate books of account;

9. shall file or cause to be filed its own separate tax returns;
10. shall hold itself out to the public (including, without limitation, any of its Affiliates' creditors) under the Corporation's own name and as a separate and distinct entity and not as a department, division or otherwise of any Affiliate of same;
11. shall observe all customary formalities regarding the existence of the Corporation, including holding meetings and maintaining current and accurate minute books separate from those of any Affiliate of same;
12. shall hold title to its assets in its own name and act solely in its own name and through its own duly authorized officers and agents. No Affiliate of same shall be appointed or act as agent of the Corporation, other than, as applicable, a property manager with respect to the Property;
13. shall make any investments in the name of the Corporation directly by the Corporation or on its behalf by brokers engaged and paid by the Corporation;
14. shall not guarantee, pledge or assume or hold itself out or permit itself to be held out as having guaranteed, pledged or assumed any liabilities or obligations of any partner, member or shareholder, as applicable, or any Affiliate of the Corporation, nor shall it make any loan, except as permitted in the Loan Documents or as otherwise required by Lender, nor shall it permit any Affiliate to guarantee or pay its obligations (other than limited guarantees and indemnities set forth in the Loan Documents);
15. shall remain solvent;
16. shall separately identify, maintain and segregate its assets. The Corporation's assets shall continue at all times to be held by or on behalf of the Corporation, and if held on behalf of the Corporation by another entity, have at all times been kept and shall at all times be kept identifiable (in accordance with customary usages) as assets owned by the Corporation. This restriction requires, among other things, that (a) the Corporation's funds shall be deposited or invested in the Corporation's name, (b) the Corporation's funds shall not be commingled with the funds of any Affiliate of same or other person or entity, (c) the Corporation shall maintain all accounts in its own name and with its own tax identification number, separate from those of any Affiliate of same or other person or entity, and (d) the Corporation funds shall be used only for the business of the Corporation;
17. shall maintain its assets in such a manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of any Affiliate of same or other person or entity;
18. shall pay or cause to be paid its own liabilities and expenses of any kind, including but not limited to salaries of its employees, only out of its own separate funds and assets (and has continuously done so in the past) and the Corporation shall continue to maintain a sufficient number of employees in light of its operations;

19. will not make any distributions that would leave it with inadequate capital in light of its contemplated business operations;

20. shall not do any act which would make it impossible to carry on the ordinary business of the Corporation;

21. shall reflect the Corporation's ownership interest in all data and records (including, but not limited to, computer records) used by the Corporation or any Affiliate of same in the collection and administration of any loan;

22. shall not invest any of the Corporation's funds in securities issued by, nor shall the Corporation acquire the indebtedness or obligation of, any Affiliate of the Corporation;

23. shall maintain an arm's length relationship with each of its Affiliates and may enter into contracts or transact business with its Affiliates only on commercially reasonable terms that are no less favorable to the Corporation than are obtainable in the market from a person or entity that is not an Affiliate of same;

24. shall correct any misunderstanding that is known by the Corporation regarding its name or separate identity; and

25. shall not commit and shall not permit any individual acting on its behalf or at its/their direction, to act through willful misconduct, commission of a criminal act or in a grossly negligent manner which results in a forfeiture of the Property or the Corporation's interest therein.

**TWELFTH:** The Corporation shall not, and no person or entity on behalf of the Corporation shall, either with respect to itself, without the prior written affirmative vote of one hundred percent (100%) of the Board of Directors: (a) institute proceedings to be adjudicated bankrupt or insolvent; (b) consent to the institution of bankruptcy or insolvency proceedings against it; (c) file a petition seeking, or consenting to, reorganization or relief under any applicable federal or state law relating to bankruptcy; (d) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Corporation or a substantial part of its property; (e) make any assignment for the benefit of creditors; (f) admit in writing its inability to pay their respective debts generally as they become due or declare or effect a moratorium on its or the Partnership's respective debts; or (g) take any corporate action in furtherance of any such action, provided, however, that none of the foregoing actions may be taken or authorized unless there is at least one Independent Director then serving in such capacity ((a) through (g) above, with respect to any person or entity, collectively, a "Bankruptcy Action").

**THIRTEENTH:** A Bankruptcy Action by or against any shareholder or director shall not cause such shareholder or director to cease to be a shareholder or director of the Corporation and upon the occurrence of such an event, the Corporation shall continue without dissolution. Additionally, to the fullest extent permitted by law, if any shareholder or director ceases to be a shareholder or director of the



Corporation such event shall not terminate the Corporation and the Corporation shall continue without dissolution.

**FOURTEENTH:** Any indemnification obligation of the Corporation shall (a) be fully subordinated to the Loan and (b) not constitute a claim against the Corporation or its assets until such time as the Loan has been indefeasibly paid in accordance with its terms and otherwise has been fully discharged.

For purposes of these Articles:

“Affiliate” shall mean any person or entity which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with a specified person or entity.

The terms “control”, “controlled”, or “controlling” with respect to a specified person or entity shall include, without limitation, (i) the ownership, control or power to vote ten percent (10%) or more of (x) the outstanding shares of any class of voting securities or (y) beneficial interests, of any such person or entity, as the case may be, directly or indirectly, or acting through one or more persons or entities, (ii) the control in any manner over the shareholder(s) or the election of more than one director or trustee (or persons exercising similar functions) of such person or entity, or (iii) the power to exercise, directly or indirectly, control over the management or policies of such person or entity.

“Loan Documents” shall mean that certain Promissory Note from the Corporation to Lender in the original principal amount of the Loan, that certain Loan Agreement between the Corporation and Lender relating to the Loan, that certain Mortgage and Security Agreement given from the Corporation to, or for the benefit of, Lender in connection with the Loan and any and all guarantees, indemnities, certificates, agreements and other documents contemplated thereby or otherwise delivered to Lender in connection with the Loan.

“Person” shall mean any individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any other entity, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.