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FLORIDA PROFIT/NON PROFIT CORPORATION
THE HARPER AT TROUT RIVER HOMEOWNERS ASSOCIATION,
IN

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10-2-23

**ARTICLES OF INCORPORATION
OF
THE HARPER AT TROUT RIVER HOMEOWNERS ASSOCIATION, INC.**

The undersigned incorporator, by these Articles, forms a corporation not for profit pursuant to Chapters 617 and 720 of the laws of the State of Florida, and adopts the following Articles of Incorporation:

ARTICLE 1

NAME AND ADDRESS

The name of the corporation shall be THE HARPER AT TROUT RIVER HOMEOWNERS ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Association," these Articles of Incorporation as the "Articles" and the Bylaws of the Association as the "Bylaws." The principal place of business and mailing address of the Association is 599 Broadway, 9th Floor East, New York, New York 10012.

ARTICLE 2

PURPOSE

The purpose for which the Association is organized is to provide an entity to operate, manage and administer and ultimately own certain real property located in Duval County located at 0 Trout River Boulevard, Jacksonville, Florida 32219 ("Property") more fully described in a Declaration of Covenants, Restrictions and Easements for The Harper at Trout River ("Declaration") made by Cannac, LLC ("Declarant") to be recorded in the Public Records of Duval County, Florida ("County"), and for such other purposes set forth in the Governing Documents.

The Association is not organized for profit and no part of the net earnings, if any, shall inure to the benefit of any Member or other Person.

ARTICLE 3

DEFINITIONS

The capitalized terms used in these Articles shall have the same definitions and meanings as those set forth in the Declaration, and below.

"Act" means Chapter 720 of Florida Statutes as it exists on the date of recording of the Declaration in the Public Records of the County.

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“Architectural Review Board” or “ARB” means the body established by Declarant to monitor construction, exterior alterations and modifications of existing improvements or structures, and landscaping as described in Article 5 of this Declaration.

“Assessments” means General Assessments, Special Assessments and any and all other assessments levied or collected by the Association in accordance with the provisions of the Declaration or any of the other Governing Documents.

“Board” or “Board of Directors” means the Board of Directors of the Association.

“Budget” means the budget for the Association.

“Class B Control Period” means that period of time during which Declarant is entitled to a majority of the voting rights with respect to the Association, as provided in the Articles.

“Common Costs” includes the expenses of operating, maintaining, repairing and replacing the Common Property and includes the items described in Article 10 and such other items as are denominated Common Costs in this Declaration.

“Common Property” means the property described in Section 3.1.

“ Dwelling Unit” means one single family dwelling unit located on a Lot. A Dwelling Unit cannot be transferred, demised, sold or leased apart from the Lot.

“Governing Documents” means, in the aggregate, the Declaration, the Articles, the Bylaws, the Rules, and all of the instruments and documents, including easements, referred to in such documents.

“Institutional Mortgagee” means a Person described below owning a first mortgage on a Lot:

- (1) Any Federal or State savings and loan or building and loan association, or any commercial or other bank or real estate investment trust, or any mortgage banking company, any life insurance company or any subsidiary thereof;
- (2) Any “Secondary Mortgage Market Institution,” including the Federal National Mortgage Association, Government National Mortgage Association, Federal Dwelling Unit Loan Mortgage Corporation, and any other secondary Mortgage Market Institution as the Board shall subsequently approve in writing;
- (3) Any and all investors or lenders, or the successors and assigns of such investors or lenders, which have loaned money to Declarant and who hold a mortgage on any portion of the Property securing such a loan;
- (4) Such other lenders as the Board shall subsequently approve in writing as Institutional Mortgagees which acquire a mortgage upon a Lot;

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(5) Declarant, if Declarant holds a mortgage on any portion of the Property, and the transferee of any mortgage encumbering any portion of the Property which was originally held by Declarant.

“Lot” means any one of the legally described parcels constituting part of the Property on which one Dwelling Unit is constructed or is to be constructed.

“Owner” means the owner or owners of the fee simple title to a Lot and includes Declarant for so long as it is individually the owner of the fee simple title to any Lot.

“Person” includes any individual, corporation, governmental agency, business trust, estate, personal representative of an estate, trust, trustee, partnership, association, limited liability company, limited liability partnership, two or more persons having a joint or common interest, or any other legal entity.

“Property” means that property described on Exhibit “A” and additions to the Property in accordance with Section 2.2 of the Declaration but excluding any property withdrawn from the Property pursuant to Section 2.3 of the Declaration.

“Public Records” shall mean that place in the County designated for recording documents affecting title to real estate in such County.

ARTICLE 4

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 corporation not for profit under the Laws of Florida, including without limitation those contained in the Governing Documents.

4.2. **Enumeration.** In addition to, and not in limitation of, the powers described in Section 4.1, but subject to the provisions of Section 4.3, the Association shall have all of the powers and duties reasonably necessary to operate the Common Property and to exercise such powers, duties and obligations described in the Declaration as it may be amended from time to time, including, but not limited to, the following:

- (a) To make, levy and collect Assessments and other charges against Owners, and to use the proceeds in the exercise of its powers and duties.
- (b) To acquire, buy, own, operate, lease, sell, trade and mortgage both real and personal property as may be necessary or convenient in the administration of the Common Property.

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- (c) To maintain, repair, replace, reconstruct, add to and operate the Common Property, and other property acquired or leased by the Association for use by Owners.
- (d) To purchase insurance upon the Common Property and insurance for the protection of the Association, its officers, directors and Members as Owners.
- (e) To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Property and for the health, comfort, safety and welfare of Owners.
- (f) To enforce by legal means the provisions of the Governing Documents for the use of the Property.
- (g) To contract for the management of the Common Property in order to assist the Association in carrying out the powers and duties of the Association contained in these Articles or in the Declaration. In exercising this power, the Association may contract with affiliates of itself and/or Declarant.
- (h) To maintain the landscaping and shrubbery on any Lot on the Property.
- (i) To employ personnel to perform the services required for the proper operation of the Common Property.
- (j) To execute all documents or consents, on behalf of the Owners (and their mortgagees), required by all governmental and/or quasi-governmental agencies in connection with land use and development matters (including, without limitation, plats, waivers of plat, unities of title, covenants in lieu thereof), and in that regard, each Owner, by acceptance of the deed to such Owner's Lot, appoints and designates the Board of Directors as such Owner's agent and attorney-in-fact to execute, any and all such documents or consents.

4.3. **Major Decisions.** Notwithstanding anything to the contrary in these Articles, following the expiration of the Class B Control Period, the below listed "**Major Decisions**" shall require the prior authorization of 75% of the Members. Such 75% requirement shall relate to Owners holding title to 75% of the Lots on the Property.

- (a) Any addition to or removal of the Common Property or any reconfiguration of the Common Property.
- (b) Any lease or license for use of any portion of the Common Property having a term of more than 10 days or which may remain in effect for more than 10 days in any calendar year.

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- (c) Any contract for maintenance or management of the Common Property which has a term of more than one year or involves a payment in excess of \$75,000.
- (d) Any purchase involving a purchase price in excess of \$75,000.
- (e) Any sale of or mortgage on the Common Property by the Association.
- (f) Any borrowing in excess of \$75,000 by the Association excluding trade payables incurred in the ordinary course of the Association's operations.
- (g) Approval, prior to retention, of the engagement of legal counsel for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:
 - (i) Collection of Assessments;
 - (ii) Collection of other charges which Owners are obligated to pay pursuant to the Governing Documents;
 - (iii) Enforcement of any applicable use and occupancy restrictions contained in the Governing Documents;
 - (iv) Enforcement of Association rules;
 - (v) Enforcement of the guidelines or decisions by the ARB;
 - (vi) Enforcement of a contract entered into by the Association with vendors providing services to the Association;
 - (vii) Action to address an emergency when, waiting to obtain the approval of the Members, creates a substantial risk of irreparable injury to the Common Property or to Member(s) (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of the Members); or
 - (viii) Filing a compulsory counterclaim.

4.4. **Property.** 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 Bylaws.

4.5. **Distribution of Income.** 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 nonprofit corporation or public agency.

4.6. **Limitation.** The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Governing Documents. The Association is not, and shall not act as, a condominium association pursuant to Chapter 718 of Florida Statutes.

ARTICLE 5

MEMBERS

5.1. **Membership.** The members of the Association ("Members") shall consist of all of the record Owners from time to time of fee title to Lots.

- (a) Until such time as the first deed of conveyance of a Lot from Declarant to an Owner is recorded in the Public Records, the membership of the Association shall be comprised solely of Declarant which will be the sole voting member on all matters requiring a vote of the membership.
- (b) Following the first conveyance by Declarant, Declarant shall be a Member as to each of the non-conveyed Lots until each such Lot is conveyed to another Owner, and thereupon and thereafter each and every Owner, including Declarant as to Lots owned by Declarant, shall be a Member and exercise all of the rights and privileges of a Member.
- (c) Membership in the Association for Owners other than Declarant shall be established by the acquisition of ownership of fee simple title to a Lot as evidenced by the recording of an instrument of conveyance in the Public Records. Where title to a Lot is acquired by conveyance from a party other than Declarant by means of sale, gift, inheritance, devise, judicial decree or otherwise, the Person or Persons thereby acquiring such Lot shall not be a Member unless or until such Owner shall deliver a true copy of a deed or other instrument of acquisition of title to the Association.

5.2. **Classes of Membership.** The Association shall have two classes of Members:

- (a) **Class A.** The Class A Members shall consist of all Owners of Lots subject to the Declaration, except the Class B Member.
- (b) **Class B.** The Class B Member is the Declarant.

5.3. **Votes per Lot.** Class A Members shall be entitled to one membership interest and one vote for each Lot owned. When more than one Person holds title to a Lot, all such Persons shall be Members, and the vote associated with such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot. The Class B Member shall have six votes for each Lot owned.

5.4. **Class B Membership Interest.** Class B membership shall cease from and after the first occurring of the following events which period prior to such cessation is referred to as the "Class B Control Period":

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- (a) Three months after 90% of all the Lots as same may be added from time to time, has been conveyed by Declarant to Owners other than Declarant;
- (b) Upon the Class B Member abandoning or deserting its responsibility to maintain and complete the development of the Property as described in the Governing Documents;
- (c) Upon the Class B Member filing a petition seeking protection under Chapter 7 of the Federal Bankruptcy Code;
- (d) Upon the Class B Member losing title to the Property through a foreclosure action or the transfer of a deed in lieu of foreclosure, unless the successor owner has accepted an assignment of Declarant rights and responsibilities first arising after the date of such assignment;
- (e) Upon a receiver for the Class B Member being appointed by a circuit court and not being discharged within 30 days after such appointment, unless the court determines within 30 days after such appointment that transfer of control would be detrimental to the Association or the Members; or
- (f) Such date, if any, as is specified by Declarant in a written instrument, duly executed by Declarant, in recordable form, for termination of the Class B Control Period as Declarant may determine in its sole discretion.

5.5. **Multiple Ownership.**

- (a) If there is more than one Member with respect to a Lot as a result of the fee interest in the Lot being held by more than one Person, such Members collectively shall be entitled to only one vote. The vote of Owners of a Lot owned by more than one Person shall be cast by the person ("**Voting Member**") named in a certificate signed by all of Owners of the Lot, or, if appropriate, by properly designated officers, partners or principals of the legal entity owning such Lot, and filed with the Secretary of the Association, and such certificate shall be valid until revoked by a subsequent such certificate. If such certificate is not filed with the Secretary of the Association, the vote for such Lot shall not be considered.
- (b) Notwithstanding the provisions of Section 5.3(a), whenever any Lot is owned by a husband and wife, they may, but shall not be required to, designate a Voting Member. If a proxy or certificate designating a Voting Member is not filed by the husband and wife, the following provisions shall govern their right to vote:
 - (i) When both husband and wife are present at a meeting, each shall be regarded as the agent and proxy of the other for purposes of casting the vote for each Lot owned by them. If they are unable to concur in

their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting.

(ii) When only one spouse is present at a meeting, the spouse present may cast the vote without establishing the concurrence of the other spouse, absent any prior written notice to the contrary to the Association by the other spouse. In the event of prior written notice to the contrary to the Association by the other spouse, the vote of the Member shall not be considered.

(c) When neither spouse is present, the person designated in a proxy or certificate signed by either spouse may cast the vote, absent any prior written notice to the contrary to the Association by the other spouse or the designation of a different voting Member by the other spouse. In the event of prior written notice to the contrary to the Association or the designation of a different Voting Member by the other spouse, the vote of said Member shall not be considered.

5.6. **Meetings of Members.** The Bylaws shall provide for an annual meeting of Members, make provision for regular and special meetings of Members other than the annual meeting and set the quorum requirements for meetings of the Members.

5.7. **No Transfer or Hypothecation.** No Member may assign, hypothecate or transfer in any manner his membership in the Association except as an appurtenance to his or her Lot.

5.8. **Loss of Membership.** Any Member who conveys or loses title to a Lot by sale, gift, judicial decree or otherwise shall, immediately upon such conveyance or loss of title, no longer be a Member with respect to such Lot and shall lose all rights and privileges of a Member resulting from ownership of such Lot.

ARTICLE 6

TERM OF EXISTENCE

The Association shall have perpetual existence.

ARTICLE 7

INCORPORATOR

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

<u>NAME</u>	<u>ADDRESS</u>
Geoffrey Kristof	599 Broadway, 9 th Floor East, New York, New York 10012

ARTICLE 8

DIRECTORS

8.1. **Number and Qualification.** The property, business and affairs of the Association shall be managed by a Board consisting of the number of directors determined in the manner provided by the Bylaws, but which shall consist of not less than 3 directors. Directors, other than those designated by Declarant, shall be Members of the Association and Owners.

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

8.3. **Election; Removal.** Directors of the Association shall be elected at the annual meeting of Members in the manner determined by and subject to the qualifications set forth in the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws. Members other than Developer are entitled to elect at least one member of the Board when 50% of the Lots have been conveyed to Members other than Declarant.

8.4. **Term of Declarant's Directors.** During the Class B Control Period, Declarant will be entitled to appoint all Directors. When Declarant is entitled to elect or appoint one or more Directors, Declarant may appoint the Directors and their replacements who shall hold office for the periods described in the Bylaws. Any Director appointed by Declarant may be removed by Declarant at any time without cause and Declarant may designate a replacement Director. Any Director designated by Declarant cannot be removed by Owners except pursuant to Chapters 617 and 720 of Florida Statutes.

8.5. **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 qualified, as provided in the Bylaws, are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Meggan Shaw-Butler	599 Broadway, 9 th Floor East, New York, New York 10012
Vladislav Tambaum	599 Broadway, 9 th Floor East, New York, New York 10012
Brendan Brown	599 Broadway, 9 th Floor East, New York, New York 10012

8.6. **Standards of Conduct.** A Director shall discharge his or her duties as a director, including any duties as a member of a committee, in good faith, with the care an ordinary prudent person in a like position would exercise under similar circumstances, and in a manner reasonably believed to be in the best interests of the Association. Unless a Director has knowledge concerning a matter in question that makes reliance unwarranted, a Director, in discharging his or her duties, may rely on information, opinions, reports or statements, including financial statements and other data, if prepared or presented by: one or more officers or employees of the Association whom the Director reasonably believes to be reasonable and competent in the manners presented; legal counsel, public accountants or other persons as to matters the Director reasonably believes are within such person's professional or expert competence; or a committee of which the Director is not a member if the Director reasonably believes the committee merits confidence. A Director is not liable for any action taken as a director, or any failure to take action, if he or she performed the duties of his her office in compliance with the foregoing standards.

ARTICLE 9

OFFICERS

The affairs of the Association shall be administered by the officers holding the offices designated in the Bylaws. The officers shall be elected by the Board of Directors and shall serve at the pleasure of the Board of Directors. The Bylaws 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 officers who shall serve until their successors are designated by the Board of Directors are as follows:

President:	Meggan Shaw-Butler
Vice President:	Vladislav Tambaum
Secretary and Treasurer:	Brendan Brown

ARTICLE 10

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 (collectively "Action"), by reason of the fact that he or she is or was a director, employee, officer or agent of the Association (collectively "Association Person"), against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the Association Person in connection with such Action, if the Association Person acted in good faith and in a manner the Association Person reasonably believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had no reason to believe the Association Person's conduct was unlawful. The Association shall not, however, indemnify any Association Person as to matters to which the Association Person shall be finally adjudged in any such Action to be liable for gross negligence or gross misconduct in the performance of the Association Person's duty. The termination of any Action by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption of gross negligence or gross misconduct. The foregoing right of indemnification shall be in addition to any other rights to which an Association Person may be entitled as a matter of law or otherwise.

10.2. **Expenses.** To the extent that an Association Person has been successful on the merits or otherwise in defense of any Action, or in defense of any claim, issue or matter such Action, the Association Person shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred in such Action.

10.3. **Approval.** Any indemnification under Section 10.1 (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Association Person is proper under the circumstances because the Association Person has met the applicable standard of conduct set forth in Section 10.1. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such Action, or (b) if such quorum is not obtainable, or, even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or by a majority of the Members.

10.4. **Advances.** Expenses incurred in defending an Action may be paid by the Association in advance of the final disposition of such Action, as authorized by the Board of Directors in any specific case upon receipt of an undertaking by or on behalf of the Association Person to repay such amount unless it shall ultimately be determined that the Association Person is entitled to be indemnified by the Association as authorized in this Article 10.

10.5. **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 an Association Person and shall inure to the benefit of the heirs and personal representatives of such person.

10.6. **Insurance.** The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was an Association Person 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 him or her and incurred by him or her in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Article.

10.7. **Directors Appointed by Declarant.** Any Director appointed by Declarant shall not be entitled to indemnification under this Article 10 if same would violate then applicable law.

ARTICLE 11

BYLAWS

The first Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded by the Directors, Members and Declarant in the manner provided in the Bylaws and the Declaration.

ARTICLE 12

AMENDMENTS

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

12.1. **Notice.** Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.

12.2. **Adoption.** A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than one-third of the Members of the Association. Directors and Members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, providing the approval is delivered to the Secretary at or prior to the meeting. The approvals must be:

- (a) By not less than a majority of the votes of all of the Members represented at a meeting at which a quorum has been attained and by not less than 66-2/3% of the Board of Directors; or
- (b) By not less than 75% of the votes of all of the Members represented at a meeting at which a quorum has been attained; or
- (c) By a majority of the Board of Directors prior to the expiration of the Class B Control Period.

12.3. **Limitation.** No amendment shall make any changes in: the qualifications of membership; the voting rights or property rights of Members; Sections 4.3, 4.4 or 4.5 of Article 4, entitled "Powers"; or this Section 12.3, without, in each case, the approval in writing of all Members and the joinder of all record owners of mortgages upon Lots. No amendment shall be made that is in conflict with the Declaration or the Bylaws, nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers or options provided in favor of or reserved to Declarant, unless Declarant shall join in execution of the amendment. No amendment to these Articles shall be made which adversely affects the rights of Institutional Mortgagees without the prior written consent of a majority of holders of mortgages on the Property held by Institutional Mortgagees.

12.4. **Declarant.** Declarant may amend these Articles consistent with the provisions of the Declaration allowing certain amendments to be effected solely by Declarant.

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

ARTICLE 13

RELEASE OF CERTAIN DIRECTORS AND OFFICERS

Upon the resignation of a Director who was on the original Board of Directors, or a Director designated by Declarant, or upon the resignation of an officer who was one of the original officers as designated in these Articles, or an officer of the Association elected during the period in which Declarant controlled the Board of Directors, such resignation shall operate to and shall remise, release, acquit, satisfy and forever discharge such officer or Director of and from any and all manner of actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, and executions which the Association or Members had, now have or subsequently may have or which any personal representative, successor, heir or assign of the Association or Members subsequently can, shall or may have against such officer or Director for, upon or by reason of, any matter, cause or thing whatsoever from the beginning of the world to the day of such resignation, except for such Director's or officer's willful misconduct or gross negligence.

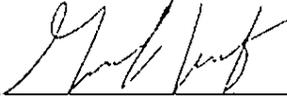
ARTICLE 14

OFFICE; REGISTERED AGENT

The initial principal office and mailing address of the Association shall be 599 Broadway, 9th Floor East, New York, New York 10012, with the privilege of having its office and branch offices at other places within or without the State of Florida. The initial registered agent shall be C T Corporation at 1200 South Pine Island Road, Plantation, Florida 33324.

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The subscriber has affixed his signature the 29th of September _____,
2023.



**ACCEPTANCE OF APPOINTMENT
AS REGISTERED AGENT**

The undersigned, designated in the foregoing Articles of Incorporation as registered agent for the corporation, agrees that (i) the undersigned accepts such appointment as registered agent and will accept service of process for and on behalf of said corporation, and (ii) the undersigned is familiar with and will comply with any and all laws relating to the complete and proper performance of the duties and obligations of a registered agent of a Florida corporation.

Dated: as of September 29, 2023.

REGISTERED AGENT:

CT CORPORATION

By: Madonna Cuddihy
Name: Madonna Cuddihy
Title: Assistant Secretary