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**AMENDED & RESTATED**  
**DECLARATION OF PROTECTIVE**  
**COVENANTS AND RESTRICTIONS**  
**FOR VANTAGE POINTE**

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Pursuant to Article VII, paragraph 3. of the Protective Covenants and Restrictions for Vantage Pointe, recorded in Official Records Book 2075, Page 281, of the Public Records of Highlands County, Florida, Vantage Pointe Homeowner's Association, Inc., a not for profit Florida corporation, as amended, hereby amends and restates the said protective covenants and restrictions as follows:

#### **ARTICLE I. PURPOSE OF PROTECTIVE COVENANTS**

The covenants, restrictions, easements, charges and liens hereinafter set forth are imposed for the benefit Vantage Pointe and each owner thereof to ensure Vantage Pointe will be kept, maintained and improved in such a manner as will protect and preserve the integrity and high quality of said property and the improvements thereon and to provide a means to enforce this Declaration for the mutual benefit of all interested parties.

#### **ARTICLE II. DEFINITIONS**

1. "Association" shall mean "Vantage Pointe Homeowner's Association, Inc.", a Florida non-profit corporation, the Membership of which shall be composed of the Owners of Developed Lots, and which is vested with certain rights, privileges, duties and obligations hereunder for the mutual protection and benefit of all Members of said Association.

2. "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

3. "Common Area" shall mean all of Vantage Pointe, except for the Lots, which common areas are intended to be devoted to the common use and enjoyment of all of the Members.
4. "Declaration" shall mean and refer to this Amended & Restated Declaration of Protective Covenants and Restrictions for Vantage Pointe, as may be amended from time to time.
5. "Developed Lot" shall mean a Lot upon which a Dwelling has been constructed and a Certificate of Occupancy has been issued.
6. "Dwelling" shall mean and refer to an improvement constructed and maintained on a Lot and intended for use and occupancy solely for a single-family residence.
7. "Homeowners Documents" means this Declaration, the Articles of Incorporation of the Association, the Bylaws of the Association, the Rules and Regulations of the Association, the Architectural Control Standards, as well as all other instruments and documents referred to herein and executed in connection with Vantage Pointe.
8. "Institutional Mortgagee" shall mean and refer to any lending institution holding a mortgage lien on any portion of Vantage Pointe, including any of the following institutions: an insurance company or subsidiary thereof, a federal or state savings and loan association, a federal or state building and loan association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a federal or state banking association, a real estate investment trust, or any mortgagee banking company authorized to do business in the State of Florida.
9. "Lot" shall mean one of the numerically designed tracts of the land subject to individual ownership and depicted upon the Plats.
10. "Members" shall mean and refer to the Owners of Developed Lots. Owners of Vacant Lots are not Members of the Association.
11. "Owner" shall mean and refer to one or more Persons (defined below) who holds fee simple title to any Lot, but excluding any party holding an interest merely as security for the performance of an obligation. All owners of a single Lot shall be treated for all purposes as a single Owner irrespective of whether such ownership is joint, in common, or tenancy by the entirety.
12. "Person" means a natural person, a corporation, a partnership, a trustee, or other legal entity.
13. "Plats" shall mean the plats of VANTAGE POINTE and VANTAGE POINTE PHASE II, as recorded in Plat Book 15, Pages 2 and 86 of the public records of Highlands County, Florida

14. "Vacant Lot" shall mean any Lot which does not satisfy the definition of a Developed Lot.

15. "Vantage Pointe" shall mean all property described in the Plats.

### ARTICLE III. USE RESTRICTIONS

1. Residential Use. The use of each Lot is restricted to the construction and maintenance of one Dwelling, and for no other purpose. No Persons under the age of eighteen (18) years shall be permanent residents of Vantage Pointe, but shall be permitted to visit as a temporary guests for up to three (3) months unless an extended visitation is allowed pursuant to the rules and regulations promulgated by the Association. No licensed business of any kind, whatsoever, shall be operated, carried on, permitted, or conducted on any Lot or in any Dwelling. This shall not prevent the leasing of a Dwelling for residential purposes, nor shall this prevent the construction and use of a recreation center for use by the Members, their guests, and lessees.

2. Nuisances. There shall not be erected, maintained, operated, carried on, permitted, or conducted upon any Lot anything or activity which shall be or become noxious or offensive or an annoyance or nuisance. No Owner, their family members, guest, invitees, licensees, employees or agents shall make use of any Lot, Dwelling or Common Area in a manner which violates any laws, ordinances or regulations of any governmental authority having jurisdiction over the property, or which constitutes hazardous activity, or which results in any noxious or offensive, activity, noise or odor, or which is or may become a nuisance, annoyance, or source of embarrassment to other Owners.

3. Signs. Except for signs not exceeding seven hundred fifty (750) square inches advertising the sale or lease of a Lot, no signs shall be permitted. Notwithstanding the foregoing, nothing herein shall be construed to prohibit the display of any flag expressly authorized by Section 720.304, Florida Statutes. Permitted signage on Developed Lots must be located in the planting area between the front window and the front entrance of the Dwelling so as not to require moving for lawn mowing.

4. Animals and Pets. No animals of any kind shall be kept, bred or maintained in Vantage Pointe except dogs, cats, and other household pets weighing less than 20 pounds, provided that such pets shall not create or become a nuisance, or be kept for any commercial purpose, and, in no event shall the owner of any Lot keep and maintain more than two (2) pets at any one time. In the event of an overnight guest with a dog, cat or other household pet weighing less than 20 pounds, the (2) pet rule would be waived for a maximum of two (2) weeks and a maximum of three (3) pets total for that two (2) week period. No pet shall be permitted to be kept or maintained if it is determined by the Association to constitute a continuing nuisance or unreasonably interferes with the health, safety, or welfare of the residents of Vantage Pointe. The determination of what constitutes a nuisance or an unreasonable interference with the health, safety or welfare of the residents shall be made by the Board of Directors exercising its sole discretion and its decision will be final. No animals shall be allowed to roam outside of its

owner's Lot except on a leash. All dogs and cats over 4 months of age must be vaccinated, licensed, and must wear a collar with the valid license tag when not on the owners' Lot.

5. Trucks, Trailers and Boats. No commercial or trade vehicles shall be kept, stored, or parked in Vantage Pointe except in the normal course of deliveries or furnishing repairs or other services. No recreation vehicles, trailers or boats of any kind shall be kept, stored, or parked thereon for longer than forty-eight hours in a 14-day period unless parked inside a garage.

6. Unightly Conditions. All exotic and/or nuisance vegetation, rubbish, debris, junk vehicles, or unsightly materials or objects of any kind shall be regularly removed from the Lots and shall not be allowed to accumulate thereon. All refuse containers (except on scheduled trash pick-up days), all machinery and equipment, and other similar items of personal property shall be obscured from view or adjoining streets, Lots or Common Areas. All Lots, including any improvements thereon, shall be kept in a clean and sanitary condition and no rubbish, refuse, or garbage shall be allowed to accumulate, or any fire hazard allowed to exist. All improvements shall be rebuilt, repaired, and restored as approved by the ACC in the event damaged by fire, windstorm, hurricane, or other casualty. In the event an Owner fails to maintain the Lot or any improvements thereon, for a period of at least thirty (30) days following written notice from the Association, the Association shall have the right, but not the obligation, in its sole discretion, to clear any rubbish, refuse or unsightly debris, from any such Lot at the Owner's sole expense. All expenses related to the foregoing, together with interest thereon at the maximum rate permitted by law, shall be charged to the Owner and shall become a lien on the Lot, which lien shall be effective, have priority and be enforced pursuant to the procedures set forth in this Declaration.

7. Temporary Structures. No manufactured housing, mobile homes, trailers, or similar structures, nor any structure of a temporary nature shall be placed upon any Lot or anywhere within Vantage Pointe.

8. Carports. No carports or similar shelters shall be constructed on any Lot.

9. Pools, Basketball Courts/Hoops, Playgrounds and Other Games or Structures. No swimming pools (above or below ground), kiddie pools, basketball hoops, swing sets, playgrounds, sandboxes or other equipment or toys shall be erected, constructed, or installed on any Lot.

10. Antennae and Satellite Dishes. Owners of Developed Lots may install or maintain on their Developed Lot an antennae or satellite dish which is rear roof mounted and does not exceed one (1) meter in diameter. The antennae or satellite dish must be securely attached, supported and stabilized.

11. Storage. No personal property may be stored on any Vacant Lot. No personal property may be stored on any Developed Lot except within the Dwelling or within the Developed Lot Owner's assigned storage area. No vehicle which cannot operate under its own power shall remain on any Lot or Common Area for more than 24 hours. No repairs of vehicles shall be made on any Lot, except for emergency repairs taking less than two (2) hours to complete.

12. Firearms. The discharge of firearms and weapons within Vantage Pointe is prohibited.

13. Nuisance or Illegal Use. No Owner, their family members, guests, invitees, licensees, employees, or agents, shall make use of any Lot in a manner which violates any laws, ordinances, or regulations of any governmental authority having jurisdiction over Vantage Pointe, or which constitutes a hazardous activity, or which results in any noxious or offensive sight, activity, noise, or odor, or which is or may become a nuisance, annoyance, or source of embarrassment to other Owners.

14. Hurricane Season. Each Owner who intends to be absent from his or her Developed Lot during the hurricane season (June 1 through November 30 of each year) shall prepare his or her Developed Lot prior to departure in the following manner:

- a. Remove all furniture, potted plants, and other movable objects from the yard; and
- b. Designate a responsible person to care for the Developed Lot in the event (a) the National Weather Service issues a hurricane or tropical storm warning; or (b) the Developed Lot suffers damage, and notify the Association in writing as to the identity and phone number of such person or firm.

15. Rules and Regulations. Reasonable rules and regulations may be promulgated by the Board, after notice and hearing as to the use and enjoyment of Vantage Pointe and shall be observed by the Owners and occupants thereof. The Board shall provide written notice to each Owner in violation of the Rules and Regulations and give the Owner fifteen (15) days in which to cure the violation.

16. Housing for Older Persons.

- a. In accordance with the Federal Fair Housing Amendments Act of 1988, the Housing for Older Persons Act of 1995, and comparable legislation adopted by the State of Florida, at least one resident of a Developed Lot must be fifty-five (55) years of age or older.
- b. Persons under the age of fifty-five (55) and over eighteen (18) may co-occupy and co-reside with the resident over the age of fifty-five (55).
- c. Persons under the age of eighteen (18) shall not permanently reside in Vantage Pointe but shall be allowed to visit a resident on a temporary basis. Notwithstanding these provisions, the Board of Directors, in its sole discretion, shall have the right to establish heir or hardship exceptions to permit residents of eighteen (18) years of age or older and less than fifty-five (55) years of age to permanently reside in Vantage Pointe, even in the absence of a co-resident fifty-five (55) years of age or older; provided that said exceptions shall not be permitted in situations where the granting of a



hardship exception will result in having less than eighty percent (80%) (or the minimum as may be established by law from time to time) of the Developed Lots having at least one resident fifty-five (55) years of age or older.

- d. It is the intent of this provision that Vantage Pointe comply with the Fair Housing laws, which currently require at least eighty percent (80%) of Developed Lots shall at all times have at least one resident fifty-five (55) years of age or older.
- e. The Board of Directors may establish policies and procedures for the purpose of insuring that the foregoing required percentages of occupancy by older persons are maintained at all times, and to otherwise allow the Association to qualify for legal exemption from the laws.
- f. The Board of Directors or its designees shall have the sole and absolute authority to deny occupancy of a Developed Lot by any Person(s) who would thereby create a violation of any of the Homeowners Documents, including this Declaration.
- g. Whenever a person intends to reside on a Developed Lot, he or she shall be required to provide age verification in a form acceptable to the Association. The prospective resident(s) will certify that the information on the forms is true and correct, and that they understand that the purpose of the certification is to ensure compliance with the Fair Housing Amendments Act of 1988. The age of all residents will be verified by a driver's license, birth certificate, passport, or other equally reliable form of identification.

#### ARTICLE IV. ARCHITECTURAL CONTROL

1. Architectural Control Committee. All Lots and Dwellings in Vantage Pointe are subject to architectural review in accordance with this Article, and the Architectural Control Standards, which shall be adopted and revised from time to time by the Architectural Control Committee (the "ACC"), in order to provide planning, construction, and development criteria. The Architectural Control Standards shall be written and made available to all Owners or prospective Owners and may include any matters considered appropriate by the ACC not inconsistent with this Declaration.

No site work, landscaping, drainage improvement, paving, driveway, building, fence, wall, sidewalk, or any other physical or structural improvement, or change or alteration to the exterior of any existing structure or improvement, or to any existing landscaping, shall be commenced, erected or maintained until the plans showing such details as the size, design, shape, finished grade elevation, height, materials and color of the same, together with a landscape plan and a plot plan showing the location relative to boundaries and adjacent improvements of such proposed improvements or changes, have been approved in writing by the ACC. All such improvements must further conform to the Architectural Control Standards and no plans shall be

approved by the ACC if they are not in conformity with same. All improvements, changes and alterations shall also comply with all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees. Until such time as any improvements, changes and/or alterations have been submitted to and approved by the ACC, no Owner (and/or designee thereof) shall make application for a building permit from the applicable governmental agency. Nothing herein shall limit the right of an Owner to finish or alter the interior of that Owner's Dwelling as that Owner desires.

The Architectural Control Standards adopted by the ACC shall incorporate and encourage the use of measures to maximize the conservation of energy through design, siting and orientation of buildings, the use of sunlight, wind and shade of natural vegetation to cool, ventilate and light development, and the installation of energy efficient heating and cooling equipment and building materials.

2. General Provisions. The membership of the ACC shall be determined by the Board. The ACC shall consist of no less than three (3) members, at least one of whom shall be required to be an Owner or resident of Vantage Pointe. No member of the ACC shall be entitled to compensation for services performed. Members of the ACC may be removed by the Board of Directors at any time without cause.

The address of the ACC shall be the principal office of the Association as designated by the Board. Such address shall be the location for the submission of plans and specifications and the location where the architectural standards, if any, shall be kept.

Application for architectural change shall be made by the applying Owner on forms prepared by the ACC. The completed application, together with all plans and specifications, as well as any damage deposit fee shall be submitted in person to a member of the ACC. Decisions of the ACC shall be forwarded in writing to the applying Owner.

3. Approvals. Decisions of the ACC shall be by majority action. Unless waived by the ACC, all plans shall be prepared by an architect or engineer, said person to be employed by and at the expense of the Owner. If for any reason, including purely aesthetic reasons, the ACC should determine that a proposed improvement or alteration is not consistent with the Architectural Control Standards, or in the best interest of the Association and its Members, such improvement or alteration shall not be made. Approval of plans may be withheld not only because of noncompliance with any of the specific conditions, covenants and restrictions contained in this Declaration, but also by virtue of the dissatisfaction of the ACC with the location of the structure on the Lot, the elevation, color scheme, finish, design, proportions, architecture, drainage plan, shape, height, style and appropriateness of the proposed structures or altered structures, the materials used therein, the planting, landscaping, size, height or location of vegetation on the Lot, or because of its reasonable dissatisfaction with any other matter or thing which, in the judgment of the ACC, will render the proposed improvement or alteration inharmonious with the general development plan or the Architectural Control Standards. Two (2) sets of plans, specifications and plot plans shall be submitted to the ACC by the Owner prior to applying for a building permit. Submittals and re-submittals of plans shall be approved or disapproved within thirty (30) days after receipt by the ACC. The ACC approval or disapproval

shall be written and shall be accompanied by one (1) copy of the plans, etc., to be returned to the Owner. Whenever the ACC disapproves plans, the ACC shall specify the reason or reasons for such disapproval. In the event plans and specifications submitted to the ACC are not approved, the party or parties making such submission may appeal the decision of the ACC by submitting a written appeal to the Board not more than thirty (30) days following the final decision of the ACC. Thereafter, the Board shall have forty-five (45) days to review the appeal and render its decision. The Board may reverse or modify the decision of the ACC by a majority vote of the Board. The failure of the Board to render a decision within the forty-five (45) day period shall be deemed a decision in favor of the appellant. Unless specifically excepted by the ACC, all approved improvements shall be completed within twelve (12) months from the date of commencement of said improvements.

4. Variances. The ACC may authorize variances from compliance with any of the provisions of the architectural standards as set forth in the Architectural Control Standards, when factors such as topography, natural obstructions, hardship, aesthetics, or environmental considerations require, but only in accordance with adopted Rules and Regulations and only when under unique circumstances. For the purposes of this paragraph, the inability to obtain approval of any governmental agency; the issuance of any permit; or the terms of any financing shall not be considered a hardship warranting a variance. The granting of a variance shall not operate as a waiver of any of the terms and conditions of this Declaration as amended or supplemented from time to time, nor shall it affect the Owner's obligation to comply with all applicable governmental, regulatory, and administrative laws, ordinances, rules, regulations, orders, and decrees. Notwithstanding anything to the contrary contained in the foregoing, no variance authorized hereunder shall be effective unless approved by the Board in writing.

5. Violations. The construction and/or improvements must be performed strictly in accordance with the plans as approved. If after plans have been approved, the improvements are altered, erected, or maintained upon the Lot other than as approved, same shall be deemed to have been undertaken without ACC approval. After one (1) year from completion of any improvement, addition or alteration, said improvement shall, in favor of purchasers and encumbrances in good faith and for value, be deemed to comply with the provisions hereof unless a notice of such noncompliance executed by any member of the ACC shall appear in the public records of Highlands County, or legal proceedings shall have been instituted to enjoin the noncompliance or to enforce compliance with these provisions. If a notice of noncompliance is recorded in the public records of Highlands County as to any improvements on a Lot that do not comply with the then existing Architectural Control Standards, the noncompliance shall be cured within one hundred eighty (180) days after the subject Lot is sold to a new Owner.

6. Release of Liability. None of the ACC, the Board or the Association, or any agent or employee thereof, shall be liable to anyone submitting plans for approval or to any Owner, occupant or guest of Vantage Pointe by reason of or in connection with approval or disapproval of any plans, or for any defect in any plans submitted, revised or approved in accordance with the requirements of the ACC, or for any structural or other defect in any work done according to such plans. Approval of plans, or any other approvals, variances or consents, are given solely to protect the aesthetics of Vantage Pointe in the judgment of the ACC and shall not be deemed a warranty, representation or covenant that any action taken in reliance thereon complies with

applicable laws, codes, rules or regulations, nor shall ACC approval be deemed approval of any plan or design from the standpoint of structural safety or conformity with building or other codes. Every person who submits plans for approval agrees, by submission of such plans, and every Owner or occupant of any Lot agrees, by acquiring title thereto or an interest therein, that it will not bring any action, proceeding or suit to recover any such damages and shall be deemed to have automatically agreed to hold harmless and indemnify the aforesaid parties from and for any loss, claim or damages connected with the aforesaid aspects of the improvements or alterations.

7. Enforcement. The Association shall have standing and authority to enforce in courts of competent jurisdiction the planning criteria as set forth in the Architectural Control Standards and the decisions of the ACC. Should the Association be required to enforce the provisions hereof by legal action, the reasonable attorneys' fees and costs incurred, whether or not judicial proceedings are involved, including the attorneys' fees and costs incurred on appeal from judicial proceedings, shall be collectible from the violating Owner. Should any Owner fail to comply with the requirements hereof after thirty (30) days' written notice, the Association shall have the right, but not the obligation, to enter upon the Owner's property, make such corrections or modifications as are necessary, or remove anything in violation of the provisions hereof or the planning criteria as set forth in the Architectural Control Standards, and charge the cost thereof to the Owner as an individual assessment. The Association, its agents or employees, shall not be liable to the Owner or to any occupant or invitee of any Lot for any trespass or damages or injury to property or person for any action taken hereunder unless caused by gross negligence or intentional wrongdoing.

8. No Waiver of Future Approvals. The approval of the ACC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ACC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

9. ACC Rules. The ACC shall adopt reasonable rules of procedure and planning, construction, and development criteria, which shall be part of the Architectural Control Standards governing the submission and review of any matter to be brought before it and the inspection and final approval of any completed work done pursuant to an approval of the ACC. Such rules shall be (i) subject to the prior approval of the Board of Directors, (ii) consistent with the covenants and restrictions set forth in this Declaration and (iii) published or otherwise made available to all Owners and their contractors, subcontractors and other appropriate designees. All rules of the ACC shall be adopted and/or amended by a majority vote thereof.

#### ARTICLE V. MAINTENANCE, REPAIR AND INSURANCE

1. Common Areas. Maintenance of Common areas shall be conducted by the Association and said Common Areas shall be at all times kept and maintained in a state of good condition and repair.

2. Irrigation. The Association shall provide to each Developed Lot irrigation service consisting of the operation and maintenance of an underground sprinkler system, including necessary pumps and wells that have been installed by the Association. The Association shall provide water supply to the Developed Lot, but it is the responsibility of the Owner to pay for the materials and installation of the sprinkler system on the Lot. Lawn irrigation shall be provided by the Association at such intervals as may be deemed necessary and appropriate by the Association. In connection therewith, there is hereby reserved by the Association the right to enter upon each Lot for the purpose of operation and maintenance of said system. Each Owner shall be responsible for the maintenance of that portion of the system installed for watering said Owner's Developed Lot. Each Owner, their successors, assigns and remote grantees, by the acceptance of title to the Owner's Lot, agrees to accept said services to be performed by the Association. The drilling of wells or sand points on any Lot is prohibited.

3. Dwelling. The Owner of each Developed Lot shall maintain and repair the Dwelling located thereon, including the roof and driveway, and shall keep it in a state of good condition, repair, and appearance. If any portion of the common roof is damaged or destroyed by any casualty, any Owner may restore it and if other Owners benefit from said restoration, they shall contribute to the cost of the restoration in proportion to the benefit received. Trimming, weeding and otherwise general maintenance of the planting areas will be the sole responsibility of the Owners and must be kept in good condition and appearance.

4. Party Walls. Each wall placed on the dividing line between Developed Lots shall constitute a party wall, and each Owner shall own that portion of the wall which stands on his own Developed Lot, with a cross-easement of support in the other portion. The cost of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall, except as otherwise provided herein. Notwithstanding any other provisions herein, an Owner who, by his negligent or willful acts causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against the elements. The right of any Owner to contribute from any other Owner under this paragraph shall run with the land and shall pass to such Owner's successors in title. In the event of any dispute concerning a party wall, such dispute shall be submitted to arbitration. Each party shall choose one arbitrator, and such arbitrators shall choose an additional arbitrator. The decision of a majority of all the arbitrators shall bind the parties.

5. Insurance. The Association shall maintain public liability insurance on the Common Areas. Each Owner of a Developed Lot shall be responsible for maintaining insurance on their Dwelling. Any destruction or damage to a structure shall be repaired as soon as possible as provided herein.

6. Emergency Repairs. In cases where Owners are not in residence and/or cannot be reached immediately, and emergency repairs are needed to eliminate further damage to a Lot or neighboring Lot, the Association reserves the right to complete such emergency repairs. The Owners will be notified as soon as possible and may be billed for these expedient emergency repairs when costs are incurred by the Association.

## ARTICLE VI. THE ASSOCIATION

1. Membership. The Membership of the Association is comprised of the Owners of Developed Lots.

2. Purposes. The purpose of the Association is to accomplish the duties placed upon the Association herein and to enforce this Declaration, all for the use and benefit of the Membership. The foregoing is not in limitation of any rights, privileges, powers, and authorizations, which may be contained in the instruments forming the Association.

3. Duties and Powers. The Association, through its elected Board of Directors, shall have and exercise all of the rights, privileges, duties and powers which may be granted and deserved unto it in the instrument forming the Association and in this Declaration, including enforcing this Declaration, making assessments as provided below, making repairs and improvements to all Common Areas, maintaining the lawns, maintaining insurance on the Common Areas, contracting for management services and such other services as may be necessary or desirable and all other things necessary or desirable in the maintenance and management of Vantage Pointe.

4. Assessments. In order that the Association may provide for and pay the cost of maintenance, operation, improvement and management to accomplish the purposes of the Association, the Association shall have the authority to levy and collect equal assessments against the Members and their respective Lots, as follows:

- a. The assessments levied against each Developed Lot shall be payable in quarterly installments or as otherwise established by the Association. Notwithstanding the foregoing, assessments levied against each home shall be payable in bi—annual installments commencing January 1, 2022. Maintenance fees are due by the 1<sup>st</sup> of the month and late fees of \$10.00 per month will be assessed for payments made after the 10<sup>th</sup> of the month, or as otherwise established by the Association, beginning on the first day of the month following the month in which the Developed Lot has been purchased or in the event of the building of a new Dwelling, on the first day of the month following the month in which construction of the Dwelling has been completed and a certificate of occupancy issued. Checks returned to the Association for insufficient or improper funds will be returned to the Member. Any resulting bank fees charged to the Association's checking account and late fees, if applicable, will be billed to the Member.
- b. The Association shall, through its elected Board of Directors, establish and adopt an annual budget for each fiscal year and levy the necessary assessment for financing the work of the Association for the year.
- c. Should the assessments levied prove to be insufficient, the Board of Directors shall have the authority to levy such additional or special assessments as it shall deem necessary and establish the time and manner for payment thereof.

- d. Upon the Association's adoption of the annual budget, copies thereof shall be delivered to the Members, although the failure to deliver a copy to any Member shall not affect the liability of such Member for any assessment based on such budget. Said budget will be distributed to all Members prior to the February meeting, with the Agenda.
  - e. No Member may exempt himself from liability for any assessment levied against him or his Lot in any way.
  - f. The Owners shall be personally liable, jointly and severally, to the Association for the payment of all assessments levied while such party is an Owner. In the event an Owner is in default in the payment of any assessment or installment thereof owed to the Association, such Owner shall be personally liable, jointly and severally, for interest on such delinquent assessment or installment thereof, at the rate of eighteen percent (18%) per annum, until such delinquent assessment or installment thereof, and said interest is fully paid, and for all costs of collecting such assessment or installment thereof, and interest thereon, including reasonable attorney's fees, whether suit is brought or not.
  - g. In addition to any other remedy, which may be afforded to Association, the Association is hereby granted a lien upon each Developed Lot to secure monies due to all assessments, now or hereafter levied. The lien granted to Association may be foreclosed in the same manner as real estate mortgages may be foreclosed in the State of Florida and the lien granted to Association shall secure all advances made by Association to protect and preserve its lien, and interest on all such advances at eighteen percent (18%) per annum. All Persons who shall acquire, by whatever means, any interest in the ownership of a Developed Lot or who may be given or acquire a mortgage lien or other encumbrance thereon, is hereby placed on notice of the lien rights granted to Association and shall acquire the interest in any Develop Lot subject to such lien.
5. Fines.
- a. Violation of any of the use restrictions, requirements, or obligations contained in the Homeowners Documents, including this Declaration, shall result in the levying of fines by the Association. No fine shall be levied until thirty (30) days after the Association gives written notice to the Owner in violation, at which time the Association may levy a fine of up to \$25.00 per day per violation up to a maximum of \$5,000.00 for each violation. Notwithstanding anything to the contrary contained in this section, no fine may be imposed without at least fourteen (14) days written notice by mail or hand delivery to the person sought to be fined and an opportunity for a hearing before a committee of at least three (3) Members (appointed by the Board) who are not

officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director, or employee. If the committee, by a majority vote, does not approve proposed fine or suspension, it may not be imposed.

- b. Person(s) in violation shall be personally liable, jointly and severally, to the Association for the payment of all fines levied. In the event the Person(s) are in default in the payment of any fine owed to the Association, such Person(s) shall be personally liable, jointly and severally, for interest on such delinquent fines at the rate of eighteen percent (18%) per annum until such delinquent fine is fully paid, and for all costs of collecting such fines and interest thereon, including reasonable attorney's fees, whether suit is brought or not.
- c. In addition to any other remedy which may be afforded to the Association, the Association is hereby granted a lien upon each Lot to secure monies due for all fines of \$1,000.00 or more, plus interest thereon at the rate of eighteen percent (18%) per annum, now or hereafter levied. The lien granted to the Association may be foreclosed in the same manner as real estate mortgages may be foreclosed in the State of Florida. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of a Lot, or who may be given or acquire a mortgage lien or other encumbrance thereon, is hereby placed on notice of the lien rights granted to the Association and shall acquire the interest in any Lot subject to such lien.
- d. The lien granted to the Association in this Article VI, Paragraph 5 shall be effective from and after the time of recording in the Public Records of Highlands County, Florida, of a claim of lien stating the description of the Lot encumbered thereby, the name of the Owner, the amount of any delinquent fine or fines, and the date when due; and the lien shall continue in effect until all sums secured by said lien, as herein provided, shall have been fully paid; and such lien shall further secure all additional fines and interest which may become due and payable subsequent to the recording of any claim of lien. Any claim of lien shall be signed and verified by an officer or agent of Association and shall be duly satisfied of record upon full payment of the sums secured thereby. The claim of lien filed by Association shall be subordinate to the lien of any mortgage or other lien recorded prior to the time of recording Association's claim of lien. Anyone who obtains title to a Lot as a result of a foreclosure by an Institutional Mortgagee, or by a deed in lieu of foreclosure of an Institutional Mortgagee, shall be liable in accordance with Section 720.3085, Florida Statutes.

#### **ARTICLE VII. ENFORCEMENT OF PROTECTIVE COVENANTS**

This Declaration may be enforced by any proceeding at law for damages or any proceeding in equity to compel compliance with its terms or to prevent any future violation or



breach of any of the covenants, terms, conditions, and restrictions contained herein or in the Homeowners Documents. The terms, conditions, covenants, and restrictions of this Declaration and the Homeowners Documents may be enforced by the Association or any Member; provided, however, any Member who takes any action to enforce this Declaration, or the Homeowners Documents, shall indemnify and hold harmless the Association from any loss or expense arising from or related to such action, including but not limited to reasonable attorneys', paralegals' and other professionals' fees, whether prior to or at trial and in any appellate or bankruptcy proceeding. In the event such Member fails to meet its obligation to indemnify and hold harmless the Association, all costs incurred by the Association as a result thereof shall be charged against the Member's Lot in accordance with the provisions of this Declaration. Said charge shall be deemed a special assessment and shall constitute a lien on the Lot, enforceable in the same manner as other Assessments set forth in this Declaration.

#### ARTICLE VIII. AMENDMENTS

The holders of at least two-thirds (2/3) of the votes in the Association may change or amend any provision hereof by either: (1) executing a written instrument in recordable form setting forth such amendment; or (2) causing a certified copy of a duly adopted resolution of the Members to be prepared, and having the same recorded in the Public Records of Highlands County. Any proposed amendment may be initiated by the Association, or petition signed by ten percent (10%) of the Members. If a proposed amendment is to be adopted by vote, a written copy of the proposed amendment shall be furnished to each Member at least thirty (30) days but not more than ninety (90) days prior to the meeting to discuss the proposed amendment. If adopted by vote, the affirmative vote required for adoption shall be two-third (2/3) of the votes of the Members cast in person or by proxy at a meeting duly called, and the recorded certificate shall contain a recitation that notice was given as above set forth and said recitation shall be conclusive as to all parties, and all parties of any nature whatsoever shall have full right to rely upon said recitation in such recorded certificate. The amendment shall be effective upon recordation of the executed amendment, or the certified copy of the duly adopted resolution, among the Public Records of Highlands County.

#### ARTICLE IX. CONVEYANCES

The sale or lease of Lots shall be subject to the following restrictions:

1. Notice to Association. Every Owner who sells, leases, or otherwise conveys any interest in their Lot, shall provide the Association with written notice within ninety (90) days after: (i) the closing date of the sale or conveyance of the Lot, or (ii) the effective date of any lease. The foregoing notice shall include the name, address, and telephone number (and fax number if applicable) of the new Owner or lessee, and shall include a written agreement signed by the new Owner or lessee agreeing to comply with the terms and provisions of this Declaration. In the event the Lot is sold, it shall then be the responsibility of the new Owner to provide the Association with a recorded copy of the deed. It is not the intention of this Article to

grant the Association a right of first refusal to purchase or lease the Lot, or a right to approve the purchaser(s), grantee(s) or lessee(s). It is, however, the intent of this paragraph to impose an affirmative duty on the Owners to keep the Association advised of any changes in occupancy or ownership.

2. Lease Agreement Terms. Any and all lease agreements between an Owner and a lessee of such Owner shall: (i) be in writing; (ii) provide for a term of not less than three (3) months; (iii) provide that the lessee shall be subject in all respects to the terms and provisions of this Declaration; (iv) provide that failure by the lessee to comply with the terms and provisions of this Declaration shall constitute a material default and breach of the lease agreement; and (v) designate which party shall be responsible for the payment of assessments; provided, however, nothing contained in any lease agreement shall relieve the Owner of the obligation to pay Assessments and the Owner shall remain liable. During the term of any lease, the lessee shall be entitled to the Owner's rights of use and enjoyment of the Common Areas and facilities, and the Owner shall be deemed to have relinquished said rights during such period.

#### ARTICLE X. TERMINATION

1. Termination. This Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association and any Owner, and their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded in the Public Records, after which time this Declaration and each amendment hereto shall be automatically extended for successive periods of ten (10) years unless prior to the commencement of any 10-year extension period an instrument signed by the Owners of eighty percent (80%) of the Lots and agreeing to terminate this Declaration is recorded in the Public Records of Highlands County.

2. Survival of Covenants. The following covenants and restrictions shall remain in effect, notwithstanding the termination of this Declaration, and any document(s) terminating this Declaration shall provide the following:

- a. That all Lots shall continue to be used solely as provided in Article III of this Declaration; and
- b. All Common Areas shall be owned and held in equal shares by the Owners as tenants in common, and each Owner shall remain obligated to pay his or her pro rata share of expenses to continually maintain the Common Areas.

#### ARTICLE XI. MISCELLANEOUS

1. No Waiver. The failure by the Association or any Member to object to any Person's failure to comply with any of the terms and provisions contained herein, shall in no event be deemed a waiver of any right to object to same and to otherwise seek compliance with the provisions herein.

2. Headings. Article and paragraph captions inserted throughout this Declaration are inserted only as a matter of convenience and are for reference only. In no way shall such captions or headings serve to define, limit or in any way affect the interpretation of any of the terms and provisions of this Declaration.

3. Pronouns. Whenever the context requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns or pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

4. Severability. In the event any one of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

5. Partition. The Association may not convey, encumber, abandon, partition or subdivide any of the Common Areas without the approval of all Institutional Mortgagees.

6. Homeowners Documents. The Association is required to make current copies of the Declaration, Articles of Incorporation, Bylaws, Rules and Regulations and other such documents governing the Association, as well as the books, records and financial statements of the Association, available to Members, Institutional Mortgagees, and to holders, insurers or guarantors of any first Mortgage. "Available" shall be defined as obtainable for inspection during normal business hours or under such other reasonable circumstances, within a reasonable time after written request. Any Institutional Mortgagee who holds a Mortgage shall be entitled to a financial statement of the Association for the preceding fiscal year, within a reasonable time after written request.

7. Effective Date. This Declaration shall become effective upon its recordation in the Public Records of Highlands County, Florida.

8. Conflict. This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and Bylaws of the Association and said Articles shall take precedence over the Bylaws and any rules hereinafter promulgated.

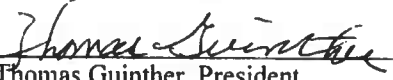
9. Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot, shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition, lien and covenant contained herein, whether or not any reference hereto is contained in the instrument by which such person acquired an interest in such Lot.

Signed, sealed and delivered in our presence:

**VANTAGE POINTE HOMEOWNER'S ASSOCIATION, INC.**, a Florida non-profit corporation

  
 1<sup>st</sup> Witness Signature

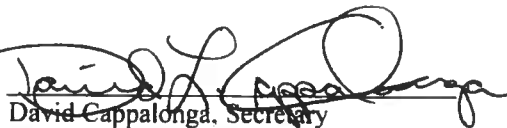
THOMAS J. Guinther  
 1<sup>st</sup> Witness Print Name

By:   
 Thomas Guinther, President

Attest:

  
 2<sup>nd</sup> Witness Signature

Marcella S. Sebring  
 2<sup>nd</sup> Witness Print Name

By:   
 David Cappalonga, Secretary

(corporate seal)

**STATE OF FLORIDA  
 COUNTY OF HIGHLANDS**

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 2 day of April, 2021 by means of ☒ physical presence or ☐ online notarization, of Thomas Guinther and David Cappalonga, as President and Secretary, respectively, of **VANTAGE POINTE HOMEOWNER'S ASSOCIATION, INC.**, a Florida non-profit corporation, [ ] who are personally known to me or ☒ who produced their driver's licenses as identification.

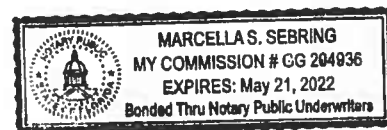


Notary Public, State of Florida

Printed Name: \_\_\_\_\_

My commission expires: \_\_\_\_\_

(affix seal)



**SCHEDULE "A"**

VANTAGE POINT SUBDIVISION, according to the plat thereof recorded in the plat Book 15, Page 2. of the Public Records of Highlands County, Florida

**AND**

VANTAGE POINTE PHASE II, according to the plat thereof recorded in Plat Book 15, Page 86, of the Public Records of Highlands County, Florida