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FLORIDA NON-PROFIT CORPORATION

PANACHE COMMUNITY ASSOCIATION, INC.

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ARTICLES OF INCORPORATION  
OF

PANACHE COMMUNITY ASSOCIATION, INC.,  
A FLORIDA CORPORATION NOT-FOR-PROFIT

(11)

FILED  
OCT 17 AM 8:50  
SECRETARY OF  
TALLAHASSEE, FLORIDA

The undersigned incorporator, for the purpose of forming a corporation not-for-profit pursuant to the laws of the State of Florida, Florida Statutes, Chapter 617, hereby adopts the following Articles of Incorporation:

PREAMBLE

BRIGHTON AT DELRAY BEACH, L.C., a Florida limited liability company ("DECLARANT"), owns certain property in Palm Beach County, Florida (the "SUBJECT PROPERTY"), and intends to execute and record a Declaration of Covenants and Restrictions for PANACHE (the "DECLARATION"), which will affect the SUBJECT PROPERTY. This Association is being formed as the Association to administer the DECLARATION, and to perform the duties and exercise the powers pursuant to the DECLARATION, as and when the DECLARATION is recorded in the Public Records of Palm Beach County, Florida, with these Articles of Incorporation attached as an exhibit. All of the definitions contained in the DECLARATION shall apply to these Articles of Incorporation, and to the Bylaws of the Association.

ARTICLE 1 - NAME

The name of the corporation is **PANACHE COMMUNITY ASSOCIATION, INC.**, a Florida corporation not-for-profit, hereinafter referred to as the "ASSOCIATION".

ARTICLE 2 - PURPOSE

The purposes for which the ASSOCIATION is organized are as follows:

- 2.1 To operate as a corporation not-for-profit pursuant to Chapter 617 of the Florida Statutes.
- 2.2 To enforce and exercise the duties of the ASSOCIATION as provided in the DECLARATION.
- 2.3 To promote the health, safety, welfare, comfort, and social and economic benefit of the members of the ASSOCIATION.

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PREPARED BY:  
Norman Leopold, Esquire  
LEOPOLD & LEOPOLD, P.A.  
20801 Biscayne Blvd., #501  
Aventura, FL 33180  
Florida Bar No. 163308

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### ARTICLE 3 - POWERS AND DUTIES

The ASSOCIATION shall have the following powers and duties:

- 3.1 All of the common law and statutory powers of a corporation not-for-profit under the laws of the State of Florida.
- 3.2 To administer, enforce, carry out and perform all of the acts, functions, rights and duties provided in, or contemplated by, the DECLARATION, including but not limited to, the following:
  - 3.2.1 To own, purchase, sell, mortgage, encumber, lease, administer, manage, operate, maintain, improve, repair and/or replace real and personal property.
  - 3.2.2 To make and collect ASSESSMENTS against OWNERS to defray the costs, expenses and losses incurred or to be incurred by the ASSOCIATION, and to use the proceeds thereof in the exercise of the ASSOCIATION's powers and duties.
  - 3.2.3 To enforce the provisions of the DECLARATION, these ARTICLES, and the BYLAWS.
  - 3.2.4 To make, establish and enforce reasonable rules and regulations governing the use of COMMON AREAS, LOTS, UNITS, and other property under the jurisdiction of the ASSOCIATION.
  - 3.2.5 To grant and modify easements, and to dedicate property owned by the ASSOCIATION to any public or quasi-public agency, authority or utility company for public, utility, drainage and cable television purposes.
  - 3.2.6 To borrow money for the purposes of carrying out the powers and duties of the ASSOCIATION.
  - 3.2.7 To exercise control over exterior alterations, additions, improvements, or changes in accordance with the terms of the DECLARATION.
  - 3.2.8 To obtain insurance as provided by the DECLARATION.
  - 3.2.9 To employ personnel necessary to perform the obligations, services and duties required of or to be performed by the ASSOCIATION and for proper operation of the properties for which the ASSOCIATION is responsible, or to contract with others for the performance of such obligations, services and/or duties.

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- 3.2.10 To sue and be sued.
- 3.2.11 To operate and maintain the surface water management system for the SUBJECT PROPERTY as permitted by the South Florida Water Management District, including all lakes, retention areas, culverts and related appurtenances, as may be applicable.
- 3.2.12 To contract for cable television, security and other services for the SUBJECT PROPERTY.

#### ARTICLE 4 - MEMBERS

- 4.1 The members of the ASSOCIATION shall consist of all of the record owners of LOTS. Membership is appurtenant to and inseparable from ownership of a LOT. Membership shall be established as to each LOT upon the recording of the DECLARATION. Upon the transfer of ownership of fee title to, or fee interest in a LOT, whether by conveyance, devise, judicial decree, foreclosure, or otherwise, and upon the recordation amongst the public records in the county in which the SUBJECT PROPERTY is located of the deed or other instrument establishing the acquisition of the LOT affected thereby, the new OWNER designated in such deed or other instrument shall thereupon become a member of the ASSOCIATION, and the membership of the prior OWNER as to the LOT designated shall be terminated, provided, however, that the ASSOCIATION shall not have the responsibility or obligation of recognizing any such change in membership until it has been delivered a true copy of the applicable deed or other instrument, or is otherwise informed of the transfer of ownership of the LOT. Prior to the recording of the DECLARATION, BRIGHTON AT DELRAY BEACH, L.C., shall be the sole member of the ASSOCIATION.
- 4.2 The BYLAWS shall provide for an annual meeting of the members of the ASSOCIATION and shall make provision for special meetings.
- 4.3 The share of each member in the funds and assets of the ASSOCIATION, and the COMMON SURPLUS, and any membership in the ASSOCIATION, cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the LOT for which that membership is established.

#### ARTICLE 5 - VOTING RIGHTS

The ASSOCIATION shall have two (2) classes of voting membership:

- 5.1 Class A. Class A members shall be all OWNERS with the exception of the DECLARANT and shall be entitled to one vote for each LOT owned. When more than one (1) person holds an interest in any LOT, all such persons shall be members. The vote for such LOT shall be exercised as they among themselves

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determine, but in no event shall more than one vote be cast with respect to any LOT.

- 5.2 Class B. Class B member(s) shall be the DECLARANT (as defined in the DECLARATION) and shall be entitled to three (3) votes for each LOT owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

5.2.1 75% of the LOTS are deeded to OWNERS with the exception of the DECLARANT; or

5.2.2 seven (7) years from the date of this instrument.

#### ARTICLE 6 - TERMS OF EXISTENCE

The ASSOCIATION shall have perpetual existence.

#### ARTICLE 7 - INCORPORATOR

The name and address of the incorporator is:

NAME

ADDRESS

Norman Leopold

20801 Biscayne Blvd., Suite 501  
Aventura, FL 33180

#### ARTICLE 8 - DIRECTORS

- 8.1 The property, business and affairs of the ASSOCIATION shall be managed by a BOARD which shall consist of not less than three (3) directors, and which shall always be an odd number. The BYLAWS may provide for a method of determining the number of directors from time to time. In the absence of a determination as to the number of directors, the BOARD shall consist of three (3) directors. Directors are not required to be members of the ASSOCIATION.
- 8.2 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, its agents, contractors or employees, subject to the approval by the members only when specifically required.
- 8.3 So long as Class B membership shall exist pursuant to the provisions of Article 5 hereinabove, DECLARANT shall have the right to appoint all of the directors, and thereafter shall have the right to appoint one director so long as the DECLARANT owns any LOT. The DECLARANT may waive its right to elect one or more directors by written notice to the ASSOCIATION, and thereafter such directors

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shall be elected by the members. When the DECLARANT no longer owns any LOT within the SUBJECT PROPERTY, all of the directors shall be elected by the members in the manner provided by the BYLAWS.

8.4 Directors may be removed and vacancies on the BOARD shall be filled in the manner provided by the BYLAWS; however, any director appointed by the DECLARANT may be removed only by the DECLARANT if, at the time such vacancy is to be filled, the DECLARANT is entitled to appoint the directors.

8.5 The names and addresses of the initial directors, who shall hold office until their successors are appointed or elected, are as follows:

<u>NAMES</u>	<u>ADDRESSES</u>
Robert Stiegele	7200 N.W. 7th Street, Suite 300 Miami, Florida 33126
Michael Rabin	7200 N.W. 7th Street, Suite 300 Miami, Florida 33126
Tom Daddario	7200 N.W. 7th Street, Suite 300 Miami, Florida 33126

#### ARTICLE 9 - OFFICERS

The officers of the ASSOCIATION shall be a President, Vice President, Secretary, Treasurer and such other officers as the BOARD may from time to time by resolution create. The officers shall serve at the pleasure of the BOARD, and the BYLAWS may provide for the removal from office of officers, for filling vacancies, and for the duties of the officers. The names of the officers who shall serve until their successors are designated by the BOARD are as follows:

President	Robert Stiegele
Vice President	Michael Rabin
Secretary	Tom Daddario
Treasurer	Robert Stiegele

#### ARTICLE 10 - INDEMNIFICATION

10.1 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 proceedings brought by reason of the fact that he is or was a director, employee, officer or agent of the ASSOCIATION, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with the action, suit or proceeding if he acted in

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good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the ASSOCIATION; and with respect to any criminal action or proceeding, if he had no reasonable cause to believe his conduct was unlawful; except that no indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of his duties to the ASSOCIATION unless and only to the extent that the court in which the action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, in and of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interests of the ASSOCIATION; and with respect to any criminal action or proceeding, that he had no reasonable cause to believe that his conduct was unlawful.

- 10.2 To the extent that a director, officer, employee or agent of the ASSOCIATION has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraph 1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.
- 10.3 Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the ASSOCIATION in advance of the final disposition of such action, suit or proceeding as authorized by the BOARD in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the ASSOCIATION as authorized herein.
- 10.4 The indemnification provided herein shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of Florida, any BYLAW, agreement, vote of members or otherwise, and as to action taken in an official capacity while holding office, shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.
- 10.5 The ASSOCIATION shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the ASSOCIATION, or is or was serving at the request of the ASSOCIATION as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, as arising out of his status as such, whether

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or not the ASSOCIATION would have the power to indemnify him against such liability under the provisions of this Article.

#### ARTICLE 11 - BYLAWS

The first BYLAWS shall be adopted by the BOARD and may be altered, amended or rescinded by the DECLARANT, the directors and/or members in the manner provided by the BYLAWS.

#### ARTICLE 12 - AMENDMENTS

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

- 12.1 A majority of the BOARD shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the members, which may be the annual meeting or a special meeting.
- 12.2 Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote thereon within the time and in the manner provided in the BYLAWS for the giving of notice of a meeting of the members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.
- 12.3 At such meeting, a vote of the members entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of not less than two-thirds (2/3rds) of the votes of the entire membership of the ASSOCIATION.
- 12.4 Any number of amendments may be submitted to the members and voted upon by them at any one meeting.
- 12.5 If all of the directors and all of the members eligible to vote sign a written statement manifesting their intention that an amendment to these ARTICLES be adopted, then the amendment shall thereby be adopted as though the above requirements had been satisfied.
- 12.6 No amendment shall make any changes in the qualifications for membership nor in the voting rights of members without approval by all of the members and the joinder of all INSTITUTIONAL LENDERS holding mortgages upon the LOTS. No amendment shall be made that is in conflict with the DECLARATION. Prior to the closing of the sale of all LOTS within the SUBJECT PROPERTY, no amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the DECLARANT, unless the DECLARANT shall join in the execution of the

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amendment, including, but not limited to, any right of the DECLARANT to appoint directors pursuant to Article 8.

- 12.7 No amendment to these ARTICLES shall be made which discriminates against any OWNER(S), or affects less than all of the OWNERS within the SUBJECT PROPERTY, without the written approval of all of the OWNERS so discriminated against or affected.
- 12.8 Upon the approval of an amendment to these ARTICLES, the articles of amendment shall be executed and delivered to the Secretary of State as provided by law, and a copy certified by the Secretary of State shall be recorded in the public records of the county in which the SUBJECT PROPERTY is located.

#### ARTICLE 13 - DISSOLUTION

In the event of dissolution or final liquidation of the ASSOCIATION, the assets, both real and personal, of the ASSOCIATION shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the ASSOCIATION. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization, to be devoted to purposes as nearly as practicable to the same as those to which they were required to be devoted by the ASSOCIATION. No such disposition of ASSOCIATION properties shall be effective to divest or diminish any right or title of any member vested in him under the recorded DECLARATION unless made in accordance with the provisions of such DECLARATION.

#### ARTICLE 14 - ADDRESS

The post office address of the principal office of this corporation shall be 7200 N.W. 7th Street, Suite 300, Miami, Florida 33126, or at such other place as may hereafter be designated by the Board of Directors. The post office address of the registered office of this corporation shall be 20801 Biscayne Boulevard, Suite 501, Aventura, Florida 33180, or at such other place as may hereafter be designated by the Board of Directors. The registered agent of this corporation shall be NORMAN LEOPOLD, whose business address is and will be identical with the registered office of the corporation.

#### ARTICLE 15 - FHA/VA APPROVAL

As long as there is a Class B membership as defined in the ARTICLES, if any mortgage encumbering any LOT is guaranteed or insured by the Federal Housing Administration or by the Veterans Administration, the following action must be approved by such agency or agencies: (i) any annexation of additional property, except for any property specifically identified in the DECLARATION; (ii) any merger or consolidation of the ASSOCIATION; (iii) any mortgaging or dedication of any COMMON AREA; (iv) any dissolution of these ARTICLES or the ASSOCIATION; and (v) any amendment of these ARTICLES, except for an amendment made to

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correct errors or omissions, or required by any INSTITUTIONAL LENDER so that such lender will make, insure or guarantee mortgage loans for the LOTS, or required by any INSTITUTIONAL LENDER so that such lender will make, insure or guarantee mortgage loans for the LOTS, or is required by any governmental authority. Such approval shall be deemed given if either agency fails to deliver written notice of its disapproval of any such action to DECLARANT or to the ASSOCIATION within 20 days after a request for such approval is delivered to the agency by certified mail, return receipt requested, or equivalent delivery, and such approval may be conclusively evidenced by a certificate of DECLARANT or the ASSOCIATION that the approval was given or deemed given.

WHEREFORE, Norman Leopold, being the incorporator of the ASSOCIATION, has executed these ARTICLES on this 17<sup>th</sup> day of October, 2000.



Norman Leopold

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of October, 2000, by Norman Leopold, who ☒ is personally known to me or ☐ produced \_\_\_\_\_ as identification.



Notary Public, State of Florida

My commission expires:



Print name of notary public



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**CERTIFICATE OF DESIGNATION**  
**REGISTERED AGENT/REGISTERED OFFICE**

Pursuant to the provisions of §607.0501, Florida Statutes, the undersigned corporation, organized under the laws of the State of Florida, submits the following statement in designating the registered office/registered agent, in the State of Florida.

1. The name of the corporation is: **PANACHE COMMUNITY ASSOCIATION, INC.**, a Florida corporation not-for-profit.

2. The name and address of the registered agent and office is: Norman Leopold, 20801 Biscayne Boulevard, Suite 501, Aventura, Florida 33180.

Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

  
 Norman Leopold

Date: October 17, 2000

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 SECRETARY OF STATE  
 TALLAHASSEE, FLORIDA

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