

MORATTIS, COFAR & KARNEY

ATTORNEYS AT LAW

JOSEPH MORATTIS  
LAWRENCE COFAR  
WILLIAM KARNEY

2000 W. 10th St., Suite 500  
Tampa, FL 33604  
Telephone (813) 251-4300  
Fax (813) 251-5011

February 1995

Division of Corporation  
409 N. Gandy Street  
Tallahassee, FL 32301

RE: EMPIRE GYM, INC.  
Our File No. 95C-027C

Gentlemen:

Enclosed please find an original and one copy of Articles of Incorporation for the captioned corporation, together with this Firm's Trust Account check, payable to the Secretary of State, in the amount of \$122.50 representing filing fees. Please file the original Articles and return the certified copy to the undersigned.

PLEASE CONTACT THE UNDERSIGNED WITH THE CHARTER NUMBER AS SOON AS THIS CORPORATION HAS BEEN FILED.

Thank you for your cooperation and assistance in this regard.

Very truly yours,

Heather Koberstein  
Legal Assistant

LJC/hk  
enclosures  
let-sec.fdx

T. BROWN FEB 15 1995

ARTICLES OF INCORPORATION  
OF  
EMPIRE GYM, INC.

FILED  
35 FEB 13 1964  
RECEIVED  
FEB 13 1964

The undersigned, being of legal age, hereby forms the following corporation under the laws of the State of Florida, authorizing the formation of corporations.

ARTICLE I

NAME

The name of the Corporation and its principal place of business shall be:

Empire Gym, Inc.  
C/O Mark Lieberman  
11126 Harbor Springs Circle  
Boca Raton, FL 33428

ARTICLE II

NATURE OF BUSINESS

The general nature of the business to be transacted by the Corporation and its objects and powers shall be to engage in any activity or business permitted under the laws of the United States and of the State of Florida.

ARTICLE III

CAPITAL STOCK

The maximum number of shares of stock this Corporation is authorized to have outstanding at any one time shall be 7,500 shares of common stock of the par value of \$1.00 per share. The consideration to be paid for each share shall be fixed by the Board of Directors.

ARTICLE IV

PREEMPTIVE RIGHTS

Every shareholder, upon the sale for cash of any new stock of this Corporation of the same kind, class or series as that which he already holds, shall have the right to purchase his prorata share thereof (as nearly as may be done without issuance of fractional shares) at the price at which it is offered to others.

ARTICLE V

TERM OF EXISTENCE

This Corporation shall have perpetual existence.

## ARTICLE VI

### INITIAL REGISTERED AGENT AND OFFICE

The initial registered agent of this Corporation and the street address of the initial registered office is as follows:

Mark Lieberman  
11126 Harbor Springs Circle  
Boca Raton, FL 33428

## ARTICLE VII

### DIRECTORS AND OFFICERS

A. The business of this Corporation shall be conducted and managed by its Board of Directors, and such Board of Directors shall consist of not less than one (1) and not more than five (5) members. A majority of the first Board of Directors named below shall have the power to approve and adopt the By-Laws of this Corporation.

B. The qualifications, time and place of election and term of office of each Director shall be as provided for in the By-Laws of the Corporation.

C. A Director may be removed at any annual or special meeting of Stockholders only upon there being present a sufficient number of Stockholders to constitute the ownership of a majority of the stock of the Corporation.

## ARTICLE VIII

### INITIAL DIRECTORS

The names and street addresses of the members of the first Board of Directors, who, unless otherwise provided by the By-Laws of the Corporation, shall hold office and manage the corporation for the first year of existence of the Corporation, or until their successors are elected or appointed and have qualified, are as follows:

Mark Lieberman  
11126 Harbor Springs Circle  
Boca Raton, FL 33428

Mark Abraham  
645 Oak Street  
Hubbard Lake, MI 49747

Ronald Lieberman  
4299 N.W. 64th Avenue  
Coral Springs, FL 33067

Brian Lieberman  
486 Westree Lane  
Plantation, FL 33324

## ARTICLE IX

### INCORPORATOR

The name and street address of the Incorporator to the Articles of Incorporation is as follows:

Mark Lieberman  
11126 Harbor Springs Circle  
Boca Raton, FL 33428

## ARTICLE X

### INTER-COMPANY CONTRACTS

No contract to other transaction between the Corporation and any other corporation, and no act of the Corporation shall be affected in any way or invalidated by the fact that any of the Directors of the Corporation are pecuniarily or otherwise interested in, or are Directors or officers of, such other corporation. Any Director may individually, or any firm of which any Director may be a member, may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the Corporation, provided that the fact he or such firm is so interested shall be disclosed or shall have been known to the Board of Directors or such members thereof as shall be present at any meeting of the Board of Directors at which action upon such contract or transaction shall be taken; and any Director of the Corporation who is also a Director or officer of such other corporation or who is so interested may be counted in determining the existence of a quorum at any meeting of the Board of Directors which shall authorize any such contract or transaction, and may vote thereat to authorize any such contract or transaction, with like force and effect as if he were not such Director or officer of such other corporation or not so interested.

## ARTICLE XI

### STOCKHOLDER'S AGREEMENTS

The Corporation and its common Stockholders, or the Stockholders of the Corporation among themselves, may enter into any agreement restricting the transferability, assignment, encumbrance or pledge of the stock of this Corporation, whether voluntarily or involuntarily. Any such agreement may confer upon

the Corporation or the Stockholders, or both, the option of first refusal or mandatory purchase in the event any Stockholder desires to transfer, assign, encumber or pledge, his stock, with or without consideration. Any such agreement may include such restrictions during the lifetime of any Stockholder or upon the death or legal incompetence of any Stockholder. Nothing contained in these Articles of Incorporation or By-Laws of the Corporation shall be construed as authorizing a transfer of such stock upon the books of the Corporation in violation of any such agreement.

#### ARTICLE XII

##### INDEMNIFICATION OF DIRECTORS

A. The Corporation shall indemnify any Director made a party to any action, suit or proceeding by or in the right of the Corporation to procure a judgment in its favor by reason of his being or having been a Director or any officer of the Corporation, or a Director or officer of any other corporation which he served as such at the request of the Corporation, against the reasonable expenses, including but not limited to attorney's fees, actually and necessarily incurred by him in connection with the defense or settlement of such action, suit or proceeding, or in connection with an appeal therein, except in relation to matters as to which such Director may be adjudged to have been guilty of negligence or misconduct in the performance of his duty to the Corporation.

B. The Corporation shall indemnify any Director made a party to any action, suit, or proceeding other than one by or in the right of the Corporation to procure a judgment in its favor, whether civil or criminal, brought to impose a liability or penalty on such Director for an act alleged to have been committed by such Director in his capacity as Director or as an officer of the Corporation, or in the capacity of a Director or officer of any other corporation which he served as such at the request of the Corporation, against judgments, fines, amounts paid in settlement and reasonable expenses, including but not limited to attorney's fees actually and necessarily incurred as a result of such action, suit or proceeding, or any appeal therein, if such Director acted

in good faith in the reasonable belief that such action was in the best interests of the Corporation, and in criminal actions or proceedings, without reasonable grounds for belief that such action was unlawful. The termination of any such civil or criminal action, suit or proceeding by judgment, settlement, conviction, or upon a plea of nolo contendere shall not in itself create a presumption that any Director did not act in good faith in the reasonable belief that such action was in the best interests of the Corporation or that he had reasonable grounds for belief that such action was unlawful.

#### ARTICLE XIII

##### DIRECTOR'S LIABILITY

No Director shall be held liable or responsible for action taken by the Board of Directors acting under the provisions or in the manner authorized by these Articles of Incorporation or the By-Laws. The defense of any legal, equitable or other action, suit or proceeding brought against a Director, either individually or as Director, because or as a result of any action taken by the Board of Directors, shall be conducted by counsel for the Corporation, unless the action, suit or proceeding is brought by or in behalf of the Corporation. All costs and expenses of a Director in connection with any such action, suit or proceeding not brought by or in behalf of the Corporation, including by not limited to expenses incurred in the course of attending trials, conferences, depositions, hearings and meetings, shall be paid by the Corporation, and in the event of a judgment or decree being rendered against the Director, the Corporation shall indemnify and save him harmless.

#### ARTICLE XIV

##### REIMBURSEMENT OF DIRECTORS

If any legal, equitable or other action, suit or proceeding brought by or on behalf of the Corporation against a Director, either individually or as Director, shall result in a judgment, decree or decision in favor of the Director, the Corporation shall be liable to and shall reimburse the Director for all costs and

expenses of the Director in connection with such action, suit or proceeding, including but not limited to reasonable attorney's fees, court costs and expenses incurred in the course of attending trials, conferences, depositions, hearings and meetings.

#### ARTICLE XV

##### DIVIDENDS

A Director shall not be liable for dividends illegally declared, distributions illegally made to Stockholders, or any other action taken by reliance in good faith upon the financial statements of the Corporation represented to him to be correct by an officer having charge of its books of account or a financial statement certified by a Certified Public Accountant to fairly reflect the financial condition of the Corporation; not shall he be liable if, in good faith in determining the amount available for dividends or distribution, he considers the assets to be of their book value.

#### ARTICLE XVI

##### AMENDMENTS

The power to adopt, alter, amend or repeal By-Laws shall be vested in the Board of Directors and Stockholders.

#### ARTICLE XVII

##### CONSENT WITHOUT MEETING

Any action that may be taken at a meeting of the Stockholders of the Corporation may be taken without a meeting, if consent in writing setting forth the action shall be signed by all, but not less than all, of the Stockholders of the Corporation entitled to vote on the action and shall be filed by the Secretary of the Corporation. This consent shall have the same effect as a unanimous vote at a Stockholders' meeting. If all of the Directors, severally or collectively, likewise, consent in writing to any action taken or to be taken by the Corporation, and the writing or writings evidencing their consent are filed with the Secretary of the Corporation, the action shall be as valid as though it had been authorized at a meeting of the Board.

ARTICLE XVIII

RESTRICTIONS ON TRANSFER OF STOCK

No Stockholder shall transfer (voluntarily or involuntarily) or encumber any of his shares of capital stock of this Corporation to any person, partnership, firm, association, trust, corporation, or other entity without the consent of the other Stockholder(s) unless the Stockholder desiring to make the transfer or encumbrance shall have first made the offer to sell upon the same terms and conditions to the remaining Stockholder(s) in proportion to their proportionate share of the issued stock and such offer shall not have been accepted after reasonable notice by any of the remaining Stockholder(s).

Provided, however, this restriction shall not apply to the transfer of any stock to a spouse of an existing Stockholder.

The effective date of this corporation commences as of the date of acknowledgment and notarization.

The undersigned, being the original subscriber(s) and incorporator(s) of the foregoing corporation, have executed these Articles of Incorporation this 24 day of February, 1995.

Mark Lieberman  
Mark Lieberman

STATE OF FLORIDA

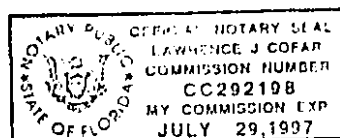
COUNTY OF BROWARD

I HEREBY CERTIFY that on this day before me, a Notary Public duly authorized to take acknowledgments in the State and County aforesaid, personally appeared Mark Lieberman, to me personally known or who produced 1st Person License as identification, and who executed the foregoing Articles of Incorporation and acknowledged before me that he executed these Articles of Incorporation.

WITNESS my hand and official seal in the County and State last aforesaid this 24 day of February, 1995.

Notary Public  
NOTARY PUBLIC

My Commission Expires:





CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE SERVICE OF PROCESS  
WITHIN FLORIDA, NAMING AGENT UPON WHOM PROCESS MAY BE SERVED.

IN COMPLIANCE WITH SECTION 48.091, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED:

FIRST: THAT EMPIRE GYM, INC., desiring to organize or qualify under the laws of the State of  
Florida, with its principal place of business at City of Boca Raton, State of Florida, has named Mark  
Lieberman, located at 11126 Harbor Springs Circle, City of Boca Raton State of Florida, as its agent to  
accept service of process within Florida.

SIGNATURE:

Mark Lieberman  
(Corporate Officer)

TITLE:

President

DATE:

February 10, 1995

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED CORPORATION,  
AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY AGREE TO ACT IN THIS CAPACITY, AND  
I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER  
PERFORMANCE OF MY DUTIES.

SIGNATURE:

Mark Lieberman  
(Registered Agent)

DATE:

February 10, 1995

Emp-Gym.Art

FILED  
15 FEB 13 AM 10:19  
CLERK  
TALLAHASSEE  
FLORIDA