

This Instrument prepared by
and to be returned to:
Steven G. Rappaport, Esquire
Sachs Sax Caplan
6111 Broken Sound Parkway NW, Ste. 200
Boca Raton, FL 33487
(561) 994-4499

OR BK 29198 PG 0001
RECORDED 07/05/2017 15:04:53
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0001 - 1567 (156pgs)

**CERTIFICATE OF RECORDING
OF THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS OF ENCANTADA, THE BYLAWS OF
ENCANTADA HOMEOWNERS' ASSOCIATION, INC. AND
THE ARTICLES OF INCORPORATION OF
ENCANTADA HOMEOWNERS' ASSOCIATION, INC.**

I HEREBY CERTIFY that the documents attached as Exhibit "A" to this Certificate were duly adopted as the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Encantada, as well as the Bylaws of Encantada Homeowners' Association, Inc. and the Articles of Incorporation of Encantada Homeowners' Association, Inc. The original Declaration of Covenants, Conditions and Restrictions of Encantada is recorded in Official Record Book 4050, Page 1789, in the Public Records of Palm Beach County, Florida. The attached documents were approved by the written consent of the members pursuant to Section 617.0701(4), Fla. Stat.

DATED this 9 day of JUNE, 2017.

WITNESSES

[Signature]
Signature
ARIC KESSARIS
Print Name
[Signature]
Signature
JUSTIN MOCHA
Print Name

ENCANTADA HOMEOWNERS' ASSOCIATION,
INC.

By: [Signature]
ALVARO FERNANDEZ, President

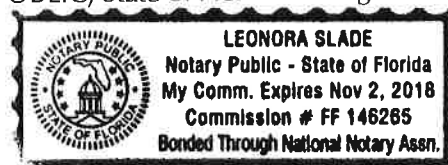
By: [Signature]
ORA D. ADLER, Secretary

STATE OF FLORIDA)
) ss:
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 12th day of JUNE, 2017,
by ORA ADLER, as President, and ALVARO FERNANDEZ, as Secretary, of Encantada
Homeowners' Association, Inc., who are Personally Known [] or Produced Identification [].
Type of Identification Produced: PERSONAL KNOWN

(SEAL)

[Signature]
NOTARY PUBLIC, State of Florida at Large



AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF ENCANTADA

THIS DECLARATION is made this ____ day of ~~September 1981~~, 20__, by the Association, ~~MARKBOROUGH PROPERTIES LIMITED~~, an Ontario corporation, qualified to do business in the State of Florida, its corporate successors and assigns, hereinafter called Declarant.

W I T N E S S E T H:

WHEREAS, ~~Declarant~~ Association is the owner of the real property described in Article II of this Declaration and desires to create thereon an exclusive residential community of Single Family Residences; and

WHEREAS, ~~Declarant~~ Association desires to provide for the preservation of the values and amenities in said community, and to create an agency to which should be delegated and assigned the powers of administering and enforcing this Declaration of Covenants, Conditions and Restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, ~~Declarant~~ Association has incorporated under the Laws of the State of Florida, as a non-profit corporation, ENCANTADA HOMEOWNERS' ASSOCIATION, INC., for the purpose of exercising the functions aforesaid; and

NOW THEREFORE, the ~~Declarant~~ Association declares that the real property described in Article II is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

All terms and words, as used herein, shall have the definition as specified in the Declaration of Covenants, Conditions, and Restrictions of Boca Pointe, as recorded in Official Record Book 3552, Page 1490 and as subsequently amended, Public Records of Palm Beach County, Florida, and in addition the following terms are defined:

1. "Association" also known as the "Homeowners' Association" or "Neighborhood Association", shall mean and refer to ENCANTADA HOMEOWNERS' ASSOCIATION, INC., a non-profit corporation chartered under the laws of the State of Florida. The Association shall, at all times, be governed by the applicable provisions of Florida law, including, but not limited to, Chapters 617 and 720, Fla. Stat., as same may be amended from time to time.

2. "Boca Pointe" shall mean and refer to that Planned Unit Development the subject of the Master Declaration.

3. "Common Areas" shall mean and refer to all portions of the Properties exclusive of the numbered Lots.

4. "Community Association" shall mean and refer to the Boca Pointe Community Association, Inc.

5. "Declarant". The term "Developer" or "Declarant", and all references to the Developer or Declarant contained within this Declaration, or the Bylaws or Articles of Incorporation, including, but not limited to, all of the rights of such Developer or Declarant shall be removed from this Declaration in their entirety and shall have no further effect as of the recording date of this amendment. ~~shall mean and refer to Markborough Properties Limited, an Ontario Company, authorized to do business in the State of Florida. Wherever the term Declarant is used in this Declaration, the Articles or By-Laws of the Association, it shall always be deemed to include its successors and assigns.~~

6. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions and any amendments thereto or any Supplemental Declaration filed pursuant to Article II hereof.

7. "Design Criteria" shall mean and refer to the architectural and building standards as adopted by the Design Review Committee pursuant to Article X hereof and as stated in the Design Review Manual.

8. "Design Review Committee" shall mean and refer to the committee described in Article X of this Declaration.

9. "Encantada" or "Encantada at Boca Pointe" shall mean and refer to and be the name of the Properties.

10. "Governing Documents" shall mean and refer to the Master Declaration, Articles of Incorporation, Bylaws, Architectural Control Design Review Manual, Rules and Regulations and the Resolutions of the Community Association and the Declaration, Articles of Incorporation, Bylaws, Design Review Manual, the Rules and Regulations and the Resolutions of the Association, as same may be amended from time to time. In the event of a conflict in the interpretation of the Governing Documents, they shall be applied in the order of priority as stated herein.

11. "Lakes" shall mean and refer to Tracts D and F on the Plat.

12. "Living Unit" shall mean and refer to any portion of a building situated upon the Properties designed and intended for use and occupancy.

13. "Lot" shall mean one of the numbered parcels of land unto which the Properties have been subdivided according to the Plat referred to in Article II upon which a Single Family Residence has been or is intended to be constructed.

14. "Master Declaration" shall mean and refer to the Declarations of Covenants, Conditions and Restrictions of Boca Pointe as recorded in Official Record Book 3552 Page 1490, Public Records of Palm Beach County, Florida, and as that is subsequently amended from time to time.

15. "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article IV, Section 1, hereof.

16. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon the Properties but, notwithstanding any applicable theory of mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

17. "Plat" shall mean and refer to the Plat of Properties referred to in Article II of this Declaration.

18. "Properties" shall mean and refer to all property which is subject to this Declaration.

19. "Rules and Regulations" shall mean and refer to procedures for administering the Association and the Properties as adopted by resolution of the Board of Directors.

20. "Single Family Residence" shall mean and refer to a Living Unit that may be constructed consistent with the provisions of Section 606 of the Palm Beach County Zoning Code and the Design Criteria.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Palm Beach County, Florida, and is more particularly described as follows:

All real property the subject of the Plat of ENCANTADA-BOCA POINTE-P.U.D., according to the Plat thereof recorded in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida in Plat Book 46, Pages 104 through 106.

~~The Declarant reserves the right to add to the real property, the subject of this Declaration, by filing in the Public Records of Palm Beach County a Supplemental Declaration as to the additional property which provides that it shall be added to the property herein described and subject to all the terms and conditions of this Declaration. The Declarant shall not, however, add any property to this Declaration other than Lots intended for the construction of detached Single Family Residences.~~

~~Without restriction upon the Declarant to add to the Properties in the manner provided in the foregoing paragraph, u~~Upon approval in writing of the Association pursuant to a vote of its Members as provided in the Bylaws, the owner of any property who desires to add to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Supplemental Declaration with respect to the additional property, which shall extend the scheme of the covenants and restrictions of this Declaration to such property.

Upon a merger or consolidation of the Association with another association as provided by law its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer this Declaration within the existing property together with the covenants and restrictions established upon any other property as one scheme.

ARTICLE III

DESCRIPTION OF DEVELOPMENT

The Properties ~~are being~~ were developed ~~by the Declarant~~ into Lots intended for the construction of Single Family Residences and are located within Boca Pointe.

~~The Owners recognize that the Declarant may have the balance of Boca Pointe under development for an extended time. Incident to that development, the Owners acknowledge that the quiet enjoyment of the Properties may be interfered with to some extent by the construction operations on the balance of the Encantada and Boca Pointe area. From time to time, Declarant has presented to the public certain renderings, plans, and models showing possible future development of the Encantada and Boca Pointe area. Declarant does not warrant in any way the schemes in these renderings, plans or models or actually how the future improvements in the Encantada and Boca Pointe area will be developed. The Owners accept that any such renderings, plans or models are primarily schematic and in no way represent a final development plan of the Encantada and Boca Pointe area.~~

~~Further, the Owners release the Declarant of any claim that they might have against the Declarant for the future development of the Encantada and Boca Pointe area, such as, but not limited to such renderings, plans or models. The owners accept and agree that the Declarant will have sole right of design, construction, development, and improvements of future properties in the Encantada and Boca Pointe area. The Owners waive all claims against the Declarant for interference with their quiet enjoyment through development of the balance of the Encantada and Boca Pointe area, whether the construction operations are performed in the balance of the Encantada and Boca Pointe area or in the Common Properties, incident to the construction operations.~~

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of a fee, or undivided fee, interest in any Lot located upon the Properties, shall be a Member, provided, however, that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member. Change of membership in the Association shall be established by recording in the Public Records of Palm Beach County, Florida, a deed or other instrument conveying record fee title to any Lot and by the delivery to the Association of a copy of such recorded instrument. The Owner designated by such instrument shall, by his acceptance of such instrument, become a Member of the Association, and the membership of the prior owner shall be terminated. In the event that a copy of said instrument is not delivered to the Association, said Owner shall become a Member, but shall not be entitled to voting privileges

enjoyed by his predecessor in interest. The foregoing shall not, however, limit the Association's powers or privileges. The interest, if any, of a Member in the funds and assets of the Association shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to his real property. Membership in the Association by all Owners shall be compulsory and shall continue, as to each Owner, until such time as such Owner transfers or conveys of record his interest in the real property upon which his membership is based or until said interest is transferred or conveyed by operation of law, at which time the membership shall automatically be conferred upon the transferee, Membership shall be appurtenant to, run with, and shall not be separated from the real property interest upon which membership is based.

Section 2. Voting Rights. ~~The Association shall have two classes of voting membership:~~

~~Class A. Class A Members shall be all those Owners as defined in Section 1, with the exception of the Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Section 1. When more than, however, one person or entity holds such interest or interests in any Lot, all such persons or entities shall be Members, and the vote for such Lot shall be exercised as determined in the By-Laws, but in no event shall more than one (1) vote be cast with respect to any such Lot.~~

~~Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to a number of votes equal to three times the total number of Class A votes at any time, plus one, for as long as the Declarant holds any Lot in the Properties for sale in the ordinary course of business.~~

~~Section 3. Election of Association Directors. A more fully provided in the Bylaws, the Declarant shall have the right to appoint the Directors of the Association until the Turnover Meeting referred to in Article V hereof.~~

ARTICLE V

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TURNOVER

~~Section 1. Time of Turnover. The turnover of the Association by Declarant shall occur within ninety (90) days after conveyance of title to the last Lot within the Properties to which it held title for sale in the ordinary course of business, provided that the Declarant may at its sole option call the Turnover Meeting at any time. The timing of the Turnover Meeting shall not affect the voting rights of the Declarant as specified in Article IV, Section 2 hereof.~~

~~Section 2. Procedure of Calling Turnover Meeting. No more than 45 days and no less than 30 days prior to the Turnover Meeting, the Association shall notify in writing all Class A Members of the date of the Turnover Meeting and purpose of it which is the election of a new Board of Directors of the Association.~~

ARTICLE VI

EASEMENTS

Section 1. Easements over Lots. Easements are reserved as shown on the Plat for present and future utility services, including, but not limited to, easements for water pipes, sanitary sewer pipes, sprinkler pipes, electrical wires, T.V. wires, security wires, telephone wires and street lights. ~~Declarant~~ Association further specifically reserves from each Lot an easement in a strip of land six feet wide adjacent to and within all boundary lines for such purposes. Such easements are reserved to the ~~Declarant~~, Owners and the Association and may be assigned ~~by the Declarant~~ to any person, firm, corporation or municipality furnishing any of the utilities, services or facilities mentioned. No structure shall be built upon the easement thus reserved, and said easement property shall at all times be open to the Association, the Community Association, ~~Declarant~~, any franchised or licensed provider of any service specified herein, and any public service corporation which may require the use of said right-of-way. Should the intended creation of any easement fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such easement deemed not to be so created shall nevertheless be considered as having been granted directly to the Association for the purpose of allowing the original party or parties to whom such easements were originally to be granted the benefit of such easement. ~~No easement shall be granted by any grantee without the express approval in writing of the Declarant.~~

The Owner's designate the Association ~~and/or the Declarant~~ as their lawful attorney-in-fact to execute any instruments on their behalf as may be required for the purpose of creating such easement.

In addition, the Association shall have an easement over and upon any Lot for purposes of performing any maintenance or repairs where an Owner fails to do so in accordance with the requirements of this Declaration. Upon providing not less than seven (7) days notice to such Owner, (except in an emergency) the Association shall have the authority to enter upon a Lot, perform any necessary maintenance or repairs, or remove any violating structure, and shall further have the authority to charge the costs of any such maintenance, repairs or removals as an individual assessment against such Lot with the full authority to collect such assessment in accordance with Article VIII, Section 5 of this Declaration. Any such entry upon a Lot shall not constitute a trespass.

Section 2. Easement to the Association and the Community Association, The Association and the Community Association shall have an easement of 6 feet on either side of all boundary lines for access to and maintenance of any Common Areas, Common Property, Restricted Common Property, Lake, road or drainage easement within the Properties.

ARTICLE VII

FUNCTIONS OF THE ASSOCIATION

The Association shall be empowered to do the following:

A. To take any and all actions necessary to perform any of the functions or services delegated to the Association in any covenants, conditions or restrictions applicable to the Properties or in the Articles or By-Laws.

B. To conduct business of the Association, including but not limited to administrative services such as legal, accounting and financial, and communication services informing members of activities, notices of meetings and other important events.

C. To serve as a Neighborhood Association and a Tract Association for the Lots as those terms are defined and referred to in the Master Covenants.

D. To adopt and promulgate such Rules and Regulations and Resolutions as necessary to fully exercise all powers, duties, responsibilities and functions of the Association.

E. To perform all maintenance duties delegated to the Association on the Plat.

ARTICLE VIII

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within The Properties, hereby covenants and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest and late fees thereon and costs of collection thereof as hereinafter provided in Section 8, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest and late fees thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person or entity who was the Owner of the property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the residents in The Properties.

Section 3. Determination of Annual Assessments. The Board of Directors of the Association shall determine the total annual assessment for The Properties.

Section 4. Allocation of Assessments. Each Lot shall bear an equal share of the total assessments (exclusive of the individual assessments provided for in Section 5).

Section 5. ~~Special~~ Individual Assessments. The Association may impose a ~~special~~ individual assessment upon any Owner whose use or treatment of his Lot or the improvements thereon violates the use restrictions imposed by this Declaration. This shall include the authority to levy a special individual assessment. Further, the Association shall have the authority to levy such individual assessment for any maintenance, repairs or replacements that are necessary upon any Lot as a result of the failure of an Owner to perform his or her necessary maintenance obligations pursuant to this Declaration or pursuant to the Rules and Regulations of the Association, as same may be amended from time to time, or where any such maintenance, repairs or replacements are necessary as a result of any willful or negligent actions taken by any Owner of any Lot, or such Owner's tenants, guests, invitees or licensees. Further, the Association shall have the authority to levy such individual assessment where the Association is required to enter upon a

Lot to remove any violating structure placed on the Lot by an Owner or such Owner's tenants, guests, invitees or licensees. Such assessment may be enforced in the manner provided for any other assessment.

Section 6. Date of Commencement of Annual Assessments: Due. Dates. The annual assessments provided for herein shall be due and payable quarterly on the first days of the months of February, May, August and November, ~~and shall commence on the first day of the month following the first conveyance of a Lot by the Declarant.~~

The due date of any special assessment under Section 5 hereof shall be fixed in the resolution authorizing such assessment.

Section 7. Duties of the Board of Directors. The Board shall prepare a roster of Owners and Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall, upon demand, at any time, furnish thereto any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be prima facie evidence of payment of any assessment therein stated to have been paid.

Section 8. Non-Payment of Assessment; The Personal Obligation of the Owner; The Lien; Remedies of Association. If the assessments are not paid on the date due (being the dates specified in Section 6 hereof) then such assessment shall become delinquent and shall, together with any late charge or interest in the highest amount allowable by law provided herein and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation and shall not pass to his successor in title unless expressly assumed by them. The Association may record a notice of lien for delinquent assessments in the public records and foreclose the lien in the same manner as a mortgage. The lien shall not be valid against subsequent bona fide purchasers for value of a Lot unless so recorded. Upon recording, the lien shall secure the amount of delinquency stated therein and all unpaid assessments thereafter until satisfied of record. The Association may record the lien at any time and shall record the lien if the assessment is ninety (90) days in default.

If the assessment is not paid within thirty (30) days after the due date, the assessment shall include an additional charge of \$25.00 or five (5%) percent of the delinquent installment, whichever is greater. ~~for each month, or portion thereof, in which the assessment is not paid after the due date as compensation to the Association for the loss of use of the assessment and additional expenses of collection.~~ The Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include all charges on the assessment as above provided as a reasonable attorney's fee to be fixed by the court together with the costs of the action.

Section 9. Subordination of the Lien to the Mortgages. The lien of the assessments provided for herein is unequivocally subordinate to the lien of any first mortgage to an institutional lender or other lender approved by the Association now or hereafter placed upon a Lot subject to assessment prior to the recording in the public records of a notice stating the amount of or unpaid assessment attributable to the Lot; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. Upon request, such mortgagee shall be entitled to written notification from the Association of any default in performance of an Owner's obligations hereunder which is not cured within sixty (60) days. Notwithstanding any term herein to the contrary, for all mortgages encumbering a Lot and recorded in the Public Records after the effective date of this amendment, and, to the extent allowable under Florida law, for all mortgages encumbering a Lot and recorded in the Public Records on or before the effective date of this amendment, the provisions of Section 720.3085, Fla. Stat., as now exist or may hereafter be amended, shall apply to the mortgagee's obligation for the payment of assessments or other charges accruing prior to the date the mortgagee obtains title to the Lot. In addition, and notwithstanding the foregoing, any other purchaser or other person who otherwise acquires title at a foreclosure sale shall be governed at all times by the provisions of Chapter 720, Fla. Stat., as may now exist or may hereafter be amended from time to time. A Lot Owner is jointly and severally liable with the previous Lot Owner for all unpaid assessments that came due up to the time of transfer of title, including but not limited to foreclosure and/or deed in lieu of foreclosure except as provided under law pursuant to Section 720.3085, Fla. Stat., as same may be amended from time to time.

~~Section 10. Effect on Declarant. Along as the Declarant is the Owner of any Lot, Declarant shall not be liable for assessments against such Lot provided that Declarant funds any deficit in operating expenses of the Association. Declarant may at any time commence paying such assessments as to all Lots that it owns and thereby automatically terminate its obligation to fund deficits in the operating expenses of the Association.~~

Section 11.10. Exempt Property. The Board of Directors shall have the right to exempt property subject to this Declaration from the assessments, charges and liens created herein. That such property is used for any of the following purposes:

- (a) Any easement or other interest therein dedicated and accepted by a public authority and devoted to public use or to Boca Pointe Community Association, Inc.
- (b) All Common Areas as defined in Article I hereof.
- (c) Any of the property exempted from ad valorem taxation by the laws of the State of Florida to the extent agreed to by the Association.

Notwithstanding any provisions herein, no land devoted to Single Family Residential use shall be exempted from said assessments, charges or liens.

ARTICLE IX

BOCA POINTE

Section 1. Ownership in Boca Pointe. By taking title to a Lot, each Owner becomes subject to the terms and conditions of the Declaration of Covenants, Conditions, and Restrictions of Boca Pointe recorded in Official Record Book 3552, Page 1488 and as subsequently amended, of the Public Records of Palm Beach County, Florida (the "Master Declaration"). Among other things, that document provides that an Owner shall become a member of the Boca Pointe Community Association, Inc.; shall acquire certain property rights to Common Properties and Restricted Common Properties within Boca Pointe; shall become subject to the assessments of the Boca Pointe Community Association, Inc.; and shall be subject to the guidelines of the Boca Pointe Architectural Control Design Review Manual.

Section 2. Community Association Assessments. Pursuant to the Master Declaration, the Community Association has the right to assess its members for all expenses which may be incurred by the Community Association in the performance of its duties. These assessments will be collected by the Association and remitted to the Community Association. Pursuant to Article VI of the Master Declaration, if the Association fails to pay assessments to the Community Association, the Community Association will have a lien on each Lot in the Association.

Section 3. Membership in Boca Pointe Community Association, Inc. In accordance with the provisions of the Articles of Incorporation of Boca Pointe Community Association, Inc., all Owners shall be members in that association, Notwithstanding such membership, only representative members, known as the Voting Members, shall be entitled to vote on behalf of all Members of the Association, at meetings of the members of the Boca Pointe Community Association, Inc. The Voting Members shall mean ~~the Declarant as to the votes allocated to Class C membership, a designated Residential Property Owner as to votes allocated to Class B membership, and the President or other authorized designee of the Association as to the votes allocated to all Lots within the Association~~ Class A membership.

Section 4. Notice to Boca Pointe Community Association, Inc. Copies of all amendments to this Declaration, the Articles of Incorporation and Bylaws of the Association, and any easements or conveyances affecting the Common Areas, shall be promptly forwarded to Boca Pointe Community Association, Inc. no later than fifteen (15) days prior to adoption. The Association shall also provide a current list of the names and mailing address of all Owners within 15 days after receiving a written notice from the Boca Pointe Community Association.

Section 5. Cooperation with Other Neighborhood Associations. The Association shall cooperate with any similar Neighborhood Associations within Boca Pointe, including but not limited to Boca Pointe Community Association, Inc., and may enter into an agreement with any such association that one of the associations shall collect the payment of all maintenance assessments levied upon the Properties and shall remit the appropriate amounts due and payable to each association.

Section 6. Termination of the Association. In the event the Association is terminated or shall no longer exist for any reason whatsoever, the Community Association shall have the power to maintain all Common Areas or otherwise perform all functions of the Association and shall be authorized to assess all Owners for the cost of such services.

ARTICLE X

ARCHITECTURAL CONTROL

Section 1. Necessity of Design Review and Approval. No improvement, of any kind, including without limitation, any building, fence, wall, swimming pool, tennis court, screen enclosure, sewer, drain, disposal system, decorative building, landscape device or object, or other improvement shall be commenced, erected, placed or maintained upon any Lot, nor shall any addition, change or alteration therein or thereof be made, unless and until the plans, specifications and location of the same shall have been submitted to, and approved in writing by, the Design Review Committee. All plans and specifications shall be evaluated as to harmony of external design and location in relation to surrounding structures and topography and as to conformance with the Design Criteria of the Association as the same may be adopted and from time to time be amended.

Section 2. Design Review Committee. The architectural review and control functions of the Association shall be administered and performed by the Design Review Committee (the "DRC"), which shall consist of a minimum of three (3) members who need not shall be members of the Association. ~~The Declarant shall have the right to appoint all of the members of the DRC as long as it owns at least one Lot the subject of this Declaration. Members of the DRC as to whom Declarant may relinquish the right to appoint, and all members of the DRC after Declarant no longer owns at least one Lot the subject of this Declaration, shall be appointed by, and shall serve at the pleasure of, the Board of Directors of the Association. A majority of the DRC shall constitute a quorum to transact business at any meeting of the DRC, and the action of a majority percent at a meeting at which a quorum is present shall constitute the action of the DRC. Any vacancy occurring on the DRC because of death, resignation, or other termination of service of any member thereof shall be filled by the Board of Directors,; except that Declarant, to the exclusion of the Board, shall fill any vacancy created by the death, resignation, removal or other termination of services of any member of the DRC appointed by the Declarant. The DRC shall have the authority to engage the services of a licensed architect or other professional consultant, who shall not be required to be a member of the Association, for purposes of consulting with the DRC in its architectural review functions.~~

A majority of the DRC shall constitute a quorum to transact business at any meeting of the DRC, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the DRC. Any vacancy occurring on the DRC because of death, resignation, or other termination of service of any member thereof shall be filled by the Board of Directors,; ~~except that Declarant, to the exclusion of the Board, shall fill any vacancy created by the death, resignation, removal or other termination of services of any member of the DRC appointed by Declarant.~~

Section 3. Powers and Duties of the DRC. The DRC shall have the following powers and duties:

A. To recommend, from time to time, to the Board of Directors of the Association modifications and/or amendments to the Design Review Manual. Any modification or amendment to the Design Review Manual shall be consistent with the provision of this Declaration, and shall not be effective until adopted by a majority of the members of the Board of

Directors of the Association. Notice of any modification or amendment to the Design Review Manual, including a verbatim copy of such change or modification, shall be delivered to each Member of the Association; provided that, the delivery to each Member of the Association of notice and a copy of any modification or amendment to the Design Review Manual shall not constitute a condition precedent to the effectiveness or validity of such change or modification.

B. To require submission to the DRC of all plans and specifications for any improvement or structure of any kind. The DRC may also require submission of samples of building materials proposed for use on any Lot, and may require such additional information as reasonably may be necessary for the Board to completely evaluate the proposed structure or improvement in accordance with this Declaration and the Design Review Manual.

C. To approve or deny any improvement or structure of any kind, the construction erection, performance or placement of which is proposed upon any Lot the subject of this Declaration and to approve or disapprove any exterior additions, changes, modifications or alterations therein or thereon.

D. To adopt a schedule of reasonable fees for processing requests for DRC approval of proposed improvements. Such fees, if any, shall be paid to the Association, at the time that plans and specifications are submitted to the DRC.

ARTICLE XI

CABLE TELEVISION AND SECURITY SERVICES

Pursuant to Article XI of the Master Declaration, ~~the Declarant named in said Declaration and/or the Boca Pointe Community Association, Inc. have~~ has reserved the exclusive right to enter into contracts to provide cable television services and/or security system services for all of the Residential Unit Owners within the Property subject to the Master Declaration, which includes the Owners within this Association. Such contract requires that Owners purchase basic cable television service and security system service, and further requires the Association to collect the fees for such services from the Owners and remit same to the party providing such services. The Association is authorized to collect from each Owner the amounts required to be paid by each Owner pursuant to the contract, and to remit such payments to the party providing cable television and/or system security services pursuant to any such contract. Such amounts to be collected by the Association shall be included in the periodic assessments payable by the Lot Owners, but shall not be deemed as a Common Expense. In the event that the Master Association no longer becomes the exclusive provider of cable television services and/or security system services for all Residential Unit Owners within the Property, the Association shall have the authority, though not the obligation, to enter into any bulk rate contracts for the provision of any such cable television, satellite, internet, security, alarm monitoring or other telecommunications services, and any such contract shall be a Common Expense of the Association.

ARTICLE XII

GENERAL COVENANTS AND RESTRICTIONS

Section 1. Residential Use. No Lot or Living Unit thereon shall be used for other than residential purposes. No building other than one Single Family Residence together with garages,

pool-houses, cabanas or maids quarters serving the residence shall be erected, altered, placed or permitted to remain on any Lot.

Section 2. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and under Article VI hereof. Within these easements, no structure, planting or other material shall be placed or permitted to remain that may damage or interfere with the installation and maintenance of utilities, change the direction of flow of drainage channels in the easements or obstruct or retard the flow of water through drainage channels in the easements.

Section 3. Nuisance. No noxious or offensive activity shall be carried on upon any Lot or in any Living Unit, nor shall anything be done on it that may be or may become an annoyance or nuisance to the Properties.

Section 4. Temporary Structures. No structure of a temporary character, including trailer, tent or shack shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 5. Signs. In order to maintain an attractive appearance no sign, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed, in, on or upon any part of the Properties, by an Owner or occupant, without the written permission of the Design Review Committee, which shall have the right in its sole discretion to prohibit or to restrict and control the size, construction material, wording, location and height of all signs and may summarily remove and destroy all unauthorized signs.

Section 6. Trash. Each Owner shall keep his Lot free and clear of weeds, underbrush, unsightly growths, trash and debris and shall reasonably maintain his Living Unit. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers suitably screened from the street and adjacent lots. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No garbage incinerators shall be permitted.

Section 7. Maintenance. ~~The Declarant of the~~ Association shall have the right to care for vacant, unimproved or unkept Lots within the Properties, remove and destroy tall grass, undergrowth, weeds and rubbish therefrom and any unsightly and obnoxious thing therefrom, and do any other things and perform any labor necessary or desirable in the judgment of ~~the Declarant or~~ the Association to keep the Lot, and the land contiguous and adjacent thereto, neat and in good order. The Association shall further have the right to repair any structure or improvement on any Lot which constitutes a danger or nuisance or is in disrepair provided that the Lot Owner is given no less than ~~15~~ seven (7) days notice of the Association's intent to do so which reasonably specifies the proposed action. The Association shall charge the same against the Owner of said Lot, which charge shall be a lien on the Lot which may be foreclosed and shall include ~~Declarant's or~~ the Association attorney fees and other costs in connection with said foreclosure. The Design Review Committee may adopt rules for the maintenance of any Lot during construction.

Section 8. Water. No individual water supply system shall be permitted on any Lot for domestic consumption.

Section 9. Sewer. No individual sewage disposal system shall be permitted on any Lot.

Section 10. Antenna. No television or other outdoor antenna system or facility shall be erected or maintained on any Lot.

Section 11. Subdivision. No Lot shall be subdivided. This shall not prohibit the construction of a Single Family Residence on more than one Lot or portion thereof.

Section 12. Grass and Landscaping. Each Lot Owner shall trim, maintain and irrigate grass and landscaping to the water's edge in any adjacent Lake or drainage easement and the pavement's edge of any street regardless of the location of the Lot's boundary line.

Section 13. Outside Lighting. Except as may be initially installed ~~by Declarant~~, no spotlights, floodlights or similar type high intensity lighting shall be placed or utilized upon any Lot which in any way will allow light to be reflected on any other Lot or the improvements thereon or upon any Common Areas or any part thereof without the written authorization of the Board. Other types of low intensity lighting which do not disturb the Owners or other occupants of the Properties shall be allowed.

Section 14. Commercial Activities. No business or commercial activity shall be conducted on the Properties, ~~except the construction of improvements or the maintenance of sales offices or models on a Lot for sale of Living Units in the ordinary course of business.~~ Notwithstanding the foregoing, the use of a Lot for incidental home office use shall not be prohibited, so long as any such incidental home office use is in accordance with any and all applicable County or City Codes and Ordinances, and so long as such incidental home office use does not generate excessive traffic, noise or constitute a nuisance to the community and its Residents.

Section 15. Pets. All pets and animals shall be restricted to those animals generally considered as household pets, such as dogs, cats or birds, and must be contained upon the premises of respective Owners. Obnoxious animals such as cows, horses, swine, goats, fowl, monkeys, etc., are specifically prohibited. Notwithstanding the above provisions, no pets or animals which constitute a danger or a nuisance to surrounding Owners shall be kept upon the Properties. Where any pet or animal constitutes a danger or nuisance to the community or its residents, including, but not limited to, where any such pet or animal has attacked another animal or person, or has shown a dangerous propensity, such animal shall be required to be removed from the Property on a permanent basis. All pets shall be required to be on a leash when outside of a home or otherwise kept under complete and full control of the pet owner. Further, no electronic fences shall be permitted upon any Lot or anywhere in the community or Association property at any time.

Vehicles. Owners and occupants of Lot's will not be permitted to park, store or keep commercial vehicle, boat, truck, trailer, recreation vehicle, mobile home, bus, tractor or other such vehicles on their Lots or adjacent Lots unless stored or kept within a garage except temporarily during periods of construction. Further, Owners and occupants of Lots may not park, store or keep such vehicles on adjacent roads and streets.

~~Commercial vehicles shall include those vehicles as defined in Section 320.01(18) (a), Florida Statutes (1981) as "for-hire" vehicles and/or decorated with commercial lettering or~~

~~advertising. Trucks shall include those vehicles as defined in Section 320.01(13), Florida Statutes (1981), except there shall be excluded therefrom Jeeps, Scouts, Broncos, Blazers, Vans, Toyota Land Cruisers, El Caminos and Rancheros which are for private use as defined in Section 320.01(17), Florida Statutes (1981), and are without commercial lettering or advertising, and small pickup trucks, which have a load limit of less than one (1) ton which are for private use as defined in Section 320.01(17) Florida Statutes (1981) and are without commercial lettering or advertising. Recreation vehicles shall include those vehicles as defined in Section 320.01(1)(b), Florida Statutes (1981); trailers shall include those vehicles as defined in Section 320.01(6), Florida Statutes (1981), and mobile homes shall include those vehicles as defined in Section 320.01(2), Florida Statutes (1981).~~

A vehicle shall be deemed a "commercial vehicle" where such vehicle contains commercial lettering, commercial pictures, commercial insignias, or any other evidence that the vehicle is being used for a business or commercial enterprise. A vehicle shall also be deemed a "commercial vehicle" where it has agricultural, construction or industrial equipment either affixed to or maintained within or upon said vehicle. Further, a vehicle shall be deemed commercial where it has a platform rack or other similar apparatus designed for carrying property or cargo; a cargo box or similar device located on the vehicle; or any other motor vehicle equipped with a hoist or other similar mechanical equipment, whether affixed to or maintained within or upon said vehicle.

Owners and occupants of Lots shall not park, or permit parking or storing of any vehicle approved under the terms stated above, which is in rusted, wrecked, junked, partially dismantled, inoperative or abandoned condition, whether attended or not, upon their Lots or adjacent Lots or adjacent roads or streets, unless the same is completely enclosed in a garage.

Section 17. Dredging. No Lot shall be increased in size beyond its dimensions as shown on the Plat by filling in any water, canal, lake or drainage easement to which it may abut.

Section 18. Leases. In order to assure a community of congenial residents and thus protect the value of the Lots, the leasing of Lots shall be subject to the provisions identified herein:

- a. No lease of any interest in a Lot shall commence without the Lot Owner having first obtained the written approval of such lease by the Association. Any lease agreement in effect as of the effective date of this amendment shall be deemed approved. However, any renewal or extension of any existing lease, and all new leases, including renewals or extensions of such new leases, after the effective date of this amendment, shall be subject to the provisions of this Section 18.
- b. The Lot Owner shall notify the Association, in writing on an application form provided by the Association, of his/her intention to lease his/her Lot. The name, address, and telephone number of the prospective lessee and a copy of the Lease Agreement must be provided to the Association, not less than thirty (30) days prior to the lease of the Lot. The application must indicate the date when such lease is to take place.

- c. Within twenty (20) days after the receipt of a completed application, the Association shall either approve or disapprove of the lease. Disapproval of a lease shall not be arbitrary, but any lessee who is disapproved by the Association shall not be entitled to take possession of the Lot.
- d. Any and all lease agreements between an Owner and a lessee of a Lot shall be in writing, shall provide for a term of not less than six (6) months nor more than twelve (12) months and must provide that the lease shall be subject, in all respects, to the terms and provisions of this Declaration, the Articles of Incorporation, Bylaws and the Rules and Regulations of the Association. Any failure by the lessee under such lease agreement to comply with such terms and conditions shall be a material default and breach of the lease agreement. No Lot shall be subject to more than one (1) lease in any twelve-month period.
- e. Security Deposit. The Association has the right to require, as a condition to permitting the leasing of a Lot, the depositing with the Association of a security deposit up to one (1) month's rent or the highest amount allowable by law, made by either the lessor or lessee, which may be placed in a co-mingled account without interest. Upon termination of occupancy of the Lot by the lessee, the Association may deduct from the security deposit an amount equal to any actual or anticipated expenses occasioned by the wrongful or negligent act(s) of the lessee or his invitees, tenants or guests, including, but not limited to, damage to the Common Areas. Any amounts remaining from the security deposit after such amounts are deducted shall be returned to the Lot Owner or Lessee who deposited same, by the Association, not later than fifteen (15) days from the date of notice to the Association of the termination of the occupancy of the Lot by Lessee.
- f. Application Fees. The Association may charge an application fee in connection with the lease of any Lot in an amount to be determined by the Board of Directors from time to time. Said fee shall be remitted to the Association at the same time as the Lot Owner provides notice of such lease as provided in subsection (b) of this Section 18. The application provided by the Association may also require any further information that the Association may reasonably require for purposes of screening applicants, including but not limited to, criminal background check, credit history, and financial background, including any necessary international background check for any tenant or occupant from another country. In addition to the application fee provided for herein, the Association shall further have the authority to charge the actual cost for any such background check required.
- g. The provisions of this Section 18 shall apply to all leases, including

all renewals and extensions of such leases. If a Lot Owner shall lease his/her Lot, he/she shall remain liable for the performance of all of the agreements and covenants in the Association documents, and shall be liable for any violations by his/her lessee of any and all use restrictions.

- h. The lessee may be required to meet with the Association to acknowledge that he/she takes occupancy subject to, and agrees to abide by the Declaration, the Articles of Incorporation, Bylaws and the Rules and Regulations of the Association. Such meeting shall take place after the Association has received the name, address and telephone number of the prospective lessee or a copy of the lease, and prior to the date of occupancy.
- i. The Lot Owner must furnish the prospective lessee with a copy of the Declaration, the Articles of Incorporation, Bylaws and the Rules and Regulations of the Association. If the Lot Owner does not have a copy of such documentation, then the Lot Owner will be required to obtain copies from the Association at a reasonable cost at the time of application.
- j. Without limiting the Association's ability to disapprove of all leases and all occupants, a proposed tenant or occupant may be disapproved by the Association for any reasonable grounds, which reasonable grounds shall include, but not be limited to, the following:

 - (1) The person(s) seeking approval (which shall include all proposed occupants) fails to qualify for membership or occupancy in the Association, including, but not limited to, those applicants who fail to qualify for membership or occupancy because of the restrictions on occupancy or ownership set forth in this Declaration, the Bylaws, Articles of Incorporation or Rules and Regulations of the Association, as same may be amended from time to time; or
 - (2) The person(s) seeking approval (which shall include all proposed occupants) has been convicted at any time of a felony involving violence to persons; or a felony involving or concerning moral turpitude; or a felony where the victim was a minor; or a felony where such person has been convicted of the illegal manufacture or distribution of a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802); or has been convicted of any other felony within the ten (10) years preceding the date of application; or

- (3) The person(s) seeking approval (which shall include all proposed occupants) is a registered sexual offender or sexual predator pursuant to Florida law or pursuant to any other jurisdiction; or
 - (4) The person(s) seeking approval (which shall include all proposed occupants) takes possession of the Lot prior to the approval by the Association as provided for herein; or
 - (5) The person(s) seeking approval (which shall include all proposed occupants) has a history of violating the Association's governing documents, or a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in this or any other Association as a lessee, guest, owner or occupant of a Lot; or
 - (6) The person(s) seeking approval (which shall include all proposed occupants) fails to comply with the requirements of this Section 18; or
 - (7) The person(s) seeking approval (which shall include all proposed occupants) has a history of bad credit, or has a history of non-payment of assessments or other financial obligations to this or any other Association, or is otherwise demonstrated to be a clear financial risk to the Association; or
 - (8) No lease will be approved if, at the time of the application, the Lot Owner is delinquent in the payment of any financial obligation to the Association under the Declaration or under any of the governing documents or the applicable Statute, or if the Lot is in violation of any provision of the Declaration or the Rules and Regulations which remains uncured at the time an application is made hereunder.
- k. There shall be no subleasing of a Lot, and no portion of a Lot may be rented other than the entire Lot.
- l. Guests, other than an immediate family member, which shall be defined as an Owner's spouse, parents, children, grandchildren, grandparents or siblings, who are not paying rent to the Owner, who are occupying a Lot without the Owner in residence for a period in excess of thirty (30) days in any twelve-month period, shall be considered a tenant and subject to approval by the Association as provided in this Section 18.

- m. With respect to any tenant or any person present on any Lot or any portion of the Properties other than an Owner and the members of his immediate family permanently residing with him on the Lot, if such person materially violates any provision of this Declaration, the Articles or Bylaws, or if such person is a source of annoyance to the residents of the Properties, or wilfully damages or destroys any Common Areas or personal property of the Association, then upon written notice by the Association, such person shall be required to immediately leave the Properties, and if such person does not do so, the Association is authorized to commence an action to evict such tenant or compel the person to leave the Properties and, where necessary, to enjoin such person from returning. The expense of any such action, including attorneys fees, may be assessed against the applicable Owner, and the Association may collect such assessment and have a lien for same as elsewhere provided. The foregoing shall be in addition to any other remedy of the Association.
- n. No Lot Owner who purchases a Lot or otherwise acquires title to a Lot after the effective date of this amendment shall be entitled to lease his or her Lot until such Lot Owner has owned the Lot for a period of twenty four (24) months, which twenty four (24) month period shall commence upon the date title was acquired. Such twenty four (24) month restriction on leasing shall not apply to the Association, in the event the Association takes title to a Lot as a result of foreclosure, deed in lieu of foreclosure or otherwise. Additionally, this requirement shall not apply where title is acquired by an immediate family member of the Lot Owner, which immediate family member shall be defined as the Owner's spouse, parents, siblings, children, grandchildren or grandparent, or where the Lot has been transferred or otherwise conveyed to a trust or otherwise conveyed for bona fide estate planning purposes or pursuant to a bona fide estate planning device. In addition, such twenty four (24) month restriction on leasing shall not apply where title is acquired by one spouse from another spouse through a judgment or decree of divorce.

Section 19. Sales and Transfers. In order to assure a community of congenial residents and thus protect the value of the Lots, the sales and transfers of Lots shall be subject to the provisions identified herein:

- a) Application Process. The Lot Owner shall notify the Association, in writing on an application form provided by the Association, of his/her intent to sell or transfer his/her Lot. The name, address, and telephone number of the prospective purchaser or transferee and a copy of the sales contract or transferring document must be provided to the Association, not less than thirty

(30) days prior to the purchase or transfer of the Lot. The application must indicate the date when such sale is to take place. For purposes of this Section 19, the term "transfer" shall include any purchase or sale of a Lot as well as any conveyance or acquisition of a Lot by gift, devise or inheritance.

b) Approval or Disapproval. Within twenty days (20) days after the receipt of a completed application, the Association shall either approve or disapprove the sale or transfer.

c) Application Fees. The Association may charge an application fee in connection with the sale or transfer of any Lot in an amount to be determined by the Board of Directors from time to time. Said fee shall be remitted to the Association at the same time as the Lot Owner provides notice of such sale or transfer as provided in subsection (a) of this Section 19. The application provided by the Association may also require any further information that the Association may reasonably require for purposes of screening applicants, including but not limited to, criminal background check, credit history, and financial background, including any necessary international background check for any Owner or occupant from another country. In addition to the application fee provided for herein, the Association shall further have the authority to charge the actual cost for any such background check required.

d) Disapproval of Sales or Transfers for Good Cause. The Association shall have the authority to disapprove of a proposed purchaser(s) or transferee(s) for good cause, which good cause shall be defined as follows:

(1) The person(s) seeking approval (which shall include all proposed occupants) fails to qualify for membership or occupancy in the Association, including, but not limited to, those applicants who fail to qualify for membership or occupancy because of the restrictions on occupancy or ownership set forth in this Declaration, the Bylaws, Articles of Incorporation or Rules and Regulations of the Association, as same may be amended from time to time; or

(2) The person(s) seeking approval (which shall include all proposed occupants) has been convicted at any time of a felony involving violence to persons; or a felony involving or concerning moral turpitude; or a felony where the victim was a minor; or a felony where such person has been convicted of the illegal manufacture or distribution of a controlled substance as defined in Section 102 of the Controlled

Substances Act (21 U.S.C. 802); or has been convicted of any other felony within the ten (10) years preceding the date of application; or

- (3) The person(s) seeking approval (which shall include all proposed occupants) is a registered sexual offender or sexual predator pursuant to Florida law or pursuant to any other jurisdiction; or
- (4) The person(s) seeking approval (which shall include all proposed occupants) takes possession of the Lot prior to the approval by the Association as provided for herein; or
- (5) The person(s) seeking approval (which shall include all proposed occupants) has a history of violating the Association's governing documents, or a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in this or any other Association as a lessee, guest, owner or occupant of a Lot; or
- (6) The person(s) seeking approval (which shall include all proposed occupants) fails to comply with the requirements of this Section 19; or
- (7) The person(s) seeking approval (which shall include all proposed occupants) has a history of bad credit, or has a history of non-payment of assessments or other financial obligations to this or any other Association, or is otherwise demonstrated to be a clear financial risk to the Association.

Section 20. Prohibition on Use of Lot or Unit as a Day Care Center or Congregant Living Facility.

Use of a Lot or Unit as a day care center or as a Congregant Living Facility, as defined below, is prohibited. The term "Congregant Living Facility" is defined as assisted living facilities, extended congregant care facilities, transitional living facilities, community residential homes, community transitional residences, rehabilitative home care services, boarding home, or home for the aged or any other residential structure, whether or not operated for profit, which undertakes for a period exceeding twenty four (24) hours: care, housing, food service, and one or more personal services for persons not related to the owner or administrator by blood or marriage. In addition, this term shall include other residential uses, such as dormitories, group homes with a central dining facility, and similar bed-based uses.

ARTICLE XIII

ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS

Every Owner shall at all times comply with all the covenants, conditions and restrictions of the Governing Documents. All violations of the governing Documents shall be reported immediately to a member of the Board of Directors. Disagreements concerning violations, including, without limitation, disagreement regarding the proper interpretation and effect of the Governing Documents, shall be presented to and determined by the Board of Directors of the Association, whose interpretation of these Governing Documents and/or whose remedial action shall control. In the event that any person, firm or entity subject to the Governing Documents fails to abide by them, as they are interpreted by the Board of Directors of the Association, that person shall be liable to be fined by the Association for each such failure to comply or other violation of them.

If the Board of Directors of the Association deems it necessary, it may bring an action at law or in equity (including an action for injunctive relief) in the name of the Association, to enforce the Governing Documents. In the event any such action is instituted, the Association shall, in addition, be entitled to recover its costs and attorney's fees incurred in enforcing the Governing Documents.

Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Violation of any conditions or restrictions or breach of any covenant herein contained or in any of the Governing Documents shall also give the ~~Declarant, its successors and assigns, and/or~~ the Association and its authorized agent or representative, in addition to all other remedies, the right to enter upon the land on which such violation or breach exists and summarily to abate and remove, at the expense of the owner of said land, any construction or other violation that may be or exist thereon contrary to the intent and provision hereof; and the ~~Declarant, its successors and assigns and/or~~ the Association and its authorized agents shall not thereby become liable in any manner for trespass, abatement or removal.

In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an owner for failure of an Owner, his family, guests, invitees, tenants, or employees to comply with any covenant, restriction, rule or regulation, as same may be amended from time to time, contained herein or promulgated pursuant to the Governing Documents, the requirements and procedures of Section 720.305, Fla. Stat., as same may be amended from time to time are adhered to. In addition, the Association shall have the authority to impose fines in an amount of One Hundred (\$100.00) Dollars per violation, or more, as determined from time to time by the Board of Directors, and shall further have the authority to levy fines for violations that are of a continuing nature in an aggregate amount of One Thousand (\$1,000.00) Dollars or more, without any maximum aggregate cap, as determined by the Board of Directors from time to time. ~~provided the following procedures are adhered to:~~

(a) — ~~Notice: The Association shall notify the Owner of the infraction or infractions. Included in the notice shall be the date and time of the next Board of Directors meeting at which time the Owner shall present reasons why penalty(ies) should not be imposed.~~

~~(b) Hearing: The noncompliance shall be presented to the Board, of Directors after which the Board of Directors shall hear reasons why penalties should not be imposed. A written decision of the Board of Directors shall be submitted to the Owner by not later than twenty-one (21) days after the Board of Director's meeting.~~

~~(c) Appeal: Any person aggrieved by the decision of the Board of Directors as to a noncompliance may, upon written request to the Board within seven (7) days of the Board's decision, file an appeal. An appeals committee will be appointed by the Board within seven (7) days of the request and shall consist of three (3) non-interested members of the Association. The appeals committee will meet and file a written determination of the matter and serve copies on both the Board and the aggrieved person. In no case shall the appeals committee's findings be binding on either Party; however, the Board may elect to review its decision in light of the findings of the appeals committee.~~

~~(d) Penalties: The Board of Directors may impose special assessments as follows:~~

~~(1) First noncompliance or violations, a fine not in excess of One Hundred Dollars (\$100.00).~~

~~(2) Second noncompliance or violation: a fine not in excess of Five Hundred Dollars (\$500.00).~~

~~(3) Third and subsequent noncompliance, or violation—or violations that are of a continuing nature: a fine not in excess of One Thousand Dollars (\$1,000.00).~~

~~(e) Payment of penalties: Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment.~~

~~(f) Collection of Fine: Fines shall be treated as an assessment otherwise due to the Association.~~

~~(g) Application: All monies received from fines shall be allocated as directed by the Board of Directors.~~

~~(h) Nonexclusive Remedy: These fines shall not be construed to be exclusive, and shall exist in addition to other rights and remedies to which the Association or the Neighborhood Associations may be otherwise legally entitled; however, any penalty paid by the offending Homeowner shall be deducted from or offset against any damages that the Association or Neighborhood Associations may otherwise be entitled to recover by law from such Owner.~~

ARTICLE XIV

DECLARANT'S USE OF THE PROPERTIES

~~Until Declarant has closed sales of all its Lots or for as long as Declarant holds any interest by way of lease or mortgage in any Lot, neither the Owners, nor the Association nor anything contained herein or in the Governing Documents shall interfere with the construction of the improvements and sale of the Lots. The Declarant, or any person or business entity designated by the Declarant, may make use of any Living Unit or model erected upon the Properties which is owned or leased by the Declarant as may facilitate such completion and sale, including but not limited to maintenance of general administrative or sales offices, the showing of the property and the display of signs.~~

ARTICLE XV

RIGHT TO MODIFY OR CANCEL

~~Until such time as the last Lot which the Declarant holds for sale in the ordinary course of business is conveyed by the Declarant, it specifically reserves for itself, its successors and assigns and to the Association the absolute and unconditional right to alter, modify, change, revoke, rescind, or cancel any or all of the restrictive covenants contained in this Declaration or hereinafter included in any subsequent Declaration; provided, however, that no such alteration, modification, amendment, revocation, rescission, or cancellation shall prejudice or otherwise impair the security of any Mortgagee of record as to any of the Lots, the subject of this Declaration.~~

ARTICLE XVI XIV

ASSIGNMENT

Any or all of the rights, powers and obligations, easements and estates reserved or given to ~~the Declarant or~~ the Association may be assigned by ~~the Declarant or by~~ the Association, as the ~~ease may be,~~ to the Association, the Community Association, or other assignee, and any such assignee shall agree to assume the rights, powers, duties and obligations and carry out and perform the same. Any such assignment or transfer shall be made by appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its consent to such assignment and its acceptance of the rights and powers, duties and obligations herein contained and such assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to ~~the Declarant and~~ the Association. After such assignment ~~the Declarant and~~ the Association shall be relieved and released of all responsibility hereunder.

ARTICLE XVII XV

GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land and any Owner or lessee thereof, and shall inure to the benefit of and be enforceable by the ~~Declarant,~~ the Association, the Community Association, or the Owner of any land subject to this Declaration or any Supplemental Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for

successive periods of ten (10) years unless an instrument signed by the then Owners of two-thirds of the Lots or by the Association, has been recorded agreeing to change said covenants and restrictions in whole or in part, or to terminate them. Provided, however, no such agreement to change or terminate shall be effective unless made and recorded at least ninety (90) days in advance of the end of the initial or any extension period hereof, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2. Amendment. This Declaration may be amended at any time and from time to time ~~upon the execution and recording of an instrument executed by Owners holding upon the affirmative vote of not less than three-fourths (3/4) a majority (fifty (50%) percent plus one (1)) of the voting interests of the membership, provided that so long as Declarant is the Owner of any Lot, or any property affected by this Declaration, or amendment hereto, no amendment shall be effective without Declarant's express written consent and joinder.~~ Article VIII hereof, the Covenant for Maintenance Assessments, may not be amended without the consent of each mortgagee holding a first mortgage upon a Lot in the Properties.

Section 3. Termination. In the event the Association is terminated or shall no longer exist for any reason whatsoever, any Owner may petition the Circuit Court for appointment of a receiver to manage the Properties.

Section 4. Open Space. No portion of the Plat of the Properties designated as Open Space shall be vacated unless the entire Plat of the Properties is also vacated.

Section 5. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 6. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

~~IN WITNESS WHEREOF, the Declarant has executed this Declaration the day and year first above written.~~

**BYLAWS OF
ENCANTADA HOMEOWNERS' ASSOCIATION, INC.
A NON-PROFIT CORPORATION**

Offices

1. The principal office of the Association shall be within Boca Pointe in Boca Raton, Florida, or such other place in Florida as the Board of Directors shall determine.
2. For the purpose of service of process, the Association shall designate a registered agent, which designation may be changed from time to time, and his office shall be deemed an office of the Association for the purpose of service of process.

Membership

3. Membership and voting in the Association shall be as established in the Declaration of Covenants, Conditions and Restrictions of Encantada (the "Declaration") as recorded in the Public Records of Palm Beach County, Florida and the Articles. Membership in the Association shall be transferred as and only as an incident to the transfer of a Lot.
4. Vote allocations are as stated in Article IV, Section 2 of the Declaration. Class-A Members shall be limited to one (1) vote per Lot regardless of the number of Owners.

5. ~~When any Lot entitling the Owner to membership in the Association is owned of record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership, or if two or more persons or entities have the same fiduciary relationship respecting the same property then unless the instrument or order appointing them or creating the tenancy otherwise directs and it and a copy hereof is filed with the secretary of the Association, such Owner shall select one official representative to qualify for voting in this Association and shall notify in writing the Secretary of the Association of the name of such individual. In the event of such failure to select, any Owner may vote for the Lot and, in the event of a dispute, the vote of a majority of such Owners shall be the vote for the Lot. In the event there is no majority, the vote shall not be counted. If a Lot is owned by one person, his or her right to vote shall be established by the roster of members. If a Lot is owned by more than one person (including husbands and wives), those persons shall decide among themselves as to who shall cast the vote of the Lot. In the event that those persons cannot so decide, no vote shall be cast. A person casting a vote for a Lot shall be presumed to have the authority to do so unless the President or the Board of Directors is otherwise notified. If a Lot is owned by a corporation, partnership, trust or other similar entity, the person entitled to cast the vote for the Lot shall be designated by a certificate signed by an appropriate officer of the corporation, partner of the partnership or trustee of the trust, and shall be filed with the Secretary of the Association.~~

Members' Meetings

6. All the meetings shall be held at the office of the Association, or may be held at such place and time as shall be stated in a notice thereof. All meetings ~~shall~~ may, but shall not be required to, be conducted in accordance with the most recent revision of Roberts Rules of Order.

7. An annual meeting of the Members shall be held on the date and at a time determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year, ~~commencing with the year after the year of the Turnover Meeting as provided in Article V of the Declaration.~~ Each annual meeting subsequent to the first shall be no later than thirteen (13) months after the last preceding annual meeting. Notwithstanding the foregoing the Community Association shall have the authority to establish the date of the annual meeting of the Association. The purpose of the meeting shall be for the Members to elect by a majority plurality vote, a Board of Directors, to transact such other business as may properly be brought before the meeting.

8. Notice of the annual meeting shall be given to each Member entitled to vote thereat, at such address as appears on the books of the Association, at least fourteen (14) days prior to the meeting.

9. At least fourteen (14) days before every election of directors, a complete list of the Members, shall be prepared by the secretary. Such list shall be open at the office of the Association for said fourteen (14) days to the examination of any member, and shall be produced and kept at the time and place of election during the whole time thereof, and subject to the inspection of any Member who may be present. The record of Members of the Association will be closed for a period of fourteen (14) days against any transfer immediately preceding any meeting of the Association and only those Members properly registered will be entitled to vote at the meeting. The Members' record book will again be opened after the meeting has been finally adjourned.

10. Special meetings of the Association, for any purpose or purposes, unless otherwise prescribed by statute or by the Articles of Incorporation, may be called by the President and shall be called by the President or Secretary at the request in writing of a majority of the Board of Directors, or at the request in writing of those Members holding one-third (1/3) of the total votes of the Association, and shall be held no sooner than five (5) days nor later than sixty (60) days from the call. Such request shall state the purpose or purposes of the proposed meeting.

11. Notice of a special meeting, stating the time, place and object of such meeting and the specific action to be taken thereat, shall be given to each Member at such address as appears on the books of the Association, at least five (5) days before such meeting.

12. Business transacted at all special meetings shall be confined to the objects and actions to be taken as stated in the notice.

13. Members representing ~~one-third (1/3)~~ thirty (30%) percent of the total number of votes of the Association, present in person or represented by valid proxy or absentee ballot, shall be requisite and shall constitute a quorum at all meetings for the transaction of business except as otherwise provided by statute, the Declaration, or the Articles of Incorporation. If, however, such quorum shall not be present, in person or represented at any meeting of the Members, those present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum be present. Adjourned meetings shall be conducted within ninety (90) days from the date of the original meeting. ~~at least one (1) day apart.~~ At any such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the

meeting originally called.

14. When a quorum is present at any meeting, a majority of the votes cast by the Members present in person or represented by proxy or absentee ballot shall decide any question brought before such meeting, unless the question is one upon which by statute, the Declaration, or the Articles of Incorporation, a different vote is required, in which case such express provision shall govern and control the decision of such question.

15. At any meeting, every Member shall be entitled to vote in person, by ballot or by proxy appointed by an instrument in writing subscribed by such Member.

16. Whenever the vote of Members at a meeting is required or permitted by any provision of the statute, the Declaration, the Articles of Incorporation or these Bylaws, the meeting and the vote of Members may be dispensed with, and the Members shall have the right to vote by written consent in lieu of such meeting in accordance with the procedures and requirements of Section 617.0701(4), Fla. Stat., as same may be amended from time to time, if all the Members who would have been entitled to vote upon the action, if such meeting were held, shall consent in writing to such Association action being taken.

17. ~~Until the occurrence of and of the conditions in Article V of the Declaration, there shall be no annual Members' meeting and the Board shall be as designated in Article VI of the Articles of Incorporation. At the Turnover Meeting, the members of the initial Board as provided in the Articles shall resign and a new Board shall be elected.~~ The Election of Directors shall be held in conjunction with the Annual Members Meeting. Votes for the election of Directors shall be cast either in person, by proxy or by absentee ballot for those Members unable to attend the Annual Meeting. If an absentee ballot is used, the absentee ballot and the election shall be conducted in accordance with the provisions of Section 720.306(8)(b), Fla. Stat., as same may be amended from time to time. In addition, nominations for all available vacancies on the Board of Directors shall be made in a form and manner to be determined from time to time by the Board of Directors. As such, because the election process will allow candidates to be nominated in advance of the meeting, nominations will not be required to be taken from the floor at the Annual Meeting. If an election is conducted by proxy, the election shall be conducted through the use of a limited proxy. General proxies, limited proxies and absentee ballots may count towards a quorum, but only limited proxies and absentee ballots shall be used in the election of Directors or for any other membership vote.

18. ~~After the Turnover Meeting as referred to in Article V of the Declaration, the number of directors which shall constitute the whole board shall be five (5). The initial Board of Directors and the manner of filling vacancies of the initial Board of Directors shall be as set forth in Article VI of the Articles of Incorporation and they shall serve as provided for therein until the Turnover Meeting or until their respective successors are chosen and shall qualify. Prior to Turnover meeting, the Board may by resolution establish the number of directors. All directors prior to the Turnover Meeting shall be designated by the Declarant. Thereafter, the directors shall be elected at the annual meeting of the Members, and each director shall be elected to serve until the next annual meeting of the Members and/or until his successor shall be elected and shall qualify. Commencing upon the first annual meeting after the effective date of this amendment, Directors shall be elected for staggered terms as follows: The two (2) candidates receiving the highest plurality of votes at such annual meeting and election shall be elected for an initial term of two (2) years. The three (3) candidates receiving the next highest plurality of votes at such annual~~

meeting and election shall be elected for an initial term of one (1) year. At all subsequent annual meetings and elections of Directors, Directors shall be elected for a term of two (2) years. Directors must be Members or nominees of Members, except as otherwise provided for in the Articles of Incorporation.

19. The directors may hold their meetings and keep the books of the Association at the office of the Association in Palm Beach County, Florida, or at such other place as they may from time to time determine.

20. If the office of one or more directors becomes vacant by reason of death, resignation, retirement, disqualification, removal from office, or otherwise, a majority of the remaining directors, though less than a quorum, shall choose a successor or successors, who shall hold office of the unexpired term in respect to which such vacancy occurred. ~~Vacancies in the initial Board of Directors shall be filled as provided for in the Articles of Incorporation.~~

21. Directors ~~other than the initial members of the Board~~ may be removed with or without cause by an affirmative vote of the Members holding a majority of the votes.

22. The property and business of the Association shall be managed by its Board of Directors which may exercise all such powers of the Association and do all such lawful acts and things as are not by statute or by the Articles of Incorporation or by these Bylaws or by the foregoing Declaration of Covenants, Conditions and Restrictions directed or required to be exercised or done by the Members.

23. The salaries of all employees and agents of the Association shall be fixed by the Board of Directors, ~~excepting that the salaries for directors for services other than as such shall be fixed by the Members, as provided in succeeding Paragraph 26.~~ Any compensation for any Directors or officers of the Association shall be in accordance with the requirements of Section 720.303(12), Fla. Stat., as same may be amended from time to time.

Executive Committee

24. The Board of Directors may, by resolution passed by a majority of the whole Board, designate an executive committee to consist of two or more of the directors of the Association, which, to the extent provided in said resolution, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Association, and may have power to authorize the seal of the Association to be affixed to all papers which may require it, provided the said resolution shall so provide. In addition, the Board of Directors may appoint as many committees, whether standing or ad hoc committees, as it shall determine from time to time, and all committees shall serve at the pleasure of the Board of Directors from time to time.

25. The executive committee shall keep regular minutes of its proceedings and report the same to the Board when required.

Compensation of Directors, Officers and Agents

26. Directors, as such, shall not receive any salary for their services, provided that nothing herein contained shall be construed to preclude any director from serving the Association in any other capacity and receiving compensation therefor. ~~The salaries for directors for services~~

~~other than as such shall be fixed by the Members.~~ Any compensation for any Director or officer shall be in accordance with Section 720.303(12), Fla. Stat., as same may be amended from time to time.

27. Officers, employees or members of advisory committees of the Association may receive such compensation for services as determined by the Board, subject to any such compensation being in accordance with Section 720.303(12), Fla. Stat., as same may be amended from time to time.

Meetings of the Board

28. Any member may attend any meeting of the Board. However, the Board of Directors may meet in closed session where the Board is meeting to discuss personnel matters or where the Board is meeting with Association legal counsel to discuss pending or proposed litigation, and all such meetings shall be run in accordance with Section 720.303(2), Fla. Stat., as same may be amended from time to time.

29. Regular meetings of the Board shall be held upon proper notice as provided in Section 720.303(2), Fla. Stat., as same may be amended from time to time. ~~may be held without notice at such time and place as shall be determined from time to time by the Board.~~

30. The organizational meeting of a newly-elected Board of Directors shall be held within ten (10) days of its election at such place and time as shall be fixed by the directors at the meeting at which they were elected, ~~and no further notice of the organizational meeting shall be necessary.~~

31. Special meetings of the Board may be called by the President on three (3) days' notice to each director, either personally or by mail or by telegram. Special meetings shall be called by the President or Secretary in like manner and on like notice on the written request of two (2) directors. Notice of any and all meetings of the Board may be waived by appropriate written waiver.

32. At all meetings of the Board a majority of the directors shall be necessary and sufficient to constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute or by the Articles of Incorporation or by these Bylaws. If a quorum shall not be present at any meeting of directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

33. Whenever under the provisions of the statutes, the Declaration, the Articles of Incorporation or of these Bylaws, notice is required to be given to any director or Member, it shall not be construed to mean personal notice, but such notice may be given in writing, by mail, or by electronic transmission in accordance with Section 720.303(2), Fla. Stat., as amended from time to time. If by mail, such notice may be given by depositing the same in a post office or letter box, in a postage-paid sealed wrapper, addressed to such director or Member at such address as appears on the books of the corporation, and such notice shall be deemed given at the time when the same shall be thus mailed. Notice may also be given over any cable television distribution system throughout Boca Pointe in accordance with the requirements of Section 720.303(2), Fla. Stat., as amended from time to time. ~~by publication for not less than two (2) hours daily.~~ Notice

shall be deemed received when broadcast in such a manner.

34. Whenever any notice is required to be given under the provisions of the statutes, the Declaration, the Articles of Incorporation, or of these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

Officers

35. The officers of the Association shall be chosen by the directors and shall be a president, a vice president, a secretary and a treasurer. The Board of Directors may also elect additional vice presidents, and one or more assistant secretaries, and assistant treasurers. A person may hold more than one office, but no person can serve as both president and secretary.

36. The Board of Directors at its first meeting after each annual meeting of the members shall choose a president, and one or more vice presidents, a secretary and treasurer, ~~none of whom, excepting the president,~~ all of whom need be a member of the Board.

37. The Board of Directors may appoint such other officers and agents as it shall deem necessary, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

38. The officers of the Association shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the whole Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors.

The President

39. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the Members and directors, shall be ex-officio member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect.

40. The President shall execute all documents and contracts requiring a seal, under the seal of the Association, except where the same are required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Association.

The Vice President

41. The Vice Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Board of Directors shall prescribe.

The Secretary, Treasurer and Assistants

42. The Secretary shall attend all sessions of the Board and all meetings of the members and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or president, under whose supervision he shall be. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it and, when so affixed, it shall be attested by his signature or by the signature of the treasurer or an assistant secretary.

43. Assistant Secretaries in order of their seniority shall, in the absence or disability of the Secretary, perform the duties and exercise the powers of the Secretary and shall perform such other duties as the Board shall prescribe.

44. The Treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association and shall deposit all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors.

45. The Treasurer shall disburse funds of the Association as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the president and directors, at the regular meeting of the Board, or whenever they may require it, an account of all of his transactions as treasurer and of the financial condition of the Association.

46. If required by the Board of Directors, the Treasurer shall give the Association a bond, the premium therefor to be paid by the Association, in such sum and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of the duties of his office and for the restoration to the Association, in case of his death, resignation, retirement or removal from office, of all of his books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Association.

47. Assistant Treasurers in the order of their seniority shall, in the absence or disability of the Treasurer, perform the duties, exercise the powers and assume the obligations of the Treasurer and shall perform such other duties as the Board of Directors shall prescribe.

Directors Annual Statement

48. The Board of Directors shall present at each meeting, and when called for by the vote of the Members at any special meeting of the Members, a full and clear statement of the business and condition of the Association. The annual statements shall include profit and loss statements and balance sheets prepared in accordance with sound business and accounting practice.

Checks

49. All checks or demands for money and notes of the Association shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Fiscal Year

50. The Board of Directors shall determine the fiscal year for each year in its discretion, but if no determination is made, the fiscal year shall be deemed to be the calendar year. ~~elect such fiscal and budget years as directed by the Community Association.~~

Seal

51. The corporate seal shall have inscribed thereon the name of the Association and the year of its organization. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

Assessments

52. The Board of Directors shall, from time to time, fix and determine the sum or sums necessary and adequate for the continued ownership, operation and maintenance of Properties for which the Association is responsible and to perform the Association's functions including its operating expenses, the payment for any items of betterments, and the establishment of appropriate reserve funds as the Board shall deem proper. That sum or sums shall include provision for property taxes and assessments as to such taxes or assessments, if any, as may be assessed against any portion of the Properties owned or maintained by the Association, insurance premiums for fire, windstorm and extended coverage insurance on the Association's real or personal property or improvements thereof, which may include a deductible provision, premiums for adequate public liability insurance as specified in the Declaration of Covenants, Conditions and Restrictions, directors' and officers' liability insurance, legal and accounting fees, management fees, operating expenses of the Properties and this Association, charges for utilities and waster used in common for the benefit of the Properties, cleaning and janitorial service of the Properties or easements, any expenses and liabilities incurred by the Association in connection with the indemnification of officers and directors provided for herein and in and about the enforcement of its rights or duties against the Members or others, and the creation of reasonable contingency or reserve requirements for the protection of the Members.

Regular assessments shall be paid by the Members on either a quarterly or monthly basis, as determined from time to time by the Board of Directors. ~~The Declarant shall have the right to require purchasers of Lots to prepay up to two (2) quarters assessment upon closing.~~ Said assessment shall be computed from a projected operating budget of the Properties in the manner set forth in the Declaration of Covenants, Conditions and Restrictions. ~~Quarterly~~ Assessment charges once fixed shall continue until changed by the Board of Directors hereunder and shall be due and payable without notice or demand no later than the fifth (5th) day of each budget quarter or each month. With respect to changed assessments, notice in writing must be given to each of the members thereof and payment will be due and payable without further or other notice within ten (10) days of the posting of such notice as hereinabove provided for the service of notices.

It is understood between the Members and the Association that an assessment fixed hereunder is based upon the projection and estimate of the Board of Directors and may be in excess of or less than the sums required to meet the cash requirements of the Properties, in which event the Board of Directors by appropriate action taken at a meeting may increase or diminish the amount of said assessment and make such adjustments respecting the reserves as in their discretion is proper, including the assessment of each member of his proportionate share of any deficiency or

the distribution to each Member of his proportionate share of any excess of sums paid beyond the requirements of the Properties or its reasonable reserves as fixed by the Board of Directors.

The budget shall be determined by the Board of Directors no later than thirty (30) days prior to the commencement of the budget year.

On or before ~~thirty (30)~~ fourteen (14) days prior to the meeting of the Board at which a budget for the Association is to be considered for adoption by the Board of Directors, a copy thereof shall be posted at the office of the Association and mailed to the Members together with a notice of the meeting at which the budget will be considered which notice shall state the time and the place of the meeting and that it is open to all Members of the Association. The proposed annual budget shall be detailed and shall show the amounts budgeted by accounts and expense classification.

Special assessments, should they be required, shall be levied and paid in the same manner as heretofore provided for regular assessments. Special assessments can be of two kinds: (i) those chargeable to all Members in the same proportions as regular assessments to meet shortages or emergencies, or for any other proper general or operating expense of the Association; (ii) those assessed against one Member alone (~~requiring unanimous vote of the Board~~) to accomplish repairs or maintenance for which the Member is responsible or which the Member has failed to make, which situation impairs the value of or endangers the Properties or Boca Pointe, or which are for expenses incident to the abatement of a nuisance upon a Lot or common area, or as otherwise provided for in the Declaration.

Any excess assessments received by the Association in any year shall be retained by the Association specifically for the account pro rata of the Members and applied to reduce the next year's assessments.

Default Under Assessments

53. In the event of a default by a Member in the payment of any assessment, the Association's rights and remedies provided against the Member shall include liability for late charges, interest at the highest amount allowable by law, a and reasonable attorney's fee and for court costs incurred by the Association incident to the collection of such assessment or enforcement of its lien. If the Association elects to enforce its lien by foreclosure, the Member shall be required to pay a reasonable rental for Lot pendente lite, to be fixed by the Board of Directors, and the corporation shall be entitled to the appointment of a receiver to collect same. At any judicial sale held in the proceedings to enforce said lien, the Association may bid in the Lot thereat and acquire and hold, lease, mortgage and convey the same, as the Board of Directors may determine.

Nothing herein contained shall bar a suit to recover a money judgment for unpaid assessments against the Member without waiving any lien securing the same.

Nuisance

54. Each Member shall be responsible for the use and occupation of his Lot or any Common Area in a quiet and orderly fashion so as not to disturb or endanger other Members or their families or guests. Any nuisance, public or private, may be abated by the public authority or

by action by the Association.

Books and Records

55. The Association shall maintain the official records of the Association in accordance with the requirements of Section 720.303(4) and (5), Fla. Stat., as same may be amended from time to time. ~~accounting records according to good accounting practices and said records shall be open to inspection by Members at reasonable times.~~ Such records shall include:

(a) ~~— The record of all receipts and expenditures.~~

(b) ~~— An account for each Member which shall designate the name and address of the responsible person, the amount of each assessment, the dates and amounts in which the assessment comes due, the amounts paid upon the account and the balance due.~~

(c) ~~— A register for the names of any mortgage holders or lien holders on Lots who have requested in writing that they be registered and to whom the Association will give notice of default in case of nonpayment of assessments. No responsibility by the Association is assumed with respect to said register except that it will give notice of default to any registered mortgage or lienor therein, if so requested by said mortgagee or lienor.~~

~~The Secretary of the Association shall act as the transfer agent to record all transfers and/or registrations in the aforescribed books.~~

Authority of Owner

56. No Owner or Member, except as an officer of this Association, shall have any authority to act for the Association or bind it.

Amendments of Bylaws or Articles of Incorporation

57. The Bylaws of said Association and/or the Articles of Incorporation may be amended, altered, rescinded, or added to by resolution adopted by a ~~two-thirds (2/3)~~ majority vote of the Board of Directors of the Association at any duly called meeting of said Board and by a ~~two-thirds (2/3)~~ majority vote of the Members present and voting, in person, by proxy or by absentee ballot, at any duly convened meeting of the Members; provided, however, that no such meeting shall be deemed competent to consider or amend, alter, rescind or add to the Declaration, these Bylaws or the Articles of Incorporation unless prior written notice of said meeting specifying the proposed change has been given to all directors and Members at least ten (10) days prior to the meeting or said notice is appropriately waived by written waiver. Any Member of this Association or any Member of the Board of this Association may propose an amendment to the Declaration, these Bylaws or to the Articles of Incorporation to the Board and the membership. ~~Provided further, that as long as the initial Board of Directors as referenced to in Article VI of the Articles of Incorporation holds office, any change in the Bylaws and/or the Articles of Incorporation may be made by a two-thirds (2/3) vote of the Board of Directors of the Association.~~

Construction

58. Whenever the masculine singular form of the pronoun is used in these Bylaws, it shall be construed to mean masculine or feminine, singular or plural, whenever the context so requires, and shall include an apply to a legal entity.

Validity of Bylaws

59. If any Bylaw or part thereof shall be adjudged invalid, the same shall not affect the validity of any other Bylaw or part thereof.

Rules and Regulations

60. The Board of Directors may from time to time adopt rules and regulations for the operation of the Properties and all Members shall abide thereby; provided, however, that said rules and regulations shall be equally applicable to all Members similarly situated and uniform in their application and effect.

Indemnification

61. Every director and every officer or committee member of the Association shall be indemnified by the Association against any and all expenses, and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer or committee member of the Association, whether or not he is a director or officer or committee member at the time such expenses are incurred except when a director or officer or committee member is adjudged guilty of willful misfeasance or malfeasance or gross negligence in the performance of his duties; provided that in the event of a settlement, the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interest of the Association. The forgoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer or committee member may be entitled, and such director or officer or committee member shall be entitled to any indemnification authorized by any provision of the laws of the State of Florida for corporations generally and for nonprofit Associations. The Association shall further obtain officers' and director's indemnification insurance.

Management Agreement

62. The Board of Directors may enter into a Management Agreement for the operation, maintenance and management of the affairs of the Association.

Fidelity Bonds

63. All officers, directors and agents of the Association who control or disburse Association funds shall be bonded in an amount not less than Ten Thousand (\$10,000.00) Dollars. The cost of the bond shall be a common expense.

ENCANTADA HOMEOWNERS
ASSOCIATION, INC.

(Corporate Seal)

Attest:

By: _____
Its President

Secretary

**ARTICLES OF INCORPORATION
OF
ENCANTADA HOMEOWNERS' ASSOCIATION, INC.**

THE UNDERSIGNED, in accordance with the provisions of ~~§617.013~~ Chapter 617 and 720, Florida Statutes, hereby makes, subscribes and acknowledges these Articles of Incorporation.

I.

The name of the corporation is ENCANTADA HOMEOWNERS' ASSOCIATION, INC. (the "Association").

II.

The term for which the Association is to exist is perpetual unless it is dissolved pursuant to any applicable provision of the Florida Statutes. The Association shall commence to exist upon the filing of the Articles of Incorporation with the office of the Secretary of State, State of Florida.

III.

The purpose for which the Association is organized as a nonprofit corporation in accordance with the provisions of Chapter 617, Part I Florida Statutes, is to operate a development of single family residences and related common areas known as Encantada upon real property lying within Boca Pointe, a Planned Unit Development in Palm Beach County, Florida, and being more particularly described in the Declaration of Covenants, Conditions and Restrictions thereof recorded in the Public Records of Palm Beach County, Florida (the "Declaration"). The Association shall, at all times, be governed by the applicable provisions of Florida law, including, but not limited to, Chapters 617 and 720, Fla. Stat., as same may be amended from time to time.

IV.

The Members of the Association shall be the record title holders of Lots located within Encantada. The manner of Members; admission and membership rights shall be as stated in the Declaration and the Bylaws.

V.

The ~~initial~~ registered office of the Association shall be at ~~6943 S.W. 18th Street, Boca Raton, Florida 33433~~ such place as determined by the Board of Directors from time to time. The ~~initial~~ registered agent at ~~such address is Victoria S. Croysdale~~ shall also be determined from time to time by the Board of Directors.

VI.

The Association shall be governed by a Board of Directors as determined in the Bylaws, as amended from time to time, ~~consisting of not less than three (3) nor more than five (5) persons. The initial Board of Directors shall consist of three (3) members unless changed by resolution as~~

~~provided in the Bylaws. The names and addresses of the persons who are to serve as the Directors until the first election as designated in Article V of the Declaration are:~~

John P. Hall
6943 S.W. 18th Street
Boca Raton, Florida 33433

Gary L. Coates
6943 S.W. 18th Street
Boca Raton, Florida 33433

Victoria S. Croysdale
6943 S.W. 18th Street
Boca Raton, Florida 33433

~~The Declarant shall have the power to designate successor initial directors until the Turnover Meeting.~~

VIII.

The Articles of Incorporation may be amended, altered, rescinded or added to by resolution adopted by a ~~two-thirds (2/3) majority~~ vote of the Board of Directors of the Association at any duly called meeting of said Board and accepted by a ~~two-thirds (2/3) majority~~ vote of the Members present and voting in person, by proxy or by absentee ballot at any duly convened meeting of the members; provided, however, that no such meeting shall be deemed competent to consider or amend, alter, rescind or add to the these Articles of Incorporation unless prior written notice of said meeting specifying the proposed change has been given to all directors and Members at least ten (10) days prior to the meeting or said notice is appropriately waived by written waiver. Any Member of this Association may propose an amendment to the Articles of Incorporation to the Board and the membership, as the case may be. ~~Provided further, that as long as the initial Board of Directors as referenced to in Article VI of the Articles of Incorporation holds office, any change in the Articles of Incorporation may be made by a two-thirds (2/3) vote of the Board of Directors of the Association.~~

IX.

The Association shall indemnify any and all persons who may serve or have served at any time as directors or officers or committee members, and their respective heirs, administrators, successors and assigns against any and all expenses, including amounts paid upon judgments, counsel fees, and amounts paid in settlement (before or after suit is commenced), actually and necessarily incurred by such persons in connection with the defense or settlement of any claim, action suit or proceeding in which they or any of them are made parties, or a party, or which may be asserted against them or any of them, by reason of having been directors or officers or committee members or a director or officer or committee member of the Association, except in such cases wherein the director or officer or committee member is adjudged guilty of willful misfeasance or malfeasance or gross negligence in the performance of his duties. Such indemnification shall be in addition to any rights to which those indemnified may be entitled under any law, Bylaw, agreement, vote of members or otherwise.

Acceptance

Having been named registered agent to accept service of process for the above-named corporation, I hereby accept to act in this capacity and agree to comply with the provisions of Chapter 48.091, Florida Statutes.

Registered Agent