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CFN 20250116360  
OR BK 35651 PG 234  
RECORDED 4/3/2025 2:55 PM  
Palm Beach County, Florida  
Joseph Abruzzo, Clerk  
Pgs: 234 - 269: (36pgs)

**CERTIFICATE OF AMENDMENT TO THE DECLARATION OF COVENANTS AND RESTRICTIONS FOR FLAGLER MANOR**

I HEREBY CERTIFY that the Amendments to the Declaration of Covenants and Restrictions for Flagler Manor ("Declaration") attached as Exhibit "I" to this Certificate were approved by the members by written consent in lieu of a meeting pursuant to the Bylaws, Florida Statute, Section 617.701 (4) (a) and the Declaration. The original Declaration Covenants and Restrictions for Flagler Manor is recorded in Official Record Book 8502 at Page 319 et seq., of the Public Records of Palm Beach County, Florida.

DATED this 25 day of March 2025

Signed in the presence of Witnesses as to  
Both:

By:

Print Name:

John T Paxman  
9053 Bayburg LN WPB FL 33411  
Address of First Witness

By:

Print Name:

Shari Fiore  
937 Dickens Place WPB, FL  
Address of Second Witness 33411

Association:

Flagler Manor Homeowners Association, Inc.  
A Florida Corporation Not-For-Profit

By:

Kenneth Evelyn, President

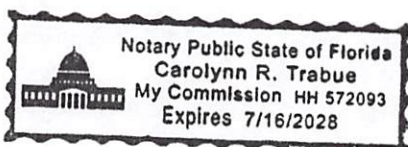
By:

Carolyn Halperin, Secretary

STATE OF FLORIDA )  
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me by [X] means of physical presence or [ ] online notarization this 25 day of March 2025 by Kenneth Evelyn, President and Carolyn Halperin, Secretary of Flagler Manor Homeowners Association, Inc., personal known to me or presented \_\_\_\_\_ as identification, who executed the foregoing instrument. Both acknowledged to and before me that each executed said instrument with due and regular corporate authority and that said instrument is the free act and deed of the Association.

SEAL



Carolynn R. Trabue  
Notary Public, State of Florida at Large

## EXHIBIT "I"

### AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR FLAGLER MANOR

THIS AMENDED AND RESTATED DECLARATION COVENANTS AND RESTRICTIONS FOR FLAGLER MANOR is made this 18th day of March, 2025, by Flagler Manor Homeowners Association, Inc. The purpose of this Amended and Restated Declaration is to continue the purpose of the original Declaration as may have been amended from time to time. The original Declaration of Covenants and Restrictions was made the 8th day of November 1994 by FLAGLER MANOR DEVELOPMENT COMPANY, INC., ("Developer") and was recorded at Official Records Book 8502 page 319 of the Public Records of Palm Beach County, Florida.

Developer was- the owner of the real property described in Exhibit "A" attached to this Declaration and incorporated into this Declaration by reference. The Developer intended by this Declaration to impose restrictions upon certain properties under a general plan of development to mutually benefit all owners of residential properties within the restricted property. The Developer desired to provide a flexible, manageable, and reasonable procedure for the overall development of the restricted property, and to establish a method for the administration, maintenance, preservation, use, and enjoyment of the restricted property.

Developer declared that the property restricted by this Declaration and any additional property which may be subjected to this Declaration by a subsequent amendment shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property subjected to this Declaration. The easements, covenants, conditions and restrictions found in this Declaration shall be binding on all persons or entities, and their heirs, successors, and assigns, having any right, title, or interest in the property subjected to this Declaration.

#### ARTICLE I DEFINITIONS

1. "Articles" shall mean the Articles of Incorporation of the Association (hereinafter defined). A true and correct copy of the Articles is attached hereto, made a part hereof, and marked Exhibit "B".
2. "Assessment" means a share of the funds which are required for the payment of Association Expenses, which from time to time is assessed against the Members (hereinafter defined) of the Association.
3. "Association" shall mean and refer to the Flagler Manor Homeowners Association, Inc., a Florida corporation not-for-profit, its successors and assigns.
4. "Association Expenses" shall mean and include the actual and estimated expenses of operating the Association, and the Breakers West Association (hereinafter defined), including any reasonable reserve, all as may be found to be necessary and appropriate by the Board, and by the Breakers West Association, where appropriate, pursuant to the Homeowners Documents (hereinafter defined).
5. "Association Property" shall mean all real and personal property transferred to the Association for the benefit of all Members.
- 6 "Board" shall mean the Board of Directors of the Association.
7. "Breakers West" shall mean and refer to the planned unit development which is located in Palm Beach County, Florida and known as Breakers West.

8. "Breakers West Association" shall mean and refer to the Breakers West Association, Inc., a Florida corporation not-for-profit, which provides certain community-wide services to Breakers West.
9. "Breakers West Declaration of Covenants and Restrictions" shall mean and refer to that certain declaration and all exhibits thereto recorded in Official Record Book 3834, Page 714, Public Records of Palm Beach County, Florida as amended by that certain First Amendment to Breakers West Declaration, recorded in Official Record Book 4236, Page 609, as amended by that certain Second Amendment recorded in Official Record Book 4642, Page 1050, as amended by that certain Third Amendment recorded in Official Record Book 5010, Page 0504, as amended by that certain Fourth Amendment recorded in Official Record Book 5123, Page 1239, as amended by that certain Fifth Amendment recorded in Official Record Book 5156, Page 1281, as amended by that certain Sixth Amendment recorded in Official Record Book 5164, Page 747, as amended by that certain Seventh Amendment recorded in Official Record Book 5493, Page 1606, as amended by that certain Eighth Amendment recorded in Official Record Book 6312, Page 832, as amended by that certain Ninth Amendment recorded in Official Record Book 6867, Page 818, as amended by that certain Tenth Amendment recorded in Official Record Book 6867, Page 822, as amended by that certain Eleventh Amendment recorded in Official Record Book 6867, Page 826, and as amended by that certain Twelfth Amendment recorded in Official Record Book 7724, Page 1492, all in the Public Records of Palm Beach County, Florida and as now or hereafter amended by the Breakers West Development Corporation (hereinafter defined).
10. "Breakers West Development Corporation" shall mean and refer to that certain Florida corporation, its successors and assigns, which was the declarant of the Breakers West Declaration of Covenants and Restrictions.
11. "By-Laws" shall mean and refer to the By-Laws of the Association, attached hereto, made a part hereof, and marked Exhibit "C".
12. "Common Area" shall mean those areas of real property shown on the Plat of Flagler Manor (hereinafter defined), together with all improvements thereto, which are devoted to the common use and enjoyment of the Members of the Association. The term "Common Area" may sometimes be used interchangeably with the term "Association Property". The common area shall consist of:
  - A. All portions of the Property (hereinafter defined), which are submitted to this Declaration, and are dedicated to the Association, which are not Lots or Units;
  - B. All portions of the Property submitted to this Declaration that are not dedicated to any governmental entity or to the public for a public use, if any.
13. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be reasonably and more specifically determined by the Board.
14. "County" shall mean Palm Beach County, Florida.
15. "Declaration" shall mean the easements, covenants, conditions, restrictions, and all other terms set forth in this document, and as may be amended from time to time.
16. "Developer" shall mean and refer to Flagler Manor Development Company, Inc., a Florida corporation, its successors and assigns.

17. "Development(s)" shall mean and refer to such residential or commercial developments which are now or hereafter located within Breakers West.
18. "Environmental Control Board" or "E.C.B." shall mean and refer to that permanent committee of the Breakers West Association, created for the purpose of establishing and enforcing criteria for the construction of Improvements within the Property.
19. "General Plan of Development" shall mean that portion of the Plat of Flagler Manor dedicated to the Association or submitted to this Declaration, initially or by Subsequent Amendment (hereinafter defined), as approved by the appropriate governmental agencies, and which shall represent the development plan and general uses of the Property.
20. "Flagler Manor" is the name given to a subdivision of 32 Lots (hereinafter defined) located in Breakers West.
21. "Flagler Manor Homeowners Association, Inc." shall mean that certain entity created to maintain, manage, and control the Common Areas. It shall be referred to as the "Association", but it may also be referred to as the "Homeowners Association" or "HOA".
22. "Homeowners Documents" means in the aggregate this Declaration, the Articles, the By-Laws of the Association, the Rules and Regulations of the Association as well as the Breakers West Declaration of Covenants and Restrictions, the Articles of Incorporation of the Breakers West Association, the By-Laws of the Breakers West Association, the Environmental Guidelines for Breakers West, the Limited Warranty, the typical Special Warranty Deed, the form of Contract for Purchase and Sale, the Property Plan or Sits Plan, the Escrow Agreement, a site plan of Flagler Manor, and all of the instruments and amendments to same executed in connection with the General Plan of Development.
23. "Institutional Mortgagee" shall mean any lending institution having a first lien on any property subject to this Declaration, including any of the following institutions: an insurance company or subsidiary thereof, a federal or state savings and loan association, a federal or state building and loan association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a federal or state banking association, the Palm Beach County Housing Authority or similar entity, a real estate investment trust, any mortgage banking company authorized to do business in the State of Florida, or Breakers West Development Corporation. Such term shall also include the holder of any mortgage of public record given or assumed by Breakers West Development Corporation, whether a first mortgage or otherwise.
24. "Lot" shall mean tract of land located within the Property which is intended for use as a site for a Unit.
25. "Member" shall mean a member of the Association.
26. "Occupant" shall mean the occupant of a Unit who shall be the owner, the lessee, or their respective guest(s).
27. "Owner" shall mean and refer to one (1) or more Persons (defined below) who hold the record title to any Lot which is created on the Property but excluding any party holding an interest merely as security for the performance of an obligation.
28. "Person" means a natural person, a corporation, a partnership, a trustee, or other legal entity.
29. "Property" or "Properties" shall mean all of the real and personal property submitted to this Declaration. The real property initially submitted to this Declaration is described in Exhibit A.

30. "Roads" shall mean and refer to any street or thoroughfare which was constructed by Developer within the Common Areas, and which is dedicated to the Association, whether same is designated, for example, by way of illustration and not as limitation, as a street, avenue, boulevard, drive, place, court, road, terrace, way, circle, lane, or similar designation.
31. "Rules and Regulations" shall mean the rules, regulations, and policies which are attached hereto, made a part hereof, and marked Exhibit "D", and as may be adopted by the Board from time to time by resolution or motion carried.
32. "Single Family" means one person or a group of two or more persons living together and interrelated by bonds of consanguinity, marriage, or legal adoption, or not more than two persons living together who may or may not be interrelated.
33. "Special Assessment" shall mean and refer to those assessments levied in accordance with the further terms of this Declaration.
34. "Subsequent Amendment" shall mean an amendment to this Declaration which subjects additional property to this Declaration, or which withdraws property previously submitted to this Declaration. Such Subsequent Amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on any land submitted by a Subsequent Amendment to the provisions of this Declaration.
35. "Transfer Date" shall mean the date that the Developer relinquished the right to appoint all of the Directors to the Board and conveys legal title to the Common Area to the Association.
36. "Unit" shall mean a finished portion of the Properties, for which a certificate of occupancy has been issued by the appropriate jurisdiction and which is intended for use and occupancy as a detached residence for a Single Family. A Unit may also be referred to as a "Single Family home".
35. "Water Management System" shall mean and refer to those lakes, canals and other facilities created and used for drainage of Breakers West, as shown on or described in the South Florida Water Management District Conceptual Surface Water Management Permit, as amended from time to time.

## ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION.

1. Initial Property. The Property, which is initially subject to the easements, covenants, conditions, and restrictions imposed by this Declaration is described in Exhibit A.

## ARTICLE III PROPERTY RIGHTS

1. Use of Common Area. Every Owner shall have a right and easement of enjoyment in and to the Common Area, subject to this Declaration as it may be amended from time to time, and subject to any restrictions or limitations contained in any deed conveying such property to the Association. Any Owner may delegate his or her right of enjoyment to the members of his or her family, tenants, and social invitees subject to reasonable regulation by the Board, and in accordance with procedures which it may adopt. An Owner who leases his or her Unit shall be deemed to have delegated all such rights to the Unit's lessee. The rights and easements of enjoyment created hereby shall be subject to the following:
  - A. Right to Borrow Money. The right of the Association to borrow money for the purpose of improving the Common Area and, in connection therewith, to mortgage the Common Area.

- B. Protect Against Foreclosure. The right of the Association to take such steps as are reasonably necessary to protect the Common Property against foreclosure.
- C. Suspension of Rights.
- (i) The right of the Association to suspend the enjoyment rights and easements of any Owner for any period during which an Assessment remains unpaid by that Owner.
- (ii) The right of the Association to suspend the enjoyment rights and easements of any Owner for any period during which such Owner is in violation of this Declaration, the Declaration of Covenants and Restrictions for Breakers West, any of the rules and regulations promulgated by the Association or the Breakers West Association, or any of the traffic regulations of the Association or the Breakers West Association.
- D. Maintenance. The right of the Association to maintain the Common Property.
- E. Rules and Regulations. The rules and regulations governing the use and enjoyment of the Common Property, as promulgated by the Association or the Breakers West Association.
- F. Traffic Regulations. The traffic regulations governing the use and enjoyment of the Roads, as promulgated by the Association or the Breakers West Association.
- G. Dedications. The right of the Association to dedicate or transfer all, or any part, of the Common Property to any governmental or quasi-governmental agency, authority, utility, water management or water control district.
- H. Plat Restrictions. Restrictions contained on any plat, or filed separately, with respect to all or any portion of the Property.
- I. Declaration. All of the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association and all exhibits thereto, and all Rules and Regulations adopted by the Association, as same may be amended from time to time.
- J. Breakers West Declaration. All of the provisions of the Breakers West Declaration of Covenants and Restrictions, and the Articles of Incorporation and By-laws for the Breakers West Association and all exhibits thereto, and all rules and regulations adopted by the Breakers West Association, and the traffic regulations, as same may be amended from time to time.
- K. Utility Easements. The Owners' easements of enjoyment shall be subject to easements, hereby reserved over, through and underneath the Common Property, and the Lots for present and future utility services to the Property, including, but not limited to, easements for water pipes, sanitary sewer pipes, emergency sewer lines, storm drainage pipes, sprinkler pipes, telephone cables, security wires and streetlights.
- L. Communication Services. The Breakers West Association reserves the right to lease portions of the Breakers West common property to a provider of Communication Services as defined in §202.11, Florida Statutes or a similar operation for the purpose of installation of a transmission tower. The Breakers West Association may grant easements over the Common Area and the Breakers West common property for Communication Services, or similar operations.
- M. Bicycle Path. Notwithstanding the fact that parts of the bicycle/pedestrian path in Breakers West may be located within the Property, such paths are subject to an easement for use by all owners of property within Breakers West, their guests, licensees and invitees.



- N. Emergency Access. In case of any emergency originating in, or threatening the Property or any Unit, regardless of whether the Owner is present at the time of such emergency, the Board of Directors of the Association or the Breakers West Association, or any other person authorized by the Association or the Breakers West Association, or the management agent under a management agreement, shall have the right to enter the Property or such Unit, for the purpose of remedying, or abating, the cause of such emergency, and such right of entry shall be immediate.
2. Breakers West Association Rights. In the event of a permanent dissolution of the Association or in the event the Association fails to maintain the Common Property, the Breakers West Association shall maintain the Common Property and may collect assessments against Members for the costs thereof, in accordance with Article 7 of the Breakers West Declaration of Covenants and Restrictions. Upon permanent dissolution of the Association, the Members shall immediately hold title to the Common Property as tenants in common.

#### ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

1. Membership. The Owner of the fee simple title of record of each Unit shall be a mandatory member of the Association, and the Breakers West Association. Membership shall continue until the Member transfers or conveys its interest of record or the interest is transferred by operation of law, at which time the membership shall automatically be conferred upon the transferee. Each Owner shall have also an interest in the Breakers West Association by and through the Homeowners Association.
2. Homeowners Association. Each Unit owner shall become a member of the Homeowners Association upon acceptance of the deed to his Unit. As a member of the Homeowners Association, the Owner shall be governed by the Articles of Incorporation and the By-Laws of the Homeowners Association; and shall be entitled to one (1) vote for each Unit owned. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the By-laws. The membership rights of a Unit owned by a corporation or partnership shall be exercised by the individual designated by the Owner in a written instrument provided to the secretary of the Homeowners Association.
3. Breakers West Association. Each Unit Owner shall have an interest in the Breakers West Association upon acceptance of the special warranty deed to his Unit. The rights and privileges of membership are more fully described in the Articles and By-Laws of the Breakers West Association.

#### ARTICLE V USE OF PROPERTY

1. Single Family Residence. The Units shall be used solely as single-family residences. Nothing herein shall be deemed to prevent an Owner from leasing a Unit to a single family, subject to the terms, conditions, and covenants contained in this Declaration.
2. Use Restrictions. The Board shall have the authority to make and enforce standards and restrictions governing the use of the Properties, in addition to those contained herein. Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, canceled or modified in a regular or special meeting of the Association.

- A. Occupants Bound. All provisions of the Homeowners Documents and of any Rules and Regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners, and which provide for sanctions against Owners, shall also apply to all occupants of any Unit.
- B. Business Use. The Units shall be used solely for Single Family purposes. Nothing herein shall be deemed to prevent an Owner from leasing a Unit to a Single Family, subject to all of the terms, conditions and covenants contained in this Declaration. The Units shall not be used in any trade, business, professional or commercial capacity.
- C. Nuisance. No Unit shall be used, in whole or in part, for the storage of any property or thing that will cause such Unit to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept in any Unit that will emit a foul or obnoxious odor or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property or to the development as a whole. No immoral, illegal, noxious or offensive activity shall be carried on in any Unit, nor shall anything be done thereon tending to cause a nuisance to any person using any property adjacent to the Unit. There shall not be maintained any plants, animals, devices, or things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties.
- D. Maintenance of Units. All Units and lawns shall be kept in a manner that is consistent with the community, in a clean and sanitary condition and no rubbish, refuse or garbage shall be allowed to accumulate or any fire hazard allowed to exist. In the event an Owner fails to maintain his Unit as required, for a period of at least thirty (30) days, the Association shall have the right, exercisable in its discretion, to clear any rubbish, refuse, or unsightly debris and/or growths from any Unit deemed by the Association to be a health menace, fire hazard or a detraction from the aesthetic appearance of Flagler Manor; provided, however, that at least fifteen (15) days prior notice shall be given by the Association to the Owner of such Unit before such work is done by the Association. In the event the Association, after such notice, causes the subject work to be done, then, and in that event, the costs of such work, together with interest thereon at the maximum rate permitted by the usury laws of the State of Florida, late fees, and attorney fees, shall be charged to the Owner and shall become a lien on the Unit, which lien shall be effective, have priority and be enforced pursuant to the procedures set forth in this Declaration.
- E. Easement. No Unit or material improvement to a Unit shall be built or maintained upon any easement or right-of-way, and said easements and rights-of-way shall at all times be open and accessible to the persons entitled to the use thereof.
- F. Restrictions on Access onto Golf Courses. On Units abutting a golf course, Owners, their guests, licensees, invitees and employees shall not use any portion of their Units for purposes of access onto the golf course(s).
- G. Laundry. No portion of the Lot shall be used for the drying or hanging of laundry, unless such laundry is screened from public view, so that the laundry is not visible from the Road, from adjoining Lots, or from the golf courses. This provision is not intended to prohibit the drying or hanging of laundry on a Lot.



H. Vehicles, No motorcycle, all-terrain vehicle (including passenger cars with four-wheel drive, i.e. Jeeps, Broncos, and similar vehicles), truck, trailer, boat, van, camper, motorhome, bus, commercial vehicle, or similar vehicle shall be parked on any part of the Properties, any driveway, or designated parking space within the Properties except: (1) within a garage, (2) commercial vehicles, vans, or trucks delivering goods or furnishing services temporarily during daylight hours, and (3) upon such portions of the Properties as the Board may jointly, in their discretion, allow. Vehicles over eighty (80") inches in height, or those vans (including full size and mini vans) which do not have windows completely circling the vehicle's exterior (similar to windows around a station wagon), and permanent installed seating for four or more passengers, shall be considered to be a prohibited van or truck. The Association shall have the right to authorize the towing away of any vehicles in violation of this rule with the costs and fees, including attorneys' fees, if any, to be borne by the vehicle owner or violator.

I. Parking and Garages. Vehicles shall be parked only in the garages or in the driveways serving the Units or in the appropriate spaces or designated areas in which parking may be assigned, and then subject to the reasonable rules and regulations adopted by the Board. Vehicles shall not park on or block sidewalks. Vehicles shall not be parked overnight on Roads or swales. All commercial vehicles, recreational vehicles, trailers, campers, camper trailers, boats, watercraft, motorcycles, ATVs, and boat trailers must be parked entirely within a garage unless otherwise approved by the Board. No garage shall be used as a living area. No garage shall be altered in such a manner that the number of automobiles which may be parked therein after the alteration is less than the number of automobiles that could have reasonably been parked in the garage as originally constructed. A garage shall remain closed except when used for ingress and egress.

J. Animals and Pets. No animals shall be raised, bred, or kept in any Unit, except that dogs, cats, or other household pets may be kept in the Unit, provided they are not kept, bred or maintained for any commercial purpose, or in numbers deemed unreasonable by the Board. Notwithstanding the foregoing, no animal may be kept which in the judgment of the Board results in a nuisance or is obnoxious to the residents in the vicinity. No Owner shall be permitted to maintain in his or her Unit any dog or dogs of mean or of violent temperament or otherwise evidencing such temperament. Pets shall not be permitted in any of the Common Areas unless under leash. Each pet owner shall be required to clean up after his or her pet. Each Owner by acquiring a Unit agrees to indemnify the Association, the Breakers West Association, and the Breakers West Development Corporation, and hold them harmless against any loss or liability resulting from his or her, his or her family members, or his or her lessee's ownership of a pet. If a dog or any other animal becomes obnoxious to other Unit Owners by barking or otherwise, the Owner shall remedy the problem, or upon written notice from the Association, he or she will be required to dispose of the pet.

The Board of Directors shall have the right but not the obligation, to require an Owner to provide proof of a liability insurance policy that includes any pet that exhibits violent tendencies and said policy shall name the Association as an additional insured.

- K. Subdivision of Unit. Units shall not be further subdivided or separated by any Owner; and no portion less than all of any such Unit, nor any easement shall be conveyed or transferred by an Owner; provided, however, that this shall not prevent corrective deeds, deeds to resolve boundary disputes and other similar corrective instruments.
- L. Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for the reception or transmission of television, radio, or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Unit, unless installed by the Breakers West Development Corporation or the Breakers West Association, without the prior written approval of the ECB (hereinafter defined).
- M. Energy. Conservation Equipment. All solar heating apparatus must conform to the standards set forth in the HUD Intermediate Minimum Property Standards Supplement, Solar Heating, and domestic Water Systems. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless it is an integral and harmonious part of the architectural design of a structure, as reasonably determined and approved by the ECB. No solar panel, vents, or other roof-mounted, mechanical equipment shall project more than 1.5 feet above the surface of the roof of a Unit; and all such equipment shall be painted consistent with the color scheme of the roof of the Unit. This provision is not intended to prohibit the use of solar energy devices.
- N. Windows. All draperies, curtains, shades, or other window coverings installed in a Unit, and which are visible from the exterior of a Unit shall have a white backing, unless otherwise approved by the ECB.
- O. Signs. No sign, symbol, name, address, notice, or advertisement shall be inscribed or exposed on or at any window or other part of a Unit or Common Areas without the prior written approval of the Board. The Board shall have the right to erect signs as they, in their sole discretion, deem appropriate, subject to approval by the ECB, which shall not be unreasonably withheld.
- P. Hurricane Season. Each Unit Owner who intends to be absent from his Unit during the hurricane season (June 1 - November 30 of each year) shall prepare his Unit prior to his departure by doing the following:
- i. Removing all furniture, potted plants, and other movable objects from his yard, patio, and deck; and
  - ii. Designating a responsible person or firm, satisfactory to the Association, to care for his Unit should it suffer hurricane damage. Such person or firm shall also be permitted access to install temporary hurricane shutters, which must be removed when no longer necessary for storm protection. At no time shall hurricane shutters be permanently installed, without the consent of the ECB.
- Q. Lighting. Except for seasonal Christmas decorative lights, which may be displayed between December 1 and January 10 only, all exterior lights must be approved by the ECB.
- R. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Properties. Exterior sculpture, fountains, flags, and similar items must be approved by the ECB.

- S. Irrigation. The Developer installed a sprinkler system on each Lot; however, irrigation water service shall be at the expense of each Owner. All Owners shall provide reasonable and sufficient water service to the lawn and landscaped areas in order to maintain the appearance of the General Plan of Development. Except for sprinkler or irrigation systems installed by the Developer, no sprinkler or irrigation systems of any type which draw water from lakes, rivers, ponds, canals or other ground or surface waters within the Properties shall be installed, constructed or operated within the Properties unless prior written approval from the ECB has been obtained. In the event that a well is approved and drilled on any Lot to supply water for an irrigation system, the irrigation system shall include a rust inhibitor, which shall be kept in good repair at all times, sufficient to prevent any and all rust stains on any part of the Lot, including but not limited to, stains on the Unit. Further, all wells, if any, must be installed in accordance with the regulations of the South Florida Water Management District.
- T. Drainage and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person, the Breakers West Association, or the South Florida Water Management District, may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Breakers West Association, and the Breakers West Development Corporation hereby reserve a perpetual easement across the Properties for the purpose of altering drainage and water flow. Septic systems are prohibited on the Property.
- U. Tree Removal. No trees shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved by the ECB.
- V. Sight Distance. All property located at street intersections shall be landscaped so as to permit safe sight across street corners. No fence, wall, hedge, shrub or planting shall be placed or permitted to remain where it would create a traffic or sight problem.
- W. Lakes and Water Bodies. All lakes, ponds, and streams within the Properties, if any, shall be aesthetic amenities only, and no other use thereof, including, without limitation, fishing, boating, swimming, playing, or use of personal flotation devices, shall be permitted. The Association or the Breakers West Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, or streams within the Properties, if any.
- X. Recreational Facilities. All recreational facilities and playgrounds furnished by the Breakers West Association, if any, or erected within the Properties, if any, shall be used at the risk of the user, and neither the Association or the Breakers West Association shall be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.
- Y. Rules and Regulations. The Unit Owners shall abide by each and every rule and regulation promulgated from time to time by the Board. The Board shall give an owner in violation of the Rules and Regulations of the Association, written notice of the violation by U.S. Certified Mail or other courier service, return receipt requested, and fourteen (14) days in which to cure the violation.

Should the Association be required to seek enforcement of any provision of this Declaration or the Rules and Regulations and prevail in such action, then the offending Unit Owner (for himself or for his family, guests, invitees, or lessees) shall be liable to the Association for all costs incurred in the enforcement action, including reasonable attorneys' fees, whether incurred before litigation, in trial or appellate proceedings or otherwise.

Z. Breakers West Association Rules and Regulations. The Unit Owners shall abide by each and every rule and regulation promulgated from time to time by the Breakers West Association. The board of the Breakers West Association shall give an owner in violation of the rules and regulations of the Breakers West Association, written notice of the violation by U.S. Certified Mail, return receipt requested, and fourteen (14) days in which to cure the violation. Should the Breakers West Association be required to seek enforcement of any provision of this Declaration or the Rules and Regulations and prevail in such action, then the offending Unit Owner (for himself or for his family, guests, invitees, or lessees) shall be liable to the Breakers West Association for all costs incurred in the enforcement action, including reasonable attorneys' fees, whether incurred in trial or appellate proceedings or otherwise.

#### ARTICLE VI COMMON AREAS

1. Title to Common Area. The Developer shall be required to convey title to the Common Area or any portion thereof to the Association. Notwithstanding the manner in which title is held, the Association shall be responsible for the management, maintenance, and operation of the Common Areas, and for the payment of all real estate taxes and other assessments which are liens against the Common Area, from and after the recording of this Declaration. On or before the Transfer Date, the Developer shall convey the Common Area to the Association by quitclaim deed.
2. Annexation of Additional Property. The Association shall have the power and authority to acquire and annex to the Common Areas other interests in real and personal property as it may deem beneficial to the Members. Any property acquired pursuant to this section shall be annexed to the Common Areas by means of a Subsequent Amendment recorded in the public records of the County.
3. Rules and Regulations Governing Use of Common Areas. The Board shall promulgate rules and regulations governing the use of the Common Areas. Such rules and regulations, and all provisions, restrictions, and covenants as now or hereinafter provided, including, without limitation, all architectural and use restrictions contained in this Declaration and in the Breakers West Declaration of Covenants and Restrictions may be enforced by legal or equitable action as provided herein or therein.
4. Traffic Regulation. The Board of the Breakers West Association shall have the right to post motor vehicle speed limits throughout the Common Areas, and to promulgate other traffic regulations.

The Board may also promulgate rules and procedures for the enforcement of the traffic regulations, including, without limitation, the assessment of fines against Owners who violate the traffic regulations and against Owners whose family members, guests, invitees, licensees, employees, or agents violate the traffic regulations. The fines shall be collected as an individual assessment in accordance with the Breakers West Declaration of

Covenants and Restrictions from the Owner who violates the traffic regulations, or from the Owner whose family members, guests, invitees, licensees, employees, or agents violate the traffic regulations. Before any fine shall be effective, the Owner shall be entitled to notice and an opportunity to be heard before the Board.

5. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it, herein or reasonably necessary to effectuate any such right or privilege.

## ARTICLE VII EASEMENTS

1. Easements for Owners. The Developer granted a perpetual non-exclusive easement to the Association and to the Unit Owners, their families, guests, invitees, licensees and lessees upon, over, and across the sidewalks, walkways, rights-of-way and other Common Areas. The Developer granted an additional perpetual non-exclusive easement to the Association over, across, through, and under all portions of the General Plan of Development for the purpose of performing the maintenance and repair requirements of the Association as described in this Declaration.
2. Easements for Utilities. The Developer granted a perpetual non-exclusive easement to all utility or service companies servicing the Property upon, over, across, through, and under the Common Areas and such other portions of the Property or Lots on which utility facilities may be located for ingress, egress, installation, replacement, repair, and maintenance of all utility and service lines and systems including, but not limited to water, irrigation, sewer, gas, telephone, electricity, television cable or communication lines and systems
3. Easements for Drainage Facilities. Easements for the installation and maintenance of drainage facilities are granted to the Association as shown on the Plat of Flagler Manor. Within these easement areas, no structure, planting or other material, (other than sod and official golf course accessories) which may interfere with such installation and maintenance, or which may obstruct or retard the flow of water through drainage channels shall be placed or permitted to remain unless such structure, planting or other material was installed by Developer. The Association and the Breakers West Association shall have access to all such drainage easements for the purpose of operation and maintenance thereof.
4. Easements for Encroachments. The Developer granted an easement for encroachment in the event any improvements upon the Common Areas now or hereafter encroaches upon a Unit, or in the event that any Unit now or hereafter encroaches upon the Common Area or any other Lot, as a result of minor inaccuracies in survey, construction, reconstruction, or due to settlement or movement or otherwise. The encroaching improvements shall remain undisturbed as long as the encroachment exists. This easement for encroachment shall also include an easement for the maintenance and use of the encroaching improvements.  
Provided, however, that at no time shall there be any encroachment onto the surface water management systems, without the written consent of the South Florida Water Management District.
5. Easements to the Breakers West Association. The officers, agents, employees, and independent contractors of the Breakers West Association shall have a nonexclusive easement to enter upon any portion of the Common Areas for the purpose of performing or satisfying the

duties and obligations of the Breakers West Association, as set forth in the Articles and By-Laws of the Breakers West Association.

6. Easements to Institutional Mortgagees. Easements are hereby granted to all Institutional Mortgagees holding a first mortgage upon any portion of the Property for the purpose of access to the property subject to its mortgage.
7. Easements to the Institutional Mortgagees. Easements are hereby reserved throughout the Common Areas, including without limitation, the Roads located on the Common Area and the easements shown on the Plat of Flagler Manor, by Developer for the reasonable use of the Breakers West Development Corporation, and the reasonable use of its agents, employees, licensees and invitees, for all purposes.
8. Golf Play Easement. An easement is hereby granted to the Owners, invitees, guests, licensees, employees, agents and members of the Mayacoo Lakes Country Club, to permit the doing of every act necessary and incident to the playing of golf on the golf course adjacent to certain Units. These acts shall include, but not be limited to, the recovery of golf balls from Lots, the flight of golf balls over and upon Lots, the use of the necessary and usual equipment upon the golf courses, the creation of the usual and common noise level associated with the playing of the game of golf, together with all such other common and usual activities associated with the game of golf and with all the normal and usual activities associated with the operation and maintenance of a golf club.

#### ARTICLE VIII MAINTENANCE

##### 1. Association's Responsibility.

- A. Common Areas. The Association shall maintain and keep in good repair the Common Areas. The maintenance of the Common Areas shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all plantings and sodding of Common Area road rights-of-way; all perimeter plantings and sod; right-of-way, perimeter, and other Association irrigation facilities and pumps; road and identification signage; drainage easements and other easements; drainage facilities and water control structures; sidewalks located within rights-of-ways; sod, landscaping and other flora located on the Common Areas; and other structures and improvements situated upon the Common Area. The cost to the Association of maintaining the Common Areas shall be assessed equally among the Unit Owners, as part of the Association Expenses pursuant to the provisions of this Declaration.
- B. Unit Exterior Surfaces. The Unit Owner shall at all times be responsible for the maintenance, care and routine cleaning of the exterior stucco surfaces, the walls and fences, and roofing of the Units. In the event an Owner fails to maintain his Unit as required, the Association shall have the right, exercisable in its discretion, to maintain the Unit provided, however, that at least fifteen (15) days prior notice shall be given by the Association to the Owner of such Unit before such work is done by the Association. In the event the Association, after such notice, causes the subject work to be done, then, and in that event, the costs of such work, together with interest thereon at the maximum rate permitted by the usury laws of the State of Florida, late fees and attorney fees, shall be charged to the Owner and shall

become a lien on the Unit, which lien shall be effective, have priority and be enforced pursuant to the procedures set forth in this Declaration.

- C. Yard, Maintenance and Public Property. The Association may maintain property which it does not own, including, without limitation, the yards or grounds of the Units (not including replacement of plants and sod), and property dedicated to the public; and common access sidewalks located within Lots. The cost to the Association of maintaining the yards or grounds of the Units, and property dedicated to the public shall be assessed equally among the Unit Owners, as part of the Association Expenses pursuant to the provisions of this Declaration, unless maintenance is affected by or replacement is caused by a Unit Owners failure to water, negligence or intentional acts. A Unit Owner is required to maintain and operate the irrigation system so that it is sufficient to preserve the viability of landscaping within each Lot. The maintenance of property dedicated to the public shall only be undertaken in the event that the Board determines that such public property maintenance is necessary or desirable. This provision is not intended to make the Association the insurer of any Lot.
2. Owner's Responsibility. All maintenance activities not specifically undertaken by the Association as described above shall be the responsibility of each Owner who shall maintain his or her own Unit, and the structures, driveway, sidewalks, and other improvements comprising the Unit in a manner consistent with the Community-Wide Standard, and all applicable covenants.
3. Party Fences. Those walls or fences which are constructed between two adjoining Lots and are to be shared by the Owners of said adjoining Lots are to be known as and are hereby declared to be "Party Fences". Each Owner shall have the right to full use of said fence subject to the limitation that such use shall not infringe on the rights of the Owner of the adjacent Lot or in any manner impair the value of said fence. Each Owner shall have the obligation to maintain and to repair that portion of a Party Fence which faces such Owner's Lot. In the event of damage or destruction of the Party Fence from any casualty loss or other cause whatsoever, other than negligence or willful misconduct of one of the adjacent Lot owners, the Owners of the adjacent Lots shall, at their joint expense, repair and rebuild said fence within 30 days, unless extended by the Board. In the event it is necessary to repair or rebuild a Party Fence, the Owners shall agree on the cost of such repairs or rebuilding and shall agree on the person or entity to perform such repairs, provided however, all such repairs must be performed by a qualified contractor. If the Owners cannot agree on the cost of such repairs or on the person or entity to perform such repairs, each Owner shall choose a member of the Board to act as their arbiter. The Board members so chosen shall agree upon and choose a third Board member to act as an additional arbiter. All of the said Board members shall thereafter choose the person or entity to perform the repairs and shall assess the costs of such repairs in equal shares to the Owners. Whenever, any such fence or any part thereof shall be rebuilt it shall be subject to the procedures of the ECB set forth in Article XII hereof, and it shall be erected in the same manner and be of the same size and of the same or similar materials and of like quality and color and at the same location where it was initially constructed. Provided, that if such maintenance, repair or construction is brought about solely by the neglect or the willful misconduct of one Lot Owner, any expense incidental thereto shall be borne solely by such wrongdoer. If the Lot Owner shall refuse to repair or reconstruct the fence within 30 days, unless extended



by the Board, and to pay his share, all or part of such cost in the case of negligence or willful misconduct, the Association may have such fence repaired or reconstructed and shall be entitled to a lien on the Lot of the Owner so failing to pay for the amount of such defaulting Owner's share of the repair or replacement. In the event repairs or reconstruction shall be necessary, all necessary entries on the adjacent Lots shall not be deemed a trespass so long as the repairs and reconstruction shall be done in a workmanlike manner, and consent is hereby given to enter on the adjacent Lots to effect necessary repairs and reconstruction.

4. **Damage or Casualty Loss.** If a Unit is damaged through an act of God or suffers some other casualty loss, the affected Owner shall promptly have his Unit repaired and rebuilt substantially in accordance with the original architectural plans and specifications of the Unit, subject to the procedures of the ECB set forth in Article XII hereof. If the Unit Owner refuses or fails to pay the cost of such repair or reconstruction, or if insurance proceeds are insufficient to repair or rebuild the affected Unit(s) the Association shall have the right to complete such repair and reconstruction substantially in accordance with the original plans and specifications of the affected building, and the Association shall thereafter have the right to specially assess said Unit Owner(s) for the costs of such repair and reconstruction. The assessment and collection of such assessment authorized pursuant to this paragraph shall be made in accordance with the assessment powers and lien rights of the Association for Association Expenses.
5. **Owner's Maintenance Privilege.** No Unit Owner shall authorize the painting, refurbishing or modification of the exterior surfaces of his Unit without the prior written consent of the ECB.

## ARTICLE IX ASSESSMENTS

1. **Creation of Assessments.** There are hereby created assessments for Association Expenses as may from time to time specifically be authorized by the Board to be commenced at the time and in the manner set forth in this Article. There shall be two (2) types of assessments:  
(a) Assessments to fund Association Expenses for the benefit of all Members of the Association; and (b) Special Assessments as described in paragraph 3 below.
  - A. **Equal Assessments.** Assessments shall be levied equally on all Units. Special Assessments shall be levied as provided in paragraph 3 below. Each Owner, by acceptance of his or her deed is deemed to covenant and agree to pay these assessments.
  - B. **Certificate of Payment.** The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing setting forth whether such assessment has been paid as to any particular Unit. Such certificate shall be conclusive evidence of payment to the Association of such assessment. The Association may require the advance payment of a nominal processing fee for the issuance of such certificate.
  - C. **Quarterly Payments.** Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual Assessment for delinquent Members. Unless the Board otherwise provides, the Assessments shall be payable not less frequently than quarter-annually in advance on the first day of January, April, July, and October.

D. No Waiver. No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the Unit. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of the County or other governmental authority.

E. Capital Contribution. On the conveyance of each Lot to any person, other than Association or an Institutional First Mortgagee acquiring title by foreclosure or deed in lieu of foreclosure, the purchasing Owner shall pay to the Association a one-time, non-refundable sum equal to one-half of the then applicable annual assessment, as a capital contribution ("Contribution") to the Association. The Contribution shall not be considered an advance payment of Assessments.

The Contribution is in addition to the annual assessment and it shall be collected in the same manner as an assessment in accordance either the provisions of this Declaration and Florida Statute Chapter 720, as either may be amended from time to time.

The Contribution shall not be payable in connection with the following transfers: (a) the transfers of title by a Lot Owner for bona fide estate planning purposes for the benefit of that Lot owner or a family member; (b) transfers pursuant to a valid divorce settlement/decreed; and (c) transfers effectuated pursuant to the laws of descent and distribution.

2. Computation of Assessments. It shall be the duty of the Board, at least sixty (60) days before the beginning of the fiscal year, to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall include and shall separately list Association Expenses. The Board shall cause a copy of the approved budget and the amount of assessments to be levied against each Unit for the following year to be delivered to each Owner at least thirty (30) days prior to the end of the current fiscal year. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in the By-Laws.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

The budget shall include, without limitation, the following listed line items:

A. Maintenance, repair and replacement. All expenses necessary to meet the Association's responsibility to maintain the Units, lawns, landscaping and irrigation systems located in the yards or on the grounds of each Unit, and to maintain the Common Areas in accordance with the requirements of this Declaration.

- B. Breakers West Association. The Association, on behalf of all Units subject to assessment hereunder, shall pay assessments to the Breakers West Association as provided in the Articles and By-Laws of the Breakers West Association. All Unit Owners shall be assessed and shall pay on an equal basis the assessments levied by the Breakers West Association. The Breakers West Association assessments shall be paid by the Unit Owners to the Association, which shall thereafter remit such assessments to the Breakers West Association. The duty of the Association to pay the Breakers West Association assessment on behalf of all Units shall not be deferred or relieved by any non-payment of Association assessments by any Unit Owner.
- C. Utility Charges. All charges levied for utility services to the Common Areas, whether supplied by a private or public firm including, without limitation, all charges for water, gas, electricity, telephone, sewer and any other type of utility or service charge.
- D. Insurance. The premiums on any policy or policies of insurance required under this Declaration, together with the costs of such other policies of insurance, as the Board, with the consent of the Unit Owners at any meeting thereof, shall determine to be in the best interest of the Association. Nothing contained herein is intended to require that the Association insure any Unit or Lot from any liability or casualty risk.
- E. Taxes. All taxes levied or assessed upon the Common Areas, if any, by any and all taxing authorities, including all taxes, charges and assessments, imposition and liens for public improvements, special charges and assessments; and, in general, all taxes on personal property and improvements which are now and which hereinafter may be placed in the Common Area, including any interest penalties and other charges which may accrue on such taxes.
- F. Miscellaneous expenses. The costs of administration for the Association, including any secretaries, accounting service, bookkeepers, or employees necessary to carry out the obligations and covenants of the Association under the Declaration, including the collection of sums owed by a particular Unit. Bulk rate charges for cable television may be assessed as Association Expenses, if the Association becomes a party to a single billing service for cable television services. In addition, the Association may retain a managing company or contractors to assist in the operation of the Association and to perform or assist in the performance of certain obligations of the Association hereunder. The fees or costs of any management company or contractor so retained shall be deemed to be part of the Association Expenses.
- G. Indemnification. The costs to the Association to indemnify its Board, committee members, and officers for all costs and expenses whatsoever incurred in pursuance of their duties, obligations and functions hereunder.
- H. Reserve funds. The costs to establish an adequate reserve fund for replacement and/or capital refurbishment of the Common Areas and the payment of other common expenses in the amounts determined proper and sufficient by the Board, if any.

Each Owner acknowledges, understands and consents that capital contributions are the exclusive property of the Association as a whole, and that no Owner shall have any interest, claim or right to any such capital contributions or funds composed of the same.

3. Special Assessments.

- A. Special Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.
  - B. Repairs. The Association may levy a Special Assessment to obtain all sums necessary to repair, replace, construct or reconstruct ("repair") any buildings or improvements located on the Property damaged by any casualty to the extent insurance proceeds are insufficient for repair.
  - C. Reimbursements. The Association may also levy a Special Assessment against any Member to reimburse the Association for costs incurred in bringing a Member and his Unit into compliance with the provisions of the Declaration, any amendments thereto, the Articles, By-Laws, and the Rules and Regulations, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing.
4. Date of Commencement of Annual Assessments. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide.
5. Subordination of the Lien to First Mortgagees. The lien of the Assessments provided for in this Declaration shall be superior to all liens but shall be subordinate and inferior to the lien of the mortgage of any first mortgagee, unless the Association's lien is recorded before the first mortgagee's mortgage is recorded. The liability of a first mortgagee who acquires title to a Lot by foreclosure or by deed in lieu of foreclosure for the unpaid Assessments that became due before the first mortgagee's acquisition of title is limited to the amounts provided for by Florida Statute §720, as amended from time to time. These provisions for limited liability shall apply only to a first mortgagee and shall not apply unless the first mortgagee joined the Association as a defendant in its foreclosure action, nor shall these provisions for limited liability of a first mortgagee apply if the Association's lien is recorded before the first mortgagee's mortgage is recorded.
6. Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from the payment of Assessments and Special Assessments:
- A. All Common Areas; and
  - B. All property dedicated to and accepted by the Breakers West Association, any governmental authority, or public utility.

ARTICLE X

ESTABLISHMENT AND ENFORCEMENT OF LIENS

1. Lien for Assessments. All assessments, together with interest at a rate not to exceed the highest rate allowed by Florida law as computed from the date the delinquency first occurs, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Unit against which each assessment is made. Said lien shall be effective from and shall relate back to the date on which the original Declaration was recorded.

Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance. An Owner, regardless of how title to a Unit is acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all assessments which come due while the Owner. Additionally, an Owner, regardless of how title to a Unit is acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure is jointly and severally liable with the previous Owner, for all unpaid assessments that came due up to the time of transfer of title. For the purposes of the preceding sentence, the term "previous Owner", does not include the Association that acquires title to a delinquent Unit through foreclosure or by deed in lieu of foreclosure. In the event of any legal action or any litigation brought by the Association against an Owner to collect unpaid assessments, the Association is entitled to recover its costs and attorney's fees at all, pre-suit, bankruptcy, trial, and appellate levels.

2. Remedies. In the event any Owner shall fail to pay his or her assessments within (15) days after the same becomes due, the Association, through its Board, shall have all of the following remedies to the extent permitted by law.
  - A. Late. Charge and Interest. To impose a late charge in an amount not to exceed the greater of Twenty-five and no/100 Dollars (\$25.00) or Five percent (5%) of the amount of the Assessment, together with interest in an amount equal to the maximum rate allowable by law, per annum, beginning from the due date until paid in full.
  - B. Acceleration of Assessments. To accelerate the entire amount of any assessments for the remainder of the year notwithstanding any provisions for the payment thereof in installments.
  - C. Attorney's Fees and Costs. To advance on behalf of the Owner funds to accomplish the needs of the Association and the amount or amounts of money so advanced, including reasonable attorneys' fees and expenses which might have been reasonably incurred because of or in connection with such advance, including costs and expenses of the Association if it must borrow to pay expenses because of said Owner, together with interest at the highest rate allowable by law, may thereupon be collected or enforced by the Association and such advance or loan by the Association shall not waive the default.
  - D. Action in Equity. To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the Association in a like manner as the foreclosure of a mortgage on real property.
  - E. Action at Law. To file an action at law to collect said assessments, plus interest at the highest rate allowable by law plus late charges, plus costs and attorneys' fees, without waiving any lien rights or rights of foreclosure by the Association.
4. Rights upon Foreclosure. The Association, acting on behalf of the Owners, shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which the Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be assessed or levied on it; and

(c) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment, including the amount of the assessment payable to the Breakers West Association, which would have been charged to such Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid common expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

## ARTICLE XI INSURANCE

1. **Common Area Insurance.** The Association shall maintain a policy or policies to insure the Common Area improvements, personal property and supplies, if any, from casualty losses, and shall be in such amounts so that the insured will not be a coinsurer except under deductible clauses required to obtain coverages at a reasonable cost.

A. **Casualty Insurance Exclusions.** The coverages for casualty losses will EXCLUDE the following:

- (i) Land, foundations, excavations or other items that are usually excluded from insurance coverage; and
- (ii) Floor, wall, and ceiling coverings.

B. **Casualty Insurance Inclusions.** The coverage for casualty losses will INCLUDE, where applicable, the following:

- (i) Loss or damage by fire or other hazards covered by a standard extended coverage endorsement;
- (ii) All other perils customarily covered for similar types of projects, including those covered by the standard "all risk" endorsement;
- (iii) Agreed Amount and Inflation Guard Endorsement, when it can be obtained;
- (iv) Demolition Cost Endorsements, Contingent Liability from Operation of Building Laws Endorsement, and Increased Cost of Construction Endorsement;
- (vi) A standard mortgagee clause naming, when appropriate, the Federal National Mortgage Association (FNMA) or the servicers for mortgages held by FNMA, their successors and assigns.

C. **Policy Waivers.** When appropriate and possible, the policies shall waive the insurer's right to:

- (i) Subrogation against the Association and against the Owners, individually and as a group;
- (ii) The prorate clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and
- (iii) Avoid liability for a loss that is caused by an act of the Board, or by a member of the Board or by one or more Owners.

D. **Other Provisions.** In addition, the policy shall provide that:

- (i) Any Insurance Trust Agreement will be recognized;
- (ii) The policy shall be primary, even if an Owner has other insurance that covers the same loss; and

- (iii) The named insured shall be the Association for the use and benefit of the Unit Owners. The "loss payable" clause should show said Association or the designated insurance trustee as the trustee for each Owner and each Owner's mortgagee.
2. Unit Insurance. Each Unit Owner shall maintain a policy or policies to insure his or her Unit from all casualty losses and shall be required to name the Association as a certificate holder.
3. Reconstruction and Repair after Casualty.
- A. Determination. Under ordinary circumstances, Common Area improvements which are damaged by casualty shall be reconstructed and repaired. If a dispute arises as to whether a Common Area improvement should be repaired or reconstructed, the Board of Directors, with approval of the oldest unsatisfied mortgagee having an effective lien thereon, shall make the determination to repair or reconstruct. The adjoining owners shall be bound by this determination. If a Unit is damaged by a casualty, the affected Unit Owner shall promptly have his Unit repaired and rebuilt substantially in accordance with the architectural plans and specifications of the Unit. The Association shall have the right to specially assess all members of the Association if insurance proceeds are insufficient to repair or rebuild the affected Common Areas in accordance with this paragraph. The assessment and collection of any special assessment authorized pursuant to this paragraph shall be made in accordance with the assessment powers and lien rights of the Association for Association Expenses.
- B. Plans and Specifications. Although it is impossible to anticipate all problems which may arise from a casualty, the intent is to try to assure that the General Plan of Development is maintained by requiring damaged Units to be rebuilt or repaired and that unsightly and dangerous conditions are remedied as soon as possible. Any reconstruction and repair must be substantially in accordance with the plans and specifications for such property as originally constructed, and in any event, according to plans and specifications approved by the ECB. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair to the Common Areas, for which the Association is responsible, or if at any time during the work or upon completion of the work the funds available for payment of the costs are insufficient, assessments shall be made by the Association against all Owners in sufficient amounts to provide funds for the payment of those costs. The Assessments shall be made as an Association Expense, except that the cost of construction, reconstruction and repair occasioned by special improvement made at the request of the Owner and not common to other Units shall be assessed to such Unit Owner.
4. Public Liability Coverage. The Association shall obtain comprehensive general liability coverage insuring the Association against any and all claims and demands made by any person or persons for injuries received in connection with the operation and maintenance of the Common Areas and improvements located thereon, or for any other risk insured against by such policies which the Association, in its sole discretion, determines to insure against. Each policy purchased by the Association shall have limits of not less than \$1,000,000.00 covering all claims for personal injury and property damage arising out of a single occurrence. The liability coverage shall include protection against liability for non-owned and hired automobiles, and liability of hazards related to usage. In addition, the



- A. Share of Proceeds. An undivided share for each Unit Owner, that share being the same as such Owner's undivided share in the Association Expenses.
  - B. Mortgagees. If a mortgagee endorsement of an insurance policy has been issued as to a Unit, the share of the Owner shall be held in trust for the mortgagee and such Owner, as their interests may appear; however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any such Unit shall be reconstructed or repaired, and unless provided by the terms of the mortgage, no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distribution of proceeds made to the Owner and the mortgagee.
- 11. First Mortgagees. This Article is additionally for the benefit of first mortgagees of Units and may not be amended without the consent of all such mortgagees.
  - 12. Policy Cancellation. All insurance policies purchased by the Association shall require the insurer to notify in writing the Association or the designated Insurance Trustee and each first mortgagee named in any mortgage clause at least 10 days before it cancels or substantially changes the coverage.
  - 13. Association as Agent. The Association is irrevocably appointed agent for each Unit Owner and for each mortgagee or other lienor of a Unit, and for each owner of any other interest in the property, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

## ARTICLE XII

### ARCHITECTURAL, ENVIRONMENTAL AND LANDSCAPING CONTROLS

- 1. Environmental Control Board. It was the intent of the Breakers West Development Corporation to create a general plan and uniform scheme of development of Breakers West and to create within Breakers West a residential community of high quality and harmonious Improvements. Accordingly, an Environmental Control Board (the "ECB") has been established which shall, be a permanent committee of the Breakers West Association and which shall have the powers, duties and responsibilities set forth in the Breakers West Declaration of Covenants and Restrictions.
- 2. Improvements. No Improvement (including landscaping) shall be erected, constructed, removed, planted or maintained, nor shall any addition to or any change, replacement or alteration therein be made on any Unit, Lot, or Common Area until the same shall have been submitted to and approved by the ECB, pursuant to the procedures set forth in the Breakers West Declaration of Covenants and Restrictions.
- 3. ECB Procedures. All of the procedures and provisions governing the ECB, including without limitation, the approval process for Improvements, shall be as set forth in the Declaration of Covenants and Restrictions for Breakers West.
- 4. Approved Builder. In addition to the foregoing requirements, no Improvement, (including landscaping) shall be erected, constructed, removed, planted or maintained, nor shall any addition to or any change, replacement or alteration therein be made except by an "Approved Builder". The term "Approved Builder(s)" shall refer to those builders which have been determined by the Breakers West Development Corporation, from time to time to be qualified to participate in the construction of improvements within Breakers West.

- coverage shall include protection against liability that results from actions related to employment contracts in which the Association is a party. All such policies will name the Association (and the Developer until the Transfer Date), as their respective interests may appear, as insured parties under such policy or policies. The original of each policy shall be held by the Board or in the office of the Insurance Trustee.
5. Fidelity Bond Coverage. The Association shall obtain Fidelity Bonds covering officers, directors, employees and other persons who handle or are responsible for handling Association funds. The Fidelity Bonds (or insurance) shall meet the following requirements.
    - A. Association as Obligee. All such fidelity insurance or bonds shall name the Association as an obligee; and
    - B. Amount of Insurance. Such fidelity insurance or bonds shall be written in the amount equal to at least 150% of three months operating expenses of the Association, and the amount in reserve as of the end of each fiscal year of the Association; and
    - C. Waivers. Such fidelity insurance or bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or a similar expression; and
    - D. Notice of Cancellation. Such insurance or bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premiums) without at least thirty (30) days prior written notice of the servicer or the insured.
  6. Flood Insurance. If any part of the Common Areas is in a special flood hazard area and are insurable as defined by the Federal Emergency Management Agency, the Association shall insure same. The coverage shall be 100% of the current replacement cost of any Common Area improvements or structures and other insurable common property, or the maximum coverage available for such improvements, structures, or property under the National Flood Insurance Program.
  7. Insurer. All insurance shall be issued by a company authorized to do business in the State of Florida.
  8. Named Insured. For all policies obtained by the Association, the named insured shall be the Association individually and as trustee for Owners covered by the policy without naming them and shall include Institutional Mortgagees who hold mortgages upon Units covered by the policy whether or not the mortgagees are named. The Board may authorize the Insurance Trustee to maintain the policies and receive any proceeds of such policies.
  9. Premiums. Premiums on policies purchased by the Association shall be paid as an Association Expense. However, if the amount of a premium is increased because a Unit or its appurtenances is misused or abandoned then the Owner of such Unit is liable for the amount of such increase. The Association will furnish evidence of premium payment to each mortgagee upon request.
  10. Insurance Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear and shall provide that all proceeds covering property losses shall be paid to the Association as trustee. The Trustee shall hold the proceeds for the benefit of the Unit Owners and their mortgagees in the following shares:

By acceptance of a deed to a Unit, each Owner acknowledges and agrees that the foregoing requirement is justified by Breakers West Development Corporation's desire to protect its good name, and is reasonable and necessary in order to maintain the high standard of construction within Breakers West, to prevent to the extent practicable, problems arising from the lack of financial strength and building record of the builders, and to protect the overall value and viability of Breakers West, which is in the best interests of all Owners within Breakers West. The list of Approved Builders selected by Breakers West Development Corporation may be changed from time to time by the Breakers West Development Corporation.

#### ARTICLE XIII ADDITIONAL RESTRICTIONS

1. Breakers West Declaration of Covenants and Restrictions. In addition to all of the covenants, restrictions and provisions contained in this Declaration, the Articles of Incorporation and the By-Laws for the Association, and the Rules and Regulations adopted by the Association, as same may be amended from time to time, the Property shall also be subject to all of the covenants, restrictions and provisions, including without limitation all assessments, and lien rights, contained in the Breakers West Declaration of Covenants and Restrictions, the articles of incorporation and the by-laws for the Breakers West Association, all rules and regulations adopted by the Breakers West Association, and all rules and regulations adopted by the ECB, as same may be amended from time to time.
2. Covenants Running With The Property. The agreements, covenants, conditions, restrictions, Assessments, liens and other provisions contained herein shall constitute a servitude upon the Property and each portion thereof, shall run with the Property, shall be binding upon the Owners of any portion thereof, and shall inure to the benefit of the Developer, the Breakers West Development Corporation, the Association, the Breakers West Association, the ECB, and the Owners.
3. In addition to this Declaration, the Property shall be subject to the additional covenants, restrictions, reservations and other terms and provisions set forth in the plat of the Property, which plat is recorded or to be recorded in the Public Records of the County.

#### ARTICLE XIV MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Units in the Properties.

1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Unit number, therefor becoming an "eligible holder"), will be entitled to timely written notice of:
  - A. Condemnation Loss. Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;
  - B. Delinquent Assessments. Any delinquency in the payment of Assessments or charges owed by an Owner of a Unit subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by

- an Owner of a Unit of any obligation under the Homeowners Documents which is not cured within sixty (60) days;
- C. Insurance Lapse. Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or
  - D. Action Requiring Consent. Any proposed action which would require the consent of a specified percentage of eligible holders of first mortgages.
2. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least two-thirds (2/3) of the first Mortgagees or Members representing at least two-thirds (2/3) of the total Association vote entitled to be cast thereon consent, the Association shall not:
- A. Common Areas. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection).
  - B. Assessments. Change the method of determining the obligations, assessments, or other charges which may be levied against a Unit.
  - C. Architectural Regulations. By act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Units and of the Common Area within its jurisdiction or control. (The issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision.)
  - D. Insurance Lapse. Fail to maintain insurance, as required by this Declaration.
  - E. Use of Insurance Proceeds. Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement or reconstruction of such property.
- First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.
- 3. No Priority. No provision of the Homeowners Documents gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Areas.
  - 4. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.
  - 5. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

6. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.
7. Financial Statements. Any holder of a first mortgage shall be entitled, upon written request after reasonable notice, to a financial statement of the Association for the immediately preceding fiscal year.

#### ARTICLE XV ENFORCEMENT OF DECLARATION

The enforcement of this Declaration may be by proceeding at law for damages or in equity to compel compliance with its terms or to prevent violation or breach of any of the covenants or terms herein. The Association, the Breakers West Association or any Unit Owner may, but shall not be required to, seek enforcement of the Declaration. Any Unit Owner who seeks enforcement of this Declaration shall by his actions be deemed to have indemnified the Association, and the Breakers West Association from all liabilities resulting from his actions. Should the party seeking enforcement be the prevailing party in any action, then the person against whom enforcement has been sought shall pay all costs and reasonable attorneys' fees at all trial and appellate levels to the prevailing party. The failure or refusal of the Association, the Breakers West Association, or any Member to enforce any of the provisions of this Declaration shall in no event be deemed to constitute a waiver of the right to do so thereafter.

#### ARTICLE XVI AMENDMENTS

1. This Declaration may be amended only by consent of fifty-one percent (51%) of all Unit Owners
2. Limitation on Amendments. No amendment to the Article entitled "Assessments" or the Article entitled "Enforcement and Establishment of Liens", and no other amendment shall be effective which shall, in a material fashion impair or prejudice the rights or priorities of any Owner. In addition, any amendment which would affect the surface water management system, including the water management portions of the Common Areas, must have the prior approval of the South Florida Water Management District.
3. Scrivener's Errors. Association may amend this Declaration in order to correct a scrivener's error or other defect or omission without the consent of the Owners or the Board; provided that such amendment is reasonable and does not adversely affect in a material manner an Owner's property rights.
4. Effective Date of Amendments. An amendment to the Declaration shall become effective upon the recordation amongst the public records of the County.

#### ARTICLE XVII CONVEYANCES

In order to assure a community of congenial residents and thus protect the value of the Units in Flagler Manor, the sale or lease of Units shall be subject to the following provisions, and shall also be subject to the procedures and provisions governing the sale, lease or other transfer of Units as set forth in Article XI of the Breakers West Declaration of Covenants and Restrictions:

1. Notice to Association. There is an affirmative duty on the Unit Owners to keep the Association fully advised of any changes in occupancy or ownership for the purposes of facilitating the management of the Association's membership records. As this Article is a portion of the

Declaration which runs with the land, any transaction which is conducted without compliance with this Article may be voidable by the Association.

2. Lease Agreement Terms. Any and all lease agreements between an Owner and a lessee of such Owner shall be in writing, shall provide for a term of not less than twelve (12) months, and must provide that the lessee shall be subject in all respects to the terms and provisions of this Declaration and that 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. The lease agreement shall also state the party who will be responsible for the assessments as stated above, and it shall be the obligation of all Unit Owners to supply the Board with a copy of said written agreement prior to the lessee occupying the premises. Unless provided to the contrary in a lease agreement, a Unit Owner, by leasing his Unit, automatically delegates his right of use and enjoyment of the Common Areas and facilities to his lessee; and in so doing, said Owner relinquishes said rights during the term of the lease agreement.
3. Association Approval. In the event of a sale, it shall be the responsibility of the purchaser to furnish the Association with a recorded copy of the deed of conveyance indicating the owner's mailing address for all future assessments and other correspondence from the Association. The purchaser or lessee shall be required to agree to comply with the Rules and Regulations of the Association.
4. Delinquent Unit Owners. Notwithstanding the provisions above, in the event that a Unit Owner is delinquent in paying any assessment, or the Owner or his buyer, family, guests, agents, licensees or invitees are not in compliance with any provisions of the Homeowners Documents, the Association has the right to disapprove of and to void any lease at any time prior to or during the leasehold tenancy until any delinquent assessment is paid and/or until any violation of the Homeowners Documents is corrected.

#### ARTICLE XVIII TERMINATION

1. Consent to Termination. This Declaration may be terminated upon the affirmative written consent of eighty percent (80%) of all Unit Owners, the prior written consent of the Breakers West Association, and upon the affirmative written consent of all Institutional Mortgagees holding mortgages encumbering Units.
2. Termination Documents. If this Declaration is terminated in accordance herewith, it is hereby declared by the Developer, and each and every Owner of a Unit by acquiring title to his Unit covenants and agrees, that the termination documents shall require:
  - A. Use of Units. That all Units shall continue to be used solely as Single-Family residences.
  - B. Common Areas. All Common Areas shall be owned and held in equal shares by the Unit Owners as tenants in common, and each Unit Owner shall remain obligated to pay his pro rata share of expenses to continually maintain the Common Areas.
3. Limitation on Termination. The Unit Owners and their grantees, successors, and assigns by acquiring title to a Unit covenant and agree that no termination of this Declaration shall be made for a period of twenty-five (25) years from the date of recordation of this Declaration. This Declaration and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein shall run with and bind the subject property and inure to the benefit of Developer, the Association, the Breakers West Association, the Breakers West Development Corporation, the Owners, Institutional

Mortgagees and their respective legal representatives, heirs, successors, and assigns for said period. After this period, the Declaration shall be automatically renewed and extended for successive periods of ten (10) years each unless at least one (1) year prior to the termination of such twenty-five (25) year term or any such ten (10) year extension thereof is recorded amongst the Public Records of the County, an instrument signed by at least eighty percent (80%) of all Institutional Mortgagees holding mortgages encumbering the Units agreeing to terminate this Declaration, upon which event this Declaration shall be terminated upon the expiration of twenty-five (25) years or the ten (10) year extension thereof during which the termination instrument is recorded.

4. Water Management System. If the Association is terminated, the property consisting of the surface water management system operated and maintained as part of the Common Areas shall be conveyed to the Breakers West Association, or to an appropriate agency of local government, and if not accepted thereby, then it must be conveyed to a similar non-profit corporation.

#### ARTICLE XIX MISCELLANEOUS

1. No Waiver. The failure of the Association, the Breakers West Association or any Owner to object to an Owner's or another person's failure to comply with the Covenants and Restrictions contained herein shall in no event be deemed a waiver of any right to object to same and to seek compliance therewith in accordance with the provisions herein.
2. Headings. Article and paragraph captions inserted throughout this Declaration are intended only as a matter of convenience and for reference only and in no way shall such captions or headings define, limit or in any way affect any of the terms and provisions of this Declaration.
3. Pronouns. Whenever the context requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns or pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.
4. Severability. In the event any one of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.
5. Partition. The Association may not convey, encumber, abandon, partition or subdivide any of the Common Areas without the approval of all Institutional Mortgagees.
6. Homeowners Documents. The Association is required to make available to Owners, to Institutional Mortgagees, and to holders, insurers or guarantors of any first mortgage, current copies of the Declaration, Articles of Incorporation, By-Laws, Rules and Regulations and other such documents governing the Association, as well as the books, records, and financial statements of the Association. "Available" shall be defined as obtainable for inspection, upon written request after reasonable notice, during normal business hours or under such other reasonable circumstances. Any holder of a first mortgage shall be entitled, upon written request after reasonable notice, to a financial statement of the Association for the immediately preceding fiscal year.
7. Golf Course Membership. The ownership of a Unit does not confer upon the Owner a vested right to use the facilities in the Breakers Club or in the Mayacoo Lakes Country Club ("Clubs"). Unit Owners shall not have a proprietary interest in the Clubs. Membership and



priority of use in any the Clubs shall be determined by the membership rules and regulations prevailing for the particular club at the time of application. Developer hereby disclaims any representations, warranties or relationship to the Clubs or to the rules, regulations, or qualifications to join one or both of the Clubs.

This instrument prepared by:  
Chelle Konyk, Esquire  
Konyk & Lemme PLLC.  
140 Intracoastal Pointe Drive  
Suite 310  
Jupiter, Florida 33477  
(561) 935.6244

CFN 20240106410  
OR BK 34917 PG 1048  
RECORDED 3/28/2024 1:11 PM  
Palm Beach County, Florida  
Joseph Abruzzo, Clerk  
Pgs: 1048 - 1049; (2pgs)

**Instructions to recorder: Please index both the Legal Name of the Association which is Flagler Manor Homeowners Association, Inc., and the Plat/Name shown in item 3.**

NOTICE OF FLAGLER MANOR HOMEOWNERS ASSOCIATION, INC. ("Association")  
UNDER S. 720.3032, FLORIDA STATUTES,  
NOTICE TO PRESERVE AND PROTECT COVENANTS AND RESTRICTIONS FROM  
EXTINGUISHMENT UNDER THE MARKETABLE RECORD TITLE ACT  
CHAPTER 712, FLORIDA STATUTES.

1. Flagler Manor Homeowners Association, Inc.
2. Whose mailing address is 3900 Woodlake Blvd. Suite 309, Lake Worth Florida 33463 and if different whose physical address is Tract L of Flagler Manor.
3. Names of the subdivision plat(s)
  - **Tract L of Flagler Manor according to the plat thereof as recorded in Plat Book 72 Page 162 of the Public Records of Palm Beach County, Florida.**
4. Managed by: GRS MANAGEMENT; 3900 Woodlake Blvd. Suite 309, Lake Worth Florida 33463.
5. This notice does constitute a notice to preserve and protect covenants or restrictions from extinguishment under the Marketable Record Title Act.
6. The following are covenants or restrictions affecting the community which the association desires to be preserved from extinguishment:
  - **The Declaration of Covenants and Restrictions for Flagler Manor Homeowners Association, Inc., was recorded November 8, 1994, in Official Records Book 8502, at Page 319, of the Public Records of Palm Beach County, Florida**
7. The legal description of the community affected by the listed covenants or restrictions is:
  - **Tract L of Flagler Manor according to the plat thereof as recorded in Plat Book 72 Page 162 of the Public Records of Palm Beach County, Florida.**

This notice is filed on behalf of Flagler Manor Homeowners Association, Inc., as of March 27, 2024.

The preservation of covenants and restrictions from extinguishment under the marketable record title act chapter 712, Florida statutes was approved by a majority of the Board of Directors of the Flagler Manor Homeowners Association, Inc., at a duly noticed and convened Board meeting on March 27, 2024. After recording this notice will be mailed to all lot owners.

IN WITNESS WHEREOF, the undersigned has set their hands and seals this 28 day of March 2024.

WITNESS AS TO BOTH:

ASSOCIATION:

FLAGLER MANOR  
HOMEOWNERS ASSOCIATION, INC.



First Witness Signature

By: 

Ken Evelyn, President

David Offerman 3900 Woodlake Blvd, Suite 309 Lake Worth, FL 33463  
First Witness Printed Name and Address



Second Witness Signature

By: 

Yvette Laclaustra, Secretary

Maureen Worth 1753 Flagler Manor Circle, WPB  
Second Witness Printed Name and Address

FL  
33411

STATE OF FLORIDA )

)SS:

COUNTY OF PALM BEACH )

The foregoing Notice Regarding Marketable Record Title Act was acknowledged before me by [X] means of physical presence or [ ] online notarization this 28 day of March 2024, by Ken Evelyn as president and Yvette Laclaustra as secretary of Flagler Manor Homeowners Association, Inc., on behalf of said Corporation who are personally known to me or who presented \_\_\_\_\_ as identification. .

WITNESS my signature and official seal at West Palm Beach, in the County of Palm Beach, State of Florida, the date and year last aforesaid.

SEAL

  
NOTARY PUBLIC

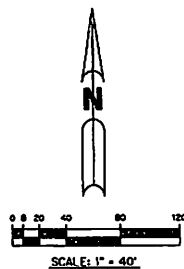








**SHEET 3 OF 3      FEBRUARY, 1994**



THIS INSTRUMENT PREPARED BY  
PERRY C. WHITE P.L.S. 4213 STATE OF FLORIDA  
LAWSON, NOBLE AND ASSOCIATES, INC.  
ENGINEERS PLANNERS SURVEYORS  
WEST PALM BEACH, FLORIDA

