

CFN 20180437410

OR BK 30256 PG 1953
RECORDED 11/20/2018 09:42:26
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1953 - 2002; (50pgs)

Record and Return to:

Evan R. Bachove, Esquire
FIELDS & BACHOVE, PLLC
4440 PGA Boulevard, Suite 308
Palm Beach Gardens, FL 33410

**RESTATED GOVERNING DOCUMENTS OF
BREAKERS WEST ASSOCIATION, INC.**

THESE RESTATED GOVERNING DOCUMENTS are set forth this 12th day of November, 2018, by BREAKERS WEST ASSOCIATION, INC., a Florida not-for-profit corporation, for the purpose of inserting all amendments through this date into the body of the governing documents, in order to create one, more easily readable, set of operative documents. The documents included herein are as follows:

BREAKERS WEST DECLARATION OF COVENANTS AND RESTRICTIONS, originally recorded at Official Records Book 4236, Page 0609, of the Public Records of Palm Beach County, Florida;

ARTICLES OF INCORPORATION OF BREAKERS WEST ASSOCIATION, INC., originally recorded at Official Records Book 25271, Page 1129, of the Public Records of Palm Beach County, Florida;

BYLAWS OF BREAKERS WEST ASSOCIATION, INC., originally recorded at Official Records Book 25271, Page 1116, of the Public Records of Palm Beach County, Florida; and

All amendments of the above-referenced documents through the above date.

(Note: Amendments regarding additional property subjected to the Declaration are not included herein).

RESTATED BREAKERS WEST DECLARATION

OF COVENANTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS, made and executed this 2nd day of May, 1984, by BREAKERS WEST DEVELOPMENT CORPORATION, a Florida corporation (“Declarant”), joined by BREAKERS WEST ASSOCIATION, INC., a Florida not-for-profit corporation (the “Association”),

W I T N E S S E T H :

WHEREAS, Declarant has the power and authority to execute this Declaration against that real property located in Palm Beach County, Florida, and legally described in Exhibit “A”, attached hereto and made a part hereof (the “Property”); and

WHEREAS, it is the intent to establish a general plan and uniform scheme of development and improvement of the Property; and

WHEREAS, Declarant wishes to provide for the preservation and enhancement of property values, amenities and opportunities within the Property in order to contribute to the personal and general health, safety and welfare of the property owners and residents therein, and to maintain the land and improvements therein, and to this end wishes to subject the Property to the covenants, restrictions, easements, reservations, assessments, charges, liens and other provisions hereinafter set forth.

NOW, THEREFORE, it is declared that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, reservations, assessments, charges, liens and other provisions hereinafter set forth in this Breakers West Declaration of Covenants and Restrictions.

ARTICLE 1

DEFINITIONS

The following terms, as used herein and in all exhibits hereto and all amendments thereof, shall have the following meanings:

1.1 “Articles of Incorporation” shall mean and refer to the Articles of Incorporation of the Association, as they may exist from time to time.

1.2 “Assessment” shall mean and refer to those charges made by the Association from time to time, against each Parcel within the Property and the Sub-Associations and to those charges which may be made against the Flagler Parcel and the Mayacoo Parcel (pursuant to Article 7 of the Declaration) for the purposes and subject to the terms, set forth herein.

1.3 “Association” shall mean and refer to BREAKERS WEST ASSOCIATION, INC., a Florida corporation not for profit, its successors and assigns.

1.4 “Board” or “Board of Directors” shall mean and refer to the Board of Directors of the Association.

1.5 “Breakers West” shall mean and refer to the planned unit development located on the Property.

1.6 “Broker” shall mean and refer to Breakers West Realty Corporation, a Florida Corporation, its successors and assigns.

1.7 “By-Laws” shall mean and refer to the By-Laws of the Association, as they may exist from time to time.

1.8 “Common Expenses” shall mean and refer to all expenses incurred by the Association in connection with its ownership, maintenance and other obligations set forth herein.

1.9 “Common Property” shall mean and refer to all portions of the Property which are intended for the common use and enjoyment of the Owners and which are conveyed to the Association by deed or which are dedicated to the Association on any recorded plat of the Property and all real, personal and other property which may at any time be acquired by the Association.

1.10 “Commercial Parcel” shall mean and refer to those portions of the Property upon which commercial Improvements have been or are to be constructed.

1.11 “Commercial Space” shall mean and refer to enclosed office, business or other commercial space (not including clubhouses and recreational facilities) located within a Commercial Parcel.

1.12 “County” shall mean and refer to Palm Beach County, Florida.

1.13 “Declaration” shall mean and refer to this instrument and all exhibits hereto, as same may be amended from time to time.

1.14 “Declarant” shall mean and refer to Breakers West Development Corporation, Inc., a Florida corporation, its successors and assigns.

1.15 “Development(s)” shall mean and refer to such residential or commercial developments which are now or hereafter located within Breakers West.

1.16 “Dwelling” shall mean and refer to a residential dwelling unit, including, without limitation, a single family dwelling, townhouse unit, patio home or villa dwelling unit constructed or to be constructed on a Lot.

1.17 “Flagler Parcel” shall mean and refer to that parcel described in Exhibit B, attached hereto and made a part hereof.

1.18 “Environmental Control Board” or “E.C.B.” shall mean and refer to that permanent committee of the Association, created for the purpose of establishing and enforcing criteria for the construction of Improvements within the Property.

1.19 “Improvements” shall mean and refer to all structures of any kind, including, without limitation, any building, fence, wall, sign, paving, grading, any addition, alteration, screen enclosure, sewer, drain, disposal system, decorative building, landscaping or landscape device or object.

1.20 “Institutional Mortgage” shall mean and refer to any bank, bank holding company, trust company or subsidiary thereof, savings and loan association, insurance company, union pension fund, mortgage company approved by Declarant, an agency of the United States Government, or Declarant, which holds a first mortgage of public record on any Parcel and the holder of any mortgage of public record given or assumed by Declarant, whether a first mortgage or otherwise, and their successors and assigns.

1.21 “Lot” shall mean and refer to any tract of land located within the Property which is intended for use as a site for a Dwelling.

1.22 “Master Land Use Plan” shall mean and refer to the master land use plan for the Property, on file with the County, as same may be amended from time to time.

1.23 “Mayacoo Parcel” shall mean and refer to that parcel described in Exhibit C attached hereto and made a part hereof.

1.24 “Member” shall mean and refer to the Sub-Associations, the owners of the Flagler Parcel and the Mayacoo Parcel and the Declarant, all of which are Members of the Association.

1.25 “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Parcel, excluding, however, any mortgagee, unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding or deed in lieu of foreclosure.

1.26 “Parcel” shall mean and refer to Residential Parcels and Commercial Parcels. The term “Parcel” specifically does not include the Flagler Parcel or the Mayacoo Parcel.

1.27 “Property” shall mean and refer to that real property legally described in Exhibit “A”, attached hereto and made a part hereof and any other property subsequently subjected to this Declaration, pursuant to the provisions hereof.

1.28 “Residential Parcel” shall mean and refer to a Lot and the Dwelling located thereon, if any.

1.29 “Street” shall mean and refer to any street, highway, or other thoroughfare which is constructed within Breakers West and which is dedicated to the Association or any Sub-Association on any plat of the Property or conveyed to the Association or any Sub-Association by deed or other instrument, whether same is designated as street, highway, avenue, boulevard, drive, place, court, road, terrace, way, circle, lane, walk or other similar designation.

1.30 “Sub-Association(s)” shall mean and refer to the homeowner or other association(s) created or to be created to govern a portion of the Property.

1.31 “Traffic Regulations” shall mean and refer to the speed limits and traffic regulations which may be promulgated by the Association for use of the Streets, pursuant to paragraph 6.8 of the Declaration.

1.32 “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.

1.33 Effect of Definitions. The definitions provided in this Article 1 shall apply throughout this Declaration, all exhibits hereto, and all amendments thereof, as the context may require.

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION

2.1 Existing Property. The existing property subject to this Declaration is the Property described in Exhibit "A" attached hereto and made a part hereof.

2.2 INTENTIONALLY DELETED

2.3 Plats. Any plat of the Property containing designated open space may not be vacated in whole or in part unless the entire plat is vacated.

ARTICLE 3

PROPERTY RIGHTS IN THE COMMON PROPERTY

3.1 Owners' Easements of Enjoyment. Subject to the provisions herein, each Owner shall have a right and easement of enjoyment in and to the Common Property, which easement shall be appurtenant to, and shall pass with, the title to each Parcel owned by the Owner, provided however, such easement shall not include the above rights over the Flagler Parcel and the Mayacoo Parcel.

3.2 Extent of Owners' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

3.2.1 The right of the Association to borrow money for the purpose of improving the Common Property, and in connection therewith, to mortgage the Common Property.

3.2.2 The right of the Association to take such steps as are reasonably necessary to protect the Common Property against foreclosure.

3.2.3 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 the Sub-Association to which the Owner belongs, and for any period during which such Sub-Association or Owner is in violation of this Declaration, the declaration of covenants and restrictions for the applicable Development, or any of the rules and regulations promulgated by the Association or the Sub-Association to which the Owner belongs.

3.2.4 The right of the Association to maintain the Common Property.

3.2.5 The rules and regulations of the Association and the E.C.B. and the Traffic Regulations governing the use and enjoyment of the Common Property.

3.2.6 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, or other entity or person.

3.2.7 Restrictions contained on any plat or filed separately, with respect to all or any portion of the Property.

3.2.8 All of the provisions of this Declaration, the Articles of Incorporation and the By-Laws, and all rules and regulations adopted by the Association and the E.C.B. and the Traffic Regulations adopted by the Association, as same may be amended from time to time.

3.2.9 The Owners' easements of enjoyment shall be subject to easements, hereby reserved over, through and underneath the Common Property, and the Parcels 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 street lights. Easements for such utility services are reserved by the Association for all buildings and Improvements which have been or may be constructed in the Property and the Association may grant specific easements to utility companies and others as reasonably necessary.

3.2.10 The Association reserves the right to lease portions of the Common Property to a cable television company or a similar operation for the purpose of installation of a transmission tower. The Association may grant easements over the Common Property and the Streets for cable television, cable radio, or similar operations. However, the granting of such easements shall be in the sole and absolute discretion of the Association. No easement provided for herein or on any plat of the Property may be used for the above purposes without the consent of the Association, which consent may be withheld in their sole and absolute discretion.

3.2.11 In case of any emergency originating in, or threatening any Parcel, regardless of whether the Owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by the Association, or the management agent under a management agreement, shall have the right to enter such Parcel and the Improvements located thereon, for the purpose of remedying, or abating, the cause of such emergency, and such right of entry shall be immediate.

3.2.12 The Owners' easements of enjoyment shall be subject to the rights reserved by Declarant, for future development of the Property. As a material condition for ownership of a Parcel, each Owner, by accepting a deed to a Parcel, releases Declarant from any claim for interference with his quiet enjoyment of his Parcel or the Common Property, due to the development of the Property, whether or not the construction operations are performed on the Common Property or the Parcels, and each Owner acknowledges and agrees that Declarant shall have the sole right of design, construction, development and improvement of the Common Property, and the Parcels within the Property.

3.2.13 Notwithstanding the fact that parts of the bicycle/pedestrian path in Breakers West may be located upon a Parcel, such paths are subject to an easement for use by all Owners, their guests, licensees and invitees.

ARTICLE 4

EASEMENTS

4.1 Easement Grants. The following easements are hereby granted or reserved over, across and through the Property:

4.1.1 Easements for the installation and maintenance of utilities are granted as shown on the recorded plat(s) of the Property (provided, however, that this paragraph shall not apply to

easement(s) for cable television, which shall be governed by Paragraph 3.2.10 of the Declaration). Within these easement areas, no structure, planting or other material (other than sod) which may interfere with the installation and maintenance of underground utility facilities, shall be placed or permitted to remain unless such structure, or other material was installed by the Declarant. The Association, utility companies serving the Property, and their respective assigns are hereby granted access to all easements within which such underground facilities are located for the purpose of operation, maintenance and replacement thereof.

4.1.2 Easements are hereby granted throughout the Property to the Association, for the purpose of reasonable access to all master utility transmission systems located throughout the Property. The Association shall also have the right to maintain such master utility transmission systems in the event the County fails to properly do so. This easement in favor of the Association shall exist in favor of the Association regardless of whether part or all of the master utility transmission system is conveyed by deed to the County.

4.1.3 Easements for the installation and maintenance of drainage facilities are granted to the Association as shown on the recorded plat of the Property. Within these easement areas, no structure, planting or other material, other than sod and official golf course accessories shall be placed or permitted to remain (unless installed by the Declarant) 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 Declarant. The Association and its assigns shall have access to all such drainage easements, for the purpose of operation and maintenance thereof. However, no such access shall apply to the Flagler Parcel or the Mayacoo Parcel unless the Owners of the Flagler Parcel or the Mayacoo Parcel are not maintaining the Water Management System on their property in accordance with good maintenance standards. Furthermore, the Association shall have no right of access to the Flagler Parcel or the Mayacoo Parcel for water management purposes until the Association gives the owner of such property notice and a thirty (30) day period thereafter to cure such owner's failure to maintain his property to adequate standards. The Association shall have the right to contract for the maintenance of the Water Management System with an established water management or water control district or with any other party, provided that the Association must obtain the consent of the owner of the Flagler Parcel or the Mayacoo Parcel, if the Mayacoo Parcel or Flagler Parcel are affected by such a contract. Except as limited and provided for in this subsection, the owner of the Mayacoo Parcel shall maintain and repair the Water Management System on the Mayacoo Parcel and the owner of the Flagler Parcel shall maintain and repair the Water Management System on the Flagler Parcel; provided, however, that if either of said owners fail to do so, the Association's only remedy shall be to arrange for the maintenance itself as herein provided and to assess each said owner as provided in sections 7.4.1 or 7.4.2 of the Declaration.

4.1.4 The Common Property is hereby declared to be subject to a perpetual, non-exclusive easement in favor of the Association, employees and agents of the Association and of any management entity contracted by the Association in order that such employees, agents or management entity may carry out their duties and may have reasonable access to all property dedicated to the Association on the recorded plats of the Property, except as provided for above.

4.1.5 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 their mortgages, as may be provided in the mortgages.

4.1.6 INTENTIONALLY DELETED

4.1.7 The Owners, invitees, guests, licensees, employees and members of the clubs located on the Flagler Parcel and the Mayacoo Parcel and all Members of the Association are hereby granted a

perpetual easement over such of the platted roadways on the Common Property as are necessary for the easement holders to fulfill the purposes for which they entered Breakers West. This easement is subject to all rules and regulations promulgated by the Association from time to time and the Traffic Regulations, so long as same are applicable to all Owners and so long as same shall not unreasonably interfere with use of the easement.

4.2 Additional Easements. The Association shall have the right to grant such additional easements or to relocate existing easements throughout the Property as the Association may deem necessary or desirable for the proper operation and maintenance of the Property or any portion thereof, provided that such additional easements or relocation of existing easements do not prevent or unreasonably interfere with the Owner's use or enjoyment of the Property and further provided that the Association shall have the right to grant additional easements or to relocate existing easements on either the Flagler Parcel or the Mayacoo Parcel.

4.3 Restriction on Owner Easements. Except as specifically provided in paragraph 4.2 with regard to the Association, no Owner shall grant any easement upon any portion of the Property to any person or entity without the prior written consent of the Environmental Control Board, except that the owner of the Flagler Parcel and the owner of the Mayacoo Parcel may grant easements over their respective property in furtherance of their general purpose as recreational clubs.

4.4 Drainage Easement. Perpetual easements for the drainage and installation and maintenance of drainage facilities over the Water Management System are granted to owner of the Flagler Parcel.

4.5 Golf Play and Club Use Easement. A non-exclusive perpetual easement is hereby granted to the owner of the Flagler Parcel and its officers, agents and employees, club members, guests and invitees over the Common Property (as to sub-sections (i), (ii) and (iii) below) and the Residential Parcels (as to sub-sections (ii) and (iii) below) for the following purposes: (i) to permit the doing of every normal and customary act necessary and incident to the use of club facilities on the Flagler Parcel, the playing of golf and to permit the doing of every normal and customary act necessary and incident to any recreation and maintenance associated with the club facilities and golf course, including, but not limited to, ingress and egress across and through the roads and golf cart paths to and from the Flagler Parcel, use of the clubhouse for both dining and other events, the golf facilities and amenities, the tennis facilities and amenities or the fitness center and pool complex, holding of tournaments and special events, the recovery of golf balls from Common Property, (ii) the inadvertent flight of golf balls over and upon the Residential Parcels and Common Property and the recovery of such golf balls from the Common Property, and (iii) the creation of the usual and common noise level associated with the use, operation and maintenance of a recreational club facility and the playing of the game of golf, the driving of any vehicles, machinery and equipment in connection with the use, operation, and maintenance of the club facilities or the golf course over and upon the roads, the Common Property and the golf course, the spraying of effluent on the golf course for fertilizing and watering purposes. Such noise may occur on or off the club facilities and golf course throughout the day from early morning until late evening. Notwithstanding the foregoing, nothing to the contrary contained herein shall abrogate the obligation of the Association, the owner of the Flagler Parcel or Declarant to comply with all applicable governmental ordinances and laws and the easement herein granted shall be subject to the rules and regulations and Traffic Regulations of the Association, so long as same are applicable to all Owners and so long as same shall not unreasonably interfere with use or purpose of the easement.

4.6 Assumption of Risk. Each Owner by acceptance of a deed to a Lot or a Dwelling covenants for himself/itself, his/its successors, successors in title and assigns that he/it shall assume all typical risks associated with such location arising from customary club facility activities or customary golf course activities.

ARTICLE 5

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

5.1 The Association. The Association has been formed by filing the Articles of Incorporation with the Office of the Secretary of State of Florida. The Association is formed to operate, maintain and ultimately own the Common Property; to enforce the covenants, conditions, restrictions and other provisions set forth in this Declaration and in the declarations of covenants and restrictions for the Developments and the rules and regulations promulgated by the Association and the Sub-Associations and to have such other specific rights, obligations, duties and functions as are set forth in this Declaration and in the Articles of Incorporation and the By-Laws of the Association.

5.2 Membership. Each Sub-Association created by Declarant (or by any other party approved by Declarant) with respect to any property now subjected to this Declaration shall automatically become a Member of the Association upon the incorporation of the Sub-Association with the Florida Secretary of State. Such membership shall be mandatory and may not be terminated by the Sub-Association. The Declarant and the owner of the Flagler Parcel and the owner of the Mayacoo Parcel shall be considered Members from and after the date of recordation of this Declaration in the public records of the County.

5.3 Voting. Voting rights and procedures shall be as provided in the By-Laws of the Association.

5.4 Suspension of Membership Rights. No Member shall have any vested right, interest or privilege in or to the assets, functions, affairs or franchises of the Association, or any right, interest or privilege which may be transferable, or which shall continue while it is not in good standing. A Member shall be considered "not in good standing" during any period of time in which it is delinquent in the payment of the total Assessments due and owing from all Owners subject to its control. While not in good standing, the Member shall not be entitled to vote or exercise any other right or privilege of a Member of the Association.

5.5 Administration of the Association. The affairs of the Association shall be administered by the Board of Directors in accordance with the Declaration, the Articles of Incorporation and the By-Laws of the Association. The Articles of Incorporation and By-Laws may be amended in the manner set forth therein, provided, however, that no such amendment shall conflict with the terms of this Declaration or adversely affect the rights of Declarant, without Declarant's prior written consent.

ARTICLE 6

MAINTENANCE OF PROPERTY

6.1 Title to Common Property. Declarant shall not be required to convey title to the Common Property or any portion thereof until such time as Declarant voluntarily relinquishes control of the Association, in accordance with this Declaration. Notwithstanding the manner in which fee simple title is held, the Association shall be responsible for the management, maintenance and operation of the Common Property, and for the payment of all property taxes and other assessments against the Common Property, from and after the date of recordation of this Declaration. On or before turnover of control of the Association, Declarant shall convey good and marketable title to the Common Property to the Association by quitclaim deed. Declarant shall not be required to provide any title insurance or other related title

documents to the Association in connection with the conveyance of the Common Property. The dedication, creation by easement, or conveyance shall be subject to easements, restrictions, reservations, conditions, limitations, and declarations of record, real estate taxes for the year of the conveyance, zoning, land use regulations and survey matters. The Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership, operation, maintenance, and administration of the conveyed portions of the Common Property and other obligations relating to the Common Property imposed herein. At turnover of control of the Association, or earlier, in Declarant's sole discretion, Declarant shall have the right to assign and the Association shall have the obligation to assume, all responsibilities under any permits or governmental approvals affecting the Common Property.

6.2 Acquisition and Conveyance of Property. The Association shall have the power and authority to acquire and convey such interests in real, personal and other property as it may deem beneficial to its Members, which property shall be referred to herein as "Common Property". Such interests may include fee simple or other absolute ownership interests, leaseholds, or such other possessory or use interests as the Association may determine to be appropriate.

6.3 Maintenance of Common Property. The Association shall, either by virtue of the appointment of a real estate management agent, or through its own personnel, be responsible for the maintenance and repair of the Common Property. Specifically, the property the Association shall maintain and be responsible for shall include, but not be limited to the following:

6.3.1 All Streets located on the Common Property and all walkways, and all bicycle and pedestrian paths within Breakers West.

6.3.2 All on-site utility stations located on the Common Property, provided, however, that the County shall be responsible for maintaining all master utility transmission systems, regardless of location, in the event that such system(s) are transferred to the County. The Association shall have an access easement and the right to maintain such master utility transmission system(s), in accordance with the Declaration, in the event the County fails to properly do so.

6.3.3 Such security system(s), entrance areas, guardhouse(s) and other security facilities which may be operated and maintained for the benefit of the Parcels.

6.3.4 The Water Management System – it is intended that the Association shall contract for the actual maintenance of all or portions of the Water Management System, except as specifically provided in Paragraph 4.1.3 of the Declaration.

6.3.5 Landscaping - to the extent deemed necessary or desirable by the Association, in its sole and absolute discretion.

6.4 INTENTIONALLY DELETED

6.5 Owner Responsibility. Except as otherwise provided in this Declaration, each Parcel shall be maintained by the Owner of such Parcel, in accordance with the requirements of the Declaration and the requirements of the declaration of covenants and restrictions for the Development in which the Parcel is located.

6.5.1 Notwithstanding anything to the contrary contained in this Declaration, the expense of any maintenance, repair or construction of any portion of the Common Property necessitated by

the negligent or willful acts of an Owner or his family or guests shall be borne solely by such Owner and his Parcel shall be subject to an individual Assessment for such expense.

6.5.2 The expense of utility service and reservation fees shall be charged to each Parcel on an individual basis. All utility charges shall be in addition to the Assessments charged by the Association or the Sub-Associations.

6.6 Sub-Association Responsibility. Each Sub-Association shall be responsible for the maintenance of all property owned by or dedicated to such Sub-Association on the plat of any portion of the Property. In the event a Sub-Association fails to maintain such property, or in the event of permanent dissolution of a Sub-Association, the Association shall maintain such property, and may collect Assessments against the members of such Sub-Association for the costs thereof, in accordance with Article 7 of the Declaration.

6.7 Rules and Regulations Governing Use of the Common Property. The Association, through its Board of Directors, shall regulate the use of the Common Property by its Members and by Owners, and may from time to time promulgate such rules and regulations consistent with this Declaration, governing the use thereof as it may deem to be in the best interest of its Members and Owners. In the event any rules or regulations adversely affect the rights of any Institutional Mortgagee, such rules and regulations may not be enforced against such Institutional Mortgagee without the prior written consent of such Institutional Mortgagee. A copy of all of the rules and regulations established hereunder and any amendments thereto shall be made available to all Members and all Owners for inspection at the Office of the Association. Such rules and regulations, and all provisions, restrictions and covenants contained in this Declaration and the declarations of covenants and restrictions for the Developments, including, without limitation, all architectural and use restrictions contained therein, may be enforced by legal or equitable action of the Association.

6.8 Traffic Regulations. The Association, through its Board of Directors, shall have the right to post and promulgate Traffic Regulations throughout Breakers West for use of the Streets. A copy of all Traffic Regulations established hereunder and any amendments thereto shall be made available to all Members and Owners for inspection at the office of the Association. The Association, through its Board of Directors, shall also have the right to establish enforcement mechanisms for violation of the Traffic Regulations, including, without limitation, the imposition of fines which shall be collected as an individual Assessment from Owners (if permitted under Florida Law), pursuant to Article 7 of the Declaration, the removal of vehicles from the Property, and the suspension of an Owner's or Member's rights and easements of enjoyment provided herein. Upon request, but in no event later than sixty (60) days after the imposition of any remedy (other than a fine or suspension of rights) for violation of a Traffic Regulation, those who violate the Traffic Regulations shall be entitled to a hearing before the Board of Directors and forty-eight (48) hours notice prior to the date of such hearing. Fines or suspensions for violations of the Traffic Regulations may only be imposed in accordance with the procedures set forth in the Florida Homeowners Association Act, Florida Statutes Chapter 720 (the "HOA Act").

6.9 Notwithstanding the Association's right to establish rules and regulations (as provided in Section 6.7) and Traffic Regulations (as provided in Section 6.8), none of these, or any other actions of the Association, may unreasonably affect the members (who may not be Owners), guests, invitees, licensees and employees of the club operating on the Flagler Parcel or the owner thereof or of Breakers West Realty Corporation, including but not limited to use of the club facilities for dining, catered events, or other events, the golf facilities and amenities, the tennis facilities and amenities or the fitness center and pool complex, without the prior written approval of the owner of the Flagler Parcel. The rights reserved hereunder shall extend beyond the turnover of control of the Association by Declarant.

ARTICLE 7

ASSESSMENTS AND FINES

7.1 Authority of Association. The Association shall have the power and authority to make and collect Assessments and to impose and collect fines as hereinafter set forth.

7.2 General Assessments. General Assessments shall be determined annually for the purpose of maintenance and management of the Association, the Common Property and for the purpose of promoting the safety and welfare of the Owners. Without limiting the foregoing, general Assessments shall be used for the payment of: the operation, maintenance and management of the Association and the Common Property; the operation and maintenance of the Water Management System; property taxes and assessments and insurance coverage for the Common Property; other insurance coverage; legal and accounting fees; maintenance of the Streets; security costs; management fees; emergency services; normal repairs and replacements; charges for utilities used upon the Common Property; cleaning services; expenses and liabilities incurred by the Association in the enforcement of its rights and duties against the Members, Owners or others; maintenance of vacant property; the creation of reasonable reserves; and all other expenses deemed by the Board of Directors to be necessary and proper for management, maintenance, repair, operation and enforcement.

7.3 Due Date of General Assessments. The Association shall annually estimate the Common Expenses it expects to incur in the period of time involved therein and shall assess its Members sufficient monies to meet this estimate, provided, however, that the owner of the Flagler Parcel, the owner of the Mayacoo Parcel and the Declarant shall not be subject to assessment, except as specifically provided hereinbelow. In the event that the Association shall determine at any time that the Assessments made are insufficient to meet the Common Expenses, or in the event of an emergency, the Board of Directors shall have the authority to levy and collect additional general Assessments to meet such needs. The amount of the general Assessment may be adjusted periodically as deemed necessary by the Association. General Assessments shall be collectible in advance monthly, quarterly, semi-annually, or annually as the Board of Directors shall determine.

7.4 Basis for General Assessment.

7.4.1 The Flagler Parcel shall be assessed at an amount equal to the reasonable cost of maintaining and repairing the Water Management System located on the Flagler Parcel; provided, however, that if and to the extent the owner of the Flagler Parcel adequately maintains and repairs the Water Management System on the Flagler Parcel, the owner of the Flagler Parcel shall be deemed thereby to have satisfied the Assessment imposed hereby for the period in question, and provided further, that if and to the extent the owner of the Flagler Parcel fails to adequately maintain or repair such system after notice and the expiration of thirty (30) days thereafter, and the Association arranges for such maintenance or repair, the owner's Assessment shall be no greater than the reasonable cost of such maintenance and repair properly provided by or through the Association. Notwithstanding anything to the contrary contained herein, the general Assessment against the Flagler Parcel shall be limited to such cost as hereinabove set forth unless modified in writing by the owner of the Flagler Parcel.

7.4.2 The Mayacoo Parcel shall be assessed at an amount equal to the reasonable cost of maintaining or repairing the Water Management System on the Mayacoo Parcel; provided, however, that if and to the extent the owner of the Mayacoo Parcel adequately maintains and repairs the Water Management System on the Mayacoo Parcel, the owner of the Mayacoo Parcel shall be deemed thereby to have satisfied the Assessment hereby imposed for the period in question, and provided further, that if and to the extent it fails adequately to maintain or repair such system after notice and the expiration

of thirty (30) days hereafter, and the Association arranges for such maintenance or repair, the owner's Assessment shall be no greater than the reasonable cost of such maintenance and repair properly provided by or through the Association. Notwithstanding anything to the contrary contained herein, the general Assessment against the Mayacoo Parcel shall be limited to such cost as hereinabove set forth unless modified in writing by the owner of the Mayacoo Parcel.

7.4.3 Each Residential Parcel shall be assessed an equal amount as determined by the Board of Directors of the Association. The amount attributable to each Residential Parcel shall be determined by the Board of Director by multiplying the total budget for the Association (minus the costs of maintenance for the Water Management System on the Flagler Parcel and the Mayacoo Parcel) times a fraction, the numerator of which is one and the denominator of which is the total number of Parcels projected to be platted within Breakers West, as determined by Declarant until turnover of control and thereafter by the Board of Directors; this number may change from time to time. Each Commercial Parcel containing exactly 3,000 square feet of Commercial Space, shall be assessed at an amount equal to the assessment for one Residential Parcel. Each Commercial Parcel containing less than 3,000 square feet of Commercial Space shall be assessed a prorata portion of the Assessment for one Residential Parcel. Each Commercial Parcel containing more than 3,000 square feet of Commercial Space shall be assessed a multiple of the Assessment for one Residential Parcel or a prorata share of such Assessment based on the rule that each 3,000 square feet of Commercial Space is assessed an amount equal to the Assessment for one Residential Parcel. The general Assessment shall be collected from the Parcels by the Member governing such Parcel. Each Member shall be required to collect and remit to the Association an amount equal to the Assessments attributable to the Parcels governed by such Member, pursuant to the provisions set forth herein. In the event that a particular Parcel or Parcels is not governed by a Sub-Association Member, the Owner of such Parcel shall be required to remit the general Assessment attributable to such Parcel directly to the Association.

7.5 Special Assessments. The Association, through its Board of Directors, shall have the power and authority to levy and collect a special Assessment from Members and Owners, for payment of the following: the acquisition of property by the Association; the cost of construction of capital Improvements to Common Property; the cost of construction, reconstruction, unexpected repair or replacement of a capital Improvement, including the necessary fixtures and personal property related thereto; and the expense of indemnification of each director and officer of the Association and each member of the Environmental Control Board. All special Assessments shall be levied upon the same basis as general Assessments and shall be collectible in such manner as the Board of Directors of the Association shall determine.

7.6 Emergency Special Assessments. The Board of Directors may levy an emergency special Assessment when, in its sole determination, there is potential danger of damage to persons or property. Such Assessments may be utilized to pay for preventative, protective or remedial construction, reconstruction, Improvements, repairs or replacements. Events justifying emergency special Assessments include, but are not limited to, hurricane, floods and fires. Emergency special Assessments shall be collected from Members and Owners in such manner as the Board of Directors shall determine.

7.7 Individual Assessments of Owners. The Association, through its Board of Directors, shall have the power and authority to levy and collect an individual Assessment against a Parcel for the cost of maintenance, repairs or replacements within or without the Parcel, which the Owner thereof has failed or refused to perform, and which failure or refusal has, in the opinion of the Board of Directors of the Association, endangered or impaired the use or value of other portions of the Property. The Association and its agents are hereby granted a right of entry onto each Parcel to perform necessary maintenance, repairs and replacements, including the right to abate or eliminate any nuisance. The notice to the Owner of an individual Assessment shall designate the date when due. All individual Assessments

shall be collectible in such manner as the Association shall determine. The individual Assessment may include an administrative fee charged by the Association in an amount to be determined by the Board of Directors, in its discretion, from time to time.

7.8 Individual Assessments of Sub-Associations. The Association, through its Board of Directors, shall have the power and authority to levy and collect an individual Assessment against any property owned by or dedicated to a Sub-Association, whether by deed, plat, or other instrument, for the cost of maintenance, repairs or replacements within or without such property, which the Sub-Association has failed or refused to perform, and which failure or refusal has, in the opinion of the Board of Directors of the Association, endangered or impaired the use or value of other portions of the Property. The Association and its agents are hereby granted a right of entry onto all property owned by or dedicated to the Sub-Associations, to perform necessary maintenance, repairs and replacements, including the right to abate or eliminate any nuisance. The notice to the Sub-Association of an individual Assessment shall designate the date when due. All individual Assessments against a Sub-Association shall be collectible in such manner as the Association shall determine. The individual Assessment against a Sub-Association may include an administrative fee charged by the Association in an amount to be determined by the Board of Directors, in its discretion, from time to time.

7.9 Fines. The Association may levy reasonable fines against Members and Owners for violations of the provisions contained in this Declaration, including, without limitation, the environmental control provisions, the rules and regulations promulgated by the Association and the E.C.B., the Traffic Regulations, the Articles of Incorporation of the Association, the By-Laws of the Association, the declaration of covenants and restrictions for the Developments, the articles of incorporation for the Sub-Associations, the by-laws of the Sub-Associations, or the rules and regulations promulgated by the Sub-Associations. The Association may levy a fine according to a schedule of fines to be adopted by the Association, provided, however, that in no event shall the total fines assessed for any one violation exceed the amounts authorized by the HOA Act. Owners who violate any of the foregoing documents or rules shall be entitled to notice and a hearing in accordance with the HOA Act, prior to the imposition of any fine. If permitted by the HOA Act, fines are individual Assessments and shall be collectible as such.

7.10 Additional Assessments. The Assessments and fines provided for herein shall be in addition to any other assessments, charges or taxes which may be levied by any of the Sub-Associations or by governmental authorities.

7.11 Responsibility of the Sub-Associations. Each Sub-Association shall be responsible for remitting to the Association the total amount of the Assessments due and owing from all Parcels governed by the Sub-Association, whether such Assessments are general Assessments, special Assessments or emergency special Assessments. Further, each Sub-Association shall have this responsibility regardless of whether the Sub-Association has received the total Assessments due and owing from all Owners subject to its control. In the event the Sub-Association fails to comply with the provisions hereof, the Association shall have the right, exercisable in its sole discretion, to exercise any or all of the remedies set forth in Paragraph 7.12 hereof against the delinquent Sub-Association or the delinquent Owner(s).

7.12 Effect of Non-payment of Assessments or Fines. All notices of Assessments or fines from the Association shall designate when the Assessment or fine is due and payable. If an Assessment or fine is not paid on the date when due, it shall become delinquent and shall bear interest at the maximum rate allowed by the usury laws of the State of Florida from the date when due until paid. The Association may also charge late fees, in such amounts as are determined by the Board from time to time, when an Assessment or fine is not paid when due. An Assessment, together with interest thereon, late fees and the costs of collection thereof, including attorneys' fees, shall be a continuing lien against all

Parcels governed by or all property owned by or dedicated to the Member, the Flagler Parcel, the Mayacoo Parcel, or an individual Parcel, and shall also be the continuing personal obligation of the Member, the respective Owner, the owner of the Flagler Parcel, or the owner of the Mayacoo Parcel, as the case may be. A fine and any late fees added thereto shall be the continuing personal obligation of the Member, the respective Owner, the owner of the Flagler Parcel, or the owner of the Mayacoo Parcel, as the case may be, but shall not become a lien upon any Parcel. Any successor in title to any Owner, to the owner of the Flagler Parcel, or the owner of the Mayacoo Parcel shall be held to constructive notice of the records of the Association to determine the existence of any delinquency in the payment of Assessments by the Member, Owner, or by the owner of the Flagler Parcel or by the owner of the Mayacoo Parcel. The Association may also record a claim of lien in the public records of the County against all Parcels governed by and any property owned by or dedicated to the delinquent Member, or against any property owned by the respective Owner, or against the Flagler Parcel or the Mayacoo Parcel, setting forth the amount of the unpaid Assessment, the rate of interest due thereon, any late fees added thereto and the costs of collection thereof. If any Assessment or any installment thereof, shall not be paid within thirty (30) days following the due date, the Association may declare the entire Assessment immediately due and payable. The Association may at any time thereafter bring an action to foreclosure the lien against any one (1) or more of the Parcels governed by or any property owned by or dedicated to the Member, or against any property owned by the respective Owner, the Flagler Parcel or the Mayacoo Parcel, in the manner in which mortgages on real property are foreclosed or a suit on the personal obligation of the Member, the Owner, the owner of the Flagler Parcel or the owner of the Mayacoo Parcel. There shall be added to the amount of the Assessment or fine, late fees, the costs of any legal enforcement action, including attorneys' fees and in the event a judgement is obtained, such judgment shall include interest on the Assessment or fine as above provided and attorneys' fees incurred by the Association, together with the costs of the action. Regardless of the date of recordation of any claim of lien, the effective date thereof shall relate back, and it shall take priority, as of the date of recordation of this Declaration. Each Owner may release his Parcel from the lien for an Assessment by paying to the Association the proportionate amount of the Assessment attributable to his Parcel, as determined by the Board of Directors of the Association. Upon such payment, the Association shall execute and record a release of lien with respect to such Parcel. The Sub-Association Member may release its property from the lien of the Assessment by payment to the Association of the total amount of the Assessments attributable to the Sub-Association, or to all Parcels governed by the Sub-Association, as the case may be. Notwithstanding anything contained in this Section to the contrary, fines may become liens on property only if permitted by the HOA Act.

7.13 Certificate of Assessments. The Association shall prepare a roster of the Members and the Assessments applicable thereto, which roster shall be kept in the office of the Association and shall be open to inspection by all Members and Owners. At the request of a Member or Owner, the Board of Directors shall prepare a Certificate of Assessments signed by an officer of the Association, setting forth whether the Member's Assessments have been paid or the amount which is due as of the date of the Certificate. As to parties without knowledge of error who rely thereon, such Certificate shall be presumptive evidence of payment or partial payment of any Assessment thereon stated as having been paid or partially paid.

7.14 Priority of Lien to Mortgages and Homestead. Regardless of the effective date of the lien for Assessments made by the Association, the lien of the Assessments provided for in this Declaration shall be superior to all liens, including homestead rights, but shall be subordinate and inferior to the lien of the mortgage of any Institutional Mortgagee. Such subordination shall, however, apply only to the Assessments which have become due and payable prior to a final sale or transfer of the mortgaged Parcel, the Mayacoo Parcel or the Flagler Parcel, or other property, pursuant to a decree of foreclosure, or in any other proceeding or conveyance in lieu of foreclosure of the mortgage. No sale or other transfer shall relieve any Parcel, the Flagler Parcel, or other property, from liability for any Assessment becoming due thereafter, nor from the lien of any such subsequent Assessment. Any delinquent Assessments which

are extinguished pursuant to a sale or transfer in connection with the foreclosure of a mortgage or any proceeding or deed in lieu of foreclosure shall be re-allocated and assessed to all Members (with the exception only of the owner of the Flagler Parcel, the owner of the Mayacoo Parcel and the Declarant) in the same manner as general Assessments are assessed. The written opinion of the Association that the Assessment lien is subordinate to a mortgage lien shall be dispositive of any question of subordination. Notwithstanding any provisions in this Section or in this Declaration regarding mortgages, mortgagees, and/or purchasers at mortgage foreclosure sales, the provisions of this Declaration regarding mortgagee (and purchaser at mortgage foreclosure sale) obligations to pay past due assessments and related charges shall be deemed automatically amended to be the same, at all times, as provided in the HOA Act.

7.15 Payments by Declarant. In lieu of the payment of any Assessments, Declarant shall be responsible only for the payment of that portion of the Common Expenses which exceeds the amount paid by the Owners, Members, the owner of the Flagler Parcel and the owner of the Mayacoo Parcel (the "Shortfall"). In lieu of the payment of the Shortfall, Declarant may elect, in its sole and absolute discretion, to pay the Assessment(s) attributable to each Parcel owned by Declarant. Declarant shall have no obligation to fund reserves for the Association at any time.

7.16 Exempt Property. The following property shall be permanently exempt from the payment of all general, special, emergency special, individual Assessments of Owners and individual Assessments of Sub-Associations:

7.16.1 All property dedicated to, or owned by the Association.

7.16.2 Any portion of the Property dedicated to the County.

7.16.3 Any portion of the Property owned by Declarant; Declarant shall pay those amounts stated above in that subsection entitled "Payments by Declarant" in lieu of Assessments, unless Declarant elects otherwise, pursuant to paragraph 7.15 hereof.

7.16.4 Except as provided in Sections 7.4.1 and 7.4.2 of this Declaration, the Mayacoo Parcel and the Flagler Parcel.

ARTICLE 8

ENVIRONMENTAL CONTROLS

8.1 Environmental Review and Approval. It is the intent of the Declarant to create a general plan and uniform scheme of development of the Property and to create within the Property a residential community with minor attendant commercial facilities, of high quality and harmonious Improvements. Accordingly, the Environmental Control Board (the "E.C.B.") shall have the right to approve or disapprove all architectural, landscaping and location of any proposed Improvements as well as the general plan for development of all Parcels within the Property. The E.C.B. shall have the right to evaluate all plans and specifications for Parcels as to harmony of exterior design, landscaping, and location of any proposed Improvements, in relation to surrounding structures and topography and as to conformity with such other requirements as shall be adopted by the E.C.B. The E.C.B. may, in its sole discretion, impose standards for construction and development which may be greater or more stringent than standards prescribed in applicable building, zoning or other local governmental codes. The procedures for the E.C.B. shall be as set forth below.

The Declarant has an overall present plan of development consistent with the Master Land Use Plan. However, notwithstanding the above, or any other document, brochures or plans, the Declarant reserves the right to modify the development plan set forth in the Master Land Use Plan or any site plan, at any time, as it deems desirable, in its sole discretion and in accordance with applicable laws and ordinances of the County.

8.2 Environmental Control Board. The E.C.B. shall be a permanent committee of the Association and shall administer and perform the architectural and landscape review and control functions of the Association and the Sub-Associations. The E.C.B. shall consist of a minimum of three (3) voting members who shall initially be named by the Declarant and who shall hold office at the pleasure of the Declarant. Until turnover of control of the Association, as defined herein, the Declarant shall have the right to change the number of members on the E.C.B., provided, however, that the E.C.B shall at all times consist of at least three (3) members; to appoint all members of the E.C.B.; and to remove and replace all members appointed to the E.C.B. The Declarant shall determine which member of the E.C.B. shall serve as its chairman, or which members of the E.C.B. shall serve as co-chairmen. In the event of the failure, refusal or inability to act of any of the members appointed by the Declarant, and in the event the Declarant fails to fill any such vacancy within thirty (30) days of such occurrence, the remaining members of the E.C.B. shall fill such vacancy by appointment. At the time of turnover of control of the Association, as defined herein, or at such earlier date as Declarant, in its sole discretion may elect, the Declarant shall assign to the Association the rights, powers, duties and obligations of the E.C.B., whereupon the Board of Directors shall determine how many persons shall serve on the E.C.B., provided that the E.C.B. shall at all times consist of no less than three (3) members; shall appoint the members of the E.C.B.; shall provide for the terms of the members of the E.C.B.; and shall determine which member of the E.C.B. shall serve as its chairman. There shall be no requirement that any of the members of the E.C.B. be a member of either the Association or one of the Sub-Associations or an Owner within Breakers West. A majority of the E.C.B. shall constitute a quorum to transact business at any meeting, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the E.C.B.

8.3 Powers and Duties of the Environmental Control Board. The E.C.B. shall have the following powers and duties:

8.3.1 No Improvement shall be constructed, erected, removed, planted or maintained, nor shall any addition to or any change, replacement or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme and the location of same shall have been submitted to and approved in writing by the E.C.B.

8.3.2 Each applicant shall submit a preliminary application to the E.C.B. with respect to any proposed Improvement or Improvements that he may contemplate. The preliminary application shall include such information as may be required by the application form adopted by the E.C.B. Prior to the commencement of any work on such Improvement, the final plans and specifications therefor shall be subject to a final review by the E.C.B. At that time, the applicant shall submit to the E.C.B., such additional information as the E.C.B. may reasonably require, including, without limitation, three (3) complete sets of plans and specifications for the proposed Improvement, prepared and stamped by a registered Florida architect approved by the E.C.B. (provided, however, that if the Owner wishes to have a licensed Florida residential designer design the Improvement, the Owner shall submit the designer's resume to the E.C.B. for review, and if approved by the E.C.B., the Owner may then substitute the designer for an architect to prepare and stamp the plans and specifications), so that the E.C.B. may be able to adequately make the determination required of it pursuant to this Declaration, a surface water drainage plan showing existing and proposed design grades, and contours relating to the pre-determined ground floor finish elevation as established by Declarant, three (3) sets of pool plans and specifications, two (2) sets of plans and specifications for the landscaping design and irrigation system prepared by an approved

landscape professional, one (1) copy of a detailed tree survey, showing all existing trees and major vegetation stands, together with a written application on such form and together with such fees and such additional information, as may be provided or required by the E.C.B. The E.C.B. may also require submission of samples of building materials and colors proposed to be used. Notwithstanding anything contained in this Section to the contrary, the E.C.B., based on the application involved, may or may not require plans to be prepared by an architect, designer, or any other professional.

8.3.3 In the event the information submitted to the E.C.B. is, in the E.C.B.'s opinion, incomplete or insufficient in any manner, the E.C.B. may request and require the submission of additional or supplemental information.

8.3.4 The E.C.B. shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the E.C.B.'s sole discretion, for aesthetic or any other reasons. In approving or disapproving such plans and specifications, the E.C.B. shall consider the suitability of the proposed Improvements, and the materials of which the same are to be built, the site upon which such Improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event the E.C.B. fails to respond within thirty (30) days of receipt of an application, the plans and specifications shall be deemed denied by the E.C.B.

8.3.5 Construction of all Improvements shall be completed within the time period specified by the E.C.B. in its approval of the plans and specifications.

8.3.6. Upon approval by the E.C.B. of any plans and specifications submitted to the E.C.B., the E.C.B. shall notify the applicant in writing, which notification shall set forth any qualifications or conditions of approval. All plans and specifications approved by the E.C.B. must be stamped with E.C.B. approval prior to their submission to the County. In the event that the E.C.B. disapproves any plans and specifications submitted to the E.C.B., the E.C.B. shall so notify the applicant in writing, stating the grounds upon which such disapproval is based. Any applicant may request a formal meeting with the E.C.B. to review the plans and specifications disapproved, said meeting to take place no later than thirty (30) days after written request for such meeting is received by the E.C.B. (unless applicant waives this time requirement in writing). The E.C.B. shall make a final written decision no later than thirty (30) days after such meeting. In the event the E.C.B. fails to provide such written decision within said thirty (30) days, the plans and specifications shall be deemed approved. Upon continued disapproval, the applicant may appeal the decision of the E.C.B. to the Board of Directors within thirty (30) days of the E.C.B.'s written review and disapproval. Review by the Board of Directors shall take place no later than thirty (30) days subsequent to the receipt by the Board of Directors of Owner's request therefor (unless applicant waives this time requirement in writing). If the Board of Directors fails to hold such a meeting within thirty (30) days after receipt of request for such meeting, then the plans and specifications shall be deemed approved. The Board of Directors shall make a final decision no later than thirty (30) days after such meeting. In the event the Board of Directors fails to provide such written decision within said thirty (30) days after such meeting, such plans and specifications shall be deemed approved. The decision of the Board of Directors shall be final and binding upon the applicant, his heirs, legal representatives, successors and assigns; provided, however, that no Improvement shall be erected or shall be allowed to remain which violates any of the covenants, conditions or restrictions contained in this Declaration, the declarations of covenants and restrictions for the applicable Development, or any zoning or building ordinance or regulation.

8.3.7 Any and all alterations, deletions, additions and changes of any type or nature whatsoever to the plans or specifications approved by the E.C.B. shall be subject to the approval of the E.C.B. in the same manner as required for approval of original plans and specifications.

8.3.8 The E.C.B. shall have the power to grant variances from any requirements set forth in this Declaration or from the requirements set forth in the declaration of covenants for any Development, on a case by case basis, provided that the variance sought is reasonable and does not impose a hardship upon other Owners; furthermore and notwithstanding anything to the contrary in this Amendment or in the Declaration, the E.C.B. shall not grant a variance to the set-back requirements with respect to (1) any Lot bordering either the Mayacoo Parcel or the Flagler Parcel; or (2) the Mayacoo Parcel; or (3) the Flagler Parcel; without obtaining the prior written consent of the owner of Mayacoo Parcel (for set-backs affecting any lot bordering the Mayacoo Parcel or the Mayacoo Parcel) and the owner of the Flagler Parcel (for set-backs affecting any lot bordering the Flagler Parcel or the Flagler Parcel), which consent may be granted or withheld in the sole discretion of such party. The granting of any such variance by the E.C.B. shall not nullify or otherwise affect the E.C.B.'s right to require strict compliance with the requirements set forth herein or in the declaration of covenants and restrictions for any Development on any other occasion. Notwithstanding the foregoing, no variance from the requirements set forth in this Declaration or from the requirements set forth in the declaration of covenants and restrictions for any Development, including, without limitation, setbacks for construction, shall be granted for a Parcel located adjacent to the Flagler Parcel without the prior written consent of the Flagler Parcel Owner. The rights reserved hereunder shall extend beyond the turnover of control of the Association by Declarant.

8.3.9 There is specifically reserved unto the E.C.B. and to any agent or member of the E.C.B., the right of entry and inspection upon any portion of the Property for the purpose of determination by the E.C.B. whether there exists any violation of the terms of any approval by the E.C.B. or the terms of this Declaration, the declarations of covenants and restrictions for the Developments, or any amendments thereto, or of any covenants, conditions and restrictions to which any deed or other instrument or conveyance makes reference. If any Improvement of any nature shall be constructed or altered without the prior written approval of the E.C.B., the Owner shall, upon demand of the Association, cause such Improvement to be removed, or restored in order to comply with the plans and specifications originally approved by the E.C.B. The Owner shall be liable for the payment of all costs of such removal or restoration, including all costs and attorneys' fees incurred by the Association. Such costs may also be the basis for an individual Assessment pursuant to the procedures set forth in Article 7 of this Declaration. The E.C.B. is specifically empowered to enforce the architectural and landscaping provisions of this Declaration and the declarations of covenants and restrictions for the Developments, by any legal or equitable remedy, and in the event that it becomes necessary to resort to litigation, to determine the propriety of any constructed Improvement or to remove any unapproved Improvement, the Association shall be entitled to the recovery of court costs, expenses and attorneys' fees in connection therewith. All costs, expenses and attorneys' fees of the E.C.B., including those incurred in connection with enforcement or other powers, as provided herein, shall be borne by the Association; provided, however, that nothing herein shall be deemed to negate the Association's right to an award of the Association's and the E.C.B.'s attorneys' fees and costs if the Association is the prevailing party in any administrative or judicial proceeding. In the event that any Owner fails to comply with the architectural and landscape provisions contained herein, or in the declarations of covenants and restrictions for the Developments, or other rules and regulations promulgated by the E.C.B., the E.C.B. may, in addition to all other remedies contained herein, record against the Owner's Parcel a Certificate of Non-Compliance stating that the Improvements on the Parcel fail to meet the requirements of the E.C.B. Furthermore, in the event of such a violation, the Association shall also have the right to levy a fine against the respective Owner, which fine shall be an individual Assessment against the Owner and the Owner's Parcel and shall be collectible in accordance with Article 7 of this Declaration. Notwithstanding anything contained in this Section to the contrary, fines may be imposed and may become liens on property only as may be permitted by the HOA Act.

8.3.10 Prior to the occupancy of any Improvement constructed or erected on any Lot, the prospective occupants thereof shall obtain a Certificate of Approval from the E.C.B., certifying that the construction of the Improvement has been completed in accordance with the plans and specification previously approved by the E.C.B. The E.C.B. may, from time to time, delegate to a member or members of the E.C.B., the responsibility for issuing such Certificate of Approval.

8.3.11 The E.C.B. is empowered to publish or modify from time to time, rules and regulations and design and development standards for the entire Breakers West project or one or more of the Developments, including but not limited to the following:

- 8.3.11.1 Roof and roof design.
- 8.3.11.2 Fences, walls and similar structures.
- 8.3.11.3 Exterior building materials and colors.
- 8.3.11.4 Exterior landscaping.
- 8.3.11.5 Graphics, mailboxes, address numbers and exterior lighting.
- 8.3.11.6 Building setbacks, side yards and related height, bulk and design criteria.
- 8.3.11.7 Walkways and pedestrian and bicycle paths.
- 8.3.11.8 Hurricane shutters.

8.3.12 Notwithstanding anything to the contrary contained herein, any Improvements of any nature made or to be made by the Declarant, including, without limitation, Improvements made or to be made to the Common Property or to any Parcel, shall not be subject to the review of the E.C.B.

8.3.13 Notwithstanding anything to the contrary contained herein, Improvements made or to be made to the Mayacoo Parcel or the Flagler Parcel shall not be subject to the Development Requirements contained in Article 9 of this Declaration, or to the review or control of the E.C.B.

8.3.14 The E.C.B. shall adopt a schedule of reasonable fees for processing requests for approval. Such fees shall be payable to the Association at the time that the plans and specifications and other documents are submitted to the E.C.B. The payment of such fees, as well as other expenses of the E.C.B. required to be paid, shall be deemed to be an individual Assessment against an Owner, enforceable against the Owner and the Owner's Parcel as provided in Article 7 of this Declaration.

8.3.15 Neither the Declarant, the directors or officers of the Association, the members of the E.C.B., nor any person acting on behalf of any of them, shall be liable for any cost or damages incurred by any Owner within Breakers West or any other party whatsoever, due to any mistakes in judgment, negligence or any action of the E.C.B. in connection with the approval or disapproval of plans and specifications. Each Owner and occupant of Parcels within Breakers West agrees, as do their successors and assigns by acquiring title thereto or any interest therein, or by assuming possession thereof, that they shall not bring any action or suit against the Declarant, the directors or officers of the Association, the members of the E.C.B., or their respective agents, in order to recover any damages caused by the actions of the E.C.B. The Association shall indemnify, defend and hold the E.C.B. and each of its members harmless from all costs, expenses and liabilities, including attorneys' fees, of all nature resulting by virtue of the acts of the E.C.B. or its members. Neither the Declarant, the directors or officers of the Association, the members of the E.C.B., nor any person acting on behalf of any of them, shall be responsible for any defects in any plans or specifications nor for any defects in any Improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

8.3.16 Notwithstanding anything to the contrary set forth in this Declaration, this Article 8 shall not apply to any Parcels or other real property owned by Declarant.

ARTICLE 9

DEVELOPMENT REQUIREMENTS

All Improvements constructed, installed or placed upon any Parcel within the Property shall strictly comply with the following development requirements (these development requirements apply to construction, reconstruction, alterations, renovations and repairs). Further, use and occupancy of all Parcels and use of the Common Property shall be subject to all of the provisions and requirements set forth below.

9.1 All Parcels may be used only for single family residences, except as may otherwise be designated on the Master Land Use Plan. No business or commercial buildings may be erected on any Parcel, nor may any business be conducted on any part thereof, unless such Parcel is designated for commercial use on the Master Land Use Plan. No Improvement shall be erected upon any Parcel without the prior approval thereof as elsewhere provided herein. No Parcel or other property shall be subdivided except if owned by Declarant or except as provided on the Master Land Use Plan. No Parcel or other property shall be rented or leased to a third party more than one time per calendar year. All rental or leasing arrangements must be approved in accordance with Article 11, Sections 11.1 through 11.3.

9.2 No portion of any property shall be used as a drying or hanging area for laundry of any kind unless completely screened from view. This provision is not intended to totally prohibit the drying or hanging of laundry on a Parcel.

9.3 No Owner shall permit his Parcel to be used or maintained as a dumping ground for rubbish. Garbage and rubbish receptacles shall be underground or out of public view and in conformity with sanitation regulations. All Dwellings must have garbage disposals installed therein.

9.4 All exterior electrical conduits and hook-ups shall be kept underground. No overhead wires, poles, or overhead facilities of any kind for electrical, telephone or television service will be permitted other than as may be protected by federal law. All antennas and aerials (including parabolic antennas) must be concealed inside attic space or installed in locations approved by the E.C.B. subject to applicable FCC rules. The E.C.B. shall be notified in advance in writing of an Owner's intent to install an antenna. The E.C.B. may adopt guidelines applicable to the installation of satellite dishes as protected by federal law.

9.5 All single family Dwellings shall be built with all of the latest energy saving devices, including energy saving water closets, refrigerators and motors, unless waived in writing by the Environmental Control Board.

9.6 Each mailbox erected on a Parcel must strictly comply with the specifications for mailboxes provided to Owners by the Declarant. Such specifications may include, but not be limited to, the design, size and type of mailbox to be erected.

9.7 No sign of any nature or type whatsoever, including, without limitation, "for rent" or "for sale" signs, shall be displayed or placed on any part of the Property, including, without limitation, the Parcels or the Common Property or the common property of any Development. This prohibition shall not apply to signs erected by the Declarant.

9.8 No boat of any kind shall be kept or used upon any lake or waterway within the property.

9.9 No use or practice which is a nuisance or is an interference with the peaceful possession and use of the Property by Owners shall be allowed. No Owner shall commit or permit any immoral or illegal activity in or about the Property. Decisions of the Environmental Control Board shall be final as to what constitutes a nuisance. For greater clarification, no Owner shall knowingly or willfully make or create any unnecessary, excessive or offensive noise or disturbance which destroys the peace, quiet and/or comfort of the Owners, or allow any such noise or disturbance to be made on his Parcel. Further, no lawn cutting shall be done before 8:00 a.m., on Saturdays and holidays and no work whatsoever, including, without limitation, lawn cutting and construction work, shall be conducted on Sundays.

9.10 The Common Property shall be used only for the intended purpose of furnishing services and facilities for the enjoyment of the Owners, subject to the requirements and restrictions contained in this Declaration and subject to such easements as may have been reserved upon the Common Property.

9.11 An underground sprinkler system of sufficient size and capacity to irrigate all sodded and landscaped areas must be installed and maintained in good working order on all Parcels. Owners may be permitted to drill and install a shallow well to be used for irrigation, but no individual water supply system or individual sewage disposal system shall be installed, maintained or used. In the event a shallow well is drilled on any Parcel to supply water for irrigation, the lawn sprinkler 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 Parcel, including, but not limited to, stains on the Dwelling.

9.12 All Owners shall maintain their Parcels in a neat and attractive manner. No weeds, underbrush, or other unsightly growths shall be permitted to grow or remain upon any part of the Parcel. All grass clippings, trimmings, etc. must be removed from the Parcel and must not be placed on any adjacent Parcel or on the Common Property or on the common property of any Development. Should any Owner leave his Parcel in an unsightly condition, or not properly maintain the landscaping on his Parcel for a period in excess of thirty (30) days, then the Environmental Control Board shall have the right, but not the obligation, after fifteen (15) days written notice, to go on the Parcel and clean up the debris and maintain the appearance of the Parcel. The cost of such cleaning and maintenance services shall be charged against the Owner as an individual Assessment, pursuant to the procedures set forth in Article 7 of this Declaration.

9.13 No Improvement of any nature whatsoever (with the exception only of shrubs, plants, trees, sod or fences), shall be erected or placed within twenty-five (25) feet of the Flagler Parcel or the Mayacoo Parcel, provided, however, that the owner of the Flagler Parcel and the owner of the Mayacoo Parcel shall each have the right, exercisable in their sole discretion, to waive compliance with the foregoing requirement at any time.

9.14 No tree or shrub, the trunk of which exceeds four (4) inches in diameter or measures four (4) feet above the ground shall be cut down or otherwise destroyed without the prior written approval of the E.C.B.

9.15 Bicycles shall be stored only within the Dwellings. In the event bicycles are left on the Common Property or on the common property of any Development, they may be impounded by the Association, and shall be released to the Owner only upon payment of an administrative fee established by the Association. Such administrative fee shall be an individual Assessment enforceable pursuant to the

procedures set forth in Article 7 of this Declaration. The Declarant shall have the right, but not the obligation, to build a bicycle stand or stands within the Property, in which event bicycles may be stored thereon.

9.16 Each Dwelling shall be pre-wired for cable television and shall be pre-wired and equipped with a security system compatible with the Association's monitoring system. All such pre-wiring and equipment must be approved, in advance, by the E.C.B.

9.17 Use of any recreational facilities shall be totally at the risk of those individuals using such facilities and not at the risk of the Association or the Declarant. The Association or the Declarant shall not be liable for the negligence of any party in connection with the use of the Common Property or any other portion of the Property.

9.18 Declarant may include, in any contract or deed for any Parcel, additional protective covenants and restrictions not inconsistent with those contained herein.

9.19 No person shall use the Common Property, or any Parcel, in any manner contrary to, or not in accordance with, such rules and regulations as may be promulgated by the Association, the Sub-Association governing the Development in which the Parcel is located, the rules and regulations of the E.C.B., or such Traffic Regulations as may be promulgated by the Association, as same may be amended from time to time.

9.20 The declarations of covenants and restrictions for the Developments may include additional use and environmental restrictions which shall govern portions of the Property. Such environmental and use restrictions, and all other provisions, restrictions and covenants in the foregoing declarations of covenants and restrictions, as well as all rules and regulations adopted by the Sub-Associations, may be enforced by legal or equitable action of the Association.

9.21 Owners may display such flags as are permitted (and in the manner permitted) by Section 720.304(2), Florida Statutes (2005), as such may be subsequently amended or renumbered. Such provision currently allows an Owner to display one portable, removable United States flag or official flag of the State of Florida in a respectful manner, and on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day, an Owner to display, in a respectful manner, portable, removable official flags, not larger than 4 ½ feet by 6 feet, which represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard. The Association may promulgate standards for the size, location, and manner of display of flags consistent with this paragraph.

9.22 Only four-wheel passenger automobiles and "sport-utility vehicles" shall be placed or parked upon any unenclosed portion of a Residential Parcel. For the purpose of this rule, a vehicle is deemed to be a permitted "sport-utility vehicle" as long as it meets all of the following criteria: has permanent enclosed seating for at least five (5) persons, windows on both sides to the rear of the driver and right front passenger seat, and does not exceed the manufacturers standard length, height and width of a custom conversion van. A vehicle having any size flat bed, whether covered or not, is deemed to be a truck (and not a "sport-utility" vehicle) for the purpose of this rule. No trailers or habitable motor vehicles of any nature, motorcycles, service vehicles, commercial vehicles, limousines, trucks or "pick-ups" shall be kept, stored, or parked overnight on any part of a Residential Parcel except within an enclosed garage. For the purposes of this paragraph, "commercial vehicles" shall include, but not be limited to, vehicles with commercial lettering, commercial graphics, work accessories or work modifications thereon, or which are designed and used primarily for work purposes. No boats, on or off trailers, may be parked on any part of a Residential Parcel except in an enclosed garage, nor shall any maintenance or repair be performed upon any boat or motor vehicle except within an area totally isolated from public view. No vehicles,

including service vehicles or commercial vehicles, shall be permitted to park on any Street overnight; in the event any vehicle is improperly parked in violation of this provision, the Association (or a third party towing company at the Association's direction) may remove the vehicle and assess as an individual Assessment all costs incurred by the Association for such removal against the Owner that is responsible for improperly parking the vehicle. The term "overnight" shall mean parking of any such vehicle at any time between the hours of 12:00 a.m. and 6:00 a.m. of the next day. **ALL OWNERS AND OTHER OCCUPANTS OF UNITS ARE ADVISED TO CONSULT WITH THE ASSOCIATION PRIOR TO PURCHASING, OR BRINGING ONTO THE PROPERTY, ANY TYPE OF VEHICLE OTHER THAN A PASSENGER CAR INASMUCH AS SUCH OTHER TYPE OF VEHICLE MAY NOT BE PERMITTED TO BE KEPT WITHIN THE PROPERTY.**

ARTICLE 10

TENNIS AND BATH CLUB

The owner of the Parcel designated on the Master Land Use Plan as the "tennis and bath club" shall construct on such Parcel a recreational facility. All Owners shall have the non-exclusive opportunity to join the recreational facility, provided, however, that the recreational facility will be a private club which may require initiation fees and the use of the recreational facility will be governed by rules and regulations adopted therefor.

ARTICLE 11

TRANSFERS OF PARCELS

11.1 Transfers Subject to Approval. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the Property, no Owner, other than the Declarant and the owner of the Mayacoo Parcel or the Flagler Parcel, to whom this Article does not apply, may transfer his Parcel, or any interest therein, by sale, lease, mortgage or any other means whatsoever, without the prior written approval of the Association. The Association has the right and authority to approve or deny an application to transfer a Parcel.

11.2 Procedure for Application to Transfer a Parcel. An Owner who desires to transfer a Parcel shall apply for approval from the Association in the following manner:

11.2.1 Application to Homeowners Association. Any Owner intending to make a bona fide sale or lease of his Parcel, or any interest therein, shall apply by filing with the Association an Application to Transfer Property form prescribed by the Association. Such notice shall include the name and address of the intended Purchaser or Lessee, the proposed purchase price or rent, the terms of the transaction, and such other information concerning the intended purchaser or lessee as the Association may reasonably require, together with an executed copy of the proposed contract or lease.

11.2.2 A reasonable administrative fee, as determined by the Association, may be charged by the Association to the Owner, for the purpose of defraying the cost associated with granting approval, changing the books and records and other matters associated with the transfer.

11.2.3 If the required Application to Transfer Property is not provided to the Association, then at any time after receiving knowledge of the transfer of ownership or possession of the Parcel, the Association may, without notice, approve or disapprove the transaction.

11.2.4 Along with the submission of a lease for approval, the Owner and prospective lessees agree to provide the Association with a criminal and financial background check (conducted by a company acceptable to Association) as to all proposed occupants of the lease premises. The Association may deny the lease if such background checks provide reasonable evidence that any occupant may pose a risk to the community or that the lessees are unlikely to be able to comply with the financial requirements of the lease.

If an Owner is in arrears to the Association for the payment of assessments or other amounts due the Association: (1) any pending lease of the Owner's Dwelling may be denied by the Association; and (2) upon notice by the Association to any tenant in such Dwelling, all rents shall be paid to the Association until such arrears are brought current. Every lease shall include a provision specifying the Association's rights to receive such rents from the tenant.

Capital Contribution Fund. After May 1, 2017, there shall be established a Capital Contribution Fund for the purpose of maintenance, reserves, initial and/or non-recurring capital expenses. At the closing of the sale or other transfer of a Commercial Parcel or a Residential Parcel (purchaser thereby becoming an Owner), the purchaser shall deposit his/her/its share of the Capital Contribution Fund equal to six (6) months of monthly General Assessments, or two (2) quarterly General Assessments, based upon the amount of the General Assessment for that Parcel at the time of closing. Amounts paid into the Capital Contribution Fund shall not be considered advance payment of Assessments, and the effect of nonpayment of a capital contribution is identical to nonpayment of Assessments under Article 7 of the Declaration. Capital contributions shall be kept in a separate bank account to be drawn upon as the need arises and as approved by the Board of Directors.

11.3 Certificate of Approval or Letter of Denial. In the case of a sale, if the Association approves the Application to Transfer Property, a Certificate of Approval executed by the president or vice president of the Association, shall be recorded in the public records of the County, at the expense of the seller of the Parcel. If the Association denies the Application to Transfer Property, the Association will provide owner with a written letter of denial. In the case of a proposed rental or lease, the Association will provide Owner with a written letter of approval or denial.

11.4 Right of First Refusal. The Association shall have the right of first refusal to purchase any property proposed to be transferred by an Owner, by sale or lease, in accordance with the following procedure:

11.4.1 The Association shall have seven (7) business days from the date of receipt of the Application to Transfer Property within which to exercise its right of the first refusal to purchase. The price to be paid to the Owner shall be the bona fide price stated in the contract to sell, and a judgment of specific performance of the sale may be entered in any court of competent jurisdiction. If a question arises as to whether or not the sale price is bona fide, the question shall be resolved by having the price determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrator(s) shall be two (2) appraisers appointed by the American Arbitration Association, who shall base their determination upon the average of their appraisals of the property. The sale and purchase shall be closed within sixty (60) days after receipt of the sales contract or lease, or within thirty (30) days after the determination of the sales price if such determination is made by arbitration whichever date is later. Should the Association waive its right of first refusal, a waiver of Right of First Refusal executed by the president or vice president of the Association shall be recorded in the public records of the County, at the expense of the seller of the Parcel.

11.5 Implied Approval. In the event that the Association fails to either: (a) exercise its right of first refusal within seven (7) business days from the date of receipt of the Application to Transfer

Property, or (b) deny the Application to Transfer Property within said time period, then such transaction shall be deemed approved by the Association. Notwithstanding the above, approvals must be indicated by a Certificate of Approval as hereinbefore provided.

11.6 Exceptions. The foregoing provisions pertaining to the transfer of property shall not apply to the following:

11.6.1 A transfer to, or purchase by, an Institutional Mortgagee which acquires title as a result of owning a mortgage upon the Parcel concerned, whether title is acquired by deed or other conveyance from the mortgagor, or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by an Institutional Mortgagee that so acquires title. Neither shall such provisions require the approval of a purchaser who acquires title at a duly advertised public sale with open bidding provided by law, such as, but not limited to, execution sale, foreclosure sale, judicial sale or tax sale.

11.6.2 A transfer from a trustee to a successor trustee.

11.6.3 A transfer by devise or inheritance.

11.6.4 A transfer by operation of law.

11.6.5 The sale, lease, sublease or other transfer of any property to the Declarant, or the sale, lease, sublease or other transfer of any property by the Declarant.

11.7 Payment by the Association. All funds expended by the Association for the repurchase of property pursuant to this Article shall be paid from funds collected by the Association from special Assessments against the Owners. All proceeds from the purchased property shall be returned to the general reserves of the Association.

11.8 Unauthorized Transaction. Any sale, lease or ownership not authorized pursuant to the terms of this Article shall be void, unless subsequently expressly approved by the Association.

11.9 If an Owner is in arrears to the Association or any Sub-Association for the payment of Assessments or other amounts due, or is otherwise in violation of the governing documents of the Association or any Sub-Association, any pending lease of the Owner's Parcel may be denied by the Association. If an Owner is in arrears to the Association or any Sub-Association for the payment of Assessments or other amounts due, upon notice by the Association to any tenant of such Owner's Parcel, all rents shall be paid to the Association until such arrears are brought current. Every lease shall include a provision specifying the Association's rights to receive such rents from the tenant.

ARTICLE 12

DECLARANT'S CONTROL OF THE ASSOCIATION

12.1 Anything contained herein to the contrary notwithstanding, the Declarant shall have the right to retain control of the Association until the year 2010, or until such earlier date as is determined by the Declarant, in the Declarant's sole discretion. At the time of turnover of control of the Association, the Association shall record a Notice of Turnover in the public records of the County. So long as Declarant retains control of the Association, Declarant shall have the following rights with respect to the Association:

12.1.1 The right to appoint all members of the Board of Directors of the Association and to fill all vacancies on the Board.

12.1.2 The right to appoint all members of the Environmental Control Board, and to fill all vacancies on such committee.

12.1.3 The right to approve the appointment of all officers of the Association.

12.2 Relinquishment of Control. Upon turnover of control of the Association by the Declarant, or as soon thereafter as is practical, each Sub-Association and the owner of the Flagler Parcel and the owner of the Mayacoo Parcel and the Declarant shall each appoint one member of the Board of Directors, who shall serve until the next annual meeting of the Board of Directors, at which time such member may be re-appointed. From and after the date of turnover of control, the Declarant shall no longer have the right to appoint all members of the Board of Directors, all members of the Environmental Control Board, or to approve the appointment of all officers of the Association.

ARTICLE 13

GENERAL PROVISIONS

13.1 Assignment. Any of the rights, powers, obligations, easements and estates reserved by, or granted to, the Declarant, the Association or the Sub-Associations, may be assigned by the Declarant, the Association, or the Sub-Association as the case may be. After such assignment, the assignee shall have the same rights and powers, and be subject to the same obligations and duties as were the Declarant, the Association, or the Sub-Association, prior to the assignment, and the Declarant, the Association or the Sub-Association shall be relieved and released of all obligations with respect to such rights, powers, obligations, easements or estates.

13.2 Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly given when mailed, postage paid, to the last known address of the person who appears as an Owner on the records of the Association at the time of such mailing.

13.3 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 Declarant, the Association, the Sub-Associations and the Owners.

13.4 Enforcement. Enforcement of the covenants, restrictions, conditions, obligations, reservations, rights, powers, assessments, liens and other provisions contained herein shall be by a proceeding at law or in equity against any person or persons violating or attempting to violate same, or against a Parcel or other real property to enforce any lien created by this Declaration. In the event that the Declarant and the Association fail to enforce the terms of this Declaration, then any Member may do so. The failure of the Declarant, the 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.

13.5 Amendment. This Declaration may be amended upon the recordation of an appropriate instrument in the public records of the County, subject however, to the following provisions:

13.5.1 Except as provided hereinbelow, the amendment must be approved by a majority of the Members, either by vote or written consent; and the amendment must also be approved by a majority of the entire Board of Directors of the Association.

13.5.2 The Declarant specifically reserves for itself, its successors and assigns, the absolute and unconditional right to alter, modify, change, revoke, rescind or cancel any or all of the provisions contained in this Declaration, including, without limitation, the Development Requirements in Article 9 hereof, provided, however, that no such change shall adversely affect the rights of the owner of the Mayacoo Parcel or the Flagler Parcel including, without limitation, the Assessments, easements and other rights affecting the Flagler Parcel or the Mayacoo Parcel, hereunder or at law, without the specific joinder of the owner of the affected parcel. The Owners, the Association, Institutional Mortgagees, and all other individuals and entities hereby waive any rights to consent to such changes. Such rights may affect the entire Property or only specific portions of the Property, but shall be subject to applicable governmental approvals.

13.5.3 Any duly adopted amendment to the Declaration shall run with and bind the Property for the same period, and to the same extent as do the covenants and restrictions set forth herein.

13.5.4 Notwithstanding any other provision herein to the contrary, no amendment to this Declaration shall unreasonably affect the rights of the owner of the Flagler Parcel. This Section 13.5.4 shall not be amended without the prior written consent of the owner of the Flagler Parcel. The rights reserved hereunder shall extend beyond the turnover of control of the Association by Declarant.

13.6 Duration. All of the covenants and restrictions contained herein shall run with and bind the Property for a term of fifty (50) years from the date of recordation of this Declaration, after which time they shall be automatically extended for successive periods of ten (10) years each, unless an instrument executed by seventy percent (70%) of the Members, then existing, and by all Institutional Mortgagees, has been recorded, agreeing to terminate these covenants and restrictions.

13.7 Gender and Number. The use of the singular herein shall include the plural, and the use of any gender shall include all genders.

13.8 Severability. Invalidation of any one of the covenants or restrictions contained herein by judgment or court order shall in no way affect any other provision hereof, which shall remain in full force and effect.

13.9 INTENTIONALLY DELETED

13.10 Indemnification of Directors, Officers and Members of the Environmental Control Board and the Repurchase and Resale Committee. Every director and officer of the Association, and member of the Environmental Control Board and the Repurchase and Resale Committee, shall be indemnified by the Association against all expenses and liability, including attorneys' fees, incurred by or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director, officer or member of the Environmental Control Board or the Repurchase and Resale Committee, whether or not he is a director, officer or member of the Environmental Control Board or the Repurchase and Resale Committee at the time such expenses are incurred, except in such cases where the director, officer or member of the Environmental Control Board or the Repurchase and Resale Committee is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, however, that in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the director, officer or member of the Environmental Control Board or the Repurchase and Resale Committee seeking such reimbursement or

indemnification, the indemnification herein shall apply only if the Board of Directors approves such settlement and reimbursement as being in the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all of other rights to which such officer, director or member of the Environmental Control Board or the Repurchase and Resale Committee may be entitled.

13.11 Golf Course Membership. The primary use of the Flagler Parcel and Mayacoo Parcel shall be as distinct private golf clubs. Owners of Parcels shall not have a proprietary interest in either golf club. Membership and priority of use in each golf club shall be determined by the membership rules and regulations of the respective club. There shall be no discrimination against Owners as to membership or fees charged to join the golf clubs. The owner of the Flagler Parcel and the owner of the Mayacoo Parcel shall maintain their property in a first class condition, unless restrained or prohibited by governmental authorities.

13.12 Incorporation of Additional Restrictions. Separate portions of the Property shall be subject to the additional covenants, restrictions, reservations, assessments, liens and other terms and provisions set forth in the declarations of covenants and restrictions for the Developments. Such restrictions and covenants are incorporated herein by reference with the express understanding that they shall apply only to the particular Development to which they refer.

13.13 Dissolution. In the event of dissolution of the Association, for whatever reason, any Owner may petition the Circuit Court of the Fifteenth Judicial Circuit of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and the Common Property in place and instead of the Association and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association and the Common Property.

13.14 Plat. 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 plats of portions of the Property, which are recorded or to be recorded in the public records of the County.

13.15 Captions. The captions used in this Declaration and exhibits annexed hereto and amendments thereof are inserted solely as a matter of convenience and shall not be relied upon or used in construing the text of this Declaration or any exhibits hereto or amendments thereof.

13.16 Breakers West Realty. Subject to the terms of this Declaration, and subject to the laws and regulations of the State of Florida and the County of Palm Beach, Breakers West Realty Corporation is irrevocably empowered to transact any business necessary to consummate sales of property throughout Breakers West, including, but not limited to the right to maintain office(s) on the Property and to have employees in such offices. Breakers West Realty Corporation, and its officers, employees, agents, and invitees, shall have such easements as may be necessary for said purposes, and shall be subject to the rules and regulations and Traffic Regulations of the Association, so long as same are applicable to all Owners and so long as same shall not unreasonably interfere with use of the business of Breakers West Realty Corporation.

13.17 No Liability. Declarant's predecessor in title, Flagler System, Inc., a Florida corporation ('Flagler System'), shall have no liability or responsibility whatsoever with respect to any Parcel or any other property in Breakers West conveyed by Flagler System to Declarant. NEITHER THE ASSOCIATION NOR THE OWNER OF THE FLAGLER PARCEL SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF THE HEALTH, SAFETY, WELFARE OR SECURITY OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTY NOR SHALL EITHER OF THEM BE HELD LIABLE TO ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTY FOR ANY PERSONAL INJURY, PROPERTY DAMAGE OR OTHER

LOSS BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY, OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, PROVIDED THAT SUCH FAILURE OR INEFFECTIVENESS IS NEITHER GROSSLY NEGLIGENT NOR WILLFUL. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, ALARM SYSTEM, COMMUNITY CONTROL SYSTEM OR OTHER SECURITY SYSTEM CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS, OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO TAKE REASONABLE STEPS TO INFORM ITS OCCUPANTS, INCLUDING WITHOUT LIMITATION, LESSEES, THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES ARE NOT INSURERS AND, ACCORDINGLY, IN THE ABSENCE OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER THE ASSOCIATION, ITS BOARD OF DIRECTORS, COMMITTEE MEMBERS, NOR EMPLOYEES SHALL BE LIABLE FOR ANY CLAIM OF INSUFFICIENT, OR INEFFECTIVE, SECURITY.

13.18 Club Facilities. The owner of the Flagler Parcel shall have the right to provide club facilities and other recreational amenities within the Flagler Parcel. Such facilities shall be developed and provided at the discretion of the owner of the Flagler Parcel. Rights to use such facilities will be on such terms and conditions as may be promulgated from time to time by the owner of the Flagler Parcel. The owner of the Flagler Parcel shall have the right, from time to time in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of such facilities, specifically including, without limitation, the terms of, and eligibility for, use of such facilities, the categories of use and the number of users permitted to use any of the facilities, to reserve use rights for future Owners or to terminate any and all use rights. Ownership of a Lot or Dwelling does not confer any ownership, ownership rights or use rights in the facilities that are a part of the Flagler Parcel. Persons in the future who are permitted to use the facilities, as they may exist from time to time, shall not acquire a vested right to continue to use the facilities.

13.19 Golf Course Community. By acceptance of a deed to a Lot or Dwelling, located within a golf course community, Owners acknowledge and agree that they will be subjected to the usual and common noise level associated with use of the recreational club facilities, playing the game of golf and with maintenance of the golf course and related facilities including, but not limited to such odors that may be caused by the watering and fertilizing of the golf course by spray irrigation, such noises caused by the driving of any delivery maintenance or construction vehicles, any machinery and equipment used in running or maintaining the club facilities or golf course which may be driven over and upon the roads, the Common Property and other portions of property located within Breakers West other than the Residential Parcels. Such noise may occur on or off the golf course throughout the day from early morning until late evening. Neither the Association nor the owner of the Flagler Parcel shall have any responsibility or liability to any Owner because of said usual and common noise or because of any damage caused to an Owner, his family guests, licensees, invitees, employees, agents or the Owners Dwelling from the flight of errant golf balls onto the Residential Parcels or dwellings. Notwithstanding the foregoing, nothing to the contrary contained herein shall abrogate the obligation of the Association or the owner of the Flagler Parcel to comply with all applicable governmental ordinances and laws.

13.20 Construction Activities. ALL OWNERS, OCCUPANTS AND USERS OF THE PROPERTY ARE HEREBY PLACED ON NOTICE THAT THE OWNER OF THE FLAGLER PARCEL AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES WILL BE, FROM TIME TO TIME, CONDUCTING EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES ON THE FLAGLER PARCEL. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE PROPERTY, EACH SUCH OWNER, OCCUPANT AND USER

AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT THE FOREGOING ACTIVITIES MAY OCCUR FROM TIME TO TIME, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY AREA WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) AFORESAID PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, EXCEPT RESULTING FROM ANY OF THE AFORESAID PARTIES' NEGLIGENCE OR WILLFUL MISCONDUCT, AND (iv) ANY PURCHASE OR USE OF ANY PORTION OF THE PROPERTY WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

13.21 Name Provision. This First Amendment to Breakers West Declaration shall be known as the "Breakers West Declaration of Covenants and Restrictions". Reference to the "Breakers West Declaration of Covenants and Restrictions" in the Articles of Incorporation for the Association, the By-Laws for the Association or in any document or instrument executed subsequent to recordation of this instrument shall be deemed to refer to this Instrument and not to the prior Breakers West Declaration of Covenants and Restrictions dated November 29, 1982 and recorded in Official Record Book 3834, Page 714, Public Records of Palm Beach County, Florida.

RESTATED ARTICLES OF INCORPORATION
OF BREAKERS WEST ASSOCIATION, INC.
(A Corporation Not For Profit)

In compliance with the requirements of Chapter 617, Florida Statutes, we, the undersigned, do hereby certify that the following Amended Articles of Incorporation of Breakers West Associations, Inc. were adopted by an affirmative vote of seventy-five percent (75%) of the members of the Board of Directors and seventy-five percent (75%) of the entire membership of the Association:

ARTICLE I

NAME

The name of the corporation is BREAKERS WEST ASSOCIATION, INC., hereinafter sometimes referred to as the “Association.”

ARTICLE II

PRINCIPAL OFFICE

The initial principal office of the Association will be located at 1 South County Road, c/o Breakers Hotel, Palm Beach, Florida 33480.

ARTICLE III

REGISTERED AGENT AND REGISTERED OFFICE

Henry H. Barnes, whose address is 1 South County Road, c/o Breakers Hotel, Palm Beach, Florida 33480, is hereby appointed the initial registered agent of this Association, and his address is designated as the initial registered office of the Association. Any change in the resident agent shall not require an amendment of these Articles of Incorporation as long as such change in resident agent is filed with the Secretary of State of Florida.

ARTICLE IV

INCORPORATION OF RESTRICTIONS

The provisions of and the terms defined in that certain Declaration of Covenants and Restrictions for Breakers West as it may be amended from time to time (the “Declaration”) are incorporated herein; a copy of the present Declaration is attached hereto. All terms defined in the Declaration shall have the same meaning herein as therein.

ARTICLE V

PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, will make no distribution of income to its members, Directors, or Officers, and the specific purposes for which it is formed are to provide for the ownership, maintenance, and preservation of the water management system, drainage system, common areas and private roadways within that area being developed as BREAKERS WEST, Palm Beach County, Florida, to enforce the Declarations of Restrictions and Covenants affecting Breakers West and to generally promote the health, safety, and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association. In addition to the aforesaid purposes, the Association shall hold and exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Florida by law may now or hereafter hold and exercise.

The Association shall have all of the powers reasonably necessary to implement the purposes of the Association, including, but not limited to, the following:

- (a) To enforce, by legal means, the provisions of the Declaration, the Articles, the By-Laws of the Association (the "By-Laws"), the rules and regulations adopted by the Association and the E.C.B., the declaration of covenants and restrictions for the Developments, the articles of incorporation and the by-laws of the Sub-Associations and the rules and regulations adopted by the Sub-Associations, as same may be amended from time to time.
- (b) To fix, levy, collect, and enforce payment by any lawful means, all charges or assessments pursuant to the terms herein and the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes, or governmental charges levied or imposed against the Common Property.
- (c) To acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the Association (including property within and outside of Breakers West).
- (d) To assess against the lands benefited by the above described water management system, drainage system common areas or private roadways thereto the necessary costs of the maintenance and repair of said water of drain or auxiliaries thereto.

- (e) To borrow money, and with the assent of a majority of the votes of members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.
- (f) To dedicate, sell, or transfer all or any part of the property owned by the Association to any public agency, authority, or utility for such purposes and subject to such conditions as may be deemed advisable by the Board of Directors, including leasing for cable television lines or utility transmission lines.
- (g) To purchase insurance upon the Common Property, as deemed necessary by the Board of Directors.
- (h) To make and amend reasonable rules and regulations governing the use of the Common Property.
- (i) To employ such personnel to perform the services required for proper management of the Association.
- (j) To use the proceeds of assessments in the exercise of its powers and duties.
- (k) To maintain the Water Management System located within Breakers West.
- (l) The Association shall have the right to enter into long term agreements.
- (m) To perform all the duties and obligations of the corporation as set forth in the Declaration.
- (n) To maintain, repair, replace and operate the Common Property.
- (o) To reconstruct Improvements upon the Common property after casualty and to further improve the Common Property.
- (p) In addition, the Association shall exercise all of the powers and privileges, perform all of the duties and obligations as permitted by law, or as provided in the Declaration, Articles or By-Laws, as such documents may be amended from time to time.
- (q) All funds and title to all properties acquired by the Association and the proceeds thereof shall be held only for the benefit of the Members and Owners in accordance with the provisions of the Declaration. No part of the income, if any, of the Association, shall be distributed to the Members, Owners, directors or officers of the Association.

In addition, the Association shall exercise all of the power and privileges, perform all of the duties and obligations as permitted by law, as set forth herein, and as the same may be amended from time to time as herein provided.

ARTICLE VI
MEMBERSHIP

Qualification for, and admission to, membership in the Association shall be regulated by the Declaration and the By-Laws.

ARTICLE VII
DIRECTORS

The affairs of the Association shall be managed by a Board of Directors consisting of not less than three (3) nor more than twenty-five (25) persons. Until such time as Declarant relinquishes control of the Association, as described in the Declaration, Declarant shall have the right to appoint all members of the Board of Directors and to fill such vacancies, to appoint all members of the Environmental Control Board and other committees of the Board of Directors, and to fill all vacancies on such committees, and to approve the appointment of all officers of the Association.

Further, until turnover of control by Declarant, as aforesaid, no director or officer need be an Owner; thereafter, however, all directors and officers must be Owners. Upon relinquishment of control of the Association by Declarant, as defined in the Declaration, each Sub-Association Member of the Association shall appoint one (1) member of the Board of Directors, who shall serve until the next annual meeting of the Board of Directors, at which time he may be re-appointed. The Declarant shall be entitled at any time, and from time to time, to remove or replace any director originally appointed by the Declarant. The Declarant may waive or relinquish in whole or in part any of its rights to appoint any one or more of the directors it is entitled to appoint.

The number of directors constituting the initial Board is three (3) and they shall serve until such time as Declarant relinquishes control of the Association or until replaced by Declarant. The names and post office addresses of the persons who shall constitute the initial Board of Directors are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Thomas Sansbury	P.O. Box 910 Palm Beach, Florida 33480
Henry H. Barnes	P.O. Box 910 Palm Beach, Florida 33480
Jerry E. Aron, Esquire	P.O. Box 71 Palm Beach, Florida 33480

ARTICLE VIII

OFFICERS

The officers named herein shall serve until replaced by Declarant or until the first regular meeting of the Board of Directors, whichever shall occur first. Officers elected at the first meeting of the Board shall hold office until the next annual meeting of the Board of Directors, or until their successor shall have been appointed and shall qualify. So long as Declarant retains control of the Association, as defined in the Declaration, no officer appointed by the Board shall serve the Association until such time as Declarant approves the appointment. Upon the appointment of an officer by the Board of Directors, whether the appointment occurs at the annual meeting or otherwise, the Board shall forthwith submit the name of such newly appointed officer or officers, as the case may be, in writing, to Declarant. Declarant shall approve or disapprove said officer, or officers, within twenty (20) days after receipt of said name or names. In the event Declarant fails to act within such time period, such failure shall be deemed approval by Declarant. No officer appointed or elected by the Declarant need be an Owner of the Association, however, thereafter, all officers must be Owners. The names and offices of the initial officers of the Association are as follows:

<u>NAME</u>	<u>TITLE</u>	<u>ADDRESS</u>
Thomas Sansbury	President	P.O. Box 910 Palm Beach, Florida 33480
Jerry E. Aron	Vice President	P.O. Box 71 Palm Beach, Florida 33480
Henry H. Barnes	Treasurer/ Secretary	P.O. Box 910 Palm Beach, Florida 33480

ARTICLE IX

INDEMNIFICATION OF OFFICERS, DIRECTORS AND MEMBERS OF THE E.C.B. AND THE
REPURCHASE AND RESALE COMMITTEE.

Every director, officer and member of the Environmental Control Board and the Repurchase and Resale Committee of the Association shall be indemnified by the Association as provided in the Declaration.

ARTICLE X

TRANSACTION IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED

A. No contract or transaction between the Association and one or more of its Directors or officers, or between the Association and any other corporation, partnership, association, or other organization in which one or more of its Directors or officers are Directors or officers of the Association, or have a financial interest, shall be invalid, void or voidable solely for this reason, or solely because a Director or officer is present at or participates in the meeting of the Board or committee thereof which

authorized the contract or transaction, or solely because his or their votes are counted for such purpose. No Director or officer of the Association shall incur liability by reason of the fact that his is or may be interested in any such contract or transaction.

B. No contract, agreement or undertaking of any sort by or among the Association, its Directors, Officers, or members shall be invalidated or affected by reason of the fact that any of them hold the same or similar positions with another condominium or home owners association within Breakers West.

C. Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction. All references in this Article to “directors” or “officers” shall also be deemed to refer to members of the Environmental Control Board as well.

ARTICLE XI

DISSOLUTION OF THE ASSOCIATION

A. Upon dissolution of the Association, other than incident to a consolidation or merger, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

1. Real property contributed to the Association without the receipt of other than nominal consideration by the Declarant or its predecessor in interest, shall be returned to the Declarant, unless it refuses to accept the conveyance (in whole or in part).
2. Dedication to any applicable municipal or other governmental authority of any property determined by the Board of Directors of the Association to be appropriate for such dedication and which the authority is willing to accept.
3. Remaining assets shall be distributed among the members, subject to the limitations set forth below, as tenants in common, each member’s share of the assets to be determined in accordance with its voting rights. Each Member shall distribute its share of the assets to the Owners of Parcels subject to its control, according to the number of Parcels governed by such Member.

B. The Association may be dissolved upon a resolution to that effect being recommended by three-fourths (3/4) of the members of the Board of Directors, and if such decree be necessary at the time of dissolution, after receipt of an appropriate decree as set forth in Florida Statutes Section 617.05, or a statute of similar import.

ARTICLE XII

BY-LAWS

The original By-Laws of this Association shall be adopted by the Board of Directors of the Association, and thereafter the By-Laws may be amended, altered or rescinded as set forth therein. Notwithstanding the foregoing, so long as Declarant is the owner of any property affected by the Declaration or amendments thereto, or is entitled to appoint the Board of Directors of the Association, no amendment to the By-Laws will be effective without Declarant's express written joinder and consent. No amendment shall be made to the By-Laws that is in conflict with these Articles of Incorporation or the Declaration.

ARTICLE XIII

AMENDMENTS

These Articles of Incorporation of the Association may be amended, altered or rescinded as provided in Chapter 617 (Part I) of the Florida Statutes (the "Florida Not-For-Profit Corporation Act").

ARTICLE XIV

DURATION

The term of the Association shall be perpetual.

ARTICLE XV

PROHIBITION AGAINST ISSUANCE OF STOCK

AND DISTRIBUTION OF INCOME

The Association shall never have or issue any shares of stock, nor shall the Association distribute any part of its income, if any, to its members, directors or officers. Nothing herein, however, shall be construed to prohibit the payment by the Association of compensation in a reasonable amount to the members, directors or officers for services rendered; nor shall anything herein be construed to prohibit the Association from making any payments or distributions to members of benefits, monies or properties permitted by Section 617.011, Florida Statutes. All references to "members" in this Article shall also be deemed to refer to "Owners" as well.

RESTATED BY-LAWS OF
BREAKERS WEST ASSOCIATION, INC.
A Non-Profit Corporation under the laws
of the State of Florida

ARTICLE I

IDENTIFY

Section 1: The name of this corporation is BREAKERS WEST ASSOCIATION, INC., hereinafter referred to as the “Corporation” or “Association”.

Section 2: The Association office of the Corporation is 1688 Breakers West Boulevard, West Palm Beach, Florida 33411.

Section 3: The seal of the Association shall bear the name of the Association, the word, “Florida”, the words, “Corporation Not for Profit”, and the year of the incorporation, an impression of which is as follows:

Section 4: All terms used herein which are defined in that certain Declaration of Covenants and Restrictions for Breakers West, as same may be amended from time to time (the “Declaration”), shall have the same meaning herein as therein, whether or not they are capitalized.

ARTICLE II

PURPOSES

This Association is organized to serve as the instrumentality of owners in Breakers West for the purpose of controlling and regulating use of the common areas therein; in promoting, assisting, and providing adequate and proper maintenance of Breakers West for the benefit of all owners therein; of providing and promoting the health, welfare and safety within Breakers West through the acquisition of land and facilities (whether by fee, simple ownership, leasehold or other possessory use interest), the maintenance of the land and facilities, the enforcement of the Declaration, and such other means and methods as it may deem in the best interest of its members; to exercise all powers and discharge all responsibilities granted to it as a corporation under the laws of the State of Florida, its Articles of Incorporation and these By-Laws, and the Declaration; to acquire, hold, convey, and otherwise deal with real and/or personal property in the Association’s capacity as a homeowners association; and to otherwise engage in such additional lawful activities for the benefit, use, convenience and enjoyment of its members as it may deem proper.

ARTICLE III

Section 1. DIRECTORS AND OFFICERS

A. The affairs of the Association shall be managed by a Board of Directors which shall consist of not less than three (3), not more than fifteen (15) members. The initial Board shall consist of individuals named in the Articles of Incorporation of the Association, who shall serve until such time as the Declarant relinquishes control of the Association, as described in the Declaration, or until replaced by the Declarant.

B. Upon relinquishment of control of the Association by Declarant, as defined in the Declaration, one (1) member of the Board of Directors shall be appointed by each of the following: each Sub-Association, the Declarant, the owner of the Flagler Parcel and the owner of the Mayacoo Parcel. In the event a Sub-Association fails to appoint a member of the Board of Directors, the President of the Sub-Association shall be deemed to be the appointed member of the Board of Directors.

C. There shall be no cumulative voting.

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

E. No director shall receive or be entitled to any compensation for his services as director, but shall be entitled to reimbursement for all expenses sustained by him as such, if incurred upon the authorization of the Board.

F. Until such time as Declarant relinquishes control of the Association, as defined in the Declaration, no director or officer need be an Owner. Thereafter, however, all directors and officers must be Owners (other than the directors appointed by the Declarant and the owners of the Flagler Parcel and Mayacoo Parcel).

G. The Board of Directors may appoint committees to perform activities of the Association. Such committees, as appointed in the sole discretion of the Board of Directors, shall report to and be administered by the Board of Directors.

H. Deleted.

I. The Board of Directors shall appoint a Repurchase and Resale Committee, consisting of at least three (3) members, one of whom shall be a member of the Board of Directors. This Committee shall meet when necessary to take action in regards to the repurchase and resale of property within Breakers West pursuant to procedures contained in the Declaration. All decisions of the Committee shall be subject to review by the Board of Directors.

J. Until turnover of control of the Association, as defined in the Declaration, the Declarant shall have the right to appoint the members of the Environmental Control Board. After turnover of control, the Board of Directors shall have the right to appoint the members of the Environmental Control Board ("E.C.B.") in accordance with the provisions of the Declaration. The Environmental Control Board shall administer and perform the environmental review and control functions of the Association and the Sub-Associations, in accordance with the terms and provisions of the Declaration.

Section 2. Officers. The executive officers of the Association shall be President, Vice President, Secretary and Treasurer and such other officers as the Board of Directors may appoint. The officers named in the Articles of Incorporation shall serve until replaced by Declarant or until the first regular meeting of the Board, whichever shall occur first. Officers elected at the first meeting of the Board shall hold office until the next annual meeting of the directors, or until their successors shall have been appointed and shall qualify. So long as Declarant retains the right of appointment of the Board of Directors, no officer appointed by the Board shall serve the Association until such time as Declarant approves the appointment. Upon the next appointment of an officer by the Board of Directors, whether the appointment occurs at the annual meeting or otherwise, the Board shall forthwith submit the name of such newly appointed officer or officers, as the case may be, in writing to Declarant. Declarant shall approve or disapprove said officer or officers, within twenty (20) days after receipt of said name or names. In the event Declarant fails to act within such time period, such appointment shall be deemed approved by Declarant.

Section 3. Resignation, Vacancy, Removal

A. Resignation: Any director or officer of the Association may resign at any time, by instrument in writing. Resignations shall take effect at the time specified therein and if no time is specified, resignations shall take effect at the time of receipt by the President or Secretary of the Association. The acceptance of a resignation shall not be necessary to make it effective.

B. Director Vacancy: When a vacancy occurs on the Board of Directors, the vacancy shall be filled by the Declarant until such time as Declarant relinquishes control of the Association, as defined in the Declaration. Subsequent to the annual meeting of the Directors next succeeding the date upon which Declarant relinquishes control of the Association, a vacancy occurring on the Board of Directors shall be filled by the Sub-Association Member which appointed the director creating the vacancy by appointing a person who shall serve until the next annual meeting of the Board.

C. Officer Vacancy: When a vacancy occurs in an office for any reason before an officer's term has expired, the office shall be filled by the Board of Directors at its next meeting by electing a person to serve for the unexpired term or until a successor has been elected by the Board of Directors and shall qualify. So long as Declarant has or retains the right of appointment of the Board of Directors, no officer appointed hereunder shall serve the Association until such time as Declarant approves the appointment. Upon the appointment of an officer by the Board of Directors pursuant to this provision, the Board of Directors shall forthwith submit the name of such newly appointed officer or officers, as the case may be, in writing to Developer and Declarant shall approve or disapprove said officer or officers, within twenty (20) days after receipt of said name or names, and in the event Declarant fails to act within such time period, such appointment shall be deemed approved by Declarant.

D. Except as otherwise provided herein, any Director may be removed by the Sub-Association Member which appointed him, with or without cause, and any officer of the Association may be removed by the Board of Directors, at any time with or without cause. During the period of time during which Declarant has control of the Association, any officer or member of the Board of Directors may be removed, with or without cause, by Declarant, at its discretion.

E. Status of Declarant, and owners of Flagler Parcel and Mayacoo Parcel: Declarant, the owner of the Flagler Parcel and the owner of the Mayacoo Parcel shall be deemed to be Members of the Association from and after the date of recordation of the Declaration in the public records of the County.

Section 4. Indemnification of Directors, Officers and E.C.B. Members. Every Director, Officer and member of the E.C.B. shall be indemnified by the Association against liability and expenses which he may incur by reason of his being or having been a Director, Officer or member of the E.C.B. in accordance with the terms of the Declaration.

ARTICLE IV

“POWERS AND DUTIES OF THE ASSOCIATION AND THE EXERCISE THEREOF”

The Association shall have all powers granted to it by law, the Declaration, the Articles of Incorporation, and these By-Laws, all of which shall be exercised by its' Board of Directors unless the exercise thereof is otherwise restricted in the Declaration, these By-Laws or by law; the powers of the Association shall include but not be limited to the following:

1. All the powers specifically provided for in the Declaration and in the Articles of Incorporation.
2. The power to levy and collect those assessments against Owners as are provided for in the Declaration.
3. The power to expend monies collected for the purpose of paying the Common Expenses of the Association.
4. The power to purchase equipment, supplies and materials required in the maintenance, repair, replacement, operation and management of the Common Property.
5. The power to purchase insurance of any nature or type whatsoever, in such amounts and with such companies as shall be deemed appropriate by the Board of Directors of the Association.
6. The power to employ the personnel required for the operation of the Association, the Association's property and the Common Property.
7. The power to pay utility bills for utilities serving the Association's property and the Common Property.
8. The power to contract for the management of the Association's property and to delegate to its contractor as manager, all of the powers and duties of the Association, except those matters which must be approved by members.
9. The power to make reasonable Rules and Regulations and to amend them from time to time.
10. The power to improve the Association's property and the Common Property, subject to the limitations of the Declaration.
11. The power to enforce by any legal means the provisions of the Articles of Incorporation, the By-Laws, the Declaration, the Rules and Regulations of the Association and the E.C.B. and the Traffic Regulations promulgated by the Association.

12. The power to enforce by any legal means the provisions of the declarations of covenants and restrictions for the Developments, including, without limitation, the environmental control restrictions contained therein, the articles of incorporation of the Sub-Associations, the By-Laws of the Sub-Associations, and the rules and regulations promulgated by the Sub-Associations.

13. The power to collect delinquent Assessments by suit or otherwise, and to abate nuisances and enjoyn or seek damages from Members and Owners for violations of the provisions of the Declaration, the Articles of Incorporation, these By-Laws and Rules and Regulations of the Association and the E.C.B., the Traffic Regulations, the declarations of covenants and restrictions for the Developments, including without limitation, the environment control restrictions contained therein, the articles of incorporation of the Sub-Associations, the By-Laws of the Sub-Associations and the rules and regulations promulgated by the Sub-Associations.

14. The power to pay all taxes and assessments which are liens against the Association's property and the Common Property.

15. The power to control and regulate the use of the Association's property and the Common Property by the members and to promote and assist adequate and proper maintenance of that property.

16. The power to borrow money and the power to select depositories for the Association's funds, and to determine the manner of receiving, depositing, and disbursing funds and the form of check and the person or persons by whom the same shall be signed, when not signed as otherwise provided by these By-Laws. Corporate funds may be deposited in accounts as are selected by the Board of Directors including passbook savings accounts, certificates of deposits, U.S. Treasury bills and money market accounts with an investment firm or firms.

17. The power to acquire real and personal property for the benefit and use of its members and owners and to dispose of the property in accordance with the Declaration and the Articles of Incorporation.

18. The power to enter into a long term contract with any person, firm, corporation or real estate management agent of any nature or kind, to provide for the maintenance, operation, repair and upkeep of the Association's property and the Common Property and any facilities on lease to the Association or otherwise provided for the Association members' usage. The contract may provide that the total operation of the managing agent, firm or corporation shall be at the cost of the Association. The contract may further provide that the managing agent shall be paid from time to time a reasonable fee either stated as a fixed fee or as a percentage of the total costs of maintenance, operation, repair and upkeep or of the total funds of the Association handled and managed by the managing agent. Such fee, if any, shall be another of the management function costs to be borne by the Association, unless the contract provides to the contrary.

19. The power to establish additional officers and/or directors of this Association and to appoint all officers, except as otherwise provided herein.

20. The power to maintain any surface water management system.

21. The power to appoint the members of the E.C.B. in accordance with the Declaration, and such other committees as the Board of Directors may deem appropriate.

22. The power to possess, employ and exercise all powers necessary to implement, enforce and carry into effect the powers above described, including the power to acquire, hold, convey and deal in real and personal property.

ARTICLE V

DUTIES OF OFFICERS

Section 1. President. The President shall be the chief executive officer of the Association and shall:

A. Act as presiding officer at all meetings of the Association and of the Board of Directors.

B. Call special meetings of the Board of Directors.

C. Sign, with the Secretary or Treasurer if the Board of Directors so requires, all checks, contracts, promissory notes, leases, deeds and other instruments on behalf of the Association, except those which the Board of Directors specifies may be signed by other persons.

D. Perform all acts and duties usually required of an executive to insure that all orders and resolutions of the Board of Directors are carried out.

E. Appoint committees and act as ex-officio member of all committees, and render an annual report at the annual meeting of directors.

Section 2. Vice President. The Vice President, in the absence or disability of the President, shall exercise the power and perform the duties of the President. He also shall assist the President generally, and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

Section 3. Secretary. The Secretary shall have the following duties and responsibilities:

A. Attend all regular and special meetings of the members of the Association and of the Board of Directors and keep all records and minutes of proceedings thereof or cause the same to be done.

B. Have custody of the corporate seal and affix the same when necessary or required.

C. Attend to all correspondence on behalf of the Board of Directors, prepare and serve notice of meetings and keep membership books.

D. Perform such other duties as the Board of Directors may determine and on all occasions in the execution of his duties, act under the superintendence, control and direction of the Board of Directors.

E. Have custody of the minute book of the meeting of the Board of Directors and act as transfer agent of the corporate books.

Section 4. Treasurer. The Treasurer shall:

A. Attend all meetings of the Board of Directors.

B. Receive such monies as shall be paid into his hands for the account of the Association and disburse funds as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and be custodian of all securities, contracts, leases and other important documents of the Association which he shall keep safely deposited.

C. Supervise the keeping of accounts of all financial transactions of the Association in books belonging to the Association, and deliver such books to his successor. He shall prepare and distribute to all of the members of the Board prior to each annual meeting, and whenever else required, a summary of the financial transactions and condition of the Association from the preceding year. He shall make a full and accurate report on matters and business pertaining to his office to the member at the annual meeting, and make all reports required by law. He shall prepare the annual budget, and present it to the Board for its' consideration.

D. The Treasurer may have the assistance of an accountant or auditor, who shall be employed by the Board of Directors, as a Common Expense of the Association. In the event the Association enters into a management agreement, it shall be proper to delegate such of the Treasurer's functions to the management agent as is deemed appropriate by the Board of Directors.

ARTICLE VI

MEMBERSHIP AND VOTING

Section 1. Qualification for Membership. The qualifications for membership and the manner of admission to membership and termination of such membership, shall be as follows: Each Sub-Association created by Declarant (or by any other party approved by Declarant) with respect to any property now or hereinafter subjected to the Declaration shall automatically become a Member of the Association with the Florida Secretary of State. Such membership shall be mandatory and may not be terminated by the Sub-Association. The Declarant and the owner of the Flagler Parcel and the owner of the Mayacoo Parcel shall be considered Members from and after the date of recordation of the Declaration in the public records of the County.

Section 2. Voting.

A. Board Votes. All votes of the Board of Directors shall be based on one (1) vote per director. After turnover of control of the Association, each Sub-Association shall file with the Secretary of the Association a notice designating the name, address, and phone number of the appointee of the Sub-Association who shall serve on the Board of Directors of the Association.

B. Member Votes. The Association shall have one class of voting membership. For any votes of the membership of the Association, each Sub-Association shall have one (1) vote for each Parcel subject to its control (the Sub-Association votes shall be exercised by the President of the Sub-Association). The owner of the Mayacoo Parcel and the owner of the Flagler Parcel shall each have one vote. Declarant shall have one (1) vote for each Parcel owned by Declarant at such time.

ARTICLE VII

MEETINGS, SPECIAL MEETINGS, QUORUMS, PROXIES

Section 1. Directors' Meetings.

A. Annual Meeting. The annual meeting of the Board of Directors and the Members shall be held upon a date selected by the Board of Directors, each calendar year, subsequent to relinquishment of control of the Association by the Declarant. No meeting shall be held on a legal holiday. The meetings shall be held at such time as the Board of Directors shall appoint from time to time. The purpose of such meeting shall be the election of officers of the Association and the transaction of other business authorized to be transacted by the Board of Directors. The order of business shall be determined by the presiding officer of the Board of Directors. All meetings shall be held in the office of the Association, or at such other place in Palm Beach County, Florida, as shall be stated in the notice thereof. The Board of Directors may establish a schedule of regular meetings to be held at such place as the Directors may designate. Regular meetings may be held without notice.

B. Special Meetings. Special meetings of the Board of Directors may be called by the President, upon notice to each director to be delivered by telephone, mail or in person. Special Meetings may also be called on written request of the two (2) directors. All notices of special meetings shall state the purpose, time and place of the meeting.

C. Quorum. At all meetings of the Board of Directors, a majority of the total votes of the membership of the Association, as represented by the Directors present, shall constitute a quorum for the transaction of business, and the acts of a majority of the votes of the membership of the Association, as represented by the Directors present at such meeting at which a quorum is not present, the presiding officer may adjourn the meeting from time to time, and at any such adjourned meeting, any business which might have been transacted at the meeting as originally called, may be transacted without further notice.

D. INTENTIONALLY DELETED

E. INTENTIONALLY DELETED

F. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

G. Any regular or special meeting of the Board of Directors may be held by telephone conference, at which each participating member can hear and be heard by all other participating members. Any action taken by the Board of Directors at any such telephone meeting shall be confirmed in writing by all Directors as soon as reasonably possible thereafter.

H. The order of business at Director's meetings shall be determined by the Board of Directors.

ARTICLE VIII

NOTICE

Section 1. Annual Meeting. Written notice of the annual meeting of Directors and Members shall be served upon or mailed to each Member entitled to notice, at least ten (10) days and no more than sixty (60) days, prior to the meeting.

Section 2. Special Meeting. Written notice of a special meeting of Directors stating time, place and object of such meeting shall be served upon or mailed to each Member at least two (2) days, and no more than sixty (60) days, prior to such meeting.

Section 3. Waiver. Nothing herein is to be construed to prevent members from waiving notice of meetings or acting by written agreement without meetings.

ARTICLE IX

PROCEDURE

Robert's Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles and By-Laws of the Association or with the Statutes of the State of Florida.

ARTICLE X

ASSESSMENTS, FINES AND MANNER OF COLLECTION

The Board of Directors shall have the power to levy and enforce Assessments and fines against Members, Owners, property owned by or dedicated to Members, Parcels, the Mayacoo Parcel and the Flagler Parcel as set forth in the Declaration.

ARTICLE XI

FISCAL MANAGEMENT

Section 1. Fiscal Year. The fiscal year of the Association shall be a calendar year unless changed by the Board of Directors in their sole discretion.

Section 2. Depositories. The funds of the Association shall be deposited in a bank or banks inside or outside of Palm Beach County, Florida, in an account for the Association under resolutions approved by the Board of Directors, and shall be withdrawn only over the signature of the Treasurer, the President or such other persons as the Board may authorize. The Board may require more than one (1) signature on checks and bank drafts. The funds shall be used only for corporate purposes.

Section 3. Fidelity Bonds. Fidelity bonds may be required by the Board of Directors from all officers and employees of the Association, and from any contractor handling or responsible for corporate funds. These premiums for such bonds shall be paid by the Association.

Section 4. Records. The Association shall maintain accounting records according to good practice which shall be open to inspection by members at reasonable times. Such records shall include a

record of receipts and expenditures and accounts for each member, which account shall designate the name and address of the member, the amount of each assessment, the due dates and amount of each assessment, the amounts paid upon the account, and the balance due. A register for the names of any mortgage holders or lien holders who have notified the Association of their liens, and to which lienholders the Association will give notice of default if required, shall also be maintained.

Section 5. Annual Statement. The Board of Directors shall present annually to the members a full and clear statement of the business and condition of the Association, as prepared by an independent accountant.

Section 6. Insurance. The Association shall procure, maintain and keep in full force and effect insurance of such types, and in such amounts and with such companies as shall be deemed appropriate by the Board of Directors of the Association.

Section 7. Expenses. The receipts and expenditures of the Association may be credited and charged to accounts as the Board of Directors may determine, in accordance with good accounting practices.

Section 8. Budget. The Board of Directors shall adopt a budget for each fiscal year that shall include the estimated funds required to defray the expenses, and to provide and maintain funds for the accounts established by the Board of Directors, in accordance with good accounting practices.

ARTICLE XII

ADMINISTRATIVE RULES AND REGULATIONS

The Board of Directors may, from time to time, adopt rules and regulations and Traffic Regulations governing the details of the operation and use of the Common Property, including, without limitation, the Streets, provided that the rules and regulations and the Traffic Regulations shall be equally applicable to all Members and Owners and uniform in application and effect. Further, the Environmental Control Board may adopt rules and regulations in accordance with the provisions of the Declaration.

ARTICLE XIII

VIOLATIONS AND DEFAULTS

In the event of a violation of any of the provisions of the Declaration, these By-Laws, the rules and regulations of the Association or the E.C.B., the Traffic Regulations of the Association, the Articles of Incorporation, the declarations of covenants and restrictions for the Developments, including, without limitation, the environmental control restrictions contained therein, the articles of incorporation of the Sub-Associations, the by-laws of the Sub-Associations or the rules and regulations promulgated by the Sub-Associations, the Association shall have all rights and remedies provided by law, including, without limitation (and such remedies shall be cumulative) the right to sue for damages, the right to injunctive relief, and in the event of a failure to pay Assessments or fines, the right to foreclose its lien as provided in the Declaration, and in every proceeding, the Member or Owner (or the owner of the Flagler Parcel or the Mayacoo Parcel, in the case of a delinquent Assessment) at fault shall be liable for court costs and the Association's attorney's fees. A suit to collect unpaid Assessments or fines may be prosecuted by the Association without waiving the lien securing such unpaid Assessments or fines.

ARTICLE XIV

AMENDMENTS OF BY-LAWS

Section 1. Declarant's Right to Amend. Until turnover of control of the Association, these By-Laws may be amended by an instrument in writing, signed by the Declarant.

Section 2. Amendments After Declarant Relinquishes Control. After turnover of control of the Association by Declarant, these By-Laws may be amended, modified or rescinded by the Board of Directors at any regular or special meeting, provided, however, that at no time shall the By-Laws conflict with the terms of the Declaration or the Articles of Incorporation. No amendment, alteration or modification of these By-Laws shall be made which affects the rights, privileges of any Institutional Mortgagee, nor may these By-Laws be rescinded without the express, prior written consent of all Institutional Mortgagees so affected, and any attempt to amend, alter, modify or rescind contrary to this prohibition shall be of no force or effect.

ARTICLE XV

DECLARANT'S CONTROL

Anything contained herein to the contrary notwithstanding, the Declarant shall have the right to retain control of the Association until the year 2010, or until such earlier date as is determined by the Declarant, in the Declarant's sole discretion. So long as Declarant retains control of the Association, Declarant shall have the right to appoint all members of the Board of Directors and the E.C.B. and to approve the appointment of all officers of the Association. Further, during the period of the Declarant's control, the members of the Board of Directors and the E.C.B. may be removed only by the Declarant.

ARTICLE XVI

VALIDITY

If any By-Law, rule or regulation shall be adjudged invalid, such fact shall not affect the validity of any other By-Law, rule or regulation.

ARTICLE XVII

CONSTRUCTION TO BE CONSISTENT WITH DECLARATION
OF COVENANTS AND RESTRICTIONS

These By-Laws and the Articles of Incorporation of the Association shall be construed, in case of any ambiguity or lack of clarity, to be consistent with the provisions of the Declaration, the Articles of Incorporation or these By-Laws, the following order of priority shall apply: The Declaration, The Articles of Incorporation and the By-Laws.

It is hereby certified that the foregoing Restated Governing Documents of Breakers West Association, Inc. were approved for recording by the Board of Directors of Breakers West Association, Inc. at a duly called meeting of said Board.

IN WITNESS WHEREOF, the undersigned President and Secretary have executed these Restated Governing Documents this 12th day of November, 2018.

BREAKERS WEST ASSOCIATION, INC.,
a Florida Not-for-Profit Corporation

Witnesses:
[Signature]
(signature)
Debra Horan
(printed name)

[Signature]
(signature)
LEUISA MACKENZIE
(printed name)

[Signature]
(signature)
CHARLES BENNETT
(printed name)

[Signature]
(signature)
WILLIAM B. PETERSON
(printed name)

By: [Signature]
Joseph Bergman, President

Attest: [Signature]
MARY M. HEALY Secretary
MARY M. HEALY

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 12th day of November, 2018, by Joseph Bergman, as President, and Mary Healy, as Secretary, respectively, of BREAKERS WEST ASSOCIATION, INC., who are personally known to me or have produced _____ as identification and who did take an oath.

[Signature]

Notary Public
State of Florida
My Commission Expires:

(Notary Seal)

