



This instrument was prepared  
by and should be returned to:  
Alan Pinkwasser, Esq. and  
Bruce Gable  
8231 Muirhead Circle  
Boynton Beach, Florida 33437

DECLARATION OF AMENDED COVENANTS AND RESTRICTIONS

FOR

MUIRHEAD ESTATES AT ABERDEEN

THIS DECLARATION OF AMENDED COVENANTS AND RESTRICTIONS, made and executed this        day of                    2005, by MUIRHEAD ESTATES AT ABERDEEN HOMEOWNERS ASSOCIATION, INC., A Florida not for profit Corporation, hereinafter called "Association".

W I T N E S S E T H :

WHEREAS, previous Developer, Sunbelt Properties Ltd. (Developer) was the owner of 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, previous Developer established a general plan and uniform scheme of development and improvement of the Property; and

WHEREAS, previous Developer wished 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, previous Developer had 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 Declaration of Covenants and Restrictions.

ARTICLE 1

DEFINITIONS

The following terms as used in this Declaration, shall have the following meanings:

- 1.1 "Aberdeen" shall mean and refer to all real property subject to the Aberdeen Planned Unit Development, formerly known as Parkwalk Planned Unit Development, created pursuant to County Resolutions Numbers R-73-811, R-80-1242 and R-80-1243, within which the Property is located.
- 1.2 "Architectural Review Board" or "A.R.B." shall mean and refer to that permanent committee of the Master Association, created for the purpose of establishing and enforcing criteria for the construction of Improvements within the Property and other properties subject to the control of the Master Association.
- 1.3 "Muirhead Architectural Review Committee" or "M.M.A.R.C." shall mean and refer to that permanent committee of the Association.

- 1.4 "Assessment" shall mean and refer to those charges made by the Association from time to time, against each Lot within the Property, for the purposes and subject to the terms set forth herein.
- 1.5 "Association" shall mean and refer to MUIRHEAD ESTATES AT ABERDEEN HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit, and its successors and assigns.
- 1.6 "Board" shall mean the Board of Directors of MUIRHEAD ESTATES AT ABERDEEN HOMEOWNERS ASSOCIATION, INC.
- 1.7 "Club" shall mean and refer to Aberdeen Golf and Country Club.
- 1.8 "Club Facilities" shall mean and refer to the golf course and such other properties, improvements and related amenities located in Aberdeen P.U.D. and Aberdeen P.C.D. and owned by the Club Owner.
- 1.9 "Club Owner" shall mean and refer to Aberdeen Golf and Country Club, Inc., a Florida not for profit corporation, its successors and assigns.
- 1.10 "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.
- 1.11 "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 identified and dedicated or reserved to the Association on the recorded subdivision plat of the Property, or conveyed to the Association by deed, and any personal property acquired by the Association.
- 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 it may be amended from time to time.
- 1.14 "Developer" shall mean and **refer** to Sunbelt Properties, Ltd., an Illinois limited partnership authorized to transact business in the State of Florida, its successors and assigns.
- 1.15 "Gatehouse" shall mean and refer to the security Gatehouse, including the entryway thereto, located on Estates Boulevard as shown on the recorded subdivision plat of the Property.
- 1.16 "Improvements" shall mean and refer to all structures of any kind including, without limitation, any building, fence, wall, sign, paving, grating, parking and building addition, alteration, screen enclosure, sewer, drain, disposal system, decorative building, landscaping, or landscape device or object.
- 1.17 "Lot" shall mean and refer to a tract of real property designated as a residential building lot on any plat of the Property, whether improved or unimproved.
- 1.18 "Master Association" shall mean and refer to ABERDEEN PROPERTY OWNERS ASSOCIATION, INC., a Florida corporation not for profit, its successors and assigns.
- 1.19 "Master Declaration" shall mean and refer to that certain Declaration Of Covenants and Restrictions For Aberdeen Planned

Unit Development and Aberdeen Planned Commercial Development, dated June 17, 1983, and recorded at Official Record Book 3970, page 573, under the name of Parkwalk Planned Unit Development and Parkwalk Planned Commercial Development, Public Records of Palm Beach County, Florida, and any amendments thereto recorded or to be recorded in the Public Records of Palm Beach County, Florida.

- 1.20 "Master Plan" shall mean and refer to that certain Revised Master Plan for Aberdeen, which is filed under the name Parkwalk and marked Exhibit No. 26 in the Official *Zoning File* of ABERDEEN, in the Office of the County Department of Planning, Zoning and Building, approved July 13, 1982 and as amended from time to time.
- 1.19 "Member" shall mean and refer to a member of the Association and as used throughout this Declaration is synonymous with the term "Owner" and said terms are used herein interchangeably.
- 1.20 "Mortgagee" shall mean and refer to (1) any person, partnership, corporation or other natural or artificial entity which holds a mortgage upon any portion of the Property at the time of the recordation of this Declaration, (2) any person, partnership, corporation or other natural or artificial entity which subsequently makes a loan secured by a mortgage upon any portion of the Property and who is designated to be a "Current Mortgagee" in its mortgage, and (3) any Institutional Lender" which shall refer to a lending institution having a first mortgage lien upon a Lot or any portion of the Property, including any of the following institutions: (a) a federal or state savings and loan association or commercial bank doing business in the State of Florida, (b) a federal or state building and loan association doing business in the State of Florida, (c) an insurance company or subsidiary thereof doing business in the State of Florida which is approved by the Insurance Commissioner of the State of Florida, (d) a real estate investment trust or mortgage banking company licensed to do business in the State of Florida, (e) the Federal National Mortgage Association, (f) a pension or profit Sharing fund qualified under the United States Internal Revenue Code, or (g) any subsidiary of the foregoing licensed or qualified to make mortgage loans in the State of Florida. As used in this Declaration, the term "Mortgagee" shall apply collectively to a Current Mortgagee, to a designated Current Mortgagee and to an Institutional Lender, but when such terms are expressly used, they shall apply only to the appropriate Mortgagee and not to the others.
- 1.23 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, excluding, however, any Mortgagee unless and until such Mortgagee has acquired title pursuant to foreclosure or any proceeding or deed in lieu of foreclosure and as used throughout this Declaration, the term "Owner" is synonymous with the term "Member" and said terms are used herein interchangeably.
- 1.24 "Property" shall mean and refer to that real property legally described in Exhibit "A" attached hereto and made a part hereof, and any other real property which may from time to time be made subject to this Declaration in the manner provided in Article 2 hereof.
- 1.25 "Unit" shall mean and refer to a residential dwelling constructed on a Lot, for which a Certificate of occupancy has been issued.

## ARTICLE 2

### PROPERTY SUBJECT TO THIS DECLARATION

2.1 Existing Property. The initial Property subject to this Declaration upon the recordation hereof in the County Public Records, is the Property described in Exhibit "A" attached hereto.

### ARTICLE 3

#### MUIRHEAD ESTATES AT ABERDEEN HOMEOWNERS ASSOCIATION, INC.

3.1 Formation. At or about the time of the recording of this Declaration, Developer has caused the Association to be formed by the filing of the Articles of incorporation therefore in the Secretary of State of Florida. The Association is formed to own, operate and maintain the Common Property; enforce the covenants, conditions, restrictions and other provisions set forth in this Declaration 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. Subject to the additional limitations provided herein and in the Articles of Incorporation and By-Laws, the Association shall have all of the powers and be subject to the limitations of a not-for-profit corporation as contained in Florida Statutes, Chapter 617, Part 1 (1985) (Corporations Not-For-Profit).

3.2 Membership. A person or entity shall automatically become a Member of the Association upon acquisition of fee simple title to any Lot and filing a deed therefore in the public records of the County. Membership shall continue until such time as the Member transfers or conveys his interest of record or the interest is transferred and conveyed by operation of law, at which time membership, with respect to the Lot conveyed, shall automatically be conferred upon the transferee. Membership shall be appurtenant to, and may not be separated from, ownership of a Lot subject to this Declaration. No person or entity holding an interest of any type or nature whatsoever in a Lot only as security for the performance of an obligation shall be a Member.

3.3 Voting. The Association shall have one class of membership:

Members shall be all Owners. Members shall be entitled to one vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interest in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot. With respect to each Lot owned by other than a natural person or persons, the Owner shall file with the Secretary of the Association a notice designating the name of an individual who shall be authorized to cast the vote of such Owner. In the absence of such designation, the Owner shall not be entitled to vote on any matters coming before the membership.

3.4 Administration of the Association. The affairs of the Association shall be administered by the Board of Directors in accordance with this 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 and provided further, that no amendment, alteration or rescission may be made which affects the rights or privileges of any Current Mortgagee without the express prior written approval of the Current Mortgagee so affected, and any attempt to amend, alter or rescind contrary to this prohibition shall be of no force or effect.

3.5 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 after his membership ceases,

or while he is not in good standing. A Member shall be considered "not in good standing" during any period of time in which he is delinquent in the payment of any Assessment, or in violation of any provision of this Declaration or of any rules or regulations promulgated by the Association. 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.

3.6.1 The Association shall have the right to terminate any contract or lease, including any management agreement. This right of termination may be exercised by the Association without penalty at any time, with or without cause, and upon not more than ninety (90) days notice to the other party.

#### ARTICLE 4

##### COMMON PROPERTY

4.1 Title to Common Property. Title to the Common Property shall remain vested in the Members of the Association. 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 from and after the date of recordation of this Amended Declaration. Simultaneously with its relinquishment of control of the Association, Developer has conveyed all of its right, title and interest in the Common Property to the Association.

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

4.3 Rules and Regulations Governing Use of Property. The Association, through its Board of Directors, shall regulate the use of the Property by Owners and may from time to time promulgate rules and regulations consistent with this Declaration governing the use thereof as it may deem to be in the best interest of its Members. No rules or regulations may be adopted which would adversely affect the rights of any Mortgagee without the prior written consent of such Mortgagee. A copy of all rules and regulations established hereunder and any amendments thereto shall be made available to all Members at the Association office. Such rules and regulations may be enforced by legal or equitable action.

4.4 Owners Easements of Enjoyment. Subject to the provisions herein below, each Owner shall have a right and easement of enjoyment in and to the Common Property which shall be appurtenant to, and shall pass with the title to each Lot.

4.5 Extent of Owner's Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

4.5.1 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.

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

4.5.3 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 that owner, and for any period during which such owner is in violation of this Declaration or any of the rules and regulations of the Association.

4.5.4 The right of the Association to maintain the Common Property

and other property described in Section 5.1.

4.5.5 The rules and regulations governing the use and enjoyment of the Property, as promulgated by the Association.

4.5.6 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.

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

4.5.8 All of the provisions of this Declaration, and the Articles of Incorporation and By-Laws of the Association.

4.6 Plat. Any plat or replat of the Property subject to this Declaration must conform with the Master Plan as approved by the Board of County Commissioners of Palm Beach County as well as the applicable site plan as approved by the Site Plan Review Committee of Palm Beach County.

## ARTICLE 5

### MAINTENANCE OF PROPERTY

5.1 Association Responsibilities. The Association shall be responsible for maintenance of the Common Property.

5.1.1 In addition, the Association shall maintain and be responsible for:

5.1.1.1 All roads within the Property which are dedicated or reserved to the Association on any plat of any portion of the Property or conveyed by deed to the Association.

5.1.1.2 All landscaping of the Common Property, including without limitation, all sodding, irrigation and the planting and care of trees and shrubbery.

5.1.1.3 The Association's proportionate share of maintenance and landscaping of the Gatehouse and the provision of security for the Property as set forth in Article 8 of this Declaration.

5.2 Owner Responsibilities. Each Owner shall be responsible for maintenance of his Unit, the Lot and, in the event the Lot abuts a lake, the Owner shall also be responsible for the maintenance of a portion of that certain twenty (20) foot perimeter area around the lake, (the "Lake Easement(s)") which are dedicated or reserved to the Master Association on any of the recorded plats of the Property, such maintenance to be in accordance with the requirements of this Declaration and to include, but not be limited to, the obligation and responsibility to irrigate and mow the Lot and Lake Easements on a regular basis as deemed appropriate by the Association. (For purposes of clarification, if an Owner's Lot abuts a lake, the Owner shall be responsible for the maintenance of an area determined by extending the side Lot lines through the Lake Easement to the water's edge.)

Owner is responsible to repair and maintain sidewalk and parkway (swale).

5.2.1 All Lots shall be kept in a clean and sanitary condition and no rubbish, refuse or garbage shall be allowed to accumulate or any fire hazard allowed to exist. All Lots shall be mowed and edged and kept free of debris and vegetation (including weeds, underbrush and/or unsightly growths) up to the curb of the street abutting the Lot. With regard to those lots which abut the lake, in addition to the foregoing, the owners thereof shall be obligated to maintain their Lots up to the perimeter boundary of the lake, notwithstanding the easement in favor of the

Association as more particularly described in Article 5 herein. In the event an Owner fails to maintain his Lot as aforesaid, for a period of at least thirty (30) days, the Association shall have the right, exercisable in its discretion, to mow, burn or clear any weeds, grass, underbrush or unsightly debris and/or growths from any Lot deemed by the Association to be a health menace, fire hazard or a detraction from the aesthetic appearance of Muirhead Estates at Aberdeen, provided, however, that at least fifteen (15) days prior notice shall be given by the Association to the Owner of such Lot before such work is done by the Association. In the event the Association, after such notice, causes the subject work to be done, then, and in that event, the costs of such work together with interest thereon at the maximum rate permitted by the usury laws of the State of Florida, shall be charged to the Owner and shall become a lien on the subject Lot, which lien shall be effective, have priority and be enforced pursuant to the procedures set forth in Article 7 of this Declaration.

5.2.2 In connection with the provision of water to each Lot, each owner shall install a well on his Lot or in the event the Lot is contiguous to the lake, the owner shall be permitted to obtain water from the lake. In the event the owner elects to install a well on his Lot, such well shall be installed with a Harvard Series 100 deluxe injection pump with a minimum twenty (20) gallon subsurface holding tank or a comparable pump and holding tank to insure a rust-free appearance. In the event the Owner elects to obtain water from a contiguous lake, a submersible pump acceptable to the M.A.R.C must be installed. Any and all equipment relating to the provision of water pursuant to this subsection must be located underground or in close proximity to the Unit.

5.2.3 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 invitees, licensees, family or guests, shall be borne solely by such Owner, and his Unit shall be subject to an individual assessment for such expense. All repairs and replacements made by an owner shall be subject to the approval of the M.M.A.R.C., as set forth in Article 10 of this Declaration.

5.3 Continual Maintenance. In the event, of a permanent dissolution of the Association, the Members shall immediately thereupon hold title to the Common Property as tenants in common and shall collectively provide for the continued maintenance and upkeep thereof. In no event shall the County be obligated to accept any dedication offered to it by the Association or the Members pursuant to this section, but the County may accept such a dedication and any such acceptance must be made by formal resolution of the then empowered Board of County Commissioners. In the event of a dissolution of the Association, for whatever reason, any Owner may petition the circuit court of the 15th 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.

## ARTICLE 6

### EASEMENTS

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

6.1.1 Easements for the installation and maintenance of utilities are granted as shown on the-recorded subdivision plats of the Property. Within these easement areas, no structure, planting or other material, other than sod shall be placed or permitted to remain, which



may interfere with the installation and maintenance of underground utility facilities. The Association (or such other entity as indicated on the plats) is hereby granted access to all easements within which such underground facilities are located for the purpose of operation, maintenance and replacement thereof.

6.1.2 Easements for the installation and maintenance of drainage facilities are granted to the Association and other entities as shown on the recorded subdivision plats of the Property. Within these easement areas, no structure, planting or other material, other than sod shall be placed or permitted to remain which may interfere with such installation and maintenance, or which may obstruct or retard the flow of water through drainage channels. The Association and the Master Association (and any other entity indicated on the plat) shall have access to all such drainage easements for the purpose of operation and maintenance thereof.

6.1.3 Easements are hereby granted throughout the Property to the Association for the purpose of access to all property dedicated or reserved to the Association on the recorded subdivision plats of the Property.

6.1.4 An easement is hereby granted to each Mortgagee for the purpose of access to the property subject to its mortgage.

6.1.5 An easement is hereby granted to members of the Club Owner and their guests, its officers, agents and employees, to permit the doing of every act necessary and incident to the playing of golf on the golf course located within Aberdeen and to permit the doing of every act necessary and incident to maintaining the Club Facilities. These acts shall include, but not be limited to, the recovery of golf balls from Lots, the flight of golf balls over and upon the Lots, the creation of the usual and common noise level associated with the playing of the game of golf, the creation of the usual and common noise level associated with maintaining Club Facilities, together with all such other common and usual activities associated with the game of golf and with all the normal and usual activities associated with the maintenance and operation of Club Facilities.

6.2 Additional Easements. The Association, or Current Mortgagee who has acquired title to any portion of the Property pursuant to foreclosure or any proceeding or deed in lieu of foreclosure, and the Master Association shall have the right to grant additional easements throughout the Property to private utilities, cable television services the Association, or Current Mortgagee who has acquired title to any portion of the Property pursuant to foreclosure or any proceeding or deed in lieu of foreclosure, and the Master Association may deem to be in the best interests of the Owners.

6.3 Restriction on Owner Easements. No Owner or any Current Mortgagee which has acquired title to all or any portion of the Property through foreclosure or any proceeding or deed in lieu of foreclosure shall grant any easement upon any portion of the Property to any person or entity, without the prior written consent of the Association..

## ARTICLE 7

### ASSESSMENTS AND LIENS

7.1 Authority of Association. The Association, through its Board of Directors, shall have the power and authority to make and collect Assessments as hereinafter set forth. All Assessments made by the Association shall be collected by the Association or such agent as shall be designated by the Association for collection of Assessments.

7.2 General Assessments. General Assessments shall be determined

annually for the purpose of maintenance and management of the Association, the Common Property, the Gatehouse, the Lake Easements, payment of amounts assessed by the Master Association, and for the purpose of promoting the safety and welfare of the Owners. Without limiting the foregoing, general Assessments shall be used for payment of: operation, maintenance and management of the Association and the Common Property; payments of amounts assessed by the Master Association; operation, maintenance and all costs associated with the Gatehouse and the provision of security for the Property; property taxes and assessments against, and insurance coverage for the Common Property; mailboxes; legal and accounting fees; maintenance of any roadways dedicated or reserved to the Association; management fees; normal repairs and replacements; charges for utilities used upon the Common Property; cleaning services; maintenance of the reserve account required pursuant to the By-Laws of the Association; expenses and liabilities incurred by the Association in the enforcement of its rights and duties against the Members or others; maintenance of vacant property; maintain the Lake Easements; the creation of reasonable reserves (The Association shall be required to establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of Improvements to the Common Property. The reserve fund shall be, maintained from the general Assessments for Common Expenses, collected by the Association); and all other expenses deemed by the Board of Directors of the Association to be necessary and proper for management, maintenance, repair, operation and enforcement.

7.3 Basis and Collection of General Assessments. The Association shall annually estimate the Common Expenses it expects to incur and the period of time involved therein and shall assess its Members sufficient monies to meet this estimate. All Lots shall be assessed at a uniform rate to be determined by the Association, so that all Lots subject to a general Assessment shall be assessed equally. Should the Association at any time determine that the Assessments made are insufficient to pay the Common Expenses, the Board of Directors shall have authority to levy additional general Assessments to meet such needs. General Assessments shall be payable in advance on a monthly basis.

7.4 Special Assessments. The Association shall have the power and authority to levy and collect a special Assessment from each Member for payment of the following: the acquisition of Property by the Association; the cost of construction of capital Improvements to the Common Property; the cost of construction, reconstruction, unexpected repair or replacement of the Common Property or any capital Improvement, and including the necessary fixtures and personal property related thereto; including, without limitation, such costs resulting from an Act of God, hurricane, flood or freeze damage; the expense of indemnification of each Director and officer of the Association; and any other expenses included in the budget adopted annually by the Association. All lots shall be assessed at a uniform rate. A special Assessment shall be collectible in such manner as the Board of Directors shall determine. If a special Assessment shall exceed FIVE HUNDRED DOLLARS per Lot, it shall require the approval of the Members of the Association, to be obtained at a duly convened regular or special meeting at which a quorum exists and which is called at least in part to secure this approval. Approval shall be by an affirmative vote of at least fifty-one percent (51%) of the votes present in person or by proxy.

7.5 Emergency Special Assessments. The Association may levy an emergency special Assessment when, in the sole determination of the Board of Directors, there is potential danger of damage to persons or property. Emergency special Assessments may be utilized to pay for preventive, protective or remedial construction, reconstruction, improvements, repairs or replacements. Events justifying emergency special Assessments include but are not limited to, hurricanes, floods and fires. Emergency special Assessments shall be collectible in such manner as the Board of Directors shall determine.

7.6 Individual Assessments. The Association shall have the power and authority to levy and collect an individual Assessment against a particular Lot for the cost of maintenance, repairs or replacements within or without the Lot, which the Owner thereof has failed or refused to perform, and which failure or refusal has, in the opinion of the Association, endangered or impaired the use or value of other portions of the Property. The Association shall have the right to enter onto each Lot to perform necessary maintenance, repairs and replacements, including the right to abate or eliminate any nuisance. 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. All individual Assessments shall be collectible in such manner as the Board of Directors shall determine.

7.7 Special Assessment for Non-Compliance:  
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 invitees, licensees, family or guests, shall be borne solely by such Owner, and his Unit shall be subject to an individual assessment for such expense. All repairs and replacements made by an owner shall be subject to the approval of the M.M.A.R.C., as set forth in Article 10 of this Declaration.

In addition to all other remedies provided in this Declaration, the Board of Directors, in its sole discretion, may levy a Special Assessment upon an Owner for failure of the Owner, his family, guests, invitees, or employees, to comply with any provision in this Declaration or the Articles, By-Laws or Rules and Regulations of the Association, provided that the following procedures are followed:

7.7.1 Notice. The Association shall notify the Owner of the infraction or infractions. Included in the Notice shall be the date and time of the next Board of Directors Meeting at which the owner shall present testimony as to why the Special Assessment should not be imposed.

7.7.2 Hearing. The non-compliance shall be presented to the Board of Directors at the time and place provided in the Notice, at which meeting a hearing shall be conducted for purposes of obtaining testimony as to the levying of a Special Assessment in the event that it is determined that a violation has in fact occurred. A written decision of the Board of Directors shall be submitted to the owner not later than twenty-one (21) days after the hearing.

7.7.3 Amount of Special Assessment. The Board of Directors may impose the following Special Assessments against the Owner in the event a violation is found:

7.7.3.1 Non-Compliance for Violation: A Special Assessment for each violation in an amount not in excess of \$100.00 and set a fine at the rate of \$100.00 thereafter on the basis for each day of a continuing violation. Total fines for each violation or continuing violation may not exceed \$1000.00 in the aggregate.

7.7.4 Due Date of Special Assessment. A Special Assessment as provided in this Article shall be due and owing not later than five (5) business days after the written decision as provided in Section 7.7.2 above.

7.8 Effect of Non-Payment of Assessments. All notices of Assessments from the Association to the Members shall designate when the Assessment is due and payable. If an Assessment is not paid on the date when due, then in addition to the above there shall be a monthly late charge of \$25.00 per month to defray administrative costs, and it shall then become delinquent and shall bear interest at the maximum rate allowed by law (and in the

absence of such law, at such interest rate as the Board of Directors of the Association may decide from time to time) from the date when due until paid. The Assessment, together with interest thereon and the costs of collection thereof, including attorneys' fees, shall be a continuing lien against the Lot owned by the Member against whom the Assessment is made and shall also be the continuing personal obligation of the Owner thereof; provided however, that such personal obligation shall not pass to a successor in title to a Lot unless assumed by such successor in title. The Association shall also record a claim of lien in the Public Records of the County setting forth the amount of the unpaid Assessment, the rate of interest due thereon and the costs of collection thereof. If any Assessment or any installment thereof shall not be paid within five (5) business days following the due date, the Association may declare the entire annual unpaid Assessment immediately due and payable. The Association may at any time thereafter bring an action to foreclose the lien against the Lot assessed in the manner in which mortgages on real property are foreclosed and a suit on the personal obligation of the Owner. There shall be added to the amount of the Assessment the costs of such action, including attorneys' fees, and in the event a judgment is obtained, such judgment shall include interest on the Assessment as above provided and costs including attorneys' fees, incurred by the Association. If any payments of any assessments are not paid by the due date then, in addition to the above, there shall be a monthly late charge of \$25.00 per month to defray administrative costs. Any successor in title to a Lot shall be held to constructive notice-of the records of the Association to determine the existence of any delinquency in the payment of Assessments.

7.9 Additional Assessments. The Assessments provided for herein shall be in addition to any other Assessments or charges which may be levied by the Master Association.

7.10 Certificate of Assessments. The Association shall prepare a roster of the Members, their respective Lots and Assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by all Members at reasonable business hours. At the request of an Owner, the Board of Directors shall prepare a certificate of Assessments signed by an officer of the Association, setting forth whether the Owner's Assessments have been paid and 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 therein stated having been paid or partially paid.

7.11 Subordination of Lien to Mortgages. Regardless of the effective date of the lien of any Assessments made by the Association, such Assessment lien shall be subordinate and inferior to the lien of the mortgage of any 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 Lot 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 Lot from liability for any Assessment becoming due thereafter, nor from the lien of any such subsequent Assessment. Any delinquent' Assessments which are eliminated against a Lot pursuant to a sale or transfer in connection with the foreclosure of a mortgage, or any proceeding or deed in lieu of foreclosure, may be reallocated and assessed to all Owners as a Common Expense. The written opinion of the Association that the Assessment lien is subordinate to a mortgage lien (other than the lien of a mortgage held by a Current Mortgagee) shall determine any question of subordination.

7.12 Exempt Property. The following property shall be permanently exempt from the payment of all Assessments by the Association:

- 7.12.1 All property dedicated or reserved to or owned by the Association and the Master Association.

- 7.12.2 All property dedicated to or owned by the water management district, water control district or other party responsible for maintenance of the water management system within Aberdeen.
- 7.12.3 Any portion of the Property dedicated to the County.
- 7.12.4 Any portion of the Property exempted from ad valorem taxation by the laws of the State of Florida.

7.14 Submission of Financial Report. The Association shall provide copies of its financial statements, common expenditure statements and budgets to Current Mortgagees. The Association's obligation to provide these statements and budgets shall cease at such time as the liens of the mortgages held by the respective Current Mortgagees have been released from the Property. Further, the Association shall furnish all other Mortgagees with copies of the financial statements of the Association, upon written request therefore to the Association.

## ARTICLE 8 SECURITY GATEHOUSE

The "Gatehouse" shall be a maintenance obligation of the Dorchester Association, Sheffield Association, Muirhead Association and any other associations to be serviced by the Gatehouse (the "Additional Associations"), all called the Estates Road Association, which maintenance shall include, without limitation, all costs associated with the provision of security for the Property and all landscaping of the Gatehouse. The Association's share of the costs for the Gatehouse and the provision of security for the Property shall be based on a percentage to be determined as follows: (i) the total number of Lots, divided by (ii) the total number of lots to be serviced by the Gatehouse. Any and all maintenance obligations associated with the Gatehouse and security for the Property shall be subject to change upon the unanimous vote of representatives chosen by the Association, Dorchester, Sheffield and additional Associations shall each elect three (3) representatives and Muirhead shall elect four (4) representatives at a duly called meeting of the respective association(s) for purposes of this Section. Notwithstanding anything contained in this Section to the contrary, either the Association, Dorchester Association, Sheffield or Additional Associations may increase the number of hours the Gatehouse is to be manned so long as any and all additional expense arising from such increase is paid for solely by the respective association(s) causing the increase.

## ARTICLE 9

### ARCHITECTURAL CONTROLS

It was the intent of Developer to create within the Property a residential community of high quality and harmonious improvements. Accordingly, no improvements shall be commenced, erected, placed or maintained within the Property nor shall any addition, change or alteration be made to any Improvements unless and until the plans, specifications and location of same shall have been submitted to and approved in writing by the Architectural Review Board of the Master Association. The procedures to be followed by the M.M.A.R.C. shall be as set forth in the "Master Declaration" (a defined term at Section 1.17 hereof) and in the rules, regulations and standards as may be adopted by the M.M.A.R.C. and Muirhead Board M.M.A.R.C. from time to time.

## ARTICLE 10

### USE RESTRICTIONS

#### 10.1 Restrictions on Use of Lots and Common Property

- 10.1.1 Residential Use. All Lots shall be used only as single family, private, residential dwellings and for no other purpose. "Single Family" shall mean and refer to either a single person occupying a Unit and maintaining a household, including not more than one authorized tenant; or two (2) or more persons related by blood, marriage, or adoption occupying a Unit and living together and maintaining a common household, including not more than one authorized tenant; or not more than four (4) unrelated persons occupying a Unit as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use.
- 10.1.2 No Commercial Activities: No Lot shall be used or occupied for any purpose other than as a residential dwelling by a Single Family, its household and guests. No business or commercial activity shall be permitted on any Lot, nor shall any business be conducted on any part thereof.
- 10.1.3 Pets. Owners may keep as pets 3 dogs, or up to 5 cats kept indoors, any number of tropical fish and birds indoors, provided that no such pets are kept, bred or maintained for any commercial purpose. All dogs must be on a leash or carried when on the Property; however, no pets shall be permitted within any recreational areas. It shall be the pet owner's obligation to remove the pet's waste material from all property maintained by the Association or other property owners lots. The Board of Directors of the Association shall have the right to order the removal of any pet which is considered, in the Board's sole discretion, a nuisance. In such event, the Board of Directors shall give written notice thereof to the pet owner, and the pet shall immediately thereafter be permanently removed from the Property within Muirhead Estates or other property owners lots.
- 10.1.4 Boats. No Watercraft of any kind is permitted.
- 10.1.5 Temporary Structures. No temporary buildings, structures or tents, either with or without living, sleeping or eating accommodations, shall be placed, located, kept or maintained within the Property.
- 10.1.6 Insurance. No Owner or occupants of a Lot shall permit or suffer anything to be done or kept within his or their Lot or make any use of the Common Property, which will increase the rate of insurance on any portion of the Property.
- 10.1.7 Nuisances. No use or practice which is, in the sole opinion of the Board of Directors of the Association, either an annoyance to other Owners or an interference with the peaceful possession and proper use of the Property by Owners, shall be allowed. No Owner and no occupants of a Lot shall commit or permit any nuisance or illegal activity in or about the Property.
- 10.1.8 No Soliciting. No contractor can work on Sundays or holidays.
- 10.1.9 Outside Displays. No Owner and no occupants of a Lot shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, balconies or windows of his or their Lot, including reflective film, nor place any furniture or equipment outside the Improvement's on his Lot except with the prior written consent of the Association. This shall not prohibit the use of patio furniture within the confines of a courtyard.
- 10.1.10 Antennae. No radio, television or other electronic antennae or aerial may be erected or maintained anywhere on the Common

Property (unless installed by Developer or the Association) or the exterior of any home, without the prior written approval of the Association. Satellite dishes are permitted with M.M.A.R.C. approval.

- 10.1.11 Motor Vehicles. No vans (except for non-conversion miniature vans with permanent signs and rear windows and passenger seats closed), campers, trailers, motorcycles, bus, trucks including without limitation pick-up trucks but not including sports utility vehicles designated primarily for passengers rather than transferring cargo or material, dune buggies, mobile homes, swamp buggies, boats and boat trailers, with or without boats, recreational vehicles, commercial vehicles (other than in connection with pick ups and deliveries) or inoperative vehicles shall be stored or parked within the Property, or on any Lot, unless parked in a garage with closed door out of public view, nor shall any motor vehicles be repaired on the Property or on any Lot. For purposes of this subsection, any vehicle having in excess of one-half (1/2) ton payload capacity shall be conclusively presumed to be a commercial vehicle. Determinations as to acceptable motor vehicles shall be made in the sole discretion of the Board of Directors of the Association. No vehicle which is an eye sore (determined by the Board of Directors) shall be parked, kept or stored on the common property or on any lot, except within an enclosed garage. The Association may tow vehicles from the common property violating any of the provisions of this Declaration or the rules and regulations or traffic regulations of the Association provided that the Association complies with applicable State and local laws concerning towing.
- 10.1.12 Exterior Alterations. No structural changes, exterior color changes, or alterations shall be made or added to any Unit without the prior approval of the M.M.A.R.C.
- 10.1.13 Trash Containers. All trash containers and contents thereof shall be stored in an area not visible from the streets or adjoining Lots. For purposes of periodic trash removal, however, an owner, within twenty-four (24) hours prior to pick-up, may place the covered trash containers at locations convenient for pick-up. Trash bags must be kept in containers with lids.
- 10.1.14 Branches to be stored by owner behind his house and put out at the curb the evening before pick up of yard waste. Any piles of cuttings from plants or trees may not be placed at curb more than 24 hours prior to the designated pick-up day of yard and waste. Landscape companies who make said cuttings must arrange for their removal if they would remain for more than 24 hours.
- 10.1.15 Awnings. No awnings, canopies or shutters, including hurricane or storm shutters, shall be attached or affixed to the exterior of any building unless such awnings, canopies or shutters have been approved by the M.M.A.R.C.
- 10.1.16 Parking. The parking and storage of automobiles and other motor vehicles shall be limited to the driveways of Lots and other paved surfaces designated by the Association.
- 10.1.17 Clothes and Drying Facilities. No outside clothesline or other clothes drying facility shall be permitted.
- 10.1.18 Signs. All are subject to M.M.A.R.C. approval except for signs that give an alarm company's name, address or telephone number. No sign of any kind shall be displayed to the public view on the Property, including without limitation, any sign advertising the

property for sale or for rent, except such as are placed by the Developer. No sign of any kind shall be permitted to be placed inside a Unit or on the outside walls of the Unit or on any fences on the Property, nor on the Common Property, nor on dedicated or reserved areas, nor on entryways or any vehicles within the Property, except such as are placed by the Developer.

- 10.1.19 Landscaping. No Owner shall place any landscaping on his Lot outside his Unit or on the Common Property without the express prior written consent of the Association. In the event an Owner shall obtain such consent, the landscaping shall be maintained by the Owner.
- 10.1.20 No Excavation, Mining or Drilling. Excavation, mining or drilling on the Property shall not be permitted other than irrigation wells, in connection with which the removal of water from the lakes or other bodies of water on or about the golf course shall be permitted; provided, however, the golf course owner shall have the right to prohibit such removal at such times and in such instances as the golf course owner deems appropriate.
- 10.1.21 Fencing. All fences to be erected on the Property shall be subject to the prior approval of the A.R.B. In the event the owner of any Lot shall desire to erect a fence thereon, which fence shall be no higher than six (6) feet, the standard of quality shall be subject to the prior approval of the Association, which shall be in addition to the foregoing A.R.B. approval.
- 10.1.22 Other Improvements. The construction or erection of any additional improvements on any of the Lots, including sports equipment, shall be subject to the prior approval of the A.R.B.

10.2 Additional Rules and Regulations. The Board of Directors of the Association, may establish such additional rules and regulations as may be deemed for the best interests of the Association and its Members for purposes of enforcing the provisions of this Declaration.

10.3 Appeals and Variances. As to those restrictions contained in this Article 10 that are to be enforced by the M.A.R.C., procedure for appeals and variances shall be as established by the M.A.R.C. As to those restrictions contained in this Article 10 that are to be enforced by the Association, ' procedures for appeals and variances shall be established by the Board of Directors of the Association pursuant to Section 7.7 hereof.

10.5 Enforcement. Failure of an Owner to comply with a provision in this Declaration or a provision in the By-Laws, Articles of Incorporation or Rules and Regulations of the Association shall provide the Association with the right to bring legal action in law or in equity, including but not limited to an action for injunctive relief, damages, or a combination thereof. All costs and expenses incurred by the Association in terminating or resolving a violation of this Declaration, inclusive of attorneys' fees (whether or not litigation is instituted) shall be the responsibility of the owner determined by the Association to be in violation. Collection of such attorneys' fees may be enforced by any method in this Declaration providing for the collection of an Assessment, including but not limited to a foreclosure proceeding.

## ARTICLE 11

### INSURANCE

Insurance, other than title insurance, that shall be carried on the Common Property shall be governed by the following provisions:



11.1, Authority to Purchase; Named Insured. All insurance policies upon the Common Property shall be purchased by the Association and shall be placed in a single agency or company, if possible. The named insured shall be the Association for itself, and as agent for the Members without naming them, and as agent for Mortgagees. Provisions shall be made for the issuance of Mortgagee endorsements and memoranda of insurance to any such Mortgagees. The policies shall provide that payments by the insurer for losses shall be made to the Association for the benefit of the Members and Mortgagees, as their interests may appear. The Owners may purchase insurance on their individual Lots, as they deem appropriate.

11.2 Coverage.

- 11.2.1 Casualty Insurance. All insurable Improvements on the Common Property shall be insured for fire and extended coverage perils, excluding foundation and excavation costs, at their maximum insurable replacement cost, and all personal property owned by the Association shall be insured for its full insurable value, all as determined annually by the Board of Directors of the Association. If available, the Association shall also obtain an Agreed Value Amount and Inflation Guard Endorsement providing coverage in the minimum amount of \$50,000 for each incident and Construction Cost Endorsements, such as Demolition Cost Endorsements, Contingent Liability From Operation of Building Laws Endorsements, and Increased Cost of Construction Endorsements.
- 11.2.2 Public Liability Insurance. The Association shall obtain public liability and property damage insurance covering all of the Common Property, and insuring the Association, the Members and Mortgagees as their interests may appear in such amounts and providing such coverage as the Board of Directors of the Association may determine from time to time; including without limitation, coverage for bodily injury and property damage resulting from operation, maintenance or use of the Common Property, the Gatehouse and any legal liability arising in connection with employment contracts to which the Association is a party provided that the minimum amount of coverage shall be \$500,000 each person, and \$1,000,000 each incident. The liability insurance shall include, but not be limited to, hired and non-owned automobile coverage. The liability policy must provide for at least ten (10) days written notice to the Association before the insurer can cancel or substantially modify the policy.
- 11.2.3 All gardeners shall provide to the Board a copy of appropriate insurance for work they provide.
- 11.2.4 Workmen's Compensation Insurance. The Association shall obtain Workmen's Compensation Insurance in order to meet the requirements of law, as necessary.
- 11.2.5 Flood Insurance. The Association shall obtain flood insurance if required to meet the requirements of federal, state, or local law.
- 11.2.6 Other Insurance. The Board of Directors of the Association shall obtain such other insurance as it shall determine from time to time to be desirable.
- 11.2.7 Subrogation Waiver. If available, the Association shall obtain policies which provide that the insurer waives its right to subrogation as to any claim against Members, the Association and their respective servants, agents and guests.

11.3 Premiums. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out any of the provisions of this Article shall be a Common Expense.

11.4 Shares of Proceeds. The Association shall not be liable for the sufficiency of policies nor the failure to collect any insurance proceeds. The duty of the Association shall be to receive such proceeds as are paid and to hold the proceeds in trust for the purposes elsewhere stated herein for the benefit of Members and Mortgagees in the following shares, which shares need not be set forth on the records of the Association:

11.4.1 Common Property - Proceeds on account of damage to Common Property shall be an equal undivided share for each Member.

11.4.2 Mortgagees. In the event a mortgagee endorsement has been issued regarding an Improvement, the share of the Owner shall be held in trust for the Mortgagee and the Owner as their interests may, appear; provided, however, that no Mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged Improvement shall be reconstructed or repaired, nor any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distribution of such proceeds made to the Owner and Mortgagee pursuant to the provisions of this Declaration.

11.5 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the Members in the following manner:

11.5.1 Reconstruction or Repair. If the damage for which proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost of such as hereinafter provided. Any proceeds which remain after defraying such costs shall be distributed to the Members and Mortgagees as their interest may appear.

11.5.2 Failure to Reconstruct or Repair. If it is determined in the manner hereinafter provided that the damage for which proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the Members and Mortgagees as their interests may appear. There shall be no distribution of remaining proceeds until all debris, remains and residue have been cleared and removed, and the damaged area has been properly landscaped. In the event of loss or damage to personal or real property belonging to the Association, and should the Board of Directors of the Association determine not to replace such personal or real property as may be lost or damaged, the proceeds shall be distributed to the Members and Mortgagees as their interests may appear.

11.6 Association's' Power to Compromise Claims. The Board of Directors of the Association is hereby irrevocably appointed agent for each Member and for each Mortgagee or other lien holder, for the purpose of compromising and settling all claims arising under insurance policies purchased by the Association, and to execute and deliver releases therefor upon payment of claims.

## ARTICLE 12

### RECONSTRUCTION OR REPAIR AFTER CASUALTY.

12.1 Determination to Reconstruct or Repair. If any part of the Property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

12.1.1 Common Property. If the damaged Improvement is part of the Common Property, the damaged Improvement shall be reconstructed or repaired unless it is determined by the Members of the Association that it shall not be reconstructed or repaired.

12.1.2 Lot. If the damaged property is Improvements on Lots, the damaged Improvements shall be reconstructed or repaired unless all affected owners and Mortgages, the Association and the M.A.R.C. agree that the damaged Improvements shall not be reconstructed or repaired.

12.2 Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Improvements; or, if none, then according to plans and specifications approved by the M.A.R.C. and POA/ARB if necessary.

12.3 Estimates of Costs. Immediately after a determination is made to rebuild, replace or repair-damage to property for' which the Association has the responsibility of reconstruction, replacement or repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild, replace or repair. Such costs may include professional fees and premiums for such bonds as the Board of Directors may require.

12.4 Special Assessments. Unless the damage was caused by the gross negligence or willful act of a Member, in which case such Member shall be liable, the amount by which an award of insurance proceeds is reduced on account of a deductible clause in an insurance policy shall be assessed equally against all Members as a special Assessment. If the proceeds of such special Assessment and of the insurance are not sufficient to defray the estimated costs of reconstruction, replacement and repair by the Association, or if at any time during reconstruction, replacement and repair, or upon completion of reconstruction, replacement and repair, the funds for the payment of the costs of reconstruction, replacement and repair are insufficient, special Assessments shall be made against the Members in sufficient amounts to provide funds for the payment of such costs.

12.5 Construction Funds. The funds for the payment of costs of reconstruction, replacement and repair after casualty, which shall consist of proceeds of insurance held by the Association and funds collected by the Association from special Assessments against Members, shall be distributed in payment of such costs in the following manner:

12.5.1 Association. The proceeds of insurance collected on account of a casualty, and the total of special Assessments made by the Association in order to provide funds for payment of reconstruction, replacement and repair, shall constitute a construction fund which shall be held by the Association and thereafter disbursed in payment of the costs of reconstruction, replacement and repair in the following manner and order:

12.5.2 Association - Lesser Damage. If the amount of the estimated costs of reconstruction, replacement and repair that is the responsibility of the Association is less than Twenty-Five Thousand Dollars (\$25,000.00), the construction fund shall be disbursed in payment of such costs upon the order of the Association.

12.5.3 Association - Major Damage. If the amount of the estimated costs of reconstruction, replacement and repair that is the responsibility of the Association is Twenty-Five Thousand Dollars (\$25,000.00) or more, then the construction funds held by the Association shall be disbursed in payment of

such costs in the manner required by the Board of Directors of the Association, and upon approval by an architect or general contractor qualified to practice in Florida and employed by the Association to supervise the work.

- 12-5.4 Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction, replacement and repair shall be from insurance proceeds. If there is a balance in the construction fund after payment of all costs of the reconstruction, replacement and repair for which the fund is established, such balance shall be distributed equally to the Members.

12.6 Equitable Relief. In the event of major damage to or destruction of part of the Common Property or Improvements to Lots, and in the event the property is not repaired, reconstructed, replaced or rebuilt within a reasonable period of time, any Member shall have the right to petition a court of equity having jurisdiction in the County, for equitable relief.

### ARTICLE 13

#### SALE, RENTAL OR OTHER ALIENATION OF LOTS

In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the Property, the transfer of a Lot by any Owner other than the Developer and any Mortgagee who acquires title to a Lot through foreclosure or any proceeding or deed in lieu of foreclosure shall be subject to the following provisions, which provisions each Owner covenants to observe:

#### 13.1 Transfer Subject to Approval.

- 13.1.1 Each lot may be leased only one (1) time during each calendar year, and each lease shall be for a term of not less than three (3) months. No subleasing or assignment of leases without Board approval.
- 13-1.2 Gift. If any Owner shall acquire title by gift, the continuance of the ownership of the Lot shall be subject to the approval of the Association.
- 13.1.3 Devise or Inheritance. If any Owner shall acquire title by devise or inheritance, the continuance of ownership of the Lot shall be subject to the approval of the Association.
- 13.1.4 Other Transfers. If any Owner shall acquire title by any manner not mentioned in the foregoing subsections, the continuance of ownership of the Lot shall be subject to the approval of the Association.
- 13.1.5 Corporations, Partnerships and Trusts. Changes of beneficial ownership of a Lot through sale or acquisition of stock in a corporation, change in corporate officers, change in rights in a partnership or trust shall constitute a transfer, and occupancy and continuance of ownership of the Lot shall be subject to approval of the Association.
- 13.1.6 Application Form and Fee. All applications for approval of transfer shall be submitted to the Association on the form prescribed by the Association. A processing fee of One hundred Dollars (\$100.00) may be charged to the transferor of the Lot, which fee shall accompany the application. This fee may be increased or decreased at any time, in the discretion of the Association.

- 13.2 Approval by the Association. The approval of the Association that

is required for the transfer of ownership or lease of Lots shall be obtained in the following manner:

13.2.1 Gift, Devise or Inheritance, Other Transfers. An Owner who has obtained title by gift, devise or inheritance, or by any other manner not previously mentioned, shall give the Association notice in writing of the acquisition of title, together with such information concerning the Owner as the Association may reasonably require, and a certified copy of the instrument evidencing such Owner's interest.

13.3 Certificates of Approval shall be given in the following manner:

13.3.1 Sale or Lease. If the proposed transaction is a sale or lease then, within sixty (60) days after receipt of the required notice and information, the Association must either approve or disapprove the proposed transaction. If approved, the Board of Directors shall cause a certificate of approval to be executed by any officer of the Association or by its agent or employee.

13.3.2 Gift, Devise or Inheritance, Other Transfers. If the owner giving notice has acquired title by gift, devise or inheritance, or in any other manner then, within sixty (60) days after receipt of the required notice and information, the Association must either approve or disapprove the continuance of the ownership of the Lot. If approved, the Board of Directors shall cause a certificate of approval to be executed by any officer of the Association.

13.4. Disapproval by Association. If the Association disapproves a transfer of ownership of a Lot, the matter shall be disposed of in the following manner:

13.4.1 Sale. If the proposed transaction is a sale, then within sixty (60) days after receipt of the required notice and information, the Association shall deliver by certified mail to the Owner an agreement to purchase the Lot concerned by a purchaser approved by the Association and to whom the Lot Owner must sell the Lot in accordance with the terms stated in the disapproved contract to sell. A judgment of specific performance of the sale may be entered in any court of competent jurisdiction.

13.4.2 Lease. If the proposed transaction is a lease and if the notice of lease given by the Lot Owner shall so demand, then within sixty (60) days after receipt of such notice and information, the Association shall deliver by certified mail to the Lot Owner a written statement of the reasons for disapproval of the proposed transaction.

13.4.3 Gifts Devise or Inheritance; Other Transfer. if the Lot Owner giving notice has acquired his title by gift, devise or inheritance, or in any other manner, then within sixty (60) days after receipt from the Lot Owner of the notice and information required to be furnished, the Association shall deliver by certified mail to the Lot Owner an agreement to purchase the Lot concerned by a purchaser approved by the Association and to whom the Lot Owner must convey the Lot upon the following terms:

13.4.3.1 The sale price shall be the fair market value determined by agreement between seller and purchaser within thirty (30) days from the delivery of the agreement. In the absence of agreement as to

price, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon the average-of their appraisals of the Lot, and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be shared equally by seller and purchaser.

13.4.3.2 The purchase price shall be paid in cash.

13.4.3.3 The sale shall be closed within ten (10) days following the determination of the sale price.

13.4.4 Constructive Approval. If the Association shall fail to provide a purchaser a Lot as required hereinabove, or if a purchaser furnished by the Association shall default in his agreement to purchase the Lot, notwithstanding the disapproval, the proposed transaction or ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval which shall be recorded in the Public Records of Palm Beach County, Florida, at the expense of the Lot Owner.

13.4.5 Mortgage. No Owner may mortgage his Lot or any interest in it without the approval of the Association, except to a Mortgagee. The approval of any other mortgage shall be upon such conditions as shall be determined by the Association, in its sole discretion.

13.5 Transfer Void. Any sale, lease, gift, devise, other transfer, or mortgage not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

13.6 Exceptions. The foregoing provisions of this Article shall not apply to any sale, lease, gift, devise, other transfer to a Mortgagee that acquires title as the result of owning a mortgage upon the Lot concerned, and this shall be so, whether the title is acquired by deed from the mortgagor, his successors or assigns, or through foreclosure or any proceeding or deed in lieu of foreclosure; nor shall such provisions apply to a transfer, sale, or lease by a Mortgagee that so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires title to a Lot 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; nor shall such provisions apply to any transfer by the Developer.

#### ARTICLE 14

##### INDEMNIFICATION OF DIRECTORS, OFFICERS AND COMMITTEE MEMBERS

Every Director and officer and Committee Member of the Association 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 Committee Member whether or not he is a Director, Officer or Committee Member at the time such expenses are incurred, except in such cases where the Director, Officer or Committee Member 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 Committee Member 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 interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Officer, Director

or Committee Member may be entitled.

ARTICLE 15

GENERAL PROVISIONS.

15.1 Amendment. This Declaration may be amended from time to time by recording among the Public Records of the County any instrument executed by the President and attested to by the Secretary of the Association, indicating (if required pursuant to the terms hereof) that a meeting called for purposes of amendment was held, and that the requisite number of Members formally approved the amendment, subject, however, to the following provisions:

15.2.1 Except as provided hereinbelow, an amendment initiated by any party must obtain the approval of at least 66 and 2/3rds percent (66 2/3%) of the votes of Members.

15.2.2 No amendment, alteration or modification of this Declaration may be made which affects the rights or privileges of any Current Mortgagee, nor may this Declaration be rescinded, without the express prior written consent of all Current Mortgagees so affected, and any attempt to amend, alter, modify or rescind this Declaration contrary to this provision shall be of no force or effect.

15.2.5 In addition to other government approvals which may be required, any amendment to this Declaration which would affect the surface water management system, including the water management portions of the Common Property, must have the prior approval of the South Florida Water Management District.

15.2.6 No portion of any plat of the Property containing open space may be vacated in whole or in part unless the entire plat is vacated; provided, however, that portions of a plat containing open space may be vacated if the effect of such vacation would not reduce the total open space within the Property below the requirements of Section 500-21 of the County Zoning code.

15.2.7 Any duly adopted amendment to this 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.

15.3 Duration. All of the covenants, restrictions and other provisions of this Declaration 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 at least sixty-six 2/3 percent of the votes of the members then existing and by all mortgagees, has been recorded agreeing to change or terminate these covenants and restrictions.

15.4 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 Association and the Owners of Lots within the Property.

15.5 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 persons or entities violating or attempting to

violate same and against the Property subject hereto to enforce any lien created by this Declaration. In the event that the Association fails to enforce the terms of this Declaration then any Member may do so. The failure or refusal of 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.

15.6 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 as of the time of such mailing. Notices to Mortgagees shall be deemed to have been properly given when mailed, postage prepaid, to the last known address of the Mortgagee on the records of the Association at the time of such mailing. Each Owner shall notify the Association of all mortgages encumbering a Lot and any transfer thereof, the amount of such mortgages, and the recording information for the mortgages. The holder of a mortgage encumbering a Lot may notify the Association of the existence of such mortgage, and upon receipt of that notice, the Association shall register in its records all pertinent information pertaining to the mortgage. The Association shall not be liable to any party for failure to obtain from any Owner information regarding a mortgage encumbering a Lot or for failure to provide any party with notice of such information.

15.7 Notice to Mortgagees. Upon written request to the Association, identifying the name and address of the Mortgagee, insurer or guarantor and the Lot. number or address, any Mortgagee, insurer or guarantor shall be entitled to receive timely written notice of the following:

- 15.7.1 Any condemnation or casualty loss that affects either a material portion of the Property or the Lots securing its mortgage;
- 15.7.2 Any sixty (60)-day delinquency in the payment of Assessments or charges owed by the Owner of any Lot on which the Mortgagee holds a mortgage;
- 15.7.3 A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- 15.7.4 Any proposed action that requires the consent of a specified percentage of Mortgagees.

15.8 Rights of Owners and Mortgagees. Current copies of the Declaration, Articles of Incorporation, By-Laws, rules and other books, records, legal documents and financial statements of the Association shall be open to inspection, upon request, by Owners and all Mortgagees, insurers and guarantors of any first mortgage, on a Lot, and their authorized representatives during normal business hours or under other reasonable circumstances.

15.9 Additional Restrictions. In addition to this Declaration, the Property shall be subject to the additional covenants, restrictions, reservations, assessments, liens and other terms and provisions set forth in the Master Declaration and the Articles of Incorporation and By-Laws of the Master Association and the Rules and Regulations adopted by the Master Association, as the same may be amended from time to time.

15.10 Superiority of Mortgages Held by Current Mortgagees. The lien of all mortgages held by Current Mortgagees shall be superior to the interests of the Association, the Members, Owners and contract purchasers, with respect to any portion of the Property which has not been released from the lien of such mortgages held by Current Mortgagees.



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

15.12 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.

15.13 Effective Date. This Declaration shall become effective upon its recordation in the Public Records of the County.

IN WITNESS WHEREOF, Muirhead at Aberdeen Homeowners Association has caused this Declaration to be executed the day and year first above written.

Signed, sealed and delivered  
In the presence of:

Muirhead Estates at Aberdeen Homeowners Association

By: *Alan Pinkwasser*  
PRES

STATE OF Florida  
COUNTY OF Palm Beach ss.:

The foregoing instrument was acknowledged before me this Sept 15 day of 2006 by ALAN PINKWASSER President of Muirhead Estates at Aberdeen Homeowners Association.

Notary Public  
My Commission Expires:

*Alan Pinkwasser*  
(Notarial Seal)

NOTARY PUBLIC-STATE OF FLORIDA  
Alan Pinkwasser  
Commission #DD560145  
Expires: JULY 21, 2010  
BONDED THRU ATLANTIC BONDING CO., INC.

NOTARY PUBLIC-STATE OF FLORIDA  
Alan Pinkwasser  
Commission #DD560145  
Expires: JULY 21, 2010  
BONDED THRU ATLANTIC BONDING CO., INC.

EXHIBIT A.

MUIRHEAD-ESTATES AT ABERDEEN

LEGAL DESCRIPTION

All of the Plat of ABERDEEN PLAT NO. 8, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court, in and for Palm Beach County, Florida, as recorded in Plat Book No.            at Pages            through, inclusive.

RECORD VERIFIED  
PALM BEACH COUNTY  
CLERK CIRCUIT COURT