



AMENDED AND RESTATED  
DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
ABERDEEN PLANNED UNIT DEVELOPMENT  
AND  
ABERDEEN PLANNED COMMERCIAL DEVELOPMENT

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS, fully amends and restates the DECLARATION OF COVENANTS AND RESTRICTIONS FOR PARKWALK PLANNED UNIT DEVELOPMENT AND PARKWALK PLANNED COMMERCIAL DEVELOPMENT ("PARKWALK DECLARATION"), made and executed June 17, 1983, and as amended from time to time. The PARKWALK DECLARATION is recorded in Official Records Book 3970, Page 570, Public Records of Palm Beach County, Florida, and is hereby amended and restated as follows:

WHEREAS, the POA was formed with the purpose to establish a general plan and uniform scheme to protect the value of the property of Members and Owners of Aberdeen PUD and PCD, to provide for the enhancement of property values, amenities and opportunities to contribute to the personal and general health, safety and welfare of the property owners and residents, to maintain the land and improvements, and to establish procedures for the maintenance of the Common Property and for the architectural review and control of improvements within the Properties, the Properties are hereby subject to these covenants, restrictions, assessments, reservations, easements, charges, liens and other provisions hereinafter set forth;

NOW, THEREFORE, the POA hereby declares 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 Amended and Restated Declaration of Covenants and Restrictions.

ARTICLE I

Definitions

As used in this Declaration, the following terms shall have these meanings:

1.1 Advisory Committee is a permanent committee of the Board of Directors of the POA, consisting of not less than 9 Directors and composed of the officers of the POA plus not less than 5 other Directors appointed by the Board of Directors.

1.2 Architectural Review Board or ARB is the permanent committee of the POA created to establish and enforce criteria for improvements within the Properties.

1.3 Assessment refers to Eastern Area Assessments, Western Area Assessments, Commercial Assessments, General Assessments and all other charges made by the POA against Parcels, Owners, Members and the Club Owner, from time to time, for the purposes and subject to the terms herein.

1.4 Bocalinda refers to BOCALINDA LAKES LIMITED, a Florida limited partnership, its successors and assigns.

1.5 Bocalinda Owner refers to the record owner, whether one or more persons or entities, of the fee simple title to any Parcel within the Bocalinda Property, excluding any Mortgagee who has not acquired title pursuant to foreclosure or other proceeding in lieu of foreclosure.

1.6 Bocalinda Property refers to that real property legally described in Exhibit "B" of the Declaration of June 17, 1983.

1.7 Commercial Property refers to all portions of the Properties which are intended for commercial, industrial or office use, as shown on the Master Plan

1.8 Commercial Unit refers to each one-third (1/3) of an acre of the Commercial Property.

1.9 Common Expense refers to all expenses incurred by the POA in connection with its ownership, maintenance and other obligations set forth herein.

1.10 Common Property refers to all portions of the POA Property which are intended for the common use and enjoyment of the Owners, and which are identified and dedicated or reserved to the POA on any recorded subdivision plat of the Property, or conveyed to the POA by deed.

1.11 County refers to Palm Beach County, Florida.

1.12 Declaration refers to this document as it may be amended from time to time, and all exhibits to it.

1.13 Improvements refers to all structures of any kind, including, without limitation, any building, fence, wall, sign, paving, grating, parking and building addition, alteration, screen enclosure, hurricane shutters, sewer, drain, disposal system, decorative building, landscaping, or landscape device or object.

1.14 POA refers to ABERDEEN PROPERTY OWNERS ASSOCIATION, INC., a Florida Not For Profit Corporation, its successors and assigns.

1.15 Master Plan refers to the Revised Master Plan for Aberdeen, which is marked Exhibit 26 in the official zoning file under the name of Parkwalk, in the office of the County Department of Planning, Zoning and Building, approved July 13, 1982, and as amended.

1.16 Member refers to a Homeowners Association, Condominium Association (also called "sub-Associations"), the Club Owner, and Transeastern, Inc., all of which are Members of the POA.

1.17 Owner refers to the record owner (other than Bocalinda Owners), whether one or more persons or entities, of the fee simple title to any Parcel, excluding, however, any Mortgagee who has not acquired title by foreclosure, or any proceeding or deed in lieu of foreclosure.

1.18 Parcel refers to any Residential Unit (including a platted lot, a single family unit, a multi-family unit and condominium unit) and any commercial unit.

1.19 Aberdeen P.C.D. refers to the real property subject to the Planned Commercial Development, consisting of Tracts A and B, Plat of Le Chalet Shopping Center, Plat Book 32, Page 23, of the Public Records of the County, created pursuant to County Resolution No. R-76-117.

1.20 Aberdeen P.U.D. refers to all real property subject to the Planned Unit Development filed under the name of Parkwalk Planned Unit Development and created pursuant to County Resolutions Nos. R-73-811, R-80-1242 and R-80-1243.

1.21 Properties refers to the POA Property and the Bocalinda Property collectively, as the same have been made subject to the PARKWALK DECLARATION, as amended from time to time, the recorded Declaration of Restrictive Covenants recorded in Official Records Book 3287, Page 1020, Public Records of Palm Beach County, Florida, as the same may have been amended from time to time, 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.

1.22 Residential Property refers to all real property located within the Properties which is intended for single-family or multi-family residential use, including all lots, condominium units and non-condominium units.

1.23 Residential Unit refers to each Eastern Area Residential Unit and each Western Area Residential Unit.

1.24 Transeastern refers to Transeastern, Inc., its successors and assigns.

1.25 Water Management System refers to those lakes, canals and other facilities created and used for drainage of the Properties and subject to this Declaration.

1.26 Eastern Area Owner refers to the record owner (other than Bocalinda Owners) of the fee simple title to any Eastern Area Residential Unit.

1.27 Western Area Owner refers to the record owner (other than Bocalinda Owners) of the fee simple title to any Western Area Residential Unit.

1.28 Commercial Owner refers to the record owner (other than Bocalinda Owners) of the fee simple title to any Commercial Units.

1.29 Eastern Area Residential Unit refers to each Parcel used for single family or multi-family residential use located east of Jog Road (other than Bocalinda Property).

1.30 Western Area Residential Unit refers to each Parcel used for single family or multi-family residential use located west of Jog Road.

1.31 Eastern Area Member refers to a sub-Association which is a Member of the POA, created to govern a portion of the Eastern Area Residential Units.

1.32 Western Area Member refers to a sub-Association which is a Member of the POA, created to govern a portion of the Western Area Residential Units.

1.33 Commercial Member refers to a sub-Association which is a Member of the POA created to govern a portion of the Commercial Units.

1.34 Commercial Assessment refers to charges made by the POA from time to time, against Commercial Owners only, for the purposes and subject to the terms herein.

1.35 Eastern Area Assessment refers to charges made by the POA from time to time, against Eastern Area Owners only, for the purposes and subject to the terms herein.

1.36 Western Area Assessment refers to charges made by the POA from time to time, against Western Area Owners only, for the purposes and subject to the terms herein.

1.37 General Assessment refers to charges made by the POA from time to time, against each Parcel and against the Club Owner, for the purposes and subject to the terms herein.

1.38 Club refers to Aberdeen Golf and Country Club.

1.39 Club Facilities refers to the golf course and other properties, improvements and related amenities located in Aberdeen P.U.D. and Aberdeen P.C.D and owned by the Club Owner.

1.40 Club Owner refers to Aberdeen Golf and Country Club, Inc. a Florida Not For Profit Corporation, its successors and assigns.

## ARTICLE 2

### Property Subject to This Declaration

2.1 Existing Property. The initial Properties subject to this Declaration upon the recording hereof in the County Public Records.

2.2 Additional Property. Property subsequently made subject to this Declaration by Developer recording an amendment in the public records of the County specifying the additional property.

## ARTICLE 3

### Aberdeen Property Owners Association, Inc.

3.1 Formation. The POA was formed by the filing of the Articles of Incorporation in the office of the Secretary of State of Florida. Its function is to own, operate, and maintain the Common Property; enforce the covenants, conditions, restrictions and other provisions of this Declaration, and to have such other specific rights, obligations, duties and functions as set forth in this Declaration, the Articles of Incorporation and the By-Laws of the POA. Subject to the additional limitations herein and in the Articles of Incorporation and By-Laws, the POA shall have all of the powers and be subject to the limitations of a not-for-profit corporation as provided in Florida Statutes, Chapter 617, Part I (1981) (Corporations Not-For-Profit), as amended from time to time.

3.2 Membership. Each sub-Association shall automatically become a Member of the POA upon the incorporation of the sub-Association with the Florida Secretary of State. Membership is mandatory and may not be terminated by the sub-Association. **For purposes of Membership, existing Developers on the date this Declaration is executed, including Transeastern, MI Homes, Inc., and Oriole Homes, Inc., shall be considered a Member only with respect to those Parcels which it owns and which are not otherwise subject to a sub-Association.**

3.3 Areas of Membership. Membership in the POA is divided into three (3) areas: (1) Eastern Area Members; (2) Western Area Members; and, (3) Commercial Members. Each area shall have specific directors on the Board of Directors representing it, pursuant to the By-Laws of the POA.

3.4 Voting. The POA shall have three (3) areas of Members: Eastern Area, Western Area, and Commercial. Only those directors representing a specific area shall be entitled to vote on matters solely affecting that particular area. Whether a matter solely affects only one area shall be determined by a majority vote of the entire Board of Directors. All Members, through their Board representatives, shall be entitled to vote on all other matters coming before the Board of Directors, as provided in the By-Laws of the POA. Each sub-Association shall have one (1) vote for each Parcel subject to its control, which votes shall be cast by the Director appointed by the sub-Association. Each sub-Association, Transeastern and the Club Owner shall file with the Secretary of the POA a written notice designating the person who

shall represent them as a Director on the POA Board, and who shall be authorized to cast their votes. By written notice an alternate Director shall be appointed, authorized to act and vote in the absence of the primary designee. In the absence of such written designations, no Member shall be entitled to cast any vote whatsoever.

3.4.1 Club Owner. The Club Owner shall have one (1) vote for every fifty (50) resident equity memberships in the Club which are sold and closed, which votes shall be cast by the Director appointed by the Club Owner.

3.5 Administration of the Association. The affairs of the POA shall be administered by the Board of Directors in accordance with this Declaration, the Articles of Incorporation and the By-Laws. The Articles of Incorporation and By-Laws may be amended as set forth therein, provided, however, that no such amendment shall conflict with the terms of this Declaration, and no such amendment shall adversely affect an existing Developer's rights without said Developer's written approval. **No action shall be taken by the Board, which would adversely impact on the construction, sales or marketing by Transeastern of Aberdeen P.U.D. or P.C.D. without the written consent of Transeastern.**

3.7 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 POA, or any right, interest or privilege which may be transferable. A Member shall be considered "not in good standing" during any period of time in which it 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 POA. 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 POA.

## ARTICLE 4

### Common Property

4.1 Title to Common Property. Title to all Common Property is vested in the POA. The POA shall be responsible for the management, maintenance and operation of all Common Property.

4.2 Acquisition and Conveyance of Property. The POA 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 other possessory use interests as the POA may determine to be appropriate.

4.3 Maintenance of Common Property. The POA shall be responsible for the maintenance and repair of the Common Property, either through its own personnel, or contract with a real estate management agent.

4.4 Rules and Regulations Governing the Use of Common Property. The POA, through its Board of Directors, shall regulate the use of Common Property by its Members and 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 interests of its Members. A copy of all rules and regulations, together with amendments, shall be made available to all Members of the POA at the POA office. Rules and regulations may be enforced by legal or equitable action.

4.5 Owner's Easements of Enjoyment. Subject to these provisions, 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 Parcel.

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

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

4.6.2 The right of the POA to take such steps as are reasonable necessary to protect the Common Property against foreclosure.

4.6.3 The right of the POA to suspend the enjoyment rights and easement 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 or any of the promulgated rules and regulations of the POA.

4.6.4 The right of the POA to levy a fine against an Owner or Member for violation of this Declaration, the By-Laws, Articles of Incorporation or any of the promulgated rules and regulations of the POA.

4.6.5 The right of the POA to properly maintain the Common Property.

4.6.6 The rules and regulations governing the use and enjoyment of the Common Property, as promulgated by the POA.

4.6.7 The right of the POA 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.

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

4.6.9 All of the provisions of this Declaration, the Articles of Incorporation and the By-Laws of the POA.

4.7 Continual Maintenance. In the event of a dissolution of the POA, the Members shall immediately hold title to the Common Property as tenants in common and shall collectively provide for the continued maintenance and upkeep thereof.

## ARTICLE 5

### Easements

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

5.1.1 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 POA and its assigns are hereby granted access to all easements within which such underground facilities are located for the purpose of operation, maintenance and replacement thereof.

5.1.2 Easements for the installation and maintenance of drainage facilities are granted to the POA 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 POA and its assigns, and any other entity indicated on the plat, shall have access to all such drainage easements for the purpose of operation and maintenance thereof. The POA 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.

5.1.3 Easements are hereby granted throughout the Property to the POA for the purpose of access to all

5.1.4 An easement is hereby granted to Members of the Club and their guests, and to the Club Owner and 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 PUD and Aberdeen PCD, 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 Parcels, the flight of golf balls over and upon the Parcels, 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 the maintaining of the Club Facilities, together with all such other common and usual activities associated with the game of golf and with the normal and usual activities associated with the maintenance and operation of Club Facilities.

5.1.5 A non-exclusive easement is hereby granted for ingress and egress over, across and through all streets within Aberdeen PUD and Aberdeen PCD for access to and from the Club by the Club Owner, all officers, directors and agents of the Club Owner, and all Members of the Club, regardless of whether such Members are also Owners. This easement is subject to all rules and regulations promulgated by the POA from time to time.

5.1.6 No Owner shall have the right to grant any easement upon any portion of the Property to any person or entity without the prior written consent of the POA.

## ARTICLE 6

### Assessments and Liens

6.1 Authority of the POA. The POA, through its Board of Directors, shall have the power and authority to make and collect Assessments as hereinafter set forth.

6.2 General Assessments. General Assessments shall be determined annually for the purpose of maintenance, operation, and management of the POA, the Common Property and 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 POA and the Common Property; property taxes and assessments; insurance coverage; legal and accounting fees; maintenance of the Water Management System (provided, however, that the costs of maintenance of the lakes which are located East of Jog Road and West of the E-3 Canal shall be included in the Eastern Area Assessments, and the costs of maintenance of lakes which are located West of Jog Road shall be included in the Western Area Assessments, and the costs of maintenance of those lakes which primarily benefit the Commercial Owners shall instead be included in the Commercial Assessments); and any roadways dedicated, reserved or deeded to the POA; management fees; expenses and liabilities incurred by the POA in the enforcement of its rights and duties against the Members or others; and, any and all other expenses deemed by the Board of Directors of the POA to be necessary and proper for management, maintenance, repair, operation and enforcement, provided, however, that such expenses are not attributable to only one specific Assessment Area.

6.3 Basis and Collection of General Assessments. The Board of Directors of the POA shall annually estimate the Common Expenses it expects to incur and the period of time involved therein, and shall assess the Members and the Club Owner sufficient monies to meet this estimate. All Parcels shall be assessed at a uniform rate and all Members (other than the Club Owner) shall be assessed based upon the number of Parcels (including Commercial Units) governed by the Members. The Club Owner shall be assessed based on the following formula: one (1) Parcel Assessment for every fifty (50) resident equity memberships in the Club that are sold and closed. (For example: if one hundred (100) resident equity memberships in the Club are sold and closed, the Club Owner would be assessed in an amount equal to the Assessment for two (2) Parcels.) Should the POA at any time determine that the Assessments levied are insufficient to pay the Common Expenses, the Board of Directors shall have the authority to levy and collect additional General Assessments to meet such needs. The General Assessments shall be collectible in advance, on a monthly basis.



6.4 Commercial Assessments, Eastern Area Assessments and Western Area Assessments. The POA shall have the power and authority to levy and collect Assessments against any area of Members: Commercial, Eastern Area or Western Area, as the case may be, for payment of: operation, maintenance and management of property solely benefitting or used by that one particular area of Members (by means of example, but without limitation, the costs of maintenance of lakes which are located East of Jog Road and West of the E-3 Canal shall be included in the Eastern Area Assessments, and the costs of maintenance of lakes which are located West of Jog Road shall be included in the Western Area Assessments, provided, however, that the costs of maintenance of those lakes which primarily benefit the Commercial Owners shall instead be included in the Commercial Assessments); maintenance charges from the Club Owner or from another Member, person or entity authorized by the Board of Directors to maintain a portion of the Common Property, the costs of which are to be included in the Eastern Area Assessments, the Western Area Assessments or the Commercial Assessments, as the case may be, and all other expenses deemed to be necessary and proper for management, maintenance, repair, operation and enforcement in connection with only one (1) particular area of Members, as determined by the Board of Directors representing such area of Members. Assessments levied under this section 6.4 against only one (1) particular area shall be levied only by the Board of Directors representing such area. Further, such Assessments shall be at a uniform amount for each Parcel within such area, provided, however, that Assessments against the Club Owner shall be based on the formula set forth for the assessment of General Assessments against the Club Owner.

6.5 Special Assessments. The Board of Directors of the POA shall have the power and authority to levy and collect a Special Assessment from each Member and the Club Owner for payment of the following: the acquisition of property by the POA; the cost of construction of capital improvements on the Common Property; the cost of construction, reconstruction, unexpected repair or replacement of the Common Property, or a capital improvement, 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 POA and any other expenses not included in the budget adopted annually by the POA. All Special Assessments shall be at a uniform amount for each Parcel assessed. The Club Owner shall be assessed based on the same formula set forth for the assessment of General Assessments against the Club Owner. 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 (\$500.00) per Parcel, it shall require the approval of the Members of the POA, to be obtained in 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.

6.6 Emergency Special Assessments. The POA may levy an Emergency Special Assessment when, in the sole determination of the Board of Directors, there is potential danger or damage to persons or property. Such Emergency Special 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, hurricanes, floods and fires. Emergency Special Assessments shall be collectible in such manner as the Board of Directors shall determine.

6.7 Effect of Non-Payment of Assessments. All notices of Assessments from the POA to the Members and Owners and the Club Owner shall designate when the Assessment is due and payable. If any Assessment is not paid on the date when due, it shall then become delinquent and shall bear interest at the maximum rate allowed by law (or in the absence of such law, at such interest rate as the Board of Directors of the POA may decide from time to time), from the date due until paid. The Assessment, together with interest thereon and the costs of collection, including attorneys' fees, shall be a continuing lien against all property owned and all Parcels governed by the Member against which the Assessment is made or against the Club Facilities in the case of delinquent Assessments by the Club Owner, as the case may be, and shall also be the continuing personal obligation of the Member, each Owner and the Club Owner, as the case may be; provided, however, that such personal obligation shall not pass to successors in title to a Parcel or to the Club Facilities, unless assumed by such successor in title. Any successor in title to an Owner or the Club Owner shall be held to constructive notice of the records of the POA to determine the existence of any delinquency in the payment of Assessments by the sub-Association to which the Parcel is subject, the Owner or by the Club Owner, as the case may

be. The POA shall also record a claim of lien in the Public Records of the County against all Parcels governed by the delinquent Member, owned by the Owner or against any real property owned by the Club Owner, as the case may be, 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 thirty (30) days following the due date, the POA may declare the entire Assessment immediately due and payable. The POA may at any time thereafter bring an action to foreclose the lien against any one or more of the properties encumbered thereby, and a suit on the personal obligation of the Member, and of each Owner, or the Club Owner, as the case may be. 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 attorneys' fees incurred by the POA, 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 the Declaration. Each Owner may relieve his Parcel of the Assessment lien by paying to the POA the proportionate amount of the Assessment attributable to his Parcel as determined by the POA. Upon such payment, the POA shall execute and record a release of lien with respect to such Parcel. The Club Owner may relieve its property of the Assessment lien by paying to the POA the proportionate amount of the Assessment attributable to its property, as determined by the Board of Directors of the POA. Upon such payment, the POA shall execute and record a release of lien with respect to the property of the Club Owner.

6.7.1 Any fine levied against an Owner by the POA as a result of the Owner's violation of this Declaration, the Articles of Incorporation, the By-Laws, or any rules or regulations duly promulgated by the Board of Directors of the POA, which shall remain unpaid for thirty (30) days after the receipt of written notice thereof, shall be delinquent, and shall be collectible in the same manner as a non-payment of Assessments, as provided in Paragraph 6.7.

6.8 Additional Assessments. The Assessments provided for herein shall be in addition to any other Assessments, charges or taxes which may be levied by any other sub-Association to which the respective Parcels may be subject, and by any water management or water control district responsible for maintenance of the Water Management System.

6.9 Certificate of Assessments. The POA shall prepare a roster of the Members and the Club Owner and the Assessments applicable thereto, which shall be kept in the office of the POA and shall be open for inspection by all Members, Owners and the Club Owner. At the request of a Member or Owner, or the Club Owner, the Board of Directors shall prepare a Certificate of Assessments signed by an Officer of the POA, setting forth whether the Member's or the Club 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 as having been paid or partially paid.

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

6.10.1 All property dedicated to or owned by the POA.

6.10.2 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.

6.10.3 Any portion of the Properties dedicated to the County.

6.10.4 Any portion of the Properties exempted from ad valorem taxation by the laws of the State of Florida.

6.10.5 Any portion of the Properties owned by Bocalinda who shall pay those maintenance charges hereinafter described.

## ARTICLE 7

### Maintenance of Property

7.1 Parcel Owner Responsibilities. The Owner of each Parcel shall be responsible for maintenance of such Parcel. The POA shall have an irrevocable right of access to all Parcels to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Properties.

7.2 Sub-Association Responsibilities. Each sub-Association shall be responsible for the maintenance of all Common Property shown on the plat of any portion of the property governed by such sub-Association, or as otherwise established by other legal documentation affecting such property.

7.3 Maintenance of Common Property. The POA shall be responsible for the maintenance of all Common Property.

7.4 Maintenance of Landscaping. The POA shall be responsible for maintaining all landscaping in the Common Property, including that landscaping at the entrance of the Aberdeen PCD and that along Le Chalet Boulevard and other arterial roads. Bocalinda shall pay a share of the landscape maintenance cost with respect to that landscaping at the entrance of Aberdeen PCD at Military Trail (hereinafter the "Entrance Area") and along Le Chalet Boulevard from Military Trail to the E-3 Canal as shown on the Master Plan (hereinafter the "Landscape Area"). The Bocalinda Owners' share of this landscape maintenance cost shall be determined as follows:

7.4.1 That portion of the landscaping maintenance costs for the Entrance Area and the Landscape Area allocated to the Bocalinda Owners shall be determined by multiplying that portion of the annual budgeted landscape maintenance cost for the Entrance Area and the Landscape Area by a fraction, the numerator of which shall be the number of Parcels within the Bocalinda Property (214), and the denominator of which shall be the sum of the following: The total number of units authorized in the Aberdeen PUD (2,990), less those lots previously platted in Parcels S and T as shown on the Master Plan (160), plus three (3) units for each acre of Commercial Property as shown on the Master Plan (150). Thus, the fraction shall be 214/2980. The denominator stated above shall be adjusted annually in accordance with any increase or decrease in the total number of units authorized for the Aberdeen PUD by the County, as development progresses.

7.4.2 In the event that Bocalinda, its successors and assigns, shall fail to make payments to the POA as required in this Declaration, the POA shall have the right to file a lien upon the Bocalinda Property and each Parcel therein in order to secure such payment. The filing and enforcement of such lien shall be governed by the terms of Article 6 of this Declaration relating to Assessment liens.

7.5 Maintenance of Water Management System. The POA shall be responsible for perpetual maintenance of the Water Management System in accordance with the requirements of South Florida Water Management District and the Lake Worth Drainage District. Notwithstanding the foregoing, Bocalinda, or the sub-association created to govern the Bocalinda Property, shall be responsible for perpetual maintenance of the Water Management System located within the Bocalinda Property. In the event of the dissolution of the POA or the homeowners association created to govern the Bocalinda Property, provision shall be made for the continued maintenance of the Water Management System, subject to approval by the appropriate agencies.

7.6 Aberdeen Drive and the Landscaped Areas. The POA shall maintain Aberdeen Drive and the landscaping on Aberdeen Drive (the "Landscaped Area") in accordance with the Declaration, and shall enter into such contracts and employ such personnel as are necessary to accomplish such maintenance.

7.7 The Gatehouse. The POA shall maintain the Gatehouse as hereafter provided. The POA shall not staff the Gatehouse unless the manner, staffing and hours of operation of same are approved by a majority vote of the Adjacent Owners, AS DEFINED HEREIN, paying for same. Once so approved, the manner, staffing and hours

of operation of same may be changed from time to time by a majority vote of the Adjacent Owners. For purposes of such vote, each Adjacent Owner will have a number of votes equal to the percentage responsibility of the Adjacent Owner for the payment of the cost of staffing the Gatehouse. (For example: an Adjacent Owner paying 20% of the cost of staffing the Gatehouse will have 20 votes.) Notwithstanding the foregoing, one or more of the Adjacent Owners having less than a majority of the votes of all the Adjacent Owners will have the right to require the Gatehouse to be staffed if they agree to pay all of the cost of same.

**7.7.1 Adjacent Owner.** As used in this Paragraph 7.7, the term "Adjacent Owner" includes the following entities, together with each Adjacent Owner's Share and number of votes:

- (i) The Owner of the Aberdeen Golf and Country Club, Inc. Their Share as Adjacent Owner shall be 75% (75 votes).
- (ii) Transeastern, Inc., as Owner of the Property described as the Sales Center. Their Share as Adjacent Owner shall be 20% (20 votes).
- (iii) The Stratford at Aberdeen Condominium Association. Their Share as Adjacent Owner shall be 2.35% (2.35 votes).
- (iv) The Canterbury at Aberdeen Condominium Association. Their Share as Adjacent Owner shall be 2.65% (2.65 votes).
- (v) Upon the sale or transfer of ownership by Transeastern of the Sales Center Property, the percentage share of the remaining Adjacent Owners shall be established by and between the Adjacent Owners and the POA upon the concurrence of all remaining Adjacent Owners and the POA, and without the need for an amendment to this Section.

**7.7.2 Cost Assessment.** Unless otherwise agreed by the unanimous approval of the Adjacent Owners, the POA's costs of maintenance of the Landscaped areas and maintenance and operation of the Gatehouse shall be shared by the Adjacent Owners in the percentages set forth above. These costs are referred to as the "Cost Assessments". The Costs Assessments shall be in addition to, and not in lieu of, all assessments charged by the POA pursuant to the Declaration, including costs for maintenance of Aberdeen Drive. The POA shall invoice the Adjacent Owners each month for their Cost Assessments. If any Cost Assessment is not paid on the day when due, it shall then become delinquent and shall bear interest at the maximum rate allowed by law from the day when due until paid. (In the absence of such law, as such interest rates as determined by the Board of Directors of the POA from time to time.) Each Adjacent Owner's Cost Assessment, together with interest thereon and the cost of collection thereof, including attorney's fees, shall be a continuing lien against all property owned or governed by such Adjacent Owner. The POA shall also record a claim of lien in the public records of Palm Beach County against all property owned or governed by a defaulting Adjacent Owner, setting forth the amount of such Adjacent Owner's respective Share of the unpaid Cost Assessment, the rate of interest due thereon and the cost of collection thereof. If any Cost Assessment or any installment thereof shall not be paid within thirty (30) days following the date when due, the POA may at any time thereafter bring an action to foreclose the lien against any one or more of the properties encumbered thereby. There shall be added to the amount of the defaulting Adjacent Owner's Share of the Cost Assessment the cost of such action, including attorney's fees and, in the event a judgment is obtained, such judgment shall include interest on the defaulting Adjacent Owner's respective Share of the Cost Assessment as provided above. Each Member of a sub-Association that is an Adjacent Owner may relieve his Residential Unit of the Cost Assessment lien by paying to the POA a proportionate amount of the unpaid Cost Assessment attributable to his Unit, as determined by the POA. Upon such payment, the POA shall execute and record a release of lien with respect to such Unit.

## ARTICLE 8

### Architectural Controls

8.1 Architectural Review and Approval. It is the intent of the POA to create within Aberdeen PUD and PCD a residential and commercial community of high quality and harmonious improvements. Accordingly, no improvements shall be commenced, erected, placed or maintained within the Properties, nor shall any addition, change or alteration be made to any Parcel or improvements unless and until the plans, specifications and location of same shall have been submitted to and approved in writing to the Architectural Review Board of the POA, or unless an exception is contained in this Article 8, or such exceptions are made by the Board of Directors of the POA, as it may determine from time to time. Plans and specifications submitted shall be evaluated as to harmony of exterior design and location in relation to surrounding structures and topography, and as to conformity with the architectural standards contained herein and as established by the ARB.

8.2 Architectural Review Board. The ARB shall be a permanent committee of the POA and shall administer and perform the architectural review and control functions of the POA. The ARB shall consist of not less than three (3) or more than five (5) voting members, including the Chairman. The Chairman of the ARB shall be appointed by the President of the POA, and shall serve at the President's pleasure. The Chairman shall submit the names of proposed members of the ARB to the President for approval. Members of the ARB may be chosen at large from residents of Aberdeen PUD and PCD. The Chairman and the President each shall have the power to replace an ARB member. Any such vacancy, or other vacancy occurring due to death, resignation or other termination of service of any member, shall be filled in the same manner provided above in this paragraph.

8.3 Powers and Duties of the ARB. The ARB shall have the following powers and duties:

8.3.1 To require submission to the ARB of all plans and specifications for any improvement proposed to be constructed or placed upon any portion of the Properties.

8.3.2 To approve or disapprove the plans and specifications submitted to the ARB and to approve or disapprove any additions, changes, modifications or alterations thereof.

8.3.3 To grant variances from the architectural standards promulgated by the ARB on a case-by-case basis; provided, however, that the variance brought is reasonable and does not impose a hardship on other Owners.

8.3.4 If any improvement shall be constructed or altered without the prior approval of the ARB, the Owner thereof shall upon demand of the POA cause such improvement to be removed or restored to comply with the plans and specifications as originally approved by the ARB, or if no submission was made to the ARB, to meet ARB requirements. The Owner shall be liable for the payment of all costs of removal or restoration or compliance, including all attorney's fees and costs incurred by the POA.

8.3.5 To promulgate architectural standards and rules and regulations from time to time governing the procedures to be followed by the ARB, including the form and content of plans and specifications to be submitted for approval.

8.3.6 To establish the type of hurricane shutters and installation thereof, within provisions of State and County laws and regulations, and to specify the period of time prior to a storm or hurricane alert when hurricane shutters shall be put up or closed, and the period of time after such storm or hurricane when the hurricane shutters must be removed or opened. Failure to comply can result in fines being levied against the Owner for the violation hereof. In such case, the amount shall be determined as provided in paragraph 8.3.7, and the methods and costs of collection shall be as provided in Paragraph 6.7 hereof.

8.3.7 To find an Owner in violation of the rules and regulations of the ARB and to recommend to the POA the levy of fines against the Owner for said violations in accordance with the Declaration and Florida Law, and the collection of the same with interest, costs and attorney's fees, and the right to file a lien against the Parcel, all as provided in Paragraph 6.7 hereof. The President shall appoint a Committee of not less than five (5) persons to serve as a Hearing Committee for the recommended fine. The amount of such fines shall be in conformity with Florida Statutes, Chapter 617.305 (2), which permits fines up to \$100 per violation, which may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, except that no such fine shall exceed \$1,000 in the aggregate.

8.4 Adverse Impact on Transeastern. No action shall be taken or decision made by the ARB that would adversely impact on the construction, development, sale or marketing of Aberdeen PUD or PCD without the prior written consent of Transeastern, Inc. Such decisions and actions shall be submitted to Transeastern for its approval. Transeastern shall approve or disapprove said action or decision within thirty (30) days after receipt thereof. If Transeastern fails to act within such time period, such failure shall be deemed approval by Transeastern. This section shall automatically become null and void upon Transeastern's completion of its new construction activities within Aberdeen or when Transeastern ceases to be a Member, as provided for herein, in the Articles of Incorporation or the By-Laws, whichever shall first occur.

8.5 Review Criteria. All improvements constructed within the Properties shall comply with the architectural standards promulgated by the ARB. In its approval process, however, the ARB may consider such additional architectural criteria as it deems reasonably necessary in order to further the intent of the POA for the development and appearance of the Properties.

8.6 Liability for Actions of ARB. Neither the Directors or Officers of the POA, the members of the ARB, nor any person acting on behalf of any of them shall be liable for any costs or damages incurred by any Owner or any other party due to any mistakes in judgment, negligence or any action of the ARB in connection with the approval or disapproval of plans and specifications. Each Owner and occupant of any Parcel agrees, by acquiring title thereto or an interest therein or by assuming possession thereof, that no action or suit shall be brought against the Directors or Officers of the POA, the members of the ARB or their respective agents to recover any damages caused by the actions of the ARB. Neither the Directors or Officers of the POA, the members of the ARB 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 improvement 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.

8.7 Exceptions Reserved for Sub-Association Approval. The improvements, additions and replacements to Residential Units and within sub-Associations, as set forth in Sections 8.7.1 through 8.7.8 below, are excepted from the requirement of submission to and approval by the ARB. Instead, they shall fall within the jurisdiction of the sub-Association and such rules and regulations as the Board of Directors of the sub-Association may promulgate in these situations. However, this Section notwithstanding, all such sub-Association rules and regulations, and all sub-Association decisions under this Section, shall be consistent with this Declaration and guidelines and standards established by the ARB of the POA and shall comply with the appeals provisions set forth in Section 8.8, below. The following list is subject to change as the Board of Directors of the POA may in its sole discretion deem necessary from time to time, and items may be deleted or added to it:

8.7.1 Landscaping of individual Residential Units, including landscaping devices, by example and without limitation, such as lattices, gazebos, statuary and other lawn decorations, and planters and flower pots.

8.7.2 Resident Unit house numbers, wherever and however affixed or displayed.

8.7.3 Mailboxes and decorative additions thereto by Owners.

8.7.4 Residential Unit outer doors and storm/screen doors, and front door screened entrance enclosures.

8.7.5 Placement of satellite dishes not to exceed one (1) meter in diameter, and landscaping treatment to make them unobtrusive. (The cost of providing cable service shall remain the responsibility of the Owner, who shall continue to pay for same in the monthly maintenance charge.)

8.7.6 Color of paint for the Residential Units, outbuildings, recreational facilities, and trash can enclosures.

8.7.7 Driveway surfacing treatments, including texture, material and color.

8.7.8 Addition of gutters and leaders, including materials and color.

8.8 Appeal Procedure. Notwithstanding any provision to the contrary herein, the sub-Association Board of Directors has a duty to provide Owners with notice of any changes, modifications or improvements to a Parcel within a sub-Association that impact the sub-Association community as a whole (for example, a major change in the color of paint used in the community). The manner and timing of such notice shall be fair, to be determined by the sub-Association Board. An Owner has a right of appeal to the ARB of the POA regarding final decisions of the sub-Association under this Article 8 that affect the entire sub-Association community. The Appeal Procedure is not intended for disputes between neighbors. All decisions of the ARB or the Advisory Committee of the POA, including what constitutes community impact or effect, shall be final and binding upon all parties.

## ARTICLE 9

### Recreational Facilities

9.1 Eastern Area Facilities. The Eastern Area has a Clubhouse, tennis courts and swimming pool located at 5700 Le Chalet Drive, and three additional satellite pools and facilities. The costs of maintaining, operating, staffing, and improvements to these Recreational Facilities are the responsibility of the Eastern Area Members. Only Eastern Area Members shall have the right to determine who shall be permitted to use these Recreational Facilities, and to promulgate rules and regulations, terms and conditions, and to make changes thereto as they deem necessary. For the purposes of this Section 9.1, such decisions shall be made according to procedures established by the Board of Directors of the POA. For the purposes of this Section 9.1, to have the privilege of use of these Recreational Facilities, an Eastern Area Owner must reside in a Residential Unit in the Eastern Area. For example, but not by way of limitation, an individual who resides elsewhere, and owns (or co-owns) a Residential Unit in the Eastern Area, shall not be permitted to use the Eastern Area Recreational Facilities.

9.2 Aberdeen Golf and Country Club. The right to use the Golf Course, Clubhouse, Fitness Center, Tennis Courts and Pool shall be determined by the Club Owner through its Board of Directors. They shall promulgate rules and regulations, terms and conditions, and make changes thereto as they deem necessary. The costs of maintenance, operation, staffing and improvement of the Aberdeen Golf and Country Club shall be the responsibility of its equity members. The POA shall have no responsibility for the support and maintenance of the Club except for its ownership and maintenance of Aberdeen Drive, and the Landscaped Area, and other property along Aberdeen Drive as it may acquire.

## ARTICLE 10

### Insurance

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

10.1 Authority to Purchase; Named Insured. All insurance policies upon the Common Property shall be purchased by the POA and shall be placed with a single agency or company, if feasible to do so. The named insured shall be the Aberdeen Property Owners Association, Inc. as agent for the Members without naming them. The policies shall provide that payments by the insurer for losses shall be made to the POA. The Owners may purchase insurance on their individual Parcels as they deem appropriate.

10.2 Public Liability Insurance. The POA shall obtain public liability insurance covering all of the Common Property in such amounts and providing such coverage as the Board of Directors 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, and any legal liability arising in connection with employment contracts to which the POA is a party. The minimum amount of coverage shall be \$500,000 each person, and \$2,000,000 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 POA before the insurer can cancel or substantially modify the policy.

10.2.1 Casualty Insurance. The POA shall obtain fire and extended coverage insurance for the Common Property, excluding land, foundation and excavation costs, at its maximum insurable replacement value, except that all personal property owned by the POA shall be insured for its full insurable value, all as determined annually by the Board of Directors of the POA. If available, the POA shall also obtain an Agreed Amount and Inflation Guard Endorsement and Steam Boiler Coverage Endorsement providing coverage in the minimum amount of \$50,000 for each incident.

10.2.2 Flood Insurance. The POA shall obtain flood insurance to meet the requirements of federal, state, or local law, or any regulation enacted pursuant to federal, state or local law.

10.2.3 Workmen's Compensation Insurance. The POA shall obtain Workmen's Compensation Insurance to meet the requirements of law.

10.2.4 Other Insurance. The Board of Directors of the POA shall obtain such other insurance as it shall determine from time to time to be desirable.

10.2.5 Subrogation Waiver. If available, the POA shall obtain policies which provide that the insurer waives its right to subrogation as to any claim against Members, the POA and their respective servants, agents and guests.

10.3 Premiums. Premiums on insurance policies purchased by the POA shall be paid by the POA. The cost of insurance premiums and other incidental expenses incurred by the POA in administering and carrying out any of the provisions of this Article shall be a Common Expense.

## ARTICLE 11

### Indemnification of Directors, Officers and Members of the ARB

Every Director and Officer of the POA and member of the ARB shall be indemnified by the POA against all expenses and liability, including attorneys' fees, incurred by or imposed in connection with any proceeding to which they may be a party or in which they may become involved by reason of having been a Director, Officer or member of the ARB, whether or not still a Director, Officer or member of the ARB at the time such expenses are incurred, except in such cases where the Director, Officer or member of the ARB is adjudged guilty of willful misfeasance or malfeasance in the performance of their 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 ARB 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 POA. The foregoing right of indemnification shall be in addition to



and not exclusive of all other rights to which such Officer, Director or member of the ARB may be entitled.

ARTICLE 12

General Provisions

**12.1 Amendment.** This Declaration may be amended upon the recordation of an appropriate instrument in the Public Records of the County, subject to the following provisions:

12.1.1 Any amendment to this Declaration which would affect the surface Water Management System, including the water management portions of the Common Areas, must have the prior approval of the South Florida Water Management District.

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

12.1.3 An amendment to this Declaration requires the approval of two-thirds (2/3) of the Members present and voting at a duly called meeting of the Board of Directors of the POA at which a quorum exists. An amendment shall take effect upon its recording in the public records of Palm Beach County, Florida.

**12.2 Duration.** All of the covenants, restrictions and other provisions of this Declaration shall run with and bind the Properties 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 seventy-five percent (75%) of the votes of the Members then existing has been recorded agreeing to change or terminate these covenants and restrictions.

**12.3 Covenants Running with the Properties.** The agreements, covenants and conditions, restrictions, Assessments, liens and other provisions contained herein shall constitute a servitude upon the Properties and each portion thereof, shall run with the Properties, shall be binding upon the Owners of any portion thereof, and shall inure to the benefit of the POA and the Owners of Parcels within the Properties.

**12.4 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 persons or entities violating or attempting to violate same and against the Properties subject hereto to enforce any lien created by this Declaration. In the event the POA shall fail to enforce the terms of this Declaration, then any Member may do so. The failure of the POA 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.

**12.5 Notices.** Any notice required to be sent to any Owner or Member 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 or Member on the records of the POA as of the time of such mailing.

**12.6 Notice to Mortgagees.** Upon written request to the POA identifying the name and address of the Mortgagee, insurer or guarantor and the Residential Unit number or address, any Mortgagee, insurer or guarantor shall be entitled to receive timely written notice of the following:

12.6.1 Any condemnation or casualty loss that affects either a material portion of the Properties or the Residential unit on which the Mortgagee holds a mortgage.

12.6.2 Any sixty (60) day delinquency in the payment of Assessments or charges or fines owed by the Owner of any Residential Unit on which the Mortgagee holds a mortgage.

12.6.3 A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the POA.

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

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

12.9 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.

12.10 Effective Date. This Amended and Restated Declaration shall become effective upon its recordation in the Public Records of the County.

IN WITNESS WHEREOF, the Aberdeen Property Owners Association, Inc. has caused this Declaration to be executed the day and year first above written.

Signed, sealed and delivered in the presence of:  
Myrna Rosoff  
Witness

ABERDEEN PROPERTY OWNERS ASSOCIATION, INC.  
BY: Stanley Kessler  
STANLEY KESSLER, PRES

Dolly Fiss  
Witness

STATE OF FLORIDA )  
COUNTY OF PALM BEACH )

BEFORE ME, the undersigned authority, personally appeared Stanley Kessler, to me well known to be the person described in and who executed the foregoing instrument as President of Aberdeen Property Owners Association, Inc., a Florida corporation, and he/she severally acknowledged before me that he/she executed such instrument as such Officer of said Corporation, and that the Seal affixed thereto is the Corporate seal of said Corporation, and that it was affixed to said instrument by due and regular Corporate authority, and that said instrument is the free act and deed of said Corporation.

WITNESS my hand and official seal, at the State and County aforesaid, this 17<sup>TH</sup> day of July, 2000.

Myrna Rosoff  
NOTARY PUBLIC  
State of Florida at Large.  
My Commission Expires: (SEAL)

