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**FIRST AMENDED DECLARATION OF
COVENANTS AND RESTRICTIONS**

FOR

**ARBOR GATE,
A LEASEHOLD RESIDENTIAL PARK**

COPY

RECORDED
JAN 23 11 11 AM '01
LEBANON COUNTY

*This First Amended Declaration regards the real estate described or depicted
in Exhibits A, B, and C, attached hereto, located in Jackson Township, Lebanon
County, Pennsylvania*

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**FIRST AMENDED DECLARATION OF
COVENANTS AND RESTRICTIONS
FOR
ARBOR GATE
A LEASEHOLD RESIDENTIAL PARK**

Background

ARBOR GATE, LTD. a Pennsylvania Corporation with offices at 530 Trout Run Road, Ephrata, Pennsylvania 17522 (the "Declarant") as the Declarant filed the Declaration of Covenants and Restrictions for Arbor Gate, a Leasehold Residential Park, recorded on February 6, 1997, in the Land Records of Lebanon County, Pennsylvania, at Book 191, Page 59 (the "Original Declaration"). The Original Declaration affected approximately eighty (80) acres, identified and described in Exhibit A, attached hereto.

Declarant has also previously recorded a Phase VI Declaration of Covenants and Restrictions for Arbor Gate, Ltd., a Leasehold Residential Park, recorded on November 1, 2000, in the Land Records of Lebanon County, Pennsylvania, at Book 234, Page 164 (the "Phase VI Declaration"). The property affected by the Phase VI Declaration is a portion of the land identified and described in Exhibit B attached hereto and now made subject in its entirety to this First Amended Declaration of Covenants and Restrictions for Arbor Gate, a Leasehold Residential Park (the "First Amended Declaration").

Declarant desires to amend the Original Declaration in certain respects and to bring additional lands within the Arbor Gate Leasehold Residential Park. Therefore, Declarant submits and files this First Amended Declaration.

I. **Amendments to the Original Declaration.** The Original Declaration is amended as follows:

A. **Cover Page.** The words, "or depicted in" are inserted after the word, "described." The reference to Exhibit A is replaced with Exhibits A, B, and C.

B. **Paragraph 1.a.** The reference to "Exhibit A" is replaced with "Exhibits A and B." Thereafter, the following sentences are added:

Declarant also references Additional Real Estate (as defined herein) located in Jackson Township, Lebanon County, Pennsylvania. Declarant hereby imposes on the Real Estate, as covenants running with the land, certain conditions, restrictions, limitations, regulations and agreements. If Declarant becomes the owner in fee simple of the Additional Real Estate, Declarant also imposes on the Additional Real Estate, as covenants running with the land, certain conditions, restrictions, limitations, regulations and agreements.

C. **Throughout.** The term "Declaration" is replaced with the term "First Amended Declaration."

D. **Paragraph 1.b.** The following definitions are added or amended:

a. **Additional Real Estate:** Real Estate not presently owned by Arbor Gate Ltd. but that may later be purchased and added to the Arbor Gate Community. The Additional Real Estate is any land immediately bordering the Real Estate. Land separated only by a public street or road is "immediately bordering" within the meaning of this First Amended Declaration.

b. **Arbor Gate:** A leasehold residential park laid out, developed, and owned in fee simple by Declarant. Arbor Gate includes Lots that are laid out on the Real Estate and that are to be leased to residents who will construct and own Dwellings under the terms of this First

Amended Declaration and individual Leases. Arbor Gate also includes such Lots shown on future plans for lands of Declarant that presently are part of the Real Estate or Additional Real Estate.

- c. Lease: A lease contract between Declarant and Owner, as Lessee, for the ground of a Lot and an easement for support, within the ground of the Lot, for a Dwelling owned by Lessee. A form of lease, subject to revision, is appended hereto as Exhibit D.
- d. Lot. A parcel of land intended for construction of a Dwelling as shown on a land development or subdivision plan recorded by Declarant or on future land development plans that may be submitted by Declarant for any portion of the Real Estate or the Additional Real Estate
- e. Plan: The Land Development Plan given final approval by the governing body of the Township and recorded on or about November 5, 1996, in the Offices of the Recorder of Deeds in and for Lebanon County, Pennsylvania in Book 44, Page 133; the Subdivision Plan given final approval by the governing body of the Township and recorded on or about August 30, 2000, in the Office of the Recorder of Deeds in and for Lebanon County, Pennsylvania, in Plan Book 50, Page 47-47A-47H together with any future land development or subdivision plans for portions of the Real Estate or Additional Real Estate that may be submitted by Declarant and approved and recorded in the land records of Lebanon County for any portion of the Real Estate or the Additional Real Estate.
- f. Real Estate: Property owned in fee simple by Declarant and shown and described in Exhibit C, attached hereto.
- g. Withdrawable Real Estate: Any Real Estate the Declarant may, from time-to-time withdraw from the effect of this Declaration. If Declarant ever adds Additional Real Estate, Declarant may establish any part of the added Additional Real Estate as Withdrawable Real Estate. However, Withdrawable Real Estate does not and will not include any of the Real Estate presently comprising the Arbor Gate Residential Development as shown in Exhibits A and B.

E. Paragraph 2, Declarant's reserved rights. Paragraph d. is added:

d. Declarant's Rights to Add Real Estate or Withdraw Real Estate.

- i. Declarant reserves the right to expand Arbor Gate by making all or part of the Additional Real Estate subject to the terms and conditions of this Declaration.; and
- ii. Declarant reserves the right to withdraw from the effect of this Declaration any portion of the Withdrawable Real Estate.

F. Shareholders. Paragraphs 11.b, 11.e.(3) and 11.h.: The names, TITUS W. MARTIN and LOUIS G. HURST are deleted and replaced, generally, with references to "shareholders."

F. Signatures. A signature line is added for shareholder, Melvin G. Hurst.

II. Restated Declaration. For convenience, the First Amended Declaration, including the above-recited revisions to the Original Declaration, is stated, in full, below:

**FIRST AMENDED
DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
ARBOR GATE, A LEASEHOLD RESIDENTIAL PARK**

1. Submission; defined terms

a. Declarant; property; county; name. Arbor Gate, Ltd., a Pennsylvania Corporation with offices at 530 West Trout Run Road, Ephrata, Pennsylvania 17522 ("Declarant") is the owner in fee simple of the Real Estate described in Exhibits A and B, attached hereto, located in Jackson Township, Lebanon County, Pennsylvania. Declarant also references Additional Real Estate (as defined herein) located in Jackson Township, Lebanon County, Pennsylvania. Declarant hereby imposes on the Real Estate, as covenants running with the land, certain conditions, restrictions, limitations, regulations and agreements. If Declarant becomes the owner in fee simple of the Additional Real Estate, Declarant also imposes on the Additional Real Estate, as covenants running with the land, certain conditions, restrictions, limitations, regulations and agreements.

b. Defined terms. The following terms when used and capitalized in this First Amended Declaration shall have the meanings set forth below:

(1) Additional Real Estate: Real Estate not presently owned by Arbor Gate Ltd. but that may later be purchased and added to the Arbor Gate Community. The Additional Real Estate is any land immediately bordering the Real Estate. Land separated only by a public street or road is "immediately bordering" within the meaning of this First Amended Declaration.

(2) Air Space Estate: the area above a Lot bounded as follows:

(a) vertical boundaries of the Air Space shall be the vertical perimeter formed by a vertical extension of the lot boundaries as shown on the Plan.

(b) horizontal boundaries:

i) lower boundary: the lower boundary shall be formed by the surface of the Lot as it may be from time to time excavated for residential dwelling construction in accordance with this First Amended Declaration.

l) upper boundary: the upper boundary shall be a horizontal plane 75 feet above the mean elevation of the lower boundary.

Air Space Estates may be conveyed by Declarant to Lessees under the terms of Act 871 of 1963 (68 Pa.C.S.A. 801 et seq.).

(3) Arbor Gate: a leasehold residential park laid out, developed, and owned in fee simple by Declarant. Arbor Gate includes Lots that are laid out on the Real Estate and that are to be leased to residents who will construct and own Dwellings under the terms of this First Amended Declaration and Individual Leases. Arbor Gate also includes such Lots shown on future plans for lands of Declarant that presently are part of the Real Estate or Additional Real Estate.

(4) Community Building: a structure that Declarant may construct and make available for use by Owners of Arbor Gate.

(5) Community Facility: any portion of Arbor Gate (except for Lots) designated by Declarant, from time to time, for use by Owners, including without limitation any Community Building, active and passive recreation areas, streets, sidewalks (not on Lots), trails and storm water management facilities.

(6) Declarant: the corporation described in Section 1.A, above and all successors to the rights of Declarant.

(7) First Amended Declaration: this document, as it may be amended from time to time.

(8) Dwelling: a residential structure constructed by an Owner on a Lot.

(9) Lease: a lease contract between Declarant and Owner, as Lessee, for the ground of a Lot and an easement for support, within the ground of the Lot, for a Dwelling owned by Lessee. A form of lease, subject to revision, is appended hereto as Exhibit D.

(10) Lessee: an Owner who is party to a Lease.

(11) Lot: a parcel of land intended for construction of a Dwelling as shown on a land development or subdivision plan recorded by Declarant or on future land development plans that may be submitted by Declarant for any portion of the Real Estate or the Additional Real Estate.

(12) Owner: a person, persons, or entity owning title to a Dwelling and Air Space Estate.

(13) Permitted Mortgage: a mortgage to (i) Declarant; (ii) a seller of a Dwelling; (iii) a bank, trust company, savings bank, savings and loan institution, mortgage service company, insurance company, credit union, pension fund, real estate investment trust or like institutional investor or lender; or (iv) any other mortgagee approved by the Declarant; which mortgage meets the requirements stated in Paragraph 8.a. of this First Amended Declaration.

(14) Permitted Mortgagee: a holder of a Permitted Mortgage.

(15) Plan: the Land Development Plan given final approval by the governing body of the Township and recorded on or about November 5, 1996, in the Offices of the Recorder of Deeds in and for Lebanon County, Pennsylvania in Book 44, Page 133; the Subdivision Plan given final approval by the governing body of the Township and recorded on or about August 30, 2000, in the Office of the Recorder of Deeds in and for Lebanon County, Pennsylvania, in Plan Book 50, Page 47-47A-47H together with any future land development or subdivision plans for portions of the Real Estate or Additional Real Estate that may be submitted by Declarant and approved and recorded in the land records of Lebanon County for any portion of the Real Estate or the Additional Real Estate.

(16) Township: Jackson Township, Lebanon County, Pennsylvania.

(17) Real Estate: Property owned in fee simple by Declarant and shown and described in Exhibit C attached hereto.

(18) Withdrawable Real Estate: Any Real Estate the Declarant may, from time-to-time withdraw from the effect of this Declaration. If Declarant ever adds Additional Real Estate, Declarant may establish any part of the added Additional Real Estate as Withdrawable Real Estate. However, Withdrawable Real Estate does not and will not include any of the Real Estate presently comprising the Arbor Gate Residential Development as shown in Exhibits A and B.

(19) Written Notice: Notice sent by registered or certified mail to the last address provided in writing by the addressee to the sender.

2. Declarant's reserved rights.

a. Option to establish fee simple lots. Declarant reserves a right, subject to municipal review and approval, to create separately described and deeded Lots that may be transferred to third parties.

b. Declarant's right of first refusal in Air Space Estates. Declarant hereby reserves a right of first refusal in any Air Space Estate that is owned by any Lessee. Before a Lessee may transfer all or part of an Air Space Estate to any party not an assignee of the Lease or a Permitted Mortgagee for the same Lot over which the Air Space Estate is situated, Lessee shall first give Declarant 60 days' Written Notice of Lessee's proposed transfer of the Air Space Estate. Declarant shall then have until 5 p.m. on the 60th day, or if the 60th day is a Saturday, Sunday, or holiday, the next business day, to exercise the right, for \$10.00, to repurchase the Air Space Estate. Lessee shall pay for preparation of the Deed and any real estate transfer taxes or other assessments related to the transfer. Transfer by a Lessee of Air Space to a Permitted Mortgagee as part of a foreclosure of the Permitted Mortgagee's security interest in the Air Space Estate, or a transfer in lieu of any such foreclosure, as well as any transfer of the Air Space Estate by a Permitted Mortgagee, shall not entitle Declarant to exercise its right of first refusal under this Paragraph unless the Permitted Mortgagee, in turn, assigns the Lease to a person or entity who does not then become a Lessee of the same Lot over which the Air Space Estate is situated.

c. Reversion of Air Space Estate to Declarant upon Owner's Continued Default or Expiration of Lease. Owner's interest in the Air Space Estate shall revert to Declarant when either: (1) owner defaults under the terms of a Lease and the default is not cured by Owner or by a Permitted Mortgagee, within ninety (90) days Written Notice of default; or (2) Owner's Lease expires. Declarant may perfect this reversion by filing an action in ejectment in the Court of Common Pleas of Lebanon County asserting either that Owner, as title owner of the Air Space Estate, has defaulted or that Owner's Lease has expired and that the right to possession of the Air Space Estate has reverted to Declarant under the terms of this First Amended Declaration. Declarant shall provide Owner notice of the Action in Ejectment in accordance with the applicable Rules of Civil Procedure. A judicial decree or order recorded in the land records of Lebanon County shall be sufficient evidence of Declarant's ownership of the Air Space Estate.

d. Declarant's Rights to Add Real Estate or Withdraw Real Estate.

i. Declarant reserves the right to expand Arbor Gate by making all or part of the Additional Real Estate subject to the terms and conditions of this Declaration; and

ii. Declarant reserves the right to withdraw from the effect of this Declaration any portion of the Withdrawable Real Estate.

3. Estoppel Certificate. Within ten business (10) days of the receipt of such a request, Declarant shall prepare an Estoppel Certificate which shall set forth any rents or charges due to Declarant in regard to an Owner's leased Lot or Air Space Estate as of the date of the Certificate. Declarant will certify as to whether or not there are any violations of the First Amended Declaration or Lease remaining on the Lot, Dwelling, or Air Space Estate known to Declarant at the time of preparation of the Estoppel Certificate. The Certificate shall be mailed to the place designated by the party requesting the Certificate. Declarant may establish a reasonable fee from time to time for the cost of preparation of Estoppel Certificates and such fees shall be paid at the time of the request. A Certificate signed by an authorized representative of Declarant is binding on Declarant as to any purchaser or mortgagee relying thereon on good faith as of the date of its issuance, but shall not relieve the Owner of personal liability.

4. Easements regarding Air Space Estate.

a. Easement of support and for excavation. Each Lot which is beneath an Air Space Estate conveyed to an Owner is hereby declared to be subject to an easement in favor of the owner of the Air Space Estate for support (subject to natural conditions, including but not limited to sinkholes) of a Dwelling constructed on the Lot and for excavation related to construction of the Dwelling and a basement, if any. This easement is coupled with the Air Space Estate and is purchased, from time to time, by Owner through payment of rent for the Lot pursuant to the Lease.

b. Easement of access. Every Owner shall have a right and easement of ingress and egress in and to such Community Facilities as are necessary for the Owner to cross to gain free access to Owner's Dwelling and Air Space Estate. The easement shall be appurtenant to and shall pass with title to the Air Space Estate. If Owner's interest in the Air Space Estate is terminated and reverts to Declarant in accordance with this First Amended Declaration, this easement of access likewise shall terminate and revert to Declarant.

5. Maintenance.

a. Lots. Owner shall be responsible for the maintenance and repair of the outside of any Dwelling and for the care and general appearance of the Lot. Snow removal on the Lot, including the driveway and sidewalks, shall be the responsibility of the Owner.

b. Community Facilities. The maintenance of all Community Facilities shall be the responsibility of Declarant. The Declarant shall have the right of Ingress, egress, and regress throughout Arbor Gate to fulfill these responsibilities. Snow removal on community facilities, including sidewalks, shall be the responsibility of Declarant.

Declarant shall also be responsible to maintain storm water management facilities and related structures not specifically within Community Facilities. Owners, however, shall cooperate with Declarant so that storm water management facilities and related structures are not obstructed and are maintained for their intended purposes.

6. Sewer and Water Systems. Declarant shall construct and dedicate to the Township or appropriate municipal authority a community sewer system and community water system. Declarant shall maintain, operate, repair and monitor any community sewer or water system or portions thereof approved by applicable authorities and not accepted for dedication by a public body. Owners are required to connect Dwellings to such systems. Connection expenses shall be paid by Declarant and reimbursed as part of Owner's rent paid under its Lease. Owners are responsible to install and maintain portions of the water and sewer systems within Dwellings. Costs of installation, operation, maintenance or repair of the rest of said water and sewer systems shall be borne by Declarant. In the event of the failure or refusal of Declarant to maintain, operate, or repair, and monitor the sewer or water systems or the failure of Declarant to dedicate such systems or the failure of the Township or Applicable Municipal Authority to accept dedication of such systems, the Township and/or the Applicable Municipal Authority and/or the County of Lebanon Department of Health, after ten days notice (or in the event of emergency, immediately) may, but shall not be obligated to enter the premises and maintain, operate and repair the system, assessing the costs thereof ratably among the Owners served thereby as a municipal lien.

7. Rules and Regulations. Declarant may establish and from time to time amend Rules and Regulations concerning the use and enjoyment of Arbor Gate which are not in conflict with the provisions of this First Amended Declaration. The Rules and Regulations may include enforcement provisions, none of which allow forfeiture or reversion of the leasehold estate represented by the Lease. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to all Owners by the Declarant promptly after the adoption of such Rules and Regulations or any amendments thereto.

8. Mortgages; Permitted Mortgages; Rights and Obligations of Permitted Mortgagees

a. Permitted Mortgages. An Owner other than Declarant may not voluntarily encumber or subject a Dwelling or Air Space Estate to any lien, other than the lien of a Permitted Mortgage. Whether or not they expressly so state, all such Permitted Mortgages and the obligations secured thereby shall be deemed to provide, generally, that the Permitted Mortgage, and the rights and obligations to the parties thereto, shall be subject to the terms and conditions of this First Amended Declaration and shall be deemed to provide specifically, but without limitation, that the Permitted Mortgagee shall have no right to accelerate the mortgage debt or to have any other remedies by virtue of waste or alleged waste or other conditions occurring anywhere within Arbor Gate other than within the affected Air Space Estate or Dwelling. The obligation secured shall be prepayable, without penalty, upon the happening of any termination of this First Amended Declaration or determination not to restore or replace an affected Dwelling. No Owner shall deliver any Permitted Mortgage, or any other obligation secured thereby unless it has first notified Declarant of the name and address of the proposed Permitted Mortgagee and of the amount of the debt proposed to be secured. When such a Permitted Mortgage is delivered to the Permitted Mortgagee, the Owner shall simultaneously provide executed or conformed copies to Declarant. The lien of any purported mortgage which does not comply with all of the requirements of this Section 8.a. of the First Amended Declaration shall not attach to or affect the Dwelling or Air Space Estate or any part thereof or interest therein and shall be of no force and effect as and to the extent that it purports to relate thereto.

b. Rights of Permitted Mortgagees to Notices. Upon the specific written request of a Permitted Mortgagee of a Dwelling or Air Space Estate, directed to Declarant, the mortgagee shall be entitled to any or all of the following as designated in the request:

(1) Written Notice delivered at least fifteen (15) days before the effective date of any material amendment to this First Amended Declaration;

(2) Written Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the mortgaged Owner's Dwelling or Air Space Estate;

(3) Written Notice of any written notice of default under the terms of a Lease or this First Amended Declaration by the owner of the Dwelling or Air Space Estate, which is subject to the mortgage.

The request of a mortgagee shall specify which of the above items it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Declarant. The Declarant need not inquire into the validity of any request made by a mortgagee hereunder. Unless otherwise specific herein, Declarant shall provide the requested notices within thirty (30) days of the date on which the event giving rise to the requirement of notice occurred. Failure to comply with the requirement set forth above shall not in any way invalidate otherwise proper actions of the Declarant.

c. Right of Permitted Mortgagees to Pay Overdue Obligations of Declarant. Permitted Mortgagees may, jointly and singly, pay taxes and other charges which are in default and which may or have become a charge or lien against any portion of Arbor Gate and may pay overdue premiums on the insurance policies or secure insurance policies with respect to coverage to be maintained by the Declarant, and upon so doing the Permitted Mortgagee making such payments shall be entitled to prompt reimbursement therefore by Declarant.

d. Obligation of Permitted Mortgagee to Notify Declarant of Mortgage Default. A Permitted Mortgagee shall provide Declarant copies of written notices to Owner of any default by Owner under the terms of a Permitted Mortgage.

e. Subordination of Declarant's Rights to Interests of Permitted Mortgagee. Notwithstanding any rights or remedies reserved to Declarant in this First Amended Declaration, Declarant's rights to reversion of an Air Space Estate or leasehold estate are subordinate to the right of a Permitted Mortgagee. The term of this subordination shall be until Mortgagee acquires legal title to the Air Space Estate and possession of the leasehold estate, by mortgage foreclosure action or deed in lieu of foreclosure.

Thereafter, the Permitted Mortgagee shall pay to Declarant the then-current rent and additional payments, including taxes, owing prospectively under the terms of the Lease. Subject to the lien of the Permitted Mortgagee, Declarant shall retain all rights and liens against an Owner and Lessee for accrued rents and other payments owing under the terms of the Lease.

9. Insurance to be Maintained by Declarant. Declarant shall maintain, at all times, insurance in at least the following types and amounts:

a. property insurance covering all Community Facilities. Such insurance shall be in an amount equal to the replacement value of such improvements exclusive of land, foundations, excavations, and other items normally excluded from coverage, such insurance to afford protection at least against loss or damage by fire or other hazards covered by the standard extended coverage endorsement;

b. worker's compensation insurance and employer's liability as required by law; and

c. public liability insurance with limits of not less than one million dollars (\$1,000,000)

per occurrence without an aggregate applicable.

If notified by a Permitted Mortgagee that it is a Federal National Mortgage Association ["FNMA"] lender, Declarant shall cause its insurer for the above-referenced coverages, to list the FNMA as an "additional insured" on the insurance policies.

10. Amendment of First Amended Declaration.

a. Vote. This First Amended Declaration may be amended by any combination of Lessees and Declarant, which own or have an equitable interest in 67% of the Lots in Arbor Gate. In other words, if there are 100 lots, 50 leased by Owners, and 50 retained exclusively by Declarant, then 17 Owners must agree with Declarant ($50 + 17 = 67$) to enact an effective amendment of this First Amended Declaration. The total number of Lots shall be the Lots shown on the Plan for Arbor Gate, including all phases of development or projected development. No amendment shall be effective until recorded in the Lebanon County land records and indexed to Arbor Gate in both the Grantor and Grantee Index.

b. Rights of Permitted Mortgagees to Approve Amendment. No amendment to this First Amended Declaration may be made without the prior written approval of at least 67% of all holders of

Permitted Mortgages who have given written notice to Declarant requesting notice of a material amendment of this First Amended Declaration.

c. FNMA and FHLMC Requirements. If one or more mortgages on a Dwelling or Air Space Estate is held by the Federal National Mortgage Association ["FNMA"], or the Federal Home Loan Mortgage Corporation ["FHLMC"], and any action proposed by the Declarant requires the approval pursuant to the then applicable provisions FNMA or FHLMC or a specified percentage of the Owners or the holders of a specified percentage of Permitted Mortgages, or both, then such action shall not be taken until such requirement has been met.

Furthermore, if, in the judgment of Declarant, an amendment to the First Amended Declaration is necessary to conform to the requirements of any agency or entity that has established national or regional standards with respect to loans secured by mortgages (such as FNMA and FHLMC), then, at any time, and from time-to-time the Declarant may, at its discretion, effect an appropriate corrective amendment without the approval of the Owners or Holders of Permitted Mortgages upon the receipt by Declarant of an Opinion from Independent legal counsel to the effect that the proposed amendment is permitted by this paragraph.

11. Stand-By Board of Directors of Arbor Gate, Ltd.

a. Background. Declarant, Arbor Gate, Ltd., desires to establish means by which the continuity of Arbor Gate, a lease-hold residential park, may be assured. Accordingly, Declarant submits itself to the following provisions for management of Declarant by Owners and Permitted Mortgagees.

b. Events Entitling Owners and Mortgagees to Activate Stand-By Board of Directors. If the shareholders of Declarant all have died or become totally disabled or the successors of their respective shares do not, by their own admission or as declared by a Court of competent jurisdiction, properly and effectively administer Arbor Gate in a manner consistent with the intent of this First Amended Declaration including, but not limited to,

- (1) development and operation of the Community Facility;
- (2) timely payment of taxes and insurance; or

- (3) efficient delivery of services including, but not limited to, snow removal and street maintenance,

the Stand-By Board of Directors shall be activated for the purpose of managing the affairs of Arbor Gate, Ltd.

c. Activation of Stand-By Board of Directors.

Upon the occurrence of an event entitling the Stand-By Board of Directors to be activated, then, upon the petition in writing directed to the Shareholders of Arbor Gate, Ltd. by two-thirds of the Owners other than Declarant or two-thirds of the Permitted Mortgagees, the Stand-By Board shall be established.

d. Disability. For purposes of this paragraph a shareholder shall be deemed disabled 60 days after the date on which, as a result of sickness, accident or injury he becomes wholly and continuously unable to perform his duties for a period of six consecutive months, and his disability shall be deemed to have commenced at the end of said six-month period.

e. Composition of Stand-By Board of Directors.

- (1) The By-Laws of Arbor Gate, Ltd. provide for a Board of Directors of up to five (5) adult persons.
- (2) The Stand-By Board of Directors shall include at least three (3) persons elected by majority vote of the Owners and Permitted Mortgagees who vote after being given notice and opportunity to do so. One of the three persons shall be elected by the Permitted Mortgagees, and two by the Owners.
- (3) The Shareholders of Declarant, by recording this First Amended Declaration, hereby covenant individually for themselves and their successors and assigns that they shall not vote their shares in Arbor Gate, Ltd. to amend the By-Laws to increase the authorized numbers of Directors to more than five (5) unless provision is also made to establish a Stand-By Board of Directors that would include a majority of Directors elected by Owners and Permitted Mortgagees in the same proportion as established in this First Amended Declaration.

f. Sale of Shares and Suspension of the Stand-By Board of Directors. The Stand-By Board of Directors shall be suspended and the Board of Directors shall thereafter be elected by the Shareholder(s) of Arbor Gate, Ltd., in their sole discretion in accordance with the By-Laws, when the shares of Arbor Gate, Ltd., or the assets of the corporation have been transferred to a successor Shareholder(s) or Property Owner, which is deemed capable by the Stand-By Board of Directors of fulfilling the Declarant's obligations under this First Amended Declaration. Such transfer, shall, if reasonably possible, be completed within one (1) year from the date on which the Stand-By Board of Directors assumes office. The proceeds of any stock sale shall inure to shareholders of record as of the date when the Stand-By Board of Directors assumed office, their heirs, successors, or assigns.

g. Compensation of Stand-By Directors. The Stand-By Directors shall be entitled to retain as compensation for their services an amount equal to ten (10) per cent of the rentals due by Owners under the terms of the Leases, for the period during which the Stand-By Directors serve. The ten (10) per cent shall be divided equally among the Stand-By Directors.

h. Term of Stand-By Board of Directors Clause. The terms of this paragraph regarding the Stand-By Board of Directors shall be effective for seventy-five (75) years from the date of this First Amended Declaration. Thereafter, the successors to the shares of the individual shareholders as of the date the Stand-By board of Directors is established shall have the right to vote their shares and control Arbor Gate Ltd. without the potential continued involvement of a Stand-By Board of Directors under this paragraph.

12. Interpretation. Unless the context clearly requires to the contrary the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including without limitation" shall indicate that more specific items enumerated are merely exemplary. The headings used herein are for indexing purposes only and should not be used as a means of interpreting or construing the substantive provisions hereof.

[Signatures appear on following page]

IN WITNESS WHEREOF, the undersigned being the Declarant herein, has set its hand and seal this 23rd day of May, 2001.

ARBOR GATE, LTD.

Attest: Louis G. Hurst Sr. By: Louis G. Hurst Jr.

Witness Greta N. Hurst Titus W. Martin, individually

Witness Greta N. Hurst Louis G. Hurst, Jr., individually

Witness Greta N. Hurst Melvin G. Hurst, individually

COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF Lebanon)

SS:

NOTARIAL SEAL
GRETA N. HURST, Notary Public
Myerstown, Lebanon County
My Commission Expires March 14, 2005

ON THIS, the 23rd day of May, 2001, before me the subscriber, personally appeared Louis G. Hurst, who acknowledged himself to be the President of Arbor Gate, Ltd., a corporation, and that being authorized to do so as such corporate officer, executed the foregoing instrument for the purposes therein contained on behalf of the corporation.

WITNESS my hand and seal the day and year aforesaid.

Greta N. Hurst

COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF Lebanon)

SS:

ON THIS, the 23rd day of May, 2001, before me, the undersigned officer, personally appeared Louis G. Hurst, individually, Titus W. Martin, individually, and Melvin G. Hurst, individually, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

WITNESS my hand and seal the day and year aforesaid.

Greta N. Hurst

JCC/nll/ArborGate/First Amended Declaration/final (02/23/01)

NOTARIAL SEAL
GRETA N. HURST, Notary Public
Myerstown, Lebanon County
My Commission Expires March 14, 2005

BK0240P50363