

**DECLARATION OF  
COVENANTS, CONDITIONS, RESERVATIONS  
AND RESTRICTIONS FOR ABBEY WOODS TOWNHOUSES**

**[NOTE: THIS DECLARATION IS SUPPLEMENTED BY THAT CERTAIN AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESERVATIONS AND RESTRICTIONS FOR THE ABBEY WOODS PLAN OF LOTS AND SHOULD BE READ IN CONJUNCTION THEREWITH.]**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESERVATIONS AND RESTRICTIONS FOR ABBEY WOODS TOWNHOUSES (this "Townhouse Declaration") is made as of the 21<sup>st</sup> day of December, 2001, by ABBEY WOODS DEVELOPMENT, INC., a Pennsylvania corporation, hereinafter referred to as the "Declarant".

WHEREAS, Declarant is the owner of the real property described in Section 2.1 of this Townhouse Declaration and desires to develop such real property as a site for individually owned units in a townhouse configuration; and

WHEREAS, Declarant has deemed it desirable, for the effective preservation of the value of the land and properties, to create and properly maintain amenities within the townhouse community, and to establish and empower a townhouse homeowners association to which shall be delegated and assigned the powers and responsibilities as are hereinafter more specifically set forth, including the undertaking of all such acts and activities to enforce the covenants, conditions and restrictions as herein provided, including, without limitation, the fixing of, collection and disbursement of assessments and charges, for the mutual benefit of the several owners of the lots comprising the townhouses; and

WHEREAS, a non-profit corporation called Abbey Woods Townhouse Homeowners Association has been incorporated under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, it is the desire and intent of the Declarant that the said property and the lots comprising the same shall be held, sold and conveyed subject to the covenants, conditions, restrictions, charges and liens established herein and in the Amended Restated Declaration of Covenants, Conditions, Reservations and Restrictions for The Abbey Woods Plan of Lots, and that the same shall be binding upon and run with the land; and, shall further be binding upon and inure to the benefit of said property and each owner thereof.

NOW, THEREFORE, Declarant declares that the real property described in Section 2.1 is and shall be held, transferred, sold, conveyed and occupied subject to the provisions in the Declaration (as hereinafter defined) and herein.

**WITNESSETH:**

**ARTICLE I  
DEFINED TERMS**

1.1 Terms Defined. All capitalized terms used throughout this Townhouse Declaration shall have ascribed to them the meanings set forth in the Amended and Restated Declaration of Covenants, Conditions, Reservations and Restrictions for The Abbey Woods Plan of Lots (which is a supplement to this Townhouse Declaration) or in the recitals above, unless otherwise defined herein.

(a) "Common Expenses" means the expense of maintaining the Townhouse Lots and townhouses to the extent the Declarant or the Townhouse Association is required to do so hereunder, including, but not limited to, repair and/or maintenance of exterior trim, siding, decks, driveways, sidewalks, roofs, gutters and landscaping.

(b) "Declarant" means the declarant described in Section 2.1 below and all successors to and assigns of any of Declarant's rights, including, without limitation, the Townhouse Association at the expiration of the Declarant Control Period.

(c) "Declarant Control Period" means that date on which Declarant relinquishes control of the Townhouse Association, as more particularly set forth in Section 8.2 herein.

(d) "Declaration" means that certain Declaration of Covenants, Conditions Reservations and Restrictions for the Abbey Woods Plan of Lots, dated March 20, 1996 and recorded in the Butler County Recorder's Office (the "Recorder's Office") at Deed Book Volume 2608, page 657, as amended by that certain First Amendment to Declaration, dated October 24, 2001 and recorded on November 5, 2001 in the Recorder's Office at Instrument Number 200111050031543, as assigned by that certain Assignment of Declaration, dated October 24, 2001 and recorded on November 5, 2001 in the Recorder's Office at Instrument Number 200111050031544, as amended by that certain Second Amendment to Declaration, dated October 24, 2001 and recorded on November 5, 2001 in the Recorder's Office at Instrument Number 200111050031545, as amended and restated by that certain Amended and Restated Declaration of Covenants, Conditions, Reservations and Restrictions, dated December 21, 2001 and recorded on 1-1-02 in the Recorder's Office at Instrument Number \_\_\_\_\_ and any future amendments thereto made from time to time.

*Inst # 20020104000460*

(e) "Indemnified Parties" or "Indemnified Party" means the Declarant, the Townhouse Board of Directors and/or the officers, employees or agents of the Townhouse Association, collectively or individually.

(f) "Plat(s)" means the subdivision plat or plats recorded, or to be recorded, subdividing and resubdividing the Real Estate and portions thereof, as the same may be amended from time to time.

(g) "Real Estate" means the real estate described in Exhibit "A", and additions thereto, as are subject to this Townhouse Declaration.

(h) "Townhouse Association" means the Abbey Woods Townhouse Homeowners Association, a Pennsylvania non-profit corporation.

(i) "Townhouse By-laws" means the By-laws of the Townhouse Association, as amended from time to time.

(j) "Townhouse Board of Directors" means the Board of Directors of the Townhouse Association.

(k) "Townhouse Declaration" means this document, as the same may be amended from time to time.

(l) "Townhouse Lot" means a lot in the Real Estate and/or as described in the Plats, including lots resulting from the subdivision of other lots.

(m) "Townhouse Lot Owner" means the owner in fee simple of any Townhouse Lot, including the Declarant, but shall not include any person or persons under contract to purchase a Townhouse Lot (until such contract is fully performed and legal title conveyed of record).

(n) "Townhouse Rules and Regulations" means those certain written rules and regulations promulgated by Declarant and/or the Townhouse Association, as amended from time to time.

## **ARTICLE II**

### **PROPERTY DESCRIPTION AND SUBMISSION**

2.1 Property Ownership and Description. Declarant is the owner of certain real property located in Jackson Township, Butler County, Pennsylvania more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

2.2 Submission. Declarant hereby submits the real property described in Section 2.1 above to the following covenants, conditions, reservations and restrictions.

2.3 Succession. At the expiration of the Declarant Control Period, the Townhouse Association shall succeed to the position of Declarant with respect to the provisions herein, and the term "Declarant" herein shall mean the Townhouse Association.

### **ARTICLE III** **EASEMENT**

Section 3.1 Easement. A perpetual, non-exclusive easement of pedestrian access is hereby reserved between each Townhouse Lot and the adjacent or adjoining Townhouse Lot as shown on the Plats for pedestrian access of the Declarant and the Townhouse Lot Owner of the adjacent or adjoining Townhouse Lot.

Section 3.2 Easement for Lawns and Landscaping. An easement is hereby reserved and created upon, in, over and under each Townhouse Lot for the purposes of improving and installing lawns, landscaping, trees, bushes, shrubs, flowers, plantings and all other types of greenery, vegetation, and all types and kind of plants and plantings as may be designated and identified by the Declarant. Said easement shall include the right to enter upon all areas of the Real Estate for the purposes of installing, planting, improving, maintaining, repairing, replacing, relocating, removing and otherwise undertaking any act or action incident to the purposes of the foregoing easement. Further, said easement shall include the right to install, maintain, repair, replace, relocate and otherwise deal with irrigation or other watering devices and mechanisms to service said lawns and landscaping and to install or construct any other improvements considered necessary or convenient to the installation, care and maintenance of all such lawns and landscaping, including, without limitation, control of persons, pets, pests and wildlife.

Section 3.3 Townhouse Structure and Façade, Fencing, Public Amenities and Other Improvements. An easement is hereby reserved and created upon, in, over and under each Townhouse Lot for the purposes of improving and installing the townhouse structure and façade, fencing, shelters, gazebos, benches, activity devices or equipment, recreational facilities, and other properties and improvements for the use and enjoyment of the Common Areas as determined from time to time by the Townhouse Association; provided, however, that no walking trails shall be created over or across any Townhouse Lot. Said easement shall include the right to enter upon all areas of the Real Estate for the purposes of installing, improving, maintaining, repairing, replacing, relocating, removing and otherwise undertaking any act or action incident to the purposes of the foregoing easement.

### **ARTICLE IV** **USE RESTRICTION**

Section 4.1 Improvements, Fixtures and Attachments to Townhouse Lots. No Townhouse Lot Owner, or any other person or entity, shall, without the prior written approval of the Declarant, undertake any of the following acts or activities upon any Townhouse Lot:

(a) Perform, make or contract for any structural or exterior alterations to a townhouse.

(b) Install any fixtures, attachments or other property to the exterior of a townhouse, or which is visible from the exterior of such townhouse including, without limitation, storm doors, storm windows, exterior lighting fixtures, including flood lights, window boxes, mailboxes, awnings, canopies, screened porches, radio or television antennae, satellite dishes or

other similar items or attachments. Any such items approved by Declarant or the Townhouse Association shall be repaired, maintained, replaced or removed at the sole cost and expense of the Townhouse Lot Owner.

(c) Install or utilize any temporary (a period not to exceed thirty (30) days after commencement of occupancy) interior window treatment, including drapes and blinds, which are visible from the exterior of a townhouse.

(d) Plant, install, repair or relocate, any item of lawn decoration or ornamentation, or any planting, shrub, bush or other item of greenery, lawn or landscaping without submitting in writing a plan specifically identifying and delineating all such matters and obtaining the approval thereof from the Declarant and/or the Townhouse Association. It is expressly understood and agreed by all Townhouse Lot Owners and occupants of any townhouse that the maintenance, care and upkeep of any such decorative items and plantings if so approved shall be the sole responsibility of the Townhouse Lot Owner or occupant and that the Declarant and/or Townhouse Association shall not be obligated to care for or maintain the same. Any plan for the planting or installation of the same shall not extend more than four (4) feet from the exterior of any townhouse unless expressly authorized by the Declarant or the Townhouse Association, and shall further contain provisions for the removal thereof, and the restoration of the area, in the event appropriate care and maintenance is not provided by the Townhouse Lot Owner or occupant. All costs incident to such removal and restoration shall be the sole liability of such Townhouse Lot Owner and enforceable pursuant to Section 10.2 hereof.

Section 4.2 Outbuildings and Pools. No outbuilding, garage, shed, tent, pool, trailer or temporary building of any kind shall be erected, constructed, permitted or maintained prior to commencement of the erection of a townhouse, and no outbuilding, garage, shed, tent, trailer, basement or temporary building shall be used for permanent or temporary residence purposes; provided, however, that this paragraph shall not be deemed or construed to prevent the use of a temporary construction shed for construction purposes during the period of actual construction of any structure on any Townhouse Lot in the Real Estate, nor the use of adequate sanitary toilet facilities for workmen which shall be provided during such construction.

Section 4.3 Occupancy of Townhouses. No townhouse erected upon any Townhouse Lot shall be occupied in any manner while in the course of construction, nor at any time prior to its being fully completed as herein required, without the express prior consent of the Declarant. Nor shall any townhouse when completed, be in any manner occupied until made to comply with the approved plans, the requirements herein, and all other provisions herein set forth.

## **ARTICLE V** **MAINTENANCE**

Section 5.1 Maintenance Responsibility. At the cost and expense of the Townhouse Lot Owners through assessments as hereinafter provided, the Declarant and the Townhouse Association thereafter, shall maintain and keep in good order and repair the following:

(a) All exterior finishes and surfaces of all townhouses, including all fixtures, attachments, appurtenances, including, without limitation, any brick, siding, or other exterior faces or facades, all roof and roofing materials, or roof decking, all trim, soffit, gutters, downspouts, shutters, all decks and patios, and all sidewalks and driveways. Included within said maintenance shall be the painting or staining of all exterior surfaces and the replacement of exterior windows and doors, including entry and garage doors. Expressly excluded from said maintenance shall be the cleaning and/or replacement of glass, screens, light bulbs, and any other items placed on the Townhouse Lot or the townhouse by the Townhouse Lot Owner or occupant, all of which shall be the sole responsibility of the Townhouse Lot Owner or occupant. The Townhouse Lot Owner or occupant shall be responsible for maintaining all sidewalks, driveways, patios and decks in a neat, safe and orderly condition with respect to all housekeeping matters and the obligation for maintenance as herein set forth shall be to maintain, repair and replace the same and shall not relieve the Townhouse Lot Owner of housekeeping responsibilities.

(b) All plantings and landscaping or other flora, ponds, open space, structures, developments and improvements, including, without limitation, any walls or fences, entry monuments, street lights, sidewalks, parking areas, street signs, mailboxes, grass and planted areas, and other amenities situate upon the Real Estate and any irrigation systems installed by the Declarant in the front of the Townhouse Lots; excepting and excluding, however, the maintenance of any plantings, landscaping, walls and fences installed by a Townhouse Lot Owner or occupant with the consent of the Declarant and excepting and excluding the open space behind the Townhouse Lots which shall remain in its natural state and condition. This provision shall not obligate the Declarant to maintain any specific level of landscaping or plantings, nor to replace any particular type or species of plantings or growth with the same or similar materials, nor create a contract with the Townhouse Lot Owners for the undertaking of any act or action concerning the same within any specific period of time. In the event Townhouse Lot Owner does not maintain plantings, landscaping wall and or fence on its Townhouse Lot, the Declarant shall have the right to remove or maintain the same at Townhouse Lot Owner's expense upon ten (10) days' written notice to Townhouse Lot Owner and failure of Townhouse Lot Owner to remedy the same within such ten-day period.

(c) All other elements, materials, objects, fixtures, appurtenances, and other properties situate upon, attached to, or in any way appended to the exterior of any townhouse or otherwise situate upon the Real Estate unless otherwise specifically excluded herein or unless affixed or installed thereon or thereto by the Townhouse Lot Owner.

Section 5.2 Services Excluded. Snow and ice removal (excepting snow removal in driveway and walkway areas in the event of snowfall with accumulation in excess of two (2) inches excluding drifting), window washing, glass and screen repair and replacement shall not be included within the scope of the maintenance responsibilities of the Declarant.

Section 5.3 Owner's Responsibility. All Townhouse Lot Owners, or occupants as the agent and representative of the Townhouse Lot Owner, shall be responsible for and obligated to undertake proper and timely housekeeping responsibilities with respect to the townhouse and any fixtures, appliances, appurtenances, or other properties attached thereto, all sidewalks and

driveways situate upon the Townhouse Lot, so as to maintain the same in a neat and orderly condition at all times. All such Townhouse Lot Owners and occupants shall maintain certain areas within the interior of the townhouses that can be viewed from the exterior in accordance with the Townhouse Rules and Regulations adopted by the Declarant or the Townhouse Association. Said Townhouse Rules and Regulations may address window treatments and materials, entry doors and attachments, furniture and properties upon porches, decks and related visible areas from the streets and sidewalks, and all similar appurtenances, objects and properties. The maintenance of any property not expressly addressed in this Townhouse Declaration or in the Townhouse Rules and Regulations adopted pursuant hereto, shall be the obligation and responsibility of the Townhouse Lot Owner as to all properties and improvements situate upon the Townhouse Lot. The failure or refusal of the Townhouse Lot Owner to timely and fully fulfill said obligation and responsibility shall not create any liability on the part of the Declarant or the Townhouse Association, and each Townhouse Lot Owner hereby agrees to indemnify and hold the Declarant and the Townhouse Association harmless therefrom, including costs of suit and reasonable attorney's fees. Any sums due as indemnification hereunder shall constitute a lien and charge upon the Townhouse Lot of any such Townhouse Lot Owner until fully paid. Moreover, in the event Townhouse Lot Owner does not Maintain his/her townhouse or Townhouse Lot in compliance with this Section 5.3, the Declarant shall have the right to remedy the same at Townhouse Lot Owner's expense upon ten (10) days' written notice to Townhouse Lot Owner and failure of Townhouse Lot Owner to remedy the same after delivery of said notice.

All Townhouse Lot Owner maintenance shall be performed in a manner consistent with the Townhouse Rules and Regulations as adopted and each Townhouse Lot Owner by accepting the deed to the Townhouse Lot hereby covenants and agrees to perform the same. On any townhouse occupied by any person, or persons other than the Townhouse Lot Owner, the latter shall obligate the occupant to undertake the Townhouse Lot Owner's maintenance obligations as herein provided.

## **ARTICLE VI** **TOWNHOUSE RULES AND REGULATIONS**

Section 6.1 Townhouse Rules and Regulations. The Townhouse Association shall have the right to promulgate Townhouse Rules and Regulations governing the use and operation of the Townhouse Lots, to set annual fees for the repair maintenance of the townhouses and other obligations of the Townhouse Association hereunder, and to establish any other Townhouse Rules and Regulations in order to ensure the attractiveness of the Real Estate, protect and enhance the value and amenities of the Real Estate, and facilitate the operation of the Townhouse Association.

## **ARTICLE VII** **INSURANCE**

Section 7.1 Generally. Since each townhouse and all fixtures, attachments, appurtenances and other improvements situate upon a Townhouse Lot are owned individually by

a Townhouse Lot Owner, each Townhouse Lot Owner shall maintain at all times the following levels and types of insurance coverage:

(a) Fire and extended coverage in an amount equaling the full replacement cost of the townhouse and all fixtures, attachments and appurtenances; subject, however, to the understanding and agreement of each Townhouse Lot Owner that the Declarant and/or the Townhouse Association may at any time establish a master policy plan and require each Townhouse Lot Owner to participate therein and obtain the required fire and extended coverage through such master policy plan. In any such event, the premiums therefore may be collected as a Common Expense or by special assessment.

(b) Public liability insurance in an amount of not less than One Million Dollars (\$1,000,000) covering all injuries, losses and death arising from one or more occurrence to one or more persons.

(c) Third party property damage coverage in an amount of not less than Five Hundred Thousand Dollars (\$500,000).

Each Townhouse Lot Owner shall provide a certificate of insurance to the Secretary of the Townhouse Association indicating coverage and compliance with the provisions hereof and evidencing full payment of all premiums due prior to the expiration or termination of each policy providing such coverage. The Townhouse Association shall be named as a co-insured under the provisions of each and every such policy. It is expressly understood and agreed that the Townhouse Association shall be a co-payee on any proceeds issued by the insurer and that all such proceeds shall be applied to the replacement and restoration of any property damaged or lost due to a covered occurrence under said policies. Each Townhouse Lot Owner by accepting the deed to a Townhouse Lot covenants and agrees to the provisions hereof and to the insurable interest of the Townhouse Association and its right to require the aforesaid repair and replacement and agrees, further, that the Townhouse Association shall have no obligation to surrender or otherwise disburse any of the proceeds except as is herein provided. All deductibles shall be paid by the Townhouse Lot Owner. The cost of any repair or replacement in excess of the insurance coverage provided by the Townhouse Lot Owner shall be the responsibility of each such Townhouse Lot Owner and shall constitute a charge and lien against such Owner's Townhouse Lot and townhouse. Each Townhouse Lot Owner agrees to obtain in connection with such coverage the agreement of the insurer to provide the Townhouse Association with written notice of any cancellation, invalidation, suspension or nonrenewal of any policy not less than thirty (30) days prior to the effective date of any such action.

Section 7.2. Approved Insurers. All insurance as herein provided shall be underwritten by or issued by a company authorized to do business within the Commonwealth of Pennsylvania and having a Best-S rating of A or better or such equivalent rating by a comparable rating service.

Section 7.3. Enforcement. In the event any Townhouse Lot Owner fails or refuses to obtain the necessary insurance coverage as herein provided, the Townhouse Association shall be entitled to obtain the same for and on behalf of said Townhouse Lot Owner and at the sole cost

and expense of said Townhouse Lot Owner. Each Townhouse Lot Owner further hereby acknowledges and agrees that any and all costs incurred by the Townhouse Association incident to the obtaining and maintaining of such insurance coverage shall constitute a special assessment and shall be collectible pursuant to the provisions relating to assessments generally.

Section 7.4 Other Provisions. Any insurance to be provided hereunder may be subject to reasonable deductibles as may be determined by the Declarant. The Townhouse Association may make such further and additional Townhouse Rules and Regulations pertaining to the insurance to be provided hereunder and may modify the provisions hereof with appropriate action as provided in the Townhouse By-laws.

## **ARTICLE VIII** **TOWNHOUSE ASSOCIATION**

8.1 Membership. Each and every Townhouse Lot Owner agrees to and shall be and remain a member of and be subject to the obligations of this Townhouse Declaration, the Declaration, the Townhouse By-laws, the By-laws, the Townhouse Rules and Regulations and the Rules and Regulations. The Townhouse Lot Owner(s) of each Townhouse Lot, including the Declarant with respect to each unsold Townhouse Lot, shall have one vote in total with respect to each Townhouse Lot. If a Townhouse Lot is owned by more than one person, all co-owners shall be entitled to the privilege of ownership and all such co-owners shall be jointly and severally obligated to perform all responsibilities of Townhouse Lot Owners under the Declaration, the provisions hereof, of the Townhouse By-laws, the By-laws, the Townhouse Rules and Regulations, and the Rules and Regulations. All co-owners shall determine among themselves which co-owner shall have the vote for the Townhouse Lot and shall give written notice thereof to the secretary of the Townhouse Association. In the event more than one Townhouse Lot Owner seeks to exercise the vote of the Townhouse Lot and such written notice has not been provided, the voting privileges incident to said Townhouse Lot shall be suspended until such notice has been given.

8.2 Control. (a) Until the sixtieth day after conveyance of twenty-five (25%) percent of the Townhouse Lots to Townhouse Lot Owners other than Declarant, Declarant shall have the right to appoint and remove any and all officers and members of the Townhouse Board of Directors. The Townhouse Board of Directors shall consist of three directors.

(b) No later than sixty days after conveyance of twenty-five (25%) of the Townhouse Lots to Townhouse Lot Owners other than Declarant, one of the three members of the Townhouse Board of Directors shall be elected by Townhouse Lot Owners. Declarant may not unilaterally remove any members of the Townhouse Board of Directors elected by Townhouse Lot Owners.

(c) No later than the earlier of (i) seven years after the date of the recording of the Original Declaration; or (ii) sixty days after eighty (80%) percent of the Townhouse Lots have been conveyed to Townhouse Lot Owners other than Declarant (such time period from the date hereof to the earlier of the dates described in these clauses (i) or (ii) being referred to herein as

the "Declarant Control Period"), all members of the Townhouse Board of Directors shall resign, and a new three-member Townhouse Board of Directors shall be elected by the members of the Townhouse Association. At such time, the members of the Townhouse Association shall also elect two directors to serve on the Association's Board of Directors, as set forth in Section 7.3 of the Declaration. The terms of the directors on the Townhouse Board of Directors shall be set forth in the Townhouse By-laws.

8.3 Powers of the Townhouse Association. In addition to the powers set forth hereinabove, the Townhouse Association shall have the following additional powers:

(a) Delegation of Authority. To appoint committees of the Townhouse Board of Directors (which need consist of only one member of the Townhouse Board of Directors and which may include Townhouse Lot Owners who are not members of the Townhouse Board of Directors) and to delegate to such committees the Townhouse Board of Directors' authority to carry out certain duties of the Townhouse Board of Directors subject to the approval and control of the Townhouse Board of Directors.

(b) Contracting for Services. To engage the services of any persons (including but not limited to accountants and attorneys) deemed necessary by the Townhouse Association at such compensation as is deemed reasonable by the Townhouse Board of Directors, in the operation, repair, maintenance and management of the Common Areas, or in connection with any duty, responsibility or right of the Townhouse Association and to remove and/or replace, at any time, any such personnel.

(c) Insurance. To Purchase insurance in such amounts and of such types as is deemed reasonable by the Townhouse Board of Directors.

8.4 Limited Liability of the Indemnified Parties.

(a) The Indemnified Parties:

(i) Shall not be liable for the failure of any service to be obtained by the Townhouse Association and paid for by the Townhouse Association, or for injury or damage to persons or property caused by the elements or by another Townhouse Lot Owner or any other person or entity upon the Real Estate, unless in each such instance such injury or damage has been caused by the willful misconduct or gross negligence of any of the Indemnified Parties, and in such case, only the Indemnified Party whose willful misconduct or gross negligence caused the injury or damage will be liable;

(ii) Shall not be liable to the Townhouse Lot Owners as a result of the performance of the Indemnified Parties of their duties or any mistake of judgment, negligence or otherwise, except for willful misconduct or gross negligence of an Indemnified Party, and in such case, only the Indemnified Party whose willful misconduct or gross negligence caused the injury or damage will be liable;

(iii) Shall not be liable to a Townhouse Lot Owner or such Townhouse Lot Owner's tenants, employees, agents, customers, invitees or guests, or to any other person or entity whatsoever, for loss or damage caused by theft of, or damage to, personal property of any such person or entity, whether situate on a Lot, or in a Building, or on the Common Areas, except for the willful misconduct or gross negligence of any of the Indemnified Parties, and in such case, only the Indemnified Party whose willful misconduct or gross negligence caused the loss or damage will be liable;

(b) The directors, officers, employees and agents of either the Association or the Declarant:

(i) Shall have no personal liability in contract to a Townhouse Lot Owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Declarant or the Townhouse Association in the performance of their duties as a director, officer, employee or agent thereof;

(ii) Shall have no personal liability in tort to a Townhouse Lot Owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the willful misconduct or gross negligence in the performance of their duties, and in such case, only such director, officer, employee or agent whose willful misconduct or gross negligence caused the injury or damage will be liable; and

(iii) Shall have no personal liability arising out of the use, misuse or condition of the Common Areas, or which might in any other way be assessed against or imputed to the officers, directors, employees or agents as a result of or by virtue of their performance of their duties, except for the willful misconduct or gross negligence of such director, officer, employee or agent, and in such case, only such director, officer, employee or agent whose willful misconduct or gross negligence caused the injury or damage will be liable.

8.5 Notice of Complaints. Complaints brought against any of these Indemnified Parties shall be directed to the Townhouse Board of Directors, which shall promptly give written notice thereof to any Townhouse Lot Owner affected thereby and such complaints shall be defended by the Townhouse Association. The Townhouse Lot Owners and the holders of mortgages on the Townhouse Lots shall have no rights to participate in such defense other than through the Townhouse Association unless said parties are named as individual defendants.

8.6 Indemnification Against Third Party Actions. The Townhouse Association shall indemnify and hold harmless any Indemnified Party who or that was, or is, a party or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding commenced or threatened by any third person or entity (including, without limitation, Townhouse Lot Owners), whether civil, criminal, administrative or investigative (other than an action by or in the right of the Townhouse Board of Directors) against expenses (including reasonable attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably believed to be in, or not opposed to, the best interests of the Townhouse Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his/her/its conduct was unlawful. The termination of any action, suit or proceeding by an adverse judgment, order, or settlement, conviction, or upon a plea of nolo contendere or its

equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he/she/it reasonably believed to be in, or not opposed to, the best interests of the Townhouse Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his/her/it conduct was unlawful.

8.7 Determination. To the extent that an Indemnified Party has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 8.6 hereof, or in defense of any claim, issue or matter therein, he/she/it shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him/her/it in connection therewith. Any other indemnification under Section 8.6 hereof shall be made by the Townhouse Association only upon a determination that indemnification of an Indemnified Party is proper in the circumstances because he/she/it has met the applicable standard of conduct set forth in Section 8.6 hereof. Such determination shall be made either (a) by the Townhouse Board of Directors by a majority vote of a quorum consisting of all members who were not parties to such action, suit or proceeding, or (b) by independent legal counsel in written opinion, or (c) by the Townhouse Lot Owners by the affirmative vote of a simple majority of the Townhouse Lot Owners at any meeting duly called for such purpose.

8.8 Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding as contemplated in this Article may be paid by the Townhouse Association in advance of the final disposition of such action, suit or proceeding upon a majority vote of the Townhouse Board of Directors and upon receipt of an undertaking by or on behalf of an Indemnified Party to repay such amount or amounts unless it ultimately is determined that such party is entitled to be indemnified by the Townhouse Association as authorized by this Article.

8.9 Scope of Indemnification. The indemnification provided for by this Article shall not be deemed exclusive of any other rights to which the Indemnified Parties may be entitled under any provision in the Townhouse Association's Articles of Incorporation, Townhouse By-laws, agreements, vote of disinterested Townhouse Lot Owners or members of the Townhouse Board of Directors, or otherwise, both as to action in his/her/its official capacity and as to action in another capacity while holding such office. The indemnification authorized by this Article shall apply to the Indemnified Parties and shall continue as to a person who has ceased to be a member of the Townhouse Board of Directors or an officer, employee or agent, and further shall inure to the benefit of the heirs and personal representatives of all such persons, and shall be in addition to all other rights which such persons may be entitled as a matter of law.

8.10 Insurance. The Townhouse Association may purchase and maintain insurance on behalf of any person who was or is a member of the Townhouse Board of Directors, an officer, employee or agent of the Townhouse Association, or who was or is serving at the request of the Townhouse Association as a trustee, director, officer, employee or agent of another corporation, entity or enterprise (whether for profit or not for profit), against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Townhouse Association would have the power to indemnify him or her against such liability under the laws of the Commonwealth of Pennsylvania, as the same may be hereafter amended or modified, or the provisions hereof.

**ARTICLE IX**  
**BUDGETS; COMMON EXPENSES, ASSESSMENTS AND ENFORCEMENT**

9.1 Budgets and Monthly Assessments. At the annual meeting of the Townhouse Association, Declarant or the Townhouse Board of Directors, as the case may be, shall prepare a budget setting forth the estimated Common Expenses for the ensuing year. The total costs and expenses as set forth in each such budget shall be divided among the total number of Townhouse Lots sold as of the date of the adoption of said budget. The assessment for any Townhouse Lots sold after the date of adoption of the budget shall be prorated as of the closing date for such Townhouse Lot and those amounts shall be placed in a surplus account. No Townhouse Lot Owners who owned their Townhouse Lots on the date of adoption shall be given a credit for the prorated assessments paid by those Townhouse Lot Owners who purchased their Townhouse Lots after the date of the adoption of the budget. All Common Expense assessments made in order to meet with requirements of the Townhouse Association's annual budget shall be deemed to be adopted and assessed on a monthly basis (rather than on an annual basis payable in monthly installments) and shall be due and payable each month.

9.2 Limitation on Expenditures. All Common Expenses and any other expenses, charges or costs which the Townhouse Association may incur or expend pursuant hereto, shall be approved by the Townhouse Board of Directors and signed by an officer of the Townhouse Association; provided, however, that such expenses, charges and costs are deemed approved by the Townhouse Board of Directors if shown in the budget. The Townhouse Board of Directors may delegate this approval authority to any other officer and/or agent. There shall be no structural alterations, capital additions to, or capital improvements on, the townhouses (other than for purposes of repairing, replacing and restoring portions of the townhouses) requiring an expenditure in excess of \$10,000.00 without the prior approval of the Townhouse Lot Owners entitled to cast a majority of the votes of all Townhouse Lot Owners.

9.3 Reserve Fund. The Townhouse Association may establish and maintain a reserve fund for replacement of any part of the townhouses, as the Townhouse Board of Directors deems appropriate.

9.4 Accounting. At the annual meeting of the Townhouse Association, the Townhouse Association shall supply to all Townhouse Lot Owners an itemized accounting of the Common Expenses for the preceding calendar year actually incurred and paid together with a tabulation of the amounts collected pursuant to the annual budget, monthly assessments or special assessments, if any, and showing the net excess or deficit of income over expenditures plus reserves, if any.

9.5 Special Assessments. If any annual budget proves inadequate for any reason, including non-payment of any Townhouse Lot Owner's monthly assessments, or any non-recurring Common Expense or any Common Expense not set forth in the annual budget as adopted, the Townhouse Board of Directors may at any time levy special assessments against all Townhouse Lot Owners. Such special assessments shall be payable at and/or over such period of time as the Townhouse Board of Directors may determine. The Townhouse Board of Directors

shall serve notice of such special assessments on all Townhouse Lot Owners by a statement in writing giving the amount and reasons therefor, and such further assessments shall become effective on a date as determined by the Townhouse Board of Directors. In addition, the Townhouse Board of Directors shall have the power to specifically assess the expenses of the Townhouse Association against the individual Townhouse Lot Owners receiving benefits, items, or services not provided to all Townhouse Lot Owners; provided said expenditures were incurred either (a) upon request of the Owner of the Townhouse Lot for specific items or services relating to the Townhouse Lot, (b) as a consequence of conduct of the Townhouse Lot Owner, or the licensees, invitees, tenants or guests of the Townhouse Lot Owner, or (c) pursuant to the other obligations of Townhouse Lot Owners as herein provided and upon the default of the Townhouse Lot Owner to satisfy the same.

9.6 Surplus. Any amounts accumulated from assessments for Common Expenses in excess of the amount required for actual Common Expenses and reserves, if any, for future Common Expenses shall be used for the benefit of the Townhouse Association as the Townhouse Board of Directors deems appropriate in its reasonable discretion.

9.7 Acceleration. If a Townhouse Lot Owner is in default in the payment of the aforesaid charges or assessments for thirty (30) days, the Townhouse Board of Directors may, in addition to all other remedies in this Townhouse Declaration contained, accelerate all other monthly assessments to become due for the fiscal year in which such default occurs and file a judgment lien upon the Townhouse Lot or Townhouse Lots of said defaulting Townhouse Lot Owner.

9.8 Interest and Charges. All sums assessed by the Townhouse Association against any Townhouse Lot Owner as a regular or special assessment shall bear interest thereon at the then maximum legal rate (but not more than fifteen (15%) percent per annum) from the thirtieth day following default in payment of any assessment or other fee when due. Any delinquent Townhouse Lot Owner shall also be obligated to pay (a) all expenses of the Townhouse Association, including reasonable attorneys' fees, incurred in the collection of the delinquent assessments by legal proceedings or otherwise; (b) any amounts paid by the Townhouse Association for taxes or on account of superior liens or otherwise to protect its liens, which expenses and amounts together with accrued interest, shall be deemed to constitute part of the delinquent assessments and shall be collectible as such and included within the lien and charge against said Townhouse Lot or Townhouse Lots as hereinafter provided.

Any fees, charges, assessments, late charges, fines and interest which may be levied by the Townhouse Association which remain unpaid for a period of more than ninety (90) days after assessment shall constitute a lien or charge against the Townhouse Lot or Townhouse Lots of the delinquent Townhouse Lot Owner. Said lien shall be subordinate to the lien of any prior recorded mortgage on a Townhouse Lot.

9.9 Confession of Judgment IN ORDER TO EXPEDITE THE TOWNHOUSE ASSOCIATION'S COLLECTION OF ANY DELINQUENT ASSESSMENT, EACH TOWNHOUSE LOT OWNER (BY THE ACCEPTANCE OF THE DEED TO HIS TOWNHOUSE LOT) SHALL BE DEEMED TO HAVE APPOINTED ANY ONE OR MORE

MEMBERS OF THE TOWNHOUSE BOARD OF DIRECTORS THE ATTORNEY-IN-FACT FOR SUCH TOWNHOUSE LOT OWNER TO CONFESS JUDGMENT AGAINST SUCH TOWNHOUSE LOT OWNER IN ANY COURT OF COMPETENT JURISDICTION. FOR ANY SUCH UNPAID ASSESSMENT(S), WHICH APPOINTMENT (BEING FOR SECURITY) SHALL BE IRREVOCABLE; AND FOR SO DOING, A COPY OF THIS ARTICLE 9 AND SAID DEED, BOTH VERIFIED BY AFFIDAVIT, SHALL BE A SUFFICIENT WARRANT. THE AUTHORITY GRANTED HEREIN TO CONFESS JUDGMENT SHALL NOT BE EXHAUSTED BY ANY EXERCISE THEREOF BUT SHALL CONTINUE FROM TIME TO TIME AND AT ALL TIMES UNTIL THE DECLARATION SHALL BE TERMINATED. IN GRANTING THIS AUTHORITY TO CONFESS JUDGMENT AGAINST THE TOWNHOUSE LOT OWNER, THE TOWNHOUSE LOT OWNER HEREBY VOLUNTARILY AND KNOWINGLY WAIVES ANY AND ALL RIGHTS HE MAY HAVE, INCLUDING, BUT NOT LIMITED TO, DUE PROCESS RIGHTS AND THE RIGHT TO PREJUDGMENT NOTICE AND HEARING, THE RIGHT TO HAVE THE BURDEN OF PROOF ON THE TOWNHOUSE ASSOCIATION, AND THE RIGHT TO AVOID THE COSTS AND EXPENSE ATTENDANT UPON OPENING OR STRIKING A CONFESSED JUDGMENT.

9.10 Implementation. The Townhouse Association shall adopt in its By-laws such additional or other procedures and requirements as it deems necessary and desirable to implement the provision of this Article IX, and to otherwise provide for the efficient fiscal operation and management of the townhouses and the Townhouse Association itself.

9.11 Assessments Pro Rata. The Townhouse Association, in imposing any assessments under this Article IX, shall impose such assessments on a pro rata per Townhouse Lot basis taking into account all sold Townhouse Lots, except as provided in Section 9.5 hereof. The Declarant shall not be required to pay assessments on any unsold Townhouse Lots.

#### ARTICLE X EFFECT AND ENFORCEMENT

10.1 Reservations and Restrictions to Run with Land. All of the provisions of this Townhouse Declaration shall run with the land and each Townhouse Lot Owner, by accepting a deed to any Townhouse Lot, accepts the same subject to such provisions and agrees for himself/herself, his/her heirs, administrators, and assigns to be bound by each of such provisions jointly, separately and severally.

10.2 Remedies for Violations. For a violation or a breach of any of these provisions by any Townhouse Lot Owner or any person claiming by, through or under any Townhouse Lot Owner, or by virtue of any judicial proceedings, Declarant shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent the violation or breach of any of them. Declarant shall give the Townhouse Lot Owner thirty days' written notice of a violation and if the Townhouse Lot Owner fails to cure the same after delivery of said notice, Declarant shall have the right whenever there shall have been built or placed on any Townhouse Lot any structure or other object which is in violation of the provisions herein, to enter upon the Townhouse Lot where such violation of these provisions exists and summarily abate or remove

the same at the expense of the Townhouse Lot Owner. This right shall be in addition to Declarant's foregoing right to bring an action at law or in equity. Declarant need not provide any written notice in the event of an emergency. Any such entry and abatement or removal shall not be deemed a trespass, nor shall Declarant be liable for any damages or costs arising from such abatement or removal.

(a) Should Declarant employ counsel to enforce any of the provisions hereof, or reentry, by reason of such breach, all costs incurred in such enforcement, including a reasonable fee for counsel, shall be paid by the breaching Townhouse Lot Owner and the Declarant shall have a lien upon such Townhouse Lot or Townhouse Lots to secure payment of all such accounts.

(b) Should a Townhouse Lot Owner fail, neglect or refuse to satisfy and discharge any lien arising hereunder within thirty days, Declarant shall have the right to interest on such lien at the maximum legal rate (but not more than fifteen (15%) percent per annum) and shall be entitled to receive all costs of collection, including a reasonable attorney's fee.

(c) The breach of any of the provisions herein shall not defeat or render invalid the lien of any mortgage made in good faith for value as to any Townhouse Lot or Townhouse Lots or portions of Townhouse Lots, but these covenants, conditions, reservations and restrictions shall be binding upon and effective against any such mortgagee or owner thereof, whose title thereto or whose grantor's title is or was acquired by foreclosure or otherwise.

(d) No delay or omission on the part of Declarant in exercising any rights, power or remedy herein provided, in the event of any breach of the provisions herein, shall be construed as a waiver thereof or acquiescence therein, and no right of action shall accrue, nor shall any action be brought or maintained by anyone whatsoever against Declarant, the Townhouse Association or the Townhouse Lot Owners for or on account of their failure to bring any action on account of any breach of the provisions herein, or for imposing restrictions herein which may be unenforceable by Declarant.

10.3 Severability. Each and every one of the provisions contained herein shall be considered to be an independent and separate covenant and agreement and in the event any one or more of the provisions shall be declared for any reason, by a court of competent jurisdiction, to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate or nullify any of the provisions not so declared to be void, but all of the remaining provisions not so expressly held to be void shall continue unimpaired and in full force and effect.

10.4 Rule Against Perpetuities. In the event the provisions hereunder are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then in that event such terms shall be reduced to a period of time which shall not violate the rule against perpetuities as set forth in the laws of the Commonwealth of Pennsylvania.

10.5 Public Rights. The Real Estate shall be subject to any and all rights and privileges which the Township or the County of Butler, Pennsylvania, may have acquired through dedication or the filing or recording of maps or plats of such premises, as authorized by law, and provided further that no provisions herein or acts performed hereunder shall be in conflict with any Township or County zoning ordinance or law.

10.6 Incorporation of Recitals. The recitals are hereby incorporated herein by reference as if fully set forth.

10.7 Headings. The headings of the sections herein are inserted for convenience of the reference only and are not a part of and do not affect the meaning or interpretation of this Townhouse Declaration.

10.8 Tenants. All tenants or other occupiers of any Townhouse Lot shall comply with all restrictions set forth herein, the Townhouse By-laws and the Townhouse Rules and Regulations established by the Townhouse Association, as amended from time to time.

10.9 Consents. Unless otherwise specified herein, all consents required hereunder may be withheld in the sole discretion of the Declarant or Townhouse Association, as the case may be.

**ARTICLE XI**  
**DURATION OF COVENANTS,**  
**RESTRICTIONS, RESERVATIONS AND SERVICITUDES**

11.1 Duration. All of the foregoing covenants, conditions, reservations and restrictions shall continue and remain in full force and effect at all times as against any Townhouse Lot Owner regardless of how he/she acquired title, until January 1, 2015 on which date these covenants, conditions, reservations and restrictions shall terminate and end, and thereafter be of no further legal or equitable effect on the Real Estate or any Townhouse Lot Owner; provided, however, that these covenants, conditions, reservations and restrictions shall be automatically extended for a period of ten years, and thereafter in successive ten-year periods, unless on or before the end of one of such extension periods or the base period the Townhouse Lot Owners of seventy-five (75%) percent of the Townhouse Lots shall by written instrument duly recorded and signed by an officer of the Townhouse Association declare a termination of the same. Although these covenants, conditions, reservations and restrictions may expire as herein provided, any and all liens or other reversions for breach of these covenants, conditions, reservations or restrictions committed or suffered prior to such expiration shall continue to subsist and be fully enforceable.

**ARTICLE XII**  
**AMENDMENTS**

12.1 Amendments. Except as otherwise provided in Section 12.2 hereof, this Townhouse Declaration may be amended by an instrument approved by not less than seventy-five percent (75%) of the Townhouse Lot Owners.

12.2 Other Amendments. If any amendment is necessary in the judgment of the Declarant to cure any ambiguity or to correct or supplement any provision of this Townhouse Declaration which is defective or inconsistent with any other provision hereof, or to change, correct or supplement anything appearing or failing to appear in the Plats which is incorrect, defective or similarly inconsistent, or if such amendment is necessary to conform to the then current requirements of any applicable law or governmental or municipal rule or regulation, the Declarant may, at any time and from time to time, effect such amendment without the approval of the Townhouse Lot Owners or their mortgagees, upon receipt by the Declarant of an opinion from legal counsel to the effect that the proposed amendment is permitted within the terms of this Section, together with a like opinion from an independent registered architect or licensed professional engineer with respect to any such amendment to the Plats. Each such amendment shall be effective upon the recording of an appropriate instrument setting forth the amendment and its due adoption, execution and acknowledgement by one or more officers of the Declarant.

12.3 Amendments - Common Areas. In addition to compliance with Section 12.1 hereof, no provision of this Townhouse Declaration dealing with Common Areas can be amended without at least seventy-five percent (75%) approval of the members of the Townhouse Association, as defined in Exhibit B hereto.

### **ARTICLE XIII** **RELEASE OF DECLARANT**

13.1 Acknowledgement and Release. Each Townhouse Lot Owner by accepting the deed to a Townhouse Lot comprising the Real Estate hereby acknowledges and agrees that Declarant shall incur no liability or responsibility to said Townhouse Lot Owner because of the creation of, recordation of, or otherwise, resulting directly or indirectly from the existence of any of the provisions of this Townhouse Declaration, or the application, or the interpretation thereof. Neither the inclusion of any specific term, condition or provision, or the omission thereof, shall constitute or create any basis for a claim, demand, action or cause of action against the Declarant. Each Townhouse Lot Owner hereby agrees expressly to release any and all claims against the Declarant arising, or allegedly to have arisen, directly or indirectly, from the creation and recordation of this Townhouse Declaration or any act or action undertaken hereunder. Any Townhouse Lot Owner violating the provisions of this release shall be liable to the Declarant for all costs and expenses incurred by the latter in defending the same, including any awards or judgments entered therein and all costs of suit and reasonable attorney's fees.

### **SECTION XIV** **SALE OR TRANSFER OF TITLE**

14.1 Sale or Transfer of Title. Any Townhouse Lot Owner intending to sell or otherwise transfer title a the Townhouse Lot shall give the Townhouse Board of Directors written notice of the name and address of the proposed purchaser or transferee not less than fifteen (15) days prior to the said date of transfer. Said notice shall include the proposed date of transfer and such other data and information as the Townhouse Board of Directors may reasonably request by appropriate Rule and Regulation. The transferor, notwithstanding the transfer of title to the Townhouse Lot, shall continue to be jointly and severally liable with the

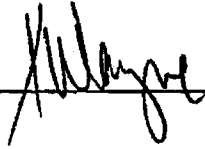
transferee for all obligations relating to a Townhouse Lot, including assessment obligations, for periods prior to the date of transfer.

IN WITNESS WHEREOF, Declarant has caused its name to be signed to these presents by its duly authorized officer on the day and year first above written.

DECLARANT:

ABBEY WOODS DEVELOPMENT, INC.

ATTEST:

  
\_\_\_\_\_

  
By: \_\_\_\_\_  
Timothy D. Kelly, President

COMMONWEALTH OF PENNSYLVANIA )  
 )  
COUNTY OF Allegheny ) SS:


On this 21<sup>st</sup> day of December, 2001, before me, a notary public, the undersigned officer, personally appeared Timothy D. Kelly who acknowledged himself to be the President of ABBEY WOODS DEVELOPMENT, INC., a Pennsylvania corporation, and that he, as such officer, being authorized to do so, executed the foregoing Declaration for purposes herein contained by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Betty L. Sholder  
Notary Public

Notarial Seal  
Betty L. Sholder, Notary Public  
Pittsburgh, Allegheny County  
My Commission Expires Sept. 1, 2003  
Member, Pennsylvania Association of Notaries



  
I hereby CERTIFY  
that this document is  
recorded in the  
Recorder's Office  
of Butler County,  
Pennsylvania  
Nichole M. Mordella  
Nichole M. Mordella - Recorder of Deeds

**EXHIBIT A**  
**PROPERTY DESCRIPTION**

ALL that certain Townhouse Lot or piece of ground situate in the Township of Jackson, County of Butler, Pennsylvania, and being Townhouse Lots 221 through 226 in the Abbey Woods Plan of Townhouse Lots as recorded in the Recorder of Deeds' Office of Butler County on April 6, 1999 in that certain Subdivision Plat in Plan Book 221, Pages 11-13.

**BY-LAWS**  
**OF**  
**ABBEY WOODS TOWNHOUSE**  
**HOMEOWNERS ASSOCIATION**

**ARTICLE I**  
**NAME AND LOCATION**

1.01 The name of the corporation is Abbey Woods Townhouse Homeowners Association, a Pennsylvania non-profit corporation (the "Townhouse Association"). The principal office and registered office of the Townhouse Association shall be located at 124 Brookhaven Boulevard, Mars, Pennsylvania 16046, but meetings of the Members and the Board of Directors may be held at other places within the Commonwealth of Pennsylvania that may be designated by the Board of Directors.

**ARTICLE II**  
**DEFINITIONS**

2.01 "Board of Directors" means the Board of Directors of the Townhouse Association.

2.02 "Declarant" means Abbey Woods Development, Inc., a Pennsylvania corporation, and all successors to, and assigns of any of, Declarant's rights, including, without limitation, the Townhouse Association at the expiration of the Declarant Control Period.

2.03 "Declarant Control Period" has the meaning ascribed to it in Section 4.01(d) hereof.

2.04 "Declaration" means that certain Declaration of Covenants, Conditions Reservations and Restrictions for the Abbey Woods Plan of Lots, dated March 20, 1996 and recorded in the Butler County Recorder's Office (the "Recorder's Office") at Deed Book Volume 2608, page 657, as amended by that certain First Amendment to Declaration, dated October 24, 2001 and recorded on November 5, 2001 in the Recorder's Office at Instrument Number 200111050031543, as assigned by that certain Assignment of Declaration, dated October 24, 2001 and recorded on November 5, 2001 in the Recorder's Office at Instrument Number 200111050031544, as amended by that certain Second Amendment to Declaration, dated October 24, 2001 and recorded on November 5, 2001 in the Recorder's Office at Instrument Number 200111050031545, as amended and restated by that certain Amended and Restated Declaration of Covenants, Conditions, Reservations and Restrictions, dated \_\_\_\_\_, 2001 and recorded on \_\_\_\_\_ in the Recorder's Office at Instrument Number \_\_\_\_\_ and any future amendments thereto made from time to time.

2.05 "Member" shall mean and refer to those persons entitled to membership in the Townhouse Association as provided in Section 8.1 of the Townhouse Declaration.

2.06 "Original Declaration" means that certain Declaration of Covenants, Conditions Reservations and Restrictions for the Abbey Woods Plan of Lots, dated March 20, 1996 and recorded in the Recorder's Office at Deed Book Volume 2608, page 657.

2.07 "Plat(s)" means the subdivision plat or plats recorded, or to be recorded, subdividing and resubdividing the Real Estate and portions thereof, as the same may be amended from time to time.

2.08 "Real Estate" means the real estate described in Exhibit A to the Townhouse Declaration, and additions thereto, as are subject to the Townhouse Declaration.

2.09 "Townhouse Association" has the meaning ascribed to it in Article I of these By-laws.

2.10 "Townhouse Declaration" means Exhibit B attached to that certain Amended and Restated Declaration of Covenants, Conditions, Reservations and Restrictions, dated \_\_\_\_\_, 2001 and recorded on \_\_\_\_\_ in the Recorder's Office at Instrument Number \_\_\_\_\_ as the same may be amended from time to time.

2.11 "Townhouse Lot" means a lot in the Real Estate and/or as described in the Plats, including lots resulting from the subdivision of other lots.

2.12 "Townhouse Lot Owner" means the owner in fee simple of any Townhouse Lot, including the Declarant, but shall not include any person or persons under contract to purchase a Townhouse Lot (until such contract is fully performed and legal title conveyed of record).

2.13 "Townhouse Rules and Regulations" means those certain written rules and regulations promulgated by Declarant and/or the Townhouse Association, as amended from time to time.

### **ARTICLE III** **MEETINGS OF MEMBERS**

#### **Annual Meetings**

3.01 The first annual meeting of the Members shall be held within one (1) year from the date of incorporation of the Townhouse Association. Subsequent annual meetings of the Members shall be at such time and on such date, as the Board of Directors may determine.

### **Special Meetings**

3.02 Special meetings of the Members may be called at any time by the Declarant, the President of the Townhouse Association or by the Board of Directors, or upon written request of the Members representing twenty-five percent (25%) of the Townhouse Lots.

### **Notice of Meetings**

3.03 Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of the notice, postage prepaid, at least fifteen (15) days before the meeting to each Member entitled to vote at the meeting. Such notice shall be addressed to the Member's address last appearing on the books of the Townhouse Association or the address supplied by the Member to the Townhouse Association for the purpose of notice. The notice shall specify the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

### **Quorum**

3.04 The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-fifth (1/5) of the Townhouse Lots shall constitute a quorum for any action, except as otherwise provided in the Articles of Incorporation of the Townhouse Association, the Declaration or these By-laws. If, however, a quorum shall not be present or represented at any meeting, the Members entitled to vote at the meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or be represented.

### **Proxies**

3.05 At all meetings of the Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease on conveyance by the Member of his or her Townhouse Lot.

## **ARTICLE IV** **SELECTION AND TERMS OF OFFICE OF DIRECTORS**

### **Number and Control**

4.01 (a) The affairs of the Townhouse Association prior to the expiration of the Declarant Control Period shall be managed by a board of directors consisting of three (3) directors, each of whom need not be Members of the Townhouse Association.

(b) Until the sixtieth (60<sup>th</sup>) day after conveyance of twenty-five percent (25%) of the Townhouse Lots to Townhouse Lot Owners other than Declarant, Declarant shall have the right to appoint and remove any and all officers and members of the Board of Directors.

(c) No later than sixty (60) days after conveyance of twenty-five percent (25%) of the Townhouse Lots to Townhouse Lot Owners other than Declarant, one (1) of the three (3) members of the Board of Directors shall be elected by Townhouse Lot Owners. Declarant may not unilaterally remove any members of the Board of Directors elected by Townhouse Lot Owners.

(d) No later than the earlier of (i) seven (7) years after the date of the recording of the Townhouse Declaration; or (ii) sixty (60) days after eighty (80%) percent of the Townhouse Lots have been conveyed to Townhouse Lot Owners other than Declarant (such time period from the date hereof to the earlier of the dates described in clauses (i) or (ii) being referred to herein as the "Declarant Control Period"), all members of the Board of Directors shall resign, and a new three (3) member Board of Directors shall be elected by the Members for the periods of time set forth in Section 4.02 hereof. At such time, the Members shall also elect two (2) directors from among the Members to serve on the Abbey Woods Homeowners Association's board of directors, as set forth in Section 7.3 of the Declaration.

#### **Term of Office**

4.02 Each director elected or appointed to the Board of Directors prior to the expiration of the Declarant Control Period shall hold office for a period of one (1) year. At the first annual meeting of the Members after the expiration of the Declarant Control Period at which directors are to be elected, the Members shall elect one (1) director who shall hold office for a period of one (1) year and two (2) directors who shall hold office for a period of two (2) years. At each annual meeting of the Members commencing with the second annual meeting after the expiration of the Declarant Control Period, the Members shall elect directors to succeed those directors whose terms expire. Any director elected at an annual meeting commencing with the second annual meeting after the expiration of the Declarant Control Period shall hold office for a period of one (1) year. Each director shall hold office until his or her successor shall have been duly elected and qualified.

#### **Removal**

4.03 Any director, other than those directors appointed by Declarant, may be removed from the Board of Directors, with or without cause, by a vote of at least seventy-five percent (75%) of the Members of the Townhouse Association. In the event of death, resignation, or removal of a director, his or her successor shall be selected by the remaining members of the Board of Directors and shall serve for the unexpired term of his or her predecessor. In the event that any director, other than those directors appointed by the Declarant, is absent from two (2) consecutive regular meetings of the Board of Directors, the Board of Directors may declare the office of such director to be vacant.

## **Compensation**

4.04 No director shall receive compensation for any service he or she may render to the Townhouse Association; provided, however, that any director may be reimbursed for actual expenses incurred in the performance of his or her duties.

## **Action Taken Without Meeting**

4.05 The directors shall have the right to take any action in the absence of a meeting that they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## **ARTICLE V NOMINATION AND ELECTION OF DIRECTORS**

### **Nomination**

5.01 Nomination for elections to the Board of Directors shall be made from the floor at any meeting convened for the purposes of electing directors. Such nominations may be made by the members of the Board of Directors or any Member entitled to vote in the election of directors. *Except for directors appointed by Declarant, all nominations shall be made from among the Members only.*

### **Elections**

5.02 Elections of directors shall be by secret written ballot. At the election, each Member may cast, in respect to each vacancy, one (1) vote for each Townhouse Lot owned by the Member.

## **ARTICLE VI MEETINGS OF DIRECTORS**

### **Regular Meetings**

6.01 Regular meetings of the Board of Directors shall be held at least quarterly, may be held without notice, and at the place and hour that may be fixed from time to time by resolution of the Board of Directors.

### **Special Meetings**

6.02 Special meetings of the Board of Directors shall be held when called by the President of the Townhouse Association, or by any director, after not less than three (3) days' notice to each director.

## Quorum

6.03 A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

## ARTICLE VII POWERS AND DUTIES OF BOARD OF DIRECTORS

### Powers

7.01 The Board of Directors shall have power to:

(a) *Appoint committees of the Board of Directors (which need consist of only one member of the Board of Directors and which may include Townhouse Lot Owners who are not members of the Board of Directors) and to delegate to such committees the Board of Directors' authority to carry out certain duties of the Board of Directors subject to the approval and control of the Board of Directors.*

(b) *Engage the services of any persons (including but not limited to property managers, employees, engineers, accountants and attorneys) deemed necessary by the Townhouse Association at such compensation as is deemed reasonable by the Board of Directors in connection with any duty, responsibility or right of the Townhouse Association, for interpretation and enforcement of the Articles of Incorporation of the Townhouse Association, the Declaration and these By-laws, and to remove and/or replace, at any time, any such personnel.*

(c) *Purchase insurance in such amounts and of such types as is deemed reasonable.*

(d) *Adopt, publish and amend, as needed or required, Townhouse Rules and Regulations.*

(e) *Suspend the voting rights and right to use the recreational facilities of a Member during any period in which the Member shall be in default in the payment of any assessment levied by the Townhouse Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of the Townhouse Rules and Regulations.*

(f) *Exercise for the Townhouse Association all powers, duties, and authority vested in or delegated to the Townhouse Association and not reserved to the Members by other*

provisions of these By-laws, the Articles of Incorporation of the Townhouse Association or the Townhouse Declaration.

### **Duties**

7.02 It shall be the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and present a statement of its acts and corporate affairs to the Members at each annual meeting of the Members, or at any special meeting when the statement is requested in writing by twenty-five percent (25%) of the Members who are entitled to vote.

(b) Supervise all officers, agents, and employees of the Townhouse Association.

(c) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date or bring an action at law against the owner personally obligated to pay the assessments.

(d) Issue, or cause an appropriate officer to issue, on demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. If a certificate states an assessment has been paid, the certificate shall be conclusive evidence of the payment.

(e) Cause such officers, management personnel and employees having fiscal responsibilities to be bonded, as it may deem appropriate.

(f) Promulgate and enforce, or cause to be enforced, the Townhouse Rules and Regulations described in Section 10.01 hereof.

## **ARTICLE VIII OFFICERS AND THEIR DUTIES**

### **Enumeration of Officers**

8.01 The officers of the Townhouse Association shall be chosen by the Board of Directors and shall be a President, Vice-President, if any, Secretary and Treasurer, and other officers as the Board of Directors may from time to time by resolution create. The President of the Townhouse Association shall be at all times be selected from among the members Board of Directors currently holding office.

### **Appointment of Officers**

8.02 The appointment of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

### **Term**

8.03 The officers of the Townhouse Association appointed by the Board of Directors shall each hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise become disqualified to serve.

### **Special Appointments**

8.04 The Board of Directors may appoint other officers as the affairs of the Townhouse Association may require, each of whom shall hold office for the period, have the authority, and perform the duties that the Board of Directors may, from time to time, determine.

### **Resignation and Removal**

8.05 Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors or the President. Resignations of an officer shall take effect on the date of receipt of the notice or at any later time specified in the notice, and unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective. Any officer who is also a member of the Board of Directors may resign from his or her office but may retain his or her director seat.

### **Vacancies**

8.06 A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to fill a vacancy shall serve for the remainder of the term of the officer he or she replaces.

### **Multiple Offices**

8.07 The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to **Section 8.04** hereof.

### **Duties**

8.08 The duties of the officers are as follows:

(a) The President shall preside at all meetings of the Board of Directors, see that orders and resolutions of the Board of Directors are carried out and sign all leases, mortgages, deeds and other written contracts or agreements which bind the Townhouse Association.

(b) The Vice-President, if any, shall act in the place and stead of the President in the event of the President's absence or disability and shall exercise and discharge all other duties as may be required of him or her by the Board of Directors.

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and the Members, keep the corporate seal of the Townhouse Association and affix it on all papers requiring the seal, serve notice of meetings of the Board of the Directors and the Members, keep appropriate current records showing the Members of the Townhouse Association together with their addresses and perform other duties as required by the Board of Directors.

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Townhouse Association and shall disburse the funds as directed by resolution of the Board of Directors.

Unless otherwise provided by resolution of the Board of Directors, all checks, notes, demands for money or other obligations of the Townhouse Association shall require the signature of any one (1) of the following officers of the Townhouse Association to be valid and binding: President, Vice-President, if any, Secretary or Treasurer.

## **ARTICLE IX COMMITTEES**

9.01 The Board of Directors shall appoint committees as deemed appropriate in carrying out its purpose.

## **ARTICLE X RULES AND REGULATIONS**

10.01 The Declarant and/or Townhouse Association shall have the right to promulgate, and amend as deemed necessary, written Townhouse Rules and Regulations governing, among other matters, the use and operation of the Common Areas, if any, and to establish any other Rules and Regulations in order to insure the attractiveness of the Real Estate, protect and enhance the value and amenities of the Real Estate and facilitate the operation of the Townhouse Association.

## **ARTICLE XI BOOKS AND RECORDS**

11.01 The books, records and papers of the Townhouse Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Articles of Incorporation of the Townhouse Association, the Declaration, these By-laws and the Townhouse

Rules and Regulations shall be available for inspection by any Member at the principal office of the Townhouse Association, where copies may be purchased at reasonable cost.

## ARTICLE XII AMENDMENTS

12.01 These By-laws may be amended, at a regular or special meeting of the Board of Directors, by a vote of a majority of a quorum of the members of the Board of Directors.

## ARTICLE XIII MISCELLANEOUS

### **Fiscal Year**

13.01 *The Board of Directors shall have the power to fix by resolution the fiscal year of the Townhouse Association. If the Board of Directors shall fail to do so, the President shall fix the fiscal year.*

### **Conflicts**

13.02 In the case of any conflict between the Articles of Incorporation of the Townhouse Association and these By-laws, the Articles of Incorporation shall control and in the case of any conflict between the Declaration and these By-laws, the Declaration shall control. To the extent that there is a provision in these By-laws that is duplicative of a provision in the Declaration, such provision in these By-laws cannot be amended unless the applicable provision in Declaration is first amended.

RULES AND REGULATIONS  
ABBEY WOODS TOWNHOMES HOMEOWNERS ASSOCIATION

2002

The Rules hereinafter shall be deemed in effect until amended by the Board of Directors. These rules are supplemental to and do not replace the Declaration. Said rules are as follows:

1. No clothes, sheets, blankets or other articles shall be hung or exposed on any part of the property.
2. No sign shall be erected or displayed upon any lot except "For Sale" or "For Rent" signs. Said signs shall not exceed six square feet in size and shall be displayed from the interior of the unit or attached to the exterior surface of the unit.
3. No commercial or recreational vehicles, or like equipment, or mobile or stationary trailers, boats, boat trailers or motorized unit without a current inspection of any kind shall be stored or parked on any lot unless parked in a garage completely enclosed.
4. No parking shall be permitted on lawns or landscaped areas.
5. No repair or service work shall be performed in open view on any vehicle, boat or recreational vehicle for any period extending beyond three days.
6. Any complaint regarding the maintenance and condition of the property or the actions of the Board or its officers, agents or independent contractors, or any other unit owner shall be made in writing to the Board which shall have a reasonable time in which to study and act upon the complaint before any action is taken by the unit owners.
7. Any consent or approval given by the Board under these Rules may be revoked or modified at any time by the Board.
8. The Board shall have, in addition to its other remedies, the right to levy fines for violations of these Rules, provided that the fine for a single violation may not exceed \$50. For each day a violation continues after notice of the same, it shall be considered a separate violation. Levied fines shall be due and payable with that unit owner's next monthly assessment payment.
9. Each unit owner shall be responsible for the actions of her/his pets. Only normal household pets are permitted within the community and no pet may be kept, bred or maintained for any commercial purposes.
10. All pets requiring licenses must be licensed with a current tag and properly vaccinated.
11. At no time is any pet permitted to be tied, chained or housed outside or left unattended at a unit, or any location within the community. In no event shall a pet be permitted in any outside area to run free.
12. All pet owners are required to immediately remove any excretion left by the pet in all areas of the property, including the unit owner's yard.
13. The Board maintains the right to permanently remove any pet that attacks any person within the community upon thirty days written notice to the pet owner.
14. Unit owners must insure that their tenants or visitors comply with these rules.
15. Garbage shall be placed in suitable rigid containers no earlier than the evening prior to the scheduled weekly pick up time. Any garbage escaping from the container for any reason shall be the sole responsibility of the unit owner.
16. All payments of assessment, fees, charges, liens, etc., shall be made by check or money order. The unit owner's share of the budgeted common expenses, general operating reserves, reserves for replacement and reserves for contingencies shall be due on a monthly basis.
17. All leases must be at least 12 months in duration. Lessors are fully responsible for their tenant's actions and adherence to all of the Association's documents and rules. Lessors are responsible for payment to repair damages and fines imposed, due to the actions of tenants and their guests.

18. No fences, or other fenced-in or contained areas for pets, including dog houses or other pet housing or runs, clothes lines, drying racks or play sets shall be permitted. No refuse piles or unsightly objects shall be allowed on any lot.
19. No lot owner shall undertake any work or do any other act, which would impair any easement created in the Declaration without consent of the Board.
20. No lot owner shall install any fixtures, attachments or other property to the exterior of the unit, or which is visible from the exterior of the unit, including without limitation storm doors, storm windows, exterior lighting fixtures, window boxes, mailboxes, window or door treatments, awnings, canopies, screened porches, radio or television antennae, satellite dishes or other similar items without the prior written approval of the Board.
21. No owner shall install or utilize any temporary interior window treatment, including drapes and blinds, which are visible from the exterior of the unit, for a period that exceeds 30 days from occupancy.
22. Window treatments, which are visible from the outside, are to be beige, white or neutral in color.
23. No lot owner shall plant, install, relocate any item of lawn decoration or ornamentation or any planting, shrub, bush, items of greenery, lawn or landscaping without submitting in writing a plan specifically identifying and delineating all such matters and obtaining the approval of the Board. It is expressly understood and agreed to by all parties of any unit that the maintenance, care and upkeep of any such planting shall be the sole responsibility of the lot owner and all costs incident to the removal and restoration, in the event that appropriate care and maintenance is not provided by the lot owner, shall be the sole liability of such owner.
24. No outbuildings, sheds, garages, tents, trailers or temporary building or any kind shall be erected, constructed, permitted or maintained on a lot.
25. No activity, equipment or structure designed for the removal of oil, coal, water, natural gas or any other mineral or substance shall be undertaken, erected, placed or permitted upon any part of a lot.
26. No industry, trade, business, occupation or profession of any kind, commercial, religious, educational, medical or otherwise, designed for profit, altruism, exploration or otherwise shall be conducted, maintained or permitted on any part of any lot.
27. Any lot owner may request in writing from the Board an exemption from any of the rules herein if the rule proves to be an undue burden to the owner. Such exemptions may be approved, amended or rescinded at the Board's discretion at any time for any reason.