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WARREN COUNTY RECORDER**

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**MATT NOLAN, Auditor  
WARREN COUNTY, OH by ALD**

**by GS 33 PGS /EO**

**DECLARATION  
OF  
COVENANTS, EASEMENTS, RESTRICTIONS,  
ASSESSMENTS AND ASSESSMENT LIENS  
FOR  
TIMBER CREEK OF CARLISLE  
A RESIDENTIAL COMMUNITY  
IN THE CITY OF CARLISLE, FRANKLIN TOWNSHIP, WARREN COUNTY, OHIO**

For Recorded Plat, See Plat Book 109, Page 70 of the Warren County Plat Records

**THIS INSTRUMENT PREPARED BY:**

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**DECLARATION OF COVENANTS, EASEMENTS, RESTRICTIONS,  
ASSESSMENTS AND ASSESSMENT LIENS**

**FOR**

**TIMBER CREEK OF CARLISLE**

**A RESIDENTIAL COMMUNITY**

**IN THE CITY OF CARLISLE, FRANKLIN TOWNSHIP, WARREN COUNTY, OHIO**

This DECLARATION is made by ASSOCIATES CONSTRUCTION, INC., an Ohio corporation, the “Declarant”, for the purposes and intent noted herein.

WITNESSETH:

**RECITALS:**

A. Declarant is the owner of the following real property,

The legal description of the subject property is appended hereto as *Exhibit A*.

Lots 1 through 20, inclusive are hereinafter collectively referred to herein as “the Property”. A copy of the Plat of Timber Creek of Carlisle is attached hereto as *Exhibit B* which designates said Lots.

B. Declarant intends to sell Lots 1 through 20, inclusive, to one or more builders for the construction of similar buildings and attached dwelling units thereon. Declarant also intends to construct storm water detention and green area facilities on Common Property Reserve Lot 21 and intends to construct private streets on Reserve Lot 21.

C. Declarant desires to establish a plan of covenants, easements, restrictions, assessments and assessment liens to provide for the preservations of the values and amenities in the Property. To these ends, Declarant is making this Declaration and has caused or will cause an Ohio corporation not-for-profit named Timber Creek of Carlisle Homeowners Association, Inc. (which corporation and any successor thereto is hereinafter called the “Association”), to own the Common Property Reserve Lot 21 and to enforce and administer the provisions hereof.

D. The Association will administer and enforce the provisions of this Declaration, with the costs incurred by the Association to do so being an encumbrance upon the Lots within Timber Creek of Carlisle (hereinafter “Timber Creek”) which are benefitted thereby (as more fully set forth herein).

**DECLARATIONS**

NOW THEREFORE, Declarant hereby declares that all of the Property shall be held, sold, conveyed and occupied subject to the following easements, restrictions, covenants, conditions, assessments and assessment liens, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These easements, covenants, restrictions, conditions, assessments and assessment liens, unless otherwise specifically limited herein, shall run with the title to each part of the Property, and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part therein and additions hereto, and shall inure to the benefit of and be enforceable by each Owner of an interest in the Property, the Association, and their respective heirs, successors and assigns.

FURTHER, Declarant hereby delegates and assigns to Timber Creek of Carlisle Homeowners Association, Inc. the power and duty of implementing, administering and enforcing all of the terms and provisions of the governing documents.

### **ARTICLE I - DEFINITIONS**

**1.01 Articles:** The Initial Articles of Incorporation of Timber Creek Homeowners Association, Inc., (hereinafter the “Association”) as amended from time to time.

**1.02 Association:** An association of all of the Owners of Lots Timber Creek at any time, except the Owner of Lot 21, said association being incorporated as Timber Creek Homeowners Association, Inc.

**1.03 Board:** The Board of Directors of the Association.

**1.04 By-Laws:** The Association’s By-Laws, also known as the Code of Regulations, which have been adopted by the Declarant as sole member of the Association, as the same may be amended from time to time. Said By-Laws are attached to this Declaration as Exhibit C.

**1.05 Common Expenses:** The actual and estimated costs incurred by the Association in fulfilling its functions including, at the option of the Board, actual and estimated costs for uniform lawn maintenance and ice and snow removal on Lots.

**1.06 Common Property:** All real property, including Reserve Lot 21, and all personal property, now or hereafter acquired by the Association or benefitted by easement to it pursuant to the provisions hereof, or otherwise, for the common use and enjoyment of the Owners and Occupants in Timber Creek or for the operation of the Association.

**1.07 Declarant:** Associate Construction, Inc., an Ohio corporation, and any person or entity succeeding to Declarant’s interests in Timber Creek pursuant to a written assignment of the rights and obligations from Declarant recorded with the Recorder of Warren County, Ohio.

**1.08 Declaration:** This Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens, as it may be amended and/or supplemented hereafter, including all exhibits.

**1.09 First Mortgagee:** Means the holder of a valid recorded first mortgage on a Lot which has given written notice to the Association stating the holder's name, address and Lot subject to its mortgage.

**1.10 Lot:** Each separate parcel shown on a recorded plat or record plan of Timber Creek and designated as a "Lot"; thereon, including all appurtenances thereto, but excluding Reserves which may also be designated as a Lot. A Lot includes the attached dwelling unit that is constructed on the Lot.

**1.11 Occupant:** An individual lawfully residing in a Residence on a Lot, regardless of whether that individual is an Owner.

**1.12 Owner:** The record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding persons having such interest merely as security for the performance of an obligation or vendee under a land contract.

**1.13 Property:** The land subjected to the provisions of this Declaration.

**1.14 Registered Notice:** Any written notice which has been signed for by the addressee, or by the spouse, son, daughter or any domestic servant or employee of the addressee; Registered Notice also means and refers to any written notice which has been certified by the U.S. Postal Service or other delivery service, including any nationally recognized overnight mail courier, as actually having been delivered at the address listed for the addressee on the records of the Association or as to which delivery was attempted but was refused by the addressee or other persons at such address, to the extent that such refusal was witnessed by an employee of the Postal Service or other delivery service.

**1.15 Residence:** An attached dwelling unit and related improvements constructed on a Lot within Timber Creek.

## **ARTICLE II - THE ASSOCIATION**

**2.01 Organization:** The Association was formed as an Ohio corporation not-for-profit pursuant to the provisions of Chapter 1702 of the Revised Code of Ohio, by the filing of Articles of Incorporation with the Secretary of State of Ohio. Additionally, the Association duly adopted on the date of its incorporation a set of administrative operating rules called the "ByLaws". The Articles and Bylaws are hereby incorporated herein by reference. These two documents, together with this Declaration, the Association's lawful rules and regulations ("Rules"), and plat restrictions, are hereinafter called the "governing documents".

**2.02 Membership:** Every present and future owner of a Lot that is subjected hereto, excepting Reserve Lot, is hereby declared to be a member of the Association. Membership is appurtenant to and shall not be separated from ownership of a Lot. Each owner, by acceptance of a deed or other conveyance of a Lot, thereby becomes a member. When more than one person is

an owner of a Lot, all such persons shall be members. When the owner of an interest in a Lot ceases to own an interest therein, that person or entity is no longer a member.

**2.03 Voting Rights:** Each member of the Association is entitled to the number of votes in the affairs of the Association that equals the number of Lots owned by that member. If any Lot is owned by more than one owner, each such member has a fraction of a vote equal to his, her or its undivided interest in that Lot.

**2.04 Board of Directors:** Within the limits of law and the provisions of the governing documents, the policies of the Association are established by, and its affairs are run by, the Board of Directors of the Association, who shall be of the number, serve the terms, and be selected and/or elected as provided in the Articles and Bylaws.

**2.05 Declarant's Rights:** Declarant reserves and shall have the exclusive right and authority to elect or appoint the Directors of the Association who will serve until a special meeting of members called by the Board and held within one hundred eighty (180) days after Declarant's sale of all Lots within the Property to Owners other than Declarant, or until Declarant calls a special meeting of members for the purpose of relinquishing such right, whichever shall first occur. On the date of the special meeting of members called by the Board, or by Declarant, as the case may be (the "turnover date"), Declarant's sole right to elect or appoint the Directors shall terminate and the members of the Association shall accept the duties of the Association and elect new Directors from among the membership for this purpose.

**2.06 Power; Authority; Duties:** The Association shall have all the rights, powers and duties established, invested, or imposed pursuant to the governing documents, and shall have the duty of and authority for implementing, administering and enforcing all the terms and provisions of this the governing documents, including the collection of funds for the payment thereof.

**2.07 Specific Powers and Duties:** The Association shall have the specific powers, in addition to those specified in the Articles and Bylaws to:

A. Manage, maintain, repair and replace the Common Property and its improvements and facilities, including private streets, any street lights, berms, landscaping, drainage and detention areas, structures and equipment located in the Common Property or outside the street right of way which is not required to be maintained in the City of Carlisle, gazebos and pay the cost of utilities, operation, maintenance, repairs, replacements, snow removal, trash pick-up, and other necessary services;

B. Manage and maintain landscaping within the Common Property and around entry monumentation, and to cause mowing, pruning and such other maintenance activities to be conducted thereon, to the degree and extent determined from time to time by the Board.

C. Perform lawn maintenance, grass cutting, grass fertilization, lawn pest control, ice and snow removal on driveways, lead walks, and sidewalks within Lots, at the option of the Association.

D. Own, hold and/grant easements with respect to Common Property and within platted easements across portions of Lots for utilities, drainage and/or other services, and to enforce and administer restrictions contained in the governing documents.

E. Enter into a Lot through its authorized agents and representatives, when necessary in connection with maintenance, construction or other activities for which the Board is responsible. Such agents and representatives shall not be deemed to have committed a trespass as a result thereof.

F. Assess, collect and disburse funds necessary for its purposes, and to exercise any other right or privilege given to it expressly by the laws of the State of Ohio or any provision of the governing documents, and every other right or privilege reasonably implied from the existence of any right or privilege granted thereby, or reasonably necessary to affect any such right or privilege.

**2.08 Rules and Regulations:** The Association through its Board may make and enforce reasonable rules and regulations (“Rules”) governing the use of the Common Property, the levying and collection of assessments for the operation of the Association, the levying and collection of administrative charges for the infraction of Rules, and for other purposes consistent with its purpose. All of such Rules shall be consistent with the provisions of the governing documents. The Association shall have the power to impose sanctions on Owners, including without limitation: (i) reasonable monetary administrative charges which shall be considered Individual Assessments; (ii) suspension of the right to vote as a Member of the Association; and (iii) suspension of the right of the Owner and that Owner’s Occupants, licensees, and invitees, to use the Common Property for a period not exceeding sixty (60) days, for any infraction of Rules. In addition, the Board shall have the power to seek relief in any court for violations of or to abate violations of Rules. If the Board expends funds for attorneys’ fees or litigation expenses in connection with enforcing any provision of Rules, or otherwise, the amount so expended shall be due and payable by the Owner or Owners of the Lot whose Owner, Occupant, licensee or invitee violated that Rule, and the same shall be an Individual Lot Assessment against such Owner’s Lot and such Owner.

**2.09 Delegation of Duties:** In the event the Association shall delegate any or all of its duties, powers or functions, to any person, corporation or firm to act as a managing agent, neither the Association nor the members shall be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated.

### **ARTICLE III - COMMON PROPERTY**

**3.01 Common Property:** The Common Property shall consist of (I) Reserve Lot 21; (ii) all other property, real or personal, that Declarant determines to be Common Property, and so designates, and that benefits all of Timber Creek and its Owners, and (iii) such real or personal

property rights that the Board deems desirable and acquires to fulfill the functions of the Association.

**3.02 Transfer of Title:** Declarant hereby agrees, for itself, its grantees, successors and assigns that it will convey to the Association, fee simple title to the Reserve Lot, and the improvements and facilities associated with the Common Property to be maintained by the Association. Declarant will convey the Reserve Lot to the Association within sixty (60) days after the recording of this Declaration, by limited warranty deed, free and clear of all liens and encumbrances, except the provisions of this Declaration and other conditions of record, and general real estate taxes not yet due and payable.

Easement rights to the Association set forth in the subdivision plat or other instruments shall become Common Property and vested in the Association upon the recording of those documents. The Association may also acquire, hold, manage, operate, maintain, improve, mortgage and dispose of real property and tangible and intangible personal property in addition to that property conveyed to it by Declarant.

The Association shall accept "as is" the conveyance of such property without any representation or warranty, express or implied, in fact or by law, with respect hereto, including, without limitation, representations or warranties of merchantability or fitness for the ordinary or any particular purpose, and without any representations or warranties regarding future repairs or regarding the condition, construction, accuracy, completeness, design, adequacy of the size or capacity in relation to the utilization, or the future economic performance or operations of, or the materials or furnishings which has been or will be used in such property or repairs. By acceptances of title to any Common Property, the Association and all Owners release Declarant from any claims, and warrant that no claim shall be made by the Association or any Member or Owner relating to the condition, construction, design, capacity, operation, use, accuracy, adequacy or completeness of such property or repairs or for incidental or consequential damages arising therefrom.

**3.03 Maintenance and Use:** The Association shall undertake responsibility for maintenance, repair and replacement of the Common Property and the improvements and facilities associated therewith, and all parts thereof; including but not limited to private streets, storm water detention ponds, drain tiles, sewers, pipes, sanitary sewer pipes, easement areas, entrance signs, street lighting and features, mowing and pruning of grass and shrubs on the Common Property on a regular basis, and other necessary services.

**3.04 Commencement of Responsibilities:** The Association's responsibility to maintain the Common Property and associated improvements and facilities shall commence, upon the recording of the Plat for Timber Creek.

**3.05 Use of Common Property:** All Owners shall have a right and easement of enjoyment in and to those portions of the Common Property, except easements, and associated improvements and facilities designated for use by Owners for so long as they are Owners. Such

right and easement shall be appurtenant to and shall pass with the title to every Lot and shall not be transferable except with ownership of a Lot and shall be subject to the terms and limitations set forth herein and to the Rules. An Owner may delegate the Owner's rights of enjoyment to Occupants, licensees and invitees.

**3.06 Real Estate Taxes:** The Association shall be responsible for the payment of all real estate taxes and assessments levied from time to time on the Common Area as a Common Expense.

#### **ARTICLE IV - LOT MAINTENANCE**

**4.01 Owner Responsibilities:** Owners shall be responsible for yard maintenance and for maintenance and repair of all improvements on their Lots, including all structural and exterior maintenance of the Residence, such as but not limited to repair, replacement and care of roofs, downspouts, exterior surfaces, windows, doors, post lights, mailboxes, and exterior fixtures. Post lights and other exterior light fixtures controlled by Owners shall be maintained by them. Unless undertaken by the Association for all Lots, Owners shall be responsible for yard maintenance, mowing of grass, lawn fertilization and pest control, and pruning of trees and shrubs, and ice and snow removal. Each Owner shall pay the real estate taxes and assessments levied from time to time against the Lots owned by such Owner.

**4.02 Outdoor Lights:** A post light with photocell of a type approved by Declarant shall be installed on each Lot at such locations as determined by Declarant as part of the street lighting system for the Timber Creek community or as part of an overall lighting system within the development. Without the prior written consent of Declarant, no Owner or other person shall change the location or type of, nor remove, cover or shield any installed outdoor light, nor adjust or tamper with the controls of any such light in a manner to cause the light to turn on or off at any time other than the time for which the lights are designated or the time established by Declarant. Each Owner shall maintain the outdoor light in working order at all times, and promptly replace the same at the Owner's expense if damaged. The Board shall make all such decisions after the status of Declarant ceases to exist. Each Owner or the Owner's occupants, tenants or contract purchasers shall pay the cost of electric service for the post and other outdoor lights on the applicable Lot.

**4.03 Right of Entry to Repair:** If an Owner fails to maintain or repair his, her or its Lot, yard and/or improvements to such an extent that in the opinion of the Board, applying reasonable and prudent judgment, the conditions require maintenance, repair or service for purposes of protecting the public safety of residents in or visitors to the Property or the Common Property, or in order to prevent or avoid damage to or destruction of any part, portion, or aspect of the value thereof, or in the event the need for maintenance or repair is caused through the willful or negligent act or omission of the Owner, or the Owner's family, guests or invitees, the Association shall have the right, but not the obligation, through its agents and employees, upon approval of a two-thirds (2/3) vote of the Board, to enter upon that Lot and maintain, repair or restore the same. The cost of such maintenance, repair or service shall be assessed against the



Owner, if not sooner paid, by an Individual Lot Assessment. No such entry shall be deemed a trespass.

## **ARTICLE V - ASSESSMENTS**

**5.01 Types of Assessments:** Subject to the provisions of this Article, each Lot with a Residence on it, and its Owner or Owners, excluding Lot 21 and their Owners, with respect to that property, shall be subject to the following assessments:

- A. Initial Reserve Assessment;
- B. Operating Assessments;
- C. Special Assessments; and
- D. Individual Lot Assessments.

established, assessed, and collected, as set forth in this Article V, and subject to the provisions set forth herein. No Owner may gain exemption from liability for any assessment by waiving or foregoing the use or enjoyment of any of the Common Property, or by abandoning that Owner's Lot.

At the option of the Board, the cost and expense of lawn maintenance (including fertilization, weed control, and pruning of trees and shrubs) and ice and snow removal on private Lots, may, if undertaken by the Board for all Lots, be included as Common Expenses and be included in the Operating Assessments, or be separately assessed on a uniform basis as Individual Lot Assessments.

**5.02 Initial Reserve Assessment:** Each initial purchaser of a Lot improved with a Residence shall at the closing of the purchase of the Lot and Residence, pay to the Association the sum of Three Hundred Dollars (\$300.00). This assessment shall not be charged to a builder who constructs a Residence on a Lot.

The Initial Reserve Assessment shall be listed on the Closing Settlement Statement and shall be collected at the closing and forwarded to the Association forthwith by the Owner or closing agent, as the case may be.

The funds generated by the Initial Reserve Assessment may be utilized by the Association in furtherance of its purposes, is not in lieu of any other assessments, and is not refundable when a Lot is transferred.

**5.03 Operating Assessments:** For the purposes of providing funds to pay:

1. the cost of the maintenance, repair and replacement of Common Property;

2. the costs for insurance and bond premiums to be provided and paid for by the Association;

3. the cost for utility services, if any, charged to or otherwise properly payable to the Association;

4. the estimated amount required to be collected to maintain a general operating reserve to assure availability of funds for normal operations of the Association, in an amount deemed adequate by the Board of Directors;

5. An amount deemed adequate by the Board of Directors to maintain a reserve for the cost of unexpected repairs and replacements of capital improvements and for the repair and replacement of major improvements for which cash reserves over a period of time in excess of one year ought to be maintained; and

6. The costs for the operation, management and administration of the Association, including, but not limited to, fees for property management, landscaping, mowing, fertilization, pest control, planting, lighting, pavement maintenance, snow and ice removal and mitigation, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Association and other costs to perform these services, and any other costs of operations of the Association not otherwise herein specifically excluded;

all of which shall constitute Common Expenses, the Board of Directors shall establish, levy, and collect Operating Assessments in accordance with the following:

1. Determination. At such time, after one or more Residences have been constructed and occupied on Lots in Timber Creek, as Declarant in its sole discretion shall determine, the Board shall for such part year, determine the total of those estimated funds needed for the balance of that calendar year from the anticipated time of commencement of Operating Assessments, and on or before the first day of each calendar year thereafter the Board of Directors shall determine the total of those estimated funds needed for that ensuing calendar year.

2. Allocation and Assessment. For such part year, and for each calendar year thereafter, the Board shall reasonably estimate the total number of Lots with Residences to be subject to the same, ascribe an equal pro-rata share of such estimated Common Expenses to each such Lot, and assess each Lot and its Owner or Owners its equal share of those estimated Common Expenses. The Operating Assessment with respect to a Lot shall be effective the first day of the month following the month the Residence therein is first occupied for residential use, but not prior thereto. The Operating Assessments shall be due in monthly, quarterly, semi-annual, or annual installments, as the Board of Directors may from time to time determine. Notice of Operating Assessments, or if payable in installments, the dates those installments are due, shall be given to the Owners charges to pay the same not less than ten (10) days prior to the date the Operating Assessment, or first installment thereof, is due.

**5.04 Special Assessments:** The Board may allocate to Lots and the Owners thereof subject to Operating Assessments Special Assessments to pay for additional Common Expenses such as permitted capital expenditures, interest expense on indebtedness incurred for the purpose of making capital expenditures and not to be paid out of reserves, unanticipated operating deficiencies or any other purpose determined appropriate by the Board in furtherance of its functions hereunder. Those Special Assessments shall be allocated among the Lots on the same basis as Operating Assessments are to be allocated, and shall be due and payable on such basis and at such times as the Board directs, provided that no such Special Assessment shall be due and payable on fewer than thirty (30) days written notice.

**5.05 Individual Lot Assessments:** The Board may levy an individual Parcel Assessment against any Lot and the Owners thereof (except Lot 21), to reimburse the Association for costs incurred with respect to a Lot or its Owner or Owners for Lot maintenance, or resulting from an act or omission by any Owner, Occupant, or invitee thereof, including without limitation, administrative and enforcement charges by the Association reasonably determined by the Board to be an Individual Lot Assessment. By way of illustration, the Board may levy an Individual Lot Assessment in the nature of an administrative charge reasonably determined by the Board against a Lot of any Owner or Owners who violate the Rules, or any provision of the governing documents, or who suffer or permit the Members, guests, invitees or tenants of that Owner's or Owners' Residence to violate the same. Upon its determination to levy an Individual Lot Assessment, the Board shall give the affected Owner or Owners written notice and the right to be heard by the Board or a duly appointed committee thereof in connection with such Individual Lot Assessment no fewer than ten (10) days prior to the effective date of the levy of any such Individual Lot Assessment.

**5.06 Late Charges:** If the assessment remains unpaid for ten (10) days after it becomes due and payable, the Board may charge interest on the entire unpaid balance from and after that date at the lesser of the rate of ten (10) percent per annum or the highest rate permitted by law, together with a reasonable administrative collection charge, as established by the Board.

**5.07 Liability for Unpaid Assessments:** Each such assessment, together with interest thereon and any costs of collection, including reasonable attorneys' fees, shall become the personal obligation of the Owner or Owners of the Lot charged in same (joint and several, if more than one Owner) beginning on the date the assessment became due and payable. The Board may authorize the Association to institute an action at law on behalf of the Association against the Owner or Owners personally obligated to pay any delinquent assessment.

**5.08 Liens:** All unpaid assessments, together with any interest and charges thereon or costs of collection, shall constitute a continuing charge in favor of the Association and a lien on the Lot against which the assessment was levied. If any assessment remains unpaid for ten (10) days after it is due, then the Board may authorize any Officer or appointed agent of the Association to file a certificate of lien for all or any part of the unpaid balance of that assessment, together with interest and collection costs, including attorneys' fees, with the Recorder of Warren County, Ohio. The certificate shall contain a description of the Lot which the lien

encumbers, the name of the Owner or Owners thereof, and the amount of the unpaid portion of the assessment. The certificate may be signed by any authorized officer, or agent, or the Manager of the Association or its authorized representative. Upon the filing of the certificate, the subject Lot shall be encumbered by a continuing lien in favor of the Association. The assessment lien shall remain valid for a period of five (5) years from the date such certificate is duly filed, unless the lien is released earlier or satisfied in the same manner provided by the law of the State of Ohio for the release and satisfaction of mortgages on real property, or until the lien is discharged by the final judgment or order of any court having jurisdiction.

**5.09 Subordination of Lien:** The lien of the assessments provided for herein shall be subject and subordinate to the lien of any duly executed first mortgage on the Lot recorded prior to the date on which such lien of the Association arises, and any holder of such first mortgage which comes into possession of a Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid assessments against the mortgaged Parcel which became due and payable prior, in the case of foreclosure, to the date of the sale, and, in all other cases, to the date legal title vested in the successor Owner.

**5.10 Contested Lien:** Any Owner or Owners who believe that an assessment chargeable to that Owner or Owner's Lot (for which a certificate of lien has been filed) has been improperly charged against that Parcel, may bring an action in the Court of Common Pleas of Warren County, Ohio, for the discharge of that lien and/or a declaratory judgment that such assessment was unlawful. The filing of such action shall not be grounds for an offset or to withhold payment. In any such action, if it is finally determined that all or a portion of the assessment has been improperly charged to that Lot, the Court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien and a refund of the assessment or portion thereof determined to be unlawful.

**5.11 Liability for Assessments Upon Voluntary Conveyance:** In a voluntary conveyance of a Lot other than a conveyance in lieu of foreclosure, the grantee of the Lot shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the grantor and his Lot for his share of the assessments up to the time of a grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee and his mortgagee shall be entitled on demand, to a certificate from the Board setting forth the amount of all unpaid and current assessments for a reasonable charge against the grantor due the Association, and such grantee shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments made by the Association against the grantor in excess of the amount set forth in such statement for the period reflected in such statement. The certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

**5.12 Suspension of Vote and Use of Common Property:** If any assessment remains unpaid for thirty (30) days after it becomes due, then the delinquent Owner's voting

rights upon Association matters and privileges to use the Common Property, and to vote, as a Member of the Association, shall be suspended until such assessment is paid. In any case, suspension of any such rights shall be subject to the right of an Owner, Occupant, or their licensees or invitees, to necessary ingress and egress to and from that Owner's Residence.

**5.13 Declarant Exemption:** The Declarant is specifically exempt from application of the Assessment portions of this Article V. Specifically, Declarant is exempt from the assessments listed in Section 5.01. Until such time as a sufficient number of Lots are sold to Owners other than builders, Declarant may annually contribute a sum of money in an amount sufficient to subsidize the Association's shortfall in its budget for that budget year. Declarant reserves the right to restrict, diminish or discontinue the amount, nature and character of the subsidy provided for in this Section 5.13.

## **ARTICLE VI - STORM WATER DRAINAGE**

**6.01 Drainage and Detention Facilities:** Declarant intends to construct private storm water detention and/or retention facilities within Common Property Reserve Lot 21 to be conveyed to the Association. These private facilities will be used to collect and detain storm water runoff from and through the Property and beyond. Accordingly, the record plan for Timber Creek contains various easements along the rear and side lot lines of Lots within the Property which shall be in favor of the Association for maintenance, repair, and replacement of storm water pipes and drainage swales and creeks. The Association's storm water pipes will be installed in some but not all Reserves and easements.

**6.02 Storm Water Maintenance:** Declarant and each Owner is deemed to agree that the Association shall have the obligation to maintain, repair and replace its storm water detention facilities, pipes and easements for the benefit of all Owners from a storm water drainage standpoint, that the Association shall have authority to enter upon the easement areas to perform such obligations, that the Association shall have the power to assess and collect funds for the cost thereof; and that the obligations shall be enforceable by the Declarant, the Association, and each Owner.

**6.03 Use of Ponds Prohibited:** No Owner or occupant of any Lot, or any invitee thereof, shall have any right to enter upon, or to dam or slow the outflow thereof, or to engage in swimming, fishing, ice skating, boating or other activities in or upon, any creek or storm water detention facility, any such activities are strictly prohibited and any violation of such prohibition shall be at the person's own risk. Each Owner shall be responsible for informing his, her or its family members, Occupants and invitees of these prohibitions and shall hold the Declarant and the Association harmless from any and all claims, damages and causes of action and expenses of litigation (including attorney's fees) for any injury to such Owner's person, family, invitees or property arising on or in connection with any such creek or detention facilities, or the condition thereof.

**6.04 Obstruction of Water Flow Prohibited:** No Owner or occupant of any Lot, or any invitee thereof, shall do anything which would obstruct, interfere with, or divert any storm

water runoff through the storm water drainage system created by Declarant on the Property, including but not limited to erecting or maintaining structures over such system or planting and maintaining trees or shrubs over such system.

**6.05 Rules and Regulations:** The Association shall have the right to adopt and publish rules and regulations for the use of any detention facilities and any drainage easement areas for the protection, safety and welfare of the residents of Timber Creek and their invitees, or for assuring the continued service of the areas for the purposes intended.

## **ARTICLE VII - EASEMENTS**

**7.01 Easement for Repair, Maintenance, Restoration and Enforcement:** The Association shall have a perpetual right of entry and access and an easement to, over and through all of the Property, including each Lot, from time to time, during reasonable hours for ingress and egress and all other purposes which enable the Association to perform its obligations, rights and duties pursuant hereto with regard to maintenance, repair, removal, restoration and/or servicing of any items, Lots, things or areas of or on the Property, including the removal, correction or abatement of any violations or breach or any attempted violation or breach of the covenants, conditions and restrictions in the governing documents.

**7.02 Easements for Encroachments:** Each Lot and Reserve Lot shall be subject to an easement for encroachments by improvements on any other Lot and by improvements upon the Common Property created by deviations in construction, settling, and overhangs of such improvements. A valid easement for these encroachments and for the maintenances of same, so long as it stands, shall and does exist. In the event a structure is partially or totally destroyed, and then rebuilt, the owners of the properties so affected agree that encroachments on parts of the adjacent structures or Common Property due to construction, provided the same does not unreasonably interfere with rights of other members in the use of their Lots, shall be permitted, and that a valid easement for the encroachment and the maintenance thereof shall exist.

**7.03 Easement for Support:** Every portion of a building or utility easement and line or any improvement on any portion of the Property contributing to the support of another building, utility easement and line, or improvement of another portion of the Property, including party walls, shall be burdened with an easement of support for the benefit of all other such buildings, utility easements and lines, improvements and other portions of the Property.

**7.04 Easements for Construction:** Declarant hereby reserves for itself, and its successors and assigns, a right and easement to enter the Common Property to do all things necessary to complete and perform construction work necessary to develop the balance of the Property, including the construction of Residences.

**7.05 Easement for Access:** A non-exclusive perpetual easement is hereby reserved to Declarant, its successors and assigns, and each present and future Owner and Occupant of a Lot for access to and use of private streets and walkways, and the right to cross those portions of

Common Property for pedestrian and vehicular travel to and from public streets and, if applicable, to and from private streets that provide ingress and egress to and from public streets and to use the Common Property.

**7.06 Utility Easements:** Declarant reserves to itself, its grantees, successors and assigns, and to the Association, and to the utility company involved, an easement in, through, under and/or over those portions of each Lot, including Common Property Reserve Lots, as shown on the Plat and designated as easements (including rear yard easement areas and the set back/easement areas along streets) for ingress and egress to, and the construction, installation, operation, repair and maintenance of all sanitary sewer, water, electricity, gas, telephone, cable TV or CATV lines and conduits or any other similar utility services, and no structure shall be erected or maintained upon such easement areas. Should any utility company furnishing a service covered by this general easement request a specific easement by separate recordable document, the Board shall have the right to grant such easement.

**7.07 Easement for Services:** A perpetual non-exclusive easement is hereby granted to all police, firemen, ambulance operators, mailmen, deliverymen, garbage and trash removal personnel, mowing and lawn maintenance personnel, snow and ice removal personnel, and all similar persons, and to the local governmental authorities and the Association, and to representatives of utility companies, but not to the public in general, to enter upon the Common Property in the performance of their duties.

**7.08 Power of Attorney:** Each Owner, by acceptance of a deed to a Lot or Unit, hereby irrevocably appoints the Board's authorized representative, his, her or its attorney-in-fact to execute, deliver, acknowledge and record, for and in the name of such Owner, such deeds of easement and other instruments as may be necessary or desirable, in the sole discretion of the Board to further establish or effectuate any easements provided in this Declaration. This power is for the benefit of each and every Owner, the Association, and each and every Owner of a Lot within the Property, runs with the land to be binding upon the successors and assigns of such parties, and is coupled with an interest.

**7.09 General:** Failure to refer specifically to any or all of the easements described in this Declaration in any deed of conveyance or in any mortgage or other evidence of obligation shall not fail to reserve said easement, but the same shall be deemed conveyed or encumbered along with the Lot. The easements and grants provided in this Article shall in no way affect any other recorded grant or easement.

## **ARTICLE VIII - USE RESTRICTIONS**

**8.01 Residential Use:** Each Lot except Lot 21 shall be used as a private dwelling and for no other purpose except for temporary uses for construction and sales purposes permitted by Declarant during any building and sales period.

**8.02 Living Area:** Each Residence on a Lot shall have a minimum living area of 1100 square feet, exclusive of open porches, garages, and unheated areas. Each Residence on a Lot shall have an attached garage with space for not less than one automobile.

**8.03 Antennas, etc.:** No satellite dish, antenna, or radio, television or microwave tower shall be erected or maintained on any Lot without the prior written consent of the Board. No geothermal or solar heating system shall be installed without the prior written consent of the Board and all applicable agencies. Notwithstanding the foregoing prohibition, only a roof-mounted satellite dish having a diameter of 18"; or less may be erected and maintained on a Lot without the prior written consent of the Board.

**8.04 Prohibited Structures:** The following structures shall be prohibited and if erected shall not be permitted to remain on any Lot:

(a) Yard barns, storage sheds, dog houses, or other similar structures,

(b) Fences, except those erected by a builder at the time of original construction of each Residence.

(c) Above-ground swimming pools, basketball goals or backboards, or clotheslines, except manufactured portable basketball goal systems.

**8.05 Nuisance:** No weeds, underbrush, unsightly growths or objects, noise, lights of any kind shall be permitted to remain on any Lot within the Property in a manner as to create a nuisance or among and disturb residents.

**8.06 Animals:** When on the street or not on Lot - must be leashed. No animal shall be permitted to run loose or become a nuisance to any Owner of any Lot. The Association may regulate and control, by publishing rules and regulations, the size, type and maintenance of such household pets as it deems necessary from time to time.

**8.07 Signs:** No sign or billboard shall be erected or displayed on any Lot except (a) one sign of no more than five (5) square feet advertising the Property for sale; (b) signs approved by the Declarant; and (c) signs used by Declarant, its successors and/or assigns, to advertise Lots or Residences for sale during the construction and sales period.

**8.08 Residence Locations:** No Residence shall be located nearer to any public street than the building setback line shown on the recorded plat. The setback areas designated on the recorded plat shall be for lawn purposes only. This covenant shall not be construed to prevent the use of the setback areas for walks, drives, trees, shrubbery, flowers, or ornamental plants used for the purpose of beautification.

**8.09 Utility and Drainage Areas:** No structures, plantings or materials shall be placed or permitted to remain within any utility or drainage easement areas as designated on the recorded plat if such structures, plantings or materials would damage or interfere with the



installation and maintenance of utilities or would change or retard the flow of surface or storm water from its proper course of flow.

**8.10 Vehicles/Garbage Storage:** No trucks over one ton capacity, motorcycles, boats, buses, campers, motor homes, trailers, or other similar recreational vehicles shall be displayed to the public view; all such vehicles shall be housed within the garage. All automobiles shall also be housed within the garage or parked on the driveway. No inoperable vehicles shall be stored on any Lot, except inside the garage only. Garbage or other waste shall be kept in clean and sanitary trash containers inside the garage or screened from public view. This restriction shall not be deemed to prohibit the storage of building materials to be used in the construction of approved structures on any Lot, provided such building materials are incorporated into the approved improvement within ninety (90) days after their delivery to such Lot. All improvements commenced by an Owner of any Lot must be completed within one (1) year from the date of commencement.

**8.11 Parking:** All public streets are subject to all applicable laws, ordinances and regulations of all governmental agencies having jurisdiction over the Property. Additionally, the Association may adopt reasonable rules and regulations regarding the parking of vehicles on the private streets within the Common Property and procedures for enforcing the same, including but not limited to the levying of fines and citing and towing violating vehicles.

**8.12 Utility Service:** All lines, wires, pipes, cables, conduits and other devices for conveying electricity, data, signals, liquid gas and the like shall be constructed, placed and maintained underground, or concealed in, under or on a Residence or other approved improvements, provided, however, that above ground electrical transformers and equipment, lift station equipment and similar equipment may be permitted if properly screened and approved by the Association.

**8.13 Architectural Control:** The Architectural Control Committee and its duties and functions are set forth on the Plat of Timber Creek. All Owners are subject to the provisions thereof. The Association shall have the right to increase the application fee charged by the Architectural Review Committee.

**8.14 Plat:** The covenants and restrictions in this Article VIII are in addition to and are intended to compliment those set forth on the Plat of Timber Creek, which are incorporated herein by reference. If an inconsistency is found to exist, the most restrictive provision shall control. The Association shall have a non-exclusive right to enforce the protective covenants and restrictions set forth on said plat.

## **ARTICLE IX - INSURANCE**

**9.01 Public Liability Insurance:** The Association shall obtain and maintain a comprehensive public liability insurance (with costs liability endorsement, if obtainable) insuring the Association, the Board, the Owners, the Declarant, and the agents and employees of each of the foregoing against any liability to the public or to any Owner, his family, invitees and/or

tenants arising from or incident to the ownership, occupation, use, maintenance and/or repair of the Common Area. The limits of liability under this Section shall be set by the Association and shall be revised at least annually and increased or decreased at the discretion of the Association; provided, however, that said limits shall not be less than \$1,000,000 for bodily injury, including deaths of persons and property damage arising out of a single occurrence.

**9.02 Casualty and Fire Insurance:** The Association shall obtain and maintain a policy or policies of casualty with extended coverage endorsement in an amount equal to one hundred percent (100%) of the current replacement cost (without deduction for depreciation or co-insurance) of the Common Area, together with all Improvements located thereon. Said policy shall be maintained for the benefit of the Association as the insured, for the use and benefit of the Owners.

**9.03 Other Coverage:** The Association may obtain and maintain fidelity coverage (fidelity bonds) to protect against dishonest acts on the part of officers, trustees, agents, and employees of the Association and all others who handle or are responsible for handling funds of the Association. The Association may also obtain and maintain forms of other insurance and coverages as it may determine from time to time.

**9.04 Owner's Insurance:** Each Owner may obtain insurance on his personal property and all other improvements located on his Lot. Nothing herein shall preclude any Owner from carrying any public liability insurance as deemed desirable to cover individual liability for damage to person or property occurring inside Owner's individual Lot or elsewhere on the Property.

## **ARTICLE X - CONDEMNATION**

If a public authority exercises the right of eminent domain and any portion of the common Area is appropriated, the net proceeds received shall be prorated and distributed among the Owners in the same proportions as Annual Operating Assessments are charged, subject to the right of any holder of a first mortgage to the portion of the proceeds applicable to the Lot mortgaged to such mortgagee. The Association shall give the holder of each first mortgage written notice of the receipt of any notice of a proposed taking, or of any documents received by it in connection with any such taking, or proposed taking, within thirty (30) days after receipt of the same.

## **ARTICLE XI - PARTY WALLS**

**11.01 General Rules of Law to Apply:** Each wall which is built as a part of the original construction of the homes upon the Property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

No Owner of the structures divided by a party wall shall, without the consent of the other (which consent shall not be unreasonably withheld), make or cause to be made openings in the party wall, decrease or increase the thickness of the party wall, or add to or extend the party wall.

Each Owner shall own separately so much of the party wall as stands upon that Owner's property, however, each Owner shall have the right and easement to use so much of the party wall as is owned by the adjacent Owner for any purpose not inconsistent with the joint use of the wall or otherwise prohibited by this Article.

**11.02 Sharing of Repair and Maintenance:** The cost of reasonable repair and maintenance of a party wall shall be shared by the members who make use of the wall in proportion to such use.

**11.03 Destruction by Fire or Other Casualty:** If a party wall is destroyed or damaged by fire or other casualty, a member who has used the wall may restore it, and if the other members thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use of the wall, without prejudice, however, to the right of any such members to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

**11.04 Weatherproofing:** Notwithstanding any other provision of this Article, a member who by his, her or its negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**11.05 Right to Contribution Runs with Land:** The right of any member to contribution from any other member under this Article shall be appurtenant to the land and shall pass to such member's successors in title.

**11.06 Arbitration:** In the event of any dispute arising, concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

## **ARTICLE XII GENERAL PROVISIONS**

**12.01 Covenants Running with the Land:** The covenants, easements, conditions, restrictions, reservations, liens and charges created by this Declaration are made for the direct, mutual, and reciprocal benefit of Declarant, the Association, and the present and future Owners, with mutual equitable servitudes upon the property benefitted thereby, and shall run with and bind the Property, and each part thereof, and shall be binding upon and inure to the benefit of all parties having any right, title or interest in or to all or any part of the Property, and their respective heirs, executors, administrators, successors and assigns for a term of thirty-five (35) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless amended as hereinafter provided.

**12.02 Remedies:** The violation of any restriction or condition or regulation adopted by the Association or the breach of any covenant or provision contained in this Declaration or in the By-Laws of the Association, or in any plat restrictions incorporated herein, shall give the Board the right, (i) to enter upon the Lot or portion thereof upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration and by By-Laws of the Association and any of said plat restrictions, and the Board, or its agents, shall not be thereby deemed guilty in any manner of trespass; (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity the continuance of any breach; and/or (iii) to recover damages for such violation together with costs of enforcement.

**12.03 Enforcement:** In addition to any other remedies provided in this Declaration, Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by or incorporated in the provisions of this Declaration, including rules and regulations adopted by the Board. Failure to enforce a restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**12.04 Regulation by Association:** No person shall use the Common Property and facilities or any part thereof in any manner contrary to or not in accordance with such rules and regulations pertaining thereto as from time to time may be adopted by the Association. Without in any manner intending to limit the generality of the foregoing, the Association shall have the right, but not the obligation, to promulgate rules and regulations controlling and limiting the use of the Common Property and facilities by and to Members of the Association and their respective families, guests, invitees and servants, and to residents and tenants, as well as to provide for the exclusive use by an Owner and his guests and invitees, for specific occasions, of parking spaces, or other similar facilities. Such use may be conditioned upon, among other things, the payment by the Owner of such assessments as may be established by the Association for the purpose of defraying costs thereof.

**12.05 Mortgagee Rights:** Any institutional holder or insurer of a first mortgage upon any Lot, upon written request to the Association (which request shall state the name and address of such holder or insurer and a description of the Lot) shall be entitled to timely written notice of: (i) any proposed amendment of this Declaration; (ii) any proposed termination of the Association; and (iii) any default under the provisions hereof which gives rise to a cause of action by the Association against the Owner of the Lot subject to the mortgage of such holder or insurer, where the default has not been cured in sixty (60) days. Each institutional holder or insurer of a first mortgage on any Lot shall be entitled, upon written request and at such mortgagee's expense, to inspect the books and records of the Association during normal business hours.

#### **12.06 Amendments:**

A. Until the Turnover Date, Declarant may unilaterally amend the provisions hereof, without the consent of any other Owners, if such amendment is: (i) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation or judicial order; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on any Lot or the Common Property; or (iii) necessary to correct errors; provided, however, an such amendment shall not materially adversely affect the title to any Lot unless the Owner or Owners thereof have consented to such amendment in writing. No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant, nor shall any such amendment increase Declarant's rights hereunder, except to the extent all Owners' rights are increased in the same measure, or relieve either of any obligations hereunder.

B. After the Turnover Date, the Declaration may be amended or modified with the approval of Members holding not less than sixty percent (60%) of the voting power of Members, provided that the consent of all Members shall be required for any amendment which effects a change in the voting power of any Member, the method of allocating Common Expenses among Owners, the fundamental purpose for which the Association is organized, or the obligation of each Owner with a Residence on it to be a member of the Association. Any amendment to this Declaration adopted with the aforesaid consent shall be executed with the same formalities as to execution as observed in this Declaration by the president and the secretary of the Association, and shall contain their certifications that the amendment was duly adopted in accordance with the requirements hereof. Any amendment so adopted and executed shall be effective upon the filing of the same with the Recorder of Warren County, Ohio.

**12.07 Declarant's Rights to Complete Development:** Declarant, and its successors and assigns, shall have the right to: (a) post signs on its property incidental to the development, construction, promotion, marketing, sale and leasing of property within Timber Creek, and the right of ingress and egress through the streets, paths and walkways located in Common Property for any purpose whatsoever, including but not limited to, purposes related to the construction, maintenance and operation of improvements on lots. Nothing contained herein shall limit the rights of Declarant or require Declarant or its assigns to obtain approval to: (i) excavate, cut, fill or grade any property owned by it or to construct, alter, remodel, demolish or replace any improvements on any Common Property or any property owned by it as a construction office, model home or real estate sales or leasing office in connection with the sale of any property; or (ii) require it to seek or obtain the approval of the Association or the Architectural Review Committee for any such activity or improvement on any Common Property or any property owned by it. Nothing contained herein shall limit or impair the reserved rights of Declarant, as elsewhere provided in this Declaration.

**12.08 Penalties for Violations:** Notwithstanding any other provisions hereof, the Association shall have the power in adopting the rules and regulations authorized in this Declaration to include therein such penalties, sanctions, and other remedies for violations thereof

as it deems necessary or appropriate, and to enforce any financial penalty as a Compliance Assessment,

**12.09 Constructive Notice and Acceptance:** After the filing and recording of this Declaration and any amendments or supplements thereto in the public records of Warren County, Ohio, every person who now or hereafter owns or acquires any rights, title or estate in any portion of the Property is and shall be conclusively deemed to have consented and agreed to every restriction contained herein, and in any amendment hereto, whether or not a reference to this Declaration or to the amendment is contained in the instrument by which such person acquired an interest in said Property.


**12.10 Severability:** Invalidation of any one or more of these covenants, conditions, restrictions or easements by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**12.11 Gender and Grammar:** The singular wherever used herein shall be construed to mean the plural when applicable, and vice versa, and the necessary grammatical changes required to make the provisions hereof apply either to corporations, partnerships, or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

**12.12 Captions:** The captions of the various provisions Declaration are not part of the context hereof, but are merely labels to assist in locating the various provisions hereof.

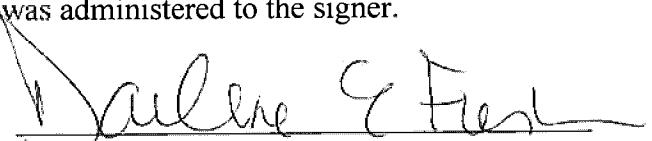
Executed by Declarant this 3rd day of March, 2025

DECLARANT:  
ASSOCIATE CONSTRUCTION, INC.

  
\_\_\_\_\_  
Ryan Morris, Vice-President

STATE OF OHIO, WARREN COUNTY, SS:

The foregoing instrument was acknowledged before me this 3rd day of March, 2025 by Ryan Morris, as an authorized officer of the Declarant, on behalf of said corporation. This is an acknowledgment clause. No oath or affirmation was administered to the signer.

  
\_\_\_\_\_  
Notary Public



Darlene E. Fierle  
Attorney at Law  
Notary Public, State of Ohio  
My Commission Has No Expiration Date  
Sec 147.03 O.R.C.

BYLAWS  
(Code of Regulations)

OF

TIMBER CREEK OF CARLISLE HOMEOWNERS ASSOCIATION, INC.

ARTICLE I  
NAME AND LOCATION

The name of the Association is Timber Creek of Carlisle Homeowners Association, Inc., (“the Association”), which corporation, not-for-profit, is created pursuant to the provisions of Chapter 1702 of the Revised Code of Ohio. The principal office of the Association shall be as set forth in its Articles of Incorporation (the “Articles”), and the place of meetings of Owners (members) and of the Directors (Board of Managers) of the Association shall be at such place in Warren County as the Board of Directors (“the Board”), may from time to time designate.

ARTICLE II  
DEFINITIONS

All of the terms used herein shall have the same meanings as set forth in the Declaration of Covenants, Easements, Restrictions, Assessments and Assessment Liens for Timber Creek (“the Declaration”), recorded with the Recorder of Warren County, Ohio, as it may be amended.

ARTICLE III  
LOT OWNERS (MEMBERS)

Section 1. Composition. Each Owner, as defined in the Declaration, is a member of the Association.

Section 2. Annual Meetings. Regular annual meetings of the Owners shall be held in the second calendar quarter of each year hereafter, on a date and at an hour established from time to time, by the Board, provided, that, in any event, there shall be no more than fourteen (14) months between annual meetings of the members.

Section 3. Special Meetings. Special meetings of the Owners may be called at any time by the president or by the Board, or upon written request of Owners entitled to exercise one-fourth (1/4) or more of the voting power of Owners, and shall be held on such date, hour and location in Warren County as specified by the person or persons calling the meeting. Every call for a special meeting shall be in writing delivered to the Secretary.

Section 4. Notice of Meeting. Written notice of each meeting of Owners shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least five (5) days before such meeting, to each Owner

entitled to vote at such meeting, addressed to the Owner's address last appearing on the books of the Association, or supplied by such Owner to the Association for the purpose of notice, or by delivering a copy of that notice at such address at least five (5) days before the meeting. The notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the specific purposes of the meeting, and, in the case of special meetings called by the petition and written request of Owners, the specific motion or motions (other than procedural) to be voted upon. The Board may add additional items of business to the notice. No business other than that specified in the notice shall be transacted at the meeting.

Section 5. Conduct of Meetings. All meetings of the Owners shall be conducted by the Board and presided over by the President of the Association, or as otherwise directed by the Board.

Section 6. Quorum; Adjournment. The Owners present, in person or by proxy, at any duly called and noticed meeting of Owners, shall constitute a quorum for such meeting. Owners entitled to exercise a majority of the voting power of Owners represented at a meeting may, at any time, adjourn such meeting. If any meeting is so adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

Section 7. Voting Rights. Subject to the voting rights of the Declarant as provided in the Declaration, one vote upon which Owners are entitled to vote is allocated to each Lot, exercisable as the Owners of the undivided fee simple interests in that Lot may from time to time determine. If the Owners of the fee simple interests in a Lot are unable with respect to a particular matter to agree among themselves as to the vote to be cast with respect to that Lot, no vote shall be cast with respect to that Lot or that particular matter, provided, that unless timely challenged by an Owner of a fee simple interest in a Lot, any Owner of a fee simple interest in that Lot may cast the entire vote with respect to that Lot. The Board, from time to time, may suspend the right of the Owner or Owners of a Lot to cast a vote with respect to that Lot if assessments with respect to that Lot are overdue, or there is at that time, with respect to the Owner's or occupants of that Lot, a failure to observe any of the terms hereof, or rules and regulations duly adopted by the Board and then in effect.

Section 8. Voting Power. Except as otherwise provided by the Articles, the Declaration, or by law, a majority of the voting power of Owners voting on any matter that may be determined by the Owners at a duly called and noticed meeting shall be sufficient to determine that matter. The rules of Roberts Rules of Order shall apply to the conduct of all meetings of Owners except as otherwise specifically provided in the Declaration or by law.

Section 9. Proxies. At any meeting of Owners, an Owner may vote in person or by proxy. All proxies shall be in writing and filed with the secretary prior to the meeting. An electronic or facsimile transmission/communication appearing to have been transmitted by an Owner, or a photographic, photostatic, or equivalent reproduction of a writing, appointing a proxy is a sufficient writing. Every proxy shall be revocable and shall automatically cease upon conveyance by an Owner of that Owner's fee simple interest in that Lot, and, in any event, shall



not be valid after the expiration of eleven months after it is made unless it specifies the date on which it is to expire or the length of time it is to continue in force.

Section 10. Action in Writing Without Meeting. Any action that could be taken by Owners at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, of Owners or their proxies having not less than a majority of the voting power of Owners, or such greater proportion of the voting power as may be required by the Declaration, or by law.

#### ARTICLE IV BOARD OF DIRECTORS: (BOARD OF MANAGERS)

Section 1. Initial Directors. The initial directors and their business addresses shall be as set forth in the Association's Initial Articles of Incorporation, or such other person or persons as may from time to time be substituted by Declarant.

Section 2. Successor Directors. At the meeting of Members at which the Directors selected by Declarant are to be replaced by Directors to be elected by the Members for terms commencing at that time, the Members shall elect five (5) Directors, two for terms expiring at the next annual meeting of Members, two for terms expiring at the second annual meeting of Members following this first election, and one for a term expiring at the third annual meeting of Members following this first election. At each annual meeting of Members following this first election, the Members shall elect two Directors for terms of three years each to replace the Directors whose terms then expire.

Section 3. Removal. Excepting only Directors named in the Articles or selected by Declarant, any Director may be removed from the Board with or without cause by the holders of not less than seventy-five percent (75%) of the voting power of Owners. In the event of the death, resignation or removal of a Director other than one named in the Articles or a substitute selected by Declarant, that Director's successor shall be selected by the remaining members of the Board and shall serve until the next annual meeting of Owners, when a Director shall be elected to complete the term of such deceased, resigned or removed Director. In the event of removal of all Directors, the Owners shall at the meeting at which all Directors are removed, elect Directors to complete the terms of the removed Directors. Declarant shall have the sole right to remove, with or without cause, any Director designated in the Articles, or a substitute selected by Declarant, and select the successor of any Director so selected who dies, resigns, is removed or leaves office for any reason before the election of Directors by all of the Owners as provided in Section 2 above.

Section 4. Vacancies. A vacancy in the Board of Directors shall be deemed to exist if any Director dies, resigns, is declared by Court Order to be of unsound mind (or if a Court Order appoints a guardian for that Director), fails to attend three consecutive duly called meetings without his absence being excused, fails to pay three or more assessments when due, is removed from office during his term as Director or, if such Director is required to be an Owner upon his

ceasing to be such an Owner. A vacancy in the Board of Directors shall also be deemed to exist in the event the Owners act to increase the authorized number of Directors but fail to elect the additional Directors provided for, or at any time at which the Owners fail to elect the entire authorized number of Directors. Any vacancy shall be filled by the remaining Directors for the balance of the unexpired term except that the Declarant shall have the sole right to fill vacancies with regard to Directors named in the Articles of Incorporation or subsequently appointed by Declarant.

Section 5. Qualification. To qualify for nomination, election or appointment as a Director (other than by Declarant), the prospect must be an individual who is an Owner or co-Owner of a Lot, the spouse of an Owner or co-Owner of a Lot, or a designated officer of an entity that is an Owner, and such Owner or co-Owner of a Lot or the Lot Owner of such spouse must not then be delinquent in the payment of any obligation to the Association, or then be an adverse party to the Association, or its Board or any member thereof (in that member's capacity as a Board member) in any litigation involving one or more of those parties.

Section 6. Nomination. Nominations for the election of Directors by the Lot Owners shall be made by a nominating committee appointed by the Board, or if the Board fails to appoint a nominating committee, by the Board itself. Nominations may also be made from the floor at the meetings. The nominating committee, or Board, shall make as many nominations for election to the Board as it shall, in its discretion, determine, but no fewer than the number of vacancies that are to be filled.

Section 7. Election. Unless there are no more nominees than vacancies, election to the Board by the Owners shall be by secret written ballot, at such elections, the Owners or their proxies may cast in respect to each vacancy, such number of votes as they are entitled to under the provisions of the Declaration. The individuals receiving the largest number of votes shall be elected, and, likewise, those receiving the largest number of votes shall be elected to the longest terms. In cases of ties, the winner shall be determined by lot. Cumulative voting is not permitted.

Section 8. Compensation. Unless otherwise determined by the Owners at a meeting duly called and noticed for such purpose, no Director shall receive compensation for any service rendered to the Association as a Director. However, any Director may be reimbursed actual expenses incurred in the performance of duties as a Director.

Section 9. Regular Meetings. Regular meetings of the Board shall be held on such dates and at such places and times as may be fixed from time to time by resolution of the Board, but not less than quarterly.

Section 10. Special Meetings. Special meetings of the Board shall be held when called by the president of the Board, or by a majority of the Directors, after not less than three (3) days notice to each Director.

Section 11. Quorum. The presence at any duly called and noticed meeting of Directors entitled to cast a majority of the voting power of Directors, in person and/or by participation by means of communications equipment if all persons participating can hear each other and participate, shall constitute a quorum for such meeting.

Section 12. Voting Power. Each Director shall be entitled to a single vote and except as otherwise provided in the Declaration, or by law, vote of a majority of the Directors voting on any matter that may be determined by the Board at a duly called and notice meeting, at which a quorum is present, in person or by participation as provided in Section 10 above, shall be sufficient to determine that matter.

Section 13. Action in Writing Without Meeting. Any action that could be taken by the Board at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, of all of the Directors.

Section 14. Power and Authority. The Board shall exercise all powers and have all authority, under law, and under the provisions of the Articles and Declaration that are not specifically and exclusively reserved to the Owners by law or by other provisions thereof, and without limiting the generality of the foregoing, the Board shall have the right, power and authority to:

- (a) take all actions deemed necessary or desirable to comply with or to cause compliance with all requirements of law, and the governing documents;
- (b) obtain insurance coverage and bonds in amounts no less than that required pursuant to the Declaration, and as the Board deems advisable;
- (c) enforce the covenants, conditions and restrictions set forth in the Declaration;
- (d) repair, maintain and improve the Common Areas including improvements on or a part of the Common Areas;
- (e) establish, enforce, levy and collect assessments, late fees, delinquent interest and such other charges as are provided for in the Declaration and adopt, publish and enforce rules and regulations concerning the same;
- (f) adopt and publish rules and regulations governing the use of the Common Property and improvements thereon and the personal conduct of Owners, occupants and their guests thereon;
- (g) suspend the voting rights of an Owner during any period in which such Owner shall be in default in the payment of any charge levied by the Association (such rights may also be suspended after notice and hearing), for a period not to exceed sixty (60) days for each infraction of published rules and regulations or of any provisions of the Articles and/or Declaration;

(h) declare the office of a member of the Board to be vacant in the event such Director shall be absent from three consecutive regular meetings of the Board.

(i) subject to such approvals, if any, as may be required pursuant to the provisions of Articles and Declaration, authorize the officers to enter into one or more agreements necessary or desirable to fulfill the purposes and objectives of the Association, including, without limitation, management agreements, purchase agreements and loan documents, all on such terms and conditions as the Board in its sole and absolute discretion may determine;

(k) borrow funds, as needed, and pledge such security and rights of the Association as might be necessary or desirable to obtain any such loan; and

(l) do all things and take all actions permitted to be taken by the Association by law, or the governing documents, not specifically reserved thereby to others.

Section 15. Duties. It shall be the duty of the Board to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Owners at each annual meeting of Owners, or at any special meeting when such statement is requested in writing by Owners representing one-half (1/4) or more of the voting power of Owners;

(b) supervise all officers, agents and employees of the Association and see that their duties are properly performed;

(c) cause an annual budget to be prepared;

(d) as more fully provided in the Declaration, establish, levy, enforce and collect assessments;

(e) issue, or to cause an appropriate representative to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid;

(f) cause the property subject to the Association's jurisdiction to be maintained within the scope of authority provided in the Declaration; and

(g) take either action required to comply with all requirements of law and the governing documents.

Section 16. Delegation of Authority: Management Contract. The Board may delegate all or any portion of its authority to discharge its responsibilities to a managing agent. This delegation of authority and responsibility to a managing agent may be evidenced by one or more management contracts which may provide for the payment of reasonable compensation to such managing agent as a common expense, provided, however, that any agreement for professional

management shall be terminable by the Association for cause on thirty (30) days; written notice; shall be terminable by either party without cause and without penalty, on written notice of ninety (90) days or less, and shall be bona fide and commercially reasonable at the time entered into under the circumstances then prevailing, provided that in the case of any professional management contract entered into before control of the Association is vested in Owners other than Declarant, the contract must give the Association the right to terminate it without cause and without penalty at any time after control of the Association has been transferred to or assumed by Owners other than Declarant. Subject to the foregoing, nothing contained herein shall preclude Declarant, or any other entity designated by Declarant, from being employed as managing agent. The managing agent, or the Board, if there is no managing agent, shall have the authority to enter into contracts with Declarant or an affiliate of Declarant, as defined by an institutional first mortgagee or an agency or organization which purchases, insures, or guarantees first mortgages, for goods, services, or for any other thing, including, without limiting the generality of the foregoing, contracts for the providing of maintenance and repair services, provided the same are bona fide and commercially reasonable to the Owners at the time entered into under the circumstances then prevailing. In any case, no management contract or agreement by the Association executed prior to the assumption of control of the Association by Owners other than Declarant shall extend more than one year subsequent to that assumption of control unless renewed by vote of Owners pursuant to the provisions of these By-laws.

## ARTICLE V OFFICERS

Section 1. Enumeration of Officers. The officers of this Association shall be a president, a secretary, a treasurer and such other officers as the Board may from time to time determine. An officer need be an Owner or Director of the Association. The same person may hold more than one office.

Section 2. Selection and Term. Except as otherwise specifically provided in the Declaration or by law, the officers of the Association shall be appointed by the Board, from time to time, to serve until the Board appoints their successors.

Section 3. Special Appointments. The Board may appoint such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time, determine.

Section 4. Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Duties. The duties of the officers shall be as the Board may from time to time determine. Unless the Board otherwise determines, the duties of the officers shall be as follows:

(a) President. The president shall preside at all meetings of the Board, shall have the authority to see that orders and resolutions of the Board are carried out, and shall sign all legal instruments on behalf of the Association.

(b) Secretary. The secretary shall record the votes and keep the minutes and proceedings of meetings of the Board and of the Owners serve notice of meetings of the Board and of the Owners, keep appropriate current records showing the names of Owners of the Association together with their addresses, and shall act in the place and stead of the president in the event of the president's absence or refusal to act.

(c) Treasurer. The treasurer shall assume responsibility for the receipt and deposit in such bank accounts, and investment of funds in such vehicles, as the Board directs, the disbursement of such funds as directed by the Board, the keeping of proper books of account, the preparation of a proposed annual budget and a statement of income and expenditures to be presented to the Owners at annual meetings, and the delivery or mailing of a copy of each to each of the Owners.

## ARTICLE VI COMMITTEES

The Board shall appoint a nominating committee and may appoint such other committees as it deems appropriate in carrying out its purposes.

## ARTICLE VII BOOKS AND RECORDS

The books, records and financial statements of the Association, including current copies of the Declaration, By-laws and effective rules and regulations, shall be available during normal business hours or under other reasonable circumstances, upon request to the Association, for inspection by Owners, lenders, and the holders, insurers and guarantors of first mortgages on Lots, provided the Association shall not be required to provide to Owners documents, materials, and information, the disclosure of which the Board in good faith determines would be inimical to the best interests of the Association and other Owners. Likewise, during normal business hours or under other reasonable circumstances, the Association shall make available to prospective purchasers current copies of the Declaration, By-laws, effective rules and regulations, architectural review committee design requirements and procedures, and the most recent annual audited financial statement, if such is prepared.

ARTICLE VIII  
AUDITS

The Board shall cause the preparation and furnishing of an audited financial statement of the Association for the immediately preceding fiscal year, in the following circumstances:

(a) To each requesting Owner, at the expense of the Association, upon the affirmative vote of Owners exercising a majority of the voting power of Owners within a reasonable time after request;

(b) to each holder, insurer, or guarantor of a first mortgage upon a Lot which requests the same, in writing, within a reasonable time thereafter, provided the audit, if an audited statement is not already available, shall be prepared at the expense of such requesting party.

ARTICLE IX  
FISCAL YEARS

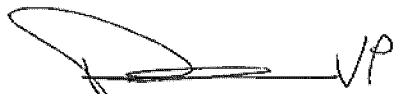
Unless otherwise charged by the Board, each fiscal year of the Association shall begin on the first day of January and terminate at the end of the 31<sup>st</sup> day of December of that year, except that the first fiscal year shall begin on the date of incorporation of this Association and terminate at the end of the next following 31st day of December.

ARTICLE X  
AMENDMENTS

Any modification or amendment of these By-laws shall be made only by means of an amendment to the Declaration, in the manner and subject to the approvals; terms and conditions set forth therein, and shall be effective from the time a certificate setting forth such modification or amendment is delivered for recording to the Warren County Recorder.

IN TESTIMONY WHEREOF, the undersigned, the sole member of the Association, has caused these By-laws to be duly adopted on or as of the 3<sup>rd</sup> day of March, 2025.

ASSOCIATE CONSTRUCTION, INC.

  
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Ryan Morris  
Vice-President

Exhibit A

Situated in the southeast quarter of Section 32, T 2 N., R 5E, in the City of Carlisle, Franklin Township, Warren County, Ohio and bounded and described as follows:

Being all of Lots No. one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17), eighteen (18), nineteen (19), twenty (20), and twenty-one (21) of the consecutive numbers of lots on the plat of the of Timber Creek of Carlisle Subdivision as recorded in Plat Book 109, Page 70, Recorder's Office, Warren County, Ohio and Document No. 2024-020508.

Parcel ID: 01-32-495-001, 01-32-495-002, 01-32-495-003, 01-32-495-004, 01-32-495-005, 01-32-495-006, 01-32-495-007, 01-32-495-008, 01-32-495-009, 01-32-495-010, 01-32-490-001, 01-32-490-002, 01-32-490-003, 01-32-490-004, 01-32-490-005, 01-32-490-006, 01-32-490-007, 01-32-490-008, 01-32-490-009, 01-32-490-010, and 01-32-490-011.

Subject to all restrictions, easements, conditions and covenants of record and all legal highways and real estate taxes and assessments due and payable.

Prior Instrument Reference: Instrument No. 2023-008972 of the Warren County, Ohio Recorder Records.

01-32-495-001 (1) GS	01-32-490-001 (11) GS
01-32-495-002 (2) GS	01-32-490-002 (12) GS
01-32-495-003 (3) GS	01-32-490-003 (13) GS
01-32-495-004 (4) GS	01-32-490-004 (14) GS
01-32-495-005 (5) GS	01-32-490-005 (15) GS
01-32-495-006 (6) GS	01-32-490-006 (16) GS
01-32-495-007 (7) GS	01-32-490-007 (17) GS
01-32-495-008 (8) GS	01-32-490-008 (18) GS
01-32-495-009 (9) GS	01-32-490-009 (19) GS
01-32-495-010 (10) GS	01-32-490-010 (20) GS
	01-32-490-011 (21) GS



