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Franklin County North Carolina
Brandi S. Davis Register of Deeds

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NORTH CAROLINA
FRANKLIN COUNTY

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
HOLDEN CREEK PRESERVE
SUBDIVISION

THIS DECLARATION, made on the date hereinafter set forth by Holden Creek Associates, LLC, a North Carolina limited liability company with its principal office located in Wake Forest, Wake County, North Carolina, hereinafter referred to as "Declarant", an owner of part of the property described on Exhibit A;

WITNESSETH:

WHEREAS, Declarant is the owner of certain property on Exhibit A in the County of Franklin, State of North Carolina, which is more particularly described on Exhibit A attached hereto and shall be known as Holding Creek Preserve Subdivision; and

WHEREAS, Declarant has caused or will later cause to be incorporated under the Laws of the State of North Carolina, as a non-profit corporation, HOLDEN CREEK PRESERVE HOMEOWNERS ASSOCIATION, INC., for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth and which shall be duly formed and be in good standing prior to the conveyance of any lot;

NOW THEREFORE, Declarant hereby declares that all of the property described above together with such additions as may hereafter be made thereto shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with the real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

Section 1. "Association" shall mean and refer to Holden Creek Preserve Homeowners Association, a North Carolina corporation, its successors and assigns.

Section 2. "Board" or "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Board of Directors of the Association.

Section 3. "Building" shall mean and refer to a residential structure, constructed or erected on the property.

Section 4. "Common Elements" shall mean all real property owned by the Association for the common use and enjoyment of the Owners or Members or designated classes of Members of the Association, including such Limited Common Elements as may be designated on any subdivision map of the Property or by the Association. The Common Elements to be owned by the Association at the time of the conveyance of the first lot is all of that property (other than the Lots), including private streets, pool, tot lots and other land within the boundaries of Holding Creek Preserve Subdivision and not located on a Lot.

Section 5. "Common Expenses" shall mean and include:

(a) Payments or obligations to reserve accounts established and maintained pursuant to this Declaration.

(b) Expenses of administration, maintenance, repair, or replacement of the Common Elements and Limited Common Elements, as well as access easements to real property owned by the Association.

(c) Expenses declared to be common expenses by the provisions of this Declaration or the By-Laws;

(d) Hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the Association to purchase; or as the Association may deem appropriate to purchase;

(e) Ad valorem taxes and public assessment charges lawfully levied against Common Elements;

(f) The expense of the maintenance of private drainage and utility easements and facilities and storm drainage devices located therein which are within the boundaries of the Property, cross Common Elements of the Property and serve both the Property and lands adjacent thereto; and,

(g) The expense of the maintenance of landscape island(s) located within the right(s)-of-way of public street(s).

(h) Expenses agreed by the Members to be common expenses of the Association.

Section 6. "Declarant" shall mean and refer to Holden Creek Associates, LLC., its successors and assigns, to whom the rights of Declarant here under are expressly transferred, in whole or in part, and subject to such terms and conditions as Declarant may impose.

Section 7. "Limited Common Element" shall mean those portions of the Common Elements that serve only a single Lot or a limited number of Lots, and which may include, but specifically is not limited to, driveways, walkways, parking areas or areas serving only specified Lots, and such other similar areas as may be designated by a subdivision map of the property or the Association. Limited common elements shall be designated as such on the recorded plat of the subdivision.

Section 8. "Living Unit" shall mean and refer to any lot on which a dwelling unit has been fully constructed and made ready for occupancy as a residence, including without limitation, completion of the final floor covering, interior paint and wallpaper and all appliances and for which a Certificate of Occupancy has been issued.

Section 9. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the property with the exception of the common Elements.

Section 10. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 11. "Owner" or "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 12. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee or other legal entity.

Section 13. "Property" shall mean and refer to that certain real property herein before described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 14. "Association Documents" shall mean and refer to this Declaration, the Articles of Incorporation of the Association, and the Bylaws of the Association, as from time to time amended.

**ARTICLE II
PROPERTY RIGHTS**

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Elements together with and including the right of access, ingress and egress, both pedestrian and vehicular, on and over the drives, walkways and

parking areas of the Common Elements, all of which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational or other similar facility situated upon the Common Elements;

(b) The right of the Association to suspend the voting rights and the right to use the recreational or other Common Element facilities, if any, by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations; it being understood that any suspension for either non-payment of any Assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Members obligation to pay the Assessment;

(c) The right of the Association to dedicate, sell, lease or transfer all or any part of the Common Elements, or any interest therein, to any public agency, authority, or utility, or to any other person for such purposes and subject to the provisions of the Franklin County Code and to such conditions as may be agreed upon by the Members. No such dedication, sale or transfer shall be effective unless it has been approved by two-thirds (2/3) of each class of Members and an instrument of dedication, sale, lease, or transfer properly executed by the Association has been recorded. On such instrument the Secretary of the Association shall certify that two-thirds (2/3) of each class of Members have approved the dedication, sale, lease or transfer and that certificate may be relied upon by any third party without inquiry and shall be conclusive as to any grantee, its successors or assigns; provided, however, conveyances for general utility purposes as specified herein may be made by the Association without consent of the Members;

(d) The right of the Association to limit the number of guests of Members;

(e) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Elements and facilities and in aid thereof to mortgage the Common Elements, and the rights of such mortgage in the Common Elements shall be subordinate to the rights of the Owners here under;

(e) The right of the Association in accordance with its Articles of Incorporation or Bylaws to impose rules and regulations for the use and enjoyment of the Common Elements and improvements thereon, which rules and regulations may further restrict the use of the Common Elements and to create Limited Common Elements, the creation of which must be approved by the appropriate authorities.

(f) The right of Owners of Lots on additional lands annexed to the property initially, or subsequently, to the easements of enjoyment and rights of ingress, egress and access, as specified above, to the initial property and all lands included in subsequent phases.

(g) The right of Owners, members of his family, his tenants, his guests or his contract purchasers who reside on the property of access, ingress and use, both pedestrian and vehicular,

on and over the drives, walkways of any private street located within the property for the purpose of enjoying and using the Common Elements.

(h) Right to Exchange (See VIII of Articles)

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Elements and facilities to the members of his family, his tenants, guests, or contract purchasers who reside on the property.

Section 3. Title to the Common Elements. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Elements located within the Property as shown on each map of the properties recorded in the Franklin County Registry to the Association, free and clear of all encumbrances and liens except encumbrances of utility, service, access, storm drainage, and other similar service or utility easements at such time as they can be released from the bank Development Loan. Similarly, the Declarant will convey to the Association Common Elements which are a portion of any additional property as the same is annexed in the future. If such conveyance is made, this additional property will become Common Elements belonging to the Association.

Section 4. Books and Records. The books, records and papers of the Association shall, at all times, during reasonable business hours, be subject to inspection by any Member or his designated agent. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at a reasonable cost.

Section 5. TV Antennas, Cablevision. The Association may regulate or prohibit the erection of television, satellite dishes, radio or other antennas on individual Lots.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Every record Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any lot, all such persons shall be Members; however, the vote for such Lot shall be exercised as they among themselves determine, or as set forth in the By-Laws, but in no event shall more than one vote be cast with respect to any Lot, neither fractional nor cumulative voting is allowed.

Class B. The Class B Member shall be the Declarant and shall be entitled to six (6) votes for each Lot owned. The Class B membership shall cease and be converted to Class A

membership with one vote for each Lot owned on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership; but provided, that the Class B membership shall be reinstated if thereafter, and before the time stated in Sub-paragraph (b) below, such additional lands are annexed to the Property without the assent of Class A Members on account of the development of such additional lands by the Declarant, all as provided for in Article VI below, or

(b) Fifteen (15) years from the date of conveyance of the first Lot by Declarant

Section 3. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and the Articles and By-Laws of the Association and according to the provisions of Article II, Section 1(b) herein.

**ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges which pay for Common Expenses, and (2) special Assessments or charges for the purposes set forth in this Article, such Assessments to be fixed, established and collected as herein provided. The annual and special Assessments, together with such interest thereon and costs of collection thereof, including reasonable attorneys' fees shall be a charge and continuing lien on the Lot and improvements thereon against which each such Assessment is made from time of filing such lien in the Clerk of Superior Court of Franklin County. Each such Assessment, together with interest and costs, including reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such Lot at the time when the Assessment became due.

Notwithstanding any provision herein to the contrary, the dues assessment for each Lot which is not a Living Unit shall be \$7.50 per month which shall be accrued and paid at the closing of the sale of the Living Unit to a third party buyer.

The Association shall also have the authority, through the Board of Directors, to establish, fix and levy a special assessment on any Lot or Living Unit to secure the liability of the Owner thereof to the Association arising from breach by such Owner of any of the provisions of this Declaration which breach shall require the expenditure of time and money, or both, by the Association for repair or remedy.

Each Owner covenants for himself, his heirs, successors and assigns, to pay each assessment levied by the Association on the Lot described in such conveyance to him within ten (10) days of the due date as established by the Board, and further covenants that if said

assessment shall not be paid within thirty (30) days of the due date, the amount of such assessment shall be in default and become a lien upon said Owner's Lot as provided herein and shall continue to be such lien until fully paid.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the payment of Common Expenses to promote the recreation, health, safety, and welfare of the residents of the Property. Such purposes include without limitation the acquisition, improvement, enhancement, enlargement, operation, and maintenance of property, and the use and enjoyment of the Common Elements, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Elements, the procurement and maintenance of insurance in accordance with the By-Laws or as deemed appropriate by the Board, the employment of counsel, accountants and other professionals for the Association when necessary, and such other needs as may arise.

Section 3. Amount of Assessment.

(a) **Initial Maximum Assessment.** Up to and including December 31, 2016, the maximum annual assessment shall not exceed three hundred and sixty dollars (\$360.00) per Living Unit. At the time of the pool amenity opening in 2017, the dues may be increased to an annual amount not to exceed four hundred and eighty dollars (\$480.00) per Living Unit

(b) **Increase by Association.** From and after January 1, 2017, the annual assessment effective for any subsequent year may be increased by the Board of Directors, without a vote of the membership, by a percentage which may not exceed ten percent (10%) above the maximum assessment for the previous year.

(c) **Increase by Members.** From and after January 1, 2017 the annual assessment may be increased by a percentage greater than permitted by this Article by an affirmative vote of fifty-one percent (51%) of each class of Members who are voting in person or by proxy, at a meeting duly called for such purpose. The limitations set forth herein shall not apply to any increase in assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation

(d) **Criteria for Establishing Annual Assessment.** In establishing the annual assessment for any assessment year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs, but it may not fix the annual assessment in an amount in excess of that permitted in Subsection (b) of this Section 3 above without the consent of members required by Subsection (c) of this Section 3.

(e) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Assessments may be billed annually, quarterly, monthly, or on such other basis as may be determined by the Board of Directors. The Board of Directors may authorize a Billing Agent to collect the Assessments provided for herein.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, in any assessment year, the Association may levy a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, restoration, repair or replacement of a capital improvement upon the Common Elements or any extraordinary maintenance, or any other purpose deemed appropriate by the Association including fixtures and personal property related thereto and any property for which the Association is responsible, provided that a meeting is duly called for this purpose and fifty-one percent (51%) of the votes of each class of members who are voting in person or by proxy at the meeting assent to such assessment..

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 (c) and 4. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of Member shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots with a Living Unit thereon, and may, at the discretion of the Board of Directors, be collected as set out in Article IV, Section 3 (e). Provided, however, that the assessment for Lots which are not Living Units and have never been occupied as a residence shall be as specified in Section 1 of this Article.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Elements to the Association and, as to all Living Units, on the first month following the date a Lot became a Living Unit. Similarly, all Lots in subsequently annexed properties, shall be subject to assessment commencing on the first day of the month following conveyance of the Common Elements therein to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. At such time as the assessment includes maintenance of amenities set out in Article IV, Section 3(a) above, the Board of Directors may provide that such payment may be made monthly. The Association shall, upon demand and for a reasonable charge if it deems appropriate, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the

Association as to the status of assessments on a Lot is binding upon the Association as of the date of issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be delinquent, in default and shall bear interest from the due date at the highest rate then permitted by North Carolina law not to exceed twelve percent (12%) per annum. The Association may bring an action at law against the Owner, his heirs, devisees, personal representatives and assigns obligated to pay the same plus interest, costs, late payment charges and reasonable attorneys' fees, or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Elements or abandonment of his Lot. If the Assessment is not paid within thirty (30) days after the past due date, the Association may bring an action at law against the Owner personally and there shall be added to the amount of such Assessment, the costs associated with such action reasonable attorneys fees, and in the event a judgment is obtained, such judgment shall include interest on the Assessment as provided above. The lien of the Assessment shall run from the date of the Assessment. Additionally, the Board may charge such late fees as it deems appropriate.

Section 9. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any institutional first mortgage and ad valorem taxes on said Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to such mortgage or tax foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. Any portion of the property dedicated to and accepted by a local public authority and any portion of the property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina, shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments. Additionally, property which is used for the maintenance, operation, and service of utilities within the Property is exempt from the assessments created herein.

Section 11. Payment of Common Expenses. All Owners shall be obligated to pay the Assessments levied by the Association.

No Owner shall be liable for the payment of any part of any assessment levied against his Lot subsequent to the consummated sale, transfer or other conveyance by him (made in accordance with the provisions of the Declaration and applicable restrictions of record) of such Lot. The personal obligation for any delinquent assessments shall not pass to successors in title unless expressly assumed by them. A first-lien mortgagee or other purchaser of a Lot at a foreclosure sale of such Lot shall not be liable for, and such Lot shall not be subject to, a lien for the payment of assessments levied prior to such foreclosure sale, and such unpaid assessments shall be deemed to be assessments collectible from all of the Lot Owners, including such purchaser, his successors and assigns.

Section 12. Foreclosure of Liens for Unpaid Assessments. In any action brought by the Board to foreclose a Lot because of unpaid assessments, the Lot owner shall be required to pay a reasonable rental for the use of his Lot and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board, acting on behalf of all Lot Owners, or on behalf of any one or more individual Lot Owners, if so instructed, shall have the power to purchase such Lot at a foreclosure sale to acquire, hold, lease, mortgage, convey, or otherwise deal with the same; subject, however, to applicable restrictions of record. An action to recover money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same.

Section 13. Annual Budget. The Board of Directors shall prepare and make available to all Members, at least sixty (60) days prior to the first day of the following fiscal year, a budget outlining anticipated receipts and expenses for the following year. The financial records of the Association shall be available for inspection by all Members during regular business hours.

Section 14. Reserve Funds. The Association shall set aside funds from its Annual Assessments to be held in reserve in an interest bearing account or investments for:

- a) major rehabilitation or major repairs; emergency or other repairs as required as the result of storm, fire, natural disaster or other casualty loss, and
- b) initial cost of any new service to be performed by the Association.

Section 15. Working Capital Fund. At the time of closing of the sale of each living unit a sum equal to at least two (2) months Assessment shall be collected from the purchaser and transferred to the Association as a contribution to the reserve funds described in Section 14 of this Article. The purpose of said fund is to ensure that the Association will have adequate cash available to meet unforeseen expenses and to acquire additional equipment deemed necessary or desirable. Amounts paid into the fund shall not be considered advanced payment of regular Assessments.

**ARTICLE V
FUNCTIONS AND SERVICES OF THE ASSOCIATION**

Section 1. Minimum List of Functions and Services. The Minimum List of Functions and Services shall establish and define the minimum level of functions and services which the Association must furnish to its Members. The Minimum List of Functions and Services is as follows:

- (a) The Association shall provide or procure the Administrative services necessary to carry out the Association's obligations and business under the terms of the Association Documents including, but not limited to, legal, accounting, financial and communication services.

(b) The Association shall administer and enforce the covenants and restrictions established in this Declaration, including, but not limited to, the following:

- 1) the Association shall set, levy, give notice of and collect Assessments;
- 2) the Association shall prepare accurate indexes of Members, Votes, Assessments, and the Maximum Regular Annual Assessment;
- 3) the Association shall operate an Architectural Committee if turned over to it by Declarant;
- 4) the Association shall maintain and operate all Common Elements;
- 5) the Association shall hold Annual Meetings, Special Meetings and as required, elections for the Board of Directors as set forth in the Association Documents and give Members proper notice of such meetings.
- 6) The Association shall prepare Annual Statements and Annual Budgets and shall make the financial records of the Association available for inspection by the Members during regular business hours.

(c) Should the Declarant appoint the Association its agent for the administration or enforcement of any of the provisions of the covenants conditions and restrictions of record the Association shall assume such responsibility and any obligations which are incident thereto.

(d) Should the Declarant assign to the Association any of the rights reserved unto it in the covenants, conditions and restrictions of record, the Association shall assume the responsibility of administering and enforcing said rights and shall assume any obligations which are incident thereto.

(e) The Association shall provide appropriate liability and hazard insurance coverage as provided herein for improvements and activities on all Common Properties.

(f) The Association shall provide appropriate Directors and Officers Errors and Omissions Insurance and indemnify persons pursuant to the provisions of the Articles of Incorporation of the Association.

(g) The Association shall keep a complete record of all its acts and corporate affairs.

(h) The Association shall provide regular and thorough maintenance and clean-up of all Common Elements, including, but not limited to, mowing of grass, fertilization landscape maintenance, pickup and disposal of trash, washing down of picnic tables and benches, painting, repairs to and replacement of all improvements, all on a as needed basis.

(i) Insurance coverage on the Common Elements shall be governed by the following provisions:

- 1) Ownership of Policies. All insurance upon the Common Elements shall be purchased by the Association for the benefit of all the Association and the Owners, as their security interests may appear and provisions shall be

made for the issuance of certificates of mortgage endorsements to the mortgagees of Owners.

- 2) Coverage. All buildings and improvements upon the Common Elements and all personal property included in the Common Elements shall be insured in an amount equal to one hundred percent (100%) insurable replacement value as determined by the Association with the assistance of the insurance company providing coverage. Such coverage shall provide protection against: (i) loss or damage by fire or other hazards covered by standard extended coverage endorsement, and (ii) such other risks as from time to time shall be customarily covered with respect to buildings on the land. Such policies shall contain clauses providing for waiver of subrogation.
 - 3) Liability. Public liability insurance shall be secured by the Association with the limits of liability of no less than one million dollars (\$1,000,000.00) per occurrence and shall include an endorsement to cover liability of the Owners as a group to a single Owner. The Association shall also obtain such other insurance coverage as it determines from time to time to be desirable and necessary.
 - 4) Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association as a common expense.
 - 5) Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the Owners, and their mortgagees as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustees under this Declaration. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated herein or stated in the By-Laws and for the benefit of the Owners and their mortgagees, in proportion to their respective ownership interests.
 - 6) Proceeds of all insurance claims received by the Association as insurance trustee, shall be placed in the Association's treasury for the following: (i) Expense of the Trust. All expenses of the insurance trustees shall be paid first or provisions made therefore. (ii) Reconstruction or Repair. The remaining proceeds shall be paid to defray the cost of repairs. The Association shall retain any proceeds remaining after defraying such costs.
 - 7) All persons responsible for or authorized to expend funds or otherwise deal in the assets of the Association or those held in trust, shall first be bonded by a fidelity insurer to indemnify the Association for any losses or default in the performance of their duties in an amount equal to six (6) months assessments plus reserves accumulated.
- (j) The Association shall pay any and all taxes or public assessment on the Common Properties.

Section 2. Obligations of the Association. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association, taking into consideration the funds available to the Association and the needs

of its members. The Functions and Services which the Association is authorized to carry out or provide may be added to or reduced at any time upon the affirmative vote of fifty-one percent (51%) of the votes cast by the Members at a duly called meeting of the Association.

Section 3. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority to mortgage property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loan shall be used by the Association in performing its authorized functions and services; provided that any such mortgage is with the prior consent of fifty-one percent (51%) of the Members of the Association, which consent may be evidenced by petition or by an affirmative vote of fifty-one percent (51%) of the Association. The Declarant may, but shall not be required to, make loans to the Association, subject to approval by the Declarant of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not reduce the level of the Annual Assessment below the limit of the Maximum Regular Annual Assessment at any time during which there are outstanding amounts due the Declarant as repayment of any loans made by the Declarant to the Association without the express written consent of the Declarant.

Section 4. Maintenance of Property Not Owned by the Association. The Association shall be authorized to render services of a governmental nature not furnished by the local government in the case of maintenance of property not owned by it.

ARTICLE VI ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation by Members. Annexation of additional property, shall require the assent of two-thirds (2/3) of the Class A membership, if any, present in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purposes of the meeting, provided the additional land contains at least five (5) acres, is not in conflict with any of the Association Documents and has received approval from Franklin County as to the number of lots to be developed, except as provided in Section 2 and Section 3 of this Article VI, The presence of Members or of proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth above and the required quorum shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event two-thirds (2/3) of the Class A membership are not present in person or by proxy, Members not present may give their written assent to the action taken thereat.

Section 2. Annexation by Declarant. If within twenty (20) years of the date of conveyance by Declarant of the first Lot, the Declarant should develop additional land within the boundaries of that property described on Exhibit B attached hereto, such land may be annexed by the Declarant without the consent of Members; and, in doing so, Declarant may file and record