

THIS INSTRUMENT PREPARED
BY AND SHOULD BE RETURNED
TO:

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ABOVE SPACE FOR RECORDER'S USE ONLY

DRAFT
DECLARATION FOR WHEATLAND CROSSING

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DECLARATION FOR WHEATLAND CROSSING

This Declaration is made by **FORESTAR (USA) REAL ESTATE GROUP INC.**, a Delaware corporation ("Declarant").

R E C I T A L S

The Development Area is legally described in Exhibit A hereto. Some or all of the Development Area shall be the subject of a phased development called Wheatland Crossing (the "Development"). The Development shall include Dwelling Units, Community Area and Attached Home Common Area.

Initially, the Declarant shall subject the real estate which is legally described in Exhibit B hereto to the provisions of this Declaration as the Premises. From time to time the Declarant may subject additional portions of the Development Area to the provisions of this Declaration as Added Premises, as more fully described in Article Twelve. Nothing in this Declaration shall be construed to require the Declarant to subject additional portions of the Development Area to the provisions of this Declaration. Those portions of the Development Area which are not made subject to the provisions of this Declaration as Premises may be used for any purposes not prohibited by law.

In order to provide for the orderly and proper maintenance of the Premises, the Declarant has formed (or will form) the Association under the Illinois Limited Liability Company Act, and the Association shall adopt budgets and fix assessments to pay the expenses incurred in connection with such duties. Each Owner of a Dwelling Unit shall be a member of the Association and shall be responsible for paying assessments with respect to the type of Dwelling Unit owned by such Owner.

During the construction and marketing of the Development, the Declarant shall retain certain rights set forth in this Declaration, which rights shall include, without limitation, the right, prior to the Turnover Date, to manage the affairs of the Association or to designate the Managers of the Association, as more fully described in Article Nine and in the Operating Agreement, and the right to come upon the Premises in connection with Declarant's efforts to sell Dwelling Units and other rights reserved in Article Nine.

NOW, THEREFORE, the Declarant hereby declares as follows:

ARTICLE ONE Definitions

For brevity and clarity, certain words and terms used in this Declaration are defined as follows:

1.01 ASSOCIATION: The Wheatland Crossing Homeowners Association, an Illinois limited liability company, its successors and assigns.

1.02 ATTACHED HOME: A residential unit which is constructed on an Attached Home Lot.

1.03 ATTACHED HOME COMMITTEE: A committee which shall have certain responsibilities and powers with respect to the Attached Homes hereunder and which shall be constituted as provided in Article Five.

1.04 ATTACHED HOME COMMON AREA: Those portions of the Premises which are legally described and designated in Part IV of Exhibit B hereto, as Exhibit B may be amended from time to time, as Attached Home Common Area and all improvements thereto and landscaping thereon. The Attached Home Common Area will generally consist of and include the driveways, walkways and green areas which serve the Attached Homes.

1.05 ATTACHED HOME EXPENSES. The expenses of the maintenance, repair and replacement of the Attached Home Exteriors and Attached Home Common Area; the premiums for fire and extended coverage insurance for the Attached Homes, as provided for in Article Four; any expense which is designated as an Attached Home Expense in this Declaration; and any expense incurred by the Association which, pursuant to generally accepted accounting principles, are reasonably allocable to the maintenance, repair or replacement of Attached Home Exteriors and Attached Home Common Areas. Attached Home Expenses shall not be Community Expenses. In the event that certain expenses are incurred by the Association in connection with the Community Area, Attached Home Exteriors and/or Attached Home Common Area, the allocation of such expenses between Community Expenses and Attached Home Expenses shall be made by the Managers based on generally accepted accounting principles, and any such allocation shall be final and binding.

1.06 ATTACHED HOME EXTERIOR: The roof, slab, foundation, steps, footings, gutters, and outer surface of exterior walls and doors of an Attached Home, together with any utility lines located therein.

1.07 ATTACHED HOME LOT: A subdivided lot which is designated in Part II of Exhibit B hereto, as Exhibit B may be amended from time to time, as a Attached Home Lot.

1.08 BACKUP SPECIAL SERVICE AREA: A special service area which may be established by the Municipality to serve as a what is commonly referred to as a "Backup Special Service Area", as more fully provided in Section 7.10.

1.09 CHARGES: The Attached Home Assessment, the Community Assessment, any special assessment levied by the Association and/or any other charges or payments which an Owner is required to pay or for which an Owner is liable under this Declaration or the By-Laws.

1.10 COMMUNITY AREA: Those portions of the Premises which are designated in Part III of Exhibit B, as Exhibit B may be amended from time to time, as Community Area. The Community Area will generally consist of and include greenspace, wetlands, detention or retention basins, entry monuments, park sites and related landscaping and other facilities and

improvements which serve the Premises.

1.11 COMMUNITY ASSESSMENT: The amounts which the Association shall assess and collect from the Owners to pay the Community Expenses and accumulate reserves for such expenses, as more fully described in Article Six.

1.12 COMMUNITY EXPENSES: The Community Expenses shall include: (i) the expenses of administration (including management and professional services), operation, maintenance, repair, replacement and landscaping on the Community Area; (ii) the expense of maintenance, repair and replacement of improvements located on the Community Area, including, but not limited to, monument signs; (iii) the expense of maintenance, repair and replacement of personal property acquired and used by the Association in connection with the maintenance of the Community Area; (iv) the cost of insurance for the Community Area; and (v) any expenses designated as Community Expenses by this Declaration.

1.13 COMPANY: As defined in the Recitals.

1.14 COUNTY: Kendall County, Illinois, and Kane County, Illinois, as the case may be or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in a County as of the Recording of this Declaration.

1.15 DECLARANT: Forestar (USA) Real Estate Group Inc., a Delaware corporation, its successors and assigns.

1.16 DECLARATION: This instrument with all Exhibits hereto, as amended or supplemented from time to time.

1.17 DESIGNATED BUILDER: Any legal entity which is designated, from time to time, by the Declarant as a Designated Builder in a Special Amendment or Supplemental Declaration, as more fully provided herein.

1.18 DETACHED HOME: A single family residential home which is constructed on a Detached Home Lot.

1.19 DETACHED HOME COMMITTEE: A committee which shall have certain responsibilities and powers with respect to the Detached Homes hereunder and which shall be constituted as provided in Article Five.

1.20 DETACHED HOME LOT: A subdivided lot which is designated in Part II of Exhibit B hereto, as Exhibit B may be amended from time to time, as a Detached Home Lot.

1.21 DEVELOPMENT AREA: The real estate described in Exhibit A hereto with all improvements thereon and rights appurtenant thereto. Exhibit A is attached hereto for informational purposes only and no covenants, conditions, restrictions, easements, liens or changes shall attach to any part of the real estate described therein, except to the extent that portions thereof are described in Exhibit B and expressly made subject to the provisions of this

Declaration as part of the Premises. Any portions of the Development Area which are not made subject to the provisions of this Declaration as part of the Premises may be developed and used for any purposes not prohibited by law, including, without limitation, as a residential development which is administered separate from the Development.

1.22 DWELLING UNIT: A Lot which is improved with a single family residential unit for which a temporary, conditional or final certificate of occupancy has been issued by the Municipality. A Dwelling Unit may be a Detached Home Lot which is improved with one (1) Detached Home (“Detached Home Dwelling Unit”) or an Attached Home Lot which is improved with one (1) Attached Home (“Attached Home Dwelling Unit”).

1.23 FIRST MORTGAGEE: The holder of a bona fide first mortgage, first trust deed or equivalent security interest covering a Dwelling Unit.

1.24 HOME: That portion of a Dwelling Unit which is improved with a residential unit which is either a Detached Home or an Attached Home.

1.25 LOT: A Detached Home Lot or an Attached Home Lot.

1.26 MANAGERS: The Declarant, as the sole Manager, or the Managers from time to time as appointed or elected as provided in this Declaration or the Operating Agreement.

1.27 MUNICIPALITY: The City of Aurora, Illinois or its successors, or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the Municipality as of the Recording of this Declaration.

1.28 OPERATING AGREEMENT: The Operating Agreement of the Association, a copy of which is attached hereto as Exhibit C.

1.29 OWNER: A Record owner, whether one or more persons, of fee simple title to a Dwelling Unit, including a contract seller, but excluding those having such interest merely as security for the performance of an obligation. The Declarant shall be deemed to be an Owner with respect to each Lot owned by the Declarant.

1.30 PERSON: A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.31 PREMISES: Those portions of the Development Area which are legally described in Exhibit B hereto, with all improvements thereon and rights appurtenant thereto. Declarant shall have the right, but not the obligation, to make additional portions of the Development Area subject to this Declaration as part of the Premises as more fully provided in Article Twelve.

1.32 PRIVATE WATER AND SEWER SERVICE EXTENSIONS: The water service lines which are located on the Premises and which connect each Attached Home with the dedicated water main which serves the Premises and the sewer lines which are located on the Premises and connect each Attached Home with the dedicated sewer main which serves the

Premises.

1.33 RECORD: To record in the office of the Recorder of Deeds for the County.

1.34 RESIDENT: An individual who legally resides in a Dwelling Unit.

1.35 TURNOVER DATE: The date on which the rights of the Declarant to manage the affairs of the Association and to designate the Managers of the Association and members of the Detached Home Committee and Attached Home Committee are terminated under Section 9.05.

1.36 VOTING MEMBER: The individual who shall be entitled to vote in person or by proxy at meetings of the Owners, as more fully set forth in Article Five.

ARTICLE TWO

Scope of Declaration/Certain Easements

2.01 PROPERTY SUBJECT TO DECLARATION: Declarant, as the owner of fee simple title to the Premises, expressly intends to and by Recording this Declaration, does hereby subject the Premises to the provisions of this Declaration. Declarant shall have the right from time to time to subject additional portions of the Development Area to the provisions of this Declaration as Added Premises, as provided in Article Twelve hereof. Nothing in this Declaration shall be construed to obligate the Declarant to subject to this Declaration as Premises any portion of the Development Area other than those portions which are described in Exhibit B hereto or which are added to Exhibit B by Supplemental Declarations (as defined in Section 12.01) Recorded by Declarant pursuant to Article Twelve.

2.02 CONVEYANCES SUBJECT TO DECLARATION: All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the land and shall at all times inure to the benefit of and be binding on any Person having at any time any interest or estate in the Premises, and their respective heirs, successors, personal representatives or assigns, regardless of whether the deed or other instrument which creates or conveys the interest makes reference to this Declaration.

2.03 DURATION: Except as otherwise specifically provided herein the covenants, conditions, restrictions, easements, reservations, liens, and charges, which are granted, created, reserved or declared by this Declaration shall be appurtenant to and shall run with and bind the land for a period of forty (40) years from the date of Recording of this Declaration and for successive periods of ten (10) years each unless revoked, changed or amended as provided in Section 10.02.

2.04 DWELLING UNIT CONVEYANCE: Once a Dwelling Unit has been conveyed by the Declarant to a bona fide purchaser for value, then any subsequent conveyance or transfer of ownership of the Dwelling Unit shall be of the entire Dwelling Unit and there shall be no conveyance or transfer of a portion of the Dwelling Unit without the prior written consent of the Managers.

2.05 ACCESS EASEMENT: Each Owner shall have a non-exclusive perpetual easement for ingress to and egress from the Owner's Lot to a public way, over and across the private roads, driveways and walkways located on the Community Area, if applicable, which easement shall run with the land, be appurtenant to and pass with title to every Lot. In addition, each Owner of an Attached Home Lot shall have a non-exclusive perpetual easement for ingress to and egress from his Attached Home Lot to public streets and roads over and across the private roads, driveways and walkways located on the Attached Home Common Area, which easement shall run with the land, be appurtenant to and pass with title to every Attached Home Lot. The Municipality or any other governmental authority which has jurisdiction over the Premises shall have a non-exclusive easement of access over and across the private roads and driveways located on the Community Area and/or the Attached Home Common Area for police, fire, ambulance, waste removal or for the purpose of furnishing municipal or emergency services to the Premises. The Association, its employees and agents, shall have the right of ingress to, egress from, and parking on the Community Area and Attached Home Common Area, and the right to store equipment on the Community Area and Attached Home Common Area, for the purpose of furnishing any maintenance, repairs or replacements of the Premises, as required or permitted hereunder.

2.06 RIGHT OF ENJOYMENT: Each Owner shall have the non-exclusive right and easement to use and enjoy the Community Area and each Owner of an Attached Home Lot shall have the non-exclusive right and easement to use and enjoy the Attached Home Common Area. Such rights and easements shall run with the land, be appurtenant to and pass with title to every Lot, and shall be subject to and governed by the laws, ordinances and statutes of jurisdiction, the provisions of this Declaration, the Operating Agreement, and the reasonable rules and regulations from time to time adopted by the Association.

2.07 DELEGATION OF USE: Subject to the provisions of this Declaration, the Operating Agreement, and the reasonable rules and regulations from time to time adopted by the Association, any Owner may delegate his right to use and enjoy the Community Area and, if the Owner's Dwelling Unit is an Attached Home, the Attached Home Common Area, to Residents of the Owner's Dwelling Unit. An Owner shall delegate such rights to tenants and contract purchasers of the Owner's Dwelling Unit who are Residents.

2.08 UTILITY EASEMENTS: The Municipality and all public and private utilities (including cable companies) serving the Premises are hereby granted the right to lay, construct, renew, operate, and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, into and through the Community Area and Attached Home Common Area for the purpose of providing utility services to the Premises. In addition, each Owner of an Attached Home Lot shall have a perpetual easement for the continued existence and use of water, sewer, electric, gas or other utility lines and/or components of the air conditioning system which were originally installed by the Declarant or a utility company and which serve the Owner's Attached Home, which utility lines or wiring may be located in the Attached Home Common Area or on any other portion of the Premises, including, without limitation, under or through another Attached Home Lot. Any damage resulting from the exercise of any of the easements declared under this Section 2.08 shall be repaired by the party causing such damage.

2.09 EASEMENTS, LEASES, LICENSES AND CONCESSIONS: The Association shall have the right and authority from time to time to lease or grant easements, licenses, or concessions with regard to any portions or all of the Community Area and Attached Home Common Area for such uses and purposes as the Managers deems to be in the best interests of the Owners and which are not prohibited hereunder, including, without limitation, the right to grant easements for utilities or any other purpose which the Managers deems to be in the best interests of the Owners. Any proceeds from leases, easements, licenses or concessions with respect to the Community Area or the Attached Home Common Area, as the case may be, shall be used to pay the Community Expenses and the Attached Home Expenses, as applicable. Each person, by acceptance of a deed, mortgage, trust deed, other evidence of obligation, or other instrument relating to a Lot, shall be deemed to grant a power coupled with an interest to the Managers, as attorney-in-fact, to grant, cancel, alter or otherwise change the easements provided for in this Section. Any instrument executed pursuant to the power granted herein shall be executed by the President and attested to by the Secretary of the Association and duly Recorded.

2.10 ASSOCIATION'S ACCESS: The Association shall have the right and power to come onto any portion of the Premises for the purpose of furnishing the services required to be furnished hereunder or enforcing its rights and powers hereunder.

2.11 NO DEDICATION TO PUBLIC USE: Except for easements granted or dedications made as permitted in Section 2.08 and 2.09, nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Community Area or the Attached Home Common Area to or for any public use or purpose whatsoever.

2.12 EASEMENT FOR ENCROACHMENT: In the event that by reason of the construction, repair, reconstruction, settlement or shifting of an improvement to a Dwelling Unit, any improvement which is intended to service and/or be part of the Dwelling Unit shall encroach upon any part of any other Dwelling Unit or upon the Community Area, Attached Home Common Area or any improvement to the Community Area or Attached Home Common Area shall encroach upon any part of a Dwelling Unit, then there shall be deemed to be an easement in favor of and appurtenant to such encroaching improvement for the continuance, maintenance, repair and replacement thereof; provided, however, that in no event shall an easement for any encroachment be created in favor of any Owner (other than Declarant), if such encroachment occurred due to the intentional, willful, or negligent conduct of such Owner or his agent. Without limiting the foregoing, the Owner of each Dwelling Unit shall have an easement appurtenant to his Dwelling Unit for the continuance, maintenance, repair and replacement of the following improvements, if any, which encroach onto another Dwelling Unit, Attached Home Common Area or the Community Area:

(a) the eaves, gutters, downspouts, fascia, flashings, and like appendages which serve the Home on the Dwelling Unit;

(b) the chimney which serves the Home on the Dwelling Unit;

- (c) the air conditioning equipment which serves the Home on the Dwelling Unit;
- or
- (d) balconies, steps, porches, and door entries which serve the Home on the Dwelling Unit.

The Person who is responsible for the maintenance of any encroaching improvement for which an easement for continuance, maintenance, repair and replacement thereof is granted under this Section shall continue to be responsible for the maintenance of such encroaching improvement and the Person who is responsible for the maintenance of the real estate upon which such improvement encroaches shall not have the duty to maintain, repair or replace any such encroaching improvement unless otherwise provided in this Declaration.

2.13 OWNERSHIP OF COMMUNITY AREA AND ATTACHED HOME COMMON AREA: The Community Area and Attached Home Common Area shall be conveyed to the Association free of mortgages no later than the Turnover Date; however any Community Area and Attached Home Common Area which is made subject to this Declaration after the Turnover Date shall be conveyed to the Association free of mortgages no later than ninety (90) days after such Community Area or Attached Home Common Area is made subject to this Declaration.

2.14 REAL ESTATE TAXES FOR COMMUNITY AREA AND ATTACHED HOME COMMON AREA: If a tax bill is issued with respect to Community Area and/or Attached Home Common Area (which is not part of a Dwelling Unit) which is made subject to this Declaration in the middle of a tax year (regardless of when it is conveyed to the Association), then the tax bill shall be prorated so that the Declarant shall be responsible for the payment of that portion of the tax bill from January 1st of the tax year to the date that such Community Area or Attached Home Common Area is made subject to this Declaration, and the Association shall be responsible for the balance of the tax bill for such year, and for any subsequent years.

ARTICLE THREE Maintenance/Services/Alterations

3.01 IN GENERAL: The restrictions and limitations contained in this Article shall be subject to the rights of the Declarant set forth in Article Nine.

3.02 MAINTENANCE BY ASSOCIATION:

(a) The following maintenance, repairs and replacements shall be furnished by the Association as a Community Expense:

- (1) Grass cutting and added planting, replanting, care and maintenance of trees, shrubs, flowers, grass and all other landscaping on the Community Area; however, the watering of landscaping on the Community Area, may be required to be furnished by the Owners and/or Residents pursuant to rules, regulations and procedures adopted from time to time by the Managers;

(2) Maintenance, repair and replacement of all recreational facilities, monument signs and other improvements located on the Community Area;

(3) Maintenance (including snow removal), repair and replacement of any private roads, driveways, parking lots and walkways located on the Community Area; and

(4) Maintenance, repair and replacement of cluster mailboxes located within or adjacent to dedicated rights of way in accordance with the design, material and color as originally constructed by Declarant.

(b) The following maintenance, repairs and replacements shall be furnished by the Association as an Attached Home Expense:

(1) Grass cutting and added planting, replanting, care and maintenance of trees, shrubs, flowers, grass and all other landscaping on the Attached Home Common Area; however, the watering of landscaping on the Attached Home Common Area may be required to be furnished by the Owners and/or Residents of Attached Home Dwelling Units pursuant to rules, regulations and procedures adopted from time to time by the Managers;

(2) Maintenance (including snow removal), repair and replacement of all private service drives, driveways and walkways on the Attached Home Common Area;

(3) Maintenance, repair and replacement of improvements located on the Attached Home Common Area;

(4) To the extent not maintained by a utility company, maintenance, repair and replacement of the water sewer, electric, gas and other utility lines, including, without limitation, Private Water and Sewer Service Extensions, and components of air conditioning systems, if any, which (a) are located on the Premises, including, without limitation, those located in the Attached Home Common Area and those which run under or through Attached Homes and (b) serve more than one Attached Home; and

(5) Subject to 3.03(b), all maintenance (including periodic painting), repairs and replacement to the Attached Home Exteriors.

Repairs and replacements to an Attached Home which are required due to occurrences which are normally covered by insurance required to be obtained by the Association under Section 4.04 shall be made as provided in Section 4.04.

3.03 MAINTENANCE BY OWNER:

(a) Each Owner of a Detached Home Dwelling Unit shall be responsible for the maintenance, repair and replacement of the Owner's Detached Home Dwelling Unit.

(b) Maintenance (other than periodic painting), repairs, and replacements of windows,

doors (including storm and garage doors) and screening on a Attached Home shall be the responsibility of the Owner of the Attached Home Dwelling Unit; however, at the option of the Managers (in consultation with the Attached Home Committee), such work may be furnished by the Association and the cost thereof charged to the Owner of the Attached Home Dwelling Unit based on actual cost, as determined by the Managers in its reasonable judgment.

(c) Each Owner of a Detached Home Dwelling Unit shall cause the Detached Home to be maintained so that the appearance of the Detached Home is substantially similar to its appearance when first constructed or as modified as permitted pursuant to Section 3.07, ordinary unavoidable wear and tear excepted.

(d) To the extent not maintained by a utility company, maintenance, repair and replacement of water, sewer, electric, gas and other utility lines, and components of the air conditioning system which serve only the Owner's Attached Home and are located on any portion of the Premises, including, without limitation, on the Attached Home Common Area, under the Owner's Attached Home or other Attached Homes, shall be the responsibility of the Owner of the Attached Home served by such utility lines or air conditioning system.

(e) If, in the judgment of the Managers, an Owner fails to maintain those portions of the Owner's Dwelling Unit which the Owner is responsible for maintaining hereunder in good condition and repair or the appearance of such portions is not of the quality of that of other Dwelling Units in the Development or in compliance with rules and regulations adopted by the Managers from time to time, then the Managers may, in its discretion, take the following action:

(i) advise the Owner of the work which must be done and allow the Owner at least twenty (20) days (or less in the case of an emergency) to cause the work to be done; and

(ii) if the work is not done to the satisfaction of the Managers, in its sole judgment, then the Managers may seek injunctive relief, levy a fine and/or cause such work to be done and the cost thereof shall be a Charge payable by the Owner to the Association upon demand.

3.04 CERTAIN UTILITY COSTS: Certain utility costs incurred in connection with the use, operation and maintenance of the Premises may not be separately metered and billed to the Association. If the cost for any such utility is metered and charged to individual Dwelling Units rather than being separately metered and charged to the Association, then the following shall apply:

(a) If in the opinion of the Managers, each Owner is sharing in a fair and equitable manner the cost for such service, then no adjustment shall be made and each Owner shall pay his own bill; or

(b) If in the opinion of the Managers, the Owner is being charged disproportionately for costs allocable to the Community Area, Attached Home Common Area or Attached Home Exteriors, then the Association shall pay, or reimburse such

Owner, an amount equal to the portion of the costs which in the reasonable determination of the Managers is properly allocable to the Community Area, Attached Home Common Area and Attached Home Exteriors and the amount thereof shall be Community Expenses or Attached Home Expenses hereunder.

Any determinations or allocations made hereunder by the Managers shall be final and binding on all parties.

3.05 DAMAGE BY RESIDENT: If, due to the act or omission of a Resident of a Dwelling Unit, or of a household pet or guest or other authorized occupant or invitee of an Owner, damage shall be caused to the Premises and maintenance, repairs or replacements shall be required thereby, which would otherwise be a Community Expense or an Attached Home Expense, then the Owner of the Dwelling Unit shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Managers, to the extent not covered by insurance carried by the Association.

3.06 ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO THE COMMUNITY AREA: Subject to the provisions of Article Nine, no alterations, additions or improvements shall be made to the Community Area without the prior written consent of the Managers, and, until the Declarant no longer owns or controls title to any portion of the Development Area, the prior written consent of the Declarant, and, if required under applicable Municipality ordinances, the approval of the Municipality. The Association may cause alterations, additions or improvements to be made to the Community Area, and the cost thereof shall be paid from a special assessment, as more fully described in Section 6.05; except, that, any such alteration, addition or improvement which shall cost more than six (6) months assessments then in effect under the then current budget shall be approved in advance at a meeting of the Owners.

3.07 ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO DETACHED HOME DWELLING UNITS: No additions, alterations or improvements (including, without limitation, changes in the exterior color) shall be made to the exterior of any Detached Home Dwelling Unit by an Owner without the prior written consent of the Managers and the Detached Home Committee and compliance with applicable ordinances of the Municipality. In no instance, however, may attached garages be converted to habitable space, [nor shall detached garages be permitted.] If an addition, alteration or improvement which requires Managers and Detached Home Committee consent hereunder is made to a Detached Home Dwelling Unit by an Owner without the prior written consent of the Managers and the Detached Home Committee, then the Managers and/or the Detached Home Committee may, in its discretion, take any of the following actions:

(a) Require the Owner to remove the addition, alteration or improvement and restore the Detached Home Dwelling Unit to its original condition, all at the Owner's expense; or

(b) If the Owner refuses or fails to properly perform the work required under (a), the Managers or the Detached Home Committee may cause such work to be done and may charge the Owner for the cost thereof as determined by the Managers or the

Detached Home Committee, as the case may be.

3.08 ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO ATTACHED HOME EXTERIORS OR ATTACHED HOME COMMON AREAS: No additions, alterations or improvements (including, without limitation, changes in the exterior color shall be made to any Attached Home Exterior or Attached Home Common Area by an Owner or Resident without the prior written consent of the Managers and the Attached Home Committee and compliance with applicable ordinances of the Municipality, provided that building additions to Attached Home Exteriors [or the addition of decks and patios by the Owners of Attached Homes are expressly prohibited.] Further, in no instance may attached garages be converted to habitable space, nor shall detached garages be permitted. The Managers and/or the Attached Home Committee may (but shall not be required to) condition its consent to the making of an addition, alteration or improvement to an Attached Home Exterior or Attached Home Common Area which requires the consent of the Managers and the Attached Home Committee upon the Owner's agreement either (i) to be solely responsible for the maintenance of such addition, alteration or improvement, subject to such standards as the Managers and the Attached Home Committee may from time to time set, or (ii) if the addition, alteration or improvement is required to be maintained hereunder by the Association as part of the Attached Home Expenses, to pay to the Association from time to time the additional cost of maintenance as a result of the addition, alteration or improvement. If an addition, alteration or improvement which requires Managers and Attached Home Committee consent hereunder is made to a Attached Home Exterior or Attached Home Common Area by an Owner without the prior written consent of the Managers and Attached Home Committee, then the Managers and/or Attached Home Committee may, in its discretion, take any of the following actions:

(a) Require the Owner to remove the addition, alteration or improvement and restore the Attached Home Exterior or Attached Home Common Area to its original condition, all at the Owner's expense;

(b) If the Owner refuses or fails to properly perform the work required under (a), the Managers or the Attached Home Committee may cause such work to be done and may charge the Owner for the cost thereof as determined by the Managers or the Attached Home Committee, as the case may be; or

(c) Ratify the action taken by the Owner, and the Managers and/or Attached Home Committee may (but shall not be required to) condition such ratification upon the same conditions which it may impose upon the giving of its prior consent under this Section.

[3.09 WASTE REMOVAL: Each Owner shall be responsible for establishing service with a private waste hauler which will be responsible for providing waste disposal service to the Owner's Dwelling Unit, and the cost thereof shall be billed directly to each Owner by said private waste hauler. If the Municipality contracts with a waste hauler for waste removal services, then each Owner shall be obligated to use said contracted waste hauler for waste disposal services.]

ARTICLE FOUR
Insurance/Condemnation

4.01 ASSOCIATION INSURANCE:

(a) The Association shall have the authority to and shall obtain comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and workers compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, its directors and officers, the Declarant, the managing agent, if any, and their respective employees and agents, as their interests may appear, from liability resulting from an occurrence on or in connection with, the Premises. The Managers may, in its discretion, obtain any other insurance which it deems advisable including, without limitation, insurance covering the directors and officers from liability for good faith actions beyond the scope of their respective authorities and covering the indemnity set forth in Section 5.06. Such insurance coverage shall include cross liability claims of one or more insured parties.

(b) Fidelity bonds indemnifying the Association, the Managers and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling funds of the Association may be obtained by the Association in such amounts as the Managers may deem desirable.

(c) The premiums for any insurance obtained under this Section shall be Community Expenses.

4.02 DETACHED HOME INSURANCE/DAMAGE:

(a) Each Owner of a Detached Home Dwelling Unit shall be responsible for and shall procure fire and all risk coverage insurance covering such Owner's Detached Home and contents for not less than the full insurable replacement value thereof under a policy or policies of insurance with such company or companies, in such form, and for such premiums and periods as he may determine to be appropriate. Each Owner shall also be responsible for his own insurance on the contents of his Detached Home and furnishings and personal property therein.

(b) No Owner shall cause or permit anything to be done or kept on the Premises which will result in the cancellation of insurance on such Owner's Detached Home, any other Dwelling Unit, or the Community Area.

(c) In the event of damage to or destruction of any Detached Home by fire or other casualty for which the Owner is required to carry insurance hereunder, the Owner thereof shall, within a reasonable time after such damage or destruction, repair or rebuild the Detached Home in substantial and workmanlike manner with materials comparable to those used in the original structure, and in conformity in all respects to the laws or ordinances regulating the construction of buildings in force at the time of such repair or reconstruction. When rebuilt, the exterior of the Detached Home shall be substantially similar to, and its architectural design and landscaping shall be in conformity with, the surrounding Detached Homes which are not so damaged or

destroyed. The Owner shall not be relieved of his obligation to repair or rebuild his Detached Home under this Subsection (c) by his failure to carry sufficient insurance or the fact that proceeds received by the Owner from his insurer are not sufficient to cover the cost thereof.

(d) In the event that any Owner shall fail, within a reasonable time after the occurrence of damage or destruction referred to in Subsection (c), to perform the necessary repair or rebuilding, then, the Managers may cause such repairs or rebuilding to be performed in the manner as provided in Subsection (c) and the cost thereof shall be a Charge hereunder payable by the Owner to the Association upon demand.

4.03 ATTACHED HOME INSURANCE/DAMAGE:

(a) The Managers shall have the authority to and shall obtain what is currently commonly referred to as “bare wall” insurance for the Attached Homes against loss or damage by fire and such other hazards as may be required under applicable requirements of Fannie Mae from time to time, as the Managers may deem desirable, or as reasonably required by First Mortgagees, for the full insurable replacement cost to restore an Attached Home to its “bare walls” condition. Premiums for such insurance shall be Attached Home Expenses. Such insurance coverage shall be written in the name of, losses under such policies shall be adjusted by, and the proceeds of such insurance shall be payable to, the Managers or the Association, as trustee for each of the Owners of Attached Homes. All such policies of insurance (i) shall contain standard mortgage clause endorsements in favor of the First Mortgagees as their respective interests may appear, (ii) shall provide that the insurance shall not be invalidated by any act or neglect of any Owner, (iii) to the extent possible, shall provide that such policy shall not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' written notice to the Association and the First Mortgagee of each Attached Home, and (iv) shall contain waivers of subrogation with respect to the Association and its Managers, directors, officers, employees and agents (including the managing agent), Owners, occupants of the Attached Home, First Mortgagees, the Declarant and/or shall name all such parties as additional insured parties as their interests may appear.

(b) The Managers may engage the services of any bank or trust company authorized to do trust business in Illinois to act as trustee, agent or depository on behalf of the Managers for the purpose of receiving and disbursing the insurance proceeds resulting from any loss, upon such terms as the Managers shall determine consistent with the provisions of this Declaration. The fees of such corporate trustee shall be Attached Home Expenses. In the event of any loss in excess of \$100,000.00 in the aggregate, the Managers shall engage a corporate trustee as aforesaid. In the event of any loss resulting in the destruction of the major portion of one or more Attached Homes, the Managers shall engage a corporate trustee as aforesaid upon the written demand of the First Mortgagee or any Owner of any Attached Home so destroyed. The rights of First Mortgagees under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary therein contained, at all times be subject to the provisions of this Declaration with respect to the application of insurance proceeds to the repair or reconstruction of the Attached Homes. Payment by an insurance company to the Managers or to such corporate trustee of the proceeds of any policy, and the receipt of a release from the Managers of the company's liability under such policy, shall constitute a full discharge of such

insurance company, and such company shall be under no obligation to inquire into the terms of any trust under which proceeds may be held pursuant hereto, or to take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof, or see to the application of any payments of the proceeds of any policy by the Managers or the corporate trustee.

(c) Unless expressly advised to the contrary by the Managers, each Owner shall obtain his or her own insurance on the contents of the Owner's Attached Home and the fixtures, furnishings and personal property therein which are not covered by the insurance obtained by the Managers, through what is currently commonly referred to as an "HO-6 policy", which shall include all items inside the primer on the drywall of the Owner's Attached Home, including, without limitation, floor coverings, wall coverings, ceiling coverings, built in cabinets, fixtures, appliances, air conditioning equipment, furnace/hot water heaters and sump and ejector pumps, regardless of from whom or when such items were acquired. Such HO-6 policy shall also include the Owner's personal liability to the extent not covered by the liability insurance for the Owners obtained as part of the Community Expenses as above provided. The Managers shall have no obligation whatsoever to obtain any such HO-6 insurance coverage on behalf of an Owner.

(d) Each Attached Home Owner hereby waives and releases any and all claims which he may have against any other Owner, the Association, its directors and officers, the Declarant, the manager and the managing agent if any, and their respective employees and agents, for damage to the Attached Home or to any personal property located in the Owner's Attached Home caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance, and to the extent this release is allowed by policies for such fire or other casualty insurance.

(e) In the case of damage by fire or other disaster to any Attached Home (a "Damaged Improvement") where the insurance proceeds are sufficient to repair or reconstruct the Damaged Improvement to the bare wall condition, then the proceeds shall be used by the Association to repair or reconstruct the Damaged Improvement to its bare wall condition.

(f) In the case of damage by fire or other disaster to any Attached Home or building which contains Attached Homes where the insurance proceeds are insufficient to repair or reconstruct the Damaged Improvement to its bare wall condition or the Damaged Improvement cannot be reconstructed as originally designed and built because of zoning, building or other applicable laws, ordinances or regulations, the following procedure shall be followed:

(1) A meeting of the Attached Home Owners shall be held not later than the first to occur of (i) the expiration of thirty (30) days after the final adjustment of the insurance claims or (ii) the expiration of ninety (90) days after the occurrence which caused the damage.

(2) At the meeting at which a quorum of at least 20% of the Attached Homes are represented, the Attached Home Committee shall present a plan for the repair or reconstruction of the Damaged Improvement and an estimate of the cost of repair or reconstruction, together with an estimate of the amount thereof which must be raised by

way of special assessment to be levied against all Attached Homes and a proposed schedule for the collection of a special assessment to pay the excess cost.

(3) A vote shall then be taken on the question of whether or not the Damaged Improvement shall be repaired or reconstructed based on the information provided by the Attached Home Committee under (2) above, including the proposed special assessment. The Damaged Improvement shall be repaired or reconstructed and the proposed special assessment shall be levied only upon the affirmative vote of Voting Members representing at least two-thirds (2/3rds) of the votes cast by Voting Members representing Attached Homes at such meeting.

(4) If the Voting Members representing Attached Homes do not vote to repair or reconstruct the Damaged Improvement at the meeting provided for in (1) and (2) above or if a quorum is not present at such meeting, then the Attached Home Committee may, at its discretion, call another meeting or meetings of the Attached Home Owners to consider or reconsider, as applicable, the question of whether or not the Damaged Improvement shall be repaired or reconstructed.

(5) If the Voting Members representing Attached Homes do not vote to repair or reconstruct the Damaged Improvement under Subsection (4) above, then the Attached Home Committee may, with the consent of the Managers and Owners representing 75% of the Attached Homes in the damaged building and First Mortgagees representing 75% of the Attached Homes subject to Mortgages in the damaged building, amend this Declaration to withdraw the Attached Home Lot which includes the Damaged Improvement from the terms hereof (except as provided below). The payment of just compensation, or the allocation of any insurance or other proceeds to any withdrawing or remaining Attached Home Owner shall be made to such Attached Home Owner and his First Mortgagee, as their interests may appear, on an equitable basis, determined by the Managers in consultation with the Attached Home Committee. From and after the effective date of the amendment referred to above in this paragraph, the Owners of Attached Homes located on the Attached Home Lot which is withdrawn shall have no responsibility for the payment of assessments which would have been payable with respect to the Attached Homes if the amendment had not been Recorded; provided, that, the Attached Home Lot shall continue to be subject to the provisions of Section 3.08 hereof and upon issuance of an occupancy permit for a building constructed on a Attached Home Lot removed from the terms hereof as provided above, the Attached Home Lot shall thereupon be subject to the terms hereof and each Attached Home to be constructed thereon shall become a Attached Home hereunder.

(g) If the Damaged Improvement is repaired or reconstructed, it shall be done in a workmanlike manner and the Damaged Improvement, as repaired or reconstructed, shall be substantially similar in design and construction to the improvements on the Attached Home Lot as they existed prior to the damage, with any variations or modifications required to comply with applicable law.

(h) If the Damaged Improvement is not repaired or reconstructed, then the damaged

portion of the building shall be razed, or secured and otherwise maintained in conformance with the rules or standards adopted from time to time by the Managers. Any reconstruction of the building shall be subject to the provisions of Section 3.08.

4.04 OWNER RESPONSIBILITY: In addition to the coverage described in Sections 4.02 and 4.03 above with respect to his Home, each Owner shall obtain his own personal liability insurance to the extent not covered by the liability insurance for all of the Owners obtained as part of the Community Expenses as above provided, and the Managers shall have no obligation whatsoever to obtain any such individual insurance coverage on behalf of the Owners.

4.05 WAIVER OF SUBROGATION: The Association and each Owner hereby waives and releases any and all claims which it or he may have against any Owner, including relatives of an Owner, the Association, its directors and officers, Declarant, the managing agent, if any, and their respective employees and agents, for damage to the Homes, Attached Home Common Area, the Community Area, or to any personal property located in or on the Homes, Attached Home Common Area or the Community Area caused by fire or other casualty, to the extent that such damage is covered by fire or other forms of casualty insurance, and to the extent this release is allowed by policies for such insurance. To the extent possible, all policies secured by the Managers under Sections 4.01(a) and (b) and by each Owner under Sections 4.02 and 4.03 shall contain waivers of the insurer's rights to subrogation against any Owner, relatives of an Owner, the Association, its directors and officers, the Declarant, the managing agent, if any, and their respective employees and agents.

4.06 CONDEMNATION: In the case of a taking or condemnation by competent authority of any part of the Community Area or Attached Home Common Area, the proceeds awarded in such condemnation shall be paid to the Association and such proceeds, together with any Capital Reserve being held for such part of the Community Area or Attached Home Common Area, shall, in the discretion of the Managers, either (i) be applied to pay the Community Expenses or Attached Home Expenses, as applicable, (ii) be distributed to the Owners and their respective mortgagees, as their interests may appear, in equal shares for each Dwelling Unit or Attached Home Dwelling Unit, as applicable, or (iii) be used to acquire additional real estate to be used and maintained for the mutual benefit of all Owners, as Community Area or Attached Home Common Area, as applicable. Any acquisition by the Association pursuant to this Section of real estate which shall become Community Area or Attached Home Common Area hereunder shall not become effective unless and until a supplement to this Declaration, which refers to this Section and legally describes the real estate affected, is executed by the President of the Association and Recorded.

ARTICLE FIVE

The Association

5.01 IN GENERAL: Declarant has caused or shall cause the Association to be organized as a limited liability company under Illinois law. The Association shall be the governing body for all of the Owners for the administration and operation of the Premises and the maintenance, repair and replacement of the Community Area, Attached Home Lots, Attached Home Common Area and Attached Home Exteriors as more fully provided herein.

5.02 MEMBERSHIP: Each Owner shall be a member of the Association. There shall be one membership for each Dwelling Unit. There shall be two classes of membership. The Declarant (and D.R. Horton, Inc.-Midwest, as a Designated Builder pursuant to Section 14.06 below) shall be the "Class B Member" with respect to each Lot which it owns from time to time. Each Owner other than the Declarant shall be a "Class A Member" with respect to each Dwelling Unit which the Owner owns. Membership shall be appurtenant to and may not be separated from ownership of a Lot or Dwelling Unit, as applicable. Ownership of a Dwelling Unit or a Lot shall be the sole qualification for membership.

5.03 VOTING MEMBERS: Subject to the provisions of Section 9.05, voting rights of the members of the Association shall be vested exclusively in the Voting Members. One individual shall be designated as the "Voting Member" for each Dwelling Unit owned by an Owner, other than Declarant. The Declarant shall appoint a Voting Member for the Lots owned by Declarant. The Voting Member or his or her proxy shall be the individual who shall be entitled to vote at meetings of the Owners. If the Record ownership of a Dwelling Unit shall be in more than one person, or if an Owner is a trustee, corporation, partnership or other legal entity, then the Voting Member for the Dwelling Unit shall be designated by such Owner or Owners in writing to the Managers and, if in the case of multiple individual Owners no designation is given, then the Managers at its election may recognize an individual Owner as the Voting Member for such Dwelling Unit.

5.04 MANAGERS: Prior to the Turnover Date, the Managers shall be the Declarant, or one or more entities or persons designated by the Declarant from time to time, who need not be Owners or Voting Members. After the Turnover Date, the Managers shall consist of that number of individuals provided for in the Operating Agreement, each of whom shall be an Owner or Voting Member.

5.05 BOARD/DETACHED HOME COMMITTEE/ATTACHED HOME COMMITTEE: Subject to the rights retained by the Declarant under Section 9.05, (a) the Managers shall consist of that number of members provided for in the Operating Agreement, each of whom shall be an Owner or Voting Member; (b) the Detached Home Committee shall consist of that number of members provided for in the Operating Agreement, each of whom shall be an Owner or Voting Member who represents a Detached Home Dwelling Unit; and (c) the Attached Home Committee shall consist of that number of members provided for in the Operating Agreement, each of whom shall be an Owner or Voting Member who represents an Attached Home Dwelling Unit.

5.06 VOTING RIGHTS: Prior to the Turnover Date, all of the voting rights at each meeting of the Association shall be vested exclusively in the Declarant and the Owners (other than the Declarant) shall have no voting rights. From and after the Turnover Date, all of the voting rights at any meeting of the Association shall be vested in the Voting Members, and (a) each Voting Member who represents a Class A Member shall have one vote for each Dwelling Unit which the Voting Member represents and (b) each Voting Member who represents the Class B Member shall have ten (10) votes for each Lot or Attached Home Lot which the Voting Member represents. From and after the Turnover Date any action may be taken by the Voting

Members at any meeting at which a quorum is present (as provided in the Operating Agreement) upon an affirmative vote of a majority of the votes cast by the Voting Members present at such meeting.

5.07 MANAGERS LIABILITY: None of the Managers, the Detached Home Committee members, the Attached Home Committee members or the officers of the Association shall be personally liable to the Owners or the Association for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors and officers except for any acts or omissions found by a court to constitute criminal conduct, gross negligence or fraud. The Association shall indemnify and hold harmless the Declarant and each of the Managers, the Detached Home Committee members, the Attached Home Committee members and officers, his heirs, executors or administrators, against all contractual and other liabilities to the Owners, the Association or others arising out of contracts made by or other acts of the directors and officers on behalf of the Owners or the Association or arising out of their status as directors or officers unless any such contract or act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other in which any such indemnified party may be involved by virtue of such person being or having been such Managers, or a member of the Attached Home Committee or Detached Home Committee, as the case may be; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for criminal conduct, gross negligence or fraud in the performance of his duties, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Managers, there is not reasonable ground for such person being adjudged liable for criminal conduct, gross negligence or fraud in the performance of his duties as such Manager, Detached Home Committee member or Attached Home Committee member.

5.08 MANAGING AGENT: Any management agreement entered into by the Association prior to the Turnover Date shall have a term of not more than two years and shall be terminable by the Association without payment of a termination fee on ninety (90) days written notice.

5.09 REPRESENTATION: The Association shall have the power and right to represent the interests of all of the Owners in connection with claims and disputes affecting the Community Area, Attached Home Common Area and Attached Home Exteriors. Without limiting the foregoing, the Association shall have the power after the Turnover Date to settle warranty disputes or other disputes between the Association, the Owners, and the Declarant affecting the construction, use or enjoyment of the Community Area, the Attached Home Common Area and Attached Home Exteriors and any such settlement shall be final and shall bind all of the Owners.

5.10 DISSOLUTION: To the extent permissible under applicable law, in the event of the dissolution of the Association, any Community Area owned by the Association shall be

conveyed to the Owners of Dwelling Units as tenants in common and any Attached Home Common Area owned by the Association shall be conveyed to the Owners of Attached Homes as tenants in common.

5.11 LITIGATION: No judicial or administrative proceedings shall be commenced or prosecuted by the Association without first holding a special meeting of the members and obtaining the affirmative vote of Voting Members representing at least seventy-five percent (75%) of the votes represented by the Voting Members to the commencement and prosecution of the proposed action. This Section shall not apply to (a) actions brought by the Association to enforce the provisions of this Declaration, the Operating Agreement or rules and regulations adopted by the Managers (including, without limitation, an action to recover Charges or to foreclose a lien for unpaid Charges) or (b) counterclaims brought by the Association in proceedings instituted against it.

5.12 CONVERSION/MERGER: Prior to the Turnover Date, the Declarant, or after the Turnover Date, the Managers shall have the right, power and authority to convert the Association from an Illinois Limited Liability Company to an Illinois Not for Profit Corporation (“NFP Conversion”), as permitted under applicable laws of the State of Illinois, as amended from time to time (“IL Law”). In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant and/or the Managers, as applicable, to make, consent to, and execute such documents as may be required under Illinois Law on behalf of each Owner and the Association. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting an Attached Home Dwelling Unit and a Detached Home Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of the Declarant and/or the Managers to make, consent to, and execute the NFP Conversion and take such other actions as the Declarant and/or the Managers deem necessary or appropriate to carry out the intent of the NFP Conversion, including, without limitation, adopting By-Laws for the Association to replace the Operating Agreement.

ARTICLE SIX

Assessments

6.01 PURPOSE OF ASSESSMENTS: The assessments levied by the Association shall be exclusively for the purposes of administering the affairs of the Association, paying the Community Expenses and Attached Home Expenses, and accumulating reserves for any such expenses.

6.02 ASSESSMENTS: Each year on or before December 1, the Managers shall adopt and furnish each Owner with a budget for the ensuing capital year, which shall show the following with reasonable explanations and itemizations:

- (a) The estimated Community Expenses;
- (b) The estimated amount, if any, to maintain adequate reserves for Community Expenses;

(c) The estimated net available cash receipts from sources other than assessments, including, without limitation, receipts from any leases, licenses or concessions;

(d) The amount of the "Community Assessment" payable by the Owners of Dwelling Units, which is hereby defined as the amount determined in (a) above, plus the amount in (b) above, minus the amount determined in (c) above;

(e) That portion of the Community Assessment which shall be payable by the Owner of each Dwelling Unit each month until the next Community Assessment or revised Community Assessment becomes effective, which monthly amount shall be equal to the Community Assessment, divided by the number of Dwelling Units, divided by 12, so that each Owner shall pay equal Community Assessments for each Dwelling Unit owned;

(f) The estimated Attached Home Expenses;

(g) The estimated amount, if any, to maintain adequate reserves for Attached Home Expenses;

(h) The estimated net available cash receipts from sources other than assessments;

(i) The amount of the "Attached Home Assessment" payable by the Owners of Attached Homes, which shall be equal to the amount determined in (f) above, plus the amount determined in (g) above, minus the amount determined in (h) above; and

(j) That portion of the Attached Home Assessment which shall be payable by the Owner of each Attached Home Dwelling Unit until the next annual Attached Home Assessment or revised Attached Home Assessment becomes effective, which monthly amount shall be equal to the Attached Home Assessment divided by the number of Attached Home Dwelling Units, divided by 12, so that each Owner shall pay equal Attached Home Assessments for each Attached Home Dwelling Unit owned.

The Attached Home Committee shall prepare and approve that portion of the budget provided for in (f), (g), (h), (i) and (j) above.

Anything herein to the contrary notwithstanding the following provisions shall apply with respect to the period prior to the Turnover Date. Any budget ("Stabilized Budget") prepared prior to the Turnover Date shall be based on the assumptions that (i) the Development has been fully constructed as shown on Declarant's then current plan for the Development ("Declarant's Development Plan") and (ii) all proposed Dwelling Units have been built, sold and are occupied. The Declarant's Development Plan shall be kept on file with the Association and may be modified from time to time by Declarant. Prior to the Turnover Date, (i) each Owner (other than the Declarant) shall pay as the Owner's monthly share of the Community Assessment an amount equal to the budgeted Community Expenses as shown on the Stabilized Budget divided by the

number of planned Dwelling Units as shown on the Declarant's Development Plan, divided by 12 so that each Owner (other than Declarant) will pay, with respect to each Dwelling Unit owned by the Owner, a monthly Community Assessment equal to what the Owner would be paying if the Development were fully constructed pursuant to the Declarant's Development Plan and all proposed Dwelling Units have been built and are occupied, and (ii) each Owner of an Attached Home (other than Declarant) shall pay as the Owner's monthly share of the Attached Home Assessment an amount equal to the budgeted Attached Home Expenses as shown on the Stabilized Budget, divided by the number of planned Attached Homes as shown on the Declarant's Development Plan, divided by 12, so that each Owner (other than Declarant) will pay, with respect to each Attached Home owned by the Owner, a monthly Attached Home Assessment equal to what the Owner would be paying with respect to the Attached Home if the Development were fully constructed pursuant to the Declarant's Development Plan and all proposed Attached Homes have been built and are occupied. Declarant shall not be obligated to pay any Community Assessments or Attached Home Assessments to the Association prior to the Turnover Date. However, if with respect to the period commencing on the date of the Recording of this Declaration and ending on the Turnover Date, the amount of Community Assessments or Attached Home Assessments plus working capital contributions under Section 6.07 payable by Owners (other than Declarant) less the portions thereof which are to be added to Reserves is less than the Community Expenses or Attached Home Expenses actually incurred with respect to such period, then the Declarant shall pay the difference to the Association. From time to time prior to the Turnover Date, the Declarant may (but shall not be obligated to) advance to the Association funds to be used by the Association to pay its expenses ("Advanced Funds"). A final accounting and settlement of the amount, if any, owed by Declarant to the Association shall be made as soon as practicable after the Turnover Date. If, and to the extent that, the final accounting determines that the Advanced Funds, if any, are less than the amount owed by the Declarant to the Association pursuant to this Section, the Declarant shall pay the difference to the Association. If, and to the extent that, the final accounting determines that the Advanced Funds, if any, exceed the amount owed by the Declarant to the Association pursuant to this Section, then the Association shall pay such excess to the Declarant.

6.03 PAYMENT OF ASSESSMENT: On or before the 1st day of January of the ensuing calendar year, and on the first day of each month thereafter until the effective date of the next annual or revised Community Assessment or Attached Home Assessment, each Owner of a Dwelling Unit shall pay to the Association, or as the Managers may direct, that portion of the Community Assessment or Attached Home Assessment, if any, which is payable by each Owner of a Dwelling Unit under Section 6.02.

6.04 REVISED ASSESSMENT: If the Community Assessment or Attached Home Assessment proves inadequate for any reason (including nonpayment of any Owner's assessment) or proves to exceed funds reasonably needed, then the Managers (or in the case of the Attached Home Assessment, the Attached Home Committee) may increase or decrease the assessments payable under Section 6.02 by giving written notice thereof (together with a revised budget and explanation for the adjustment) to each Owner not less than ten (10) days prior to the effective date of the revised assessment.

6.05 SPECIAL ASSESSMENT: The Managers may levy a special assessment as

provided in this Section (i) to pay (or build up reserves to pay) expenses other than Community Expenses and Attached Home Expenses incurred (or to be incurred) by the Association from time to time for a specific purpose including, without limitation, to make alterations, additions or improvements to the Community Area, Attached Home Common Area, Attached Home Exteriors or any other property owned or maintained by the Association; or (ii) to cover an unanticipated deficit under the prior year's budget. Any special assessment shall be levied against all of Dwelling Units in equal shares; except, that a special assessment with respect to Attached Home Dwelling Units or Attached Home Common Area or to cover a deficit under the prior year's budget for Attached Home Expenses shall be levied only against the Owners of Attached Home Dwelling Units and only by action of the Attached Home Committee. No special assessment shall be adopted without the affirmative vote Voting Members representing at least two-thirds (2/3) of the votes cast on the question and only those Owners of Dwelling Units against which the proposed special assessment shall be levied may vote on the question . The Managers shall serve notice of a special assessment on all affected Owners by a statement in writing giving the specific purpose and reasons therefor in reasonable detail, and the special assessment shall be payable in such manner and on such terms as shall be fixed by the Managers. Any assessments collected pursuant to this Section (other than those to cover an unanticipated deficit under the prior year's budget) shall be segregated in a special account and used only for the specific purpose set forth in the notice of assessment.

6.06 CAPITAL RESERVE: The Association shall segregate and maintain a special reserve account (the "Capital Reserve") to be used solely for making capital expenditures in connection with the repair and replacement of the following "Reserve Items": (i) improvements located on the Community Area, including without limitation any private roads located on the Community Area; (ii) driveways, walkways and other improvements located on the Attached Home Common Area; (iii) Attached Home Exteriors; and (iv) Private Water and Sewer Extensions. The Managers shall determine the appropriate level of the Capital Reserve based on a periodic review of the useful life of improvements to the Reserve Items and other property owned by the Association and periodic projections of the cost of anticipated major repairs or replacements to the Reserve Items and the purchase of other property to be used by the Association in connection with its duties hereunder; provided, that the Attached Home Committee shall make such determinations with respect to the Attached Home Exteriors, the Attached Home Common Area and the Private Water and Sewer Extensions. The Capital Reserve may be built up by separate or special assessments or out of the Community Assessment or Attached Home Assessment. Special accounts set up for portions of the Capital Reserve to be used to make capital expenditures with respect to the Reserve Items shall be held by the Association as agent and trustee for the Owners of Dwelling Units with respect to which the Capital Reserve is held and such accounts shall be deemed to have been funded by capital contributions to the Association by the Owners. The budgets which will be adopted from time to time by the Managers appointed by the Declarant prior to the Turnover Date shall include reserve buildups which the Managers deems to be appropriate based on information available to the Managers. Managers elected by the Owners after the Turnover Date may use different approaches from those used by Managers appointed by the Declarant for the buildup of reserves or may choose not to provide for the buildup of reserves for certain capital expenditures or deferred maintenance for repairs or replacements of the Reserve Items. If the Managers choose not to provide for the buildup of reserves for a particular anticipated expenditure or if the buildup

of reserves that the Managers does provide for in its budgets does not result in sufficient funds to pay for the expenditure when the expenditure must be made, then (i) neither the Managers nor any of its past or present members shall be liable to the Association or the Owners for failing to provide for sufficient reserves and (ii) the Managers shall have the right and power to either levy a separate or special assessment to raise the funds to pay the expenditure or to borrow funds to pay the expenditure and repay the borrowed funds out of future Community Assessments, Attached Home Assessments, separate assessments or special assessment.

6.07 INITIAL CAPITAL CONTRIBUTION:

(a) Upon the closing of the first sale of any Dwelling Unit by the Declarant to a purchaser for value, the purchasing Owner shall make a capital contribution to the Association in the amount of Five Hundred Dollars (\$500.00).

(b) The payments made pursuant to (a) above shall be held and used by the Association for its working capital needs.

(c) Any advance assessment payment made hereunder shall be applied as an advance payment of assessments with respect to such period; however, if assessments increase during such period the Owner of the Dwelling Unit shall be required to pay the amount of the increase.

6.08 PAYMENT OF ASSESSMENTS: Assessments levied by the Association shall be collected from each Owner by the Association and shall be a lien on the Owner's Dwelling Unit and also shall be a personal obligation of the Owner in favor of the Association, all as more fully set forth in Article Seven.

ARTICLE SEVEN

Collection of Charges and Remedies for Breach or Violation

7.01 CREATION OF LIEN AND PERSONAL OBLIGATION: The Declarant hereby covenants, and each Owner of a Dwelling Unit by acceptance of a deed therefor (whether or not it shall be so expressed in any such deed or other conveyance) shall be and is deemed to covenant and hereby agrees to pay to the Association all Charges made with respect to the Owner or the Owner's Dwelling Unit, as applicable. Each Charge, together with interest thereon and reasonable costs of collection, if any, as hereinafter provided, shall be a continuing lien upon the Dwelling Unit against which such Charge is made and also shall be the personal obligation of the Owner of the Dwelling Unit at the time when the Charge becomes due. The lien or personal obligation created under this Section shall be in favor of and shall be enforceable by the Association.

7.02 COLLECTION OF CHARGES: The Association shall collect from each Owner all Charges payable by such Owner under this Declaration.

7.03 NON-PAYMENT OF CHARGES: Any Charge which is not paid to the Association when due shall be deemed delinquent. Any Charge which is delinquent for thirty (30) days or more shall bear interest at the rate of 10 % per annum from the due date to the date

when paid. The Association may (i) bring an action against the Owner personally obligated to pay the Charge to recover the Charge (together with interest, costs and reasonable attorney's fees for any such action, which shall be added to the amount of the Charge and included in any judgment rendered in such action), and (ii) enforce and foreclose any lien which it has or which may exist for its benefit. In addition, the Managers may add a reasonable late fee to any installment of an assessment which is not paid within thirty (30) days of its due date. No Owner may waive or otherwise escape personal liability for the Charges hereunder by nonuse of the Community Area or Attached Common Area or by abandonment or transfer of his Dwelling Unit.

7.04 LIEN FOR CHARGES SUBORDINATED TO MORTGAGES: The lien for Charges, provided for in Section 7.01, shall be subordinate to the First Mortgagee's mortgage on the Dwelling Unit which was Recorded prior to the date that any such Charge became due. Except as hereinafter provided, the lien for Charges, provided for in Section 7.01, shall not be affected by any sale or transfer of a Dwelling Unit. Where title to a Dwelling Unit is transferred pursuant to a decree of foreclosure of the First Mortgagee's mortgage or by deed or assignment in lieu of foreclosure of the First Mortgagee's mortgage, such transfer of title shall extinguish the lien for unpaid Charges which became due prior to the date of the transfer of title. However, the transferee of the Dwelling Unit shall be personally liable for his share of the Charges with respect to which a lien against his Dwelling Unit has been extinguished pursuant to the preceding sentence where such Charges are reallocated among all the applicable Owners pursuant to a subsequently adopted annual or revised Attached Home Assessment, Community Assessment or special assessment, and non-payment thereof shall result in a lien against the transferee's Dwelling Unit, as provided in this Article.

7.05 SELF-HELP BY MANAGERS: In the event of a violation or breach by an Owner of the provisions, covenants or restrictions of the Declaration, the Operating Agreement, or rules or regulations of the Managers, where such violation or breach may be cured or abated by affirmative action, then the Managers, upon not less than ten (10) days' prior written notice to the Owner, shall have the right to enter upon that part of the Premises where the violation or breach exists to remove or rectify the violation or breach.

7.06 OTHER REMEDIES OF THE MANAGERS: In addition to or in conjunction with the remedies set forth above, to enforce any of the provisions contained in this Declaration or any rules and regulations adopted hereunder, the Managers may levy a fine or the Managers may bring an action at law or in equity in the name of the Association against any person or persons violating or attempting to violate any such provision, either to restrain such violation, require performance thereof, to recover sums due or payable (including fines) or to recover damages, and against the Dwelling Unit to enforce any lien created hereunder; and failure by the Association to enforce any provision shall in no event be deemed a waiver of the right to do so thereafter.

7.07 COSTS AND EXPENSES: All costs and expenses incurred by the Managers in connection with any action, proceedings or self-help in connection with exercise of its rights and remedies under this Article, including, without limitation, court costs, attorneys' fees and all other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon

at the rate of 10% per annum, until paid, shall be charged to and assessed against the defaulting Owner, and the Association shall have a lien for all the same, upon his Dwelling Unit as provided in Section 7.01.

7.08 ENFORCEMENT BY OWNERS: Enforcement of the provisions contained in this Declaration and the rules and regulations adopted hereunder may be by any proceeding at law or in equity by any aggrieved Owner against any person or persons violating or attempting to violate any such provisions, either to restrain such violation or to recover damages, and against a Dwelling Unit to enforce any lien created hereunder.

7.09 ENFORCEMENT BY MUNICIPALITY: The Municipality is hereby granted the right, but shall not be obligated, to enforce covenants and obligations of the Association or the Owners hereunder. If the Association or one or more Owners fail to comply with any covenants and obligations hereunder, the Municipality shall have the right (but shall not be obligated) to give notice to the Association or the offending Owner of the Owner's failure to perform the Owner's obligations. If such notice is given and the Association or the offending Owner or Owners do not perform to the reasonable satisfaction of the Municipality within thirty (30) days after the giving of such notice, then the Municipality may (but shall not be obligated to) enter upon the Premises and perform any and all work which it deems necessary and appropriate, either directly or through contractors engaged by the Municipality. The Association or the offending Owner or Owners shall, upon demand, reimburse the Municipality for the reasonable cost of such work, and if payment is not made within thirty (30) days after demand, then the amount due, plus reasonable costs of collection, including reasonable attorneys' fees, shall become a lien on the property of the offending Owner or Owners or, in the case of the Association, the property of the Association, effective as of the date on which such work was completed; provided, however, that such lien shall be subordinate to the lien of any first mortgage on a Dwelling Unit Recorded prior to the date on which any such cost becomes a lien against the Dwelling Unit as provided above.

7.10 BACKUP SPECIAL SERVICE AREA: The Municipality may establish one or more Backup Special Service Areas to give the Municipality the power to levy taxes to pay the cost of furnishing any or all maintenance, repairs and replacements required to be furnished by the Association hereunder if the Association fails to do so and the Municipality chooses to furnish such services.

ARTICLE EIGHT Use Restrictions

8.01 INDUSTRY/SIGNS: No industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Community Area or Attached Home Common Area nor shall any "For Sale" or "For Rent" signs or any other advertising be maintained or permitted on any part of the Premises, except as permitted by the Managers or as permitted under Article Nine.

8.02 UNSIGHTLY USES: No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out on any portion of the Premises. The Premises shall be kept free and

clear of all rubbish, debris and other unsightly materials and no waste shall be committed thereon. All rubbish and refuse shall be deposited in such areas and in such receptacles as shall be designated from time to time by the Managers or the Municipality.

8.03 SATELLITE DISHES/ANTENNAS: Subject to applicable federal, state or local laws, ordinances or regulations, no television antenna, radio receiver or transmitter, satellite dish or other similar device shall be attached to or installed on any portion of any Premises without the approval of the Managers; provided, that a satellite dish of less than twenty (20) inches in diameter may be installed in the rear or side yard of a Home or on the roof of a Home as long as it is not visible from the front of the Home. Without limiting the foregoing, the provisions of this paragraph shall not apply to the Association with respect to the installation of equipment necessary for a master antenna system, cable television system or other similar systems within the Premises.

8.04 RESIDENTIAL USE ONLY: Each Home shall be used only as a residence; provided that no Owner shall be precluded, with respect to his Home, from (i) maintaining a personal professional library, (ii) keeping his personal business records or accounts therein or (iii) handling his personal business or professional calls or correspondence therefrom. Notwithstanding the foregoing, to the extent permitted under applicable laws and ordinances, a Resident may conduct an in-home business in a Home.

8.05 PARKING: No commercial vehicle, recreational vehicle, snow mobile, motorcycle or other motorized vehicle and no boat, trailer, hitch or other similar personal property shall at any time be parked or stored on any portion of the Premises other than on a driveway or in a garage with the garage door closed. Unless otherwise specifically permitted by the Managers or pursuant to rules and regulations adopted by the Managers, a driveway serving a Home may only be used to park (i) no more than one commercial vehicle which does not exceed a "Class B" license plate definition, per Illinois Vehicle Code, provided that said commercial vehicle may not encroach over the sidewalk or street curb adjacent to said driveway, (ii) recreational vehicles, snow mobiles, boats, trailers, hitches or other similar personal property for a period not to exceed 48 hours at a time, and (iii) operable automobiles.

8.06 PETS: No animal of any kind shall be raised, bred or kept in the Community Area or the Attached Home Common Area. The Managers may from time to time adopt rules and regulations governing (a) the keeping of pets in a Home, which may include prohibiting certain species of pets from being kept in a Home, and (b) the use of the Community Area and the Attached Home Common Area by pets, including, without limitation, rules and regulations which require an Owner to clean up after his pet. Any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Premises upon three (3) days written notice from the Managers to the Owner of the Home containing such pet and the decision of the Managers shall be final.

8.07 NO NUISANCE: No noxious, offensive or illegal activity shall be carried on in the Premises nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the Residents.

8.08 RULES AND REGULATIONS: The use, occupancy and enjoyment of the Community Area, Attached Home Common Area and Dwelling Units shall at all times be subject to reasonable rules and regulations adopted from time to time by the Managers in consultation with the Attached Home Committee with respect to the Attached Home Common Area.

8.09 FENCING: No fence of any type shall be permitted on any Attached Home Dwelling Units. Subject to the provisions of Sections 3.07 and 9.08, a Detached Home Dwelling Unit may be improved with a fence on the interior boundary thereof which conforms to the following specifications, as such specifications may be modified, from time to time, by action of the Managers and the Detached Home Committee, with the written consent of Declarant (until such time as Declarant no longer holds title to any portion of Development Area):

- (a) The Owner shall, before constructing any fence, submit his/her plan (location and type) for the fence to the Municipality and Managers for approval.
- (b) Chain link fence is prohibited on all Detached Home Dwelling Units.
- (c) Wood fences are permissible subject to the following specifications:
 - i. cedar or pressure-treated lumber
 - ii. natural/clear stain only, not colored
 - iii. solid board (board on batten or shadow box)
 - iv. not to exceed five feet (5') in height from the finished grade of the Lot
 - v. six inch (6") full width boards, spaces edge-to-edge and back-to-back
 - vi. 4 x 4 posts with wood cap, set 42" into ground and 8 feet +/- on center, with concrete footings
 - vii. a minimum of two 2 x 4 back rails (1-1/2" wide); one at the top of the boards and one 12" up from bottom of the boards
 - viii. 1 x 4 top cap, centered on boards
- (d) Ornamental fences are permissible subject to the following specifications:
 - i. aluminum or steel
 - ii. black in color
 - iii. not to exceed five feet (5') in height from the finished grade of the Detached Home Lot
 - iv. flat top, three channel and standard bottom style

- (e) PVC/Vinyl fences are permissible subject to the following specifications:
 - i. white in color
 - ii. solid tongue & groove
 - iii. not to exceed five feet (5') in height from the finished grade of the Detached Home Lot
- (f) The Owner of the Detached Home Lot shall at all times maintain the fence in good condition and repair at the Owner's sole cost and expense.
- (g) Approval by the Managers does not guarantee that the style, size or placement of a fence meets all requirements set forth in applicable codes and ordinances. Similarly, approval by the Municipality does not guarantee approval of an Owner's fence proposal by the Managers.
- (h) Fencing (including, without limitation, the location of fencing on any Detached Home Lot or a corner Detached Home Lot) shall comply with all Municipal codes and ordinances.

8.10 **SHEDS**: Sheds and other accessory structures are prohibited on Attached Home Dwelling Units. Except as permitted pursuant to this Section 8.10, no shed, outbuilding, gazebo or other temporary or permanent structure shall be constructed on a Detached Home Dwelling Unit unless the same is approved, in writing by the Managers and the Detached Home Committee pursuant to Section 3.07, and provided, further, that any such shed or structure, shall, at a minimum, comply with the following, as such specifications may be modified or eliminated, from time to time, by action of the Managers and the Detached Home Committee pursuant to Section 3.07, with the written consent of the Declarant (until such time as the Declarant no longer holds title to a portion of the Development Area):

- (a) The appearance and color of the shed or structure shall be compatible with that of the subject Home, inclusive of matching the shingle color and style with that of the Home;
- (b) No metal, vinyl, resin, poly, plastic or pre-assembled shed or structure shall be permitted;
- (c) The shed or structure shall be located in the rear of the Lot at a location that is not visible from the street being adjacent to the front of the subject Home;
- (d) The floor area of the shed or structure may not exceed 8' x 10' feet;
- (e) The shed or structure shall be constructed upon a concrete slab and/or concrete footings;

- (f) The maximum height of the shed or structure at its roof peak shall not exceed 10.5'.

Approval of the Managers and the Detached Home Committee (and, if applicable, Declarant) does not guarantee that the style, size or placement of a shed meets the requirements of the Municipality.

8.11 WATERING: The Managers may adopt rules and regulations governing the watering of grass, shrubs, trees and other foliage on the Community Area and, in consultation with the Attached Home Committee with respect to the Attached Home Common Area, on the Attached Home Common Area. Without limiting the foregoing, the Managers may require the Owner of a particular Dwelling Unit to be responsible for watering specific portions of the Premises as designated from time to time by the Managers.

8.12 ABOVE GROUND POOLS: Above ground swimming pools are expressly prohibited on any portion of the Premises. No swimming pool of any type shall be permitted on any Attached Home Dwelling Units or on any Attached Home Common Area.

ARTICLE NINE

Declarant's Reserved Rights and Special Provisions Covering Development Period

9.01 IN GENERAL: In addition to any rights or powers reserved to the Declarant under the provisions of this Declaration or the Operating Agreement, the Declarant shall have the rights and powers set forth in this Article. Anything in this Declaration or the Operating Agreement to the contrary notwithstanding, the provisions set forth in this Article shall govern. Except as otherwise provided in this Article, the rights reserved to the Declarant in this Article shall terminate at such time as the Declarant is no longer vested with or in control of title to any portion of the Development Area.

9.02 PROMOTION OF PROJECT: The Declarant shall have the right and power, within its sole discretion, to (i) construct such temporary or permanent improvements, or to do such acts or other things in, on, or to the Premises as the Declarant may, from time to time, determine to be necessary or advisable, (ii) construct and maintain model homes, sales or leasing offices, parking areas, advertising signs, lighting and banners, or other promotional facilities at such locations and in such forms as the Declarant may deem advisable and to use such model homes (including model homes which are sold by and leased back to the Declarant), sales or leasing offices or other facilities for the purpose of selling or leasing Dwelling Units on the Premises or at other properties in the general location of the Premises which are being offered for sale by the Declarant or any of its affiliates, without the payment of any fee or charge whatsoever to the Association. Declarant, its agents, prospective purchasers and tenants, shall have the right of ingress, egress and parking in and through, and the right to use and enjoy the Community Area or the Attached Home Common Area, at any and all reasonable times without fee or charge. The Declarant shall have the right and power to lease any home owned by it to any person or entity which it deems appropriate in its sole discretion.

9.03 CONSTRUCTION ON PREMISES: In connection with the construction of improvements to any part of the Premises, the Declarant, its agents and contractors, shall have the right, at the Declarant's own expense, (but shall not be obligated) to make such alterations, additions or improvements to any part of the Premises including, without limitation, the construction, reconstruction or alteration of any temporary or permanent improvements to any structure which shall contain Dwelling Units or to the Community Area or Attached Home Common Area which the Declarant deems, in its sole discretion, to be necessary or advisable, and the landscaping, sodding or planting and replanting of any unimproved portions of the Premises. In connection with the rights provided in the preceding sentence, the Declarant, its agents and contractors, shall have the right of ingress, egress and parking on the Premises and the right to store dirt, construction equipment and materials on the Premises without the payment of any fee or charge whatsoever.

9.04 GRANT OF EASEMENTS AND DEDICATIONS: Declarant shall have the right to dedicate portions of the Community Area to the Municipality or to any other governmental authority which has jurisdiction over such portions. Declarant shall also have the right to reserve or grant easements over the Community Area and the Attached Home Common Area to any governmental authority, public utility or private utility for the installation and maintenance of electrical and telephone conduit and lines, gas, sewer or water lines, or any other utility services serving any Dwelling Unit.

9.05 DECLARANT CONTROL OF ASSOCIATION: Prior to the Turnover Date, the Managers shall be the Declarant, or one or more entities or persons designated by Declarant from time to time who need not be Owners or Voting Members. Initially the Declarant shall be the sole Manager. Declarant's rights under this Section to manage the affairs of the Association or designate the Managers, Detached Home Committee and the Attached Home Committee shall terminate on the first to occur of (i) such time as Declarant no longer holds or controls title to any part of the Development Area, (ii) the giving of written notice by Declarant to the Association of Declarant's election to terminate such rights, (iii) ten (10) years from the date of Recording hereof or (iv) at such time as required by applicable law. The date on which the Declarant's rights under this Section shall terminate shall be referred to as the "Turnover Date". The Declarant may appoint Owners (other than representatives of the Declarant) from time to time to be and act as non-voting counselors to the Managers, Detached Home Committee and/or Attached Home Committee. From and after the Turnover Date, the Managers, the Detached Home Committee and the Attached Home Committee shall be constituted and elected as provided in the Operating Agreement. Prior to the Turnover Date all voting rights at each meeting of the Owners shall be vested exclusively in the Declarant and the Owners (other than Declarant) shall have no voting rights.

9.06 OTHER RIGHTS: The Declarant shall have the right and power to execute all documents and do all other acts and things affecting the Premises which, in Declarant's opinion, are necessary or desirable in connection with the rights of Declarant under this Declaration.

9.07 ASSIGNMENT BY DECLARANT: All rights which are specified in this Declaration to be rights of the Declarant are mortgageable, pledgeable, assignable or transferable in whole or in part. Any successor to, or assignee of, the rights of the Declarant hereunder

(whether as the result of voluntary assignment, foreclosure, assignment in lieu of foreclosure, or otherwise) shall hold or be entitled to exercise the rights of Declarant hereunder as fully as if named as such party herein. No such successor assignee of the rights of Declarant hereunder shall have or incur any liability for the acts of any other party which previously exercised or subsequently shall exercise such rights.

9.08 DESIGN AND MAINTENANCE CONTROLS:

(a) The Declarant shall have the right and power from time to time to adopt reasonable rules, regulations, guidelines, and standards governing the design and exterior finish (including color) of all improvements or landscaping from time to time constructed, installed or proposed to be constructed, installed or modified on the Premises. Without limiting the foregoing, no earthmoving, filling, dredging, grading, excavating, installation of landscaping, alteration of landscaping, construction of a building, driveway, walkway, signs or other advertising or promotional devices or any other temporary or permanent improvement to any portion of the Premises or any modification, alteration, renovation, addition or removal of any of the foregoing, including change of exterior color (“Regulated Work”) shall be commenced or maintained with respect to any portion of the Premises without the prior written consent of the Declarant to the plans therefor, which consent may be granted or withheld in Declarant’s sole and absolute discretion. The Declarant reserves the right and power to promulgate and amend from time to time standards, policies, procedures and guidelines in order to implement the foregoing. If any Regulated Work which requires Declarant approval as provided above is commenced without obtaining the required written consent of the Declarant, then the Declarant may seek any remedy or take any action provided for herein or permitted at law or in equity in order to enforce the provisions hereof, including injunctive relief to stop work and/or restore the portion of the Premises to its condition prior to the commencement of the work. Declarant’s decision to approve or disapprove Regulated Work in one instance shall not in any way create or establish a precedent for how the Declarant must respond to a request for Regulated Work subsequently made, it being understood that circumstances, situations and standards may change and the Declarant reserves the right and power to grant or deny requests as Declarant believes are appropriate in Declarant’s sole and absolute discretion.

(b) The Declarant shall have the right and power from time to time to adopt rules, regulations, guidelines, and standards governing the maintenance and upkeep of portions of the Premises, including without limitation, improvements thereto, signs, advertising and landscaping thereon. Without limiting the foregoing, those portions of the Premises on which construction of improvements has not yet commenced shall at all times be maintained in a neat and clean condition and all weeds shall be periodically cut. If in the sole judgment of the Declarant a portion of the Premises is not being maintained in good condition and repair or the appearance of any such portion of the Premises is not of the character and quality of that of other portions of the Premises or is not in compliance with rules, regulations, guidelines, and standards adopted from time to time by the Declarant, then without limiting any rights or remedies available to the Declarant hereunder, at law or in equity, Declarant shall have the right to enter upon any such portion of the Premises and perform any maintenance or repair work which it deems necessary or appropriate. The cost of any such work shall be charged to the Owner or party responsible for maintenance of such portion of the Premises if different from the Owner, and shall be payable to

the Declarant upon demand. In the event that the party charged for such work fails to make prompt payment of any such amount within thirty (30) days after demand, such amount shall become and continue to be a lien upon the portion of the Premises owned by such party until such time as payment is made in full; provided, that any such lien shall be subordinate to the lien of any First Mortgage on a Dwelling Unit Recorded prior to the date on which any such amount becomes a lien against a Dwelling Unit as provided above.

(c) Any one or more of the rights and powers of the Declarant under this Section may be delegated to one or more individuals or entities designated from time to time by the Declarant.

(d) Subject as hereinafter provided, from time to time, the Declarant may enter into an agreement ("Transfer Agreement") with the Association whereby the Declarant assigns and transfers to the Association some or all of its rights and powers under Subsections (a) and (b). Any Transfer Agreement shall be executed by both the Declarant and the Association and shall be Recorded; provided, that the execution of the Transfer Agreement by the Association shall be approved in advance by action of the Voting Members at an annual meeting or special meeting of the Voting Members. A Transfer Agreement may include such terms as are agreed upon between the Declarant and the Association. From and after the recording of a Transfer Agreement, the rights and powers of the Declarant under Subsections (a) and (b) which are transferred to the Association pursuant to the Transfer Agreement shall be administered as provided in the Transfer Agreement. Any rights and powers of the Declarant under Subsections (a) and (b) which are not transferred to the Association pursuant to a Transfer Agreement shall expire and terminate at such time as (i) the Development has been fully developed and improved per Declarant's Development Plan and (ii) the Declarant no longer holds or controls title to any portion of the Development Area.

ARTICLE TEN Amendment

10.01 SPECIAL AMENDMENTS: Anything herein to the contrary notwithstanding, Declarant reserves the right and power to Record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of Fannie Mae, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages covering Dwelling Units, (iii) to correct errors, omissions, ambiguities or inconsistencies in the Declaration or any Exhibit, (iv) to bring the Declaration into compliance with applicable laws, ordinances or governmental regulations, (v) to amend Exhibit A to include additional real estate, and (vi) to grant easements and provide for cost sharing arrangements with respect to Community Area which will serve other homes located on the Development Area and/or to enter into cost sharing arrangements with one or more homeowners associations which administer other portions of the Development Area. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of each Owner. Each deed, mortgage, trust deed, other evidence

of obligation, or other instrument affecting a Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to make, execute and Record Special Amendments. The right and power of the Declaration to record a Special Amendment hereunder shall terminate five (5) years after such time as Declarant no longer holds or controls title to a portion of the Development Area.

10.02 AMENDMENT: Subject to Section 10.01 and Article Eleven, the provisions of this Declaration may be amended, abolished, modified, enlarged, or otherwise changed in whole or in part by the affirmative vote of Voting Members representing at least seventy-five percent of the total votes or by an instrument executed by Owners of at least seventy-five Percent (75%) of the Dwelling Units; except, that (i) the provisions of this Section 11.02 may be amended only by an instrument executed by all of the Owners and all First Mortgagees, (ii) Article Nine, and any other provisions relating to the rights of Declarant may be amended only with the written consent of the Declarant, and (iii) Sections 7.09 and 7.10 and any other provision relating to the rights of the Municipality may be amended only with the written consent of the Municipality. No amendment which removes Premises from the provisions of this Declaration shall be effective if as a result of such removal, an Owner of a Dwelling Unit shall no longer have the legal access to a public way from his Dwelling Unit.. No amendment shall become effective until properly Recorded.

ARTICLE ELEVEN First Mortgagees Rights

11.01 NOTICE TO FIRST MORTGAGEES: Upon the specific, written request of First Mortgagee or the insurer or guarantor of a First Mortgagee's mortgage, such party shall receive some or all of the following:

(a) Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Association to the Owner of the Dwelling Unit covered by the First Mortgagee's mortgage;

(b) Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Owners; provided, that, if an audited statement is not available, then upon the written request of the holder, insurer or guarantor of a Mortgage, the Association shall permit such party to have an audited statement for the preceding fiscal year of the Association prepared at such party's expense;

(c) Copies of notices of meetings of the Owners;

(d) Notice of any proposed action that requires the consent of a specified percentage of Eligible First Mortgagees;

(e) Notice of any substantial damage to any part of the Community Area, Attached Home Common Area or the Home on the Dwelling Unit subject to the First Mortgagee's mortgage;

(f) Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Community Area, Attached Home Common Area or the Dwelling Unit subject to the First Mortgagee's mortgage;

(g) Notice of any default by the Owner of the Dwelling Unit which is subject to the First Mortgagee's mortgage under this Declaration, the Operating Agreement or the rules and regulations of the Association which is not cured within thirty (30) days of the date of the default;

(h) The right to examine the books and records of the Association at any reasonable times;

(i) In the case of a First Mortgagee, the right to be listed on the records of the Association as an "Eligible First Mortgagee" for purpose of Section 11.02 below; and

(j) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

The request of any such party shall specify which of the above it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Association.

11.02 CONSENT OF FIRST MORTGAGEES:

(a) In addition to any requirements or prerequisites provided for elsewhere in this Declaration, the consent of First Mortgagees holding, in the aggregate, the first mortgages on at least two-thirds (2/3) of the Dwelling Units (by number) which are subject to first mortgages held by First Mortgagees which specifically request to be treated as "Eligible First Mortgagees" under Section 11.01(i) above will be required for the Association to do or permit to be done any of the following:

(1) Adoption of an amendment to this Declaration which (i) changes Article Six or otherwise changes the method of determining the Community Assessments or other Charges which may be levied against an Owner; (ii) changes Section 7.04 or Article Ten, (iii) changes this Article Eleven, Article Twelve or any other provision of this Declaration or by By-Laws which specifically grants rights to First Mortgagees, (iv) materially changes insurance and fidelity bond requirements, (v) changes voting rights, or (vi) imposes a right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his Dwelling Unit; or

(2) The withdrawal of the Premises from the provisions of this Declaration.

However, in no event shall the consent of Eligible First Mortgagees be required with respect to any action taken by Declarant pursuant to Article Twelve.

(b) Whenever required, the consent of an Eligible First Mortgagee shall be deemed

granted unless the party seeking the consent is advised to the contrary, in writing, by the Eligible First Mortgagee within thirty (30) days after making the request for consent.

11.03 INSURANCE PROCEEDS/CONDEMNATION AWARDS: In the event of (i) any distribution of any insurance proceeds hereunder as a result of damage to, or destruction of, any part of the Community Area or the Attached Home Common Area or (ii) any distribution of the proceeds of any award or settlement as a result of condemnation or eminent domain proceedings with respect to any part of the Community Area or the Attached Home Common Area, any such distribution shall be made to the Owners or Attached Home Owners, as applicable, and their respective First Mortgagees, as their interests may appear, and no Owner or other party shall be entitled to priority over the First Mortgagee of a Dwelling Unit with respect to any such distribution to or with respect to such Dwelling Unit; provided, that, nothing in this Section shall be construed to deny to the Association the right (i) to apply insurance proceeds to repair or replace damaged Community Area or Attached Home Common Area or (ii) to apply proceeds of any award or settlement as a result of eminent domain proceedings as provided in Article Four.

ARTICLE TWELVE Annexing Additional Property

12.01 IN GENERAL: Declarant reserves the right at any time and from time to time prior to fifteen (15) years from the date of Recording of this Declaration to annex, add and subject additional portions of the Development Area to the provisions of this Declaration as additional Premises by recording a supplement to this Declaration (a "Supplemental Declaration"), as hereinafter provided. Any portion of the Development Area which is subjected to this Declaration by a Supplemental Declaration shall be referred to as "Added Premises"; any portion of any Added Premises which is made part of the Community Area shall be referred to as "Added Community Area"; any portion of any Added Premises which is made part of the Attached Home Common Area shall be referred to as "Added Attached Home Common Area"; and any Lots contained in the Added Premises shall be referred to as "Added Lots". After the expiration of said fifteen (15) year period, Declarant may exercise the rights described herein to annex, add and subject additional portions of the Development Area to the provisions of this Declaration, provided that the consent Voting Members representing at least 2/3rds of the votes held by the Voting Members is first obtained.

12.02 POWER TO AMEND: Declarant hereby retains the right and power to Record a Supplemental Declaration, at any time and from time to time as provided in Section 12.01, which amends or supplements Exhibit B. Exhibit B may only be amended or supplemented pursuant to this Article to add portions of the Development Area to Exhibit B and shall not be amended to reduce or remove any real estate which is described in Exhibit B immediately prior to the Recording of such Supplemental Declaration. A Supplemental Declaration may contain such additional provisions affecting the use of the Added Premises or the rights and obligations of owners of any part or parts of the Added Premises as the Declarant deems necessary or appropriate.

12.03 EFFECT OF SUPPLEMENTAL DECLARATION: Upon the Recording of a

Supplemental Declaration by Declarant which annexes and subjects Added Premises, Added Community Area, Added Attached Home Common Area, and Added Lots to this Declaration, as provided in this Article, then:

(a) The easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges set forth and described herein shall run with and bind the Added Premises and inure to the benefit of and be binding on any Person having at any time any interest or estate in the Added Premises in the same manner, to the same extent and with the same force and effect that this Declaration applies to the Premises, and Persons having an interest or estate in the Premises, subjected to this Declaration prior to the date of the Recording of the Supplemental Declaration;

(b) Every Owner of an Added Lot shall be a member of the Association on the same terms and subject to the same qualifications and limitations as those members who are Owners of Lots immediately prior to the Recording of such Supplemental Declaration;

(c) In all other respects, all of the provisions of this Declaration shall include and apply to the Added Premises (including the Added Community Area, Added Attached Home Common Area or the Added Lots, if any) made subject to this Declaration by any such Supplemental Declaration and the Owners, First Mortgagees, and lessees thereof, with equal meaning and of like force and effect and the same as if such Added Premises were subjected to this Declaration at the time of the Recording hereof;

(d) The Recording of each Supplemental Declaration shall not alter the amount of the lien for any Charges made to a Dwelling Unit or its Owner prior to such Recording;

(e) The Declarant shall have and enjoy with respect to the Added Premises all rights, powers and easements reserved by the Declarant in this Declaration, plus any additional rights, powers and easements set forth in the Supplemental Declaration; and

(f) Each Owner of an Added Lot which is subject to assessment hereunder shall be responsible for the payment of the Attached Home Assessment (if the Lot is an Attached Home Lot) and Community Assessment pursuant to Section 6.02, as applicable, but shall not be responsible for the payment of any special assessment which was levied prior to the time that the Added Lot became subject to assessment hereunder.

ARTICLE THIRTEEN

Party Walls

13.01 PARTY WALL: Every wall, including the foundations therefor, which is built as a part of the original construction of a building and placed on the boundary line between separate Attached Homes shall constitute and be a "Party Wall", and the Owner of a Attached Home immediately adjacent to a Party Wall shall have the obligation and be entitled to the rights and privileges of these covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls.

13.02 RIGHTS IN PARTY WALL: Each Owner of a Attached Home, which includes a portion of a Party Wall, shall have the right to use the Party Wall for support of the structure originally constructed thereon and all replacements thereof and shall have the right to keep, maintain, repair and replace therein all pipes, conduit, and ducts originally located therein and all replacements thereof.

13.03 DAMAGE TO PARTY WALL:

(a) If any Party Wall is damaged or destroyed through the act or acts of any Owner of a Attached Home which is adjacent to such Party Wall, or his agents, servants, tenants, guests, invitees, licensees, or members of his family, whether such act is willful, negligent or accidental, such Owner shall forthwith proceed to rebuild or repair the same to as good a condition as in which such Party Wall existed prior to such damage or destruction without costs therefor to the Owner of the other adjoining Attached Home.

(b) Any Party Wall damaged or destroyed by some act or event other than one caused by the Owner of a Attached Home which is adjacent to such Party Wall, or his agents, servants, tenants, guests, invitees, licensees, or members of his family, shall be rebuilt or repaired by the Owners of the adjacent Attached Homes to as good a condition as in which such Party Wall existed prior to such damage or destruction at joint and equal expense of such Owners, and as promptly as is reasonably possible; provided that the cost of repairing or replacing any portion thereof which is part of a Attached Home Exterior with respect to which the Association is responsible for furnishing maintenance, repairs or replacements hereunder shall be paid by the Association to the extent not covered by insurance.

(c) In the event that any Owner shall fail, within a reasonable time after the occurrence of damage or destruction referred to in this Section, to perform the necessary repair or rebuilding, then, the Managers may cause such repairs or rebuilding to be performed in the manner as provided in this Section and the cost thereof shall be charged to such Owner as his personal obligation and shall be a continuing lien on the Owner's Attached Home.

13.04 CHANGE IN PARTY WALL: Any Owner of a Attached Home who proposes to modify, rebuild, repair or make additions to any structure upon his Attached Home in any manner which requires the extension, alteration or modification of any Party Wall shall first obtain the written consent thereto, as to said Party Wall, of the Owner of the other adjacent Attached Home and the Managers, in addition to meeting any other requirements which may apply. In the event that a Party Wall is altered, regardless of whether all required consents have been obtained, any express or implied warranties made by the Declarant concerning the structural integrity of the Party Wall or of either the Attached Homes adjacent to the Party Wall shall be null and void and the Owner who alters the Party Wall shall be responsible for any and all damage caused to an adjacent Attached Home or improvements thereto.

13.05 ARBITRATION: In the event of a disagreement between Owners of Attached Homes adjoining a Party Wall with respect to their respective rights or obligations as to such Party Wall, upon the written request of either of said Owners to the other the matter shall be

submitted to the Managers and the decision of the Managers shall be final and binding.

ARTICLE FOURTEEN

Miscellaneous

14.01 NOTICES: Any notice required to be sent to any Owner under the provisions of this Declaration or the Operating Agreement shall be deemed to have been properly sent if (i) mailed, postage prepared, to his or its last known address as it appears on the records of the Association at the time of such mailing, (ii) transmitted by facsimile or e-mail to his or its facsimile number or e-mail address as either appears on the records of the Association at the time of such transmittal, or (iii) when personally delivered to his or its Dwelling Unit. The date of mailing, or the date of transmission if the notice is sent by facsimile or e-mail, shall be deemed the date of service.

14.02 CAPTIONS: The Article and Section headings are intended for convenience only and shall not be construed with any substantive effect in this Declaration. In the event of any conflict between statements made in recitals to this Declaration and the provisions contained in the body of this Declaration, the provisions in the body of this Declaration shall govern.

14.03 SEVERABILITY: Invalidation of all or any portion of any of the easements, restrictions, covenants, conditions, or reservations, by legislation, judgment or court order shall in no way affect any other provisions of this Declaration which shall, and all other provisions, remain in full force and effect.

14.04 PERPETUITIES AND OTHER INVALIDITY: If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the living lawful descendants of the President of the United States at the time this Declaration is Recorded.

14.05 TITLE HOLDING LAND TRUST: In the event title to any Dwelling Unit is held by a title holding trust, under the terms of which all powers of management, operation and control of the Dwelling Unit remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all Charges and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Dwelling Unit. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Dwelling Unit and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Dwelling Unit.

14.06 DESIGNATED BUILDERS:

(a) The Declarant shall have the right and power to designate, in a Supplemental Declaration, a “Designated Builder” and to grant to the Designated Builder some or all of the rights of the Declarant hereunder, including, without limitation, one or more of the following rights:

(i) The right to construct homes and to temporarily store construction equipment and materials on the Development Area;

(ii) The right to construct and maintain model units, sales or leasing offices, parking areas, advertising signs, lighting and banners, or other promotional facilities at such locations and in such forms as the Designated Builder may deem advisable and to use such model units (including model units which are sold by and leased back to the Designated Builder), sales or leasing offices or other facilities for the purpose of selling or leasing Homes on the Premises or at other properties in the general location of the Premises which are being offered for sale by the Designated Builder or any its affiliates, without the payment of any fee or charge whatsoever to the Association.

(iii) The right of ingress, egress and parking in and through, and the right to use and enjoy the Community Area and Attached Home Common Area, at any and all reasonable times without fee or charge.

(iv) The right and power to lease any Homes owned by it to any person or entity which it deems appropriate in its sole discretion.

(v) The right not to pay the Community Assessment or the Attached Home Assessment under Section 6.02 hereof with respect to Detached Home Dwelling Units or Attached Home Dwelling Units, as the case may be, owned by the Designated Builder during the period prior to the Turnover Date;

(vi) The right not to pay the capital contribution provided in Section 6.07 upon the closing of the sale of a Lot by Declarant to the Designated Builder; provided, however, that, in such case, the amounts payable under Section 6.07 shall be paid upon the closing of the Lot by the Designated Builder to a third-party purchaser; and

(vii) The right to be treated as the Declarant under Section 14.07 hereof with respect to the waiver of implied warranty of habitability provided for therein.

(b) D.R Horton, Inc.-Midwest, a California corporation, is hereby a Designated Builder hereunder, with all of the rights identified in Section 14.06(a) above. Any rights granted by the Declarant to a Designated Builder pursuant to this Section shall continue until such time as the Designated Builder is no longer vested with, or controls title to, any portion of the Development Area, regardless of whether the rights of the Declarant hereunder have terminated or expired.

14.07 WAIVER OF IMPLIED WARRANTY OF HABITABILITY AND OTHER

WARRANTIES: Illinois courts have held that every contract for the construction of a new home in Illinois carries with it a warranty that when completed, the home will be free of defects and will be fit for its intended use as a home. The courts have also held that this "Implied Warranty of Habitability" does not have to be in writing to be a part of the contract and that it covers not only structural and mechanical defects such as may be found in the foundation, roof, masonry, heating, electrical and plumbing, but it also covers any defect in workmanship which may not easily be seen by the buyer. However, the courts have also held that a seller-builder and buyer may agree in writing that the Implied Warranty of Habitability is not included as a part of their particular contract. Each buyer of a Dwelling Unit from Declarant agreed in the purchase contract that the Declarant has excluded and disclaimed the Implied Warranty of Habitability and all other implied warranties, whether created judicially, statutorily or by common law, including the implied warranty of fitness for a particular purpose. Such exclusion and disclaimer shall apply to and bind any subsequent Owner of a Dwelling Unit and, accordingly, no Owner of a Dwelling Unit shall be able to assert a claim against Declarant for a breach of the Implied Warranty of Habitability or any other implied warranty.

14.08 MUNICIPAL ORDINANCES AND REGULATIONS: Notwithstanding anything in this Declaration to the contrary, to the extent ordinances, regulations and requirements of the Municipality (collectively, the "Municipal Requirements") are more restrictive than requirements set forth in this Declaration, the Municipal Requirements shall be deemed to govern and control as if fully set forth herein, and it shall be the responsibility of each Owner of a Dwelling Unit to comply with the applicable Municipal Requirements.

[signature page follows]

Dated: _____, 2024

DECLARANT:

**FORESTAR (USA) REAL ESTATE GROUP
INC.**, a Delaware corporation

By: _____

Printed Name: _____

Its: _____

STATE OF _____)
) SS.
COUNTY OF _____)

The undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, the _____ of Forestar (USA) Real Estate Group Inc., a Delaware corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that ___he signed and delivered said instrument as her/his own free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial seal this ____ day of _____, 2024.

Notary Public

My Commission Expires:

County of Residence:

**EXHIBIT A TO
DECLARATION FOR WHEATLAND CROSSING**

All Lots and Outlots as depicted on the Final Plat of Subdivision for Wheatland Crossing, recorded on _____, 2023 as Document No. _____ in Kane County, Illinois, and recorded on _____, 2023 as Document No. _____ in Kendall County, Illinois, plus all real property located within 2500 feet of the perimeter boundary of said Subdivision.

**EXHIBIT B TO
DECLARATION FOR WHEATLAND CROSSING**

The Premises

I. Premises:

A. To Come

II. Lots:

A. Detached Home Lots:

1. To Come

B. Attached Home Lots:

1. To Come

III. Community Area:

1. To Come

IV. Attached Home Common Area:

1. To Come

**EXHIBIT C TO
DECLARATION FOR WHEATLAND CROSSING**

Operating Agreement

OPERATING AGREEMENT
OF
THE WHEATLAND CROSSING HOMEOWNERS ASSOCIATION, LLC

This Operating Agreement is entered into as of _____, in Schaumburg, Illinois, between The Wheatland Crossing Homeowners Association, LLC, an Illinois limited liability company (the “Association”), and Forestar (USA) Real Estate Group Inc., a Delaware corporation, its sole Member (sometimes referred to herein as the “Declarant”).

A. Articles of Organization for the Association were filed with the Secretary of State of Illinois on _____; and

B. Declarant desires to set forth the terms and conditions governing the management, operation and affairs of the Association.

THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I
NAME OF ASSOCIATION

The full legal name of the Association is The Wheatland Crossing Homeowners Association, LLC.

ARTICLE II
PURPOSE AND POWERS

2.01 PURPOSES: The purposes of the Association are to act on behalf of its Members collectively, as their governing body, with respect to the preservation, care, maintenance, replacement, improvement, enhancement, operation and administration of both real and personal property, for the promotion of the health, safety and welfare and the common use and enjoyment thereof by Members of the Association. This Operating Agreement is subject to the provisions of the Declaration for Wheatland Crossing (“Declaration”) recorded with the Office of the Recorder of Deeds for Will County, Illinois, as amended or supplemented from time to time. All terms used herein (if not otherwise defined herein) shall have the meanings set forth in the Declaration.

2.02 POWERS: The Association shall have and exercise all powers as are now or may hereafter be granted by the Illinois Limited Liability Company Act (the “Act”), the Declaration and this Operating Agreement.

2.03 TAX STATUS. It is intended that the Association shall be treated as an association taxable as a corporation and, to the extent determined from time to time by the Board (as hereafter defined), shall elect to be treated as a “homeowners association” under Section 528 of the Internal Revenue Code, or any successor provision thereto.

ARTICLE III OFFICES

3.01 REGISTERED OFFICE: The Association shall have and continuously maintain in the State of Illinois a registered office and a registered agent whose office is identical with such registered office, and may have other offices within or without the State of Illinois as the Board may from time to time determine.

3.02 PRINCIPAL OFFICE: The Association’s principal office shall be maintained on the Development Area or at the office of the managing agent employed by the Association, if any.

ARTICLE IV MEETINGS AND ACTIONS OF MEMBERS

4.01 MEMBERSHIP. The Owner from time to time of each Dwelling Unit shall automatically be a “Member” of the Association. There shall be one membership per Dwelling Unit. There shall be two (2) classes of membership. The Declarant (and D.R. Horton, Inc.-Midwest, as a Designated Builder pursuant to Section 14.06 below) shall be the “Class B Member” with respect to Lots which it owns from time to time. Each owner other than the Declarant shall be a “Class A Member” with respect to each Dwelling Unit the Owner Owns. Membership shall be appurtenant to and may not be separated from ownership of a Lot or Dwelling Unit, as applicable.

4.02 VOTING RIGHTS: Any or all Members may be present at any meeting of the Members, but the voting rights shall be vested exclusively in the representative designated by the Owner of each Dwelling Unit, in writing or by electronic notice to the Association, and such representative shall be deemed a “Voting Member”, as defined in the Declaration; provided, that, prior to the First Meeting (as defined in Section 4.04 below), the voting rights shall be vested exclusively in the Class B Member (the Declarant) and Owners other than Declarant shall have no voting rights. From and after the First Meeting, all of the voting rights at any meeting of the Association shall be vested in the Voting Members and each Voting Member who represents a Dwelling Unit owned by a Class A Member shall have one vote for each Dwelling Unit which the Voting Member represents, and the Declarant, as the Class B Member, shall have ten (10) votes for each Lot which it owns. The Voting Members may vote in person or by proxy. All proxies shall be in writing, revocable, valid only for eleven (11) months from the date of execution and filed with the Secretary.

4.03 PLACE OF MEETING; QUORUM: Meetings of the Members shall be held at the principal office of the Association or at such other place in Kane County or Kendall County, Illinois, as may be designated in any notice of a meeting. All meetings shall be conducted in accordance with the rules and provisions set forth in Roberts Rules of Order as from time to time published. Voting Members representing at least twenty percent (20%) of the total votes shall constitute a quorum; provided, however, that in the event quorum is not met for a particular meeting, the number of Voting Members required for quorum shall be reduced by fifty percent (50%) and shall continue to be reduced by fifty percent (50%) until such time as quorum is met and a meeting can be held. Unless otherwise expressly provided herein or in the Declaration, any action may be taken at any meeting of the Members at which a quorum is present upon the affirmative vote of a majority of the Voting Members present at such meeting, including any matter which, under the Act, would otherwise require the unanimous consent of the Members.

4.04 ANNUAL MEETINGS: The first meeting of the Members ("First Meeting") shall be held upon not less than twenty-one (21) days' written notice given by the Declarant to the Members. If not called earlier by the Declarant, the First Meeting shall be held no later than thirty (30) days after the Turnover Date. Thereafter, there shall be an annual meeting of the Members ("Annual Meeting") on the anniversary of the First Meeting, or at such other reasonable time or date (not more than thirty (30) days before or after such date) upon not less than twenty-one (21) days written notice given by the Board to the Members.

4.05 SPECIAL MEETINGS: A special meeting of the Members may be called at any time for the purpose of considering matters which, by the terms of the Declaration, require the approval of all or some of the Voting Members or for any other reasonable purpose. A special meeting shall be called by written notice to the Members by Declarant (prior to the First Meeting), a majority of the Board (after the First Meeting), or by twenty percent (20%) of the Voting Members (after the First Meeting), and delivered not less than twenty-one (21) days prior to the date fixed for said meeting. The notices shall specify the date, time, and place of the meeting and the matters to be considered.

4.06 NOTICE OF MEETINGS: Notices of meetings required to be given herein may be delivered either personally, by U.S. Mail or by E-mail to the Members, addressed to such Member at the address given by such Member to the Board for the purpose of service of such notice or to the Lot of the Member, if no address has been given to the Board. A notice of meeting shall include an agenda of business and matters to be acted upon or considered at the meeting.

4.07 NO DUTY OWED BY MEMBERS: Except as otherwise provided herein or in the Declaration, a Member who is not also a Manager (as hereafter defined) owes no duty to the Association or to the other Members solely by reason of being a Member.

4.08 NO SERVICES DUE FROM MEMBERS: No Member shall be required to perform any services for the Association solely by reason of being a Member. No Member shall be entitled to any compensation for any services performed by such Member for the Association unless otherwise determined by the Board.

4.09 INDEMNIFICATION: The Association shall indemnify each Member for all authorized acts performed by such Member in respect of the Association, to the full extent permitted by the Act, but in no event for a Member's material breach of this Operating Agreement, criminal conduct, gross negligence or any fraudulent act committed by the Member.

ARTICLE V BOARD OF MANAGERS

5.01 IN GENERAL: After the First Meeting, the affairs of the Association shall be vested in the board of managers (the "Board"), which shall consist of five (5) persons (each a "Manager" and, collectively, the "Managers"), or such other number of persons as shall be fixed from time to time by the affirmative vote of not less than fifty percent (50%) of the Voting Members.

5.02 DECLARANT AS MANAGER: Anything herein to the contrary notwithstanding, the Declarant shall be the sole Manager and sole member of the Board until the First Meeting.

5.03 DELIVERY OF DOCUMENTS: Within sixty (60) days of the First Meeting, the Declarant shall deliver to the Board:

(a) Original copies of the Declaration, this Operating Agreement and the Association's Articles of Organization and any other documents filed with the Secretary of State of the State of Illinois.

(b) An accounting of all receipts and expenditures made or received on behalf of the Association by the Declarant.

(c) All Association funds and bank accounts.

(d) A schedule of all personal property, equipment and fixtures belonging to the Association, including documents transferring the property to the Association.

5.04 ELECTION: At the First Meeting, the Voting Members shall elect a full Board to replace the Declarant as the sole Manager. The three (3) candidates receiving the greatest number of votes shall each serve a two-year term and the two (2) candidates receiving the next greatest number of votes shall each serve a one-year term. Thereafter, each Manager shall serve a two-year term. Each Manager shall hold office until his term expires or until his successor has been elected and qualified. Managers may succeed themselves in office. In all elections for Managers, each Class A Member shall be entitled to the number of votes equal to the number of Managers to be elected, and the Class B Member shall be entitled to the number of votes equal to the number of Managers to be elected times ten (10). Cumulative voting shall not be permitted; provided that the Class B Member shall be entitled to cast up to 10 votes for each candidate that the Class B Member votes for.

5.05 BOARD MEETINGS: After the First Meeting, regular meetings of the Board shall be held at such time and place as shall be determined at the Annual Meeting or, from time

to time, by a majority of the Board, provided that (i) the Board shall hold its first meeting within thirty (30) days of the First Meeting, and (ii) not less than four (4) Board meetings shall be held during each fiscal year. Notice of regular meetings of the Board shall be given to each Manager, personally or by mail, at least two (2) days prior to the day named for any such meeting and such notice shall state the time and place of such regular meeting and such notice shall be posted conspicuously on the Premises so as to inform the Members of such meetings.

5.06 SPECIAL MEETINGS: After the First Meeting, a special meeting of the Board may be called by the President or at least one-third (1/3) of the Managers then serving.

5.07 WAIVER OF NOTICE: Before or at any meeting of the Board, any Manager may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Manager at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

5.08 QUORUM: A majority of the Managers serving from time to time shall constitute a quorum for the election of officers and for the transaction of business at any meeting of the Board, provided, that if less than a majority of the Managers are present at said meeting, a majority of the Managers present may adjourn the meeting from time to time without further notice. Except as otherwise expressly provided herein or in the Declaration, any action may be taken upon the affirmative vote of a majority of the Managers present at a meeting at which a quorum is present ("Board Action").

5.09 POWERS AND DUTIES OF THE BOARD: The Board shall have all of the powers and duties granted to it or imposed upon it by the Declaration, this Operating Agreement, and the Act, including, without limitation, the following powers and duties:

- (a) To engage the services of a managing agent upon such terms and with such authority as the Board may approve;
- (b) To provide for the designation, hiring and removal of such employees and such other personnel, including attorneys and accountants, as the Board may, in its discretion, deem necessary or proper;
- (c) To provide for any maintenance, repair, alteration, addition, improvement or replacement of the Community Area, Attached Home Common Area and Attached Home Exteriors for which the Association is responsible under the Declaration and this Operating Agreement;
- (d) To procure insurance as provided for under the Declaration;
- (e) To estimate and provide each Member with an annual budget showing the Community Expenses (and Attached Home Expenses for each Owner of an Attached Home Dwelling Unit);

(f) To set, give notice of, and collect from the Members, Community Assessments, Attached Home Assessments and other assessments, as provided in the Declaration;

(g) To pay the Community Expenses and Attached Home Expenses;

(h) Subject to the provisions of the Declaration, to own, convey, encumber or otherwise deal with any real property conveyed to or purchased by the Association;

(i) To adopt and, from time to time, to amend such reasonable rules and regulations as the Board may deem advisable for the use, enjoyment, administration, management, maintenance, conservation and beautification of the Community Area, Attached Home Community Area, and for the health, comfort, safety and general welfare of the Members and Residents. Written notice of any such rules and regulations or amendments thereto shall be given to all Residents affected thereby;

(j) To delegate the exercise of its power to committees appointed pursuant to Article Seven, Article Eight and Article Nine of this Operating Agreement;

(k) To borrow money and pledge the assets of the Association, including the right to receive future assessments, as collateral for repayment thereof; and

(l) To convey all or substantially all of the Association's assets to, or to merge with, another entity, including a not-for-profit corporation, to the extent permitted by law.

5.10 COMPENSATION/REIMBURSEMENT FOR EXPENSES: Managers shall receive no compensation, except as expressly provided in a resolution duly adopted by not less than 75% of the Voting Members. Upon the presentation of receipts or other appropriate documentation, a Manager shall be reimbursed by the Association for reasonable out-of-pocket expenses incurred in the course of the performance of his or her duties as a Manager.

5.11 REMOVAL OR RESIGNATION OF A MANAGER: Prior to the First Meeting, the Declarant may not be removed as Manager without the Declarant's written consent. After the First Meeting, any Manager may be removed from office, with or without cause, by the affirmative vote of at least two-thirds (2/3) of the Managers then serving at any Annual Meeting or at a special meeting called for such purpose. Any Manager may resign at any time by submitting his written resignation to the Board. If after the First Meeting, a Manager ceases to be a Member or Voting Member, he or she shall be deemed to have resigned as of the date of such cessation. A successor to fill the unexpired term of a Manager who resigns may be appointed by a majority of the remaining Managers at any regular meeting or a special meeting called for such purpose and any successor so appointed shall serve the balance of his or her predecessor's term.

5.12 NO EXCLUSIVE DUTY: Except as otherwise provided in this Operating Agreement, the Managers shall not be required to manage the Association as their sole and exclusive function and the Managers may have other business interests and engage in other

activities in addition to those relating to the Association. Neither the Association nor any Member shall have any right to share or participate in such other investments or activities of the Managers or to the income or proceeds derived therefrom.

5.13 LIMITATION OF LIABILITY: The Managers shall perform the duties of the Manager in good faith, in a manner which the Managers believe to be in the best interests of the Association, and with such care as an ordinarily prudent individual in a like position would use under similar circumstances. See Section 5.07 of the Declaration for provisions concerning limitations on the liability of Managers and other indemnification provisions.

5.14 INDEMNIFICATION: The Association shall indemnify each Manager for all acts performed by the Manager in respect of the Association, to the full extent permitted by the Act, but in no event for fraud, deceit, theft, misappropriation, embezzlement, willful misconduct or gross negligence relating to the Association.

ARTICLE VI OFFICERS

6.01 OFFICERS: The officers of the Association shall be a President, one or more Vice Presidents, a Secretary, Treasurer, and such assistants to such officers as the Board may deem appropriate and shall hold office at the discretion of the Board. After the First Meeting, officers shall be Managers and shall be elected annually at the first Board meeting following the Annual Meeting.

6.02 VACANCY OF OFFICE: Any officer may be removed at any meeting of the Board by the affirmative vote of the majority of the Managers in office, either with or without cause. Any officer may resign at any time by submitting his or her written resignation to the Board. If after the First Meeting, an officer ceases to be a Member or Voting Member, he or she shall be deemed to have resigned as of the date of such cessation. A successor to fill the unexpired term of an officer who resigns or is removed may be appointed by the Board at any regular meeting or a special meeting called for such purpose and any successor so appointed shall serve the balance of his or her predecessor's term.

6.03 POWERS OF OFFICERS: The respective officers of the Association shall have such powers and duties as are from time to time prescribed by the Board and as are usually vested in such officers, including but not limited to, the following:

(a) The President shall be the Chief Executive Officer of the Association and shall preside at all meetings of the Members and at all meetings of the Board and shall execute amendments to the Declaration and this Operating Agreement as provided in the Declaration and this Operating Agreement.

(b) The Vice President shall, in the absence or the disability of the President, perform the duties and exercise the powers of such office;

(c) The Secretary shall keep minutes of all meetings of the Members and of the Board and shall have charge of such other books, papers and documents as the Board may prescribe;

(d) The Treasurer shall be responsible for Association funds and securities and for keeping full and accurate accounts of all receipts and disbursements in the Association books of accounts kept for such purpose.

6.04 OFFICERS' COMPENSATION: The officers shall receive no compensation for their services, except as expressly provided by a resolution duly adopted by not less than 75% of the Voting Members.

ARTICLE VII DETACHED HOME COMMITTEE

7.01 IN GENERAL: The Detached Home Committee shall consist of three (3) individuals. The Detached Home Committee shall have all of the powers granted to it under the Declaration and this Operating Agreement.

7.02 DECLARANT DESIGNATED DETACHED HOME COMMITTEE: Anything herein to the contrary notwithstanding, until the First Meeting, the Detached Home Committee shall consist of the Declarant or up to three (3) individuals from time to time designated by the Declarant. Such individuals may, but need not, be Owners and shall serve at the discretion of the Declarant.

7.03 DETACHED HOME COMMITTEE AFTER TURNOVER DATE: At the First Meeting, the Voting Members who represent Detached Home Dwelling Units shall elect a full Detached Home Committee in the manner hereinafter provided to replace the Declarant or the Declarant designated Detached Home Committee established under Section 7.02. From and after the First Meeting, each member of the Detached Home Committee shall be a Voting Member who represents a Detached Home Dwelling Unit.

7.04 ELECTION: At each election for members of the Detached Home Committee, each Voting Member for each Detached Home Dwelling Unit shall be entitled to the number of votes equal to the number of members to be elected and cumulative voting shall not be permitted. At the First Meeting, a full Detached Home Committee shall be elected, each member of which shall serve a two (2) year term. Thereafter, each member of the Detached Home Committee shall serve a two (2) year term. Each Member of the Detached Home Committee shall serve until his term expires or is terminated or until his successor shall have been elected and qualified. A member of the Detached Home Committee may succeed himself in office and may simultaneously serve as a Manager.

7.05 ANNUAL MEETINGS: The Detached Home Committee shall hold an annual meeting within ten (10) days after the annual meeting of the Owners at such place as shall be fixed by the Detached Home Committee members at the annual meeting of the Owners.

7.06 REGULAR MEETINGS: Regular meetings of the Detached Home Committee shall be held at such time and place as shall be determined at the annual meeting or, from time to time, by a majority of the Detached Home Committee members, provided that from and after the First Meeting, not less than two (2) such meetings shall be held during each fiscal year.

7.07 SPECIAL MEETINGS: Special meetings of the Detached Home Committee may be called by the President or by a Detached Home Committee member.

7.08 NOTICE OF DETACHED HOME COMMITTEE MEETINGS: Notice of each meeting of the Detached Home Committee shall be mailed or personally delivered to each member of the Detached Home Committee at least forty-eight (48) hours prior to the meeting.

7.09 QUORUM: A majority of the Detached Home Committee members serving from time to time shall constitute a quorum for the transaction of business at any meeting of the Detached Home Committee. Except as otherwise expressly provided herein or in the Declaration, any action may be taken upon the affirmative vote of a majority of the Detached Home Committee members present at a meeting at which a quorum is present.

7.10 COMPENSATION/REIMBURSEMENT FOR EXPENSES: No Detached Home Committee member shall be compensated by the Association for services rendered to the Association, except as expressly provided in a resolution duly adopted by the Voting Members. Upon the presentation of receipts or other appropriate documentation, a Detached Home Committee member shall be reimbursed by the Association for reasonable out-of-pocket expenses incurred in the course of the performance of his duties as the Detached Home Committee member.

7.11 REMOVAL OR RESIGNATION OF DETACHED HOME COMMITTEE MEMBER: After the First Meeting, a Detached Home Committee member may be removed from office, with or without cause, by action of the Voting Members who have the right to vote for such Detached Home Committee members at any annual meeting or at a special meeting called for such purpose. Any Detached Home Committee member may resign at any time by submitting his written resignation to the Board. If a Detached Home Committee member ceases to be a Voting Member who represents a Detached Home Dwelling Unit, he shall be deemed to have resigned as of the date of such cessation. A successor to fill the unexpired term of a Detached Home Committee member who resigns or is removed may be appointed by a majority of the remaining Detached Home Committee members at any regular meeting or at any special meeting called for such purpose and any successor so appointed shall serve the balance of his predecessor's term.

7.12 POWERS AND DUTIES OF THE DETACHED HOME COMMITTEE: Subject to the rights and powers reserved to the Declarant in the Declaration, the Detached Home Committee shall have all of the powers and duties granted to it or imposed upon it by the Declaration and this Operating Agreement, including, without limitation, the following powers and duties:

- (a) To consult with the Board in connection with the alteration, addition or improvement to Detached Homes Dwelling Units; and

(b) To generally consult with the Board concerning matters relating to certain use restrictions as set forth in the Declaration.

ARTICLE VIII ATTACHED HOME COMMITTEE

8.01 IN GENERAL: The Attached Home Committee shall consist of three (3) individuals. The Attached Home Committee shall have all of the powers granted to it under the Declaration and this Operating Agreement.

8.02 DECLARANT DESIGNATED ATTACHED HOME COMMITTEE: Anything herein to the contrary notwithstanding, until the First Meeting, the Attached Home Committee shall consist of the Declarant or up to three (3) individuals from time to time designated by the Declarant. Such individuals may, but need not, be Owners and shall serve at the discretion of the Declarant.

8.03 ATTACHED HOME COMMITTEE AFTER TURNOVER DATE: At the First Meeting, the Voting Members who represent Attached Home Dwelling Units shall elect a full Attached Home Committee in the manner hereinafter provided to replace the Declarant or the Declarant designated Attached Home Committee established under Section 8.02. From and after the First Meeting, each member of the Attached Home Committee shall be a Voting Member who represents an Attached Home Dwelling Unit.

8.04 ELECTION: At each election for members of the Attached Home Committee, each Voting Member for each Attached Home Dwelling Unit shall be entitled to the number of votes equal to the number of members to be elected and cumulative voting shall not be permitted. At the First Meeting, a full Attached Home Committee shall be elected, each member of which shall serve a two (2) year term. Thereafter, each member of the Attached Home Committee shall serve a two (2) year term. Each Member of the Attached Home Committee shall serve until his term expires or is terminated or until his successor shall have been elected and qualified. A member of the Attached Home Committee may succeed himself in office and may simultaneously serve as a Manager.

8.05 ANNUAL MEETINGS: The Attached Home Committee shall hold an annual meeting within ten (10) days after the annual meeting of the Owners at such place as shall be fixed by the Attached Home Committee members at the annual meeting of the Owners.

8.06 REGULAR MEETINGS: Regular meetings of the Attached Home Committee shall be held at such time and place as shall be determined at the annual meeting or, from time to time, by a majority of the Attached Home Committee members, provided that from and after the First Meeting, not less than two (2) such meetings shall be held during each fiscal year.

8.07 SPECIAL MEETINGS: Special meetings of the Attached Home Committee may be called by the President or by an Attached Home Committee member.

8.08 NOTICE OF ATTACHED HOME COMMITTEE MEETINGS: Notice of each meeting of the Attached Home Committee shall be mailed or personally delivered to each member of the Attached Home Committee at least forty-eight (48) hours prior to the meeting.

8.09 QUORUM: A majority of the Attached Home Committee members serving from time to time shall constitute a quorum for the transaction of business at any meeting of the Attached Home Committee. Except as otherwise expressly provided herein or in the Declaration, any action may be taken upon the affirmative vote of a majority of the Attached Home Committee members present at a meeting at which a quorum is present.

8.10 COMPENSATION/REIMBURSEMENT FOR EXPENSES: No Attached Home Committee member shall be compensated by the Association for services rendered to the Association, except as expressly provided in a resolution duly adopted by the Voting Members. Upon the presentation of receipts or other appropriate documentation, an Attached Home Committee member shall be reimbursed by the Association for reasonable out-of-pocket expenses incurred in the course of the performance of his duties as the Attached Home Committee member.

8.11 REMOVAL OR RESIGNATION OF ATTACHED HOME COMMITTEE MEMBER: After the First Meeting, an Attached Home Committee member may be removed from office, with or without cause, by action of the Voting Members who have the right to vote for such Attached Home Committee members at any annual meeting or at a special meeting called for such purpose. Any Attached Home Committee member may resign at any time by submitting his written resignation to the Board. If an Attached Home Committee member ceases to be a Voting Member who represents an Attached Home Dwelling Unit, he shall be deemed to have resigned as of the date of such cessation. A successor to fill the unexpired term of an Attached Home Committee member who resigns or is removed may be appointed by a majority of the remaining Attached Home Committee members at any regular meeting or at any special meeting called for such purpose and any successor so appointed shall serve the balance of his predecessor's term.

8.12 POWERS AND DUTIES OF THE ATTACHED HOME COMMITTEE: Subject to the rights and powers reserved to the Declarant in the Declaration, the Attached Home Committee shall have all of the powers and duties granted to it or imposed upon it by the Declaration and this Operating Agreement, including, without limitation, the following powers and duties:

(a) To consult with the Managers in the preparation of the that portion of the proposed annual budget for the Attached Home Expenses, as provided for in the Declaration;

(b) To consult with the Board in providing for the maintenance, repair, alteration, addition, improvement or replacement of the Attached Home Dwelling Units, Attached Home Exteriors and Attached Home Common Area for which the Association is responsible under the Declaration and this Operating Agreement; and

(c) To generally consult with the Board concerning matters relating to the Attached Home Dwelling Units.

ARTICLE IX COMMITTEES DESIGNATED BY BOARD

9.01 BOARD COMMITTEES: The Board may, by Board Action, designate one or more committees (in addition to the Detached Home Committee and the Attached Home Committee). Each committee designated by the Board after the First Meeting shall consist of two or more Managers, which committees, to the extent consistent with law and as provided in said resolution, shall have and exercise the authority of the Board in the management of the Association; but the designation of such committees and delegation thereto of authority shall not operate to relieve the Board, or any individual Manager, of any responsibility imposed by law upon the Board or any individual Manager.

9.02 SPECIAL AND STANDING COMMITTEES: Other committees not having and exercising the authority of the Board in the management of the Association may be designated by a resolution adopted by Board Action. Except as otherwise provided in such resolution, members of each such special committee shall be Members or Voting Members and the President shall appoint the members of such special committee, as well as a Manager to act as the liaison between the special committee and the Board. Any member of such special committee may be removed by the President whenever in his or her judgment the best interests of the Association shall be served by such removal. The powers and the duties of any standing committee shall be as set from time to time by resolution of the Board. The President shall designate a Manager (who shall act as the liaison between the standing committee and the Board) to serve as the chairman of each standing committee, and the other members of the standing committee (who need not be Managers) shall be appointed and removed from time to time by such chairman.

9.03 TERM: Each member of a committee shall continue as such until the next Annual Meeting of the Board and until his or her successor is appointed, unless the committee shall be sooner terminated, or unless such member shall be removed from such committee, or unless such member shall cease to qualify as a member thereof.

9.04 CHAIRPERSON: Except as otherwise provided in Section 9.02, one member of each committee shall be appointed chairperson.

9.05 VACANCIES: Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments to such committee.

9.06 QUORUM: Unless otherwise provided in the resolution of the Board designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

9.07 **RULES:** Each committee may adopt rules for its own governance not inconsistent with the Declaration, this Operating Agreement or with rules adopted by the Board.

ARTICLE X CONTRACTS, CHECKS, DEPOSITS AND FUNDS

10.01 **CONTRACTS:** The Board may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by this Operating Agreement, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association and such authority may be general or confined to specific instances. In the absence of any such authorization by the Board, any such contract or instrument shall be executed by the President or a Vice President and attested to by the Secretary or an Assistant Secretary of the Association.

10.02 **PAYMENTS:** All checks, drafts, vouchers or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association, and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer or an Assistant Treasurer and countersigned by the President or a Vice President of the Association.

10.03 **BANK ACCOUNTS:** All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board shall elect.

10.04 **SPECIAL RECEIPTS:** The Board may accept on behalf of the Association any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Association.

ARTICLE XI FISCAL MANAGEMENT

11.01 **FISCAL YEAR:** The fiscal year of the Association shall be established by the Association and may be changed from time to time by a resolution adopted by two-thirds (2/3) of the Board.

11.02 **ANNUAL STATEMENT:** Within a reasonable time after the close of each fiscal year, the Board shall furnish each Member with a statement of the income and disbursements of the Association for such fiscal year.

11.03 **SPECIAL STATEMENT:** Within ten (10) days after receipt of a written request from a Member, the Board shall provide the Member with a statement containing the following information:

- (a) The status of the Member's account and the amount of any unpaid assessments or other charges due and owing from the Member; and

- (b) The status and amount of any and all Capital Reserves.

11.04 ASSESSMENT PROCEDURE: Community Assessments, Attached Home Assessments, and special assessments shall be made and collected as provided in the Declaration.

ARTICLE XII TRANSFER OF MEMBERSHIP

12.01 MEMBERSHIP: The Owner of each Dwelling Unit shall automatically be a Member of the Association. There shall be one membership per Dwelling Unit. Membership shall be appurtenant to and may not be separated from ownership of a Dwelling Unit. Ownership of a Dwelling Unit shall be the sole qualification for membership. The Association shall be given written notice of a proposed change of ownership of a Dwelling Unit within ten (10) days prior to such change. Any attempt to transfer membership in the Association separate from ownership of a Dwelling Unit shall be invalid, null and void, and of no force and effect.

12.02 NO VOLUNTARY DISSOCIATION: Except as otherwise provided by Section 12.01 above, a Member shall not be permitted to voluntarily dissociate from the Association.

ARTICLE XIII BOOKS AND RECORDS

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Members, the Board, and committees having any of the authority of the Board, and shall keep at the registered or principal office of the Association a record including the following: (i) the names and last known address of the Members, setting forth the date on which each became a Member; (ii) a copy of the Articles of Organization of the Association, as amended or restated, together with executed copies of any powers of attorney pursuant to which any articles, applications, or certificates have been executed; (iii) copies of the Association's financial statements and federal, state, and local income tax returns and reports for the three (3) most recent years, where applicable; and (4) copies of the Operating Agreement and any amendments thereto. All books and records of the Association may be inspected and copied by any Member, or his or her mortgagee, agent or attorney, at any reasonable time. The Member shall reimburse the Association for all costs and expenses incurred by the Association in connection with that Member's inspection and copying of such records.

ARTICLE XIV MISCELLANEOUS PROVISIONS

14.01 GOVERNING LAW. This Operating Agreement shall be interpreted in accordance with the internal laws of the State of Illinois, without regard to its rules governing conflict of laws.

14.02 VALIDITY. The provisions of this Operating Agreement are intended to be interpreted and construed in a manner which renders them valid and enforceable. In the event that any provision of this Operating Agreement is found to be invalid or unenforceable, such provision shall be deemed excised from this Operating Agreement without affecting the validity or enforceability of any of the remaining provisions hereof.

14.03 JURISDICTION AND VENUE. All disputes arising under or in connection with this Operating Agreement shall be resolved and disposed of by the federal and state courts located in the County where the Declaration is recorded, and the Association, Managers, and Members irrevocably consent to the exclusive personal jurisdiction of such courts and venue therein.

ARTICLE XV AMENDMENTS

This Operating Agreement may be amended or modified at any time, or from time to time, by the affirmative vote of two-thirds of the Managers then serving provided, that (a) no provision of this Operating Agreement may be amended or modified so as to conflict with the provisions of the Declaration or the Act, and (b) no provision of this Operating Agreement which affects the rights of the Class B Member may be amended or modified without the written consent of the Class B Member.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Operating Agreement as of the first date set forth above.

ASSOCIATION:

The Wheatland Crossing Homeowners Association,
LLC, an Illinois limited liability company

By: Forestar (USA) Real Estate Group Inc., a
Delaware corporation

By: _____

Printed Name: _____

Its: _____

MEMBER/DECLARANT:

By: Forestar (USA) Real Estate Group Inc., a
Delaware corporation

By: _____

Printed Name: _____

Its: _____