

Recorder's Cover Sheet
Master Declaration of Covenants, Conditions and Restrictions for
Autumn Valley, Waukee, Dallas County, Iowa.

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Legal Description: **See Attached Exhibit A**

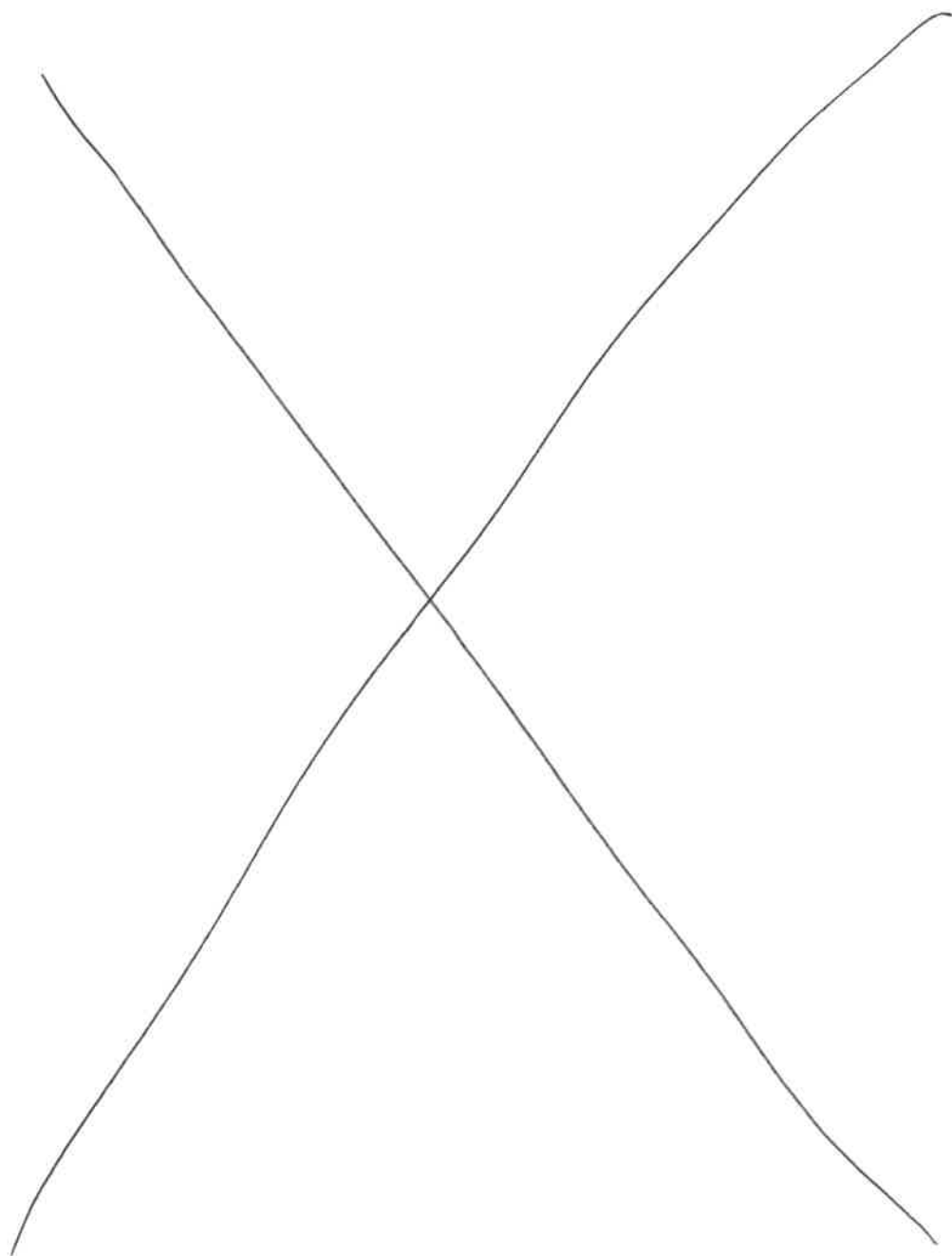
MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

AUTUMN VALLEY

A Subdivision located in Waukee, Dallas County, Iowa

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**MASTER DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
AUTUMN VALLEY**

THIS Master Declaration of Covenants, Conditions and Restrictions of Autumn Valley (“Declaration”) is made on this 30th day of ~~August~~ 20 21, by Forestar (USA) Real Estate Group, Inc., a Delaware corporation (“Declarant”),

WITNESSETH:

WHEREAS, Declarant is the owner of certain real estate, located in Waukee, Dallas County, Iowa, which is more particularly described in Exhibit “A” (hereafter “Real Estate”) attached hereto and by this reference, made a part hereof, upon which Declarant intends to develop a residential subdivision.

WHEREAS, Declarant desires to subdivide and develop the Real Estate, as hereinafter provided.

WHEREAS, the term “Property” shall hereafter mean and refer to the Real Estate.

NOW, THEREFORE, the Declarant hereby declares that all of the Lots (as defined in Article II below) in the Property, as they are held and shall be held, conveyed, hypothecated, or encumbered, leased, rented, used, occupied, and improved, are subject to the following restrictions, all of which are declared to be in furtherance of a plan of the improvement and sale of the Property and each Lot situated therein, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property as a whole and each of the Lots situated therein. The restrictions shall run with the Property and shall be binding upon the Declarant, its successors and assigns, and upon the parties having or acquiring any interest in the Property or any part or parts thereof subject to these restrictions. The restrictions shall inure to the benefit of the Declarant and its respective successors entitled to the Property or any part or parts thereof.

The Owner of any Lots subject to these restrictions, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot or (ii) the active occupancy of any Lot, shall accept such deed, execute such contract and/or actively occupy such Lot subject to each restriction and agreement herein contained. By acceptance of such deed, execution of such contract, and/or actively occupying such Lot, each Owner acknowledges the rights and powers of Declarant and of the Association with respect to these restrictions and also for itself, its heirs, personal representatives, successors, and assigns covenants and agrees to keep, observe and comply with the terms and conditions hereof.

As of the date of execution hereof, the Property consists solely of the Real Estate. However, notwithstanding anything herein to the contrary, the Declarant shall have the right, and hereby reserves to itself, the right, at any time, and from time to time, at any time prior to the expiration of the Development Period, to add to the Property and subject to this Declaration additional contiguous real property (“Additional Real Estate”). Any portion of the Additional Real Estate shall be added to the Property, and therefore and thereby becomes a part of the Property and subject in all respects to this Declaration and all rights, obligations, and privileges herein, when Declarant places of record in Dallas County, Iowa a supplemental declaration (“Supplemental Declaration”) so declaring the same to be part of the Property, which Supplemental Declaration may be as part of a subdivision plat for any portion of the Additional Real Estate, or by an amendment or supplement to this Declaration. Such Supplemental Declaration may contain modifications hereto and additional terms, conditions, restrictions, maintenance obligations, and assessments as may be necessary to reflect the different character, if any, of the Additional Real Estate. Upon recording of any such instrument on or before the expiration of the Development Period, the real estate described therein shall, for all purposes, thereafter be deemed a part of the Property and the Owners of any Lots within such real estate shall be deemed for all purposes, to have and be subject to all of the rights, duties, privileges, and obligations of Owners of Lots within the Property. No single exercise of Declarant’s right and option to add and expand the Property as to any part or parts of the Additional Real Estate, shall preclude Declarant from thereafter from time to time further expanding and adding to the Property to include other portions of the Additional Real Estate, and such right and option of expansion may be exercised by Declarant from time to time as to all or any portions of the Additional Real Estate so long as such expansion is accomplished on or before the expiration of the Development Period. Such expansion of the Property is entirely at the sole discretion of the Declarant and nothing contained in this Declaration or otherwise shall require Declarant to expand the Property beyond the Real Estate, or to any portions of the Additional Real Estate which Declarant may voluntarily and in its sole discretion from time to time subject to this Declaration.

ARTICLE I
Name

The subdivision of the Property created by this Declaration shall be known and designated as **Autumn Valley** (hereinafter “Subdivision”).

ARTICLE II
Definitions

The following terms, when used throughout this Declaration, shall have the following meanings and definitions:

Section 2.1 “Articles” means the Articles of Incorporation of the Association (as hereinafter defined) filed, or to be filed, with the Office of the Secretary of State of Iowa, as the same are or hereafter may be amended from time to time.

Section 2.2 “Association” means the AUTUMN VALLEY HOMEOWNERS ASSOCIATION, INC., a non-profit corporation, its successors and assigns.

Section 2.3 “Board of Directors” means the Board of Directors of the Association.

Section 2.4 “Builder” means a person or entity engaged in and responsible for the original construction of a residence on a Lot (as hereinafter defined).

Section 2.5 “Common Area” means: (1) those portions of the Property, including improvements thereto, facilities and personal property owned, to-be-owned, leased or to-be-leased by the Association from time to time for the common use, benefit and enjoyment of the Owners (as hereinafter defined), (2) Lake Area as defined below, and (3) items (if any) deemed Common Area for maintenance purposes only. Unless expressly stated to the contrary, the term Common Area as used herein (whether or not so expressed) shall include all portions of the Property designated on the Plat (as hereinafter defined) as a “Block”, “Outlot”, “Common Area,” “C.A”, or such other areas within the Property that are not otherwise identified on the Plat (as hereinafter defined) as a lot or street. The Common Area to be conveyed to the Association at the time of conveyance of the first Lot (as hereinafter defined) to an Owner (as hereinafter defined) is described in the Plat (as hereinafter defined).

Section 2.6 “Common Expenses” shall mean and refer to expenses of administration of the Association, and expenses for the upkeep, maintenance, repair and replacement of all Common Area, and all sums lawfully assessed against the Owners (as hereinafter defined) by the Association, and all sums, costs and expenses declared by this Declaration to be Common Expenses.

Section 2.7 “Declarant” means FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation, and its successors and assigns.

Section 2.8 “Development Period” means the period of time commencing with Declarant’s acquisition of the Property and ending when Declarant has completed the development and sale of, and no longer owns, any Lot (as hereinafter defined) or any other portion of the Property.

Section 2.9 “Dwelling Unit” means any single-family residence situated upon a Lot (as hereinafter defined).

Section 2.10 “Lake Area(s)” means any Common Area on which a lake now exists or is later constructed by Declarant and “Lake” means a body of water, which now exists or is later constructed by Declarant in a Lake Area.

Section 2.11 “Lot” or “Lots” means, as the context requires, any parcel or parcels of land designated as such upon a preliminary plat, the Plat (as hereinafter defined), or, after construction, that parcel of land upon which there is constructed a Dwelling Unit that is conveyed to an Owner (as hereinafter defined) by the Declarant. Subject to any necessary approval of the appropriate governmental authority, a “Lot” may contain portions of real estate greater or less than its originally platted dimensions should the Declarant deem it advisable in order to accommodate the construction of a Dwelling Unit.

Section 2.12 “Owner” means the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but

otherwise excluding those having such interest merely as security for the performance of an obligation. Unless specifically indicated to the contrary, the term "Owner" shall include the Declarant.

Section 2.13 "Park" shall mean any portion of the Real Estate which the Declarant, in the Declarant's sole and absolute discretion designates on a Plat as a "Reservation" to be dedicated or donated to any local governmental entity, as a public park for public use or for other purposes.

Section 2.14 "Plat" means the subdivision plats of the Property, which are recorded with the Dallas County Recorder's Office, as the same may be hereafter amended or supplemented pursuant to this Declaration.

Section 2.15 "Provider" shall mean and refer to the entity or entities, which provides Provider Services (as hereinafter defined).

Section 2.16 "Provider Services" shall mean, without limitation, television, cable, computer connection and/or internet connection by line, wire, cable, fiber optic, main, duct, pipe conduit, pole, antenna, microwave, satellite dish, or wire or wireless technology.

ARTICLE III Property Rights, Easements and Encroachments

Section 3.1 Owners' Easements of Enjoyment of Common Area. Every Owner shall have a nonexclusive right and easement of enjoyment, in common with all Owners, in and to any Common Area, which nonexclusive right and easement of enjoyment shall be appurtenant to and shall pass with title to every Lot (in the form of a right to membership in the Association), subject to the following provisions:

- (a) The right of the Association to charge reasonable admission and other fees for the use of recreational facilities, if any, situated upon the Common Area owned by the Association;
- (b) Subject to the requirements of the Revised Iowa Non-Profit Corporation Act regarding notice and due process, the right of the Association to suspend the voting rights and right to use of any recreational facilities, if any, by any Owner for any period during which any assessment remains unpaid;
- (c) The right of the Association to promulgate reasonable rules and regulations governing the use of the Common Area owned by the Association including, without limitation, parking, swimming, boating, fishing, (including the denial thereof of any such rights) and upon improvements, additions or alterations to the Lots and the Common Area owned by the Association;
- (d) The rights of Declarant as provided in this Declaration, as the same may be amended from time to time;

(e) The right of the Association to mortgage any or all of the Common Area owned by the Association, upon the approval of two-thirds (2/3) of the membership of each class of members of the Association;

(f) The easements reserved elsewhere in this Declaration and the right of the Association to grant further reasonable utility easements across and through the Common Area owned by the Association for the benefit of its members;

(g) The right of the Association to dedicate or transfer all or any part of the Common Area owned by the Association to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members or otherwise allowed pursuant to this Declaration, as amended. No such dedication or transfer, except as allowed pursuant to this Declaration, shall be effective unless there is recorded an instrument agreeing to such dedication or transfer signed by (i) the Declarant during the Development Period; or (ii), after the Development Period, seventy five percent (75%) of the membership of each class of members of the Association;

(h) If ingress or egress to any Lot is through the Common Area, any conveyance or encumbrance of such Common Area is subject to such Lot Owner's easement for ingress and egress;

(i) The right of the Declarant to erect any signs (i) advertising the sale of the Property or any Lot and/or (ii) identifying the Subdivision; and

(j) All other rights, obligations and duties as set forth in this Declaration, as the same may be from time to time amended or supplemented.

Section 3.2 Delegation of Use. In accordance with the By-Laws and any reasonable and nondiscriminatory rules and regulations promulgated from time to time by the Association, and subject to the rights of others as set forth in this Declaration, any owner may assign his or her right of enjoyment of the Common Area owned by the Association, to family members, guests, tenants or contract purchasers who reside on the Lot.

Section 3.3 Certain Obligation and Access Rights to the Common Area.

(a) The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the management and control, for the exclusive benefit of the Owners as provided herein, of the Common Area owned by the Association and for the maintenance of the same in good, clean, attractive, safe and sanitary condition, order and repair.

(b) The Association shall have and is hereby granted a general right of access and easement to all of the Common Area owned by the Association and across the Lots, at reasonable times and at any time in case of emergency as reasonably required by its officers, directors, employees and their agents and independent contractors, to the full extent necessary or appropriate to perform its obligations and duties as set forth in this Declaration. The easements and rights specified herein also are reserved for the benefit of

Declarant and Builder, so long as Declarant, Builder, or their affiliates own any portion of the Property and for so long as those entities may be liable under any builder's warranty.

Section 3.4 General Drainage, Utility, Sewer and Other Development Easements.

The following rights reserved in this Section shall not be exercised, after the conveyance of any Lot, in a manner that (i) unreasonably and adversely affects any Dwelling Unit or portion thereof located upon such Lot or the Owner's use or enjoyment thereof, or (ii) unreasonably restricts the rights of ingress and egress to such Lot. The following rights and easements reserved by Declarant in this Section shall run with the land, and Declarant's right to further alter or grant easements shall automatically terminate and pass to the Association one (1) year after Declarant shall have conveyed the last Lot within the Property unless otherwise set forth herein.

(a) Declarant hereby reserves unto itself and unto any public or private utility, a general easement ("General Drainage, Utility, and Sewer Easement") for drainage, utility and sewer purposes in, on and over all of the Common Area and any Lot, so as to permit Declarant to properly install and allow to be maintained all electrical, telephone, water, gas and sanitary and storm sewer, to serve any Dwelling Unit constructed on the Property; provided, however, that only those Providers which receive the Declarant's explicit written permission shall be permitted within the General Drainage, Utility, and Sewer Easement. This General Drainage, Utility, and Sewer Easement shall include all areas of the Property outside any Dwelling Units, except for any areas covered by chimneys, or patios. Improvements or permanent structures installed within the Common Area are subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of the Declarant and any public or private utility to construct, maintain, repair or remove any necessary facilities. By virtue hereof, Declarant reserves the right to install a lake(s) or pond(s) on any Common Area. The rights hereunder and easements hereby reserved survive the conveyance, by the Declarant to the Association, of any Common Area. This easement shall be in addition to any easement defined upon a Plat as a drainage, sewer, utility, cable, landscape, sign, transmission, flowage or similar type easement.

(b) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, an easement ("Lake Easement") and right-of-way in and to any Lake Area(s) or areas now or hereafter shown on the Plat as a "Block", "Common Area", or "Lake" or any other Common Area within the Property used as a water retention or detention area, or on which a Lake now exists or is later constructed, for the purpose of fulfilling any maintenance obligations set forth in this Declaration and/or establishing and maintaining proper surface water drainage throughout the Property, and an easement of ingress and egress through so much of the remainder of the Property as is reasonably necessary or appropriate, to perform such actions as Declarant or the Association deem necessary or appropriate, for the purpose of establishing and maintaining proper surface water drainage throughout the Property, which such actions shall include the construction, repair and maintenance of retention and detention ponds or lakes in accordance with the requirements of applicable law and of all governmental agencies having jurisdiction (without undertaking any obligation or duty to exceed such requirements).

(c) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, an undefined sign and facilities easement (“Sign and Facilities Easement”) to install, erect, construct and maintain an entryway sign or signs, directional signs, signs advertising the Property or the Lots therein, lighting, walkways, pathways, fences, walls and any other landscaping, architectural and recreational features or facilities considered necessary, appropriate, useful or convenient, anywhere upon the Property (except upon any Lot after the first conveyance thereof). Any such signs shall comply with any applicable zoning requirements and all such facilities shall be maintained by the Association as a part of its Common Area maintenance obligations.

(d) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, the full right, title and authority to:

(i) Relocate, alter or otherwise change the location of any Drainage, Flowage, Utility, Sewer and Lake, Sign and Facilities Easement, or any facility at any time located therein or thereon;

(ii) Grant such further easements, licenses and rights-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress and egress, utility and similar purposes on or within any portion of the Property, for the benefit of the Property or any portion thereof; and,

(iii) Describe more specifically or to change the description of any drainage, Flowage, Utility, Sewer, Lake, Sign and Facilities Easement or any other easement, license or right-of-way now or hereafter existing on the Property, by written instrument, amended plat or amendment to the Plat recorded in the Office of the Recorder of the County in which the Property is located.

(e) During the period that Declarant owns any Lot, Declarant and its agents shall have an easement for access to Common Areas for the purpose of constructing structures and other improvements in and to the Lots and for installing, maintaining, repairing, and replacing such other improvements to the Property (including any portions of the Common Areas) as are contemplated by this Declaration or as Declarant desires, in its sole discretion, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided in no event shall Declarant have the obligation to do any of the foregoing. In addition to the other rights and easements set forth herein and regardless of whether Declarant at that time retains ownership of a Lot, Declarant and its agents shall have an alienable, transferable, and perpetual right and easement to have access, ingress and egress to the Common Areas and improvements thereon for such purposes as Declarant deems appropriate, provided that Declarant shall not exercise such right so as to unreasonably interfere with the rights of owners in the Subdivision.

(f) The title of the Association (as to the Common Area owned by the Association during the Development Period) and of any Owner of any Lot shall be subject to the rights and easements reserved herein.

Section 3.5 Easement for Emergency Purposes. An easement is hereby dedicated and granted for use in the case of an emergency by emergency vehicles such as fire trucks, police cars and ambulances and emergency personnel, public and private, over and upon the Common Area.

Section 3.6 Fee Title to Lot. The fee title to any Lot described as bounded by any street, lane, walkway, park, pond, lake, or any other common property which has not been dedicated or accepted by the public and the fee title to any Lot shown on any Plat as abutting upon any such common property shall not extend upon such common property and the fee title to such common property is reserved to the Declarant to be conveyed to the Association for the common enjoyment of all residents in the Subdivision.

Section 3.7 Designated Drainage, Utility, and Sewer Easements. There are strips of ground designated on the Plat as drainage easements, flowage easements, detention easements, public utility easements, water easements, private sanitary sewer easements, and/or sanitary or storm sewer easements, or any combination thereof (hereafter collectively "D&UE Easements"), which are hereby reserved for the non-exclusive use for such purposes by the appropriate governmental entities, public utilities, private utilities and Provider(s) for the installation and maintenance of swales, ditches, mains, ducts, poles, lines, wires, pipes, drains, sanitary sewers, manholes, detention and retention areas or other drainage facilities, and for ingress and egress to accomplish such maintenance and installation; provided, however, that only Providers which receive the Declarant's explicit written permission shall be permitted to be within the D&UE Easement. No permanent structure of any kind, including patios, decks, driveways, walkways, landscaping, and trees, shall be built, erected or maintained on or within any such drainage easements, utility easements, and/or sanitary or storm sewer easements, except by the Declarant or its assigns. Fences may be permitted, however any fence located within the D&UE Easement shall not impede the flow of water, and Owner shall be responsible for removing the fence if there is an issue that needs to be addressed within the D&UE Easement. Purchasers of Lots in this Subdivision shall take title subject to all such easements hereby created and subject at all times to (i) the rights of proper authorities to service and maintain all such drainage, utility and sanitary or storm sewer facilities and easements and (ii) the rights of such governmental entities, public utilities, and private utilities of ingress and egress to access all said easements. All proper governmental agencies or departments and public and private utilities are hereby given the right to obtain access to all such easement areas to perform maintenance and to perform such maintenance as may be necessary to protect that easement and servitude rights. The drainage easements hereby created are reserved (i) for the use of Declarant during the Development Period, for access to and installation, repair or removal of a drainage system, either by surface drainage or appropriate underground installations for the Property and adjoining properties and (ii) for the non-exclusive use of the Association, or any applicable governmental authority for access to and maintenance, repair and replacement of such drainage system. It shall be the responsibility of the Association and the Owners of the areas enclosed within drainage easements to maintain any drainage areas in such condition that the flow of storm drainage waters on, across and from said areas shall not be impeded, diverted or accelerated. Such use for storm water movement or retention or detention is hereby declared to be an easement and servitude upon said land for the benefit of the Owners of other land included within the Plat, upstream or downstream, affected by such use and for any proper governmental agency or department of any private or public utility. It shall be the responsibility of the Association and the Owner of any Lot or parcel of land within the Plat to comply at all times with the provisions of the drainage plan as approved for the applicable

Plat by the appropriate governmental agency or department and the requirements of all drainage permits for such Plat issued by those agencies. Failure to so comply shall operate as a waiver and release of the Declarant, the developer, or their engineers and agents from all liability as to damage caused by storm waters or storm drainage.

Further, there are easements and servitudes upon the land within the Plat in favor of surface water runoff along natural valleys and drainage channels running to Owners or other land contained within the Plat upstream and downstream. It shall be the responsibility of the Association and the Owners of these natural valleys and channels to use their land and maintain said natural valleys and channels in such manner and condition that the flow of storm drainage waters on, across, from and to such areas shall not be impeded, diverted or accelerated.

Section 3.8 Designated Easements for Landscaping, Mounding, Screening and Signage. Within any strips of ground shown or designated on a Plat as a landscape easement, landscape buffer easement, landscape maintenance easement, landscape maintenance access easement, or by any similar language indicating a landscaping purpose, Declarant hereby reserves unto itself, its affiliates, or any designated Builder during the Development Period, and thereafter unto the Association, the exclusive and sole right to (i) erect signs which advertise the Property or availability of Lots, and/or identify the Subdivision and (ii) install landscaping, mounding, walls, and screening. Notwithstanding anything in this Declaration to the contrary, no planting shall be done, and no hedges, walls, signs, fences or other improvements shall be erected or maintained in the area of such easements, except by the Declarant during the Development Period and thereafter by the Association. Furthermore, notwithstanding anything in this Declaration to the contrary, no planting shall be done, and no hedges, walls, fences, structures, signs, or other improvements shall be erected between (i) the area of any such easements and (ii) any perimeter roadway, public highway or right-of-way along the perimeter or boundary of the Property, except by the Declarant.

Section 3.9 Street Dedication. Except for streets which are shown on any Plat as private streets, all streets now or hereafter located upon the Property are hereby dedicated to the public.

Section 3.10 Easement Work. Notwithstanding any architectural approval under Section 6.2 below, during the course of any maintenance, service, repair or work upon any easement, the Declarant, the Association, any private utility, any public utility, and/or any governmental entity shall have the right and the authority, without any obligation or liability whatsoever to any owner, to remove, damage, or destroy any fence or other structure or landscaping built, erected, maintained or planted in any easement described in Section 3.8 and Section 3.9 above.

Section 3.11 No Access. There may be strips of ground designated on the Plat as “no access strips”, “no access”, “no access easement”, “no access esmt”, or by other similar language. Vehicular ingress, egress, and traveling and/or the construction of improvements for such ingress and egress and/or traveling, is prohibited on, over, or across any such strips or areas.

Section 3.12 Reservation of Right to Grant Easement. The Declarant hereby reserves the right, in its discretion, to (i) grant easements upon, under, over and across the Property for the

benefit of land which is adjacent to the Property and/or (ii) to obtain, for the benefit of the Property, easements, upon, under, over and across the real estate which is adjacent to the Property.

ARTICLE IV

Association Membership, Voting Rights, Board of Directors, and Professional Management

Section 4.1 Membership. Initially, the person(s) who serve as incorporator(s) of the Association shall be the member(s) (the "Initial Member(s)"). The Initial Member(s) shall remain member(s) of the Association until the Association Articles of Incorporation are accepted by the Iowa Secretary of State, at which time the Initial Member(s) shall cease to be member(s) unless they also qualify as Class A or Class B members. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Apart from the Initial Member(s), a membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

Section 4.2 Classes of Membership and Voting Rights. The Association shall have the following two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as members holding an interest in such Lot determine among themselves, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Lot on the Property until such time as Declarant owns no Lots or decides to surrender its Membership and turn over complete control of the Association to the Class A members, whichever date is earlier.

Section 4.3 Board of Directors. The Owners shall elect a Board of Directors of the Association as prescribed by the Association's Articles and By-Laws. The Board of Directors shall manage the affairs of the Association. Directors need not be members of the Association.

Section 4.4 Professional Management. Notwithstanding anything to the contrary contained in this Declaration, Declarant shall have the exclusive right to manage or designate a Managing Agent for the Property and to perform all or any of the functions of the Association until the expiration of the Development Period. Declarant may, at its option, engage the services of a Managing Agent, including a Managing Agent affiliated with Declarant, to perform such functions, and, in either case, Declarant or such Managing Agent shall be entitled to reasonable compensation for its services. No contract or agreement for professional management of the Association, nor any other contract between Declarant and the Association, shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause and without payment of any termination fee upon written notice of ninety (90) days or less.

Section 4.5 Suspension of Voting Rights. In the event any Owner shall be in arrears in the payment of assessments for a period of sixty (60), such Owner's right to vote as a member of the Association shall be suspended and shall remain suspended until all payments are brought current. In the event any Owner shall be in default of the performance of any of the terms of this

Declaration for a period of thirty (30) days, such Owners right to vote as a member of the Association shall be suspended and shall remain suspended until all defaults are remedied.

Section 4.6 **Budget.** The Association shall prepare an annual budget.

Section 4.7 **Proxy Votes.** Any proxy given by a Member shall comply with the requirements of Iowa law.

ARTICLE V Covenant for Maintenance Assessments

Section 5.1 **Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Lot by acceptance of a deed therefore (except Declarant, as more specifically provided in Section 5.6 below), whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (a) Regular Yearly Assessments (for maintenance, repairs and ordinary operating expenses, including Common Expenses); and
- (b) Special Assessments for capital improvements and operating deficits and for special maintenance or repairs as provided in this Declaration.
- (c) A working capital contribution upon the sale or transfer of any Lot in an amount set forth in the annual budget which shall be due at the time of such sale or transfer.

Such assessments shall be established, shall commence upon such dates and shall be collected as hereinafter provided. All such assessments, together with prejudgment interest at eighteen percent (18%) per annum (or, if such rate exceed the highest rate permissible by applicable law, then the highest rate permissible by applicable law), costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in the title unless expressly assumed by them.

Section 5.2 **Purposes or Regular Yearly Assessments.** The Regular Yearly Assessments levied by the Association shall be used exclusively, in the reasonable discretion of the Board of Directors of the Association, for the promotion of the recreation, health, safety and welfare of the residents in the Property, for the improvement, maintenance and repair of the Common Area, for the performance of the obligations and duties of the Association and for other purposes only as specifically provided herein; provided, however, that notwithstanding the levy of assessment provided in this Section 5.2, the Board of Directors shall have no obligation or liability to any person with respect to health, safety and welfare, all as provided in the Association's organizational documents. As and if necessary, a portion of the Regular Yearly Assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of the Common Area, and other capital improvements which the Association is required to maintain.

Section 5.3 **Maximum Regular Yearly Assessments.**

(a) The maximum Regular Yearly Assessment on any Lot shall be set forth in the annual budget. At least thirty (30) days before the beginning of each fiscal year, the Board shall prepare a budget fixing the uniform rate for the Regular Yearly Assessment as to all Lots.

(b) From and after January 1 of such year, the maximum Regular Yearly Assessment may be increased each calendar year not more than ten percent (10%) above the maximum Regular Yearly Assessment for the previous year, without a vote of the membership.

(c) From and after January 1 of such year, the maximum Regular Yearly Assessment may be increased each calendar year by more than twenty percent (20%) above the maximum Regularly Yearly Assessment for the previous year, by a vote of two-thirds (2/3) of the votes entitled to be cast by members who cast votes in person or by proxy at a meeting duly called for this purpose.

(d) So long as such action complies with Iowa law, the Board of Directors from time to time may fix the Regular Yearly Assessment, without any vote of the membership, at any amount not in excess of the maximum.

Section 5.4 **Special Assessments for Capital Improvements and Operating Deficits.**

In addition to the Regular Yearly Assessments authorized above, the Association may levy a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain, or to recover any operating deficits which the Association may from time to time incur, provided that any such assessment shall have the approval of two-thirds (2/3) of the votes entitled to be cast by those Members who cast votes in person or by proxy at a meeting duly called for this purpose.

Section 5.5 **Quorum.** Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the total number of votes entitled to be cast (Class A and Class B votes combined) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.6 **Uniform Rate of Assessment.** Regular Yearly Assessments and Special Assessments for capital improvements and to recover operating deficits must be fixed as a uniform rate for all Lots. Declarant and any individual or entity purchasing a Lot or Lots solely for the purposes of construction of a for-sale Dwelling Unit thereon (a "Builder") shall not be obligated to pay any Regular Yearly Assessments and Special Assessments.

Section 5.7 Date of Commencement of Yearly Assessments: Due Dates. The Regular Yearly Assessment provided for herein shall commence as to each Lot within a recorded Plat on the date of closing, on a pro-rated basis, on the conveyance of a Lot by the Declarant to an Owner (other than Builder), or by Builder to an Owner who is an end-user. The Board of Directors shall fix any increase in the amount of the yearly assessments at least thirty (30) days in advance of the effective date of such increase. Written notice of any increase in the Regular Yearly Assessment, and written notice of any Special Assessment and such other assessment notices as the Board of Directors shall deem appropriate, shall be sent to every Owner subject thereto. The due dates for all assessments, and the assessment and collection periods (i.e., annual, monthly, lump-sum or otherwise) for any Special Assessments, shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an Officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments for any Lot shall be binding upon the Association as of the date of its issuance. Any assessment by the Association may be collected on a different schedule or may coincide with other assessment obligations of any other neighborhood homeowners associations under other Plats that make up the Property.

Section 5.8 Effect of Nonpayment of Assessments: Remedies of the Association. If any assessment (or periodic installment of such assessment, if applicable) is not paid on the due date established therefore pursuant to this Declaration, then the entire unpaid assessment (together with interest thereon, costs and reasonable attorneys' fees as provided in this Declaration) shall become delinquent and shall constitute a continuing lien on the Lot to which such assessment relates, binding upon the then Owner, his/her heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall not pass to such Owner's successors in title unless expressly assumed by them. If any assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum (or, if such rate exceeds the highest rate permissible by applicable law, then the highest rate permissible by applicable law), and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, or both. In such event, there shall be added to the amount of such assessment the costs and attorney's fees of preparing and filing the complaint in such action; and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, costs of the action and reasonable attorneys' fees to be fixed by the court. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area owned by the Association or abandonment of his Lot.

Section 5.9 Subordination of the Lien to Mortgages: Sale or Transfer. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer. No sale or transfer of any Lot (whether voluntary or pursuant to foreclosure or otherwise) shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof; and, except as hereinabove provided, the sale or transfer of any Lot shall not affect the lien of assessments becoming due prior to the date of such sale or transfer except to the extent that a purchaser may be protected against the lien for prior assessments by a binding

certificate from the Association, issued pursuant to this Declaration, as to whether or not such assessments have been paid.

Section 5.10 Declarant/Builder Loan. In the event the Association is operating at a deficit, the Declarant and/or Builder may, at Declarant and/or Builder's option, contribute toward the Association budget in order to assist with the operating costs. Any such advances made by Declarant and/or Builder shall be treated as a loan, payable on demand by Declarant and/or Builder. This Section shall be subject to the limitations established by Iowa law.

Section 5.11 Fines and Penalties. In addition to the remedies described elsewhere in this Declaration, the Association is hereby authorized to levy against any Lot in violation of this Declaration an assessment penalty not to exceed \$100 for each day a violation of the this Declaration continues beyond thirty (30) days after notice of a violation has been given by the Association to the Owner of said Lot by certified mail, return receipt requested, or delivered in writing in by personal service. If the Owner of the Lot cannot be located after a diligent search or inquiry, the Association shall publish notice of the violation for two (2) successive weeks in a newspaper of general circulation in Dallas County, Iowa. If the Owner has not fully complied with the terms of this Declaration within thirty (30) days after receiving notice, or thirty (30) days after second publication of notice, the Association shall have the authority to levy an assessment penalty as described herein. This assessment shall be a lien on the Lot and shall have the same status as any other assessment levied by the Association. Any Lot Owner objecting to the notice of violation shall have the right within thirty (30) days of receiving notice to request a hearing before the Association Board of Directors. Assessment of the penalty shall be stayed pending a hearing and final decision by the Association Board of Directors.

ARTICLE VI

Use Restrictions, and Architectural Control

Section 6.1 Lot Use and Conveyance. All Lots shall be used exclusively for single family detached residential purposes, except that Declarant, during the Development Period, reserves (a) the rights provided in this Declaration respecting the Property generally, and (b) the right to subdivide, dedicate or otherwise convey or designate all or any portion of any one or more Lots which it may own from time to time for recreational or other common uses and benefit of all Owners and other members of the Association. Any Lot or portion thereof so designated for common use shall become part of the Common Area owned by the Association, and reasonable rules and regulations shall be promulgated and enforced with respect thereto so that the use and enjoyment of adjacent Lots by the Owners thereof shall not be unreasonably disturbed. Except as provided in the Declaration, no Lot shall be subdivided to form units of less area. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the covenants, conditions and restrictions contained herein.

Section 6.2 Architectural Control. No building, mailbox, fence, satellite dish, wall or other structure, except original construction of Dwelling Units by or on behalf of the Declarant, shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein, other than by the Declarant, be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same

shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant, until the end of the Development Period, and thereafter by the Board of Directors of the Association. After the Development Period, the Board of Directors may appoint three (3) or more representatives to an Architectural Committee. Any change in the appearance or the color of any part of the exterior of a residence shall be deemed a change thereto and shall require the approval therefore as above provided. However, there shall be no such approval of the planting of hedges, the installation of walls, fences, structures and/or other improvements prohibited under Section 3.8 and 3.9 above, and any such approval shall be null and void. In the event that written approval is not received as required hereunder within thirty (30) days after complete plans and specifications have been submitted, then the request for approval shall be deemed denied.

Declarant intends that the members of the Architectural Committee exercise discretion in the performance of their duties consistent with the provisions hereof, and every Owner by the purchase of a Lot shall be conclusively presumed to have consented to the exercise of discretion by such members. In any judicial proceeding challenging a determination by the Architectural Committee and in any action initiated to enforce this Declaration in which an abuse of discretion by the Architectural Committee is raised as defense, abuse of discretion may be established only if a reasonable person, weighing the evidence and drawing all inferences in favor of the Architectural Committee, could only conclude that such determination constituted an abuse of discretion.

The Architectural Committee may inspect work being performed without the Owner's permission to assure compliance with these restrictions and applicable regulations.

Neither the Architectural Committee nor any agent thereof, nor the Declarant, or Association shall be liable in any way for costs, fees, damages, delays or any charges or liability whatsoever relating to the approval or disapproval of any plans submitted to it, nor shall the Architectural Committee, Association or Declarant be responsible in any way for any defects in any plans, specifications or other materials submitted to it, or for any defects in any work done according thereto. Further the Architectural Committee, Association and/or Declarant make no representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used. All parties should seek professional construction advice, engineering, and inspections on each Lot prior to proposing construction.

Section 6.3 Leasing. All lease or rental agreement must be in writing, and they must be immediately provided to the Association. Dwelling Units shall not be leased for an initial term of less than one year nor for less than thirty (30) days for any term thereafter.

Section 6.4 Animals. No animals shall be kept or maintained on any Lot except domestic, household pets traditionally kept in individual residences throughout the State of Iowa. All such pets shall be kept reasonably confined so as not to become a nuisance. Excessive barking of dogs or vicious animals shall constitute a nuisance and may be ordered by the Association to be removed from the Property.

Section 6.5 Outside Storage. All clotheslines, equipment, garbage cans, service yards, woodpiles or storage piles shall be kept from view of neighboring homes and streets. All rubbish,

trash or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon. Trash must be stored in enclosed containers.

Section 6.6 Front Setback Lines. Front Building lines are hereby established as shown on the Plat. Between such Front Building lines and the rights-of-way lines there shall be erected, placed or altered no structure or part thereof. The building lines which are from public right-of-way lines are parallel to and measured perpendicularly from these public right-of-way lines.

Section 6.7 Side and Rear Setbacks. The minimum side yard and minimum rear yard requirements shall be those established by the applicable zoning and subdivision control ordinances, subject to variances granted to Declarant by applicable zoning authorities.

Section 6.8 Temporary Structures and Outbuildings. No tent, shack, basement (other than as part of a Dwelling Unit constructed on a Lot), detached garage, barn, storage shed, mini-storage barn or other out-building shall be erected, placed, or constructed upon any Lot.

Section 6.9 Motor Vehicle Repairs. The repair of inoperative motor vehicles or material alteration of motor vehicles shall not be permitted on any Lot unless entirely within a garage permitted to be constructed per the terms of the Declaration.

Section 6.10 Nuisances. No noxious or offensive activities shall be carried on or be permitted to exist on any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance. Any structure or building permitted to be constructed on a Lot by this Declaration, which may be all or in part destroyed by fire, wind, storm or any other reason, shall be rebuilt and restored to its previous condition within a reasonable length of time, and all debris accumulated in connection therewith shall be removed within a reasonable time after any such occurrence. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on his or her Lot. The pursuit of hobbies or other activities, specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any Lot. Nothing which could cause embarrassment, discomfort, annoyance or nuisance to the occupants of other portions of the Subdivision or which result in a cancellation of any insurance for any portion of the Subdivision, or which would be in violation of any law or governmental code or regulation shall be permitted in the Subdivision. Without limiting the generality of the foregoing provisions, no horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used, or placed within the Subdivision. Any Owner, or his family, tenants, guests, invitees, servants, or agents, who dumps or places any trash or debris upon any portion of the Subdivision shall be liable to the Association for the actual costs of removal thereof or the sum of \$150.00, whichever is greater, and such sum shall be added to and become a part of that portion of any assessment next becoming due to which such Owner and his Lot are subject.

Section 6.11 Permitted Uses. No use shall be made of any Lot except as permitted by this Declaration and the applicable zoning and subdivision control ordinances under which this Property is developed.

Section 6.12 Drains and Vents. No house footing drain or roof water drain shall be discharged into the sanitary sewers.

Section 6.13 Residential Use. Lots may be used only for residential purposes and only for one single-family dwelling with an attached garage as is usual and incidental to the use of residential lots and not otherwise prohibited hereunder. All Lots in this Subdivision shall be designated as residential Lots, and no home shall exceed two and one half (2-1/2) stories or thirty-five (35) feet in height. All homes must have a minimum of a two (2) car garage.

Section 6.14 Size. Subject to any further restrictions imposed by any recorded commitment, every single-family dwelling erected, placed, altered or maintained on any Lot shall have a minimum living area, exclusive of open porches, unfinished basements and attached garages, of not less than what is required by the applicable zoning and subdivision control ordinances.

Section 6.15 Unsightly Growth. In order to maintain the standards of the Property, no weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any Property, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. Failure to comply shall warrant the Declarant or the Association to cut weeds or clear the refuse from the Property at the expense of the Owner, and there shall be a lien against said Property for the expense thereof, which lien shall be due and payable immediately. If such lien is not promptly paid, the Association or the Declarant may file suit and recover such amount together with reasonable attorneys' fees and costs of collection.

Section 6.16 Site Visibility. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three (3) feet and twelve (12) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines and a line connecting points forty (40) feet from the intersection of said street lines, or in the case of a rounded property corner from the intersection of the street right-of-way lines extended. The same sightline limitations shall apply to any Lot within ten (10) feet from the intersection of a street right-of-way line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. No fences shall be permitted to be constructed between the front setback line and the street curb.

Section 6.17 Semi-Tractor Trucks, Trailers, Etc. No semi-tractor trucks or semi-trucks shall be permitted on the Property. No trailers, boats, campers, mobile homes, disabled vehicles, and/or trailers shall be permitted to park on the Property or a Lot for more than 24 hours unless fully enclosed in a garage, or unless the same is necessary and incident to the Declarant's, Builders' or Association's business on the Property.

Section 6.18 Sign Limitations. No sign of any kind, other than those installed by Declarant, the Association, or a Builder, may be displayed to public view on any Lot, except that one sign with an area of not more than six (6) feet may be displayed with the purpose of advertising the Lot for sale. The Association reserves the right to adopt sign restrictions pursuant to Iowa law.

Section 6.19 Lakes, Lake Area(s). Except as otherwise provided, no individual using a Lake, if any, has the right to cross another Lot or trespass upon shoreline not within a Common Area owned by the Association, subject to the rights of the Declarant, the Association, their employees, heirs, successors and assigns as set forth in this Declaration. No one shall do or permit any action or activity which could result in pollution of any Lake, diversion of water, elevation of any Lake level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage or proper Lake management except as provided in the Declaration. A Lake may not be used for swimming, ice skating, boating, or for any other purpose, except for drainage of the Property, unless expressly and specifically approved by the Board of Directors in writing and allowed by law. Lakes and Lake Area may or may not exist on the Property, and the reference throughout this Declaration to Lakes and Lake Areas is made in order to address Lakes and Lake Areas, if any, which now exist or are later constructed upon the Property. The installation on the Property of any Lake or Lake Area shall be within the sole discretion of the Declarant, and under no circumstances shall the Declarant be required or obligated to install any Lake or Lake Area. Only the Declarant and the Association shall have the right to store items or develop recreational facilities upon any Common Area owned by the Association adjacent to a Lake.

Section 6.20 Rules and Regulations. The Board of Directors from time to time may promulgate further rules and regulations concerning the use of Lots and the Common Area owned by the Association. A majority of those Owners voting at a meeting called for the purpose may rescind or modify any rule or regulation adopted by the Board of Directors. Copies of all rules and regulations shall be furnished by the Board to all Owners at the Owner's last known address, prior to the time when the same shall become effective. The Association shall have current copies of the Declaration, Articles and By-Laws, and other rules concerning the Property as well as its own books, records and financial statements available for inspection by Dwelling Unit Owners or by holders, insurers and guarantors of first mortgages, that are secured by Dwelling Units in the Property. These documents shall be available during normal business hours or under other reasonable circumstances.

Section 6.21 Development and Sale Period. Nothing contained in this Article 6 shall be construed or interpreted to restrict the activities of Declarant or a Builder in connection with the development of the Property and sale of Lots. During the Development Period, Declarant or a Builder shall be entitled to engage in such activities and to construct, install, erect and maintain such facilities, upon any portion of the Property at any time owned or leased by Declarant or a Builder, as in the sole opinion of Declarant or a Builder may be reasonably required, or convenient or incidental to, the development of the Property and sale of the lots; such facilities may include, without limitation, storage areas, signs, parking areas, model residence, construction offices, sales offices and business offices.

Section 6.22 Outside Use of Lots. No fences, hedges, walls or other improvements shall be erected or maintained upon the Property without approval of the Architectural Committee, except those installed in accordance with the initial construction of the buildings located thereon. Above ground swimming pools are prohibited on the Property. In ground swimming pools must have a five-foot (5') (minimum) fence that encloses the backyard or an automatic pool cover. All playground equipment must be approved by the Architectural Committee and shall be constructed of wood. Trampolines will not be approved, unless enclosed by a privacy fence. Portable

basketball goals shall not be permitted. Permanent basketball goals shall not be installed without approval of the Architectural Committee. Basketball goals shall not obstruct the right-of-way or sidewalks.

Section 6.23 Mailboxes. All mailboxes installed upon a Lot or Common Area shall be uniform and of a type, color and manufacture approved by the Declarant during the Development Period and, thereafter, by the Board of Directors of the Association. USPS approved gang mailboxes may be installed and maintained by the Association as part of the Common Area.

Section 6.24 Notice of Zoning Commitments. Notice is hereby given that certain written commitments may have been made in connection with the zoning of all or part of the Property (hereafter "Commitments"). The Commitments may pertain, without limitation, to Common Areas, tree preservation areas, mounding, buffers, architectural commitments, and landscape buffers. Unless and until any such Commitments are vacated or released per their terms, the Association shall comply with the terms and conditions thereof. The Property shall be subject to the Commitments and all covenants, conditions, easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Property, all of which are incorporated herein by reference.

Section 6.25 Occupations. No Lot or Dwelling Unit located thereon shall be used for any purpose other than as a single-family residence, except a home occupation which is both permitted under local ordinance and the guidelines below:

- (a) Any home occupation must be conducted entirely within the residence and conducted solely by a member of the immediate family residing in said Dwelling Unit;
- (b) Any home occupation must be clearly incidental and secondary to the use of the Dwelling Unit for residential purposes;
- (c) There can be no sign or display that will indicate from the exterior of the Dwelling Unit that the Dwelling Unit is being used, in whole or in part, for any purpose other than that of a residential dwelling;
- (d) No commodity can be sold from the Lot or Dwelling Unit located thereon;
- (e) No person can be employed on the Lot or Dwelling Unit other than a member of the immediate family residing in the Dwelling Unit;
- (f) No manufacturer or assembly operations can be conducted; and
- (g) Customers cannot enter upon the Lot or Dwelling Unit for the purpose of conducting business.

In no event shall the following similar activities be conducted for business purposes; child care, barber shop, styling salon, animal hospital, kennel, any form of animal care or treatment such as dog training, or any similar activities.

Section 6.26 Fences. The Architectural Committee, prior to any installation, must approve any fencing and landscaping screening. It is the goal to keep all fencing or screening harmonious with the architectural character of the Subdivision. No fence or screen will be approved which obstructs necessary sight lines for vehicular traffic. Undue obstruction of views from adjoining properties and amenity areas will be taken into consideration by the Architectural Committee when reviewing fences for approval. No front yard fencing is permitted, except on a Lot on which there is maintained a sales office or model home by Declarant or Builder. If approved by the Architectural Committee, fences may be privately installed but must be constructed to professional levels of quality, design, material, composition, and color as determined by the Architectural Committee. Non-professionally installed fences may be inspected by the Architectural Committee after completion in order to ensure that the fence is of a professional quality, and final approval of such fences shall be deemed withheld until completion of this final review. All fences shall be kept in good repair by the Owner. No fence shall be located any closer to the front line than the rear foundation line of the residence.

Subject to approval by the Architectural Committee, fences may only be constructed of white PVC, wrought iron, cedar or treated pine, and the Architectural Committee reserves the right to disapprove any one of the materials specified herein on a case-by-case basis. Galvanized fencing and stockade fencing will not be permitted. Fences shall be a maximum of six feet (6') in height. The Architectural Committee must approve all fencing materials, design, and location. The Architectural Committee will approve landscape screening materials, design, and location on an individual basis. Natural Stone and masonry walls shall only be constructed with the approval of the Architectural Committee, which shall be determined on an individual basis.

The exact location, material, color and height of the fence and rendering or photograph thereof shall be submitted to the Architectural Committee for written approval at least thirty (30) days prior to proposed construction. If, however, approval has not been received by applicant in writing within thirty (30) days after submittal, then said request shall be considered DENIED.

Section 6.27 Animal Kennels. Animal kennels or quarters which are not connected to a Dwelling Unit are prohibited. Animal quarters or kennels which are connected to the Dwelling Unit must be approved by the Architectural Committee.

Section 6.28 Driveways. All driveways shall be concrete. Any modifications (i.e. color changes, stamping) must be approved by the Architectural Committee.

ARTICLE VII Maintenance, Repairs and Replacements

Section 7.1 By Owners. Except as specifically provided in this Declaration, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot. All fixtures and equipment installed within or as part of the Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his/her Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling Unit or any part of the Common Area owned by the Association. Such maintenance and repairs include, but are not limited to, all exterior surface,

siding, roof, gutters, internal water lines, plumbing, electric lines, gas lines, appliances, and all other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his Dwelling Unit or Lot.

Section 7.2 Common Properties and Lawns by the Association.

(a) The Association, as part of its duties, and as part of the Common Expenses, shall provide for:

(i) Maintenance of the Common Area. Maintenance of the Common Area shall include, but shall not be limited to, fertilizing, treating any Lakes, mowing and replanting when necessary of the grass and trees and maintenance of any other improvement within the Common Area;

(ii) Maintenance of the entry signs, permanent subdivision identification signs, and landscaping installed by the Declarant in any Common Area, or any Landscape Easement, Landscape Maintenance Easement, Landscape Maintenance Access Easement or similar easement;

(iii) The maintenance of any street lights which are installed by Declarant and which are not located upon any Lot; and

(iv) The maintenance of any brick surface installed by Declarant on any internal street or entryway.

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Area owned by the Association (or any items deemed Common Area for purposes of maintenance only) as it deems necessary.

(b) Notwithstanding any obligation or duty of the Association to repair or maintain any of the Common Area owned by the Association (or any items deemed Common Area for purposes of maintenance only), if, due to the willful, intentional or negligent acts or omissions of an Owner or a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused to the Common Area owned by the Association (or any items deemed as such for purposes of maintenance only), or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Association, the cost of repairing such damage shall be added to and become a part of the assessment to which the Owner's Lot is subject.

(c) The authorized representatives of the Association, the Board of Directors and the Managing Agent for the Association (if any) are hereby granted an easement for access upon and to any Lot as may be required in connection with maintenance only, repairs or replacements of or to the Common Area owned by the Association or any items deemed

as Common Area for purposes of maintenance only, including, but not limited to, access to any easements reserved by any Plat of any portion of the Property for such purposes.

ARTICLE VIII

Insurance

Section 8.1 Liability Insurance. The Association shall purchase a master comprehensive general liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive general liability insurance policy shall cover the Association, its Board of Directors, any committee or organization of the Association or Board of Directors, all persons acting or who may come to act as agents, or employees of any of the foregoing with respect to the Association. It shall also cover all Common Area owned by the Association, public ways and any other areas under the Association's control or supervision. The premiums for all such liability policies shall be a Common Expense.

Section 8.2 Fidelity Bonds. The Association shall have blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The Association bonds shall name the Association as the obligee and the premium shall be paid as a Common Expense by the Association. Any Management Agent that handles funds for the Association shall be covered by its own fidelity bond, which must provide the same coverage required of the Association. The Association shall be named as an additional obligee in the Management Agent's bond. The fidelity bond shall cover the maximum funds that will be in the custody of the Association or its Management Agent at any time while the bond is in force. In addition, the fidelity bond coverage must at least equal one (1) years' assessments on all Dwelling Units in the Property, plus the Association's reserve funds. If available, the fidelity bonds must include a provision that calls for ten (10) days' written notice to the Association or insurance trustee before the bond can be cancelled or substantially modified for any reason.

Section 8.3 Miscellaneous Insurance Provisions. The Association shall obtain any other insurance required by law to be maintained, including but not limited to worker's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and over cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of the Association, its Board of Directors and any Management Agent acting on behalf of the Association. The premiums for all such insurance coverage shall be a Common Expense.

Section 8.4 Casualty and Restoration. Damage to or destruction of any Common Area actually owned by the Association due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose. The same obligation shall apply to an Owner, and not the Association, for damage or destruction to the Owner's Dwelling Unit. For purposes of this Section, repair, reconstruction and restoration shall mean construction or rebuilding of the damaged property to as near as possible the same condition as it existed immediately prior to the damage or destruction, with the same or a similar type of architecture.

Section 8.5 **Insufficiency of Insurance Proceeds.** If the insurance proceeds received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Area actually owned by the Association or any improvements damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by the Association which shall then have the right to levy a Special Assessment against all Lots for such deficiency.

Section 8.6 **Surplus of Insurance Proceeds.** In the event that there is any surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used in the maintenance and operation of the Property. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any right against any Owner for committing willful or malicious damage.

Section 8.7 **Assessment for Insurance.** The premiums for any insurance maintained by the Association may become a separate monthly assessment over and above the assessments described above in Article V of this Declaration, which assessments shall be made on a pro rata basis per lot and shall be included in the monthly assessment. The assessment for insurance shall not be subject to the limitations set forth in Sections 5.3(b) and 5.3(c) regarding annual increases.

ARTICLE IX

Mortgages

Section 9.1 **Mortgagee Rights.** In addition to any other rights provided elsewhere in this Declaration to mortgagees, any lender or lenders holding a first mortgage or first mortgages upon any Lot or Lots, jointly or singly, may pay any real estate taxes or other taxes or charges which are in default and which may or have become a charge or lien against any Common Area owned by the Association or any other property owned by the Association; and may pay any overdue premiums on any hazard, casualty, liability or other insurance policies or secure new insurance coverage on the lapse of any policies for any such property owned by the Association or covering any property for which the Association has an obligation to maintain insurance coverage. Any such lender or lenders making payments in accordance with this Section shall be entitled to immediate reimbursement therefor from the Association along with any costs incurred, including reasonable attorneys' fees.

Section 9.2 **Notice to Mortgagees.** The Association, upon request, shall provide to any lender holding a first mortgage upon any Lot, a written certificate or notice specifying unpaid assessments and other defaults of the Owner of such Lot, if any, in the performance of such Owner's obligations under this Declaration, the Articles of Incorporation of the Association, its By-laws or any other applicable documents, which default has not been cured within sixty (60) days. A reasonable charge may be made by the Association for the issuance of any such certificate or notice, and any such certificate properly executed by an officer of the Association shall be binding upon the Association, as provided by this Declaration.

Section 9.3 **Condemnation and Insurance Awards.** No provisions of this Declaration or any amendment thereto, shall give any Owner, or any other party, priority over any rights of the

first mortgagee of a Lot pursuant to its mortgage in the same, of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of Common Area property.

Section 9.4 **Right of First Refusal.** The Association DOES NOT have the “right of first refusal” to purchase any Dwelling Unit. Any “right of first refusal” subsequently granted to the Association through amendment of the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Lots must receive the prior written approval of the Federal Housing Administration or Secretary of the Department of Housing and Urban Development. Any “right of first refusal” subsequently added in the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Lots must not impair the rights of a first mortgagee to:

- (a) Foreclose or take title to a Dwelling Unit, and the Lot upon which the Dwelling Unit is situated, pursuant to the remedies in the mortgage;
- (b) Accept a deed or assignment in lieu of foreclosure in the event of default by a mortgagor; or
- (c) Sell or lease a unit acquired by the mortgagee.

Section 9.5 **Unpaid Dues or Charges.** Any first mortgagee who obtains title to a Dwelling Unit, and the Lot upon which the Dwelling Unit is situated, pursuant to the remedies in the mortgage or through foreclosure, will not be liable for the Dwelling Unit’s unpaid dues or charges accrued before the acquisition of the title to the Dwelling Unit by the mortgagee.

ARTICLE X

General Provisions

Section 10.1 **Right of Enforcement.** In event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the Association or any Owner and all parties claiming under them shall have the right to enforce the covenants, conditions and restrictions contained herein, and pursue any and all remedies, at law or in equity, available under applicable Iowa law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.

Section 10.2 **Severability and Waiver.** The Declaration shall operate in congruence with Iowa law and be enforceable to the fullest extent permitted at law or in equity. Invalidation of any one of the covenants, restrictions or provisions contained in this Declaration by judgment or court order shall not in any way affect any of the other provisions hereof, which shall remain in full force and effect. No delay or failure by any person to enforce any of the restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that person of the right to do so thereafter, or as estoppel of that person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the restrictions.

Section 10.3 Assignment. Declarant may at any time assign some or all of its rights and obligations under this Declaration. Such assignment shall be effective after it is executed and recorded by Declarant with the Recorder of the County in which the Property is located. After such assignment is recorded with the Recorder of the County in which the Property is located, Declarant shall have no further obligations or liabilities under the Declaration with respect to the rights or obligations assigned.

Section 10.4 Amendment. This Declaration and the covenants, conditions and restrictions set forth in this Declaration, as from time to time amended in the manner hereafter set forth, shall run with the land and shall be binding upon the persons owning any portion of the Property and all parties closing under them.

(a) This Declaration may be amended or modified at any time, from time to time by the Owners, subject to the following, by an instrument recorded in the Office of the Recorder of the County in which the Property is located, approved and signed by the then Owners, subject to the following:

- a. The Declarant's consent to an amendment shall be required if Declarant either: (a) owns one (1) or more Lots; or (b) not more than seven (7) years have passed since the original governing documents were first recorded.
- b. The consent of the Owners to the amendment has been obtained as evidenced by either of the following:
 - i. The vote of the Owners to a meeting duly called for the purpose of considering the amendment; and
 - ii. A written instrument signed by the Owners.

Any amendment shall require at least a seventy five percent (75%) vote of the Owners for consent under this Section 11.4(b).

- c. The consent of the eligible Mortgagee. The consent of an eligible Mortgagee must be indicated in a written instrument signed by the Mortgagee. However, a Mortgagee is considered to have consented to a proposed amendment if the Mortgagee does not respond to a written request for consent within thirty (30) days after the Mortgagee receives the request.

(b) Except as prohibited above, this Declaration may also be amended unilaterally by Declarant for so long as it is a Class B Member. Any amendment must be recorded with the County Recorder. Neither the Association, the Owners, nor Declarant shall effect any of the following changes without the prior written approval:

- (i) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned directly or indirectly by the Association

for the benefit of the Owners of the Dwelling Units. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area owned by the Association by the Dwelling Unit Owners is not a transfer in the meaning of this clause;

(ii) Fail to maintain fire and extended coverage on insurable Common Area owned by the Association on a current replacement cost basis in an amount at least one hundred percent (100%) of the insurable value (based on current replacement costs);

(iii) Use hazard insurance proceeds for losses to any Common Area owned by the Association for other than the repair, replacement, or reconstruction of the Common Area owned by the Association.

(c) The consent of the Owners to an amendment shall be evidenced by either of the following:

(i) The vote of the Owners at a meeting duly called for the purpose of considering the amendment; or

(ii) A written instrument signed by the Owners.

Section 10.5 HUD Amendment Approval. All other provisions of the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Property notwithstanding, so long as there is a Class B membership, if required by applicable law, the Federal Housing Administration or Secretary of the Department of Housing and Urban Development shall have the right to review and approve amendments or changes to the Declaration and related documents relating to the following:

(a) Annexation of real estate;

(b) Dedication or mortgaging of Common Area;

(c) Mergers and consolidation of any Property, Common Area or the Association; and

(d) Amendment of the Declaration of Covenants, Conditions and Restrictions.

Section 10.6 Assignment. Declarant may assign or otherwise transfer any and all of its rights as Declarant in whole or in part.

Section 10.7 Condemnation, Destruction or Liquidation. The Association shall be designated to represent the Owners in any proceedings, negotiations, settlements or agreements for the handling of any losses or proceeds from condemnation, destruction or liquidation of all or a part of the Common Area owned by the Association, or from the termination of the development. Each Dwelling Unit Owner, by his acceptance of a deed, appoints the Association as his attorney-in-fact for this purpose. Proceeds from the settlement will be payable to the Association for the benefit of the Dwelling Unit Owners and their mortgage holders. Any distribution of funds in

connection with the termination of this development shall be made on a reasonable and an equitable basis.

Section 10.8 Borrowing Money. Except as otherwise prohibited by Iowa law, the Association may not borrow money during any calendar year on behalf of the Association in an amount that exceeds the greater of:

- (1) five thousand dollars (\$5,000) during any calendar year; or
- (2) if the Association operated under an annual budget in the previous calendar year, an amount equal to at least ten percent (10%) of the previous annual budget of the Association; unless borrowing the money is approved by the affirmative vote of a majority of the members of the Association voting under this section.

Section 10.9 Limitation on Liability. No right or action shall accrue and no action shall be brought or maintained by anyone whomsoever against D.R. Horton - Iowa, LLC and Forestar (USA) Real Estate Group, Inc., its successors or assigns, the Development Board or any member thereof for or on account of any action or inaction taken or not taken thereby in connection herewith.

IN WITNESS WHEREOF, Forestar (USA) Real Estate Group, Inc. has caused this Declaration to be executed as of the date first written above.

By [Signature]

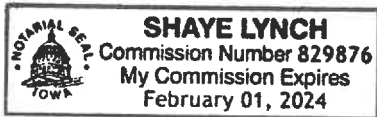
STATE OF)
) SS:
COUNTY OF)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Seth Moulton, on behalf of D.R. Horton Iowa LLC, an Iowa Limited Liability corporation, and having been duly sworn, acknowledged execution of this Declaration of Covenants, Conditions and Restrictions of Autumn Valley Townhomes

Witness my hand and Notarial Seal this 30 day of August, 2021.

Shaye Lynch
Notary Public

My Commission Expires:
February 1, 2024



Residing at POIK County

Exhibit A

Parcel 20-92 of the survey of the North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 32-79-26 West of the 5th P.M. as shown in Book 2020 Page 28973 in the Office of the Recorder of Dallas County, Iowa.

To be known as Autumn Valley Townhomes, Plat 1, an Official Plat, now included in and a part of the City of Waukee, Dallas County, Iowa

AND

An Irregular shaped portion of Parcel 20-91 in the North One-half of the Southeast Quarter of Section 32, Township 79 North, Range 26 West of the 5th P.M., Waukee, Dallas County, Iowa as shown in Book 2020 at Page 28973 described as:

Beginning at the Southeast Corner of said Parcel 20-91, said corner also being the Northeast Corner of Outlot A in Autumn Valley Townhomes, an Official Plat, Waukee, Dallas County, Iowa; thence N89°53'23"W along the South Line of said Parcel 20-91 and along the North Line of Outlot A, Lot A and Outlot B in said Autumn Valley Townhomes, a distance of 523.03 feet; thence N84°13'15"W along the Southerly Line of said Parcel 20-91 and along the Northerly Line of Outlots B and C in said Autumn Valley Townhomes, a distance of 612.60 feet; thence N89°53'23"W along the Southerly line of said Parcel 20-91 and along the North Line of said Outlot C, a distance of 248.52 feet to the Southwest Corner of said Parcel 20-91; thence N18°23'47"W along the Westerly Line of said Parcel 20-91, a distance of 350.42 feet; thence S89°53'23"E, a distance of 785.98 feet; thence S78°18'23"E, a distance of 290.02 feet; thence S89°53'23"E, a distance of 424.96 feet to the East Line of said Parcel 20-91 and to the Northwest Corner of Lot 33 in Clayton Estates Plat 2; thence S00°32'43"W along the West Lines of Lots 33, A and 32 in said Clayton Estates Plat 2, a distance of 334.61 feet to the point of beginning.

Said tract of land contains 11.36 acres.

Said tract of land being subject to and together with any and all restrictions, covenants and/or easements of record.

Said tract to be known as Autumn Valley Plat 1, Waukee, Dallas County.