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**AMENDMENT TO RESTRICTIONS OF MILAGRO MESA SUBDIVISION**

**THIS AMENDMENT TO RESTRICTIONS OF MILAGRO MESA SUBDIVISION** (this "Amendment" is made as of the 23<sup>rd</sup> day of February, 2018, by Double M Properties, Inc., a New Mexico corporation ("Grantor") and D.R. Horton, Inc., a Delaware corporation ("DR Horton").

**WHEREAS**, the Restrictions of Milagro Mesa Subdivision were recorded in the office of the County Clerk of Sandoval County, New Mexico on November 8, 2017 in Book 420, Page 26536, as Document No. 2017026536 (the "Restrictions"). As provided therein, the Restrictions currently encumber the following real property (the "Property"):

LOTS 12 THROUGH 36, INCLUSIVE, IN BLOCK 1, LOTS 1 THROUGH 19, INCLUSIVE, IN BLOCK 2, LOTS 36 THROUGH 46, INCLUSIVE, IN BLOCK 2, AND LOTS 12 THROUGH 20, INCLUSIVE, IN BLOCK 3, AND TRACTS E, F, G, H AND I, MILAGRO MESA SUBDIVISION AS THE SAME IS SHOWN ON THE PLAT THEREOF RECORDED IN THE SANDOVAL COUNTY, NEW MEXICO REAL ESTATE RECORDS ON NOVEMBER 6, 2017, IN PLAT BOOK 3, PAGE 4152, AS DOCUMENT NO. 2017P01149.

**WHEREAS**, the Grantor remains the owner of all of the Property, except for the following Lots, which were purchased by and are currently owned by DR Horton:

LOTS NUMBERED SIXTEEN (16) THROUGH THIRTY-SIX (36); INCLUSIVE, IN BLOCK NUMBERED ONE (1); LOTS NUMBERED ONE (1) THROUGH SEVEN (7), INCLUSIVE, IN BLOCK NUMBERED TWO (2); AND LOTS NUMBERED FORTY-FIVE (45) AND FORTY-SIX (46) IN BLOCK NUMBERED TWO (2), MILAGRO MESA SUBDIVISION AS THE SAME IS SHOWN ON THE PLAT THEREOF RECORDED IN THE SANDOVAL COUNTY, NEW MEXICO REAL ESTATE RECORDS ON NOVEMBER 6, 2017, IN PLAT BOOK 3, PAGE 4152, AS DOCUMENT NO. 2017P01149.

**WHEREAS**, the Grantor and DR Horton desire to amend the Restrictions in order to provide for just one class of membership for the Association, but to retain certain rights reserved to the Grantor, as more specifically provided herein.

**NOW THEREFORE:**

1. **Amendment.** The amendments to the Restrictions addressed below are hereby made. Reference to "Sections" in this paragraph relate to Sections of the

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**WHEREAS**, the Grantor and DR Horton desire to amend the Restrictions in order to provide for just one class of membership for the Association, but to retain certain rights reserved to the Grantor, as more specifically provided herein.

**NOW THEREFORE:**

1. **Amendment.** The amendments to the Restrictions addressed below are hereby made. Reference to "Sections" in this paragraph relate to Sections of the

Restrictions.

a. The phrase “to Owner Members” in the third line of Section 1.09 is deleted and is replaced by the phrase “, to Owners other than Grantor”.

b. Section 4.02 is deleted in full and the following is added in its place:

**Section 4.02: Membership Class.**

The Association shall have only one (1) class of membership. All Owners, including Grantor, shall be members of the Association (“Members”). As to matters requiring the vote of the Members, each Member, including Grantor, shall be entitled to one (1) vote for each Lot held by such Member.

c. The following sentence is added to the end of Section 5.01(d): “During the Grantor Control Period, the Grantor shall have the right to appoint and remove members of the Board.”

d. Except as otherwise provided in paragraphs 1(a), 1(b) and 1(i) of this Amendment, each time the phrase “Owner Members” appears in the Restrictions, including in Sections 4.03, 4.04, 4.04(a), 4.04(b), 5.02(a), 5.02(b)(3), 5.02(d), 6.01, 6.03(b), 6.03(d) and 6.05, it is replaced by the word “Members”.

e. Each time the phrase “Owner Member” appears in the Restrictions, including in Section 6.01, it is replaced by the word “Member”.

f. Each of the phrases “and the approval of the Grantor Member so long as there is a Grantor Member”, “and the approval of the Grantor Member”, “and approval of the Grantor Member”, “and is approved by the Grantor Member”, and like phrases, as such phrases appear in Sections 5.02(a), 5.02(b)(3), 5.02(d), 6.03(b), 6.03(d) and 6.05, is replaced by the phrase: “and, during the Grantor Control Period, the approval of the Grantor”. In relation to the specific Sections mentioned in this paragraph 1(f) of this Amendment, the intent of the amendments addressed in paragraphs 1(d), 1(e) and 1(f) of this Amendment is to revise those provisions of the Restrictions that required the approval of a particular percentage of the Owner Members and the approval of the Grantor to now require the approval of a particular percentage of the Members (considering Grantor as Member if Grantor then remains a Member), and to affirmatively require the approval of Grantor if during the Grantor Control Period.

g. The phrase “Grantor Member” in Section 8.01 is replaced by the phrase “Grantor during the Grantor Control Period”.

h. The phrase “Grantor Member” in Section 10.04 is replaced by the phrase “Grantor while Grantor owns any property in the Subdivision”.

i. Section 11.01(a) is deleted in full and the following is added in its place:

a. During the Grantor Control Period, these Restrictions and any provisions thereof which are in effect with respect to all or part of the Subdivision, may be amended or repealed in the following manner:

1. The consent of Grantor and the approval, through vote or written consent, of Members representing a majority of the Members (considering Grantor as Member); and

2. The recordation of a certificate of the Secretary or an Assistant Secretary of the Association setting forth, in full, the amendment or amendments so approved, including any portion or portions of this Declaration repealed, and certifying that such amendment or amendments have been approved by the required vote or consent of the Owners.

After the termination of the Grantor Control Period, these Restrictions may be amended by the approval, through vote or written consent, of Members representing seventy-five percent (75%) of the Members (considering Grantor as Member if Grantor then remains a Member), and by the recordation of a certificate as provided in Section 11.01(a)(2) above.

At any time during which Grantor is the only owner of property within the Subdivision, Grantor may amend or correct these Restrictions by a recorded instrument of amendment or correction.

2. Capitalized terms not defined herein shall have the same meaning as in the Restrictions. The Restrictions, as amended by this Amendment, remain in full force and effect.

**IN WITNESS WHEREOF**, the undersigned have executed this Amendment as of the day and year first above written.

DOUBLE M PROPERTIES, INC., a New Mexico corporation

By: [Signature]  
Robert C. Prewitt  
Vice President

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF BERNALILLO )

This instrument was acknowledged before me on February 23, 2018, by Robert C. Prewitt, as Vice President of Double M Properties, Inc., a New Mexico corporation.

[Signature]

My Commission Expires:  
JUNE 18, 2019



D.R. HORTON, INC., a Delaware corporation

By: [Signature]  
Dean Anderson  
Albuquerque Division President



STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF BERNALILLO )

This instrument was acknowledged before me on 2-23-18, 2018, by Dean Anderson, as Albuquerque Division President of D.R. Horton, Inc., a Delaware corporation.

[Signature]

My Commission Expires:  
10/30/2021