



## WLE Resolution 141223m

### Approval of Operating Agreement

Whereas, the current elected Trustees have not fully determined the validity of the operating agreement on file (and attached as Exhibit A), and

Whereas, the Trustees need a starting Operating Agreement,

#### Be it resolved that:

The Trustees approve Exhibit A as the Operating Agreement of Winter Lake Estates Trustees Association, LLC, a Missouri Limited Liability Company. (Attached as Exhibit A)

New Signature page shows the approval of a majority of Trustees.

The Company's principal office address is PO Box 292, Fenton, MO 63026-0292

The Company's Office will be located at 115 Winter Lake Blvd, Fenton, MO 63026 and shall move from time-to-time.

SIGN:

Robin Reichardt      Dom Bausano

Robin Reichardt

Dom Bausano

\_\_\_\_\_  
Fred Reinhold

DATE:

12/23/14

12/23/2014

**Certified Passage by Majority of Quorum:**

Jeanne Fernandez      12/23/14  
Jeanne Fernandez, Member      DATE



**OPERATING AGREEMENT**

**OF**

**WINTER LAKE ESTATES TRUSTEES ASSOCIATION, LLC**

A Missouri Limited Liability Company

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Table of Contents

<b>Article 1 – General</b> .....	<b>1</b>
1.1 Name.....	1
1.2 Purposes.....	1
1.3 Principal Office.....	1
<b>Article 2 – Membership</b> .....	<b>2</b>
2.1 Qualifications of Members.....	2
2.2 Dues.....	2
2.3 Membership Transfer Restricted.....	3
2.4 Resignation of Member.....	3
<b>Article 3 – Meetings of the Members</b> .....	<b>3</b>
3.1 Annual Meeting.....	3
3.2 Special Meetings.....	3
3.3 Action Without Meeting.....	3
3.4 Notice.....	3
3.5 Voting; Quorum.....	4
<b>Article 4 – Managers</b> .....	<b>5</b>
4.1 Number; Election.....	5
4.2 Authority of Multiple Managers.....	5
4.3 Removal.....	6
4.4 General Powers.....	6
<b>Article 5 – Meetings of the Managers</b> .....	<b>6</b>
5.1 Annual Meeting.....	6
5.2 Special Meetings.....	6
5.3 Action by Written Consent.....	6
5.4 Notice.....	6
5.5 Voting; Quorum.....	7
5.6 Actions by Managers.....	7
<b>Article 6 – Committees</b> .....	<b>7</b>
6.1 Architectural Control Committee.....	7
6.2 Committee Meetings.....	7

<b>Article 7 – Officers</b> .....	<b>8</b>
7.1 Number.....	8
7.2 Election.....	8
7.3 Resignation.....	8
7.4 Removal.....	8
7.5 President.....	8
7.6 Secretary.....	9
7.7 Treasurer.....	9
<b>Article 8 – Finances</b> .....	<b>9</b>
8.1 Fiscal Year.....	9
8.2 Contracts, Etc., How Executed.....	9
8.3 Loans.....	10
8.4 Deposits.....	10
8.5 Checks, Drafts, Etc.....	10
8.6 General and Special Bank Accounts.....	10
<b>Article 9 – Conflict of Interest</b> .....	<b>11</b>
<b>Article 10 – Indemnification</b> .....	<b>11</b>
<b>Article 11 – Miscellaneous</b> .....	<b>11</b>
11.1 Amendments.....	11
11.2 Notices.....	12
11.3 Governing Law.....	12
11.4 Severability.....	12
11.5 Table of Contents; Titles of Articles and Sections.....	12

# OPERATING AGREEMENT

## OF

### WINTER LAKE ESTATES TRUSTEES ASSOCIATION, LLC

A Missouri Limited Liability Company

#### **Article 1 – General**

##### 1.1 Name.

The name of the Company is the “WINTER LAKE ESTATES TRUSTEES ASSOCIATION, LLC”.

##### 1.2 Purposes.

The Company is organized as a limited liability company under the Missouri Limited Liability Company Act (the “Act”) to act as the sole trustee on behalf of the homeowners in the Winter Lake Estates subdivision, pursuant to the subdivision’s Indenture of Trust and Restrictions of Winter Lake Estates , as amended (“Indenture”).

##### 1.3 Principal Office.

The principal place of business of the Company (the “Principal Office”) shall be 421 Winter Lake Circle, Fenton, MO 63026, or such other place or places as may hereafter be approved by the Managers.

1.4 Required Records. Pursuant to Section 347.091.1 of the Act, the Company shall keep at its Principal Office the following:

(a) A current and a past list setting forth the full name and last known mailing address of each Member and Manager.

(b) A copy of the Company’s Articles of Organization and all articles of amendment thereto, together with executed copies of any powers of attorney pursuant to which any articles have been executed.

(c) Copies of the Company’s federal, state and local income tax returns and reports, if any, for the three (3) most recent years or, if such returns and reports were not prepared for any reason, copies of the information and records provided to, or which should have been provided to, the Members to enable them to prepare their federal, state and local tax returns for such period.

(d) Copies of any effective written operating agreements of the Company, and all amendments thereto, and copies of any written operating agreements no longer in effect.

(e) Copies of any financial statements of the Company for the three (3) most recent years.

(f) Copies of all other documents and records required to be maintained by the Company at its Principal Office pursuant to Section 347.091.1 of the Act.

## Article 2 – Membership

### 2.1 Qualifications of Members.

(a) Every owner of a lot in the Winter Lake Estates Subdivision (the “Subdivision”) shall, by virtue of such ownership, and without any corporate action, become a Member of the Company. Such membership shall be appurtenant to and may not be separated from ownership of any lot. If a lot is owned by more than one Person or entity, all co-owners shall share the privileges of such membership, subject to reasonable Managers regulation and any restrictions on voting set forth in the Subdivision’s Indenture, and all such co-owners shall be jointly and severally obligated to perform the responsibilities of owners. The membership rights of an owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the owner in a written instrument provided to the Secretary of the Company.

(b) The Members shall be all owners and shall be entitled to one (1) vote for each lot owned. When more than one (1) person holds an interest in any lot, all such co-owners shall be Members. The vote for such lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any such lot.

### 2.2 Dues.

Each Member who is an owner of any lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay (i) annual assessments or charges; and (ii) special assessments, such assessments to be fixed, established and collected from time to time as provided in the manner and upon the terms and conditions set forth in the Indenture (including but not limited to Article V, “Assessments” of the Indenture). Members who do not pay annual dues or special assessments within thirty (30) days of the due date thereof shall be suspended and placed on the inactive list by the Manager of the Company until payment is received. Suspended Members shall not be entitled to any of the rights of Membership, including the right to vote.

2.3 Membership Transfer Restricted.

No Member may transfer his or her Membership or any right arising therefrom.

2.4 Resignation of Member.

A Member may resign only by conveying its ownership in a lot. The resignation of a Member does not relieve the Member from any obligations the Member may have to the Company as a result of obligations incurred or commitments made prior to resignation.

### **Article 3 – Meetings of the Members**

3.1 Annual Meeting.

The annual meeting of the Members shall be held in accordance with the terms of the Subdivision's Indenture, at such time and place as shall be determined by the Managers. The annual meeting shall be for the purpose of electing Managers and for the transaction of such other business as may come before the meeting. At the annual meeting, the Manager shall report on the activities and financial condition of the Company.

3.2 Special Meetings.

Special meetings of the Members may be called by the Manager, and shall be called by the Manager if so directed by resolution of the Board of Directors, or upon written request of ten percent (10%) of the Members. The business transacted at any special meeting of Members shall be confined to the purposes stated in the notice.

3.3 Action Without Meeting.

Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by the Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent, dated and delivered to the Company. Such consents shall be filed with the minutes of the Company, and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the Manager shall give written notice summarizing the material features of the authorized action to all Members entitled to vote who did not give their written consent.

3.4 Notice.

(a) Written or printed notice stating the time and place of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days before the date of



such meeting. In addition, in the case of a special meeting, the notice shall state the purpose or purposes for which the meeting is called; no business shall be transacted at a special meeting except as stated in the notice.

(b) If mailed, notice shall be deemed delivered when deposited with the United States Postal Service, postage prepaid, addressed to the Member at his or her address as it appears on the Company's records.

(c) Any Member may waive, in writing, notice of any meeting of the Members, either before or after such meeting, and waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Attendance at a meeting by a Member shall be deemed a waiver of notice unless such Member attends for the limited and specific purpose of objecting to lack of proper notice.

### 3.5 Voting; Quorum.

#### (a) Voting.

(1) The voting rights of the Members shall be as set forth in the Indenture. When a quorum is present at any duly called meeting, a majority of the votes cast shall decide any question brought before the meeting, unless the question is one which, by express provision of the Act or the Subdivision's Indenture, requires a different vote, in which case such express provision shall govern and control the decision of such question.

(2) Members may vote in person or by proxy. On any matter as to which a Member is entitled personally to cast the vote for his or her lot, such vote may be cast in person or by proxy, subject to the limitations of the Act relating to the use of general proxies and subject to any specific provision to the contrary in the Subdivision's Indenture.

(3) Every proxy shall be in writing specifying the lot for which it is given, signed by the Member or his or her duly authorized attorney-in-fact, dated, and filed with the Secretary of the Company prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

(4) Every proxy shall be revocable and shall automatically cease upon: (a) conveyance of any lot for which it was given; (b) receipt by the Manager or Secretary of a written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person; or (c) eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

(b) Quorum.

(1) The presence of Members representing thirty percent (30%) of the total votes in the Members shall constitute a quorum at all Company meetings.

(2) If any meeting of the Members cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. Notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

(3) Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

#### **Article 4 – Managers**

4.1 Number; Election.

There shall be three (3) initial Managers, namely (1) Fred G. Reinhold, (2) Mary E. Reinhold, and (3) Christopher M. McCarthy. If any of said initial Managers shall die, resign, be legally disabled, unwilling or unable to act as Manager, then any successor Manager(s) shall be appointed by the remaining Managers or Manager until such time as an election of Managers is required as hereinafter set forth.

One-third (1/3) of the Managers shall be elected by the owners of lots in the Subdivision after seventy percent (70%) of the lots in the Subdivision have been sold; two-thirds (2/3) of the Managers shall be elected by owners of the lots after ninety-five percent (95%) of all of such lots in the Subdivision have been sold; and all of the Managers shall be chosen by owners of the lots after all of such lots of the Subdivision have been sold.

4.2 Authority of Multiple Managers.

Unless otherwise provided herein, during any time that there are two or more Managers serving simultaneously, (a) a Majority of the Managers shall be required with respect to the exercise of the powers and authority granted in this Agreement, and (b) a Majority of the Managers shall be required to sign any and all documents on behalf of the Company, provided, a Majority of the Managers may from time to time authorize by written consent any one Manager to sign any document on behalf of the Company, singularly without the additional signature of

any other Manager. Each person relying or acting upon the signature of any one Manager who produces such written consent of a Majority of the Managers shall be entitled to presume conclusively that said document is in full force and effect and said Manager had full authority to sign such document unless written notice shall have been given to such person that said Manager does not have the power to sign such documents singularly and such person has actual knowledge that said Manager does not have that power.

#### 4.3 Removal.

Any Manager elected by the Members may be removed, with or without cause, by the vote of a majority of the votes entitled to be cast for the election of such Manager. Any Manager whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a Manager, a successor shall be elected by the Members to fill the vacancy for the remainder of the term of such Manager.

#### 4.4 General Powers.

The business, property and affairs of the Company shall be controlled and managed by the Managers.

### **Article 5 – Meetings of the Managers**

#### 5.1 Annual Meeting.

The annual meeting of the Managers shall be held immediately following the annual meeting of Members or at such other time and place as shall be determined by the Managers.

#### 5.2 Special Meetings.

Special meetings of the Managers may be called by the President or the Secretary on not less than two (2) days' notice to each Manager. The place of any special meeting of the Managers shall be the Company's principal office or at such other location as may be specified by the Managers.

#### 5.3 Action by Written Consent.

Action required or permitted by law to be taken at a meeting of the Managers may be taken without a meeting if the action is taken by all of the Managers. The action shall be evidenced by one or more written consents describing the action taken, signed by each Manager and included in the minutes filed with the company records reflecting the action taken. Such action shall be effective when the last Manager signs the consent, unless the consent specifies a different effective date.

#### 5.4 Notice.

Except as otherwise provided herein, notice of any annual meeting shall be given at least five (5) days prior thereto by written notice to each Manager. Any Manager may waive notice of any meeting. A Manager's attendance at or participation in a meeting waives any required notice of the meeting unless the Manager upon arriving at the meeting or prior to the vote on a matter not noticed in conformity with the Act, the Articles of Organization of the Company or this Operating Agreement, objects to lack of notice and does not vote for or assent to the objected to action. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Managers need be specified in any notice or waiver of notice of such meeting.

#### 5.5 Voting: Quorum.

Each Manager shall be entitled to one (1) vote on each matter submitted to a vote of Managers. At all meetings of the Managers, a majority of all the Managers in office shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the Managers present at any meeting at which there is a quorum shall be the act of the Managers, unless the action is one upon which, by express provision of the Act, the Articles of Organization, or this Operating Agreement, a different vote is required, in which case such express provision shall govern and control. If a quorum shall not be present at any meeting of Managers, the Managers present there at may adjourn the meeting, from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

#### 5.6 Actions by Managers.

The Managers are authorized to act through a representative, provided, however, that all acts of the Managers shall be agreed upon by at least a majority of said Managers. No Manager shall be held personally responsible for his wrongful acts or for the wrongful acts of others, and no Manager shall be held personally liable for injury or damage to persons or property by reason of any act or failure to act of the Managers, collectively or individually. The Managers from time to time serving hereunder shall not be entitled to any compensation or fee for services performed pursuant to the Subdivision's Indenture or this Operating Agreement.

### **Article 6 – Committees**

#### 6.1 Architectural Control Committee.

The Managers, in their sole discretion, by a resolution adopted by a majority of the Managers in office, may designate an Architectural Control Committee, which shall consist of three (3) owners. The Architectural Control Committee shall have and exercise the authority of the Managers regarding any matters set forth in the Subdivision's Indenture regarding architectural review.

#### 6.2 Committee Meetings.

At all meetings of committees, a majority of the members of the committee shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a

majority of the members of the committee present at any meeting at which there is a quorum shall be the act of the committee, unless the action is one upon which, by express provision of the Act, the Articles of Organization, the Subdivision's Indenture, this Operating Agreement or a resolution of the Managers, a different vote is required, in which case such express provision shall govern and control. Provisions in this Operating Agreement pertaining to meetings of the Managers shall also apply to a committee or committees of the Managers.

## Article 7 – Officers

### 7.1 Number.

The Managers may appoint officers of the Company, which officers of the Company shall consist of a President, a Secretary, a Treasurer and such other officers as may be elected by the Managers. The Managers may also elect such other officers and agents as it shall deem necessary, who shall exercise such powers and perform such duties as shall be determined from time to time by the Managers.

### 7.2 Election.

The officers of the Company shall hold their offices for a term of one (1) year, or for such other term as shall be determined from time to time by the Managers. Officers may be reelected to successive terms. If the office of any officers becomes vacant for any reason, the vacancy may be filled by the Managers.

### 7.3 Resignation.

Any officer may resign as such at any time by giving written notice to the Managers, the President or the Secretary. A resignation is effective when the notice is delivered unless the notice specifies a future effective date. Unless otherwise specified in the notice, the acceptance of a resignation shall not be necessary to make it effective.

### 7.4 Removal.

Any officer may be removed, with or without cause, by the vote of a majority of the Managers at any meeting of the Managers.

### 7.5 President.

(a) The President shall be the chief executive officer of the Company and shall preside at all meetings of the Managers at which he or she is present. He or she shall perform such duties as the Managers may prescribe and shall see that all orders and resolutions of the Managers are carried into effect.

(b) The President shall execute bonds, mortgages and other contracts except where permitted by law to be otherwise signed and executed, and except where the

signing and execution thereof shall be expressly delegated by the Managers to some other officer or agent of the Company.

7.6 Secretary.

The Secretary shall keep or cause to be kept a record of all meetings of the Managers and shall record all votes and the minutes of all proceedings in a book to be kept for that purpose. He or she shall give, or cause to be given, notice of all special meetings of the Managers, and shall perform such other duties as may be prescribed by the Managers or President, under whose supervision he or she shall be. He or she shall be responsible for authenticating the records of the Company.

7.7 Treasurer.

(a) The Treasurer, if any, shall have the custody of the company funds and securities, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Company, shall deposit all moneys and other valuable effects in the name and to the credit of the Company in such depositories as may be designated by the Managers and shall perform such other duties as the Managers may prescribe.

(b) The Treasurer shall disburse the funds of the Company as may be ordered by the Managers, taking proper vouchers for such disbursements, and shall render to the President and Managers, at the regular meetings of the Managers, or whenever they may require it, an account of all his or her transactions as Treasurer and of the financial condition of the Company.

(c) If required by the Managers, the Treasurer shall give the Company a bond in such sum and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of the duties of his or her office and for the restoration to the Company, in case of his or her death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control belonging to the Company.

## Article 8 – Finances

8.1 Fiscal Year.

The fiscal year of the Company shall begin on the first day of January each year.

8.2 Contracts, Etc., How Executed.

Except as in this Operating Agreement otherwise provided or restricted, the Managers may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Company, and such authority may be general or confined to specific instances; and, unless so authorized, no officer, agent or employee

shall have any power or authority to bind the Company by any contract or engagement or to pledge its credit or to render it liable pecuniarily for any purpose or in any amount unless in the ordinary course of business.

### 8.3 Loans.

No loans shall be contracted on behalf of the Company and no negotiable paper shall be issued in its name, unless and except as authorized by the Managers in accordance with the provisions of these Operating Agreement or the Subdivision's Indenture. To the extent so authorized, any officer or agent of the Company may effect loans and advances at any time for the Company from any bank, trust company, or other institution, or from any firm, Company or individual, and for such loans and advances may make, execute and deliver promissory notes, bonds or other evidences of indebtedness of the Company, and when authorized as aforesaid, may pledge, hypothecate or transfer any and all stocks, securities and other personal property at any time held by the Company as security for the payment of any and all loans, advances, indebtedness and liabilities of the Company, and to that end may endorse, assign and deliver the same.

### 8.4 Deposits.

All funds of the Company shall be deposited from time to time to the credit of the Company with such banks, bankers, trust companies or other depositories as the Managers may select or as may be selected by any officer or officers, agent or agents of the Company to whom such power may be delegated from time to time by the Managers.

### 8.5 Checks, Drafts, Etc.

All checks, drafts or other orders for the payment of money, notes, acceptances or other evidence of indebtedness issued in the name of the Company, shall be signed by the Managers, or, in the Manager's absence, the President, or in the President's absence by the Vice President, or the Treasurer or such officer or officers, agent or agents of the Company, and in such manner as shall be determined from time to time by resolution of the Managers in accordance with the provisions of this Operating Agreement. Endorsements for deposit to the credit of the Company in any of its duly authorized depositories may be made without countersignature, by the Manager, President, Vice President or Treasurer, or by any other officer or agent of the Company to whom the Managers, by resolution, shall have delegated such power, or by hand-stamped impression in the name of the Managers.

### 8.6 General and Special Bank Accounts.

The Managers from time to time may authorize the opening and keeping of general and special bank accounts with such banks, trust companies or other depositories as the Managers may select and may make such rules and regulations with respect thereto, not inconsistent with the provisions of this Operating Agreement, as they may deem expedient.

## **Article 9 – Conflict of Interest**

No contract or transaction between the Company and one or more of its directors or officers, or between the Company and any other corporation, partnership, association, or organization in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for that reason, or solely because the director or officer is present at or participates in the meeting of the Managers or committee thereof which authorizes the contract or transaction, or solely because his or her or their votes are counted for such purposes, if the material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the Managers or the committee, and the Managers or committee in good faith, taking into account the fairness of the contract or transaction, authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors present.

## **Article 10 – Indemnification**

Subject to the indemnification provisions of the Act, as the same may be amended, the Company shall indemnify every Manager, officer, director, and committee member against all damages and expenses, including attorneys' fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Managers) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Missouri law. The managers, officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The managers, officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Company (except to the extent that such officers or directors may also be Members of the Company). The Company shall indemnify and forever hold each such manager, officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former manager, officer, director, or committee member may be entitled. The Company shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

## **Article 11 – Miscellaneous**

### **11.1 Amendments.**

Any amendments to the Articles of Organization of the Company or this Operating Agreement must be approved:



(a) By the Managers, if the amendment does not relate to the number of directors, the composition of the Managers, the term of office of Managers or the method or way in which Managers are elected; and

(b) By the Members by two-thirds (2/3) of the votes cast at a meeting at which a quorum is present or a majority of the Members, whichever is less.

#### 11.2 Notices.

Except as otherwise provided herein, all notices under this Agreement shall be in writing and shall be given to the person entitled by personal service or by certified or registered mail, return receipt requested. Any notice shall be deemed received after twenty-four (24) hours from the date and time of postmark if it is deposited with the United States Mail pursuant to the above (if mailed) or when personally received if the mail service is not used.

#### 11.3 Governing Law.

This Operating Agreement shall be subject to and governed by the laws of Missouri. To the extent any provision of the Operating Agreement is prohibited or ineffective under the Act, the Operating Agreement shall be considered amended to the smallest degree possible in order to make the Operating Agreement effective under the Act. In the event the Act is subsequently amended or interpreted in such a way to make any provision of the Operating Agreement that was formerly invalid valid, such provision shall be considered to be valid from the effective date of such interpretation or amendment.

#### 11.4 Severability.

All provisions of this Operating Agreement shall be severable. Any provision that, for any reason, is determined to be invalid shall not affect the validity of any other provision of this Operating Agreement.

#### 11.5 Table of Contents; Titles of Articles and Sections.

The Table of Contents and titles of Articles and Sections have been inserted herein for administrative convenience only, and do not constitute matter to be construed in interpreting this instrument.

#### 11.6 Capitalized Terms.

Except as otherwise defined in this Operating Agreement, all capitalized terms used herein shall have the same definition as given to them in the Indenture, as amended, which is attached hereto as Exhibit A and incorporated herein by reference.



In witness whereof, the Trustees approve this Operating Agreement that specifies management of Winter Lake Estates Trustees Association, LLC on 23 December 2014.

BY  
TRUSTEES: Robin Reichardt      Dom Bausano

\_\_\_\_\_  
Fred Reinhold

DATE: 12/23/14      12/23/2014

**Certified Passage by Majority of Quorum:**

Jeanne Fernandez      12/23/14  
Jeanne Fernandez, Member      DATE

