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COUNTY RECORDER

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DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR WINDERMERE ESTATES

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR WINDERMERE ESTATES (the "Declaration") is made this 9th day of September, 1997, by Jack E. McNay and Kathleen McNay, husband and wife, hereinafter referred to as "Declarant". WITNESSETH:

WHEREAS, Declarant is the owner of all of the lands contained in the area known as Windermere Estates (herein, "Windermere Estates" or "Windermere"), as shown and described on the Plat thereof recorded on _____, 1997 in Book _____ of Plats at page _____, in the Office of the Recorder of Deeds in and for the County of Adams and State of Illinois (the "Plat"); and

WHEREAS, Windermere Estates consists of the following described real estate:

Lots One (1) through Sixteen (16) in Block One (1); Lots One (1) through Eleven (11) in Block Two (2); Lots One (1) through Six (6) in Block Three (3); and Lots One through Five (5) in Block Four inclusive of Windermere Estates, being a subdivision of a part of the Northwest Quarter of Section Twenty-Five (25), in Township One (1) South of the Base Line and in Range Nine (9) West of the Fourth Principal Meridian, Adams County, Illinois (collectively, the "Real Estate" or "Lots", and each individual parcel a "Lot"); and

WHEREAS, it is the desire and intention of Declarant to develop and sell the Real Estate and to impose on it mutual and beneficial restrictions, covenants, conditions, easements, liens and Charges (the "Restrictions") under a general plan or scheme of improvement for the benefit of the Real Estate and the future owners of that Real Estate.

NOW, THEREFORE, the Declarant hereby declares that except as otherwise stated herein, all of the Real Estate is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following Restrictions, which are

declared and agreed to be in furtherance of a plan for Windermere and established by the Declarant for the purpose of enhancing and protecting the value, desirability and attractiveness of Windermere as a whole and each Lot being a part thereof. All of the Restrictions shall run with the land and shall be binding upon the Declarant and upon all parties having or acquiring any right, title or interest in the Real Estate or any Lot being a part thereof (such persons being sometimes herein referred to as "Owners").

Part A. Preamble

The purpose of these Restrictions is to contribute to the establishment of the character of a neighborhood and to the maintenance of value levels through the regulation of type, size and placement of buildings, Lot sizes, reservation of easements, and prohibitions of nuisances and other land uses that might adversely affect the desirability of a residential area.

The following are the names and addresses of all parties involved:

Jack E. McNay - 1431 Donlee, Quincy, Illinois
Kathleen McNay - 1431 Donlee, Quincy, Illinois

Part B. Area of Application

The residential subdivision is known as Windermere Estates and these Restrictions shall apply to all Lots in Windermere Estates, as legally described herein above; provided, however, that Lot Four (4) in Block Two (2) shall not be subject to the Restrictions set forth in Section C-1 and Section C-8 hereof.

Part C. Residential Area Covenants

C-1. Land Use and Building Type. No Lot in Windermere shall be used except for residential purposes. No building or structure shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single family dwelling ("Dwelling") not to exceed two stories in height and an attached private garage for at least two (2) but not more than three (3) cars.

C-2. Provisions for Architectural Control. No Dwelling shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the location of the Dwelling have been approved by the Architectural Trustee as to quality of workmanship and materials, harmony and external design with existing Dwellings, and as to location with respect to topography and finish grade elevation. It is intended that the Architectural Trustee when considering approval of plans and specifications may consider reasonable factors beyond those set forth in these restrictions appropriate to the overall development of Windermere.

The Architectural Trustee is also authorized to provide interpretation of these Restrictions for the benefit of Windermere. The designation of the Architectural Trustee, his procedures and duties shall be as provided in Part D.

C-3. Dwelling, Quality and Size.

- (a) No Dwelling shall be permitted of less than 1500 square feet on the first floor exclusive of attached breezeways, porches or garages and basement.
- (b) All structures must maintain a minimum of 6 inch rise per 12 inch run of roof slope or greater (referred to as 6/12 roof pitch)
- (c) No pre-fabricated structures, pre-cut homes, manufactured or modular Dwellings, mobile homes or like structures shall be constructed or permitted on any Lot. All Dwellings must be custom built.
- (d) The Dwelling constructed on any Lot shall be completed within one (1) year from the date construction begins, unless prevented by weather or act of God. Construction shall be considered to have begun on the date ground is broken for the construction or any portion thereof. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

C-4 Dwelling Location.

- (a) No Dwelling shall be located on any Lot nearer to the front Lot line or nearer to the side street line than the minimum set back lines permitted for property zoned RIA.
- (b) For the purposes of these Restrictions, eaves, steps and open porches shall not be considered as a part of a Dwelling, provided, however, that this shall not be construed to permit any portion of a Dwelling on a Lot to encroach upon another Lot.

C-5. Materials.

- (a) At least fifty percent (50%) of the finished exterior side walls of every Dwelling built on any Lot in the Subdivision shall be of standard construction materials and shall consist of either brick, stone, dryvit or the equivalent thereof or such other material as may be approved in advance by the Architectural Trustee. Any and all types of roll covering or asphalt siding are prohibited.
- (b) Each Dwelling shall have a poured concrete driveway. Any sidewalks shall also be of poured concrete, brick or stone. Driveways of gravel or asphalt are prohibited.



(c) All Dwellings shall be constructed with a substantial quantity of new materials and no used structures shall be relocated or placed on any Lot.

C-6. Easements.

(a) Easements for installation and maintenance of utilities and accessories and for drainage are reserved as shown on the Plat. Within these easements, no building, Dwelling, structure, planting or other improvements shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels and easements. The easement area of each Lot shall be maintained continuously by the Owner, except for those improvements for which a public authority or utility company is responsible. Each Lot shall further be subject to an easement for the maintenance and permanent stabilization control of slopes.

(b) An easement or right-of-way to install, establish, construct, reconstruct, operate and maintain certain water retention ponds, lakes or basins (the "Water Retention Areas") for the benefit of the Real Estate has been retained in Windermere as shown on the Plat. By means of this Declaration, the obligation to reconstruct, repair, operate and maintain the Water Retention Areas, following the construction thereof by Declarant, shall transfer to the Windermere Homeowners Association and to the respective Owners of the Lots who, jointly and severally, assume hereby and are responsible for such use, reconstruction, operation, repair and maintenance. Such responsibility shall lie with the current Owners of the Lots, regardless of whether or not such responsibility or obligation arose prior or subsequent to any such Owner or Owners acquiring an interest in the Lots. In fulfilling this obligation, the following standards of maintenance and upkeep shall be observed and followed at all times:

(1) The Water Retention Areas shall be landscaped with trees and shrubs suitable for such areas.

(2) The Water Retention Areas shall be sewn over in native grasses and shall be mowed, cut and/or trimmed as often as necessary to maintain a neat and clean appearance.

(3) The Water Retention Areas shall not be allowed to grow over in weeds or in any unsightly or unkempt manner.

The cost of operating, repairing, reconstructing and maintaining the Water Retention Areas shall be borne equally by all Owners.

C-7. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done there which may be or become an annoyance or nuisance to the neighborhood.

C-8. Other Structures. No outbuilding shall be located on any Lot. No structures or Dwellings of a temporary character, partially completed Dwelling, trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as either a residence, either temporarily or permanently, or for any other purpose.

C-9. Signs. No sign of any kind shall be displayed to the public view on any Lot except either (i) one (1) professional sign or not more than four (4) square feet advertising the Lot for sale or rent or (ii) one (1) sign of not more than five (5) square feet used by a builder to advertise the Lot during the construction and sales period.

C-10. Pets, Livestock and Poultry. No livestock, poultry, or other animals, wild or tame, of any kind shall be raised, bred or kept in any dwelling or on any Lot, except that the Owner or occupant of each Dwelling may have two dogs, cats or other common domestic household pets provided that they are (i) not kept, bred or maintained for any commercial purpose; (ii) not wild, dangerous or considered ferae naturae by law, or (iii) kept and housed inside and not outside, any such outside dog houses, kennels, pens or fenced areas for pets being prohibited. Without limiting the scope of wild and dangerous animals, they specifically include snakes, bears, and foxes.

C-11. Fences and Walls. No fence or wall shall be erected or constructed on any Lot, without approval from the Architectural Trustee.

C-12. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted on or in any Lot, nor shall oil wells, tanks, tunnels, excavation or shafts be permitted upon or in a Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

C-13. Business or Trade Use. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designed for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of any Lot. A builder who may have occasional visitors reviewing plans, prices, sites or other matters is considered permissible and shall not be in violation of this covenant.

C-14. Garbage and Refuse Disposal. No Owner of any Lot shall burn or permit the burning out of doors of garbage, trash, or other like household refuse. No Lot shall be used or maintained as a dumping ground for rubbish, garbage or litter. Trash, garbage, litter, ashes or other waste or refuse shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. All Lots shall be kept in good and neat appearance, including but not limited to, mowing grass and cutting weeds, trimming shrubs and hedges, removing all garbage, rubbish and litter, and removing dead or diseased trees. The obligation to maintain the lots as set forth in the preceding sentence shall be that of each Owner.

C-15. Water Supply; Sewage Disposal. No individual water supply system or sewage disposal system shall be permitted on any Lot.

C-16. Sight Distance at Intersections. No hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property line extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. 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.

C-17. Towers and Antennas. No exposed or exterior radio or television transmitting or receiving antenna or mast, tower or support for same, satellite disc or dish or similar television, radio or other reception apparatus or wires shall be erected installed, placed or maintained on any Lot.

C-18. Boats, Trailers, Recreational Vehicles and Trucks. No truck or van of greater than one ton capacity, nor any unlicensed motor vehicle, trailer, boat, camper, craft or other properly licensed recreational vehicle of any type shall be parked overnight, kept or stored on any street or on any part of the Real Estate for more than twenty-four (24) hours, except in an enclosed garage.

Part D. Architectural Control.

D-1. Architectural Trustee. The Architectural Trustee is Jack E. McNay. The Architectural Trustee may designate a representative to act for him. In the event of the death, resignation or inability to act of Jack E. McNay, Kathleen McNay shall then be the Architectural Trustee with full power to act. In the event of the death, resignation or inability to act of both Jack E. McNay and Kathleen McNay, a successor trustee may be designated by a majority of the then Owners of the Lots determined as provided in Part H below.

D-2. Procedures. The approval or disapproval as required in these Restrictions shall be in writing. In the event the Architectural Trustee, or his designated representative, fails to approve or disapprove any plans or specifications within thirty (30) days after such plans and specifications have been submitted to him, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related Restrictions shall be deemed to have been fully complied with.

D-3. Transfer to Association. At such time as a dwelling is constructed on each Lot within Windermere, the continuing function of the Architectural Trustee shall transfer to the board of directors of the Windermere Homeowners Association.

D-4. Liability of Trustee, etc. Neither the Architectural Trustee nor any agent thereof, nor the Declarant nor the Association, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done supporting thereto.

Part E. The Association.


E-1. General Matters. There has been or may be created, under the laws of the State of Illinois, a not-for-profit corporation to be known as the "Windermere Homeowners Association", which is sometimes herein referred to as the "Association". Whether or not the Association is incorporated, every person who acquires and holds title (legal or equitable) to any residential Lot in Windermere shall be a member of the Association (a "Member"), except that only one (1) of any number of co-Owners of a Lot shall be a General member; all other co-Owners will be Associate Members. The foregoing provisions requiring the Owners of residential Lots within Windermere to be Members of the Association is not intended to apply to those persons who hold an interest in such Real Estate merely as security for the performance of an obligation to pay money, e.g. mortgagees and land contact vendors. However, if such person should realize upon such person's security and become the Owner of a Lot within Windermere, the person will then be subject to all of the requirements and limitations imposed in these Restrictions on Owners of Lots within Windermere and on Members of the Association, including, but not limited to, those provisions with respect to the payment of an Annual Charge.

E-2. Association's Purposes. The general purposes of the Association are:

- (a) To maintain the Water Retention Areas, in the manner prescribed in Section C-6(b) of this Declaration.
- (b) To provide for the maintenance, repair and replacement of entrance signs, boulevards and other amenities within or about Windermere for the general benefits of the Members.
- (c) To provide a means for the promulgation and enforcement of all regulations necessary to govern the use and enjoyment of Windermere and to provide a means to provide and pay for all amenities for the benefit of the Members.

E-3. Association Membership. All Lot Owners within Windermere shall hold "General" memberships in the Windermere Homeowners Association. In addition to General Members, there shall be Associate Members in accordance with the articles of incorporation or bylaws of Windermere Homeowners Association. Only one adult person having a legal or equitable ownership in each Lot shall be a General member of the Association, and all other co-Owners of the Lot or Members of the Family shall be Associate Members.

E-4. Association's Authority to Levy and Collect Charges and Impose Liens.



(a) The Association shall have all of the powers set forth herein or in its Articles of Incorporation, together with all other powers that belong to it by law, as well as the power to levy an Annual Charge or Special Charge (herein "Charge" or "Charges") against the Members of the Association. In each membership class, the Annual Charges shall be uniform. Special Charges shall relate only to individual Lots. The Charges shall be used only for services, items or matters benefitting the membership class. It is recognized that general services shall apply to the entire Subdivision. The Charges are imposed irrespective of whether a Dwelling has been constructed on the Lot.


No Charge shall be levied against the Association itself, or any corporation that may be created to acquire title to and provide services to Windermere. Further, no Charges shall be assessed against the Declarant as to any undeveloped and unsold Lots, but Declarant may voluntarily pay Annual Charges. The Annual Charge for all Members shall be established by the Association as provided in the bylaws and shall be used for general services, items or matters, such as maintenance of the Water Retention Areas and easements and other related services.

The annual Charge for all memberships shall be approved by the board of directors of the Association or by the Members, in certain instances, in accordance with the bylaws of the Association consistent with these Restrictions.

The rights of Members of the Association as such Members shall be set forth in the bylaws of the Association.

(b) Every such Charge levied or assessed by the Association shall be paid by the Members in accordance with the bylaws commencing with the year 1997. The board of directors of the Association shall fix the amount of the Annual Charge per Member for the following calendar year by the first day of December of each year, or as soon thereafter as practicable, and written notice of the Charge so fixed shall be sent to each Member, so charged, within twenty-one (21) days after being established. The Association shall provide for the manner and method by which such Annual Charge shall be paid by the Members.

(c) If any Charge levied or assessed against any Lot subject to these Restrictions shall not be paid when due, it shall then, ipso facto, become a lien upon the Lot or Lots owned by the person owing such Charge or Charges, and shall remain a lien against said Lot or Lots until paid in full, together with interest as is herein provided, or other Charges or costs which might become due as a result of non-payment, as is hereinafter provided. Such Charges as are provided for in these Restrictions shall bear interest at the judgment interest rate established by the State of Illinois until paid in full. If, in the opinion of the board of directors of the Association, such Charges have remained due and payable for an unreasonably long period of time, they may, on behalf of the Association, institute such proceedings, either in law or in equity, either by way of foreclosure of such lien or otherwise, to collect the amount of said Charge in any court of competent jurisdiction. The Owner of the Lot or Lots subject to the Charge shall, in addition to the amounts of the Charge at the time such action is instituted, be obligated to pay any expenses



or costs, including attorney fees, incurred by the Association in collecting the same. Every person who shall become the Owner of any Lot subject to these Restrictions, whether such ownership be legal or equitable, and any person who may acquire any interest in such Lot, whether as an Owner or otherwise, is hereby notified and by acquisition of such interest, agrees that any such liens or Charges which may be extant upon said Lot or Lots at the time of the acquisition of such interest are valid liens and shall be paid. Every person who shall become an Owner of a Lot in Windermere is hereby notified that by the act of acquiring such title, such person will be conclusively held to have covenanted to pay the Association all Charges that the Association shall make pursuant to these Restrictions.

(d) The Association shall, upon demand, at any time, furnish a certificate in writing signed by an officer of the Association certifying that the assessments on a specified Lot have been paid or that certain assessments against said Lot remain unpaid, as the case may be. A reasonable Charge may be made by the board of directors of the Association for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.


E-5. Suspension of Membership Privileges. Notwithstanding any other provision contained herein, the board of directors of the Association shall have the right to suspend the voting rights (if any) of any General Member or Associate Member: (a) for any period during which any Association Charge due from such General Member or Associate Member remains unpaid; (b) during the period of any continued violation of the Restrictions for Windermere, after the existence of the violation shall have been declared by the board of directors of the Association; and (c) because of any violation of the bylaws or regulations, if any, of the Association.

Part F. Effect of Owner's Acceptance of Deed.

The Owner of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from the Declarant or a subsequent owner of any such Lot, shall accept such deed and execute such contract subject to each Restriction and agreement herein contained. Further, by acceptance of such deed or execution of such contract, such person or persons acknowledge the rights and powers of the Declarant and of the Association with respect to these Restrictions and also, for themselves, their heirs, personal representatives, successors and assigns, and they do covenant and agree and consent to and with the Declarant, the Association and to and with the grantees and subsequent Owners of each of the Lots affected by these Restrictions, to keep, observe and comply with and perform such Restrictions.

Part G. General Provisions.

G-1. Enforcement. Enforcement shall be by proceedings at law or in equity against any person, firm or corporation violating or attempting to violate any Restriction either to restrain



violation or to recover damages. Any action may be brought by a person, firm or corporation having any interest in a Lot in Windermere. If a violation is established, the violator or violators shall be liable for the attorney's fees and costs of the person, firm or corporation seeking enforcement.

G-2. Severability. Every one of these Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every condition of the Restrictions. Accordingly, the invalidation of any one (1) of these Restrictions by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

G-3. Captions; References. The captions preceding the various sections and subsections of these Restrictions are for convenience and reference only, and none of them shall be used as an aid in the construction or interpretation of any provisions of these Restrictions. Whenever and wherever applicable, the singular form of any word shall be taken to mean or applied to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter, as the context may require.

Part H. Term and Amendment.

These covenants shall run with the land and shall be binding on all parties and all persons claiming under them. The restrictions established hereby may be amended by a duly recorded instrument properly signed and acknowledged by the then Owners of eighty percent (80%) or more of all Lots in Windermere.

In determining the "then Owners of the Lots," each individual Lot shall have a single right. If there are multiple Owners of a Lot, a majority in interest shall exercise the right of the Lot. If there are two (2) Owners having an equal interest, they shall exercise the right jointly, or if they fail to agree, then the first acquiring ownership or the first names in the deed conveying such Lot to said Owners shall exercise the right. The consolidation or redividing of Lots, even if consistent with these Restrictions, shall not affect the Lots entitled to vote.