

Note: The Document below is in effect as of December 2009. Contact the Homeowners Association secretary or go to the windingcreek.org web site to obtain a copy of the current Document.

Covenants and Restrictions for Winding Creek Estates

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Declaration of Covenants and Restrictions for Winding Creek Estates Units II and III

This Declaration is made this 7th day of February, 1985 by MIDAM, INC., and Illinois Corporation, hereinafter referred to as "Covenantor."

WITNESSETH:

WHEREAS, MIDAM, INC. is the owner of the real property known as Winding Creek Estates Units II and III and legally described in Article I of this Declaration; and

WHEREAS, MIDAM, INC. desires to develop Winding Creek Estates Units II and III as a residential community; and

WHEREAS, MIDAM, INC. desires to preserve the values and amenities, in said community by subjecting the property owned by it and described herein to the covenants, restrictions, easements charges, and liens, hereinafter set forth, each and all of which is and are for the benefit of said property; and

WHEREAS, MIDAM, INC. has deemed it desirable, for the efficient preservation of the values and amenities, in said community, to create an agency to which should be delegated and assigned the powers of administering and enforcing the covenants, restrictions, easements, charges, and liens as delineated in this Declaration;

NOW THEREFORE, MIDAM, INC. declares that the real property described in Article I is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens (hereinafter referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I: Property Subject to this Declaration

Section 1) Existing Subdivided Property

The following real property is and shall be subject to this Declaration:

- Winding Creek Estates Unit II being a subdivision of part of the Southwest 1/4 of Section 30, and the Northwest 1/4 of Section 31, Township 38 North, Range 10, East of the Third Principal Meridian, in DuPage County, Illinois. (PIN 08-30-307-003);
- Winding Creek Estates Unit III being a subdivision of part of the Southwest 1/4 of Section 30, and the Northwest 1/4 of Section 31, Township 38 North, Range 10, East of the Third Principal Meridian, in DuPage County, Illinois. (PIN 08-31-100-003);
- Winding Creek Estates Unit IV being a subdivision of the Northwest 1/4 of Section 31, Township 38 North, Range 10, East of the Third Principal Meridian, in DuPage County, Illinois. (PIN 08-31-100-007); and
- Winding Creek Estates Unit V being a subdivision of part of the Northwest 1/4 of Section 31, Township 38 North, Range 10, East of the Third Principal Meridian, in DuPage County, Illinois. (PIN 08-31-102-029).

Section 2) Additional Property

The Covenantor may subject any other property to this Declaration. The Covenantor may take such action at any time and shall be solely at its discretion. In order to subject additional property to this Declaration, the Covenantor shall execute and record a supplementary declaration which shall indicate the action being taken and which shall contain a legal description of the property which is the subject to the supplementary declaration. Upon execution and recordation of a supplementary declaration, the property covered therein shall be subject to the covenants, restrictions, easements, charges, and liens set forth in this Declaration. Said covenants, restrictions, easements, charges, and liens shall run with and bind the property covered by the supplementary declaration and shall inure to the benefit of and be the personal obligation of the owner of said property in the same manner and to the same extent and with the same force and effect as this Declaration. Every person or entity who is a record owner of said property shall be a member of the Winding Creek Estates Units II and III and IV and V Homeowners Association on the same terms and subject to the same qualification and limitations as those members under the provisions of this Declaration. In all respects, all of the provisions of this Declaration shall apply to the property covered in any supplementary declaration and to the owners thereof with equal meaning and of like force and effect.

ARTICLE II: General Purposes

The purpose of this Declaration is to provide for a residential community of the highest quality and character for the benefit and convenience of the residents of Winding Creek Estates Units II and III and IV and V.

ARTICLE III: Homeowners Association

Section 1) Creation

Prior to the date of the first conveyance of a lot in Winding Creek Estates Units II and III, the Covenantor shall cause to be incorporated under the laws of the State of Illinois a not-or-profit corporation to be named the Winding Creek Estates Units II and III Homeowners Association or any name similar thereto.

Section 2) Responsibility

The Homeowners Association shall be the governing body for all the owners of lots in Winding Creek Estates Units II and III and IV and V and shall be responsible for the operation, maintenance, and repair of the property entrusted to the care of the Homeowners Association as hereinafter specified. It shall exercise all powers necessary to fulfill its obligation as delineated in this Declaration, its articles, and its bylaws.

Section 3) Membership

Every person or entity who is a record owner of a lot in Winding Creek Estates Units II and III and IV and V shall be a member of the Homeowners Association irrespective of the inclusion, exclusion, the incorporation by reference, or any specific expression or lack thereof to that effect in the deed or other documents or conveyance. Membership is appurtenant to and shall not be separate from ownership of a lot. Thus, membership shall automatically terminate upon the sale, transfer or other disposition by a member of his ownership of a lot in Winding Creek Estates Units II and III and IV and V at which time the new owner shall automatically become a member of the Homeowners Association.

If more than one person or entity is the record owner of a lot in Winding Creek Estates Units II and III and IV and V, all such persons or entities shall be members.

Each member of the Homeowners Association shall be bound by and shall observe the terms and provisions of this Declaration, the articles of incorporation, and bylaws of the Homeowners Association, and the rules and regulations promulgated from time to time by the Homeowners Association or its board of directors.

Any person or entity who holds an interest in a lot in Winding Creek Estates Units II and III and IV and V merely as a security for the performance of an obligation or any person in possession of a lot under a contract to purchase such lot shall be a member of the Homeowners Association.

Section 4) Voting Rights

The Homeowners Association shall have two classes of voting membership:

- a. Class A: Class A members shall be all record owners of lots in Winding Creek Estates Units II and III and IV and V with the exception of the Covenantor MIDAM, INC.
- b. Class B: Class B members shall be the Covenantors, MIDAM, INC.

Class A members shall be entitled to one vote for each lot owned. If more than one member is the record owner of a lot in Winding Creek Estates Units II and III and IV and V, the vote for that lot shall be executed as those members among themselves determine. In no event shall more than one vote be cast with respect to any such lot.

The Class B member shall be entitled to three votes for each lot owned.

Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs first:

- a. when the total votes outstanding in the Class A membership equal the votes outstanding in the Class B membership, or
- b. whenever the Class B member elects to do so.

Section 5) Powers and Duties of the Homeowners Association

The Homeowners Association shall be responsible for the operation, maintenance, and repair of the subdivision entranceway, monuments, landscaping, and fence located in rights-of-way and easements in Winding Creek Estates Units II and III and IV and V. The Homeowners Association shall mow, care for, remove rubbish, water, and plant grass, shrubs, trees and/or flowers in and upon said rights-of-way and easements, and shall maintain, repair, clean and replace said subdivision entranceway, monuments, fence, and any electrical systems and sprinkling systems for said areas.

The Homeowners Association shall have the right to suspend the voting rights of any member for any period during which any assessment levied by the Homeowners Association against the member's lot remains unpaid.

Section 6) Meetings

The initial meeting of the voting members shall be held upon ten days written notice given by the Covenantor. Such written notice may be given at any time after at least fifty-one percent of the homes are occupied. Thereafter, there shall be an annual meeting of the voting members as provided in the Homeowners Association bylaws.

Special meetings of the voting members may be called at any time for the purpose of considering matters which by the terms of this Declaration require the approval of all or some of the voting members, or for any reasonable purpose. Said meetings may be called by the president, the board of directors, or the voting members having, in the aggregate, not less than twenty-five percent of the total votes of the Homeowners Association. Special meetings shall be held as provided in the Homeowners Association bylaws.

The presence in person or by proxy at any meeting of the voting members having a majority of the total votes shall constitute a quorum. Unless otherwise expressly provided herein or required by the General Not-for-Profit Corporation Act, the articles of incorporation of the Homeowners Association or the bylaws of the Homeowners Association, any action may be taken at any meeting of the voting members at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes present at such meeting.

Section 7) Board of Directors

The affairs of the Homeowners Association shall be managed by a board of directors. At the initial meeting of the voting members, a board of directors shall be elected. Members of the Board elected at the initial meeting shall serve until the first annual meeting. The bylaws of the Homeowners Association shall set forth the general powers of the Board, the number, tenure, and qualification of directors, their terms of office, manner of election and removal, and method of operation of the Board.

The voting members having at least sixty-six percent of the total votes may from time to time increase or decrease such number of persons on the Board or may increase the term of office of the Board members, provided that such number shall be not less than three and that the terms of at least one-third of the persons on the Board shall expire annually.

Members of the Board shall receive no compensation for their services, unless expressly allowed by the Board at the direction of the voting members having sixty-six percent of the total votes.

The Board shall elect from among its members the following officers:

- a. A president who shall preside over both its meetings and those of the voting members and who shall be the chief executive officer of the Board.
- b. One or more vice-presidents who shall assume the duties of the president if the president is unable to fulfill his duties.

- c. A secretary who shall keep the minutes of all meetings of the Board and of the voting members and who shall perform all the duties incident to the office of secretary.
- d. A treasurer who shall keep the financial records and books of account.

The Board may elect such other officers as it deems necessary. The officers shall exercise their functions according to the bylaws of the Homeowners Association.

The members of the Board and the officers thereof shall not be liable to the Homeowners Association for any mistake of judgment or acts or omissions made in good faith while acting in their capacity as directors or officers. The Homeowners Association shall indemnify and hold harmless the members of the Board and officers thereof against all contractual liability to others arising out of contracts made by them.

In the event of any disagreement between any members of the Homeowners Association relating to the use or operation of the common property or any question or interpretation or application of the provision of this Declaration or the bylaws of the Homeowners Association, the determination thereof by the Board shall be final and binding on each and all such members of the Homeowners Association.

ARTICLE IV: Maintenance Assessments for Winding Creek Estates Units II and III and IV and V

Section 1) Creation of the Lien and Personal Obligation of Assessments

The Covenantor, for each lot owned by it in Winding Creek Estates Units II and III and IV and V hereby covenants that each owner of a lot in Winding Creek Estates Units II and III and IV and V by acceptance of a deed or other document of conveyance therefore, whether or not it shall be so expressed in any deed or other document of conveyance, shall be deemed to covenant and agree to pay to the Homeowners Association regular assessments or charges and special assessments for capital improvements as provided herein. Such assessments shall be fixed, established, and collected from time to time as hereafter provided. The regular and special assessments together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge against and a continuing lien upon the lot against which such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge against and a continuing lien upon the lot against which such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the owner of such lot at the time when the assessment fell due.

Section 2) Purpose of Assessments

The assessments levied by the Homeowners Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the residents of Winding Creek Estates Units II and III and IV and V and in particular for the operation, maintenance and repair of the subdivision entranceway, monuments, landscaping, and fence for the costs of insurance.

Section 3) Basis of Regular Assessments

Until the year beginning January 1, 1985, the regular assessments shall be \$1.50 per month per lot. From and after January 1, 1985, the regular assessment may be increased or decreased by a vote of the board of directors of the Homeowners Association, as hereinafter provided, for the next succeeding year and at the end of that year for each succeeding year.

The board of directors of the Homeowners Association may, at any time, after consideration of current maintenance costs and future needs of the Homeowners Association, fix the actual assessment for any year at an amount lesser than that previously set for that year.

Section 4) Special Assessments for Capital Improvements

In addition to the regular assessments authorized by Section 3 hereof, the Homeowners Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction or unexpected repair or replacement of the subdivision entranceway, monuments, landscaping, and fence provided that any such assessment shall have the assent of sixty-six percent of all the members of the board of directors at a meeting duly called for this purpose.

Section 5) Change in Basis of Regular Assessments

Subject to the limitation of Section 3 hereof, and for the periods therein specified, the Homeowners Association may change the maximum and basis of the regular assessments fixed by Section 3 hereof prospectively for any such

annual period provided that any such change shall have the assent of two-thirds of the vote of the members of the board of directors, at a meeting duly called for this purpose.

Section 6) Quorum for any Action Authorized under Sections 4 and 5

The quorum required for any action authorized by Sections 4 and 5 hereof shall be the presence in person at the meeting of the board of directors that number of directors having sixty-six percent of the total votes that could be cast by the board. If the required quorum is not forthcoming at any meeting, another meeting may be called, and the required quorum at any such subsequent meeting shall be the same number, provided that no such subsequent meeting shall be held more than sixty day following the preceding meeting.

Section 7) Date of Commencement of Regular Assessments

The regular assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the board of directors of the Homeowners Association to be the date of commencement.

Section 8) Duties of the Board of Directors

The board of directors of the Homeowners Association shall fix the date of commencement and the amount of the assessment against each lot for each assessment period of at least thirty days in advance of such date or period and shall at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Homeowners Association and shall be open to inspection by any owner.

Written notice of the assessment shall thereupon be sent to every owner subject thereto.

The Homeowners Association shall upon demand at any time furnish to any owner liable for said assessment a certificate in writing, signed by an officer of the Homeowners Association setting forth whether said assessment has been paid. Such certificate shall be conclusive of payment of any assessment therein stated to have been paid.

Section 9) Effect of Non-Payment of an Assessment

If the assessments are not paid on the date when due (being the date specified in Section 7 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and costs of collection including reasonable attorney's fees thereof as hereinafter provided, thereupon become a continuing lien on the property and an equitable charge running with the land touching and concerning it, which shall bind upon property in the hands of the then owner, his heirs, devisees, personal representatives, assigns, successors, and grantees and the limitation of the enforcement thereof shall coincide with the statutory limitation of the State of Illinois for the enforcement of oral agreements. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation to his successors in title unless expressly assumed by them. If title to a lot is held by an Illinois Land Trust, the trustee shall not have any personal liability for the assessment, but all beneficiaries of the trust shall be jointly and severally so liable. In the event title to a lot is held by more than one owner, all owners shall be jointly and severally liable. The lien shall attach to rents due from parties in possession to the record owners, provided that it shall be subordinate to an Assignment of Rents held by a mortgage delivered in connection with a first mortgage loan to purchase the property.

If the assessment is not paid within thirty days after the delinquency date, the assessment shall bear interest from the date of delinquency at the maximum rate of interest per annum, permitted by the usury laws of the State of Illinois and the Homeowners Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment all the costs of preparing and filing the complaint and maintaining and concluding such action, including the cost of title reports, and in the event a personal judgment or decree of foreclosure is obtained, such judgment or decree shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with all costs of the action. The venue for all actions at law shall be in DuPage County, Illinois. The persons in possession shall be authorized to accept summons for the owners of the lot.

In the event that title to any lot is conveyed to a land trustee, upon the demand of the Homeowners Association, the trustee shall furnish the Homeowners Association with a certified copy of the trust agreement so that the Homeowners Association shall be advised of the beneficiaries entitled to vote and who will be personally liable for the regular and special assessments.

Section 10) Subordination of the Lien to Mortgages

The lien of the assessments provided for herein may for any reason be subordinated by the Homeowners Association by written document executed by its duly authorized officers and shall without any writing be subordinate to the lien of any mortgage placed upon the properties subject to assessments for the purpose of purchasing the subject lot or lots provided, however, that such automatic subordination shall apply only to the assessments which arise subsequent to the lien of the mortgage or mortgages; and provided further that such subordination shall apply only to the

assessments which have become due and payable prior to sale or transfer of such property pursuant to a decree of foreclosure, or any other proceedings in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. The owners agree upon accepting title that the lien of the assessments shall be prior to the homestead rights of the owners since it runs with the land and is in existence before commencement of ownership interests.

Section 11) Exempt Property

The following property subject to this Declaration shall be exempt from the assessments, charges, and liens created herein:

- a. All property to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- b. All property exempted from taxation by the laws of the State of Illinois, upon the term and to the extent of such legal exemption;
- c. All lots not then improved with a living unit;
- d. All property or lots owned by the Covenantor.

ARTICLE V: Maintenance and Repair

Section 1) Responsibility of Owner

Each owner of a lot in Winding Creek Estates Units II and III and IV and V shall provide at his own expense, all of the maintenance, decorating, repairs, and replacement on his own lot and keep same in good condition. In the event that the lot owner fails to keep his lot in good condition and the lot is vacant, the Homeowners Association shall do any work necessary to put the lot in good condition. The Homeowners Association shall assess the owner of the lot for the cost of the work subject to the imposition of a lien in accordance with Article IV, Sections 9 and 10 herein.

Section 2) Responsibility of Homeowners Association

The Homeowners Association shall be responsible for the operation, maintenance, and repair of the subdivision entranceway, monuments, landscaping, and fence in Winding Creek Estates Units II and III and IV and V.

Section 3) Liability for Damage to Subdivision Entranceway, Monuments, Landscaping, and Fence

Each lot owner in Winding Creek Estates Units II and III and IV and V shall be liable for the expense of any maintenance, repair or replacement of any subdivision entranceway, monuments, landscaping, and fence in Winding Creek Estates Units II and III and IV and V rendered necessary by his act, neglect, or carelessness or by that of any member of his family or his guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Homeowners Association. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

ARTICLE VI: Covenantor's Reserved Rights

Section 1) Easements

Notwithstanding any provisions contained herein to the contrary, all covenants, restrictions, easements, charges, and liens created under this Declaration shall be subject to easements of record on the date hereof and any easements which may hereafter be granted by the Covenantor.

The Covenantor shall have the right to designate and/or grant any and all easements which in its sole discretion are deemed necessary for the development of Winding Creek Estates Units II and III and IV and V. Said easements shall include but are not limited to easements over, above, or under any part of Winding Creek Estates Units II and III and IV and V which may be granted to either any public utility, any private utility, or any governmental body for the installation of electrical service, telephone or cable conduit lines, gas pipes, sewer pipes, water supply system, or a storm drainage system, including a storm detention or retention basin serving any lot.

Section 2) Architectural Review

The Covenantor shall have the right to require architectural review by the Covenantor of all buildings and structures to be erected in Winding Creek Estates Units II and III and IV and V. No building, fence, wall, or other structure shall be commenced, erected, or maintained, nor shall any exterior additions to or exterior changes or alteration therein be made prior to written approval by the Covenantor. The owner of the lot shall submit the following information: a) construction plans and specifications, showing the nature, kind, shape, height, materials, and color scheme of the building or structure, b) a plat of survey showing the location on the lot of the building or structure as surveyed by any surveyor specified by the Covenantor, and c) a grading plan as engineered and drawn by any engineer specified by the Covenantor. The Covenantor shall have the right to reasonably refuse to approve any such construction it

determines is not suitable or desirable for Winding Creek Estates Units II and III and IV and V based on aesthetic considerations or other factors.

All plans, specifications, and other information shall be filed in the office of MIDAM INC., Naperville, Illinois for approval or disapproval. A report in writing setting forth the decision of the Covenantor and the reason therefore shall thereafter be transmitted to the applicant by the Covenantor within fifteen days after the date of filing the plans, specifications, and other information by the applicant. In the event the Covenantor fails to approve or to disapprove such application within 15 days after the date of filing the plans, specifications, and other information, its approval will not be required and this Section will be deemed to be complied with.

Section 3) General Rights

The Covenantor shall have the right to execute all documents or undertake any actions affecting Winding Creek Estates Units II and III and IV and V which in its sole opinion are either desirable or necessary to fulfill or implement, either directly or indirectly, any of the rights granted or reserved to it in this Declaration.

ARTICLE VII: Covenants and Restrictions Relating to Winding Creek Estates Units II and III and IV and V

Section 1) Residential Use

No lots shall be used except for residential purposes nor shall any trade, business, or commercial enterprise of any type whatsoever be permitted or maintained on any of the lots.

Section 2) Minimum Square Feet

All dwelling units constructed in Winding Creek Estates Units II and III and IV and V shall provide at a minimum the following area of furnished living quarters:

- a. One-story dwelling units: 2,000 square feet,
- b. Two-story dwelling units: 2,400 square feet

Section 3) Building Exterior

All dwelling units shall conform to the following requirements:

- a. One-story dwelling units shall have an all masonry front,
- b. Two-story dwelling units shall have an all masonry front up to bottom of second story.
- c. All cedar homes are permitted notwithstanding the foregoing.
- d. All aluminum homes are not permitted.

Section 4) Sod Lawns

Each owner of a lot in Winding Creek Estates Units II and III and IV and V shall sod his lot including the parkway with grass. Said grass shall be laid within two weeks of the home being occupied, subject to adverse weather conditions.

Section 5) Storage of Objects on Driveways

No camping trailers, boats, tractors, trucks, motorcycles, mobile homes, or other vehicles of any type whatsoever are to be parked, stored, or left unattended, permanently or temporarily, on any of the lots, except in the garages on the lots; provided that the operable automobiles being used by the owners, occupants, and their invitees of the lots may be parked on the owners' driveways and public streets as permitted by law.

Section 6) Storage of Objects on Lots

No bicycles, carriages, or other articles shall be stored or left visible on any lot except when in use.

Section 7) Limited Signage

No signs of any kind shall be displayed to the public view on any lot except

- a. one sign of not more than two square feet advertising the property for sale or rent or such other dimension approved by the Homeowners Association, and
- b. any and all signs used by MIDAM, INC. in connection with developing and advertising lots in Winding Creek Estates Units II and III and IV and V for sale.

Section 8) Allowable Pet Maintenance

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose. No dog kennels of any type shall be kept or maintained on any of the lots and no household pets of any type whatsoever shall be kept, maintained, or housed anywhere on any of the lots except inside the dwelling unit.

Section 9) Lot Maintenance

No weeds, underbrush, or other unsightly growths shall be permitted to grow or remain upon any of the lots, and no refuse pile or unsightly object shall be allowed to be placed or maintained on any of the lots. Trash, garbage, or other waste shall not be kept except in sanitary containers which must be properly maintained. No trash, garbage, or other waste containers shall be stored, kept, or maintained anywhere except within the dwelling units or the garages on each of the lots, except on such days as such trash, garbage, or other waste material is to be collected and removed.

Section 10) Drilling & Mining Activities Prohibited

No drilling or mining operations of any type whatsoever shall be permitted upon or in any of the lots, nor shall any wells, tanks, tunnels, excavations, or shafts be permitted upon or in any of the lots. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted for use upon any of the lots.

Section 11) Communication Antennas & Dishes

No exterior television antennas, television satellite dishes, radio antennas or lights of any type whatsoever shall be erected or installed and maintained, temporarily or permanently, except such antennas or lights which shall be erected or installed or approved by the Covenantor or the Homeowners Association.

Section 12) Compliance with Government Regulations

All structures to be erected shall comply with all government regulations, including zoning and building codes.

Section 13) Private Easement

There shall be a private easement of ingress and egress for the benefit of the owners and occupants of the lots and their invitees over that portion of the lots where designated on the recorded plat of subdivision for Winding Creek Estates Units II and III and IV and V.

Section 14) Easement Usage

All easements created herein shall be subject to all public utility easements heretofore or hereafter granted.

ARTICLE VIII: Amendments

Section 1) Amendment

The provisions of this Declaration may be changed, modified, or rescinded by an instrument in writing setting forth such change, modification, or rescission, signed by owners having at least sixty-six percent of the total vote, and certified by the secretary of the board of directors, provided, however, that all lien holders of record have been notified either by personal service or mailing by certified mail of such change, modification, or rescission, and an affidavit by said secretary certifying to same as a part of such instrument.

Section 2) Notice of Amendment

The change, modification, or rescission, accomplished under the provisions of the preceding paragraph, shall be effective upon recordation of such instrument in the office of the Recorder of Deeds of DuPage County, Illinois.

ARTICLE IX: General Provisions

Section 1) Duration

The covenants and restrictions of this Declaration shall run with and bind the land so as to insure the owners of lots in Winding Creek Estates Units II and III and IV and V full enjoyment-and benefit of their property. They shall inure to the benefit of and be enforceable by the Homeowners Association, or the owner of any lots subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty years from the date this Declaration is recorded, after which time these covenants shall be automatically extended for successive periods of ten years unless an instrument signed by the then owners of two-thirds of the lots has been recorded agreeing to change said covenants and restrictions in whole or in part. No such agreement to change shall be effective unless made and recorded three years in advance of the effective date of such change and unless written notice of the proposed agreement is sent to every lot owner at least ninety days in advance of any action taken.

Section 2) Notices

Any notice required to be sent to any lot owner under the provisions of this Declaration shall be deemed to have been properly sent with mail postpaid to the last known address of the person who appears as the lot owner on the records of the Homeowners Association at the time of such mailing.

Section 3) Rights and Obligations

Each grantee by the acceptance of a deed of conveyance, and each purchaser under any contract for such deed or other conveyance, accepts the same subject to all covenants, restrictions, easements, charges, and liens, and the jurisdiction, rights, and powers created by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved, or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall inure to the benefit of such person in like manner as if he had been the original grantee under the deed of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the rights described in this Article or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees, and trustees of such lot owners as fully and completely as though such rights were recited fully and set forth in their entirety in such documents.

Section 4) Liberal Construction

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a fine community.

Section 5) Covenant to Abide by this Declaration

MIDAM, INC. covenants to abide by each and every covenant and restriction set forth herein and agrees that all conveyances shall be subject to this Declaration as though each and every provision herein was set forth in each and every deed or document affecting title to its property.

Section 6) Lot Ownership in Trust

In the event title to any lot is conveyed to a title holding trust, under the terms of which all powers of management, operation, and control of the lot remain vested in the trust beneficiary or beneficiaries, then the beneficiaries there under from time to time shall be responsible for payment of all obligations, liens, or indebtedness and for the performance of all agreements, covenants, and undertakings chargeable or created under this Declaration against such lot ownership. No claim shall be made against any such title holding ownership. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the lot ownership and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such lot ownership.

Section 7) Enforcement

Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure by the Covenantor, the Homeowners Association, or any owner of a lot in Winding Creek Estates Units II and III and IV and V to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 8) Severability

Invalidation of any one of these covenants or restrictions of judgment or Court order shall in no way affect any other provisions which shall remain in full force and effect.