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This instrument prepared by
and mail to:
Thomas E. Leiter
THE LEITER GROUP
309-A Main Street
Peoria, IL 61602
Telephone (309) 673-2922

FILED
PEORIA COUNTY
STATE OF ILLINOIS

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Bradley E. Foster
RECORDER OF DEEDS

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**DECLARATION OF RESTRICTIONS
FOR
THE PINNACLE
A Subdivision of Peoria County, Illinois**

THIS DECLARATION OF RESTRICTIONS ("Declaration") is made this 27th day of December, 2004, by JACK BENNETT, (the hereinafter designated "Subdivider") of THE PINNACLE, a subdivision of a part of the Southeast Quarter of Section 19, Township 10 North, Range 8 East of the Fourth Principal Meridian, Peoria County, Illinois as described in Exhibit A attached hereto.

Lots numbered 3 through 23, as laid out on the Final Plat ("Final Plat") filed for record in the Office of the Recorder of Deeds of Peoria County, Illinois, shall be subject to the following covenants, conditions and restrictions, and all persons, corporations or other entities who now hold or shall hereafter acquire any interest in any part of the Subdivision shall be taken to agree and covenant with the others thereof, and with their successors and assigns to conform to and observe the covenants, conditions and restrictions herein as to the use thereof, and the construction of dwellings and improvements thereon.

**ARTICLE I.
Occupancy and Use**

1. Lots 3 through 23 shall be used for single family residential purposes only, regardless of the zoning or use restrictions imposed from time to time by any governmental authority. No zoning or rezoning of any lot, shall be sought other than that currently in force or as may be permitted under the R-2 Zoning Classification of the City of Peoria, Illinois as it now exists.

2. No dwelling shall be occupied until the Certificate of Occupancy has been issued by the appropriate governmental authority and construction of the exterior of the dwelling is complete.

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3. No lot shall be used and no building or improvement shall be constructed and used for mercantile, commercial, manufacturing, professional or business purpose.

4. No lot, building, or improvement shall be used for any immoral or unlawful purpose, and no noxious or offensive trade or activity shall be carried on upon any lot, and nothing shall be done thereon which may be or become a nuisance to the Subdivision and owners of lots therein.

5. No buildings or house trailers may be moved to the Subdivision and no basement or garage house or temporary residence of any kind shall be used as living quarters or permitted on any lot.

6. No lot shall be used for the purpose of advertising or the erection of any advertising sign or billboard, provided however, that signs customarily used in the sale of lots and dwellings shall be permitted when used for the purposes of selling such lots and dwellings, subject to rules and regulations adopted by the Subdivider.

7. No lot as platted shall be divided so as to result in creating additional lots. Provided, however, where lots are contiguous, part of one lot may be added to a contiguous lot, subject to approval by the Subdivider.

8. No animals, other than domesticated house pets, shall be kept or maintained within the Subdivision.

9. Recreational vehicles, trucks, boats, trailers and all other vehicles, except passenger automobiles, shall be garaged when not in use and totally concealed from view. No vehicles, including those of the lot owners shall be regularly parked on the street.

10. No recreational vehicles or devices such as snowmobiles, trailbikes, motorcycles, mini-bikes, go-carts or all terrain vehicles (ATV's) shall be operated within the Subdivision.

ARTICLE II.
Construction and Maintenance

1. No building or improvement, including without limitation, any house, garage, outbuilding, fence, enclosure, swimming pool, wading pool, landscaping pond, tennis court, recreational court, driveway, walkway, retaining wall or landscaping shall be erected, placed or altered on any lot until the building plans, specifications, and plot plan, showing the design, building materials, colors, finishes and location of the building or improvement, have been approved in

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writing by the Subdivider. The following provisions shall apply to such approval requests and approval.

A. All approval requests together with all required plans shall be submitted to the Subdivider for approval at least sixty (60) days prior to the commencement of any proposed construction. The Subdivider shall have the right, in its sole discretion, to approve or disapprove any approval requests.

B. Upon the event of approval by the Subdivider, the Subdivider, at the request of the lot owner, shall issue a Certificate of Approval stating that the approval request has been approved by the Subdivider. Approval shall be binding on the Subdivider provided that the construction strictly complies with the plans and specifications submitted to the Subdivider. Subdivider's approval shall not, however, excuse the lot owner from compliance with all applicable building and use restrictions, and the Subdivider shall not be liable for the approval of any plans and specifications which fail to comply with any building or use restriction. No action shall lie against the Subdivider for Subdivider's failure to approve or Subdivider's approval of any plans and specifications.

C. In the event the plans and specifications submitted to the Subdivider are not approved, the lot owner shall refrain from any construction for which approval was sought and not approved but shall have the right to resubmit new plans and specifications to the Subdivider for approval.

D. In the event the Subdivider fails to approve or disapprove any plans or specifications within sixty (60) days after such plans and specifications have been submitted to it or, in any event, if no suit to enjoin the construction in accordance with the plans and specifications has been commenced prior to the completion thereof, such approval shall not be required, and compliance with this covenant shall be deemed to have occurred.

2. Construction shall be governed by the following specifications:

A. Dwellings shall not exceed one and one-half (1 1/2) stories in height. One and one-half (1 1/2) stories describes a dwelling which provides less living area on the second floor than that provided on the first floor. Some lots in the Subdivision allow for a walkout basement. Such basements and other basements shall not be considered a "story" and shall not be included in determining the one and one-half (1 1/2) stories in height.

B. No dwelling shall have less than the following minimum number of square feet of enclosed living space, exclusive of basements, garages, porches and breezeways.

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(1) Dwellings of one level - 2,000 square feet above ground.

(2) Dwellings of multiple levels - 2,400 square feet above ground, the first floor area to be not less than 1,400 square feet.

C. No wallboard, sheet metal, tar paper or roofing paper, shall be used for any exterior wallcovering or roofs. No aluminum, vinyl or steel siding shall be permitted but such exclusion shall not prohibit aluminum, vinyl or steel soffit, window trim, door trim, or other accent trim.

D. No concrete block or poured concrete foundation or wall shall be exposed above grade so as to be visible, provided, however, that poured foundation walls having a brick appearance may be exposed above grade not more than one (1) foot provided that such exposed areas are substantially concealed by landscape plantings.

E. Fifty percent (50%) of the total exterior wall area on all dwellings shall be faced with brick, stone or materials having a comparable masonry appearance such as stucco or "Dryvit". Fireplace enclosures shall not be included in computing the fifty per cent (50%) masonry or comparable requirement. The computation of compliance with the fifty per cent (50%) masonry or comparable requirement shall be at the sole discretion of the Subdivider following review and approval of building plans and specifications.

F. All fireplace enclosures shall be constructed of brick, stone or comparable masonry appearing materials such as stucco or "Dryvit" so as to give the appearance of masonry construction.

G. Except as necessarily incidental to active construction of the buildings and structures, no new or used construction materials or supplies, junk, machinery, or the like shall be kept or allowed to remain on a lot except inside buildings and concealed from view.

H. No buildings or house trailers may be moved to the Subdivision, and no basement or garage house or temporary residence of any kind shall be used as living quarters or permitted on any lot. In the construction of any swimming or wading or landscape pool, all machinery and filtering tanks must be either recessed in the ground with an adequate cover, or placed inside a housing approved by the Subdivider.

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I. No radio towers or similar structures shall be erected or maintained in the Subdivision. All television antennas shall be contained within the dwelling or approved by the Subdivider.

J. No animal pens or kennels shall be erected or maintained in the Subdivision without the written approval of the Subdivider.

K. All driveways including, but without limitation, those leading from the street right of way line to the garage of a dwelling shall be concrete or such other material as is approved by the Subdivider. The radius of the return of the driveway shall be five feet or such other radius as is approved by the Subdivider. No fills or embankments shall be made within the Subdivision of materials other than earth, gravel, stone or such other masonry materials as are approved by the Subdivider. The lot owner shall be responsible for payment of any damage to the street, curb, sidewalks and other Subdivision improvements caused by him or his agents and contractors.

L. All garbage or trash cans shall be covered by a permanent lid and concealed from view.

M. Each dwelling shall be constructed with a garage having a capacity of no less than two and not more than four passenger automobiles. Any garage structure shall be of compatible design with and attached to the dwelling on the lot and approved by the Subdivider.

N. No material excavated by reason of building or other construction shall be removed from the Subdivision boundaries without the permission of the Subdivider.

O. No clotheslines or posts or other appliances for hanging clothes outside shall be constructed or maintained.

P. In conjunction with each dwelling, there shall be constructed, at the expense of the lot owner, a freestanding lamp post and mailbox of a design approved by the Subdivider, and the following provisions shall apply to such installations.

(1) The lamp post shall be installed at a location approved by the Subdivider.

(2) The lamp post shall be fitted with an automatic illuminating device which will illuminate the lamp post fixture at dusk.

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(3) In the event that mail delivery is provided to the door of the dwellings in the Subdivision, freestanding mailboxes shall be removed by the lot owner within thirty (30) days after commencement of mail delivery to the door.

(4) The lot owner shall maintain the lamp post and mailbox in operating condition and in good repair at all times.

(5) In the event either the lamp post or mailbox is constructed in the public right-of-way, the lot owner shall hold harmless the City and County of Peoria, Illinois, from any damage occurring to either the lamp post or mailbox.

Q. No trees in excess of eight inches in diameter at the base shall be destroyed or removed without the consent of the Subdivider.

R. No building or structure of any kind shall be located on any lot nearer to the street, side, or rear yard lines than the building setback lines shown on the recorded plat of the Subdivision, or as otherwise required by applicable zoning or building codes.

S. On completion of construction of a dwelling, the lot owner, at lot owner's expense, shall:

(1) Install landscaping on the lot in accordance with plans approved by the Subdivider. Such landscaping shall include planting at least one tree and all yard areas shall be sodded or seeded no later than the first growing season following completion of the construction of the exterior of the dwelling; and

(2) Install sidewalks along the frontage of the lot in conformity with the ordinances of the City of Peoria, Illinois and approval of the Subdivider.

T. The lot owners of Lots 11 and 12 shall not remove the existing fence along the North property lines of such lots and shall be responsible for reasonable maintenance of that part of the vegetation which overhangs such lots along the North property lines.

3. Each lot owner shall maintain his property including all landscaping in a presentable condition. Unreasonable destruction of natural foliage shall be avoided. No refuse, garbage, ashes, waste, debris or any offensive substance or material shall be kept or allowed to remain in the

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Subdivision except temporarily in suitable containers.

4. At such time as construction of a dwelling is commenced, such construction shall be performed continuously and completed within one year after commencement of construction. Construction shall include construction of the dwelling and its appurtenances, the driveway, finished site grading and such ground covers as to prevent any soil erosion on the lot.

5. Property south of and adjacent to the Subdivision is currently being used for agricultural purposes, involving the pasturing of horses and production of forage crops. The Subdivider, the Association and lot owners shall not take any action to prevent the use of such property for such agricultural purposes.

ARTICLE III.

Easements

Easements for public utility installation and maintenance, including installation and maintenance of necessary underground appliances, are reserved as shown on the Final Plat. The right is hereby granted to all public utilities to install, lay, construct, renew, operate and maintain pipes, conduits, cable wires and related equipment underground, with all necessary appliances and related equipment for the purposes of serving the Subdivision and adjoining property with gas, electricity, water, sewer, telephone service, and cable television, including the right to use the streets and walkways where necessary, together with the right to enter upon the lots at all times to install, lay, construct, renew, operate and maintain such pipes, conduits, cables, and other appliances and related equipment. Similarly, the right is hereby also granted to use the streets and public walkways, where necessary, for public utility equipment; provided the right to use the streets and walkways, where necessary, for public utility purposes is granted upon the condition that such use does not obstruct the same or interfere with their use as streets and walkways. No dwelling or other permanent structure shall be placed on such easements but the same may be used for gardens, shrubs, landscaping and other purposes that do not interfere with the use of such easements for public utility purposes.

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ARTICLE IV
Home Owner's Association

1. A Home Owner's Association to be known as THE PINNACLE HOMEOWNER'S ASSOCIATION ("Association") shall be organized by the Subdivider no later than January 1, 2007. Management of the Association shall be vested in the Subdivider until the occurrence of either of the following events:

- A. Upon the sale of all of the lots in the Subdivision, or
- B. Upon the sale of 75% of the lots in the Subdivision, together with the written approval of the Subdivider.

For purposes of determining the number of lots in the Subdivision under this paragraph, the term, "Subdivision" shall include Lots 3 through 23. The Subdivider shall have the right to transfer its rights as Subdivider in connection with a transfer of lots in the Subdivision and such transfer shall not be construed as a sale of lots under this paragraph.

Notwithstanding any other provisions contained herein, so long as the Subdivider is vested with management of the Association, the Subdivider shall have the right to appoint and remove the Trustees of the Association and in all respects perform and exercise all rights and obligations of the Association. Until the formation of the Association, all rights and obligations of the Association and Trustees thereof, including, without limitation, the powers and right to levy assessments shall be vested in the Subdivider.

2. Organization of the Association shall be effected by instrument in writing and recorded in the Office of the Peoria County Recorder of Deeds, Peoria County, Illinois. The association may be organized as an Illinois not-for-profit corporation in accordance with applicable law.

3. After the Subdivider has been divested of the management of the Association, the Association shall be managed as follows:

A. For the purpose of voting at any meeting of the Association, there shall be one vote ("Membership") with respect to each of Lots 3 through 23. The person entitled to vote at any meeting of the Association shall be the owner or one of the owners designated by the owner of the lot. Such person entitled to vote shall be considered the Member of the Association. Voting shall be done in person at a meeting of the Association or by proxy signed by the Member. Decisions of the Membership of the Association shall be by majority vote of all lots in the Subdivision.

B. Except as may be otherwise provided, the Association shall be managed by Five (5) Trustees, elected by Members of the Association at a meeting held for such

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purpose. The first organizational meeting of the Association for the purpose of assuming management of the Association from the Subdivider shall be held on thirty (30) days prior written notice to the lot owners. Such notice shall be given by the Subdivider which shall state the purpose of the meeting and the date on which the Subdivider will be divested of management. Each of the Trustees elected shall be a lot owner. At the organizational meeting, three (3) Trustees shall be elected for two (2) year terms and two (2) Trustees shall be elected for terms of one (1) year. At the expiration of the Initial Terms, all Trustees shall be elected for two (2) year terms. The first meeting of the Trustees shall be held within ten (10) days after the Trustees' election and at such time the Trustees shall elect from their number a President, Secretary and a Treasurer, all of whom shall serve for one (1) year or until their successor has been elected and qualified. The Secretary shall keep complete records of all actions and proceedings of the Trustees. The Trustees are authorized to act for and on behalf of the Association, and as may be directed by the Members thereof. The Trustees shall meet at such times and places as they determine provided, however, that the Trustees shall meet no less frequently than quarterly.

C. The Trustees may call special meetings of the Association by giving ten (10) days prior written notice to the Members. Annual meetings of the Association shall be held at such time and place as is designated by the Trustees. Election of the Trustees shall occur at the Annual Meeting.

D. All notices to the Members shall be either personally served or mailed to the last known address of the Member.

4. The Trustees shall have the following powers:

A. To appoint a Successor Trustee for the unexpired term of any Trustee whose office is vacated due to the Trustee's death, resignation, disqualification, or any other reason.

B. To provide for a general fund to enable the Association to perform its duties and to provide and pay for all maintenance and improvements to the Subdivision and contiguous lands affecting the Subdivision and all improvements and amenities constructed thereon.

C. To enforce in the name of the Association or in the name of any owner within the Subdivision, any and all restrictions and covenants which have been imposed upon lots in the Subdivision.

D. To provide and pay for all maintenance, improvements, insurance and utility expense necessary to the operation of the Subdivision, including, without limitation, all amenities and improvements constructed thereon.

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E. To pass on plans and perform all other duties heretofore incumbent on or reserved to the Subdivider under the Declaration.

F. To take all action necessary for the Association to own, sell, lease or otherwise deal with real estate and other property and provide for the maintenance and use thereof.

G. To perform any and all other acts and services consistent with the provisions hereof and applicable law.

H. To adopt reasonable rules and regulations relating to the Subdivision.

I. To adopt such by-laws for the Association and the exercise of its duties as the Trustee's deem necessary or advisable provided that such by-laws are not inconsistent with this Declaration or applicable laws.

5. For the purpose of providing a general fund to enable the Association to perform the duties and to exercise its powers provided herein, all lots in the Subdivision shall be subject to assessments, to be paid by the lot owners monthly as hereinafter provided or according to such other timetable as the Trustees shall determine. Such assessments shall be made and levied equally on each lot.

6. The Trustees of the Association shall maintain complete records of all assessments levied and the payments on account thereof and such records shall be open for inspection to any Member or any person designated by a Member or the Association. Assessments on each lot shall be made in accordance with a budget adopted as follows. Each year, at least thirty (30) days prior to the annual meeting of Members, the Trustees shall adopt a budget for the payment of all anticipated expenses of the Association for the ensuing year. A copy of the budget shall be provided to each lot owner at least fourteen (14) days prior to the annual meeting of Members. At the Annual Meeting of Members, the budget as adopted by the Trustees shall become the approved budget of the Association unless a majority of lot owners votes to disapprove or otherwise amend the budget as presented. The Trustees may from time to time amend the budget as they determine necessary on thirty (30) days prior notice to the Members calling for a special meeting of members for the consideration of such amendment. Any such amendment shall be approved unless a majority of lot owners vote to disapprove or otherwise amend the proposed amendment. Lot owners shall pay all assessments monthly or less frequently as the Trustees shall determine. Assessments shall become liens on real estate as soon as due and payable. If not paid within ten (10) days from the due date, such assessments shall bear interest at the rate of 1.5% monthly from the due date thereof. To enforce the payment of such assessments, the Trustees may record in the Office of the Peoria County Recorder of Deeds a Notice of Lien which may be enforced as a lien on real estate in any Court in Peoria County having jurisdiction of suits for the enforcement of such liens. It shall be the duty of the Trustees to prepare and record Notice of Liens and to enforce liens. Such liens shall continue for

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a period of three (3) years from the date of delinquency but no longer unless that within such time suit shall have been instituted for the collection of the assessment, in which case the lien shall be valid until the assessment is paid. Such liens shall include such additional expenses as are incurred by the Association for all collection costs and attorney's fees.

ARTICLE V. Enforcement

1. The within covenants are to run with the land and shall be binding on all parties acquiring any interest in the property or lots covered hereby, and all persons claiming under them until the same shall be amended, altered or rescinded.

2. If any party or his heirs or assigns shall violate or attempt to violate any of the covenants contained herein, it shall be lawful for any lot owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages for such violation. The right to enforce the covenants contained herein shall also be vested in the Subdivider and the Association upon its formation.

3. Subdivider may by an instrument in writing, properly acknowledged by it, assign and convey to any other person, corporation, or entity, all of the rights, reservations and privileges herein reserved to it and Subdivider shall have the further right to designate in writing, properly acknowledged, an agent for Subdivider to act for and on behalf of Subdivider in all matters pertaining to this Declaration and all person shall have the right to rely on any such designation in writing so naming Subdivider's agent as to all matters set forth herein.

4. The rights, reservations and privileges of the Subdivider shall remain with the Subdivider or its appointed agent or successor until formation of the Association. Upon formation of the Association, such rights reservations and privileges shall become vested in the Association without further act or deed.

ARTICLE VI. Amendment, Modifications and Waivers

1. This Declaration may be altered or amended by a declaration in writing signed by the Subdivider until such time as the Association shall be formed. After the Association is formed, this Declaration may be altered or amended by a declaration in writing signed by the Association until such time as the Subdivider has been divested of management of the Association as provided herein. After the Subdivider has been divested of management of the Association, this declaration may be altered or amended only by a declaration signed by the owners of all lots in the Subdivision. Any alteration or amendment of this Declaration shall be in writing and filed in the Office of the Recorder of Deeds of Peoria County, Illinois, and such alteration or amendment shall not be valid or binding until so recorded.

2. In the event that compliance with any of the provisions of this Declaration, in the opinion of the Subdivider or Association as the case may be, causes undue hardship on any owner of any lot or lots, then in that event, a special written permission may be given by the Subdivider or Association, to deviate from the provisions contained herein in the manner as set forth in said written permission. The written permission shall have the effect of a waiver of the provision with respect to the specific lot or lots so mentioned in said letter and shall in no way affect the Declaration as such restrictions pertain to any other lot or lots in the Subdivision.

3. Notwithstanding any other provision contained herein, the Subdivider may by written instrument recorded in the office of the Peoria County Recorder of Deeds, add to the Declaration of Restrictions Lots 1 and 2 as set forth on the final plat of The Pinnacle recorded as document number 02-51487 as recorded in the office of the Peoria County Recorder of Deeds. In such instrument, the Subdivider may impose such restrictions on Lots 1 and 2 as the Subdivider determines appropriate in addition to those otherwise set forth in this Declaration. Upon the recording of such instrument, Lots 1 and 2 shall be and become subject to this Declaration in addition to any other provisions set forth in such instrument.

ARTICLE VII
Miscellaneous

Invalidation of any one of these covenants by judgment or court shall in no way affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Subdivider has caused this Declaration of Restrictions to be executed on the 27th day of December, 2004.

SUBDIVIDER:

By Jack Bennett
Jack Bennett

STATE OF ILLINOIS)
)SS
COUNTY OF PEORIA)

I, the undersigned, a Notary Public in and for said County and State aforesaid do hereby certify that Jack Bennett, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such person, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as set forth and for the uses and purposes therein set forth; and on his stated that he was duly authorized to execute said instrument and that the seal affixed is that of the Subdivider aforesaid.

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