



TARTAN LAKES

DECLARATION

Establishing Conditions, Covenants,
Restrictions, Reservations, Grants
and Easements

and

Providing for the Creation and
Operation of
TARTAN LAKES HOMEOWNERS' ASSOCIATION

Recorded in the Recorder of Deeds Office in DuPage County, Illinois
On August 23, 1989 as Document Number
R89-103991

This instrument has been prepared by
and should be returned to:

O'Brien & Associates, P.C.
17W200 22nd Street
Oakbrook Terrace, Illinois 60181
(312) 832-6000

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NOVEMBER 28, 1995

TO: ALL TARTAN LAKES HOMEOWNERS

FROM: BOARD OF DIRECTORS

RE: EXTERIOR DECK STAINING

After much thought, continued experimentation, and reviewing several different deck stains, your Board has decided that in order to maintain uniform exteriors, all future deck staining must be of the following products as manufactured by THE FLOOD COMPANY:

- 1) DEKSWOOD - Cleaner and brightener for exterior wood.
- 2) CWF-UV - Clear wood finish.

Please note that these products must be applied in accordance with the manufacturer's recommendations. It is also advisable to use care to protect your landscaping when applying these products.

If all will conform to these products, we can have a continuity throughout our community.

Best regards,

The Board of Directors

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Declaration of Covenants and Restrictions

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TARTAN LAKES

DECLARATION
OF COVENANTS AND RESTRICTIONS

THIS DECLARATION is made by Cole Taylor Bank, not individually, but solely as Trustee under Trust Agreement dated January 31, 1989, and known as Trust No. 89-2013 ("Trustee").

RECITALS:

Trustee is the holder of record title to the real property legally described in Section 2.1 below.

James McNaughton Builders, Inc. ("Developer"), an Illinois corporation, the beneficiary of said trust, is a developer of single-family luxury homes throughout the Chicago suburban area and is the Developer and General Contractor of the subject real property. The real property area which the Developer proposes to develop is herein referred to as "Tartan Lakes".

Developer intends to develop Tartan Lakes into a community of "town houses", each town house being a single-family private residence erected on a separate Homesite within an attractively landscaped Community Area. Said town houses are to be constructed in groups of two or three residences, such that each group constitutes a continuous structure with party walls dividing the residences within each group.

Developer desires to provide for the preservation of the distinctive quality of Tartan Lakes and for the maintenance of the Community Area and the residences which will be constructed on the Homesites. For these purposes, Developer desires to subject the real property hereinafter described to the conditions, covenants, restrictions, reservations, grants and easements herein set forth (all of which are hereinafter referred to collectively as the "Covenants and Restrictions").

NOW, THEREFORE, Trustee and Developer, for the purposes above set forth, hereby declare as follows:

ARTICLE ONE
Definitions

For brevity and clarity, certain words and terms used in this Declaration are defined as follows:

1.1 Association: Tartan Lakes Homeowners' Association, an Illinois not-for-profit-corporation, its successors and assigns.

1.2 Board: The Board of Directors of the Association, as constituted at any time or from time to time, in accordance with the applicable provisions of Section 9.3 hereof.

1.3 By-Laws: The By-Laws of the Association.

1.4 Community Area: The whole of Tartan Lakes except the Homesites which are created within Tartan Lakes also referred to as Outlot 51 on the Plat of Subdivision of Tartan Lakes.

1.5 Community Expenses: The expenses of administration (including management, security and professional services), maintenance, operation, repair, replacement, waste removal, landscaping, and snow removal of the Community Area; the cost of additions, alterations, or improvements to the Community Area; the cost of insurance; the cost of any necessary utility expenses for the Community Area and, if not separately metered, charged, or designated herein as a Residence Expense, the cost of water, waste removal and other necessary utility services to the Residences; any expenses designated as Community Expenses by this Declaration or the By-Laws; and any other expenses lawfully incurred by the Association for the common benefit of all of the Owners.

1.6 Declaration: This instrument as amended or supplemented from time to time.

1.7 Developer: James McNaughton Builders, Inc., an Illinois corporation, its successors and assigns.

1.8 Homesite: Any one of Lots 1 through 50, both inclusive, of Tartan Lakes, subject to the Covenants and Restrictions, including the Residence to be constructed thereon.

1.9 Owner: A record owner, whether one or more persons, of fee simple title to any Homesite upon which a residence has been built, excluding those having an interest merely as security for the performance of an obligation.

1.10 Party Wall. A wall which is built as part of the original construction and placed on the boundary line between Residences.

1.11 Person: A natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

1.12 Property: All the land, property, and space comprising Tartan Lakes as legally described in Section 2.1, all improvements and structures erected, constructed or contained therein or thereon, including Residences, and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the Owners, hereby or hereafter subjected to the Covenants and Restrictions.

1.13 Residence: The single-family town house constructed on a separate Homesite.

1.14 Residence Expense: Any expense, other than a Community Expense, incurred by the Board which is to be charged to an Owner. A Residence Expense shall include, without limitation, the cost of any maintenance, repairs, or replacements or other services furnished by the Association to a Residence and any expenses which are specifically designated as Residence Expenses in this Declaration or the By-Laws.

1.15 Rules and Regulations. The Rules and Regulations adopted from time to time by the Board governing Tartan Lakes and the use of Tartan Lakes by the Owners and by all other persons.

1.16 Town House: A single-family residence erected on a separate Homesite, constructed in groups of two or three residences separated by party walls.

1.17 Trustee: Cole Taylor Bank as Trustee under Trust Agreement dated January 31, 1989, and known as Trust No. 89-2013.

1.18 Voting Member: The person entitled to membership in the Association and who shall be entitled to vote at meetings of the Owners, as more fully set forth in Section 9.2 (b).

ARTICLE TWO

Property Subject to Covenants and Restrictions

2.1 Description of Tartan Lakes. The real property to which this Declaration relates, and which is subject to the Covenants and Restrictions, is the property which Developer is developing, and said real property is legally described as follows:

Lots 1 through 50, both inclusive, and Outlot 51 of Tartan Lakes, a subdivision of part of the South East 1/4 of Section 34, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded August 2, 1989, as Document R89-093604, in DuPage County, Illinois.

2.2 Tartan Lakes: Subject to Covenants and Restrictions. Tartan Lakes is hereby made and declared to be subject to the conditions, covenants, restrictions, reservations, grants and easements contained in this Declaration, and the sale, transfer, mortgage, conveyance, use or occupation of the Homesites and the Community Area are and shall at all times hereafter be subject to the Covenants and Restrictions.

ARTICLE THREE

General Purpose of Declaration

3.1 Statement of Purpose. The purpose of this Declaration of Covenants and Restrictions is to insure a use and development of Tartan Lakes consistent with the desire and intention of Developer to establish a residential community of high quality to protect the Owners of Residences therein against use of Tartan Lakes, or any part of Tartan Lakes, inappropriate to the fine residential community and incompatible with the proper enjoyment of such a community; to insure that the Community Area within Tartan Lakes is at all times carefully and efficiently maintained and that the lawns, streets, walks, and open spaces within Tartan Lakes are always so maintained and operated that they may be enjoyed and used with comfort and pleasure by the Owners of Residences within Tartan Lakes. It is the purpose of this Declaration, in general, to provide that Tartan Lakes will be so managed, maintained, and preserved that it will at all times be regarded as a residential community of outstanding excellence.

ARTICLE FOUR

The Homesites and the Owners

4.1 Creation of Homesites. Homesites were created by the recording of a Plat of Subdivision. Said Plat of Subdivision shows, for each Homesite, a lot number, the legal description, boundary dimensions, and configuration. Said Plat of Subdivision shall also state that an easement for use is created in favor of each Homesite, from such Homesite over the private roads constructed in the Community Area and over the driveway which connects each Homesite to the private roads.

4.2 Designation of Homesite. Each Homesite may for all purposes, including, but without limitation, conveyances and

mortgages, be identified and referred to as "Lot Number __, as described and delineated on the Tartan Lakes Plat of Subdivision, recorded in the Recorder's Office of DuPage County, Illinois, on August 2, 1989, as document number R89-093604" (the appropriate Lot number to be inserted).

4.3 Owner. By purchasing or otherwise acquiring a Homesite, each Owner agrees to be bound by all the Covenants and Restrictions contained in this Declaration.

ARTICLE FIVE **Restrictions**

5.1 Land Use and Building Type. All Homesites in Tartan Lakes shall be used for single-family, private residence purposes only, and no building or structure other than a single-family private "town house" residence shall at any time be constructed or maintained on any Homesite within Tartan Lakes including by way of illustration and not by way of limitation, satellite dishes, sheds, dog houses, swimming pools, or other accessory buildings or structures. No regular business, trade, or occupation or profession of any kind or nature whatsoever, whether or not profit is intended, shall be permitted or carried on, in any Homesite.

5.2 Architectural Controls. No building, awning, porch, fence, wall or other structure shall be commenced, erected or maintained, nor shall any addition to, or change or alteration in, any of the foregoing be made, nor shall any exterior color changes be made, until the construction plans and specifications shall have been submitted to the Developer and approved by the Developer in writing, which approval may be withheld by Developer in its sole discretion and without a reason being expressed therefor.

5.3 Landscaping Controls. Initial landscaping shall be done by Developer, and changes in such landscaping shall be made by an Owner only with the prior approval of the Developer. The Developer has the right, in making a judgment as to the giving or withholding of approval of plans and specifications submitted to the Developer, to consider the desirability of the proposed landscaping or grading in relation to other landscaping and grading in Tartan Lakes, and to consider the character and qualities of the residential development existing or being created within Tartan Lakes.

5.4 Prohibition of Certain Activities and Other Matters. No activity shall be carried on which annoys or disturbs, or is likely to annoy or disturb, others in Tartan Lakes. No livestock, poultry, or other creatures may be kept or maintained. The keeping of dogs, cats or other household pets is subject to

the Rules and Regulations, and said Rules and Regulations may prohibit the keeping of pets anywhere within Tartan Lakes. Refuse or waste material shall not be permitted to accumulate or be burned outside of Owner's residence. Boats, recreational vehicles and commercial vehicles shall not be stored or parked overnight on any Homesite within Tartan Lakes nor elsewhere within the Community Area except that they may be so stored within the garage on the Homesite so long as the garage doors are kept shut at all times. A "commercial vehicle" is any vehicle expressly constructed for use in a commercial activity of any kind, or which is identified by its general appearance, or by printing, or by symbols, or by like matters, as being engaged in a commercial activity. Trailers, mobile homes, campers and similar vehicles are included within the prohibition against recreational vehicles. No tent, shack, garage, temporary building or structure of any kind shall be used at any time as either a temporary or permanent residence. No plants or seeds or other things or conditions, harboring or breeding or likely to attract noxious insects or creatures, or likely to be conducive to plant disease, shall be brought into or permitted to exist or to be maintained within Tartan Lakes. No snowmobile, dune buggy, three- or four-wheeled off-road vehicles or similar motorized device may be operated anywhere within Tartan Lakes. Violation of the foregoing restrictions shall entitle Developer to enforce the rights and remedies hereinafter specified, whether or not said violation constitutes a nuisance.

5.5 Nameplates, Antennae, Lighting, and Other Such Matters. There shall be not more than one nameplate on each Homesite. Style, size and location of nameplates shall be prescribed by the Rules and Regulations of the Developer. No television or radio antennae (including satellite dishes of all kinds), tower, or other receiving or transmitting device shall be erected outdoors, nor shall laundry be dried outdoors. No newspapers, paper or other temporary window coverings may be used to cover the windows in any Residence.

5.6 Signs. No signs may be placed on any Homesite, including, but not limited to, "For Sale" or "For Lease" signs. The Developer shall not be bound by the provisions of this paragraph 5.6. Until such time as Developer sells the last Homesite owned by it, Developer shall have the exclusive right to control the erection of signs on the Property.

5.7 Covenants and Restrictions - Running With Land. The covenants and restrictions created by this Declaration run with the land both as to burden and benefit, and every conveyance or other instrument affecting Tartan Lakes shall be deemed subject to these Covenants and Restrictions and bound thereby as fully and as firmly as if said Covenants and Restrictions were fully set forth in said conveyance or other instrument.

ARTICLE SIX
Use of the Community Area

6.1 Use by Owners and Developer. The Owners, their families, guests and invitees have the right to use the Community Area. Developer, its agents, employees and invitees also have the right to use the Community Area. Use of the Community Area shall be subject to the Rules and Regulations which may be amended from time to time by the Developer.

6.2 Use to Comply with Declaration and Rules and Regulations. No use of the Community Area shall be made by any person, whether Owner or otherwise, which does not comply with, and conform to, the requirements of this Declaration, and which does not comply with, and conform to, the Rules and Regulations.

6.3 Use of Lakes. This Article Six shall not be construed so as to allow Owners to use for recreational purposes, withdraw water from, or construct piers over or upon any of the lakes developed on the Community Area. The use of the lakes shall be limited to the maintenance by the Developer and the Association of the shores surrounding and aerators located thereon. The Developer and the Association shall have the exclusive right to withdraw water from the lakes for the purpose of lawn sprinkling.

ARTICLE SEVEN
Easements

7.1 Encroachments. In the event that, by reason of the initial design, construction, repair, reconstruction, settlement or shifting of the Property or any part thereof, (i) any part of the Community Area encroaches, or shall hereafter encroach, upon any part of any Homesite, or (ii) any part of any Homesite (including, but not limited to, fireplaces, bay, bow or box windows, and window wells) encroaches, or shall hereafter encroach, upon any part of any other Homesite or the Community Area, then, in any such case, there shall be deemed to be an easement in favor of the Owners for the maintenance and use of any of the Community Area which may encroach upon a Homesite and there shall be deemed to be an easement in favor of any Owner for the exclusive use of any part of his Homesite which shall encroach upon the Community Area or any other Homesite; provided, however, that in no event shall an easement for any encroachment be created in favor of any Owner if such encroachment occurred due to the intentional, willful or negligent conduct of such Owner or his agent.

7.2 Easements Reserved by Developer. Notwithstanding any provision herein to the contrary, until such time as the Trustee is no longer vested with or controls title to any part of Tartan

Lakes, the Developer and its agents and contractors shall have the right (a) to place and maintain on the Property model residences, sales offices, advertising signs, parking spaces and lighting in connection therewith, at such locations and in such forms as the Developer may determine, in its discretion, to be used by the Developer in connection with the promotion, sale, or lease of the Residences or of the Residences constructed or to be constructed on any part of Tartan Lakes, (b) to come over, across and upon the Property for the purpose of making alterations or improvements to the Residences, Homesites or Community Area, and (c) to store on the Community Area equipment and materials used in connection with such work on the Residences, Homesites or Community Area, all without the payment of any fee or charge whatsoever.

7.3 Perpetual Easements. Perpetual easements are hereby established in the Community Area for the use and enjoyment of said area by all Owners, their families, guests, invitees and others where a right to use or enjoy the Community Area is derived from the Owners. Each Owner, and all persons whose rights are derived from the Owner, has an easement to freely make all reasonable and proper use of the Community Area subject to the terms of this Declaration and to the Rules and Regulations promulgated pursuant hereto.

7.4 Perpetual Easement in Gross to Association. The Community Area shall be subject to a perpetual easement in gross to the Association for the purpose of enabling and permitting the Association properly to perform its duties and responsibilities. The Association further has a perpetual easement in gross to enter upon a Homesite where reasonably necessary in the judgment of the Association for the purpose of properly performing or executing a duty or responsibility of the Association in respect of other Owners, or of the Owners generally, or of the Community Area. Without limiting the above easement in gross, the Association has a perpetual easement in the Community Area and the Homesites for the purpose of maintaining the shores of all lakes; installing, repairing, maintaining, and testing the lawn sprinkler system, the exterior lighting system, the aerator system and shores of all lakes, and the fire protection security system, along with any other systems which the Association has the duty or responsibility to operate or maintain for the benefit of the Owners or the Association. Developer also has an easement in gross for the purpose of enabling and permitting Developer properly to perform its duties and responsibilities as Developer. Developer further has an easement in gross to enter upon a Homesite where reasonably necessary in the judgment of Developer for the purpose of properly performing or executing a duty or responsibility of Developer in respect of other Owners, or of the Owners generally, or of the Community Area.

7.5 Easements for Public Utilities, Sanitary and Storm Sewers. Developer initially, and the Association thereafter, has the right to establish easements over portions of Tartan Lakes for sanitary and storm sewers and for all other public utility purposes including electricity, gas, water, cable television, and telephones, and Developer and the Association have the concomitant right, in connection with such grants of easements, to grant the right and power to do all things necessary or appropriate in connection with said grant of easements, including, but without limitation, the right of maintenance, repair and replacement. Developer and the Association are fully authorized and empowered to execute and deliver any and all documents necessary to implement these provisions, and the Owners shall be deemed to have approved and confirmed such documents, and to be bound thereby.

7.6 Easements: How Created. Easements for all public utility or other purposes, including, but without limitation, electricity, gas, water, cable television, security, and telephone, shall be initially created by the recording in the Recorder's Office of DuPage County, Illinois, of the Plat of Subdivision of Tartan Lakes and, if necessary, individual Grants of Easements to which shall be appended Plats of Easements showing the location of the easements being initially created. Thereafter, easements for public utilities shall be created by the recording of separate Plats of Easements, each of which shall show the location, within the Community Area and within any Homesites covered by such subsequent Plats of Easements, of the easements being newly created. The utility easements created by the filing of Plats of Easements shall be deemed to have been created upon and subject to, all of the terms and conditions of the Plat of Subdivision of Tartan Lakes and initial Grants of Easements to the respective utilities or services, so that upon the recording of a Plat of Easements subsequent to the recording of the Plat of Subdivision of Tartan Lakes or an initial Grant of Easements, each utility or service company shall forthwith have all the rights, powers and obligations contained in said Plat of Subdivision of Tartan Lakes or the initial Grant of Easements, as fully and as effectively as if all the terms of said Grant of Easements were contained within the subsequently recorded Plat of Easements.

7.7 Easement Within Homesite. At any time prior to the sale of a Homesite by Developer, Developer has the right to create, for public utility and other Community Area purposes, an easement strip within, and adjacent to, one or more sides of such Homesite.

7.8 Easement: Homesite to Public Streets. An easement for ingress and egress to public streets shall exist over the driveways, the private roads and walks which connect the Homesites to the private roads of Tartan Lakes, in favor of the Owners, their

families, guests, invitees and others whose right of use is derived from the Owners, and in favor of the Developer and the Association. An area for a private road and for utility easements (in addition to the utility easements hereinabove provided for), and for other purposes not inconsistent with such uses, is created and shall exist, as shown on the Plat of Subdivision of Tartan Lakes.

7.9 Easement to Fire and Police Departments. Fire and police departments serving Tartan Lakes, and cooperating fire and police departments, are hereby given an easement to enter upon and make such use of the private road of Tartan Lakes, and of so much of Tartan Lakes itself, as is necessary for the customary and proper performance and discharge of their duties.

7.10 Easement Agreement for Storm Water Detention. Developer, Trustee, and Franciscan Tertiary Province of the Sacred Heart, Inc., an Illinois not-for-profit corporation, have entered into an Easement Agreement For Storm Water Detention (hereinafter "Easement Agreement") dated April 28, 1989, and recorded in the Office of the Recorder of Deeds of DuPage County, Illinois, on May 15, 1989, as Document No. R89-056824. Said Easement Agreement imposes certain duties and obligations, including, but not limited to, providing such maintenance and making such repairs as may be required for the proper detention and retention of storm water upon the Easement Parcel as therein described, upon the parties thereto to effectuate the purposes set forth in the Easement Agreement. All of the duties and obligations imposed upon the Developer in the Easement Agreement are hereby assumed by the Association. In addition, the following covenants and provisions are intended to inure to the benefit of the Village of Westmont, Illinois (hereinafter "the Village"):

(a) In the event the Association fails to perform any of the obligations required to be performed by it as provided in said Easement Agreement and such deficiencies shall exist for a period of thirty days after the date of delivery by the Village to the Association of written notice advising the Association of the existence and nature of such deficiencies, the Village has the right, but not the duty, to perform the obligations required to be performed by the Association pursuant to said Easement Agreement. In the event the Village elects to perform the obligations, the Association shall pay promptly to the Village the amount of the cost and expense incurred by it in the performance of such obligations.

(b) In the event the Village performs any of the Association's duties and obligations and the Association fails to pay the Village any costs and expenses incurred as aforesaid, within thirty days after the date of the

Village's demand for payment or date of any statement, the Village shall have the right to exercise all the rights, powers, privileges and remedies, including the right to levy an assessment upon the owners of the Homesites, granted to the Association by this Declaration in Article Twelve, and any other remedies provided by law, to the same extent and as fully as the Association might do pursuant to the provisions contained in said Article Twelve.

ARTICLE EIGHT

Party Walls

8.1 Owner's Rights and Obligations. Each of the Owners immediately adjacent to a party wall shall have the obligations and be entitled to the rights and privileges granted herein and, to the extent not inconsistent herewith, the general rules of law regarding party walls. If any party wall is damaged or destroyed through the act or acts of an adjoining Owner, or his agents, servants, guests, or members of his family, whether such act is willful, negligent or accidental, such Owner shall rebuild or repair the wall to as good a condition as formerly without cost to the other adjoining Owner. Any party wall damaged or destroyed by some act or event other than that produced by one of the adjacent Owners, his agents, servants, guests or family, shall be rebuilt or repaired by both adjoining Owners to the same good condition as formerly, at their joint and equal expense, as promptly as reasonably possible. Any Owner who proposes to modify, rebuild, repair or make additions to his own residence or any reconstruction upon his Homesite in any manner which requires the extension, alteration or modification of any party wall, shall first obtain the written consent of the adjacent Owner, in addition to meeting the requirements set forth in Article Five.

8.2 Disputes Regarding Party Walls. In the event of a disagreement between Owners of adjoining Residences with respect to the repair, reconstruction or maintenance of a party wall or with respect to his share in the cost of repairing, rebuilding or maintaining the same, then upon the written request of either of said Owners to Developer or the Association, or its successor or assign, the matter shall be submitted to it for arbitration under such rules as it may from time to time adopt, provided, however, that if no such rules are adopted or it refuses to act, then the matter shall be submitted to three arbitrators, one chosen by each of the Owners, and the third arbitrator shall be chosen by the other two arbitrators. A determination of the matter signed by any two of the three arbitrators shall be binding upon all persons.

8.3 Private Agreements. No private agreement of any adjoining property Owner shall modify or abrogate any of the provisions contained in Article Eight, which shall be binding

upon the heirs, administrators, successors and assigns of the Owners. No person shall be liable for any act or omission respecting the provisions of this Article except such as took place while such person was an Owner.

ARTICLE NINE

Tartan Lakes Homeowners' Association

9.1 The Association. Tartan Lakes Homeowners' Association has been or shall be organized under the general Illinois not-for-profit-corporation act, so that the corporation will be enabled to function under this Declaration. The Association shall be the governing body for all of the Owners and for the administration and operation of Tartan Lakes as provided in this Declaration and the By-Laws.

9.2 Membership.

(a) There shall be only one class of membership in the Association. The Owner of each Homesite shall be a member of the Association, but there shall be only one member per Homesite. Membership shall be appurtenant to and may not be separated from ownership of a Homesite. Ownership of a Homesite shall be the sole qualification for membership. The Association shall be given written notice of the change of ownership of a Homesite within ten days after such change.

(b) One individual shall be designated as the "Voting Member" for each Homesite. The Voting Member, or his proxy, shall be the individual who shall be entitled to vote at meetings of the Owners. If the record ownership of a Homesite shall be in more than one person, or if an Owner is a trustee, corporation, partnership or other legal entity, then the Voting Member for the Homesite shall be designated by such Owner or Owners in writing to the Board and, if in the case of multiple individual Owners no designation is given, then the Board at its election may recognize an individual Owner of the Homesite as the Voting Member for such Homesite.

9.3 Election of a Board. When Developer notifies the Owners that Developer is ready to direct the Trustee to convey the fee simple title of the Community Area to the Association, the Owners shall elect a Board. If in the judgment of Developer, the Owners fail to elect an initial Board after notice authorizing such election has been given by Developer, then Developer shall have the right to designate, in its discretion, any three of the Owners as an initial Board. A director shall serve for one year, and thereafter until his successor is elected.

9.4 Management and Control by Board. The Board may retain all responsibility and authority for day-to-day management and control of the Community Area. The Board has the right, but no obligation, to vest all of its responsibility and authority for day-to-day management and control of the Community Area in a manager to be employed by the Board. If a manager is so employed, he shall be subject to the authority of the Board. The policies and decisions of the Board shall be executed by the manager, and the manager shall enforce their Rules and Regulations. The power and authority of the manager shall be coextensive with that of the Board but shall be subject and subordinate to the Board.

9.5 Adoption of Rules and Regulations. The Board may from time to time adopt rules and regulations governing the Community Area and use of the Community Area by the Owners and by all other persons. Developer shall have the right to adopt Rules and Regulations prior to their adoption by the first Board. All users of the Community Area and all use of the Community Area shall comply with the Rules and Regulations, and no use shall be made of the Community Area by any person which does not comply with the Rules and Regulations. Although the Rules and Regulations shall apply to, and be effective throughout, Tartan Lakes, including the Homesites located therein, the rights, powers and duties of the Board shall be primarily concerned with the Community Area, and the primary responsibility of the Board is the management and the operation of the Community Area. In all matters relating to enforcement and implementation of the Rules and Regulations, the Board may act through its manager. The Rules and Regulations to be adopted by the Board in respect of the Community Area and Homesites may cover, among other things and without limitation, matters pertaining to use, admission of guests, pets, discipline and disciplinary measures against violators of said Rules and Regulations.

9.6 Vacancies, Compensation and Other Matters. The Board shall receive no compensation for its services. A vacancy in the Board, whatever the reason for the vacancy, shall be filled by vote of the remaining members of the Board. If there are two or more vacancies in the Board, the vacancies shall be filled by majority vote of the Owners at a special meeting called for that purpose. The Board shall act by majority vote of those present at its meetings when a quorum is present. The Board shall meet as often as it deems necessary for the proper performance of its duties.

9.7 Officers of the Board of Directors. The Board shall elect from among its members a President and a Secretary-Treasurer. Each officer shall perform the duties which commonly attach to the office he holds.

9.8 Meetings of the Owners. When development of Tartan Lakes has been completed by Developer and Developer is prepared to transfer and assign all of Developer's rights, powers and obligations to the Association, Developer shall give due notice of said completion to the Owners, and shall give Owners not less than 15 days notice of a meeting to be held by the Owners at a place to be designated by Developer in DuPage County at which, by majority vote of all Owners present at said meeting, the Owners shall elect the Board hereinabove referred to. Thereafter, the Owners shall meet annually for the purpose of electing Directors at a place to be designated by the Board in DuPage County. The first annual meeting of the Owners shall be held one year, as nearly as practicable, after the date of the first meeting of the Owners, and subsequent meetings shall be held at yearly intervals thereafter.

9.9 Meetings of the Board. The Board shall meet annually promptly after the annual meeting of Owners at a place to be designated by the Board in DuPage County for the purpose of electing officers and transacting any other business which may properly come before the annual meeting. In addition to the said annual meeting, the Board may hold special meetings when business before the Board makes it necessary. Special meetings of the Board shall also be held on the written request of fifteen of the Owners, delivered to the Board. The request of the Owners shall state the purpose of the special meeting for which a request has been made, and in response to a proper request by one-third of the Owners, the Board shall set a suitable date for a special meeting and shall give not less than ten days' notice to each Owner, of the date, time and place of the special meeting.

ARTICLE TEN

Rights, Powers and Obligations of Association

10.1 Rights, Powers and Obligations of Association. For the benefit of all the Owners, the Association shall have all powers relating to the maintenance, repair, improvement, management, and operation of the Property including, but not limited to, the power set forth in this Article Ten, and all the rights and powers possessed by Developer under the terms of this Declaration. The power of the Association shall include the power to acquire and pay out funds as hereinafter provided, for the following Community Expenses and/or Residence Expenses:

(a) Management services.

(b) Security services, including security personnel, and operation and maintenance of a gatehouse and a central security signal receiving systems and other security arrangements or devices, if any.

(c) Water, waste removal, if any, operating expenses, electricity, telephone and other necessary utility services for the Community Area.

(d) Comprehensive public liability and property damage insurance in such limits as the Association shall deem desirable, insuring the Association itself, its manager, if any, agents and employees, the Owners, including the Directors personally, the Trustee and the Developer, its agents and employees, from any liability in connection with the Community Area or the streets, lakes, sidewalks and public spaces adjoining the Community Area. Such insurance coverage shall also cover cross liability claims of one insured against another. The insurance coverage provided for Developer, its agents and employees, shall continue in force and effect only until the time of the transfer by Developer to the Association of all of the rights, powers and obligations of Developer, and said coverage may then be canceled.

(e) Workmen's compensation insurance as may be necessary to comply with applicable laws and such other forms of insurance as the Association in its judgment shall elect to effect.

(f) General real estate taxes, assessments or other charges of governmental bodies against the Community Area (hereinafter referred to as "taxes").

(g) The services of any person or firm employed by the Association. The Association may employ the service of any person or firm to act on behalf of the Owners in connection with real estate taxes and special assessments, and in connection with any other matter where the respective interests of the Owners are deemed by the Association to be similar and non-adverse to each other.

(h) Landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement in the Community Area, and acquisition of such furnishing and equipment for the Community Area as the Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the Community Area.

(i) In respect of Homesites, (i) maintenance of landscaping initially done by Developer and landscaping done by Owner on his Homesite for which Association has in writing accepted responsibility, (ii) snow removal from driveways, (iii) maintenance and repair of exterior of residences, including, but not limited to, the roof, exterior walls, soffits, trim, and chimney.

(c) Water, waste removal, if any, operating expenses, electricity, telephone and other necessary utility services for the Community Area.

(d) Comprehensive public liability and property damage insurance in such limits as the Association shall deem desirable, insuring the Association itself, its manager, if any, agents and employees, the Owners, including the Directors personally, the Trustee and the Developer, its agents and employees, from any liability in connection with the Community Area or the streets, lakes, sidewalks and public spaces adjoining the Community Area. Such insurance coverage shall also cover cross liability claims of one insured against another. The insurance coverage provided for Developer, its agents and employees, shall continue in force and effect only until the time of the transfer by Developer to the Association of all of the rights, powers and obligations of Developer, and said coverage may then be canceled.

(e) Workmen's compensation insurance as may be necessary to comply with applicable laws and such other forms of insurance as the Association in its judgment shall elect to effect.

(f) General real estate taxes, assessments or other charges of governmental bodies against the Community Area (hereinafter referred to as "taxes").

(g) The services of any person or firm employed by the Association. The Association may employ the service of any person or firm to act on behalf of the Owners in connection with real estate taxes and special assessments, and in connection with any other matter where the respective interests of the Owners are deemed by the Association to be similar and non-adverse to each other.

(h) Landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement in the Community Area, and acquisition of such furnishing and equipment for the Community Area as the Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the Community Area.

(i) In respect of Homesites, (i) maintenance of landscaping initially done by Developer and landscaping done by Owner on his Homesite for which Association has in writing accepted responsibility, (ii) snow removal from driveways, (iii) maintenance and repair of exterior of residences, including, but not limited to, the roof, exterior walls, soffits, trim, and chimney.

(j) Maintenance and repair of Homesite walks and driveways in behalf of the Owners, but each Owner shall be separately assessed by the Association for the separate expense thereof allocable to a Homesite. Such assessments shall be governed by the provisions set forth in Article Twelve relating to assessments generally, except that the statement covering the cost of walk and driveway maintenance and repair shall be paid promptly upon presentation to the Owner for whom the work was done.

(k) Any other materials, supplies, equipment, labor, services, maintenance, repairs, structural alterations or assessments, tax or otherwise, which the Association is required to secure or pay for pursuant to the terms of this Declaration or the By Laws or which, in its opinion, shall be necessary or proper for the maintenance and operation of the Community Area or for the implementation of this Declaration.

(l) Any amount necessary to pay for or discharge any mechanic's lien or other encumbrance levied against the entire Community Area or any part thereof which may, in the opinion of the Association, constitute a lien against the Community Area, rather than merely against the interests therein of particular Owners.

(m) All funds collected hereunder shall be held and expended for the purposes designated herein.

10.2 Alterations and Improvements of Community Area. The Association shall have the right to make or cause to be made alterations and improvements to the Community Area. The costs of such alterations and improvements shall be assessed as Community Expenses in the manner hereinafter set forth.

10.3 Books and Records. The Association, through its Manager, shall keep complete and correct books of account of the receipts and expenditures relating to the Community Area, specifying and itemizing the maintenance and repair expenses of the Community Area and any other expenses incurred. Such records and vouchers authorizing the payments shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Owner. Upon ten days' notice to the Association and payment of a reasonable fee, any Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner for Community and/or Residence Expenses.

10.4 Employment of Professional Management. The administrative duties of the Board may be performed by a Manager (which may be a professional management firm) employed by the Association, and the Association has the right to pay reasonable compensation to a Manager so employed. The Developer has the right, but not the obligation, on behalf of the Owners, to engage the initial Manager and to enter into a contract with said Manager expiring not later than one year after the completion of the development of Tartan Lakes.

10.5 Execution of Agreements, Contracts, etc. All agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by the authorized officers of the Board, its Manager, or by such other persons and in such manner, as from time to time may be determined by the Association.

10.6 Authority of Board to Lease or License. The Association shall have the authority to lease or to grant licenses or concessions with respect to the Community Area, when reasonably deemed to be in the best interests of the Owners.

10.7 No Business Activity. Nothing in the Declaration of Trust shall be construed to give the Association authority to conduct a business for profit on the Community Area or any part hereof.

10.8 Non-Liability of the Board. The Board and Developer shall not be personally liable to the Owners or to any others for any mistake in judgment or for any acts or omissions made in good faith. The Owners shall indemnify and hold harmless each member of the Board and the Developer against all contractual liability to others arising out of contracts made by the Board or the Developer on behalf of the Owners unless any such contract shall have been made in bad faith or in violation of the provisions of this Declaration. The liability of the Owners based upon a contract made by the Board or by Developer, or based upon Owners' agreement to indemnify and hold harmless, shall be several, and not joint, and no Owner shall be liable for more than his equal proportionate share of any such contract or indemnity liability. Every agreement made by the Board or Developer shall provide that the Board or the Developer, as the case may be, are acting only as agents for and on behalf of the Owners and shall have no personal liability thereunder (except as Owners), and that each Owner's liability thereunder shall be several, and not joint, and shall not exceed the Owner's equal proportionate share of such contract liability. The indemnity herein provided for shall extend to and be operative in favor of the Manager and all other agents and employees of the Association and the Developer.

10.9 Delegation of Power. The maintenance, repair, improvement, management and operation of the Community Area shall

be the responsibility of the Association, but the Association has the right to delegate to the Manager or others, such authority and duties as may be granted and imposed upon the Board by this Declaration.

10.10 Funds and Titles for the Owners. All funds and all properties acquired by the Association, and the proceeds thereof, shall belong to the Owners and shall be held for the benefit of the Owners subject to this Declaration for the purposes herein stated.

ARTICLE ELEVEN

Conveyance of Title by Developer to Association

11.1 Developer's Rights, Powers and Obligations Prior to Transfer to Association. Until all the Homesites shall have been sold and development of Tartan Lakes has been completed by Developer, all of the rights, powers and obligations which by this Declaration are to be vested in the Association shall be deemed vested in and possessed by Developer.

11.2 Transfer of Rights, Powers and Obligations by Developer to Association. When Developer has completed development of Tartan Lakes, it shall transfer and assign to the Association all of its rights, powers, and obligations under this Declaration.

11.3 Transfer of Title to Community Area to Association.

(a) Until the title in the Community Area is conveyed to Association, Developer, through the Trustee, solely shall hold the fee simple title in the Community Area, subject to the right of use by the Owners hereinabove provided for in Article Six.

(b) Concurrently with said transfer by Developer to the Association, the legal title of Trustee in the Community Area shall be conveyed to the Association, and thereupon the Association solely shall possess fee simple title in the Community Area.

(c) Concurrently with the transfer of Developer's rights, powers and obligations to the Association, the exclusive interest of Developer in the Community Area shall cease and terminate.

11.4 Rights and Powers Reserved by Developer. Prior to Developer's completion of Tartan Lakes and Developer's transfer of its rights, powers and obligations to the Association, Developer shall have the right and power to erect and maintain advertising signs and to use and employ on Tartan Lakes other

sales devices and arrangements, all to be in good taste and consistent with the quality and character of the development, for the purpose of advertising Homesites and Residences in Tartan Lakes. Developer shall have the further right and power to maintain, for the aforesaid period, sales, business and construction offices on the Property, up to four (4) model Residences, and to complete construction of the buildings and improvements on the Property and development of the entire Tartan Lakes. The construction of buildings and improvements by Developer in accordance with this Article shall be deemed fully authorized and empowered until development of Tartan Lakes has been completed and Developer has transferred and assigned all its rights, powers and obligations to the Association. Developer shall be exempt from the payment of all assessments due under Article Twelve of this Declaration during the period Residences are used by Developer as model Residences or during the period any Residence owned by the Developer remains unsold and unoccupied.

11.5 Developer's Successors and Assigns. Developer's successors and assigns shall have, without limitation, qualification or exception, all the rights, powers and authority of Developer itself.

11.6 Community Area Improvements: Developer's Warranty. Developer warrants all improvements constructed by Developer in the Community Area to be free from defects in workmanship and materials. Said warranty shall be effective for twelve months from the date as of which the improvement is ready for use or occupancy. During said twelve-month warranty period, all repairs required by reason of defects in workmanship or materials shall be made by Developer at its own expense, without charge to the Owners. After the expiration of the warranty period, all repair expense on Community Area improvements shall be borne by Owners.

ARTICLE TWELVE Assessments

12.1 Assessments for Taxes and Maintenance Prior to Transfer to Association. All taxes, expenses for maintenance and operation of the Community Area and for the services hereinabove specified, performed upon Homesites, shall be paid by assessments upon the Owners. Until Developer transfers its rights, powers and obligations to the Association, assessments for maintenance and operation shall be levied by Developer on a quarterly basis and paid by the Owners. The assessment for maintenance and operation shall be subject to periodic adjustment, upward or downward, each such adjustment to be based upon the estimate then made by Developer of the expense of managing and operating the Community Area during the period for which the estimate has been made. The term "maintenance and operation" of the Community Area

includes, but without limitation, all of the matters set forth in Article Ten in respect of which the Association (and Developer prior to transfer to the Association) are stated to have rights, powers, and obligations.

12.2 Transfer by Developer of Maintenance Reserves. When Developer is preparing to transfer its rights, powers, and obligations to the Association, Developer will appoint an independent firm of certified public accountants for the purpose of determining the amount which Developer is to deliver to the Association for maintenance and operation of the Community Area, and Developer will, as soon as practicable, deliver to the Association a statement prepared by said accountants showing the amount by which aggregate assessments received by Developer from the Owners exceeded, or are less than, the aggregate expense of maintaining and operating the Community Area up to date of the transfer. If the statement shows a surplus, Developer shall within thirty days of receipt of the statement pay that surplus to the Association. If the statement shows a deficiency, then Association will pay the amount of that deficiency to the Developer. After the date of the transfer and assignment to the Association of Developer's rights, powers and obligations, Developer shall have no further liability or obligation in respect of any costs or expenses of the Community Area. Thereafter, all assessments for taxes, maintenance and operations shall be made as provided for in the following sections of this Article Twelve.

12.3 Estimate and Assessment of Maintenance Costs by Association. After Developer has transferred its rights, powers, and obligations to the Association, payment by Owners for maintenance and operating expenses shall continue to be paid quarterly in the same amount as prior to the transfer, until the Owners are notified by the Association of a change in the amount of the assessments.

(a) As soon as practicable after the aforesaid transfer by Developer to Association, the Association shall prepare an estimate of the taxes, maintenance and operating expenses for the Association's initial fiscal year, beginning on the first day of the calendar month which immediately follows the expiration of a period not less than thirty days from the date of the preparation of the estimate by the Association.

(b) After the Association has approved the said estimate, the Owners shall be promptly given written notice of said estimate, with reasonable supporting data, and a statement of the quarterly payment for taxes, maintenance and operating expenses to be made by each Owner on the first day of each quarter of said initial fiscal year, and each

Owner shall thereupon make payments in accordance with said statement.

(c) Thereafter, not less than thirty days prior to the beginning of each fiscal year after the initial fiscal year, the Association shall prepare and approve an estimate of taxes, maintenance and operating expenses for the coming fiscal year, with reasonable supporting data, and the Association shall promptly give each Owner written notice of said estimate, and a statement of the quarterly payment of taxes, maintenance and operating expenses to be made by each Owner on the first day of each quarter of the fiscal year for which the estimate was made, and each Owner shall thereafter make payments in accordance with said statement.

(d) Within ninety days after the beginning of each fiscal year after the initial fiscal year, the Association shall prepare an itemized accounting of taxes, maintenance and operating expenses actually incurred and paid for the preceding fiscal year, together with a tabulation of the amounts collected pursuant to assessment of the Owners, and showing the net amount over or under the actual expenditures, plus reserves; provided, that in the fiscal year which immediately follows the initial fiscal year, the aforesaid data to be delivered to the Association shall cover the fiscal period from the date of the transfer by Developer to the Association, to the end of said initial fiscal year. Said accounting shall be prepared by an independent certified public accountant. Any amount accumulated in excess of the amount required for actual expenses and reserves may be placed in a special reserve to apply against cash requirements for the following year and any net shortage may be assessed equally among the Owners.

12.4 Reserves for Contingencies. The Association may build up and maintain reasonable reserves for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate, which may become necessary during the year, shall be charged first against such reserves. If the estimated cash reserve is inadequate for any reason, including nonpayment of any assessment, the Board has the right to levy an additional assessment to cure the deficiency. The Association shall serve notice of such additional assessment on the Owners by a statement in writing giving the amount and reason therefor, and such additional assessment shall be paid as directed by the Association. Each Owner, jointly and severally, shall be personally liable for and obligated to pay his respective adjusted monthly assessment.

12.5 Failure of Association to Serve Estimate. The failure or delay of the Association to approve or distribute the annual estimate or the adjusted estimate shall in no way constitute a

waiver or release in any respect or in any degree of the obligation of each Owner to pay the maintenance assessments herein provided for, whenever the same shall be determined, and if timely distribution of an estimate is not made by the Association, the Owners shall continue to pay the then existing monthly assessment, until the new or adjusted estimate shall have been distributed by the Association.

12.6 Assessment Roll. The assessments against Owners shall be set forth upon a roll which shall be available for inspection on request at all reasonable times by the Owners or their duly authorized agents. Said assessment roll shall show all assessments made and their purposes, and shall show further the amounts of all assessments paid and all assessments unpaid.

12.7 Owner and Grantee: Liability and Assessments. Each Owner and his grantee shall be jointly and severally liable for all unpaid assessments due and payable at the time of conveyance but without prejudice to the rights, if any, of a grantee to recover from the grantor the amounts paid by the grantee in respect of such assessments. Such liability shall not be avoided by a waiver of the use or enjoyment of the Community Area, by a claim of nonuse, or by abandonment or surrender of the Homesite in respect of which liability for the assessment was made.

12.8 Allocation of Assessment Liability Among Owners. Except as specifically provided for hereunder to the contrary, all taxes and expense in connection with maintenance, improvement, management and operation of the Homesites or Community Area, herein sometimes referred to as "Maintenance Expense", shall be borne in equal shares by all the Owners. Each Owner agrees to become liable for and to pay all assessments herein provided for.

12.9 Lien for Assessments.

(a) If an Owner fails to pay an assessment or portion thereof for which he is liable, then the Association shall have a lien, effective as of the date on which payment was due, on such Owner's Homesite for the purpose of securing the obligation of the Owner in respect of said unpaid assessment or portion thereof; provided, the lien hereby created in favor of the Association shall be subject and subordinate to the lien of any mortgage or trust deed on such Homesite made by a bank or insurance company or savings and loan association or other lender, except in respect of assessments on the mortgaged Homesite which become due and payable subsequent to the date on which the mortgagee, after default, takes possession of the Homesite, or accepts a conveyance of the Owner's interest therein or has a receiver appointed in proceedings to foreclose the mortgage lien, and in respect of assessments subsequent to the mortgagee's

possession or acceptance of a conveyance, or appointment of a receiver, the lien of the Association shall have priority over the defaulted mortgage.

(b) In addition to the lien for unpaid assessments or any portion thereof in favor of the Association, provided for herein, the Association shall have a lien on all tangible personal property located in, on or about the Homesite, except that such Association's lien shall be subject and subordinate to prior bona fide liens of record.

12.10 Payment of Assessments: Interest. Assessments and installments thereof paid on or before ten days after their due date shall not bear interest, but all sums not paid on or before twenty days after the date when due shall, when so directed by the Association, bear interest at a rate determined from time to time by the Board but not higher than the highest legal rate payable by individuals in Illinois, from the date when due until date of payment. All payments on account shall be applied first to interest and next to the principal of the assessment which was first due and owing.

12.11 Rights of Association on Default. If an Owner is in default in the monthly payment of the aforesaid assessments or expenses for thirty days or more, the Association may bring suit to foreclose the lien in favor of the Association hereinabove provided for, or may bring suit to enforce collection of the unpaid assessment, and for the recovery of all costs, fees and expenses incurred by reason of said default, including, but not limited to, interest as hereinabove provided and reasonable attorneys' fees in an amount to be fixed by the court. The lien hereby created may be foreclosed by an action brought in the name of the Association and shall be maintained as in the case of foreclosure of any mortgage or other equitable lien against real estate; provided however that, as herein provided, a mortgage on a Homesite shall be subject and subordinate to the lien in favor of the Association hereby provided for, only in respect of assessments on the mortgaged Homesite which become due and payable subsequent to the date the owner or holder of said mortgage either takes possession of the Homesite, or has a receiver appointed in a suit to foreclose the mortgage lien. Any mortgagee of a Homesite has the right from time to time and upon payment of a reasonable fee to request in writing a written statement from the Association showing the condition of the assessment account of the Owner of the mortgaged Homesite, and showing all unpaid items in respect of which the Association is given lien rights hereunder.

12.12 Lien Rights of Developer. Until Developer's transfer and assignment of its rights, powers and obligations to the Association, all of the lien rights and other rights herein provided for in favor of the Association, shall be possessed by

the Developer as fully and as effectively in every respect, without diminution of any kind, as said lien rights are to be possessed by the Association itself.

ARTICLE THIRTEEN Insurance

13.1 Insurance Coverage. The Association shall obtain insurance in respect of Tartan Lakes pursuant to this Article Thirteen.

(a) The Association shall obtain comprehensive general liability insurance for bodily injury, property damage, and personal injury at limits no less than a combined single limit of \$1,000,000, covering ownership, maintenance, or use of the Community Area, the Homesites and other areas within or outside Tartan Lakes necessary and incidental thereto.

(b) Such workmen's compensation insurance as is required by law and employer's liability insurance as the Association shall deem desirable.

(c) Such other insurance in such reasonable amounts as the Association shall deem necessary.

13.2 Premiums as Community Expenses. The premiums for the above-described insurance shall be included in the expenses of maintaining the Community Area and shall be paid by the Association.

13.3 Policies.

(a) All insurance provided for in this Article shall be effected under valid and enforceable policies issued by insurers of recognized responsibility authorized to do business in the State of Illinois.

(b) All policies of insurance of the character described in paragraphs (a), (b) and (c) of Section 13.1 shall name as insureds the Tartan Lakes Homeowners' Association and its Board, the managing agent, if any, and other agents, and until the rights, powers and obligations of Developer are transferred to the Owners, the policies shall also name as insured the Developer, its affiliates, and the agents and employees of the said insured parties.

13.4 Losses. The loss, if any, under any policies of insurance described in Section 13.1 shall be adjusted with the insurance company or companies by the Association. The insurance proceeds received by the Association less the actual cost, fees and expenses, if any, incurred in connection with the adjustment

of the loss, shall be applied to the payment of the cost of restoring the Community Area and the Improvements thereon to substantially the same condition in which it existed immediately prior to such damage or destruction, free from vendor's, mechanic's, materialman's and other similar liens.

13.5 Individual Owner's Insurance on Homesite. Each Owner of a Homesite in Tartan Lakes shall be responsible for his own insurance on his personal liability covering his Homesite. The Association has no obligation or responsibility to insure the Owners of Homesites for their liability arising out of the ownership, maintenance, or use of the Homesites. Each Owner shall carry all-risk physical damage insurance covering the improvements on his Homesite, and shall at all times have on deposit with the Association, certificates of insurance showing that policies providing coverage for not less than the full insurable replacement value, are in force and effect. If improvements are damaged or largely destroyed by fire or other casualty, each Owner shall restore the improvements within a reasonable period. If, however, an Owner fails to restore improvements damaged or largely destroyed within a reasonable period, the Board may restore the improvements and assess the Owner for the cost of said restoration which assessment shall be paid as provided hereunder.

13.6 Uninsured Property or Insufficient Insurance. In the event the Community Area is not insured against the peril causing the loss or damage, or the insurance proceeds are not sufficient to pay the costs of repair, restoration or reconstruction, and the Association on behalf of the Owners does not voluntarily make provisions for repair or reconstruction of the improvements within 180 days after said damage or destruction, then the Owners shall determine the action to be taken with respect to the Community Area or the Improvements, at a special meeting of the Owners called for the purpose of considering such action.

ARTICLE FOURTEEN

Sale, Lease or Other Transfer of Homesite

14.1 Right of Owners to Transfer Free of Association's Options.

(a) The options given the Association by this Article Fourteen to acquire a Homesite shall not apply to any sale, lease, gift, devise or other transfer by Developer, or by an Owner of a Homesite to a co-Owner of such Homesite, or to the spouse or child or children of an Owner, or to any Trustee of a trust of which the sole beneficiary or beneficiaries is or are the Owner, the spouse or children of the Owner, or any one or more of them.

(b) Each Section of this Article Fourteen is expressly made subject and subordinate to the right of each Owner (and of Developer) to transfer his Homesite to a party specified in Section 14.1(a), free of the options given Association by this Article Fourteen.

14.2 Sale or Lease of Homesite. Any Owner, other than Developer, who wishes to sell or lease his Homesite (or any lessee of any Homesite wishing to assign his lease or sublease such Homesite) shall give the Association not less than thirty days' prior written notice of the terms of any proposed sale, lease, assignment, or sublease, together with the name, address and financial and character references of the proposed purchaser, lessee, assignee or sublessee, and such other information concerning the proposed purchaser, lessee, assignee or sublessee as the Association may reasonably require. The Association, acting in behalf of all Owners (other than the prospective seller or lessor) shall at all times have a first right and option to purchase or lease such Homesite upon the same terms, said option to be exercisable by the Association within thirty days of the date of the receipt of notice and information by the Association. No sale, assignment of lease, or sublease of such Homesite shall be consummated prior to the expiration of said thirty-day period without Association's written consent, and if a sale, assignment or sublease is consummated prior to the expiration of said thirty day period without Association's written consent, and if a sale, assignment or sublease is consummated in violation of this provision then, at the option of the Association, the consummated transaction shall be deemed void and wholly inoperative. If the Association does not exercise its option within said thirty-day period, the Owner or lessee shall have the right to sell, assign the lease, or sublease the Homesite, strictly in accordance with the terms and conditions of the notice given to the Association. This Section 14.2 is expressly made subject and subordinate to the right of each Owner (and of Developer) to transfer his Homesite to a party specified in Section 14.1(a), free of the options given Association by this Article Fourteen.

14.3 Gift of Homesite. Any Owner other than Developer who desires to make a gift of his Homesite, or any interest therein, shall give the Association not less than thirty-days' prior written notice of such Owner's intention prior to the proposed date of the gift, together with the name, address and financial and character references of the proposed donee and such other information concerning the proposed donee as the Association may reasonably require. The Association, acting in behalf of all Owners (other than the prospective doner) shall at all times have a first right and option to purchase such Homesite or interest therein for its fair market value, to be determined by appraisal as hereinafter provided, which option shall be exercisable by the Association until the expiration of the option period hereinafter provided for. If the Association desires to exercise its option,

then within fifteen days after receipt by the Association of a written notice of a desire to make a gift, the Owner desiring to make such gift and the Association shall each appoint an expert real estate appraiser to act as appraisers. The two appraisers so appointed shall themselves, within ten days after their appointment, appoint another expert real estate appraiser to act as a third appraiser. Within fifteen days after appointment of said third appraiser, the three appraisers shall determine, by majority vote, the fair market value of the Homesite or interest therein of which the Owner desires to make a gift. The appraisers shall thereupon give prompt written notice of their determination as to fair market value to the Owner and the Association and the determination so made shall be deemed to be the fair market value of the Homesite or the interest therein which has been appraised, and said determination shall be deemed final and conclusive and binding on all parties. If either party fails to appoint an appraiser, then the appraiser appointed by the other party shall make the appraisal alone. The Association shall have an option to purchase the Homesite, or the interest therein of which a gift was to be made, for a period of fifteen days after the date of the receipt by the Association of the aforesaid determination of fair market value. This Section 14.3 is expressly made subject and subordinate to the right of each Owner (and of Developer) to transfer his Homesite to a party specified in Section 14.1(a), free of the options given Association by this Article Fourteen.

14.4 Death of Owner. If an Owner dies, the Association shall have an option to purchase the decedent's Homesite, or his interest therein, from the estate of the decedent. The option price shall be the fair cash market value of the Homesite, or the decedent's interest therein, said fair market value to be determined by appraisal as hereinafter provided. Within thirty days after the Association is notified of the appointment of a personal representative for the estate of a deceased Owner, if the Association desires to exercise its options, the Association shall appoint a qualified real estate appraiser to act as an appraiser, and shall thereupon give written notice of such appointment to the personal representative of the decedent. Within fifteen days thereafter, said personal representative shall also appoint a qualified real estate appraiser, and the two appraisers so appointed shall promptly appoint a third qualified real estate appraiser. Within fifteen days thereafter, the three appraisers shall determine by majority vote the fair market value of the Homesite, or the decedent's interest therein, and they shall thereupon give written notice of their determination to the Association and to the personal representative of the decedent. If either party fails to appoint an appraiser, then the appraiser appointed by the other party shall alone make the appraisal. The Association's right to purchase the Homesite, or the interest therein, of a deceased Owner shall expire thirty days after the Association receives notice of the determination of fair market

value made by the appraisers. The Association shall be deemed to have appropriately exercised its right to purchase if the required price is tendered to the said personal representative within the period hereinabove prescribed, provided, that a deed conveying good title is tendered to the Association concurrently with the tender of the price by Association, and that the title being conveyed is supported by a title guaranty policy in the amount of the sale price. This Section 14.4 is expressly made subject and subordinate to the right of each Owner (and of Developer) to transfer his Homesite to a party specified in Section 14.1(a), free of the options given Association by this Article Fourteen.

14.5 Involuntary Sale of Homesite.

(a) If any Homesite is sold at a judicial or execution sale (other than a mortgage foreclosure sale), the purchaser at such sale, before taking possession of the Homesite, shall give not less than thirty days' written notice to the Association of his intention to take possession in pursuance of his purchase. The Association shall thereupon have an option to purchase the Homesite for the price at which the Homesite was sold at said sale to said purchaser. If the Association elects to exercise their option to purchase, they shall tender the required sum to said purchaser of the Homesite within said thirty-day period, and if they fail to do so, the purchaser shall then be entitled to take possession of the Homesite free and clear of the option provided for in this section.

(b) If the mortgage on a Homesite of a bank, savings and loan association, insurance company or other lender is foreclosed, the mortgagee shall have the right to acquire the mortgaged Homesite at its foreclosure sale, either in its own name or in the name of a nominee. If, however, at any time after such an acquisition, the mortgagee sells the Homesite it has acquired through its foreclosure, then the purchaser from the mortgagee, before taking possession of the Homesite, shall give not less than thirty days' written notice to the Association of his intention to take possession of the Homesite in pursuance of his purchase. The Association shall thereupon have an option to purchase the Homesite for the price at which the Homesite was sold at said sale to said purchaser. If the Association elects to exercise its option to purchase, it shall tender the required sum to said purchaser of the Homesite within said thirty-day period, and if they fail to do so, the purchaser shall then be entitled to take possession of the Homesite free and clear of the option provided for in this subsection.

14.6 Consent of Owners to Exercise of Option by Association. The Association shall not exercise any option to purchase a Homesite without the prior written consent of two-thirds of the Owners. The Owners, in authorizing the Association's purchase of a Homesite pursuant to option given by the preceding sections shall specify the maximum price which the Association is authorized to pay for the purchase to be made, and the Association shall not offer more for any Homesite than the maximum fixed by the Owners. The power of the Association to purchase a Homesite pursuant to this Article Fourteen includes the power to purchase any interest in said Homesite.

14.7 Proof of Termination of Option. A certificate executed and acknowledged by the Association, stating that the provisions of this Article Fourteen have been fully complied with by an Owner, or duly waived by the Association and that the rights of the Association have been terminated by such waiver, shall be conclusive and binding upon the Association and the Owners in favor of all parties who rely on such certificate in good faith, and such a certificate shall be furnished upon request to any Owner entitled thereto, upon payment of a reasonable fee.

14.8 Financing of Purchase Under Option. A Homesite acquired by the Association pursuant to options given by this Article Fourteen shall be paid for from the maintenance fund. If the maintenance fund is insufficient to pay the sum required for acquisition of a Homesite, the Association shall procure the additional sum required by assessment against the Owners. If an Owner so assessed fails to pay his assessment, the Association shall have lien rights in respect of such Owner's Homesite and such other rights in respect of the Owner, as in any other case of a default by Owner. The Association has the power to finance the acquisition of a Homesite pursuant to this Article Fourteen by procuring a mortgage or other loan secured by said Homesite, and if such a loan is procured, the payments in respect of the mortgage and expenses in connection therewith shall be paid, to the extent necessary, by assessment against the Owners.

14.9 Title to Acquire Interest. Title to a Homesite acquired pursuant to this Article Fourteen shall be held in the name of the Association or in the name or names of a nominee or nominees, but title, however held, shall be for the benefit of the Owners. A Homesite acquired by the Association pursuant to this Article Fourteen may thereafter be sold or leased by the Association on whatever terms they deem appropriate. All net proceeds of a sale or lease of a Homesite acquired by the Association shall be refunded to the Owners in equal shares.

ARTICLE FIFTEEN
Compliance, Breach of Covenants, and Default

15.1 Rights and Remedies of Association. Each Owner is bound by and shall comply with the terms of this Declaration, the By-Laws, and the Rules and Regulations adopted pursuant thereto, and by all amendments to them. A failure by an Owner to comply with this Declaration, or with the By-Laws, and Rules and Regulations of the Association or any authorized amendment to said Declaration, By-Laws, or Rules and Regulations shall constitute a Default by such Owner. If a default occurs, the Association shall have the right to recover damages at law, to procure injunctive relief, to foreclose on any lien rights the Association may have, or to avail themselves of any other rights or remedies permitted at law or in equity including, but not limited to, filing suit pursuant to the Forcible Entry and Detainer Act. All expenses of the Association in connection with any actions or proceedings described herein, including court costs and attorneys' fees and all other expenses of the proceeding, and all damages, liquidated or otherwise, together with interest thereon at 18% per annum or such other interest rate as shall be charged by the Board pursuant to paragraph 12.10 herein until paid, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of his respective share of the annual expenses and the Association shall have a lien for all of the same, as well as for non-payment of his respective share of the annual expenses upon the Homesite of such defaulting Owner and upon all of his additions and improvements thereto and upon all of his personal property located on his Homesite or elsewhere on the Property. The rights and remedies of the Association shall be cumulative and shall be enforceable concurrently in a single proceeding. By virtue of the provision of this Declaration which gives Developer all rights and powers of the Association prior to completion of the development of Tartan Lakes and conveyance of Developer's rights to the Association, Developer has every right and power and every right and remedy which the Association is given by this Article.

15.2 Liability of Owners for Negligence. Each Owner shall be liable for any damage caused by his act or negligence, or by the act or negligence of any party whose right to be upon the Community Area is derived from such Owner, but only to the extent that such damage is not covered by insurance carried by the Association. Nothing herein contained, however, shall be construed so as to modify any waiver by an insurance company of rights of subrogation.

15.3 Recovery of Suit Expense. In any proceeding commenced by the Association, based upon or arising out of an alleged Default by an Owner, the prevailing party, whether Association or Owner, shall be entitled to recover all expense of the proceeding, including reasonable attorneys' fees, but the amount

to be allowed the prevailing party shall be determined by the court.

ARTICLE SIXTEEN
Homesites: Title in Land Trustee

16.1 Homesites: Title Held by Land Trustee. If title to any Homesite is conveyed to a Land Trustee, under the terms of which all powers of management, operation and control of the premises are vested in the trust beneficiary or beneficiaries, then the parties who are the beneficiaries from time to time under such land trust shall be deemed the Owners of such Homesite and shall have all the rights and obligations of Owners hereunder. The trustee holding title under such a land trust shall have no personal liability for payment of any obligation or lien created by or arising under this Declaration and no party shall have the right to claim personal liability on the part of any such Land Trustee for any liability or obligation of any kind arising under this Declaration. Beneficiaries of a Land Trustee who transfer their beneficial interest by assignment, or who cause their trustee to transfer Homesite by trustee's deed, shall continue to be liable for all liabilities and obligations incurred by them prior to the disposition of their Homesite.

ARTICLE SEVENTEEN
Amendment and Termination of Declaration

17.1 Who May Amend. This Declaration may be amended by the Developer, or by the Association, or by the Owners, in the manner provided for in this Article Seventeen. Amendment other than in accordance with this Article is not permissible.

17.2 Amendment Prior to Sale of Homesite. Prior to the sale of any Homesite, Developer itself has the right to amend or to terminate this Declaration at any time or in any manner. If Developer elects to terminate this Declaration, Developer may evidence its election by recordation of an appropriate statement of termination with the Recorder of Deeds of DuPage County, Illinois, and upon such recordation, the entire title in Tartan Lakes shall stand in the Developer free and clear of this Declaration.

17.3 Amendment After Sale of Homesite. After one or more Homesites has been sold, but prior to Developer's completion of the development of Tartan Lakes and prior to Developer's transfer of its rights, powers and obligations to the Association, Developer itself acting without concurrence of any other party has the right to amend this Declaration as often as Developer deems necessary, but no such amendment shall unfairly or unreasonably affect any rights of the Owners.

17.4 Amendment After Election of Board. After completion of Tartan Lakes by Developer and the election of the first Board, this Declaration may be amended by a two-thirds vote of the Board, together with the concurrence of Developer so long as Developer has any unsold Homesite, but such amendment shall not unfairly or unreasonably affect the rights of the Owners.

17.5 Amendment After All Homesites Have Been Sold. After development of Tartan Lakes has been completed and all Homesites therein sold by Developer, and a first Board has been elected, this Declaration may be amended by a vote of no less than 33 of the 50 Owners, but such amendment shall not unfairly or unreasonably affect the rights of the Owners.

17.6 Termination of Declaration. After one or more Homesites have been sold, this Declaration may be terminated only with the joint consent of:

(a) The Developer, if the Developer has any unsold Homesite. If Developer has sold all its Homesites, consent of Developer shall not be required;

(b) If a Board of Directors has been elected, then the consent of the Board, supported by a two-thirds vote of the Directors;

(c) The Owners of 75% of the Homesites;

(d) All mortgagees of Homesites.

Concurrence of all the foregoing shall be required in order to effect a valid termination of this Declaration.

17.7 Procedure on Amendment or Termination.

(a) If this Declaration is to be amended or terminated by the Developer solely, pursuant to the above provisions of this Article which provide for amendment or termination by Developer solely, Developer shall evidence said amendment or termination by due execution of an appropriate written instrument setting forth the terms of the amendment, or stating that this Declaration is terminated, as the case may be.

(b) If this Declaration is to be amended after development of Tartan Lakes has been completed and the rights and powers of Developer have been transferred and assigned to the Association, then if Developer still has one or more Homesites which remain unsold, the amendment shall be effected by an appropriate written instrument setting

forth the terms of the amendment and duly executed in behalf of the Association and duly executed by the Developer.

(c) If an amendment is to be effected after Developer has completed the sale of all Homesites in Tartan Lakes, and after the rights and powers of Developer have been transferred and assigned to the Association, then the amendment may be evidenced by a written instrument executed in behalf of Association solely, and no participation by Developer shall be required.

(d) If this Declaration is to be terminated after one or more Homesites have been sold, the termination shall be evidenced by an appropriate written instrument stating that this Declaration has been terminated. The statement of termination shall be executed by the President and Secretary of the Association in behalf of the Association, by 75% of the Owners of the Homesites, and by all Owners of mortgage liens on the Homesites and Community Area. The President and Secretary of the Association shall certify, in the statement of termination, that no less than two-thirds of the Board have voted for termination of this Declaration and that 75% of the Owners of Homesites have voted for termination.

(e) The instrument effecting an amendment or termination of this Declaration shall be recorded promptly after execution in the office of the Recorder of Deeds of DuPage County, Illinois, and the amendment or termination provided for therein shall become effective and operative upon recordation.

17.8 Notices With Respect to Amendment or Termination. All parties who have the right to participate in a vote relating to amendment or termination of this Declaration shall have the right to initiate proceedings for amendment or termination of this Declaration. Any such party desiring to initiate proceedings for amendment or termination, shall give at least ten days' prior written notice of the meeting at which amendment or termination is to be considered. If Developer solely amends this Declaration, in pursuance of the foregoing provisions providing for amendment by Developer solely, then within fifteen days after adoption of the amendment, notice of the amendment shall be given by Developer to all Owners, and each Owner, promptly upon receipt of such notice, shall give notice of the amendment to the mortgagee of his Homesite.

ARTICLE EIGHTEEN
General Provisions

18.1 Notices - In General.

(a) Notices given pursuant to this Declaration or in connection therewith shall be written, and shall be delivered in person or by mail. Notices of default, or formal demands by any party hereunder to any other party shall be sent by certified or registered mail, with request of return receipt. Notices shall be deemed delivered on the date personal delivery is made or on the date of mailing. Notice to an Owner may be given to the Owner at his Homesite, unless the Owner has informed the Board of Directors of some other mailing address. Notice to the Association may be given to the Association at an address selected by the Board of Directors from time to time, or to the Homesite of the President of the Board of Directors. Until development of Tartan Lakes is completed and Developer has transferred and assigned all its rights, powers and obligations to the Association, all notices which the Association would be entitled to receive shall be given to Developer. Notices in respect of meetings or special meetings of the Board or of the Owners shall be given in accordance with the provisions of the Declaration or of the By-Laws to be adopted by the Board.

(b) Notice to the personal representative of a deceased Owner shall be sent to the address furnished by such personal representative to the Association, and if no address is furnished by the personal representative, then notice to a deceased Owner shall be given to decedent by writing directed to the Owner at such Owner's Homesite.

(c) Notices - To Mortgagees. Upon request of the mortgagee of any Homesite, and payment of a reasonable charge therefore, the Association shall give to such mortgagee a copy of every amendment to this Declaration.

18.2 Non-Waiver Except by Written Instrument. No conditions, covenants, restrictions, reservations, grants or other provisions of this Declaration shall be deemed to have been waived by silence, or inaction, or failure to enforce rights or by any other matters whatsoever, other than a writing executed by the party against whom the waiver is asserted, which expressly states that a specified right or remedy is being waived. No waiver shall be deemed to have been effected by the failure to enforce rights or remedies of which a party is possessed, regardless of the number of breaches or violations of said rights which have occurred.

18.3 Liberal Interpretation. This Declaration shall be liberally construed so as to facilitate and promote the objectives of this Declaration hereinabove set forth. Narrow, technical, and literal construction of this instrument inconsistent with the objectives of the Developer, Association and Owners shall be avoided.

18.4 Rule Against Perpetuities. Should any provision of this instrument be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, (c) or any other statutory or common law rules imposing time limits, then such provisions shall be deemed to be operative only until twenty-one years after the death of the last survivor of the now living lawful descendants of George Bush, President of the United States of America.

18.5 Partial Invalidity - Severability. The invalidity of any of the conditions, covenants, restrictions or reservations herein contained, or of any other provision of whatever nature of this Declaration shall not in any way impair or affect the validity or enforceability of any other provision of this Declaration, and any such invalidity shall be deemed partial and separable, and all of this Declaration shall be deemed valid, effective and binding except for the invalid provision.

18.6 Gender, Usage of Singular and Plural Forms, and Other Usage. Whenever the context so requires, use of the plural form shall include the singular, use of the singular form shall include the plural or any gender shall be deemed to include all genders. Prior to completion of development of Tartan Lakes and to Developer's transfer of its rights, powers and obligations to the Association or Owners, all references to the rights, powers and obligations of the Association or the Board shall be read as references to the rights, powers and obligations of Developer. The term "sale" means a sale consummated by delivery of a deed to a Homesite.

18.7 Captions. Captions used in this Declaration are inserted solely as a matter of convenience and shall not be relied upon or used in construing the text thereof.

18.8 Reliance on Association's Certification. A certification or statement that a described act has been authorized, or in particular, that execution and delivery of a described instrument has been authorized, signed by the President of the Board and attested by a Secretary of the Board, shall sufficiently establish for all purposes that the described act or instrument is the act or instrument of the Board and has been fully authorized by the Board, and the said described act or instrument may be relied upon by all parties.

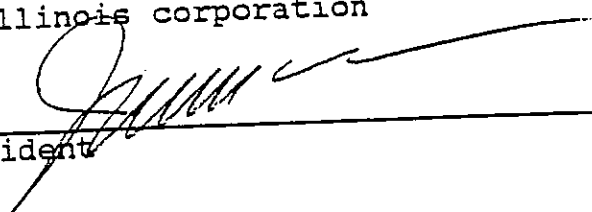
18.9 Recordation. Prior to consummation of the sale of the first Homesite in Tartan Lakes by delivery of a deed to said Homesite, this Declaration shall be recorded in the office of the Recorder of Deeds of DuPage County, Illinois. All amendments to the Declaration shall also be recorded in said Recorder's Office.

This Declaration is executed by Cole Taylor Bank, as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and Cole Taylor Bank hereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed by every person, firm or corporation hereafter claiming any interest under this Declaration that Cole Taylor Bank, as Trustee as aforesaid, and not personally, has joined in the execution of this Declaration for the sole purpose of subjecting the titleholding interest and the trust estate under said Trust No. 89-2013 to the terms of this Declaration; that any and all obligations, duties, covenants and agreements of every nature herein set forth by Cole Taylor Bank, as Trustee as aforesaid, to be kept or performed, are intended to be kept, performed and discharged by the beneficiaries under said Trust No. 89-2013 or their successors, and not by Cole Taylor Bank personally; and further, that no duty shall rest upon Cole Taylor Bank, either personally or as such Trustee, to sequester trust assets, rentals, avails or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligation, express or implied, arising under the terms of this Declaration, except where said Trustee is acting pursuant to direction, as provided by the terms of said Trust No. 89-2013, and after the Trustee has first been supplied with funds required for the purpose. In the event of conflict between the terms of this paragraph and of the remainder of the Declaration on any question or apparent liability or obligation resting upon said Trustee, the exculpatory provision hereof shall be controlling.

IN WITNESS WHEREOF, the said Cole Taylor Bank, as Trustee as aforesaid and not individually, has caused its corporate seal to be affixed hereunto and has caused its name to be signed to these presents by its Assistant Vice President; and attested by its Assistant Secretary, and James McNaughton

JAMES McNAUGHTON BUILDERS, INC.,
an Illinois corporation

By:

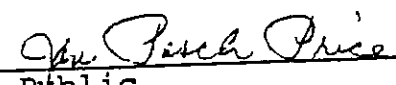


President

STATE OF ILLINOIS)
) SS
COUNTY OF)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that James McNaughton, President of James McNaughton Builders, Inc., is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as the free and voluntary act of James McNaughton Builders, Inc., an Illinois corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 21st day of August, 1989.



Notary Public



PA
vacant
35th Street
Westmont, Ill