

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

MARYKNOLL ESTATES OWNERS ASSOCIATION

GLEN ELLYN, DU PAGE COUNTY, ILLINOIS

This Declaration, made this \_\_\_\_\_ day of \_\_\_\_\_, 197\_\_\_\_, by the American National Bank and Trust Company of Chicago, not individually but solely as Trustee under a Trust Agreement dated September 12, 1978 and known as Trust Number 43856 (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant, is the Owner in fee simple of certain real estate located in the Village of Glen Ellyn, County of DuPage, State of Illinois which is legally described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as the "Development Tract"); and

WHEREAS, The Developer as hereinafter defined, desires to construct or cause to be constructed on the Development Tract, a community of 115 single family residences to be owned and maintained by Declarant and each grantee or other successor in interest of the Declarant, together with certain other amenities and recreational and other facilities located thereon, all as hereinafter set forth for the use and benefit of the Owners and Occupants of Residential Units located on the Development Tract; and

WHEREAS, Declarant desires that any conveyance of all or any portion of the Development Tract be subject to certain protective covenants, conditions, restrictions, reservations, easements, liens and charges as hereinafter set forth, all of which are declared to be in furtherance of Declarant's desire to promote the orderly development of the Development Tract, to protect and preserve the values, desirability, attractiveness and harmonious and proper use of the Development Tract, to provide for the maintenance of the open spaces, community facilities, parking areas, private roads and other common facilities and to facilitate the proper administration thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the Development Tract to create an agency to which is delegated and assigned the powers of maintaining and administering the Development Tract and the facilities and improvements thereon, and enforcing the covenants and conditions and restrictions herein contained and collecting and disbursing the assessments and charges hereinafter created;

NOW, THEREFORE, Declarant hereby declares that all of the Development Tract shall be held, sold, conveyed, transferred, occupied, mortgaged and encumbered subject to the terms, provisions, covenants, restrictions, conditions, reservations, easements, liens and charges hereinafter set forth, all of which are declared to be for the purposes of enhancing and protecting the value, desirability, attractiveness and harmonious and proper use of and administration of the Development Tract. These easements covenants, restrictions, provisions, conditions, reservations, liens and charges shall run with the real property which comprises the Development Tract and shall be binding upon all the parties having or acquiring any right, title or interest in the Development Tract or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

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

Association	The Maryknoll Estates Owners Association, an Illinois not-for-profit corporation, its successors and assigns.
Development Tract	The property hereinabove referred to and legally described in Exhibit "A" which by this Declaration is submitted to the terms, conditions, covenants, restrictions, reservations, easements, liens and charges herein described.
Residential Building	Any single family residence constructed on the Development Tract.
Common Areas	Those portions of the Development Tract legally described in Exhibit "B" attached hereto and by this reference incorporated herein.
Board	The Board of Directors of the Maryknoll Estates Owners Association.
Member	Every person or entity which holds membership in the Homeowners Association.
Owner	The person or persons or entity whose estates or interests, individually or collectively, aggregate fee simple ownership of a Residential Building and their successors and assigns. For the purpose of this Declaration unless otherwise specifically provided herein, the word "Owner" shall include any trust and beneficiary of a trust, shareholder of a corporation, or partner of a partnership holding legal title to a Residential Building and the Declarant as to all unsold Residential Buildings which are or will be constructed on the Development Tract.
Person	A natural individual, corporation, partnership, or other entity capable of holding title to real property.
Occupant	A person or persons, other than an Owner, in lawful possession of one or more Residential Buildings.
Declarant	The American National Bank and Trust Company of Chicago, not individually but solely as Trustee under a Trust Agreement dated September 12, 1978 and known as Trust Number 43586.
Developer	Arlingdale Development Group.

ARTICLE II

COMMON AREAS

1. Developer shall select and improve or cause to be improved one or more portions of the Common Areas of the Development Tract for use as parking areas, nature trails, private streets and roads, walkways, and for such other recreational and common beneficial purposes as shall be determined by Developer.

2. At any time after the recording of this Declaration, Declarant may, but in any event, not later than the completion and occupancy of the last Residential Building on the Development Tract, the Declarant shall convey the Common Areas to an Illinois not-for-profit corporation (hereinafter the "Association") to be formed and conducted as hereinafter described for the use and benefit of all Owner and Occupants of the Development Tract, their guests and invitees.

3. Until Developer has completed its development and sale of the Residential Buildings on the Development Tract, the Developer shall have the right to improve the Common Areas as Developer, in its discretion, deems appropriate; provided, however, that all costs and expenses thereof shall be borne by the Developer.

ARTICLE III

THE ASSOCIATION

1. At any time before or after the recording of this Declaration, but in any event not later than the completion and occupancy of the first Residential Building on a portion of the Development Tract, Developer shall organize an Illinois not-for-profit corporation to be known as the "MARYKNOLL ESTATES OWNERS ASSOCIATION", or a name similar thereto, which corporation shall hold record title to the Common Areas, subject to the limitations set forth in Section 2 of Article II. The purpose of the Association shall be to perform all of the functions provided herein and to effect that purpose the Association shall be the governing organization for the maintenance, repair, replacement, administration and operation of the Common Areas and for the levying and collection of assessments to provide funds as they may be required from time to time for such purposes and shall have and possess all such powers as shall be necessary or appropriate for the accomplishment of such duties and functions.

2. Each Owner and each Occupant of a Residential Building in the Development Tract shall have the right and easement of ingress, egress and enjoyment in and to the Common Areas and the recreational facilities and other amenities thereon. The rights and easements aforesaid of the Owners and Occupants shall be subject to the terms and provisions of this Declaration, the Association's Articles of Incorporation, By-Laws and the rules and regulations adopted from time to time by the Board.

3. All funds collected by the Association shall be held and expended for the purposes designated herein and in its Articles of Incorporation and in the By-Laws. All such funds (except for such special assessments as may be levied against less than all of the members and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of each of the Members in the ratio that the number of Residential Buildings owned by him bears to the total number of Residential Buildings in the Development Tract.

ARTICLE IV

MEMBERSHIP IN THE ASSOCIATION

1. Upon the formation of the Association, each person or entity who is an Owner (as that term is hereinabove defined) of a Residential Building in the Development Tract shall be a Member of the Association, which membership shall be appurtenant to said Residential Building, and each purchaser of any Residential Building by acceptance of the deed therefore, covenants and agrees to become and remain a Member of the Association whether or not it shall be provided in any such deed or other conveyance; provided, however, that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member.

2. Membership in the Association shall automatically terminate upon the sale, transfer or other disposition of a Member's title interest in any Residential Building in the Development Tract, at which time the new Owner of such title interest shall automatically become a Member thereof; provided, however, that such termination shall not relieve or release any former Owner from any liability or obligations incurred under or in any way connected with the Association during the period of such former Owner's membership in the Association. Furthermore, such termination shall not impair any rights or remedies which the Board, the Association or others may have against such former Owner and Member rising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto. Such membership may not be sold or transferred other than in conjunction with the sale or transfer of the title interest in the Residential Building to which it is appurtenant. No Member shall have any right or power to disclaim, terminate or withdraw from his membership in the Association or from any of his obligations as such member by non-use of the Common Areas, abandonment of his Residential Building, or for any other reason.

3. Ownership of a Residential Building in the Development Tract shall be the sole qualification for membership and there shall be one membership for each Residential Building.

ARTICLE V

VOTING AND NON-VOTING MEMBERSHIPS

The Association shall have two classes of voting membership.

Class A. Class A Members shall be all those Owners of Residential Buildings with the exception of the Declarant. There shall be only one person with respect to each Residential Building who shall be entitled to vote as a Class A Voting Member at any meeting of the Members of the Association. Such person shall be known in this Declaration and referred to as a "Class A Voting Member." Such Class A Voting Member may be the Owner of or one of a group composed of all of the Owners of a Residential Building or may be some person designated by such Owner or Owners to act as proxy on his or their behalf and who need not be an Owner. The vote of the Class A Voting Member shall be exercised as determined by the various Owners themselves but in no event shall more than one vote be cast with respect to any one Residential Building. The designation of the Class A Voting Member shall be made in writing to the Board and shall be revocable at any time by actual

notice of the death or judicially declared incompetence of any designator or by written notice to the Board by the designator. Any or all of such Owners may be present at any meeting of the Voting Members and (those constituting a group acting as a unit) may vote or take any other action as a Class A Voting Member either in person or by proxy. The Board shall have the right to suspend the voting rights of any Class A Voting Member for any period during which any assessment levied by the Association against his Residential Building remains unpaid.

Class B. The Class B Voting Member shall be the Declarant who may also vote by proxy. The Class B Voting Member shall be entitled to two votes for each one of the 115 Residential Buildings proposed to be constructed on the Development Tract in accordance with the Final Plan therefore approved by the Village of Glen Ellyn in which it does hold or will hold when such Residential Building is constructed, the interest required for membership by this Declaration; provided, however, that Declarant's Class B Voting Membership shall cease and shall be converted to Class A Voting Membership on the happening of any of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B Membership; or

(b) Five (5) years from the date hereof; or

(c) Whenever the Declarant shall so elect.

Amendments to this Article V shall only be effective upon unanimous written consent of all Class A Voting Members and all Class B Voting Members, if any.

#### ARTICLE VI

#### COVENANT FOR MAINTENANCE ASSESSMENTS

1. Declarant, for each Residential Building owned by or to be constructed by the Declarant on the Development Tract, hereby covenants, and each Owner of any Residential Building located on the Development Tract by acceptance of the deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association all annual and special assessments or charges levied pursuant to the provisions of this Declaration, which assessments shall be fixed, established and collected from time to time as hereinafter provided.

2. The annual and special assessments, together with interest for delinquent payments as hereinafter described and costs of collection thereof as hereinafter provided shall be a charge and a continuing lien upon the Residential Building against which each such assessment is made. Each such assessment together with interest for delinquent payments as hereinafter described and costs of collection thereof shall also be the personal obligation of the Owner of any Residential Building at the time when the assessments fell due. The personal obligation of each Owner shall not pass to his successors in title unless expressly assumed.

3. All costs of operating, maintaining, improving and managing the Common Areas including any necessary reserves for contingencies and replacements, shall be paid by the levying of assessments by the Board of the Association in the manner hereinafter set forth. Assessments thus levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Members of the Association and in particular the improvement and maintenance of the Common Areas, services and facilities devoted for these purposes and related to the use and enjoyment of the Common Areas and to provide funds for the Association to carry on the duties and obligations as set forth herein, and in its Articles of Incorporation and its By-Laws.

4. From and after October 1st of the year immediately following the conveyance of the first Residential Building to an Owner, the annual assessment may be increased, effective January 1st of each year thereafter by the Board without a vote of the Membership, provided that any such increase shall not be more than eight (8%) percent of the previous year's assessment exclusive of any increases in real property taxes on the Common Areas.

5. From and after October 1st of the year immediately following the conveyance of the first Residential Building to an Owner, the annual assessment may be increased by the Board in an amount greater than that provided for in Section 4 of this Article VI for the next succeeding twelve (12) calendar months commencing January 1st and at the end of each such period for each succeeding period of twelve (12) months, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each Class of Voting Members voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be sent to all Members not less than ten (10) days nor more than forty (40) days in advance of the meeting, setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under the provisions of the General Not-for-Profit Corporation Act of the State of Illinois or under its Articles of Incorporation.

6. If general real estates taxes on the Common Areas as shown by the tax bills received by the Association each year shall exceed the amounts estimated for such taxes in the budget previously used in determining the annual assessments for such year, or in the event any special assessment is levied on the Common Areas the amount of which has not been estimated in the annual budget, the Board shall, (anything hereinabove to the contrary, notwithstanding) without a vote of the Voting Members, either increase the annual assessment by an amount sufficient to pay such taxes or special assessments or levy a special assessment to provide funds for the payment of such increase in taxes, in such manner and upon such terms as the Board shall determine.

7. The Board may, after consideration of current maintenance costs and future reserves and needs of the Association, fix and actual assessment for any year at a lesser amount than provided for herein.

8. In addition to the annual assessments authorized above for current expenditures and reserves, the Association may levy in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of any capital improvements located in or upon the Common Areas including but not limited to the necessary fixtures and personal property related thereto, provided, however, that any such assessment shall have the assent of two-thirds of each class of its Voting Membership, voting in person or by proxy, at a meeting duly called for this purpose, written notice of which meeting shall be sent to all members not less than ten (10) days nor more than forty (40) days in advance of the meeting setting forth the purpose of the meeting.

9. Both annual and special assessments must be fixed at a uniform rate for all Residential Units except as otherwise specifically provided for herein.

10. At the first meeting called as provided in Sections 5 and 8 hereof, the presence at the meeting of Members or of proxies entitled to cast sixty (60%) percent of all the votes of each class of Voting Members shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice of requirements set forth in Sections 5 and 8 and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

#### ARTICLE VII

#### ASSESSMENTS - MAINTENANCE FUND

1. Each year on or before November 1, the Board shall estimate the total amount necessary to pay the cost of taxes, wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services provided for herein, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements and the Board shall, on or before November 15, notify each Owner in writing as to the amount of such estimate, together with a reasonable itemization thereof. The annual budget shall also take into account the estimated net cash income if any, available from the operation or use of the Common Areas. Said "estimated cash requirement" shall be assessed to the Owners on the basis of one equal portion of the total "estimated cash requirement" for each Residential Building owned by said Owner. On or before January 1st of the ensuing calendar year, and on first day of each and every month of said year, each Owner, jointly and severally, shall be personally liable for and obligated to pay to the Board or as it may direct one-twelfth (1/12) of the assessment payment for that Owner's Residential Building pursuant to this paragraph. On or before April 1st of each calendar year following the initial meeting, the Board shall supply all Members an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited

according to each Owner's share of the total assessment to the next monthly installments due from each Owner under the current year's estimate, until exhausted. Any net shortage shall be added according to each Owner's share of the total assessments to the installments due in the succeeding six (6) months after rendering of the accounting.

2. The Board shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditure not included in the actual estimate which may become necessary during the year shall be charged first against such reserve and if such reserve proves inadequate for whatever reason caused including non-payment of any Owner's assessment, the Board may at any time levy a further assessment, which shall be effective with the next monthly maintenance payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessment. All Owners shall be personally liable and obligated to pay their respective adjusted monthly assessment.

3. When the first Board elected hereunder takes office, it shall determine the estimated cash requirements of the Association as hereinabove defined for the period commencing thirty (30) days after said election and ending on December 31 of the calendar year in which said election occurs. Assessments shall be levied against the Owners during such period as provided herein.

4. The failure or delay of the Board to prepare or serve the annual or adjusted estimate on the Owners shall not constitute a waiver or release in any manner of such Owners' obligation to pay the assessments herein described including the maintenance costs and necessary reserves for the Association as herein provided, whenever the same shall be determined, and in the absence of the annual estimate or adjusted estimate each Owner shall continue to pay the monthly assessment at the then existing monthly rate established for the previous period until the monthly assessment which is due more than ten (10) days after such new or annual adjusted estimate shall have been mailed or delivered.

5. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Association, specifying and itemizing the maintenance and repair expenses of the Association and any other expenses incurred. Such records and the vouchers authorizing the payment therefor shall be available for inspection by any Owner or any representative of any Owner duly authorized in writing at such reasonable time or times during normal business hours as may be requested by the Owner. Upon ten (10) days' notice to the Board 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 any other charges due and owing from such Owner.

6. All funds collected hereunder shall be held and expended for the purposes designated herein (except for such special assessments as may be levied hereunder against less than all Owners and such adjustments as may be required to reflect delinquent or prepaid assessments) and shall be deemed to be held for the benefit, use and account of Owners in the proportion which their share of the total assessment bears to the whole assessment.



7. If an Owner is in default in the monthly payment of the aforesaid charges or assessments for thirty (30) days, the same shall be deemed delinquent and the Board may assess a service charge of one and one-half (1 1/2%) percent of the balance of the aforesaid charges and assessments in default for thirty (30) days for each month, or part thereof, that said balance, or any part thereof, remains unpaid. In addition to any remedies provided by law or in this Declaration, if an Owner is in default in the monthly payment of the aforesaid charges or assessments for sixty (60) days, all other monthly payments of charges and assessments due for the calendar year in which such default occurs shall accelerate and become immediately due and payable, which amounts, together with the costs of collection and reasonable attorneys' fees hereinafter provided for shall thereupon become a continuing lien on the Residential Building of the delinquent Owner and shall bind said property in the hands of the then Owner, his heirs, designees, executors, administrators, personal representatives, successors and assigns. The personal obligation of the then Owner to pay such assessments, interest and costs of collection, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed. Sale or transfer of any Residential Building shall not affect the continuing lien on such Residential Building for the amount of any unpaid assessments.

8. If such delinquent and accelerated assessments are not paid within fifteen (15) days after demand by the Board, the Board may bring any action at law against the Owner personally obligated to pay the same to enforce collection thereof, or, at its election, foreclose the lien against the Residential Building against which such assessment is made and in either event, all interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. To the extent permitted by this Declaration or any decision or any statute or law now or hereafter effective, the amounts of any delinquent or unpaid charges or assessments, and interest, costs and fees as hereinabove provided shall be and become, when payable, a lien or charge upon the Residential Building against which such assessment is made and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate.

9. No Owner may waive or otherwise escape liability for the assessments provided for herein by the non-use of the Common Areas, abandonment of his Residential Building, or for any other reason. In addition thereto, the Board may deny to the Owner the use and enjoyment of any of the Common Areas and facilities thereon except for the purposes of ingress and egress to his Residential Building and for parking until the delinquent assessment is paid together with all interest, costs and other sums set forth above which the Association is entitled to receive.

10. The lien and the assessments provided for herein shall be subordinate to the lien of any first mortgage or trust deed which is or has been placed upon any Residential Building subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale of such Residential Building pursuant to a decree of foreclosure of any such mortgage or trust deed, or prior to the date said encumbrancer takes possession of said Residential Building or accepts a conveyance of such Residential Building in lieu of foreclosure. Such sale or deed of conveyance in lieu of foreclosure shall not relieve such Residential Building from liability for any assessments thereafter becoming due nor from the lien of such subsequent assessment.

11. Each Residential Building proposed to be constructed on the Development Tract (whether actually constructed or not) for the period prior to the time when said Residential Building is first sold and conveyed by the Declarant shall be exempt from the assessments, charges and liens created herein. Declarant shall pay with respect to each such Residential Building, that portion of the actual current operating expenses of the Common Areas attributable to said Residential Buildings exclusive of any reserves or contingency funds required to be established hereunder but in no event shall Declarant be liable for payments of any amounts in excess of forty (40%) percent of the monthly assessment paid by each Owner other than the Declarant, reduced by the actual amount of any portion of such assessment attributable to any reserves or contingency funds. Such exemption with respect to any such unconveyed Residential Building shall continue until either the time of closing of the sale or conveyance of such Residential Building by the Declarant or the occupancy of such Residential Building for residential purposes, whichever is earlier. The Declarant's obligation for its payment as herein described shall become due on the annual assessment dates, but shall not be payable until the expenditure of funds is required to meet the current operating expenses of the Association.

12. Upon conveyance of a Residential Building by the Declarant to an Owner or its occupancy for residential purposes which Residential Building was theretofore entitled to the above-described exemption, such exemption shall terminate and such Residential Building and the Owner thereof shall thereafter be subject to the full amount of the assessment as set forth in this Article VII prorated from the date of such conveyance.

13. It is further understood that the following portions of the Development Tract subject to this Declaration shall be exempt from the assessments created herein:

(a) all properties dedicated to and accepted by a local public authority and properties granted to or used by any utility company;

(b) all properties owned by a charitable or not-for-profit organization exempt from taxation by the laws of the State of Illinois so long as they are not used as a dwelling; and

(c) Residential Buildings used as models or offices.

14. Any encumbrancer may from time to time request in writing a written statement from the Board setting forth the unpaid assessments with respect to the Residential Building covered by such encumbrance and unless the request shall be complied with within twenty (20) days, all unpaid assessments which became due prior to the date of the making of such request shall be subordinate to the lien of such encumbrance.

15. Amendment to this Article VII shall only be effective upon unanimous written consent of all Owners and their mortgagees which consent shall be filed of record in the Office of the Recorder of DuPage County, Illinois.

ARTICLE VIII

RIGHT IN AND USE OF COMMON AREAS

1. The Declarant hereby covenants for itself, and its successors and assigns, that it will convey fee simple title to all Common Areas to the Association, free and clear of all mortgage, mechanic's and other liens and encumbrances designed to secure the payment of money within the time periods hereinabove set forth.

2. Every Owner shall have the right and easement of ingress and egress in, through, over and across the Common Areas and the right and easement of enjoyment in and to the Common Areas and any recreational facilities located thereon and such rights and easements shall be appurtenant to and shall pass with the title conveyed to every Residential Building subject to, however, the terms and provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association and such rules and regulations as may be adopted from time to time by the Association, including but not limited to:

(a) the right of the Association to limit the number of guests of Owners and Occupants;

(b) the right of the Association to charge reasonable admissions and other fees for the use of any recreational facilities situated in the Common Areas;

(c) the right of the Association in accordance with the Articles of Incorporation and By-Laws to borrow money for the purpose of improving the Common Areas and facilities thereon and in aid thereof to mortgage all or any portion of the Common Areas provided that the rights of such mortgagee shall be subordinate to the rights of the Members hereunder;

(d) the right of the Association to suspend the voting rights and the right to use the Common Areas except for ingress and egress and parking of any Owner for any period during which any assessments levied by the Association remain unpaid;

(e) the right of the Association to suspend the right of the use of the recreational facilities of any Owner for a period not to exceed thirty (30) days for any infractions of its published rules and regulations;

(f) the right of the Association to dedicate or to transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by Voting Members entitled to cast two-thirds (2/3) of the Class A Membership vote and two-thirds (2/3) of the Class B Membership vote, if any, has been recorded, agreeing to such dedication and transfer and unless written notice of the proposed action is sent to every member not less than ten (10) days nor more than forty (40) days in advance of such action. No such dedication or transfer shall deprive any Owner of the rights of ingress and egress to his Residential Building or of rights to park in parking spaces specifically assigned to such Owner.

3. All easements herein described are easements appurtenant running with the land and shall at all times inure to the benefit of and be binding on Declarant and all its grantees and their respective heirs, personal representatives, successors, or assigns and any Owner, purchaser, mortgagee or other person having any interest in the Development Tract or any part or portion thereof, perpetually in full force and effect. Reference in the respective deeds of conveyance, or in any mortgages, or trust deeds, or other evidence of obligation, to the covenants, conditions, restrictions, and easements herein described shall be sufficient to create and reserve such covenants, conditions, restrictions, and easements to the respective grantees, mortgagees, or trustees of any portion of the Development Tract as fully and completely as though said covenants, conditions, restrictions, and easements were fully recited and set forth in their entirety in such documents.

4. The Declarant and Board of the Association shall have the right at any time and from time to time to grant to Illinois Bell Telephone Company, Commonwealth Edison Company, Northern Illinois Gas Company, the Village of Glen Ellyn and all other public or private utilities serving the Development Tract such easements as may be necessary or desirable to install, lay, construct, renew, operate and maintain conduits, cables, pipes, mains, poles, ducts, wires and other equipment and utility facilities in and through the Common Areas for the purpose of providing the Residential Buildings and the Common Areas with utility service, provided that all such services shall be placed underground, if possible, and further provided that no easements shall extend to any area either now or hereafter provided with a permanent structure so long as such improvement shall have been made prior to the time of the location of said conduits, cables, pipes, poles, mains, ducts, wires and other equipment and facilities on the Development Tract.

#### ARTICLE IX

#### ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained and no trees, shrubs, ivy, vines or other foliage shall be planted or maintained upon the Development Tract, nor shall any exterior addition or change or alteration be made on any Residential Building or other building or structure located on the Development Tract until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of exterior design and location in relation to surrounding structures and topography by the Board or by an Architectural Control Committee composed of three or more representatives appointed by the Board. In the event the Board, or its designated Committee, fails to approve or disapprove such design and locations within thirty (30) days after such plans and specifications have been submitted to it, approval will not be required and this Article will have been deemed to have been complied with.

The foregoing provisions of this Article IX and of Article X shall not apply to any building, fence, wall or other structure, or shrubs, trees, vine or other foliage constructed, planted or maintained by the Developer and its successors and assigns as part of its improvement of the Development Tract and the construction of Residential Buildings thereon.

ARTICLE X

BUILDING USE AND RESTRICTIONS

1. The Development Tract is hereby restricted to residential and accessory uses in conjunction therewith, and such recreational activities as are compatible with any recreational facilities located thereon and no part of the Development Tract shall be used for other than the residential and related purposes for which the property was designed and the recreational purposes commonly associated with the nature of the amenities located thereon.

2. All lots in the Development Tract shall be used for private residence purposes only, and no building shall be erected, reerected or maintained on any lot in the Development Tract except one Residential Building designed by or based on plans prepared by a licensed architect and erected for occupancy by one family, and a private garage containing no more than three parking spaces for the sole use of the Owners or Occupants of the Residential Building. Other accessory buildings and structures may be erected in such manner and location as approved in writing by the Board or the Architectural Review Committee herein created in Article IX.

3. The value of each Residential Building erected in the Development Tract shall be commensurate with the value of other Residential Buildings previously erected in the Development Tract or approved for construction therein as herein provided. No garage or other structure shall be erected or maintained in front of any Residential Building excepting a garage which is an integral part thereof or the location of which in front of any Residential Building is dictated by the topographical conditions prevailing on said lot.

4. No buildings other than one single Residential Building shall at any time hereafter be erected, occupied, sold or used on any part of or portion of any lot in the Development Tract; provided, however, that when and after any Residential Building is so erected and occupied, the Owner thereof may also erect such private garages, and other appurtenant buildings as may be deemed necessary for the sole and exclusive use of the Owner. All such outbuildings shall be constructed only of materials permitted for the Residential building and shall conform and be harmonious with the design and color of the Residential Building and shall be subject to the provisions of Article IX hereof.

5. Each Residential Building shall be built on a full concrete foundation above the grade line. All sanitary facilities shall be inside each Residential Building and shall conform to all State, County, Municipal and other applicable health regulations. Any and all frame Residential Buildings constructed on any lot in the Development Tract shall have at least two coats of paint placed thereon before said Residential Building shall be occupied or used and shall be repainted as frequently as necessary to maintain a presentable appearance.

6. No trailer, recreational vehicle, tent, shack, shed, garage, barn or outbuilding shall be erected or placed on any lot to be used as a temporary or permanent residence or storage nor shall any residence of a temporary character be permitted. The storage of one unoccupied house trailer, recreational vehicle, or one boat and one boat trailer on any lot in the Development Tract for convenience only in connection with recreational activities of the Owner shall be permitted, provided such storage is effected in such manner that it is not offensive to other property owners in the Development Tract or visible from the street.

7. No fence, wall, hedge, shrub or other planting shall be erected or maintained on any lot in the Development Tract which unreasonably restricts or blocks the view from an adjoining lot, which materially impairs the continuity of the general landscaping plan of the Development Tract or which obstructs the view at any corner or intersection so as to constitute a hazard to vehicular or pedestrian traffic. For this purpose, a hedge or fence shall be maintained at no greater height than five (5) feet, and no wall or fence shall be erected or placed within the front setback lines of any lot, unless said wall or fence shall be ornamental and a desirable feature and shall not in any manner impair the general scheme of the Development Tract. The Architectural Review Committee, may, in its discretion, approve minor projections above the restricted heights for architectural features. Any wall or fence erected on any lot in accordance with the foregoing must be properly maintained in a good state of repair and appearance at all times.

8. No lines or wires for communication or for the transmission of electric current or power shall be constructed, placed or permitted to be placed anywhere in the Development Tract other than within Residential Buildings or structures appurtenant to any Residential Building or attached to their walls, unless the same shall be contained in conduits or approved cables constructed, placed and maintained underground in the easements provided therefor.

9. The Owners of lots in the Development Tract shall be responsible for the maintenance of parkways located between their lot lines and edges of street pavements on which said lot faces.

10. All landscaping shall be regularly trimmed and cut and kept in a neat, sightly condition. No weeds, underbrush or other unsightly growth shall be permitted to grow or remain upon any lot in the Development Tract and no refuse piles or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon; and in the event that any Owner shall fail or refuse to keep said lot free of weeds, underbrush or refuse piles or other unsightly growths or objects, then the Declarant or the Declarant's designated agents or the designated agents of the Association as herein established may enter upon said lot and remove the same at the expense of the Owner thereof and such entry shall not be deemed to be a trespass.

11. The use of any garage, carport, driveway, or parking area which may be in front or adjacent to or part of any lot as a parking place for commercial vehicles is prohibited. The parkway located between the pavement and the lot line of each lot shall not be used for the parking of private or commercial vehicles or boats, recreational vehicles or trailers. The term "commercial vehicles" shall include all automobiles, station wagons, trucks and vehicular equipment which shall bear signs or have printed on any part whereof any reference to any commercial undertaking or enterprise. The habitual violation of the parking regulations set forth in this paragraph shall be deemed a nuisance. No inoperable motor vehicles shall be permanently parked on any portion of the Development Tract, nor shall any wrecking or dismantling operations be permitted, except within the garage which serves the Residential Building on the lot.

12. There shall be not more than one nameplate on each lot. A nameplate shall be not more than 48 square inches in area, and contain the name of the Owner or the address of the Residential Building, or both. It may be located on the door of the Residential Building or the wall adjacent thereto, or upon the wall of an accessory building or structure, or freestanding in the front or side yard, provided that the height of the nameplate is not more than 12 inches above the adjoining ground grade.

13. There shall be nothing placed on the outside walls of any Residential Building or other improvement located on the Development Tract and no signs (except as specifically permitted herein) radio or television antennas, billboards or other objects of unsightly appearance or nuisances shall be erected, placed or permitted to remain on any Residential Building or any lot or any other portion of the Development Tract nor shall any Residential Building or other building or any portion of the Development Tract or the improvements located thereon be used in any way or for any purpose which may endanger the health and well being or unreasonably disturb the Residents of the Development Tract; provided, however, that one "For Rent" or "For Sale" sign of not more than 4 feet square may be maintained on any Residential Building located on the Development Tract.

14. No commercial activities of any kind whatsoever shall be conducted in any Residential Building or on any portion of the Development Tract except activities intended primarily to serve the Owners and Occupants of the Development Tract. None of the foregoing restrictions shall apply to commercial signs or other advertising related to the sales activities of the Developer during the construction and sales period for the Development Tract or by the Association solely in furtherance of its powers and purposes set forth herein and in its Articles of Incorporation By-Laws and rules and regulations, as the same may be amended from time to time. The Developer and its successors and assigns shall have the right to maintain its sales and office facilities on the Development Tract and temporary model Residential Buildings on the Development Tract during the construction and sales period for the Development Tract.

15. No animals, rabbits, livestock, fowl, poultry, or reptiles of any kind shall be raised, bred or kept in any Residential Building located in the Development Tract or in any of the Common Areas of the Development Tract except that dogs, cats or other domesticated household pets may be kept in the individual Residential Buildings subject to such rules and regulations as may be adopted by the Board, provided that they are not kept, bred, or maintained for any commercial purpose. No portion of the Common Areas shall be used for the exercise or sanitary purposes of any such household pets and each Resident of the Development Tract shall keep any such pets within his Residential Building and the lot on which said Residential Building is located. Any such pet causing or creating a nuisance or unreasonable disturbance or allowed to run at large shall be permanently barred and removed from the Development Tract upon three (3) days written notice from the Board.

16. No unlawful, noxious, or offensive activity shall be carried on in any Residential Building or in any part of the Common Areas of the Development Tract, nor shall anything be done therein either willfully or negligently, which may become an annoyance or nuisance to any Resident of the Development Tract.

17. No clotheslines, sheets, blankets or laundry of any kind or any other articles shall be hung out or exposed in any part of the Development Tract. The Development Tract shall be kept free and clear of rubbish, debris and other unsightly material. No trash, garbage or other waste shall be kept in the Common Areas but shall be kept solely in the respective Residential Buildings located on the Development Tract in enclosed sanitary containers and shall be disposed of in a clean, sightly, healthy and sanitary manner.

18. No industry, business, trade, occupation or profession of any kind, whether commercial, religious, educational or otherwise designed for profit, altruism or exploitation or otherwise shall be conducted, maintained or permitted in any portion of the Development Tract except as otherwise permitted by the terms of this Declaration.

19. There shall be no obstruction of any walkways or any other open spaces or any recreational facilities or areas within the Development Tract, nor shall any garbage cans, baby carriages, motorcycles, minibikes, snowmobiles, bikes, tricycles, playpens, wagons, toys, vehicles, benches, tables, chairs or other objects which constitute an obstruction or are unsightly be placed or stored in any portion of the Development Tract except in garages or other approved structures appurtenant to a Residential Building without the prior written consent of the Board, and then only subject to such rules and regulations as may be adopted by the Board from time to time.

20. Each Owner and Occupant hereby waives and releases any and all claims which he may have against any other Owner, Occupant, the Declarant, Developer, the Officers and members of the Board, and their respective employees and agents, for damages to the Common Areas, the Residential Buildings or to any personal property located in any Residential Building or the Common Areas caused by fire or other casualty to the extent that the same is covered by insurance.

21. If, due to the act or neglect of any Owner, Occupant or a member of his family or household pet or a guest, invitee, or other authorized occupant or visitor of such Owner or Occupant damage shall be caused to the Common Areas or maintenance, repairs or replacement shall be required with would otherwise be at the common expense of the Association, then such Owner or Occupant shall pay for such damage and such maintenance, repair or replacement as may be determined by the Board, to the extent not covered by insurance.

22. Nothing in this Article shall be construed to prevent or prohibit an Owner or Occupant from maintaining his professional or personal library, or keeping his personal or business or professional records or accounts or handling his personal business or professional telephone calls, or conferring with business or professional associates, clients, or customers, in his Residential Building.

23. All streets, driveways, parking areas, sewer and water facilities and services and sidewalks in the Development Tract shall at all times be kept and maintained in a clean, safe condition and in good repair and free from all defects, snow, ice or other obstructions and debris.

24. There shall be no parking on any street or driveway in the Common Areas between the hours of 2:00 a.m. and 6:00 a.m., without the permission of the Board.



ARTICLE XI

DAMAGE OR DESTRUCTION AND RESTORATION

In the event any portion of the Common Areas is taken by eminent domain proceedings or conveyed in lieu thereof or in the event any of the improvements located on the Common Areas or any portion thereof shall suffer damage or destruction from any cause, including condemnation, the proceeds of any policy or policies insuring against any such loss or damage and payable by reason thereof, or any condemnation award received shall be applied in the following order:

1. In accordance with the terms and conditions of any instrument or agreement constituting a lien or other security interest in the Common Areas or any improvements located thereon.

2. If the balance of such insurance proceeds or award is sufficient to do so, then so much of the balance of such proceeds or award then remaining as is necessary shall be applied to the repair, restoration or reconstruction of such improvements and the acquisition, if possible, of an equal amount of land in order to restore the improvements and the integrity of the parcel of land comprising the Common Areas to substantially the same condition existing prior to the damage, destruction or taking.

3. Any funds then remaining shall be distributed to the Members of the Association in the same proportion as their share of the Maintenance Assessments of the Association and any such distribution to the Members shall be first applied to any delinquent assessments. In the event the balance of such proceeds or award is insufficient to complete restoration or repair as aforesaid, then the use or disposition of such funds or the levying of a special assessment to raise additional funds shall be determined by a three-quarters (3/4) vote of each class of Voting Members of the Association at a meeting duly called in accordance with the terms of this Declaration and the By-Laws of the Association.

ARTICLE XII

RIGHTS OF THE MUNICIPALITY

The Declarant until such time as it has conveyed title to the Common Areas of the Development Tract to the Association, pursuant to the provisions hereof, and thereafter, the Association shall have an obligation to maintain the Common Areas of the Development Tract and any buildings or other structures thereon in compliance with all applicable laws and ordinances of the Village of Glen Ellyn and all governmental bodies having jurisdiction over the Common Areas, as such laws and ordinances may be amended and enforced from time to time during the term of this Declaration (as the same may be amended or extended), including, without limitation, the obligation:

(i) to maintain all Common Areas free from accumulation of debris and growth of weeds,

(ii) to maintain all buildings and structures on the Common Areas in accordance with applicable building safety and other codes and ordinances,

(iii) to maintain all storm water drainage facilities and all storm water detention/retention facilities on the Common Areas in good operating condition so as to function substantially as contemplated by the plans and specifications heretofore filed with and approved by said Village,

(iv) otherwise to maintain the Common Areas of the Development Tract in such manner as to be not detrimental to the health, safety and welfare of the residents of the Village and of the residents and members of the Association and the Owners of lots in the Development Tract.

In the event that the Declarant or the Association (as the case may be) defaults in the performance of any obligation under the foregoing provisions of this paragraph, said Village shall have the right (but not the obligation) after thirty (30) days written notice to the Declarant or the Association (as the case may be) specifying the nature of such default, to enter upon the Common Areas and cause such default to be cured, either directly or through individual contractors engaged by said Village in connection therewith, and shall upon demand be reimbursed by the Declarant or the Association (as the case may be) and shall, together with interest thereon and cost of collection as herein provided with respect to the Members' assessments, become a continuing lien on the Common Areas of the Development Tract until paid (subject and subordinate, however, to the lien of any mortgage or trust deed of the type referred to in the Declaration) and the Declarant and the Association covenant to levy assessments for the payment thereof under the applicable provisions in this Declaration.

#### ARTICLE XIII

##### GENERAL PROVISIONS

1. These covenants, conditions and restrictions shall run with and be binding upon the entire Development Tract and shall be binding upon the Association and upon all persons owning, leasing, subleasing or occupying the Development Tract or any portion thereof, their respective heirs, executors, administrators, personal representatives, successors and assigns. **These covenants, conditions and restrictions may be enforced by the Association which shall have the right to expend Association monies in pursuance thereof and may also be enforced by any Member.** If these covenants, conditions and restrictions are enforced by appropriate proceedings by any Member, such Member if successful in such enforcement may be reimbursed by the Association for all or any part of the costs incurred, but **such reimbursement shall be solely at the discretion of the Board.**

2. At all times after the incorporation of the Maryknoll Estates Owners Association and prior to the time established by this Declaration and the By-Laws for the election of the initial Board, the rights, titles, powers, privileges, trusts, duties, functions and obligations vested in or imposed upon the Board by this Declaration, the Articles of Incorporation and the By-Laws shall be held and performed by the Developer.

3. Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against the Common Areas or against any Residential Building shall be given a copy of any and all notices submitted or required by the terms of this Declaration to be given to the Owners.

4. No covenants, restrictions, conditions, obligations, or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason or any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

5. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration which shall remain in full force and effect.

6. If any of the covenants, conditions or restrictions created by this Declaration would otherwise be unlawful or void for any violation of:

(a) the rule against perpetuities or some analogous statutory provision,

(b) rule restricting restraints on alienation, or

(c) any other statutory or common law rules imposing time limits,

then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of the President of the Village of Glen Ellyn and the President of the United States.

7. The Provisions of the Declaration shall be liberally construed to effectuate its purpose for creating a uniform plan of operation for a first-class development. In the event of any dispute or disagreement between any Members and/or the Board relating to the interpretation or application of the provisions of this Declaration or the By-Laws, the determination thereof by the Board shall be final and binding upon each and all of the Members of the Association.

8. Amendments to Declaration. The provisions of Article V, Article VI, Article VII and Article XII, and this Section 8 of Article XIII of this Declaration may be changed, modified or rescinded by instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Board, all Members of the Association, and all mortgagees having bona fide liens of record against the Common Areas. Other provisions of this Declaration may be changed, modified or rescinded on or after five (5) years from the date hereof by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Board, the Members of the Association having at least three-fourths (3/4) of the total vote and containing an affidavit by an Officer of the Board certifying that a copy of the change, modification or rescission has been mailed by certified mail to all mortgagees having bona fide liens of record against the Common Areas, not less than ten (10) days prior to the date of such affidavit. Such change, modification or rescission shall be effective upon the recordation of such instrument in the Office of the Recorder of Deeds of DuPage County, Illinois, provided, however, that no provision in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the law.

9. This Declaration is executed by American National Bank and Trust Company of Chicago as TRUSTEE as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such TRUSTEE (and American National Bank and Trust Company of Chicago 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 and interest under this Declaration that American National Bank and Trust Company of Chicago as TRUSTEE aforesaid, and not personally, has joined in the execution of this Declaration for the purpose of subjecting the titleholding interest and the trust estate under said Trust Number 43856 to the terms of this Declaration; and that any and all obligations, duties, covenants and agreements of every nature herein set forth by American National Bank and Trust Company of Chicago as TRUSTEE as aforesaid, are intended to be kept, performed and discharged by the beneficiary under said Trust Number 43856 or its successors or assigns, and not American National Bank and Trust Company of Chicago, 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 Number 43856 and after the TRUSTEE has first been supplied with funds for that purpose. In the event of a conflict between the terms of this paragraph and of the remainder of the Declaration or any question of apparent liability or obligation resting upon said TRUSTEE, the exculpatory provisions hereof shall be controlling.

IN WITNESS WHEREOF, the said American National Bank and Trust Company of Chicago 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 \_\_\_\_\_  
President and attested by its \_\_\_\_\_ Secretary  
this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 197 \_\_\_\_\_.

AMERICAN NATIONAL BANK AND  
TRUST COMPANY OF CHICAGO  
as TRUSTEE, as aforesaid, and  
not individually

By: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
Secretary

[SEAL]

STATE OF ILLINOIS            )  
                                  )  SS  
COUNTY OF COOK             )

I, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid, do hereby certify that \_\_\_\_\_, President of American National Bank and Trust Company of Chicago and \_\_\_\_\_, Secretary of said Bank, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such \_\_\_\_\_, President and \_\_\_\_\_, Secretary, respectively, appeared before me this day in person and acknowledged to me that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said Bank for the uses and purposes therein set forth, and the said \_\_\_\_\_, Secretary did also then and there acknowledge that he, as custodian of the corporate seal of said Bank, did affix the corporate seal of said Bank to said instrument as his own free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 197\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_