

AFTER RECORDING, RETURN TO:
ADAMS, STEPNER, WOLTERMANN & DUSING, P.L.L.C.
P.O. BOX 861
COVINGTON, KENTUCKY 41012

I-2525 Pg 183

FOR 2ND SUPP TO DEC SEE O.R. I-2904 PG 259 - 8/19/11

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
ALDERBROOK SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and entered into this ^{5th} day of JUNE, 2009, by **MANOR LAKE, LLC, a Kentucky Limited Liability Company**, its successors and assigns (hereinafter referred to as "Developer").

WITNESSETH

WHEREAS, it is the intent of Developer to establish a general plan and uniform scheme of development and improvement of the property described in this Declaration; and

WHEREAS, Developer wishes to provide for the preservation and enhancement of property values, amenities and opportunities within the property in order to contribute to the personal and general health, safety and welfare of the property owners and residents therein, and to maintain the land and improvements therein, and to this end wishes to subject the property to the covenants, restrictions, easements, reservations, assessments, charges, liens, conditions and other provisions hereinafter set forth.

NOW, THEREFORE, Developer hereby declares that the property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, reservations, assessments, charges, liens, conditions and other provisions hereinafter set forth in this Declaration of Covenants, Conditions and Restrictions for Alderbrook Subdivision.

ARTICLE I

DEFINITIONS

The following terms as used in this Declaration shall have the following meanings:

1. "Additional Property" shall mean other real property in the vicinity of the Property which is owned and/or acquired by Developer, which may be annexed to the Property in accordance with Article II, Section 2, below.
2. "Alderbrook Subdivision" shall mean and refer to the development project which is located in **Kenton County, Kentucky** and known as **Alderbrook Subdivision**.
3. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association as they may exist from time to time.
4. "Assessment" shall mean and refer to those charges made by the Association, from time to time, against members, for the purposes, and subject to the terms, set forth herein.
5. "Association" shall mean and refer to **Alderbrook Homeowners' Association, Inc., a Kentucky Non-Profit, Non-Stock Corporation**, its successors and assigns.
6. "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.
7. "By-Laws" shall mean and refer to the By-Laws of the Association as they may exist from time to time.

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EXHIBIT "A"

I-2525Pg 184

Group Number: IND.

Plat Slides: A-913 and A-914

- PIDN: 048-00-01-001.00 (Lot 1)**
- PIDN: 048-00-01-002.00 (Lot 2)**
- PIDN: 048-00-01-003.00 (Lot 3)**
- PIDN: 048-00-01-004.00 (Lot 4)**
- PIDN: 048-00-01-005.00 (Lot 5)**
- PIDN: 048-00-01-007.00 (Lot 7)**
- PIDN: 048-00-01-008.00 (Lot 8)**
- PIDN: 048-00-01-009.00 (Lot 9)**
- PIDN: 048-00-01-010.00 (Lot 10)**
- PIDN: 048-00-01-011.00 (Lot 11)**
- PIDN: 048-00-01-012.00 (Lot 12)**
- PIDN: 048-00-01-013.00 (Lot 13)**
- PIDN: 048-00-01-014.00 (Lot 14)**
- PIDN: 048-00-01-059.00 (Lot 59)**
- PIDN: 048-00-01-060.00 (Lot 60)**
- PIDN: 048-00-01-061.00 (Lot 61)**
- PIDN: 048-00-01-062.00 (Lot 62)**
- PIDN: 048-00-01-063.00 (Lot 63)**
- PIDN: 048-00-01-064.00 (Lot 64)**
- PIDN: 048-00-01-065.00 (Lot 65)**
- PIDN: 048-00-01-190.00 (Lot 190)**
- PIDN: 048-00-01-191.00 (Lot 191)**
- PIDN: 048-00-01-192.00 (Lot 192)**

Being all of Lots 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 59, 60, 61, 62, 63, 64, 65, 190, 191 and 192, Section 1, Alderbrook Subdivision, as shown on Plat Slides A-913 and A-914 of the Kenton County Clerk's records at Independence, Kentucky.

8. "Builder(s)" shall mean **Maple Street Homes, LLC, a Kentucky Limited Liability Company**, its successors and assigns, and such other persons and entities as may acquire one or more Lots from Developer for the purpose of constructing improvements thereon for resale, but only to the extent of such Lots acquired.

9. "Class A Members or Class A Membership" shall mean those members of the Association consisting of all Owners except Developer, during the Control Period.

10. "Class B Member or Class B Membership" shall mean, during the Control Period, Developer as a member of the Association.

11. "Common Expenses" shall mean and refer to all expenses incurred by the Association in connection with its ownership, maintenance and other obligations set forth herein.

12. "Common Surplus" shall mean and refer to the excess of all receipts of the Association, including, but not limited to, assessments, rents, profits and revenues in excess of the amount of Common Expenses.

13. "Constituent Documents" shall mean the Declaration, the record plat, the By-Laws, the Articles of Incorporation, the rules and regulations, if any, the management agreement, if any, entered into between the Association and any professional manager of the Property, and any other basic documents used to create and govern the Property.

14. "Control Period" shall mean the period commencing on the date on which this Declaration is recorded in the **Kenton County Clerk's** office and terminating on the earlier to occur of: (i) within thirty (30) days following the date when seventy-five percent (75%) of the Lots on the Property have been deeded by either Developer and/or any Builder to a third party purchaser; or (ii) twenty (20) years from the date of recording of the Declaration.

15. "County" shall mean and refer to **Kenton County, Kentucky**.

16. "Declaration" shall mean and refer to this instrument and all exhibits thereto, as the same may be amended from time to time.

17. "Default" shall mean any violation or breach of, or any failure to comply with, the Restrictions, this Declaration or any other Constituent Documents.

18. "Developer" shall mean and refer to **Manor Lake, LLC, a Kentucky Limited Liability**, its successors and assigns.

19. "Development" shall mean and refer to the residential development including, without limitation, the Homeowners' Association property and the single family lots which are now or will hereafter be located within **Alderbrook Subdivision**.

20. "Development Period" shall mean the period commencing on the date on which this Declaration is recorded in the **Kenton County Clerk's** office and terminating on the earlier to occur of: (i) within thirty (30) days following the date when one hundred percent (100%) of the Lots on the Property have been deeded by either Developer and/or any Builder to a third party purchaser; or (ii) thirty (30) years from the date of recording of the Declaration.

21. "Dwelling Unit" shall mean any building or portion of a building situated upon the Property designed and intended for use and occupancy as a residence by a single person, family or family-sized group of persons.

22. "Homeowners' Association Property" shall mean and refer to all portions of the property which are intended for the common use and enjoyment of the owners, and which are identified and dedicated to the Association on any recorded subdivision plat of the property, or conveyed to the Association by Deed.

23. "Improvements" shall mean and refer to all structures of any kind, including, without limitation, any building, fence, wall, sign, paving, grading, parking and building addition, alteration, screen enclosure, sewer, drain, disposal system, decorative building, landscape device or object.

24. "Institutional Mortgagee" shall mean and refer to a bank, bank holding company, trust company, or subsidiary thereof, savings and loan association, insurance company, union pension fund, mortgage company approved by Developer, an agency

of the United States Government and the holder of any mortgage of public record given or assumed by Developer, whether a first mortgage or otherwise, and their successors and assigns.

25. "Lots" shall mean each of the parcels of land shown as such upon the recorded subdivision plat of the Property.

26. "Members" shall mean all Class A Members and the Class B Member.

27. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of the fee simple title to any lot, excluding, however, Developer and any mortgagee unless and until such Developer or mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

28. "Property" shall mean and refer to that real property described in Exhibit "A" attached hereto and made a part hereof and such additional property as may be submitted to this Declaration from time to time, pursuant to Article II of this Declaration.

29. "Record Plat" shall mean a plat of **Alderbrook Subdivision** as recorded in the **Kenton County Clerk's** office, including any subsequent plats or replats.

30. "Single Family Lot" or "Lot" shall mean and refer to a parcel of real estate developed for the purpose of constructing a single family residence thereon.

31. "Single Family Residence" shall mean and refer to a single family dwelling constructed or to be constructed on single family lot or lots.

32. "Subdivision" shall mean all phases or sections of the Record Plat for **Alderbrook Subdivision**, a subdivision in **Independence, Kenton County, Kentucky**, and consisting of all the Property from time to time made subject to the provisions of this Declaration.

33. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant which subjects all or any portion of the Additional Property to this Declaration; imposes, expressly or by reference, additional restrictions and obligations on the land subject to this Declaration.

34. "Surface Water Management System" shall mean and refer to those lakes, canals and other facilities created and used for drainage of the Property.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

1. **Existing Property.** The property described in Exhibit "A" which shall be subject to this Declaration upon the recordation with the **Kenton County Clerk's** office at **Independence, Kentucky**.

2. **Additional Property.** Developer may, at any time, and from time to time, subject additional property to this Declaration by recording in the **Kenton County Clerk's** office an Amendment to this Declaration, describing such additional property.

ARTICLE III

ALDERBROOK HOMEOWNERS' ASSOCIATION, INC.

1. **Formation.** At or about the time of the recording of this Declaration, Developer has caused the Association to be formed by the filing of the Articles of Incorporation thereof in the office of the Secretary of State of Kentucky. The Association is formed to operate, maintain and ultimately own the Homeowners' Association Property; to enforce the covenants, conditions, restrictions and other provisions set forth in this Declaration and for the enforcement of the rules and regulations promulgated by the Association. The Association shall have such other specific rights, obligations, duties and functions as are set forth in this Declaration and in the Articles of Incorporation and the By-Laws of the Association. Subject to the additional limitations provided herein and in

the Articles of Incorporation and By-Laws, the Association shall have all of the powers and be subject to all of the limitations of a not for profit corporation as contained in the Kentucky statutes in existence as of the date of recording this Declaration. The purposes and powers of the Association shall be all of the purposes and powers set forth in this Declaration and in its Articles of Incorporation and By-Laws. Developer, by including additional property within the imposition of this Declaration, may cause additional membership in the Association and may designate the ownership basis for such additional membership.

2. **Membership in Association.**

A. **General.** A Single Family Residence and/or Lot Owner at **Alderbrook Subdivision**.

B. **Classes of Membership.** Every Lot Owner within **Alderbrook Subdivision** shall be a Member of the Association, and such membership shall be appurtenant to and may not be separated from ownership of any Lot. During the Control Period, the Association shall have Class A Members (being all owners except Developer) and a Class B Member (Developer). At such time as the Class B membership shall terminate as set forth herein, the Developer, if it is then an Owner, shall become a Class A Member and continue as such so long as it shall remain an Owner.

3. **Voting.**

A. With the exception of the Developer, until Class B membership has terminated, every person, group of persons or entity who is an owner of a fee interest in any Single Family Residence or Lot which is or becomes subject by covenants of record to assessment by the Association shall be a Class A Member of the Association. Class A Members shall be entitled to one (1) vote per each Single Family Residence in which they hold the interest required for membership.

If a Single Family Residence is constructed on more than one (1) Lot, the Owner thereof shall be entitled to only one (1) vote.

B. The Class B Member shall be the Developer, which shall be entitled to five (5) votes for each Single Family Lot in which Developer holds the interest otherwise required for Class A membership multiplied by the number of Single Family Residence and/or Lots located or proposed by the Developer to be located on such Single Family Lot.

C. At such time as Class B membership shall terminate, if Developer holds an interest in any Single Family Lot, then Developer shall be deemed a Class A Member with reference to such Lot(s) and entitled to the voting rights and all other rights of such Class A Member. If more than one (1) person, group of persons or entity is the record Owner of a fee interest in any Single Family Residence and/or Lot, then the vote for such Single Family Residence and/or Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Single Family Residence and/or Lot even though said Single Family Residence be constructed upon more than one (1) Lot.

4. **Administration of the Association.** The affairs of the Association shall be administered by the Board of Directors in accordance with this Declaration, the Articles of Incorporation and the By-Laws of the Association. The Articles of Incorporation and By-Laws may be amended in the manner set forth therein; provided, however, that no such amendment shall conflict with the terms of this Declaration or adversely affect the rights of Developer, without Developer's prior written approval; and provided further, that no amendment, alteration or rescission may be made which affects the rights or privileges of any institutional mortgagee, without the express prior written consent of the institutional mortgagee so affected. Any attempt to amend contrary to these prohibitions shall be of no force or effect.

5. **Board of Directors.** Until the third Annual Meeting, the initial Board shall consist of three (3) persons appointed by the Class B Member who shall serve until their respective successors are elected and qualified. Directors appointed by the Developer need not be Members of the Association. However, a Director elected by Class A Members shall be a Lot Owner or a spouse of a Lot Owner, except that if a Lot Owner is a corporation, partnership, joint venturer or other entity, the Lot Owner may elect as a Director an officer, partner, joint venturer or like individual affiliated with this Lot Owner.

At the third Annual Meeting, the Board of Directors shall expand from three (3) to five (5) Directors. At such meeting, the Class B Member shall appoint three (3) Directors for a three (3) year term. Thereafter, at each tri-annual meeting, the Class B Member, until the Control Period Special Meeting (as hereinafter defined), shall appoint three (3) Directors for a three (3) year term.

At the third Annual Meeting, the Class A Members shall elect two (2) Directors. One of the Directors shall be elected for a three (3) year term and one (1) of the Directors shall be elected for a two (2) year term. At the expiration of the terms of such

Directors, until such time as the Developer shall transfer control of the Board to the Class A Members, the Class A Members shall, at the respective Annual Meeting, elect successor Directors for a three (3) year term.

Within ninety (90) days after the expiration of the Control Period, the President of the Association shall call a special membership meeting ("Control Period Special Meeting"). At the Control Period Special Meeting, all Developer-appointed Directors shall be deemed removed from office and the Class A Members, including the Developer, if it is then an Owner, shall elect a Director to fill each vacancy on the Board. The terms of said elected Directors shall be from one (1) to three (3) years, as determined by the Board, so that in any one (1) year thereafter, the terms of no more than three (3) nor less than two (2) Directors shall expire. The three (3) Directors with the most votes shall be the Directors who shall serve the three (3)-year term. Additionally, after the Control Period Special Meeting, all Directors and their successors, shall be elected by Class A Members and shall be elected for a three (3) year term.

Notwithstanding anything above to the contrary, the Class B Member may, by written notice to the Board, at or before any Annual Meeting, relinquish to the Class A Members, the Class B Member's right to appoint one (1) or more Directors at such Annual Meeting pursuant to this Section.

6. **Suspension of Membership Rights.** No Member shall have any vested right, interest or privilege in or to the assets, functions, affairs or franchises of the Association, or any right, interest or privilege which may be transferable, or which shall continue after the Member's membership ceases, or while the Member is not in good standing. A Member shall be considered "not in good standing" during any period of time in which the Member is delinquent in the payment of any Assessment or in violation of any provision of this Declaration or any rules or regulations promulgated by the Association. All such determinations shall be made by a majority of the Board of Directors. While not in good standing, the Member shall not be entitled to vote or exercise any other right or privilege of membership of the Association.

7.

ARTICLE IV

HOMEOWNERS' ASSOCIATION PROPERTY

1. **Homeowners' Association Property.** The Homeowners' Association Property is intended for the use and enjoyment of the Owners and their guests and invitees. Title to the Homeowners' Association Property shall remain vested in Developer until the date the Developer voluntarily relinquishes control of the Association, as such date is defined hereinabove, or such earlier date as Developer conveys such common areas to the Association. Notwithstanding the manner in which fee simple title is held, the Association shall be responsible for the management, maintenance and operation of the Homeowners' Association Property and for the payment of all property taxes and other assessments which are liens against the Homeowners' Association Property, from and after the date of recordation of this Declaration. Simultaneously with its relinquishment of control of the Association, Developer shall convey all of its right, title and interest in the Homeowners' Association Property, not previously conveyed, to the Association.

2. **Authority of Association.** The Association shall have the power and authority to acquire and convey such interest in real and personal property as it may deem beneficial to its Members. Such interest may include fee simple or other absolute ownership interest, leaseholds or such other possessory use interest as the Association may determine to be beneficial to its Members.

3. **Maintenance of Homeowners' Association Property.** The Association is authorized to and shall, either by virtue of the appointment of a real estate management agent, or through its own personnel, be responsible for the maintenance and repair of the Homeowners' Association Property, including the performance of obligations which may be placed upon the Homeowners' Association Property by applicable regulatory agencies or by this Declaration. Specifically, the property the Association shall maintain and be responsible for shall include, if constructed, but not be limited to, the following:

A. **Landscaping.** All landscaping of the Homeowners' Association Property and all landscaping within any landscape easements reserved for the benefit of the Homeowners' Association set out on the recorded subdivision plats of Alderbrook Subdivision, including, without limitation, all sodding, irrigation and the planting and care of grass, trees, shrubbery and flowers.

B. **Signs and Monuments.** All signs and monuments located on the Homeowners' Association Property and within any sign or monument easement area reserved for the benefit of the Homeowners' Association set out on the recorded subdivision plats of Alderbrook Subdivision.

C. Fences and Walls. All fencing and walls located on the Homeowners' Association Property and constructed by the Homeowners' Association within any easement area reserved for the benefit of the Homeowners' Association as set out on the recorded subdivision plats of Alderbrook Subdivision.

D. Street Lights. All street lights erected in, over or across any utility easement set out on the recorded subdivision plats of Alderbrook Subdivision.

E. Contracts. Developer, its successors and assigns, may be the management agent for the Association and may hire such employees, including, but not limited to: attorneys, accountants, bookkeepers, gardeners and laborers, as the Developer may deem necessary in order to maintain the Homeowners' Association Property. No agreement between the Association and Developer, its successors and assigns, shall be held invalid solely for the reason that at the time of entering into the agreement, employees, officers or agents of the Developer, its successors or assigns, are officers, directors and/or employees of the Association. In the event any maintenance is performed on Homeowners' Association Property by the Association, under contract or otherwise, the costs of such maintenance will be billed to and paid by the Association.

4. Rules and Regulations Governing Use of the Homeowners' Association Property. The Association, through its Board of Directors, shall regulate the use of the Homeowners' Association Property and may from time to time promulgate such rules and regulations consistent with the Declaration, governing the use thereof as it may deem to be in the best interest of its Members. No rules or regulations may be adopted which would adversely affect the rights of any Institutional Mortgagee, without the prior written consent of such Institutional Mortgagee. A copy of all rules and regulations established hereunder and any amendments thereto shall be made available to all Members of the Association at the office of the Association. Such rules and regulations, and all provisions, restrictions and covenants contained in this Declaration may be enforced by legal or equitable action by the Association.

5. Owners' Easement of Enjoyment. Subject to the provisions hereinbelow, each Owner shall have a right and easement of enjoyment in and to the Homeowners' Association Property, which easement shall be appurtenant to, and shall pass with, the title to each Single Family Lot.

6. Extent of Owner's Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

A. The right of Developer and the Association to borrow money for the purpose of improving the Homeowners' Association Property and, in connection therewith, to mortgage the Homeowners' Association Property.

B. The right of Developer and the Association to take such steps as are reasonably necessary to protect the Homeowners' Association Property against foreclosure.

C. The right of the Association to suspend the enjoyment rights and easement of any Owner for any period during which an Assessment remains unpaid by an individual, Single Family Lot Owner or by the Association to which an Owner belongs, and for any period during which such Single Family Lot Owner is in violation of this Declaration, or any of the rules and regulations promulgated by the Association.

D. The right of the Association to properly maintain the Homeowners' Association Property.

E. The rules and regulations governing the use and enjoyment of the Homeowners' Association Property, as promulgated by the Association.

F. The right of Developer to dedicate or transfer all, or any part, of the Homeowners' Association Property to any governmental or quasi-governmental agency, authority, utility, water management or water control district.

G. Restrictions contained on any plat, or filed separately, with respect to all or any portion of the Property.

H. All of the provisions of this Declaration and the Articles of Incorporation and By-Laws of the Association, and all exhibits thereto, and all rules and regulations adopted by the Association, as same may be amended from time to time.

I. The right of the Association to dedicate or transfer all or any part of the Homeowners' Association Property to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members provided that no such dedication, transfer or determination as to the purposes or conditions thereof shall be effective unless approved

by a two-thirds (2/3) vote of the total membership at a duly called meeting of the Association, and unless written notice of the proposed agreement and action thereunder is sent to all Members at least thirty (30) days in advance of any action.

J. The right of Developer to develop **Alderbrook Subdivision** and to sell or lease Lots to purchasers or lessees. As a material condition for ownership of a Lot in **Alderbrook Subdivision**, each Owner releases Developer from any claim that the Owner might have for interference with his quiet enjoyment of the Homeowners' Association Property due to the development of **Alderbrook Subdivision**, whether or not the construction operations are performed on the Homeowners' Association Property, or on any Lots owned by Developer, and each Owner acknowledges and agrees that Developer shall have the sole right of design, construction, development and improvement of the Homeowners' Association Property.

For so long as Developer owns or has any use rights to any property subject to this Declaration, Developer shall have the right to transact any business necessary to consummate sales of property throughout **Alderbrook Subdivision**, including, but not limited to, the right to maintain offices on the Homeowners' Association Property in locations to be selected by Developer, to have employees in such offices, to construct and maintain other structures or appurtenances which are necessary or desirable for the development and sale of the Property throughout **Alderbrook Subdivision** including, without limitation, sales models and parking lots; to post and display a sign or signs on any Lot owned by Developer or the Homeowners' Association Property; and to use the Homeowners' Association Property and to show Lots. Sales office signs and all other structures and appurtenances pertaining to the sale or development of property within **Alderbrook Subdivision** shall not be considered Homeowners' Association Property and shall remain the property of the Developer. Developer may authorize other builder/developers to exercise the rights reserved in this Section, singularly or in concert with Developer.

After turnover of control of the Association, and regardless of whether Developer owns or has any use rights to any property in **Alderbrook Subdivision**, Developer, or its assignee, shall have the right, but not the obligation, to continue to exercise the rights granted to Developer under Article XI, Section 8, hereinbelow at no cost or charge of any kind except its prorata share of utility expenses and real estate taxes and payment of a rental for use of property based on the current market rate for commercial space in **Kenton County**. This office shall be used as a real estate brokerage office to assist Owners in the sale or lease of their Lots and obtaining necessary approvals for such transfers. No other commercial or real estate offices shall be located on the Homeowners' Association Property after turnover of control of the Association.

7. **Continual Maintenance.** In the event of a permanent dissolution of the Association, the Members shall immediately thereupon hold title to the Homeowners' Association Property as tenants in common and shall collectively provide for the continued maintenance and upkeep thereof.

ARTICLE V

EASEMENTS

1. **Easements for Utilities.** Easements for the installation and maintenance of utilities are granted as shown on the recorded subdivision plats of the Property, for present and future utility services to **Alderbrook Subdivision**, including, but not limited to, water lines, sanitary sewer lines, storm drainage culverts, sprinkler lines, natural gas lines, electrical wires, television wires, telephone cables, irrigation lines, security wires and street lights. Within these easement areas, no structure, planting or other material (other than sod or driveway) which may interfere with the installation and maintenance of underground utility facilities, shall be placed or permitted to remain unless such structure, planting or other material was installed or approved by the Developer or the Association. The Association and its successors and assigns or such other entity as is indicated on the plats of the Property are hereby granted access to all easements within which such underground facilities are located for the purpose of operation, maintenance and replacement thereof.

2. **Easements for Landscaping, Signs and Monuments and Fences and Walls.** Easements for landscaping, signs and monuments and fences and walls are granted to the Homeowners' Association as shown on the recorded subdivision plats of the Property. Within these easement areas, no structure, planting or other material shall be placed or permitted to remain unless such structure, planting or other material was installed or approved by the Developer or the Association. The Association and its successors and assigns or such other entity as is indicated on the plats of the Property are hereby granted access to all easements for the purpose of maintenance, construction and replacement of such landscaping, signs and monuments and fences and walls.

3. **Construction Easements.** There shall exist a five (5) foot temporary construction easement around the perimeter of each Lot in order to facilitate grading, drainage and general construction activity on all neighboring Lots. If the Owner of a Lot places an improvement such as a fence, sprinkler system, landscaping or the like within this temporary construction easement before grades

and drainage have been set on the adjoining Lot, then that Lot Owner shall be responsible for removal and reinstallation of such improvement at his or her cost to allow for the proper grading, drainage installation and/or construction on that adjoining Lot. In general, drainage swales will be set on property lines allowing dirt to be added or removed to permit a proper transition between two (2) adjoining Lots so as to allow for maximum storm water drainage.

ARTICLE VI

ASSESSMENTS AND LIENS

1. **Authority of Association.** The Association, through its Board of Directors, shall have the power and authority to make and collect Assessments as hereinafter set forth.
2. **Initial Contribution.** Upon the initial closing on each lot, when Developer and/or any Builder conveys such lot to a third party purchaser, the new Non-Lot Owner shall pay a one (1) time only charge in the sum of Two Hundred Fifty and 00/100 Dollars (\$250.00) to Developer toward reimbursement of costs incurred by Developer.
3. **General Assessments.** General Assessments shall be determined annually for the purpose of maintenance and management of the Association, the Homeowners' Association Property and for the purpose of promoting the safety and welfare of the Owners, provided, however, that such General Assessments are not attributable to only one (1) specific class of membership. Without limiting the foregoing, General Assessments shall be used for the payment of: operation; maintenance and management of the Association; the Homeowners' Association Property; property taxes and assessments against and insurance coverage for the Homeowners' Association Property; legal and accounting fees; security costs; management fees; normal repairs and replacements; charges for utilities used upon the Homeowners' Association Property; cleaning services; expenses and liabilities incurred by the Association in the enforcement of its rights and duties against Members, Owners or others; maintenance of vacant property; the creation of reasonable reserves; and all other expenses deemed by the Board of Directors of the Association to be necessary and proper for management, maintenance, repair, operation and enforcement.
4. **Annual General Assessments; Initial Amount.** The Annual General Assessment for the first five (5) years that this Declaration is in effect shall be Two Hundred and 00/100 Dollars (\$200.00), per lot, per year, prorated to the date of closing (defined as that date when any lot is conveyed to a third party purchaser by Developer and/or any Builder), payable semi-annually or as determined by the Board of Directors. If the total assessments are insufficient to pay the costs of the Association, Developer shall pay the deficit during the first five (5) year period. Thereafter, the Association shall annually estimate the Common Expense it expects to incur and the period of time involved therein and may assess the Association Members sufficient monies to meet this estimate. All Single Family Residences and/or Lots shall be assessed quarterly or more often as determined by the Association at a uniform rate. Assessments against the Lots will be collected from the individual Lot Owners. Provided, however, after the fifth year, should the Association, through its Board of Directors, determine that the Assessments made are not sufficient to pay the expenses, or in the event of emergency, the Board of Directors shall have authority to levy and collect additional General Assessments to meet such needs. General Assessments shall be collectible in advance monthly, quarterly, semi-annually or annually, as the Board of Directors shall determine.
5. **Special Assessments After the Fifth Year.** In addition to the Annual General Assessments by this Article, 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 a described capital improvement located upon the Homeowners' Association Property and/or easements, which cost has not otherwise been provided for in full as part of the applicable Annual General Assessment, including the necessary fixtures and personal property related thereto. After Developer has closed the sale of seventy-five percent (75%) of all Single Family Lots within **Alderbrook Subdivision**, any Special Assessment enacted pursuant to this paragraph shall require the approval of fifty-one percent (51%) of the total number of votes held by Class A Members and fifty-one percent (51%) of the total number of votes held by Class B Members. Any Special Assessments levied by the Association pursuant to the provisions of this Section shall be fixed at a uniform rate based upon the number of applicable Single Family Residences and/or Lots. All monies received by the Association as a Special Assessment shall be held in trust by the Association for the benefit of the Members to be used solely for the purpose of such Special Assessment and any income derived therefrom shall be held as a separate fund and shall be accounted for separately from the other assets coming under the control of the Association. The assessment may be billed in advance on a monthly, quarterly, semi-annual or annual basis, as the Board of Directors shall determine.
6. **Emergency Special Assessments.** The Association may levy an emergency Special Assessment when, in the sole determination of the Board of Directors, there is potential danger of damage to persons or property.

7. **Individual Assessments.** The Association shall have the power and authority to levy and collect an Individual Assessment against a particular Single Family Residence and/or Lot, for the cost of maintenance, repairs or replacements, which the Owner thereof has failed or refused to perform, and which failure or refusal has, in the opinion of the Association, endangered or impaired the use or value of other portions of the Property or for any damage caused by a Lot Owner, his agents, employees, invitees, guest and licensees to Common Elements. The Association shall have a right of entry onto each Single Family Residence and/or Lot to perform necessary maintenance, repairs and replacements, including the right to abate or eliminate any nuisance. The Individual Assessment may include an administrative fee charged by the Association in an amount to be determined by the Board of Directors in its discretion from time to time. All Individual Assessments shall be collectible in such manner as the Association shall determine.

The Association shall also have the power to levy and collect an Individual Assessment against a particular Owner to enforce any provision contained herein.

8. **Effect of Non-Payment of Assessments.** All notices of Assessments from the Association to the Association Members shall designate when the Assessment is due and payable. If any Assessment is not paid on the date when due, the Assessment shall then become delinquent, with a late charge in such amount as the Board of Directors shall determine from time to time, and shall bear interest at the maximum rate allowed by the laws of the Commonwealth of Kentucky, from the date when due until paid. The Assessment, together with interest thereon and the costs of collection thereof, including attorneys' fees, shall be a continuing lien against all Single Family Residence(s) and/or Lot(s) governed by, and all property owned by, the Association Member against which the Assessment is made and all Single Family Residence(s) and/or Lot(s) against which the Assessment is made.

9. **Liens.** If any Assessment on a Lot is not paid within the period established by the Board pursuant to this Article, the amount thereof together with any interest, costs, penalties and reasonable attorneys' fees thereon shall constitute a lien on such Lot in favor of the Association prior to all other liens and encumbrances whatsoever, excepting real estate taxes and assessments and liens of record in favor of the United States of America, the Commonwealth of Kentucky and all other political subdivisions or governmental instrumentalities of the Commonwealth of Kentucky to the extent made superior by applicable law and all bona fide recorded first mortgages and the rights of any first mortgagee who comes into possession of a Lot pursuant to mortgage foreclosure or by deed in lieu thereof. Assessments shall become a lien on a Lot on the date the Board mails written notice of any such Assessment to the Owners of any Lot subject thereto. The Association may perfect the lien by recording a notice of lien with the **Kenton County Clerk**, in any legally recordable form. Nonpayment of any Assessment on a Lot shall be deemed and is hereby declared to be a condition or event that creates an interest in real estate.

10. **Enforcement of Lien.** Any lien established under this Declaration may be enforced by the Association in the same manner and to the same extent (including appointment of a receiver, foreclosure sale and deficiency judgment) and subject to the same procedures as in the case of foreclosure of a real property mortgage under the laws of the Commonwealth of Kentucky. In any such enforcement proceeding, the amount which may be recovered by the Association shall include all costs of such proceeding, including reasonable attorneys' fees. In any such foreclosure sale, the Association may become the purchaser.

11. **Subordination of Lien to First Mortgage.** The mortgagee of a first mortgage of record on a Lot shall have no obligation hereunder to collect any Assessments chargeable to such Lot. Failure of a Lot Owner to pay any Assessments imposed in this Declaration shall not automatically be deemed a default under the first mortgage of record on that respective Lot. In addition, when the mortgagee of a first mortgage of record, or other purchaser of a Lot as a result of judicial execution, acquires title to the Lot as a result of foreclosure of the first mortgage or by deed in lieu of foreclosure, such acquirer of title, his, her or its heirs, successors and assigns, shall not be solely liable for the share of the Assessments chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Any lien against such Lot shall be canceled and voided, and shall become unenforceable. Such unpaid share of Assessments shall be deemed to be Common Expenses collectible from all of the Lots, including that of such acquirer, his, her or its heirs, successors and assigns.

12. **Exempt Property.** The following property shall be permanently exempt from the payment of all Assessments to the Association:

- A. All property dedicated to, owned by or leased by the Association.
- B. Any portion of the Property dedicated or conveyed to any municipal corporation.
- C. Any portion of the Property exempted from ad valorem taxation by the laws of the Commonwealth of

Kentucky.

- D. Any portion of the property owned by Developer.
- E. Any lot owned by a builder upon which a Single Family Residence is being constructed or upon which a model or market Single Family Residence has been constructed.

ARTICLE VII

MAINTENANCE OF PROPERTY

- 1. **Homeowners' Association Property.** Common Elements shall be maintained by the Association.
- 2. **Single Family Residence and/or Lot Owner Responsibilities.**

A. **Single Family Lots.** The owner of a Single Family Lot shall be responsible for all maintenance and repair of such Single Family Lot, including, without limitation, the Single Family Residence located thereon. If a Single Family Residence is damaged by casualty, the Owner must immediately clear the site of casualty. If reconstructed, the reconstruction must be substantially in accordance with the original plans and specifications of the Single Family Residence or, if not, then according to plans and specifications approved by the Design and Architectural Review Board.

ARTICLE VIII

INSURANCE

The Association is hereby authorized to purchase property and casualty insurance, other than title insurance, on the Common Elements, as well as liability, indemnity and fidelity insurance, in such amounts and with such companies as the Board of Directors shall deem appropriate.

ARTICLE IX

USE RESTRICTIONS

- 1. **Restrictions on the Use of Single Family Lots.** The following restrictions shall apply to all Single Family Lots:

A. **Land Use.** Except as otherwise provided in this Declaration, no part of the Property other than Homeowners' Association Property and Storm Water Detention Pond Areas shall be used for other than residential housing and any Dwelling Unit constructed on a Lot shall be used only as a residence for a single family. To the extent permitted by law, an Owner of a Lot may use a portion of a Dwelling Unit located thereon for his office or studio provided that the activities therein shall not interfere with the quiet enjoyment or comfort of any other Owner or Occupant; and provided further that such activities do not increase the normal flow of traffic or individuals in and out of the Property or in and out of said Owner's Lot. The foregoing notwithstanding, Developer, its successors, assigns and affiliates, and any Builder may use Lots and Dwelling Units for construction offices, sales purposes (i.e. model homes), and as offices to meet with prospective purchasers of Dwelling Units.

B. **Other Structures.** No structures of a temporary character, trailer, shack, garage, barn or other temporary outbuilding shall be used or erected on any Lot after the permanent residence on each Lot has been completed, provided, however, that one (1) outdoor storage structure not exceeding 8' by 8' and 8' in height may be erected on each Lot directly behind the home and not past the sides of the home in a manner and fashion such that they are not visible from the street in front of the home. The construction, specifications, colors and placement of such Structures shall be subject to the approval of the Board.

C. **Parking.** No parking spaces, streets or driveways nor any other part of any Lot upon which a Dwelling Unit is constructed shall be used for parking of any trailer, truck, boat, or anything other than operative automobiles, motorcycles or scooters. Any of such vehicles may, however, be stored or parked in an enclosed garage provided such garage door is completely closed at all times when such a vehicle is parked therein. The word "trailer" shall include trailer coach, "RV", recreational vehicle, house trailer, mobile home, automobile trailer, boat trailer, camp car, camper or any other vehicle, whether or not self-propelled, constructed or existing in such a manner as would permit the use and occupancy thereof for human habitation, for storage, or the conveyance of machinery, tools or equipment, whether resting on wheels, jacks, tires or other foundation. The word "truck" shall include and mean every type of motor vehicle other than passenger cars and other than any non-commercial pick-up truck, sports utility vehicle or van which is used as a principal vehicle by an Owner of a Dwelling Unit or his family. Notwithstanding the

restrictions in this Section, vehicles being used for the purpose of construction delivery of repair work to or upon any Lot or Dwelling Unit may be permitted to be parked on any Lot and Street in the subdivision.

D. Nuisances. No offensive odors or unsightly nuisances are permitted on any Lot which may be construed detrimental to the neighborhood. No vehicular maintenance or repair of any type shall be performed on the public streets or on private driveways. No Lot Owner shall permit anything to be done or kept in a Dwelling Unit or other approved Structure on any Lot that would be in violation of any law. No waste shall be committed in or to any of the Storm Water Drainage Ponds.

E. Oil and Mining Operations. No oil drilling, quarrying, or mining operations shall be permitted on any Lot.

F. Garbage and Refuse Disposal. Except for the immediate purpose of trash and garbage collection and removal, trash, garbage or other waste shall not be kept upon a Lot except in sanitary containers screened from visibility from the streets and drives of the Property. Yard waste may be composted in approved containers. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or otherwise.

G. Mailboxes. Developer or Builder reserves the right to establish a standard design mailbox for use by all Lot Owners. The decision of what type of material to be used shall be at the Developer's or Builder's sole discretion. Developer or Builder may, however, waive this right or establish the use of cluster mailboxes.

H. Antennas. No apparatus, free standing antennas or satellite dishes shall be constructed or used on any Lot; provided, however, that a satellite dish not exceeding eighteen inches (18") in diameter may be placed on a rooftop if not visible from the street in front of the Dwelling Unit, unless otherwise approved by the Board.

I. Signs. No permanent signs shall be permitted on any Lot or building in the Subdivision. An Owner of a Dwelling unit is permitted to place and maintain a standard "For Sale" or "For Rent" sign on his Lot; provided, however, it shall be of a typical size within the industry. This sign regulation shall not apply to signs used by Developer, any Builder or their assigns, while Developer is selling Lots in the Subdivision, or to traffic, street names or subdivision identification signs.

J. Animals. No animals of any kind shall be raised, bred or kept on any Lot, except that two (2) dogs or two (2 cats), or one (1) of each, or other household pets may be kept on any Lot, provided that it is not kept, bred or maintained for any commercial purpose. Any such pet or pets causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property. No such pets may be allowed to run unattended. Dogs, cats, or other household pets must be kept within confines of the Owner's Lot, except when being held on hand leash by the person attending the animal. A Lot Owner shall be responsible for cleaning up after his/her household pet.

K. Laundry or Rubbish. No clothes, sheets, blankets, laundry or any other articles shall be hung out or exposed on any part of the property. No exterior clotheslines shall be located on any Lot. The Property shall be kept free and clear of rubbish, debris and other unsightly material.

L. Rental of Dwelling Units. The Owners of the respective Dwelling Units or any first mortgagees in possession thereof shall have the right to lease the same subject to the covenants and restrictions. Neither a Unit Owner nor any first mortgagee in possession shall lease less than an entire Dwelling Unit nor shall such Dwelling Unit be leased for a term of less than six (6) months. The respective Dwelling Units shall not be rented for transient or hotel purposes, which shall be defined as (a) rental for any period less than one hundred eighty (180) days, or (b) any rental if the occupants of Dwelling Units are provided customary hotel service such as room service or food and beverage maid service and furnishing of laundry and linen. All leases of Dwelling Units shall be in writing. All such leases shall provide that they are subject to all the provisions of this Declaration of Covenants, Conditions and Restrictions for Alderbrook Subdivision and that any failure of the lessee to comply with any such provisions shall constitute a default under the lease.

M. Swimming Pools. No aboveground swimming pools shall be constructed, erected, placed or permitted to remain upon any Lot. The definition of "above-ground swimming pools" shall not include portable wading pools used by small children not more than eighteen inches (18") in height. In-ground swimming pools are permitted. This Section shall not prohibit the construction, erection or placement of a diving board, slide or other equipment appurtenant to an otherwise conforming swimming pool.

N. Fencing. No fences shall be erected or built on any part of any Lot between the rear of the Dwelling Unit constructed thereon and the street in front of the Dwelling Unit. Fences erected on said Lot from the rear of the Dwelling Unit and the

back property line shall not be in excess of four (4) feet in height and shall be rustic rail, split rail, decorative PVC, ornamental iron, decorative wood, decorative metal or hedge, provided however, all fences constructed of the aforesaid materials shall be at least fifty percent (50%) open. Non-reflective metal fence may be installed as an integral part of a fence constructed of the aforesaid materials in order to provide a secure enclosure. Barbed wire, chain link or similar fences are prohibited. On a corner Lot, the section or sections of the fence running with the side of the street shall not extend closer to said side street at any point than the Dwelling Unit on said Lot. Entrance designations, fences and any other Structure erected by the Developer/Owner are exempt from this Regulation.

O. Swing Sets, Trampolines and Play Areas. Swing sets, trampolines and play areas may be erected directly behind the rear of the home and can not extend past the side edges of the home in a manner and fashion such that they are visible from the street in front of the home.

P. Building Setbacks. No building shall be located nearer to any street than that building set back line shown on the Record Plat of the Subdivision. This covenant shall not be construed to prevent the use of the setback areas for walks, drives, trees, shrubbery, flowers or ornamental plants used for the purpose of beautification.

Q. Lawns. No weeds, underbrush or unsightly growths or objects of any kind shall be permitted to remain on any Lot within the Subdivision. All lawn areas shall be maintained in a neat and orderly manner and shall be mowed on a regular basis. All mulched landscaped areas shall remain mulched and free of weeds and dead plants.

R. Obligation to Keep Lot in Good Condition. Each Lot Owner or Occupant shall keep each Lot and all Structures thereon in such maintenance, repair, appearance and condition as shall comply with the provisions of these covenants and restrictions, and with applicable laws and ordinance(s).

S. Obstruction of Easement Areas. No structure, planting or other material other than driveways or sidewalks shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement or the installation or maintenance of utilities or which may change, obstruct, or retard direction or flow of any drainage channels in the easement area. The easement area of each Lot and all improvements in the easement area shall be maintained by the Lot Owner except for those improvements for which a public authority, or utility company is responsible. No structure, planting or other material shall be placed or permitted to remain on any landscape easement area, monument entry/sign easement area and easements areas granted to the Association unless installed or approved by the Developer or the Association. Those easement areas shall be maintained by the Lot Owner unless otherwise provided for in this Declaration or by the Association.

T. Storm Water Detention Pond Areas. The areas designed as storm water detention pond areas will be constructed and maintained by the Developer until such time that they are inspected, receive final approval and are accepted by **Kenton County** or the applicable governmental or public agency for maintenance and upkeep. The Lot Owner and/or Builders in **Alderbrook Subdivision** may not alter the construction of land topography within the said storm water detention pond areas. After the Control Period Special Meeting, the Association shall be responsible for the maintenance unless and until maintenance is taken over by the applicable governmental or public agency.

U. Street Landscaping. It is each lot owner's responsibility to maintain without limitations all landscaping, i.e. trees, bushes, flowers, mulch beds, weed free, planted in the right-of-way adjacent to all public roads. The Developer and/or Builder is permitted to enter upon sold lots to add to or create additional street landscaping in the right-of-way at anytime. This landscaping can be added to or altered at any time during construction of homes within the **Alderbrook Subdivision**. The cost of adding this landscaping is at the sole cost of the Builder.

V. Architectural Review.

(1) Alteration of Dwelling Unit and Structures. Except for initial construction of Dwelling Units, Accessory Structures and Common Elements by either Developer and/or a Developer-approved Builder, no building fence, wall, deck, satellite dish or other structure shall be commenced, constructed, erected, placed, moved onto or permitted to remain on any Lot, nor shall any Dwelling Unit and/or Structure on any Lot be remodeled, painted or altered or expanded in any way which changes the exterior appearance thereof, unless detailed plans and specifications therefor shall have been submitted to and approved in writing by the Board. Such plans and specifications shall be in such form and shall contain such information as the Board may reasonably require, including, but not limited to, any or all of the following: a site plan; patio and walkway locations; description of materials; location of lighting; architectural plans including cross-sections, floor plans and elevations; and evidence of conformity with building codes. The Board shall either approve the plans and specifications, disapprove them, or approve them with conditions or qualifications.

(2) Approval of Plans and Specifications. The Board shall approve plans and specifications submitted to it with respect to any Lot (or subdivision of Lots) if it finds that they comply with the requirements of Section V(1) above, will further the purposes outlined in this Declaration and meet Architectural Guidelines adopted by the Board. Upon final approval thereof, a certified copy of the detailed plans and specifications shall be deposited for permanent record with the Board and a copy bearing the written approval of the Board shall be returned to the applicant. Approval by the Board of plans and specifications with respect to any Lot shall not impair the Board's right subsequently to approve a requested amendment of such plans and specifications relating to such Lot (subject to the requirements of this Section). The Board's approval of any plans and specifications shall not constitute a representation or warranty as to the quality of the plans and specifications or their compliance with applicable laws and codes. Until the Control Period Special Meeting, as outlined in Article III, Section 5, Developer shall continue to approve all sites where new homes are to be built or under construction within the Subdivision.

(3) Architectural Guidelines. The Board may adopt reasonable architectural guidelines and rules relating to the construction, erection and placement of buildings, fences, walls and structures in order to fulfill its obligations under this Section V. Such guidelines and specifications may include but not be limited to building materials, minimum or maximum sizes, dimensions or heights, color schemes, material finishes, locations, setbacks or other reasonable requirements.

(4) Disapproval of Plans and Specifications. If plans and specifications (whether schematic, preliminary or detailed) submitted to the Board with respect to any Lot do not comply with the Architectural Guidelines, if any, and the requirements of Article IX, Section V(1) as to the information required to be included in the plans and specifications, the Board shall either disapprove such plans and specifications or approve them subject to such conditions and qualifications as the Board may deem necessary to achieve compliance.

(5) Failure of the Board to Act. If the Board shall fail to act upon any plans and specifications submitted to it within ninety (90) days after submission thereof, such plans and specifications shall be deemed to have been approved as submitted, and no further action by the Board shall be required. If construction of a Structure is not commenced on a Lot on or before six (6) months from the date of submission of plans and specifications, then such "deemed approval" shall be automatically canceled and a new submission shall be required.

(6) Violations. If any Dwelling Unit and/or Structure situated upon any Lot shall have been constructed, erected, placed, remodeled or altered other than in accordance with the approved plans and specifications, the Board shall give notice of a Default to the Owner of the Lot involved, provided, however, that the Board may, upon such conditions as it may determine, waive any such Default if it finds that such Default does not substantially conflict with the policies of the Board.

(7) Enforcement. In the event of a violation of the provisions of this Section V, the Association shall have the right to enforce this Section by instituting a fine policy, in addition to enforcing any proceedings authorized in this Declaration, By-Laws or rules and regulations, if any, as well as any other relief available at law or in equity.

(8) Right of Entry. The Board through its authorized officers, employees and agents, shall have the right to enter upon any Lot at all reasonable times for the purpose of ascertaining whether such Lot or the construction, erection, placement, remodeling or alteration of any Dwelling Unit and/or Structure thereon is in compliance with the provisions of this Section, without the Board or such officer, employee or agent being deemed to have committed a trespass or wrongful act solely by reason of such action or actions.

(9) Fees. The Board may charge reasonable fees for the processing of plans and specifications. Such fees may cover the cost of such processing, including inspection costs. Such fees shall be payable at the time of submission of the respective item for approval and shall be paid to the Association.

(10) Approval of Plans by Developer. Notwithstanding anything to the contrary in this Article IX, Section V, until the Control Period Special Meeting, the plans and specifications for the initial construction of a Dwelling Unit shall be subject only to Developer's approval and do not need to be approved by the Board.

W. Common Private Driveway Easements. Lots sharing a common private driveway easement shall be subject to and benefited by a perpetual non-exclusive easement for ingress and egress over a common private driveway. The Owners of such Lots shall use the common private driveway situated on the easements with due regard for the rights of any other Owner and their use of such driveway. No Owner shall use or permit the use of the driveway in a manner which impairs the right of way of any other Owners to its use, nor shall any Owner park or store vehicles or personal property on, or obstruct or encroach upon, or permit the use

of, or permit the obstruction or encroachment upon, the common private driveway in any manner whatsoever without the concurrence of all Owners entitled to use the common private driveway.

The Owners using the common private driveway shall share equally in the expense and cost of maintaining, improving and repairing the common private driveway, except that any damage other than ordinary wear and tear caused by any other Owner, or any other party claiming through such Owner, whether by negligence or willful misconduct, shall be repaired at the expense of such Owner. The driveway shall be maintained in good order and repair and in a condition subsequently similar to that of its original construction. Upon conveyance of a Lot, the grantor of such Lot shall be, as of the closing date for such conveyance, relieved of the obligation to share in the expense and cost of future maintenance and repair imposed hereby, and those obligations shall bind thereafter the grantee of said conveyance. The grantor shall, however, be obligated personally during his/her period of ownership for expense and costs incurred for maintenance and repair of the driveway. Maintenance expense of any common private driveway shall also include snow plowing if a majority of Lot Owners served by a common private driveway agree to incur expenses for snow plowing services. The obligations and responsibilities for the enforcement of the provisions contained within this Section shall fall upon the Lot Owners served and benefited by the common private driveway and shall not be an obligation or responsibility of the other Lot Owners.

ARTICLE X

INDEMNIFICATION OF OFFICERS, DIRECTORS AND MEMBERS OF THE ASSOCIATION

1. Every officer and director of the Association shall be indemnified by the Association against all expenses and liability, including attorneys' fees, incurred by or imposed upon him or her in connection with any proceeding to which he or she may be a party or in which he or she may become involved by reason of his otherwise being or having been an officer, director or member of the Association, whether or not he or she is an officer, director or member of the Association at the time such expenses are incurred. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such officer, director or member of the Association may be entitled.

ARTICLE XI

GENERAL PROVISIONS

1. **Assignment.** Any or all of the rights, powers and obligations, easements and estates reserved by or granted to the Developer or the Association may be assigned by the Developer or the Association, as the case may be. Any such assignment or transfer shall be made by an appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its consent to such assignment and its acceptance of the rights and power, duties and obligations therein contained. Such assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to the Developer and/or the Association. After such assignment, Developer and the Association shall be relieved and released of all obligations with respect to such rights, powers, obligations, easements or estates.

2. **Duration and Amendment.** The covenants and restrictions herein enumerated (other than those specifically designated otherwise) are for the benefit of the Owners of all Lots in the subdivision and shall run with the land for twenty (20) years from date of execution and shall be automatically extended for successive periods of ten (10) years. Notwithstanding the foregoing, during the Development Period, Developer shall retain the right to amend this Declaration of Covenants, Conditions and Restrictions for Alderbrook Subdivision without the consent of any other Owners. In addition, at such time as the Developer no longer owns any lot or lots within the subdivision, the then lot Owners with at least fifty-one (51%) percent majority vote of the lot Owners (with each lot having one vote) may amend or modify this Declaration of Covenants, Conditions and Restrictions for Alderbrook Subdivision in whole or in part.

3. **Disputes and Arbitration.** In the event of any difference or dispute of any nature whatsoever (excluding assessment issues which are not subject to arbitration) in any way relating to this Declaration of Covenants, Conditions and Restrictions for Alderbrook Subdivision as between any parties subject to this instrument or their successors, heirs or assigns, the parties shall mutually endeavor to adjust and settle their differences; and in the event of their failure to do so the dispute shall be referred to an arbitrator whose determination in writing shall be binding, final and conclusive upon the parties. The parties shall agree upon an arbitrator. In the event the parties cannot agree upon an arbitrator or refuse to cooperate in arbitration all issues in dispute shall be referred to binding arbitration under the Uniform Arbitration Act as provided for in KRS 417.045 ET. Seq. The costs of arbitration including reasonable attorney's fees, shall be assessed against the party or parties by the arbitrator upon such terms as the arbitrator deems to be equitable given all the facts and circumstances.

In the case of any lot Owner's failure to obtain the necessary approval of the Developer for any action set forth herein with respect to the improvement of any lot in the subdivision, the Developer may seek enforcement of these restrictions after giving the allegedly offending Lot Owner thirty (30) days written notice of any such alleged violation or breach with the right to cure. Enforcement shall thereafter be by means of enforceable binding arbitration sought by the Developer or Builder pursuant to the provisions hereof.

4. **Decisions of the Developer.** Wherever in this Declaration of Covenants, Conditions and Restrictions for Alderbrook Subdivision or otherwise Developer has been granted or has reserved the right to approve some aspect of the improvement of a lot or enforce these restrictions, the exercise or failure to exercise such rights or enforce the restrictions, shall not be construed as giving any other lot Owners of this subdivision any rights, either legal or equitable, against the Developer for the exercise or failure to exercise such rights or failure to enforce the restrictions. The Developer has the sole and exclusive right to make decisions regarding the development of this subdivision. The decision of the Developer shall be final, binding, and conclusive upon all persons whomsoever. Developer may assign its rights hereunder to an agent or other assignee which may in the Developer's discretion be a homeowners association formed at the expense of the lot owners if they so unanimously elect to form such an association.

5. **Survival Clause.** Invalidation of any of the covenants and restrictions hereinbefore enumerated by judgment or court order shall not affect the validity of the remaining covenants and restrictions.

6. **Covenants Running with the Property.** The agreements, covenants, conditions, restrictions, Assessments, liens and other provisions contained herein shall constitute a servitude upon the Property and each portion thereof, shall run with the Property, shall be binding upon the Owners of any portion thereof, and shall inure to the benefit of Developer, the Association and the Owners.

7. **Enforcement.** Enforcement of the covenants, restrictions, conditions, obligations, reservations, rights, powers, Assessments, liens and other provisions contained herein shall be by a proceeding at law or in equity against any person or entity violating or attempting to violate same and/or against the Property subject hereto to enforce any lien created by this Declaration. In the event that Developer or the Association fail to enforce the terms of this Declaration, then any Member may do so. The failure or refusal of the Developer, the Association or any Member to enforce any of the provisions of this Declaration shall in no event be deemed to constitute a waiver of the right to do so hereafter. The cost of any such litigation shall be borne by the Owner in violation, provided that such proceeding results in a finding that such Owner was in violation of the covenants and restrictions contained herein.

8. **Developer's Rights.** Notwithstanding any other provision in this Declaration to the contrary, Developer is irrevocably empowered to sell or lease Single Family Residences and/or Lots on any terms to any purchasers or lessees, for so long as it owns any property in the Subdivision. Also, for so long as Developer owns or has any use rights to any property subject to this Declaration, Developer and/or Registered Builders shall have the right to transact any business necessary to consummate sales of property throughout the Subdivision including, but not limited to, the right to maintain offices on the Property, or Homeowners' Association Property, in locations to be selected by the Developer, to have employees in such offices, to construct and maintain other structures or appurtenances which are necessary or desirable for the development and sale of property throughout the Subdivision, including without limitation, sales models and parking lots; to post and display a sign or signs on any Single Family Residences and/or Lots owned by Developer or on the Homeowners' Association Property.

9. **Notices.** Any notice required or permitted to be given by this Declaration shall be given or made in writing by personal delivery or by certified mail addressed as follows:

To The Developer and
the Association at:

Manor Lake, LLC
10847 Omaha Trace
Union, Kentucky 41091
Attention: J.J. Miller

As additional property is subjected to this Declaration by amendment to the Declaration, the address of the governing Association shall be set forth in such amendment. Any notice given in accordance with the provisions of this subsection shall be deemed to be effective, if personally delivered, on the date of such delivery, or if mailed by registered or certified mail, on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be. Each party may give notice to each of the other parties of a change of its address for the purpose of giving notice under this subsection, which thereafter, until change by like notice, shall be the address of such party for all purposes of this Declaration.

10. **Plats.** In addition to this Declaration, the Property shall be subject to the additional covenants, restrictions, reservations and other terms and provisions set forth in the plats of portions of the Property, which are recorded or to be recorded in the **Kenton County Clerk's office at Independence, Kentucky.**

11. **Captions.** The captions used in this Declaration and the exhibits annexed hereto are inserted solely as a matter of convenience and shall not be relied upon or used in construing the text of this Declaration or any exhibits hereto.

12. **Gender and Number.** The use of the singular herein shall include the plural and the use of any gender shall include all genders.

13. **Severability.** Invalidation of any one of the covenants or restrictions contained herein by judgment or court order shall in no way affect any other provision hereof, which shall remain in full force and effect.

14. **Effective Date.** This Declaration shall become effective upon its recordation in the **Kenton County Clerk's office at Independence, Kentucky.**

IN WITNESS WHEREOF, Developer has also caused this Declaration to be executed this 5th day of JUNE, 2009, by and through **J.J. MILLER**, its Manager, pursuant to a duly passed Resolution.

MANOR LAKE, LLC
A Kentucky Limited Liability Company

By: [Signature]
J.J. MILLER (its Manager)

STATE OF Kentucky)
) SS:
COUNTY OF Kenton)

The foregoing instrument was acknowledged before me, a Notary Public, by **MANOR LAKE, LLC, a Kentucky Limited Liability Company**, by and through **J.J. MILLER**, its Manager, this 5th day of JUNE, 2009.

[Signature]
Notary Public
Print Name: Laurie Rolf
Comm. Expires: Feb. 6, 2011



THIS INSTRUMENT PREPARED BY:
[Signature]
MICHAEL M. SKETCH
ADAMS, STEPNER, WOLTERMANN
& DUSING, P.L.L.C.
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