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**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
SUNSET GARDENS SUBDIVISION
Jefferson County, Kentucky**

This Declaration of Covenants, Conditions and Restrictions for Sunset Gardens Subdivision (this "**Declaration**") is made as of December __, 2006, by ALLSTATE BUILDERS, INC., a Kentucky corporation, 630 Bruce Avenue, Louisville, Kentucky 40208 ("**Developer**").

WHEREAS, Developer is the owner of certain real property in Jefferson County, Kentucky, which is to be developed as a residential subdivision known as Sunset Gardens;

NOW, THEREFORE, Developer declares that the property described in this Declaration shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of the real property. The easements, restrictions, covenants and conditions shall run with the real property and be binding on all parties having any right, title or interest in it, their heirs, successors and assigns, and shall inure to the benefit of each owner. Certain restrictions, covenants and conditions in Article IV and Article V are applicable only to the lots described in those Articles while all other restrictions covenants and conditions are applicable to all lot subject to this Declaration.

**ARTICLE I
PROPERTY SUBJECT TO THIS DECLARATION**

The real property (the "**Property**") which is subject to this Declaration is located in Jefferson County, Kentucky, and is more particularly described as follows:

BEING Lots 1 through 69 inclusive (individually, a "Lot" and collectively, the "Lots") as shown on the plat of Sunset Gardens, of record in Plat and Subdivision Book 52, Page 13, in the Office of the Clerk of Jefferson County, Kentucky, together with Open Space Lot 70 as shown on that plat.

BEING property acquired by Allstate Builders, Inc., by deed dated October 12, 2005, of record in Deed Book 8714, Page 95, and see deed dated February 8, 2006, of record in Deed Book 8780, Page 77, in the office of the Clerk of Jefferson County, Kentucky.

**ARTICLE II.
USE RESTRICTIONS**

2.1. **Primary Use Restriction.** No Lot shall be used except for private, single family residential purposes. No structure shall be erected, placed, altered or permitted to remain on any Lot except private residential dwellings.

2.2 Building Materials; Builders.

(a) Except as provided in this Section 2.2, the exterior building material of all structures shall be either brick, stone, brick veneer, stone veneer, vinyl or other siding, or a combination of same. Developer recognizes that the appearance of other exterior building materials (such as stucco or stucco like materials) may be attractive and innovative and reserves the right to approve in writing the use of other exterior building materials. Also, depending on the overall design of the structure, Developer intends to approve the use of siding or other materials in limited areas such as gables, garage eaves, cantilevers and the like.

(b) Developer reserves the right of prior approval of each general contractor, contractor, or builder which proposes, or is contracted with, hired or otherwise retained by any owner, to build a residential structure on any Lot, which approval must be obtained prior to the commencement of any such construction in Sunset Gardens. Developer reserves the right of prior approval in order to ensure (i) the maintenance of quality construction within Sunset Gardens, (ii) that the economic value of other Lots and structures within Sunset Gardens will not be impaired by the construction of residential structures not of the comparable quality, and (iii) the maintenance of the aesthetic quality of Sunset Gardens. Developer's approval of any general contractor or builder for any particular Lot shall not be considered approval to build on any subsequent Lot, nor does the Developer waive any right to disapprove any general contractor or builder on any subsequent Lot because of approval on a previous Lot.

(c) Any approval by Developer of any general contractor, contractor or builder shall in no manner whatsoever serve as a guarantee, warranty or representation of the quality of workmanship by said general contractor, contractor or builder, or of the ability of said general contractor or builder to fully perform the work for which the owner contracted, nor the owner's satisfaction therewith.

2.3. **Setbacks.** No structure shall be located on any Lot nearer to the front Lot line or the street side Lot line than the minimum building setback lines shown on the recorded plat of Sunset Gardens, except that steps may project into said areas, and open porches may project into said areas but not more than six (6) feet. Developer may vary the established building lines, in its sole discretion, where not in conflict with applicable zoning regulations.

2.4. **Clothes Lines; Fences and Walls; Antennae and Receivers/ Transmitters; Firewood; Mailboxes.**

(a) No outside clotheslines shall be erected or placed on any Lot.

(b) No fence or wall of any nature may be extended toward the front or street side property line beyond the front or sidewall of the residences. All fences, as structures, are subject to prior written plan approval by Developer. The owner of any Lot on which any fence is constructed, whether the owner or Developer constructed the fence, shall be obligated to maintain such fence and keep such fence in a neat appearance.

(c) No exterior antenna (except for a standard small television antennae not to exceed five (5) feet in height) or microwave or other receivers and transmitters (including those currently called "satellite dishes") shall be erected or placed on any Lot unless the site design, screening and placement are approved in writing by Developer.

(d) No firewood shall be stored in a location that is visible from the front of the Lot on which it is stored.

(e) All mailboxes and paper boxes shall be of a uniform style provided by Developer (at the cost of the Lot owner).

(f) No more than one ornamental yard object, statuary, sculpture or similar items may be placed on any Lot unless the design and placement are approved in writing by Developer (or the Community Association after Developer assigns this approval right to the Community Association).

(g) No furniture other than lawn furniture may be placed on any Lot and lawn furniture may be placed only in the rear yard of a Lot except when being used. Grills may only be placed and used in the rear yard of a Lot.

2.5. Use of Other Structures and Vehicles.

(a) No structure of a temporary character shall be permitted on any Lot, except temporary tool sheds, or field or sales offices used by a builder with the written approval of Developer, or sales or field offices used by Developer, which shall be removed when construction or development is completed.

(b) No outbuilding, trailer, basement, tent, shack, garage, barn or structure other than the main residence erected on a Lot shall at any time be used as a residence, either temporarily or permanently.

(c) No trailer, boat, truck (except SUVs and pickup trucks weighing less than 7,000 pounds), recreational vehicle or other vehicle, except an automobile and except SUVs and pickup trucks weighing less than 7,000 pounds, shall be parked on any street or alley in Sunset Gardens, for a period in excess of an aggregate of 48 hours in any calendar year. No trailer, boat, truck, recreational vehicle or other vehicle, including an automobile and including SUVs and pickup trucks weighing less than 7,000 pounds, shall be parked, placed or stored anywhere on any Lot in Sunset Gardens at any time, including in any yard or driveway of a Lot, excepting only (I) that all such vehicles may be parked in a garage with the garage door closed when not in use, (II) that automobiles, SUVs and pickup trucks weighing less than 7,000 pounds may be parked in a driveway at any time, and (III) that a trailer, boat, truck, recreational vehicle or any other vehicle may be parked in a driveway for a period of time not to exceed 24 consecutive hours and not to exceed an aggregate of 48 hours in any calendar year.

(d) No vehicle shall be habitually or continuously parked on any street or right-of-way in Sunset Gardens.

2.6. **Nuisances.** No noxious or offensive activity shall be conducted on any Lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

2.7. **Animals.** No animals, including reptiles, livestock or poultry of any kind, shall be raised, bred or kept on any Lot for any commercial purposes; provided, however, that dogs, cats or other household pets (meaning the domestic pets traditionally recognized as household pets in the Louisville Metro area) may be kept, providing they are not kept, bred or maintained for any commercial purposes. All household pets, including dogs and cats, shall at all times be confined to the Lot occupied by the owner of such pet; provided, however, that household pets may be walked within Sunset Gardens, so long as such animals are leashed and are at all times under the control of a resident. Dog owners shall remove animal waste from the yards of other owners. The Community Association may impose and collect fines (including collection by placing a lien on the offending owner's Lot and improvements) for violations of this provision.

2.8. **Disposal of Trash.** No Lot shall be used or maintained as a dumping ground of rubbish, trash or garbage. Trash, garbage or other waste shall not be kept except in sanitary containers. No trash, garbage or other waste in sanitary containers shall be kept or allowed to remain outside, except same may be placed outside after 5:00 p.m. of the evening before any regular trash or garbage collection day, and until same is collected on said day.

2.9. **Drainage.** Drainage of each Lot shall conform to the general drainage plans of Developer for Sunset Gardens. No storm water drains, roof downspouts or ground water shall be introduced into the sanitary sewage system. Plumbing connections on each Lot shall be made with watertight joints in accordance with all applicable plumbing code requirements.

2.10. **Business; Home Occupations.** No trade or business of any kind (including any practice of medicine, dentistry, chiropody, osteopathy and other like endeavors) shall be conducted on any Lot, except only licensed in-home day care services. Notwithstanding the provisions hereof or of section 2.1 of this Declaration, a new house may be used by a builder thereof as a model home for display or for the builder's own office. Also, until such time as Developer has sold all of its Lots in Sunset Gardens, Developer may maintain a sales office within Sunset Gardens.

2.11. **Signs.** No sign for advertising or for any other purpose shall be displayed on any Lot or on a building or a structure on any Lot, except one sign for advertising the sale thereof, which sign shall not be greater in area than nine (9) square feet: provided, however, Developer shall have the right to (i) erect larger signs when advertising Sunset Gardens, (ii) place signs on Lots designating the lot number of any Lot, and (iii) following the sale of a Lot, place signs on such Lot indicating it has been sold and the name of the purchaser of that Lot. This restriction shall not prohibit placement of occupant name signs and lot numbers as allowed by applicable zoning regulations.

2.12. **Underground Utility Service.**

(a) Each Lot owner's electric utility service lines shall be underground at locations designated by Louisville Gas & Electric (LG&E) throughout the length of service from LG&E's point of delivery to customer's building, and title to the service lines shall remain in, and the cost of installation or maintenance thereof shall be borne individually by, the respective owner upon which said service line is located.

Appropriate easements are hereby dedicated and reserved to each property owner, together with the rights of ingress and egress over abutting Lots or properties to install, operate and maintain electric service lines to LG&E's termination points. Electric service lines, as installed, shall determine the exact location of said easements.

The electric and telephone easements shown on the Plat referenced in Section 1.1 hereof (the "Plat") shall be maintained and preserved in their present condition and no encroachment therein and no change in the grade or elevation thereof shall be made by any person or owner without the express written consent of LG&E and BellSouth Corporation and their respective successors and assigns.

(b) Easements for overhead electric transmission and distribution feeder lines, poles and equipment appropriate in connection therewith are reserved over, across and under all spaces (including park, open and drainage space area) outlined by appropriate lines on the plat and designated for underground and overhead facilities.

Above ground electric transformers and pedestals may be installed at appropriate locations in electric easements where described and directed by Developer.

In consideration of LG&E bringing service to the property, it is granted the right to make further extensions of its lines from all overhead and underground distribution lines.

(c) The electric and telephone easements hereby dedicated and reserved to LG&E and BellSouth Corporation, as shown on the Plat, shall include easements for the installation, operation and maintenance of cable television service to the owners, including the overhead and/or underground installation and service of coaxial cables, cable drop wires, converters, home terminal units and other necessary or appropriate equipment, as well as easements for the installation, operation and maintenance of future communication, telecommunication and energy transmission mediums, including but not limited to internet lines.

2.13 Approval of Construction, Fencing and Landscaping Plans.

(a) No structure may be erected, placed or altered on any Lot (except by Developer) until the construction plans and building specifications and a plan consisting of (i) a survey of the Lot prepared by a land surveyor, licensed in the Commonwealth of Kentucky; (ii) the location and specifications of all improvements including any building, fence, wall or other structure on the Lot; (iii) the grade elevation (including rear, front and side elevations); (iv) the type of exterior materials (including delivery of a sample thereof if requested by Developer); (v) the location and size of the driveway, which shall be concrete, and (vi) such other data as the Developer may request shall have been approved by Developer in its sole discretion. In addition

to the foregoing, no structure may be erected, placed or altered on any Lot until a lot plan depicting the location of all improvements, setbacks and easements has been approved by Developer in its sole discretion. In reviewing any proposed structure, Developer shall have the right to take into consideration the suitability of the structure to the site, the harmony thereof with the surroundings, and the effect of the structure on the view from adjacent or neighboring Lots. Developer, in its sole discretion, shall have the right to accept or reject construction plans and building specifications solely on the basis of aesthetics.

(b) References to "Developer" in this Declaration shall include any entity, person or association to whom Developer may assign its rights and responsibilities, including these rights of approval. References to "structure" in this Section 2.13 shall include, but not be limited to, any building (including a garage), fence, sheds, walls, antennae (except for standard small television antennae not exceeding five (5) feet in height), microwave and other receivers and transmitters (including those currently called "satellite dishes"), swimming pool(s), tennis court(s) and mail and paper boxes. If any swimming pool is approved, it shall be fenced in accordance with applicable law and ordinances or in accordance with standards imposed by Developer or the Community Association, whichever is more restrictive.

ARTICLE III ASSOCIATION AND COMMON AREAS

3.1. **Community Association and Membership.** Developer has incorporated as a not-for-profit corporation under the laws of the Commonwealth of Kentucky named "Sunset Gardens Community Association, Inc.", or a similar name (the "**Community Association**"). Developer and every owner of a Lot in Sunset Gardens shall be a member of the Community Association. Such owner and member shall abide by the Community Association's Articles of Incorporation, Bylaws, rules and regulations, shall pay the assessments provided for in this Declaration when due, and shall comply with decisions of the Community Association's Board of Directors. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment.

3.2. **Common Area.** Every Lot owner in Sunset Gardens shall have a right and easement of enjoyment in and to any "Common Area", which right and easement shall be appurtenant to and shall pass with the title to every Lot. The term "Common Area" shall mean and refer to all roadways, walkways, islands in rights of way, boulevards, access easements, open spaces (as designated on the plat of Sunset Gardens), wetlands and tree canopy protection areas together with all improvements constructed or to be constructed by the Community Association (as defined herein) but excluding any areas dedicated to the public. The Common Area includes the areas where signature entry features are located even though on a Lot, which areas are shown on the plat of Sunset Gardens as "20' x 24' signature entrance wall & landscape esmt" on Lot 21, as "25' x 24' signature entrance wall & landscape esmt" on Lot 22, and as "signature entrance wall & landscape esmt" on Lot 1.

The right of enjoyment is subject to the following provisions:

(a) The right of the Community Association to permit or regulate the use of any facilities situated within Common Area.

(b) The right of the Community Association to borrow money for the purpose of improving the Common Area or for constructing, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage on all or part of the Common Area.

(c) The right of the Community Association to suspend the voting rights and the right to use and enjoy the Common Area, by any Lot owner for any period during which an assessment against the owner's Lot remains unpaid, and for a period of time for any infraction of its published rules and regulations.

(d) The right of the Community Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Community Association. Developer may dedicate utility or service easements in its sole discretion so long as Developer owns any Lots in Sunset Gardens.

(e) The right of the Community Association to make rules and regulations governing the use of the Common Area.

(f) Common Areas shall not be dedicated to a unit of local government without the acceptance of the unit of local government involved and the approval of the Louisville and Jefferson County Planning Commission, or its successors or assigns. The Community Association may not amend this restriction without approval from the Louisville and Jefferson County Planning Commission, or its successors or assigns.

(g) Anything to the contrary herein notwithstanding, the Community Association and the Lot owners shall be responsible for the maintenance of all Common Area and common open space, so long as the subdivision is used as a residential subdivision or until properly dedicated to a unit of local government. This provision shall not be amended.

3.3. Delegation of Use. Any Lot owner may delegate, in accordance with the Community Association's bylaws or rules and regulations, his or her right of enjoyment to the Common Area and facilities to the members of his or her family or to tenants or contract purchasers who reside on that owner's Lot. Membership in the Community Association may not be conveyed separately from ownership of the Lot.

3.4. Community Association's Right of Entry. The authorized representative(s) of the Community Association or its Board of Directors shall be entitled to reasonable access to the individual Lots as may be required in connection with the preservation of property on an individual Lot or in the event of an emergency or in connection with the maintenance of, repairs or replacements within the Common Area, or any equipment, facilities or fixtures affecting or serving other Lots or the Common Areas or to make any alteration required by any governmental authority.

3.5. Assessments and Fees; Creation of Lien and Personal Obligation. Each Lot owner, except Developer, by acceptance of a deed for a Lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Community Association (i) annual fees, assessments or charges, and (ii) special assessments for capital improvements, such assessments to be established and collected as provided in this Article III. Developer shall be responsible for the maintenance costs of the Community Association incurred over and above assessed amounts payable to the Community Association by Lot owners, until Developer transfers control of the Community Association to the Lot owners. The annual and special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on each owner's Lot and improvements thereon and shall be a continuing lien upon such property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessment shall not pass to an owner's successors in title unless expressly assumed by the successor; provided, however, the lien shall remain effective against a Lot for delinquent assessments notwithstanding any transfer of the Lot.

The first owner of a Lot, other than Developer, shall pay at the time of closing the annual fee for the year of closing prorated for the remainder of the calendar year in which closing occurs. Failure of the first owner to pay this fee at closing, through oversight of the Developer or closing attorney or otherwise, shall not relieve the owner from paying that amount as soon as the oversight is discovered. The annual fee may be established from year to year pursuant to Section 3.7 below.

3.6. Purpose of Assessments. The assessments levied by the Community Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose, including without limitation street lights, if any, in Sunset Gardens, entry features, and for the use and enjoyment of the Common Area, including but not limited to the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the Bylaws of the Community Association, the employment of attorneys, accountants and other professionals to represent and advise the Community Association, and such other needs as may arise, and for the improvement and maintenance of the Common Area. The Community Association shall maintain, operate and repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the Common Area. Until Class B membership ceases and is converted to Class A membership pursuant to Section 3.12 of this Article III, Developer or its nominee shall administer the assessments and receipts of the Community Association, which may only be used for the purposes set forth in this Declaration.

3.7. Assessment Amounts. The Board of Directors of the Community Association may fix the annual assessment at an amount determined by the Board to be reasonably necessary to meet the budgeted expenses of the Community Association. The Board of Directors shall determine when the assessment shall be due, and whether the assessment shall be paid monthly,

quarterly or annually. The Board of Directors may establish from such assessments a reserve account.

3.8. Special Assessments. In addition to the annual, regular assessments authorized above, the Community 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, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto. As determined by the Board of Directors, any such special assessment may be payable in a lump sum or the Board of Directors may allow installment payments, such installment payments to bear interest at a rate set by the Board of Directors.

3.9. Uniform Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for all Lots except those owned by Developer. Developer may in Developer's sole discretion waive the assessment for a period of time for Lots on which a house is being constructed and that is not occupied as a residence.

3.10. Effect of Non-Payment; Remedies. Any assessment not paid by the due date shall bear interest from the due date at a rate of interest established from time to time by the Board of Directors of the Community Association. Until such rate is established, the interest rate shall be 10% (unless such rate is usurious under applicable law, in which event the interest rate shall be automatically deemed to be the maximum rate allowed by applicable law). The Community Association may bring an action at law against the owner personally obligated to pay the assessment, and/or the Community Association may foreclose the lien against a nonpaying Lot owner's Lot and improvements thereon, and interest, cost and reasonable attorney fees of such action or foreclosure shall be added to the amount of such assessments. No owner may waive or otherwise escape liability for the assessments by nonuse of the Common Area or abandonment of a Lot.

3.11. Subordination to Mortgages. The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in this Declaration. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien.

3.12. Classes of Membership. The Community Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all Lot owners, with the exception of Developer (until conversion of the membership as set forth below), and shall be entitled to one vote for each Lot owned. If more than one person or entity owns a Lot, they shall vote their vote together and if they cannot agree, no vote shall be cast. No votes may be split.

(b) Class B. The Class B member shall be Developer. Developer shall be entitled to one vote for each Lot in any Phase of Sunset Gardens, including Lots sold or conveyed to third parties. The Class B membership shall cease and be converted to Class A membership on the happening of the earliest of the following events: (i) December 31, 2015; (ii)

when 100% of all Lots in Sunset Gardens have been conveyed to third parties, or (iii) when Developer elects to convert Class B membership to Class A membership.

3.13 Tree Canopy Protection Areas. Any Tree Canopy Protection Areas and Wetlands designated on the plat attached hereto shall be permanently preserved in a natural state. No clearing, grading, or other land disturbing activity shall occur in the Tree Canopy Protection Areas except supplemental landscape planting, pruning to improve the general health of trees, removing dead or declining trees that pose a public health and safety threat, and clearing of under story brush to remove a public health and safety threat and except for the installation of sewers and drainage facilities.

Any tree or shrub removed in violation of this Declaration of Covenants, Conditions and Restrictions shall be replaced by the person who removed the tree or shrub within thirty (30) days. Trees planted to replace a tree that is improperly removed shall equal the diameter of the removed tree, and shrubs and under story vegetation shall be replaced using native species.

This Section 3.13 may be amended or released only with the prior approval of the Louisville Metro Planning Commission.

3.14 Other Maintenance Associations. The Property may include various types of residential properties, including single-family homes and patio homes. This Declaration applies to all of the Lots made subject to this Declaration, but additional covenants, conditions and restrictions are imposed on single family home tracts and patio home tracts as provided in Articles IV and V below. A separate maintenance association is established for the patio homes (the "Patio Homes Association" as defined in Article V) but the formation of Patio Homes Association, however, shall not relieve any Owner from its obligations to pay assessments as provided in this Article 3; provided, the Community Association may arrange for the additional associations, councils or apartment owners to collect the assessments provided for in this Declaration. The Community Association may contract with any additional associations, councils or patio home owners, or may jointly contract with the additional associations, councils, patio home owners and third parties for the purpose of accomplishing the obligations set forth in this Declaration.

3.15 Boards' Determination Binding. In the event of any dispute or disagreement between any Owners relating to the Property or the common area, or any questions of interpretation or application of the provisions of this Declaration or the Bylaws of the Community Association, the determination thereof by the Board of Directors of the Community Association shall be final and binding on each and all such Owners.

**ARTICLE IV
ADDITIONAL RESTRICTIONS, COVENANTS AND CONDITIONS FOR SINGLE
FAMILY RESIDENCES**

4.1 Single Family Property. The real property which is subject to this Article IV of this Declaration is located in Jefferson County, Kentucky, and is more particularly described as follows:

BEING Lots 1 through 31 inclusive, Lot 42, and Lots 52 through 69 inclusive, as shown on the plat of Sunset Gardens, recorded as set forth above.

Each of the Lots referred to in this Section IV is a "Single Family Lot" and are, collectively, the "Single Family Lots".

4.1.1 Primary Use Restrictions. No Single Family Lot shall be used except for private single-family residential purposes. No structure shall be erected, placed, altered or permitted to remain on any Single Family Lot except single family dwellings designed for the occupancy of one family.

4.1.2. Duty to Repair and Build. Each Single Family Lot owner shall, at the owner's sole cost and expense, repair his residence, keeping the same in condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear. If all or any portion of a residence is damaged or destroyed by fire, or other casualty, then owner shall, with all due diligence, promptly rebuild, repair or reconstruct such residence in a manner which will substantially restore it to the condition which existed immediately prior to the casualty.

4.1.3. Duty to Maintain Single Family Lot. After the date of purchase, it shall be the duty of each owner to keep the grass on the Single Family Lot properly cut, to keep the Single Family Lot free from weeds and trash and to keep it otherwise neat and attractive in appearance. This requirement includes, without limitation, performing such duties in all areas of the Single Family Lot subject to easements and all landscape buffer areas. Should any owner fail to do so, then Developer may take such action as it deems appropriate, including mowing, in order to make such Single Family Lot neat and attractive, and the owner shall, immediately upon demand, reimburse Developer or other performing party for all expenses incurred in so doing, together with allowable statutory interest, and Developer shall have a lien on that Single Family Lot and the improvements thereon to secure the repayment of such amounts. Such lien may be enforced by foreclosure against that Single Family Lot and the improvements thereon, but such lien shall be subordinate to any first mortgage lien thereon. The owner shall and does hereby indemnify and hold harmless Developer for any liability, loss or damage as a result of the entry by Developer onto the owner's Single Family Lot in accordance with this Section 4.1.3.

4.2 Minimum Floor Areas. The following shall be the minimum floor areas for homes constructed on the Single-Family Lots:

- (a) The total floor area of a one-story dwelling shall be a minimum of 1,000 square feet.
- (b) The total floor area for a two-story dwelling shall be a minimum of 1,100 square feet.
- (c) Basement areas (finished and unfinished), garages, decks and open porches shall not be included in calculating floor areas.

4.3 Garages; Carports.

Single Family Lots may have, but are not required to have, an attached or detached garage. Garages, as structures, are subject to prior plan approval under Section 4.4 of this Declaration. No carport shall be constructed on any Single Family Lot in Sunset Gardens.

4.4 Landscaping; Driveways; Trees; Sidewalks.

(a) After the construction of a residence, the owner shall promptly grade and sod the front yard and street side yard of the Single Family Lot and shall either grade and sod or grade, seed and straw the rear and side yards.

(b) Each owner shall concrete the driveway and the driveway apron up to the edge of the sidewalk prior to occupancy of a single-family dwelling. Any driveway which in Developer's determination restricts drainage by, over or into a roadway shall be removed and replaced by owner within twenty (20) days of demand for such removal and replacement by Developer at the sole cost and expense of owner. Each home without a garage is required to have a 10-foot wide driveway.

(c) Prior to occupancy of any residence and unless otherwise permitted by the express written approval of Developer, the owner shall cause to be planted four shrubs or bushes and at least one tree (at least two and one-half inches in caliper) in the front yard of the Single Family Lot. Developer retains the right, in its sole discretion, to determine the location of any and all trees on the Single Family Lot. No tree shall be removed from any Single Family Lot without the prior written approval of Developer.

(d) Upon an owner's failure to comply with the provisions of this Section 4.4, Developer may take such action as necessary to cause the owner to comply therewith or take such other actions as Developer shall deem appropriate, and the owner shall immediately, upon demand, reimburse Developer or other performing party for all expenses incurred in so doing, together with allowable statutory interest, and Developer shall have a lien on that Single Family Lot and the improvements thereon to secure the repayment of such amounts. Such lien may be enforced by foreclosure against that Single Family Lot and the improvements thereon; but such lien shall be subordinate to any first mortgage thereon.

(e) Each owner shall construct on that owner's Single Family Lot a four-foot (4 ft.) wide concrete sidewalk along the full length of the front Single Family Lot line, and where such Single Family Lot is a corner Single Family Lot, the sidewalk shall be constructed along the

full length of each Single Family Lot line adjacent to a right-of-way, all in accordance with applicable laws and regulations. Also, each owner shall construct a concrete sidewalk (with Developer having the right to approve other materials) from the front door of the residential house constructed on a Single Family Lot to either the driveway or the front sidewalk. Developer may waive the requirement set forth in the preceding sentence. Such sidewalks shall be concrete and of broom finish.

ARTICLE V ADDITIONAL COVENANTS, CONDITIONS AND RESTRICTIONS FOR PATIO HOMES

5.1 Patio Home Property. The real property which is subject to this Article V of this Declaration is located in Jefferson County, Kentucky, and is more particularly described as follows:

BEING Lots 32 through 41 inclusive, and Lots 43 through 52 inclusive, as shown on the plat of Sunset Gardens, recorded as set forth above.

5.2 Definitions.

a. "Patio Home Association" shall mean the not-for-profit corporation, known as the SUNSET GARDENS PATIO HOME ASSOCIATION, INC., incorporated under the laws of Kentucky for managing, maintaining and controlling the Patio Home Yards and Gardens and Maintenance Easement Areas in accordance with the provisions hereof.

b. "Patio Home Yards and Gardens" shall mean the areas dedicated to the exclusive use and benefit of each of the Patio Home Owners (as defined herein), their tenants, licensees and invitees, including, but not by way of limitation, lawns, gardens, and all necessary appurtenances to each such item and so designated by the Patio Home Association from time to time, but excluding the Residence except as otherwise expressly provided in this Declaration.

c. "Patio Home Lot" shall mean each Lot described in Section 5.1 above.

d. "Maintenance Easement Area" shall mean the Patio Homes Yards and Gardens (but excluding any portion thereof that is enclosed by a fence or that is not otherwise reasonably accessible to the Patio Home Association) and excluding the driveway and Residence except as expressly provided in this Declaration.

e. "Owner" shall mean the record owner, whether one or more persons or other legal entities, of all or any part of the fee simple title to any Patio Home Lot described herein, and improvements located thereon, but excluding a mortgagee having merely a lien or other security interest in the Owner's Patio Home Lot that constitutes a part thereof.

f. "Residence" shall mean the single family residence, garage and patio, if any, constructed on a Patio Home Lot.

g. "Residence Site" shall mean that portion of each Patio Home Lot on which each Owner's Residence is located.

5.3 Primary Use Restrictions. No Patio Home Lot shall be used except for single-family residential purposes, shall not be further subdivided and shall be subject to such limitations and conditions as may be contained herein or in the Patio Home Association's By-Laws.

5.4 Membership in Patio Home Association. Each owner of a Patio Home Lot shall be a member of the Patio Home Association in addition to membership in the Community Association and shall be entitled to the benefits and subject to the obligations of membership, but the Owners, if more than one, of each Patio Home Lot, shall be entitled to only one vote. Membership in the Patio Home Association shall be mandatory for the Owner or Owners of each Patio Home Lot and no Owner shall be permitted or allowed to disclaim said membership and the duties, obligations and benefits thereof nor withdraw from the Patio Home Association for any reason.

5.5 Suspension. The membership and right to vote of any Owner who is delinquent in the payment of any assessment or charge duly imposed by the Patio Home Association shall be suspended until such delinquency has been cured and any penalties reasonably imposed have been paid.

5.6 Qualifications. The Patio Home Association shall be the sole judge of the qualifications of its members and of their right to participate in the vote at its meeting and proceedings in accordance with its Articles of Incorporation and By-Laws. The exercise of voting rights, whether in person or by proxy, shall be governed by the By-laws of the Patio Home Association.

5.7 Developer's Voting Rights. Notwithstanding anything to the contrary contained herein, until Developer has sold the last Lot in Sunset Gardens or such earlier date as the Developer may determine, Developer shall exercise all voting rights in the Patio Home Association.

5.8 Land Entitled To Benefits. No land shall be entitled to any of the benefits, improvements or services provided by the Patio Home Association unless subjected to the terms and conditions of this Article V of this Declaration and to the assessments herein provided for; provided, however, nothing in this Article V shall be construed as dedicating any land for any purpose, to the public, except those specifically so dedicated of record, if any.

5.9 Additions To Land

Developer may from time to time add to the land subject to this Article V such other land owned by it, as it in its discretion may determine, which additional land shall be entitled to all of the benefits of the land initially subject hereto, including access to and use of the Patio Home Yards and Gardens and utility easements; provided, however, (i) any such additional land shall be subject to and bound by all of the terms and conditions of this Article V and any future modifications thereof.

5.10 Powers And Duties Of The Patio Home Association

5.10.1 Duties.

The Patio Home Association shall have the following duties:

(a) To maintain and repair the Patio Home Yards and Gardens and Maintenance Easement Areas (outside any fenced areas as set forth above), not including routine watering which is the responsibility of the Owners, and to replace items therein when necessary with items similar to those shown on the original plans, all of which includes but is not limited to grass areas, flower gardens, shrubs, trees, plants, landscaping, and to maintain and replace the roofs of Residences. With respect to roof repair and maintenance, each Owner is responsible for maintaining insurance on the Lot owner's roof and such insurance shall be used to repair any damage to an applicable roof caused by a casualty insured or that should be insured under a standard homeowners casualty insurance policy (including without limitation fire, earthquake and hail damage). The sole responsibility of the Patio Homes Association with respect to roofs is to repair and replace the roofs in the ordinary course and not to make repairs that are caused by the negligence of any Lot owner nor by damage that is or could be covered by a standard homeowners casualty insurance policy. When repairing or replacing a roof that is the Owner's responsibility under this section, each Owner shall use substantially the same roof style and roof materials as exist upon initial construction of the residence. Except as otherwise expressly provided herein, all other maintenance shall be performed by and shall be the responsibility of the Owner of each Patio Home Lot and Residence.

(b) To obtain and provide public liability insurance with respect to the Patio Home Association's activities and the Patio Home Yards and Gardens, as set forth herein in Article X.

(c) To do such other matters as may from time to time be necessary to maintain the quality and appearance of the Patio Home Yards and Gardens and Maintenance Easement Areas.

5.10.2 Powers.

The Patio Home Association shall have the following powers:

- (a) To fix, levy and collect assessments, both general and special and including reserves for roof repair or replacement, as Patio Home Yards and Gardens costs or otherwise, against each Owner and the Owner's respective Patio Home Lot as hereinafter set forth in Section 5.10, to perform its duty to maintain and repair the Patio Home Yards and Gardens and Maintenance Easement Areas and the roofs of Residences and to replace items therein when necessary.
- (b) To collect and pay as a Patio Home Yards and Gardens costs such special assessments as are levied against the Patio Home Yards and Gardens, as hereinafter set forth in this Section 5.10.

- (c) To collect as a Patio Home Yards and Gardens costs and pay the premiums for such public liability or other insurance deemed necessary by the Patio Home Association, as hereinafter set forth in Section 5.10.
- (d) To employ a Management Company to carry out in whole or in part the duties or powers of the Patio Home Association as set forth herein and to collect as a Patio Home Yards and Gardens cost and pay the fee of such Management Company, all as set forth in the By-Laws of the Patio Home Association.
- (e) To establish and publish such rules and regulations from time to time which it deems necessary or appropriate for the enjoyment by the Owners and for the protection of the Patio Home Yards and Gardens and Maintenance Easement Areas, and to amend said rules and regulations as it deems necessary or appropriate from time to time.
- (f) To perform, install and maintain any and all other functions, measures and items deemed necessary by the Patio Home Association for the convenience, benefit and enjoyment of the Owners, and to fix, levy and collect as a Patio Home Yards and Gardens cost or otherwise any assessments necessary to pay the cost of any and all of the foregoing.

5.11 Covenant For Maintenance Assessments; Creation of the Lien and Personal Obligation for Assessments.

Each Owner, by acceptance of the deed for the Owner's Patio Home Lot in Sunset Gardens, whether or not it shall be so expressed in any deed or other conveyance, is deemed to covenant and agree to pay to the Patio Home Association assessments or charges to be fixed, established, levied and collected at the times and in the amounts determined by the Patio Home Association, which assessments shall include but not be limited to the Patio Home Yards and Gardens costs described in Article V hereof and other items necessary for the maintenance, repair or replacement of the Patio Home Yards and Gardens and Maintenance Easement Areas, and any other expense of the Patio Home Association's carrying out its duties, powers and purposes. If there is more than one Owner of a particular Patio Home Lot, each such Owner shall be jointly and severally liable to the Patio Home Association for all assessments or charges against that particular Patio Home Lot. The assessments, both general and special, together with such late charge thereon and such costs of collection thereof as may be necessary, as hereinafter provided, shall be a charge on the land and any improvements thereon and shall be a continuing lien upon the Patio Home Lot against which each such assessment is made.

5.11.1 Payment of Assessments.

The assessment for each Patio Home Lot shall be established by the Patio Home Association on the basis that the assessments shall be borne equally by each Patio Home Lot, provided that so long as a Patio Home Lot is unimproved it may be assessed at a lower rate to reflect the lower level of services rendered. Assessments shall be due on the first day of each calendar quarter (or such other date as may be designated by the Patio Home Association in the notice of assessment) and shall be deemed delinquent after the fifteenth day following such due date. All computations

relating to obligations to be performed under this Declaration shall be accomplished in accordance with accepted accounting practices and, as part of the Patio Home Yards and Gardens cost, the Patio Home Association shall prepare, or cause to be prepared, a written report of its operations for each calendar year and a copy of such written report shall be given to the Owner of each Patio Home Lot.

5.11.2 Special Assessments.

Although it is intended that the assessments provided for in Sections 5.11.1 and 5.11.2 will be sufficient to pay all costs incurred by the Patio Home Association in the performance of its duties and obligations hereunder, the Patio Home Association shall have the authority, from time to time, to fix, establish, levy and collect such special assessments as may be deemed necessary by the Patio Home Association, which special assessment or assessments shall be paid by the Owner within fifteen days of billing by the Patio Home Association.

5.11.3 Late Charge.

If an assessment or special assessment is not paid before becoming delinquent, the Patio Home Association may impose a late charge in such amount as may from time to time be established by the Patio Home Association's Board of Directors and such late charge shall become a lien on a defaulting Patio Home Lot as any other assessment until paid. Late charges, when collected, shall be credited to the Patio Home Yards and Gardens fund.

5.11.4 Foreclosure of Lien.

If any assessment made pursuant to the provisions hereof by the Patio Home Association remains unpaid for thirty (30) days after the date upon which it is due, it may be foreclosed by suit by the Patio Home Association in a like manner as a mortgage of real property. The Patio Home Association shall have the power to bid at the foreclosure sale and to acquire and hold, lease, mortgage and convey any property acquired as a result of a successful bid. Suit to recover money charged for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same. The Patio Home Association shall be entitled to collect its reasonable attorney's fees incurred in any such suit.

5.11.5 Waiver of Use.

No Owner may exempt that Owner or that Owner's Patio Home Lot from liability for assessments levied against that Owner or that Owner's Patio Home Lot by waiver of the use or enjoyment of any of the Patio Home Yards and Gardens or by abandonment of the Patio Home Lot.

5.11.6 Lien Statement.

The purchaser of a Patio Home Lot subject to any lien arising under this Declaration prior to the date of purchase and the recording of deed shall take title to the Patio Home Lot subject to the lien; provided, however, that any such purchaser may request a written statement from the Patio Home Association as to whether a lien exists against such Patio Home Lot and such written

statement, executed by any two of the President, Secretary or Treasurer of the Patio Home Association, shall be conclusive as to the facts stated therein as against the Patio Home Association and may be relied on by the purchaser and the mortgagee of a mortgage upon that Patio Home Lot.

5.11.7 Priority of Lien.

The lien created by 5.11 hereof shall be subordinate to the lien of a recorded first mortgage on such Patio Home Lot. The sale or transfer of any Patio Home Lot pursuant to foreclosure of a recorded first mortgage, or voluntary conveyance to the mortgagee in lieu of foreclosure, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer, but the Patio Home Association shall have a lien upon the proceeds from such foreclosure or sale junior only to said recorded first mortgage. No such sale or transfer shall relieve the Patio Home Lot from assessments thereafter becoming due.

5.12 Insurance

The Patio Home Association shall obtain public liability insurance covering all of the Patio Home Yards and Gardens and insuring the Patio Home Association and the Owners in such amounts as the Patio Home Association may determine from time to time. The Patio Home Association may obtain such other insurance as it deems desirable. Premiums for the payment of all such insurance shall be chargeable as a Patio Home Yards and Gardens cost to be assessed against and paid by the Owners, as provided herein. Each Owner shall be responsible for obtaining and paying for that Owner's personal liability insurance and any insurance against fire and other perils to that Owner's Residence, contents and automobiles.

5.13 Restrictions

5.13.1 No alteration in the exterior appearance of any Residence may be made without the prior written consent of the Patio Home Association.

5.13.2 Each Owner, by acceptance of a deed to a Patio Home Lot, conveys to the Association a maintenance easement granting to the Association the right to landscape and maintain the Maintenance Easement Area, and to prescribe rules limiting the Owner's rights to use the Maintenance Easement Area in any manner so as to interfere with the performance by the Patio Home Association of such duties and powers. Each Owner retains the right, subject to the approval of the Association, which approval shall not be unreasonably withheld, to install at the Owner's expense, landscaping in the Maintenance Easement Area provided (x) the Owner shall be entirely responsible for the cost of maintaining such landscaping, including the cost of pruning and removal thereof if determined by the Patio Home Association to be unsightly or to pose a danger or hazard to others, (y) the landscaping installed by such Owner shall be properly documented and identified on records provided by the Owner to the Patio Home Association, and (z) at the time of any future conveyance of the Patio Home Lot, the Owner shall advise the purchaser, in writing, of the purchaser's obligations to maintain such landscaping, a copy of such writing to be acknowledged by the purchaser and delivered to the Patio Home Association.

5.13.3 No Patio Home Lot or Patio Home Yard and Garden shall be used in any manner or for any purpose in violation of such rules and regulations which may be in effect from time to time, as adopted by the Patio Home Association and may be in addition to the Subdivision Restrictions. The Patio Home Association shall have the power to establish rules and regulations concerning the use of Patio Home Lots and Patio Home Yards and Gardens, and to amend such from time to time. Such rules and regulations may include, but shall not be limited to, the following subjects: signs; appearance of exterior of any improvements and alterations thereto; radio, television or other antennae; animals; activities or items visible from the exterior of any Residence Site; limitation of such activities as yard sales, garage sales or auctions; parking; traffic; storage of boats, trailers, trucks, other vehicles or objects; mailboxes; garbage and refuse containers and disposal; conditions under which snow or ice removal will be conducted; noise; exterior lighting fixtures; fences.

5.14 Easements.

5.14.1 For the purpose of providing easements for utilities and various services to Residence Sites, Maintenance Easement Areas, and Patio Home Yards and Gardens, Developer shall have and does hereby reserve unto itself, its successors and assigns in title (which shall be the Patio Home Association after the Developer's voting rights have transferred to the Owners), the right to grant easements to locate, construct, maintain and use, and to authorize the location, construction, maintenance and use on, such portions of the Patio Home Yards and Gardens, as it may designate for drains, sanitary and storm sewers, gas and water mains and lines, electrical and telephone lines, cable television conduits and line, community television antenna lines, fire warning and security systems, and other utility lines and conduits for any and all purposes.

5.14.2 Service lines from any utility easement to a particular Patio Home Lot are to be maintained by and at the cost of the Owner of such Patio Home Lot.

5.14.3 To the extent that residences constructed on two or more adjoining Lots share a common wall that is built as part of the original construction of such adjoining residences and that lies on or about the dividing line between the Lots (the "Party Wall"), the following provisions shall apply. A Party Wall easement is hereby established over that part of any Patio Home Lot on which any part of a common wall between improvements on adjoining Patio Home Lots is constructed, together with the right to maintain and restore any such Party Wall, and such party wall may contain plumbing lines, vent stacks for plumbing and heating, electricity pipes and conduits and fireplace flues, serving improvements using such Party Wall. Said party wall easement shall be a cross-easement in favor of each Lot involved with such common walls. The cost of the repair and maintenance of the Party Wall shall be shared equally between the owners of the Lots who make use of the Party Wall. If the Party Wall is destroyed or damaged by fire or other casualty, either owner of an affected Lot who uses or proposes to use it may restore it to substantially the condition that existed prior to the damage or destruction. The cost of such restoration shall be divided between or among the owners of the affected Lots equally, subject to the following provisions regarding negligence or willful acts or omissions. An owner of a Lot who by negligence or willful act or omission causes a Party Wall to be damaged or destroyed shall bear the entire cost of restoration. If any owner of a Lot exposes the Party Wall to the elements, through razing that owner's adjoining residence or otherwise, that owner shall bear the

whole cost of furnishing the necessary protection of the exposed portion of the Party Wall against the elements.

5.15 Dedication and Amendment . No Patio Home Yards and Gardens shall be dedicated to a unit of local government without the acceptance of the unit of local government involved and the approval of the Louisville and Jefferson County Planning Commission. The Patio Home Association can not amend this restriction without approval from the Louisville and Jefferson County Planning Commission.

5.16 Enforcement

Developer, the Patio Home Association, and also any Owner or Owners shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of the provisions set forth above, in addition to any ordinary legal action for damages, and failure of Developer, the Patio Home Association, or any Owner or Owners, to enforce any of the provisions set forth herein at the time of its violation shall, in no event, be deemed to be a waiver of the right to do so thereafter.

ARTICLE VI GENERAL PROVISIONS

Section 6.1. Restrictions Run with Land; Amendment. Unless canceled, altered or amended under the provisions of this Section 4.1, these covenants, conditions and restrictions are to run with the land and shall be binding on all parties claiming under them for a period thirty (30) years from the date this document is recorded, after which time they shall be extended automatically for successive periods of ten (10) years, unless an instrument signed by a majority of owners prior to the date of extension is placed of record in the Jefferson County Clerk's office canceling such automatic extension. These restrictions may be canceled, altered or amended at any time by the affirmative vote of the owners of seventy-five percent (75%) of the Lots subject to these restrictions. No cancellation of, alteration of or amendment to any covenant, condition or restriction shall take effect until the owners of seventy-five percent (75%) of the Lots subject to these restrictions file in the Office of the Jefferson County Clerk an Amendment to the Declaration describing such cancellation of, alteration to or amendment to such provision herein.

Section 6.2. Severability; Modification. The provisions of this Declaration are severable. While the covenants, conditions or restrictions set forth above are considered to be reasonable in all circumstances, it is recognized that covenants, conditions or restrictions of this nature may fail for reasons unforeseen, and accordingly it is hereby declared that if any of such covenants, conditions or restrictions shall be adjudged void as going beyond what is reasonable in all circumstances, the said covenant, condition or restriction shall apply with such modifications as may be necessary to make it valid and effective. In the event any provision or portion of this Declaration shall be held or adjudged invalid or unenforceable and incapable of reasonable modification to make it valid and effective in accordance with this Section 4.2, the remaining provisions or portions of this Declaration shall not be invalidated thereby, but shall remain in full force and effect.

Section 6.4. Enforcement. Enforcement of these restrictions shall be by proceeding of law or in equity, brought by any owner or by Developer against any party violating or attempting to violate any covenant or restriction, either to restrain violation, to direct restoration and/or to recover damages. Failure of any owner or Developer to demand or insist upon observance of any of these restrictions or covenants, or to proceed for restraint of violations, shall not be deemed a waiver of a violation, or the right to seek enforcement of these restrictions.

WITNESS the signature of Developer on the above date.

By:


Ray Haines, President

[illegible]

The foregoing instrument was acknowledged before me on December __, 2006, by Ray Haines, President of Allstate Builders, Inc., a Kentucky corporation, on behalf of the corporation.

Beth Unkhardt
 Notary Public
 Commission expires: NOV 13 2010

This Instrument Prepared By:



David B. Buechler
Salyers & Buechler, P.S.C.
Suite 204, The 1000 Building
6200 Dutchmans Lane
Louisville, Kentucky 40205

Document No.: DX2887817495
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Total Fees: 70.00
Transfer Tax: .00
County Clerk: BOBBIE HOLSCLOVE-JEFF CO KY
Deputy Clerk: SHESCH

Recorded In Plat Book

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Part No. _____

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