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Hamilton County Tennessee

**DECLARATION OF COVENANTS AND RESTRICTIONS
FOR GREENBRIAR COVE RESIDENTIAL DEVELOPMENT
AND BYLAWS FOR GREENBRIAR COVE RESIDENTIAL
HOMEOWNERS' ASSOCIATION, INC.
(A 55 PLUS AGE RESTRICTED COMMUNITY)**

THIS DECLARATION is made this 22nd day of August, 2005, by
LANDVEST DEVELOPMENT PARTNERS I, LLC, a Tennessee limited liability company,
(sometimes hereinafter referred to as "Developer").

WITNESSETH:

WHEREAS, Developer and Developer's principal owners, Greg A. Vital and J. Franklin Farrow ("Vital and Farrow") are developing a mixed use residential/commercial/office development known as "Greenbriar Cove" in Hamilton County, Tennessee (the "Development"); and

WHEREAS, Vital and Farrow through Developer and possibly other development entities formed by Vital and Farrow intend to develop Greenbriar Cove Residential Development (the "Project") in phases as part of the Development; and

WHEREAS, Developer is the owner of that certain real property described on Exhibit "A" attached hereto (the "Real Property") which property is to be part of the Project; and

WHEREAS, Developer desires to provide for the preservation of values and amenities in the Project and for the maintenance and upkeep of the common properties for the Project and to this end, desires to subject the Real Property to the covenants, restrictions, easements, affirmative obligations, charges, and liens, hereinafter set forth, each and all of which is and are hereby declared to be for the benefit of the Real Property and each and every owner of any and all parts thereof; and

WHEREAS, Developer pursuant hereto shall establish a homeowners association to be called Greenbriar Cove Residential Homeowners' Association, for the purpose of exercising the above functions and those which are more fully set out hereafter; and

WHEREAS, it is intended that the Project will be developed in multiple phases and that some phases may constitute distinct neighborhoods within the Project and may use or may not use "Greenbriar" or "Greenbriar Cove" or some variation thereof as a common identifying name; and

WHEREAS, Developer intends to develop the first such neighborhood within the Project on the Real Property which neighborhood will be known as "The Village at Greenbriar Cove";

NOW, THEREFORE, Developer subjects the Real Property to the terms of this Declaration and declares that the same is and shall be held, transferred, sold, conveyed, leased, occupied, and used subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens (sometimes referred to collectively as "the Covenants") hereinafter set forth. These Covenants shall touch and concern and run with the Real Property and each Lot thereof. Developer intends to develop the Project as a multi-phase residential community with various common properties in accordance with a master plan developed by Vital and Farrow for the Development (the "Master Plan"). All real property intended by Developer to be part of the Project is shown on the Master Plan (the "Overall Property"). The first phase of the Project shall be identified as The Village at Greenbriar Cove. Developer reserves the right to modify the Master Plan in its sole discretion from time to time without the consent of the Association, any Owner and any Mortgagee of any Owner, including, but not limited to, the right to include additional real property within the Project or to exclude portions of the Overall Property from the Project. Further, Developer also intends that as part of the Project, Lots may, but need not be, grouped together in Neighborhoods. Any such Neighborhoods may, but are not required to, be administered by a separate Neighborhood Association. In the event a Neighborhood is designated within the Project, the terms and conditions of Section XI shall apply with regard to such Neighborhood in addition to all other terms and conditions of this Declaration. Developer acknowledges that the Project may consist of single-family townhomes (also known as patio homes) and detached single-family homes. All capitalized terms used in this Declaration shall have the meanings given herein. The foregoing recitals are incorporated herein as part of this Declaration. **DEVELOPER HEREBY EXPRESSES ITS INTENT THAT THE PROJECT SHALL BE A 55 PLUS AGE RESTRICTED COMMUNITY AND THAT THE PROJECT SHALL BE OPERATED AS A 55 PLUS AGE RESTRICTED COMMUNITY. ACCORDINGLY, THIS DECLARATION CONTAINS PROVISIONS AND REQUIREMENTS IMPOSING SUCH AGE RESTRICTION AND PROCEDURES FOR ENFORCING SUCH AGE RESTRICTION.**

ARTICLE I DEFINITIONS

The following words and terms, when used in this Declaration or any supplemental Declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

1.01 Association. "Association" shall mean Greenbriar Cove Residential Homeowners' Association, Inc. the Bylaws for which are attached hereto as **Exhibit "B"**.

1.02 Board of Directors. "Board of Directors" or "Board" shall mean the governing body of the Association established and elected pursuant to this Declaration.

1.03 Common Expenses. "Common Expenses" shall mean and include (i) actual and estimated expenses of administration, maintenance, repair or replacement of the Common Properties; (ii) actual and estimated expenses agreed upon as Common Expenses by the Association; (iii) actual and estimated expenses declared Common Expenses by the provisions of this Declaration; and (iv) all other sums assessed by the Board pursuant to the provisions of this Declaration. Common Expenses may include a reserve for deferred maintenance repairs and replacements as authorized from time to time by the Board.

1.04 Common Properties. "Common Properties" shall mean and refer to those easements, facilities, properties, tracts of land and any improvements thereon which are deeded or leased to the Association and/or are designated on any plat recorded for the Project as "Common Properties" or which are otherwise designated by the Developer or the Association as "Common Properties" or otherwise used for or intended for the benefit of the Project. All Common Properties are to be devoted to and intended for the common use and enjoyment of the Owners and persons who are occupying the Dwelling Units as guests or tenants of the Owners of any such Dwelling Units. The Common Properties may include, but shall not be limited to, streets, street lights, entrance and street signs, pool, pool house, parks, ponds (both detention and retention), medians, roadways, maintenance easement areas, landscape easement areas, trails, bike paths, walkways, general utility easement areas and clubhouses. The term "Common Properties" shall also include any personal property acquired by the Association if said property is designated as a Common Property. Common Properties shall also include all Lots noted as community lots on any recorded plat for the Project or any phase of the Project and all signs (including Neighborhood identification signs) for the Project constructed on any real property located anywhere in the Development. The Common Properties may sometimes be identified herein as the "Common Elements."

1.05 Covenants. "Covenants" shall mean the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens set forth in this Declaration.

1.06 Declaration. "Declaration" shall mean this Declaration of Covenants and Restrictions for Greenbriar Cove Residential Development and Bylaws for same and any supplemental declaration filed pursuant to the terms hereof.

1.07 Developer. "Developer" shall mean Landvest Development Partners I, LLC, a Tennessee limited liability company.

1.08 Dwelling Unit. "Dwelling Unit" shall mean a townhome or detached single-family residence situated upon the Property designated and authorized for use and occupancy by a single family. A Dwelling Unit may only be used for residential purposes.

1.09 Existing Land. "Existing Land" shall mean the Real Property as described on Exhibit "A".

1.10 First Mortgage. "First Mortgage" shall mean a recorded Mortgage with priority over all other mortgages.

1.11 First Mortgagee. "First Mortgagee" shall mean a beneficiary, creditor or holder of a First Mortgage.

1.12 Lot or Lots. "Lot" or "Lots" shall mean any improved or unimproved plat of land shown as a lot upon any recorded map of any part or phase of the Project, including, but not limited to, the Property.

1.13 Member or Members. "Member" or "Members" shall mean any or all Owners or Owners who are Members of the Association. All Owners shall be Members; provided, however, that there shall be no more than one Member for each Lot. **SEE SECTION 7.08 OF THIS DECLARATION REGARDING APPLICABLE AGE RESTRICTIONS FOR MEMBERSHIP IN THE ASSOCIATION.**

1.14 Mortgage. "Mortgage" shall mean a deed of trust, as well as a mortgage.

1.15 Mortgagee. "Mortgagee" shall mean a beneficiary, creditor or holder of a deed of trust, as well as a holder of a Mortgage.

1.16 Neighborhood. "Neighborhood" shall mean any Lots which are designated as a neighborhood by the Developer, or a Neighborhood Developer, in a supplement or amendment to this Declaration, in which Owners may have in common interests other than those common to all Owners, such as a common theme, entrance or name.

1.17 Neighborhood Association. "Neighborhood Association" shall mean any property owners' association or such other entity, its successors and assigns, which may be established for a Neighborhood and which shall be responsible for administering a Neighborhood including, but not limited to, enforcement of a Neighborhood Declaration. A Neighborhood shall not be required to have a Neighborhood Association.

1.18 Neighborhood Declaration. "Neighborhood Declaration" shall mean the protective covenants, conditions, restrictions and other provisions, if any, imposed by recorded instrument upon one or more Neighborhoods. A Neighborhood may, but shall not be required to have a Neighborhood Declaration.

1.19 Neighborhood Developer. Neighborhood Developer shall mean a person or entity to which Developer has assigned the right to develop a phase of the Project, which phase may or may not be developed as a separate Neighborhood or may be added to and included in a previously established Neighborhood. Developer must approve the development of a new Neighborhood and the Developer and any Neighborhood Developer of an existing Neighborhood must consent to the inclusion of a new phase in an existing Neighborhood. Neighborhood Developer shall also mean and include any party to which Developer has assigned the right to develop a Neighborhood and in accordance therewith has sold the Lots to comprise such Neighborhood to such party. A Neighborhood Developer does not have to be related to Developer or Vital and Farrow. A Neighborhood Developer must be approved as such by Developer in order to exercise any rights under this Declaration that are exercisable by a Neighborhood Developer.

1.20 Owner or Owners. "Owner" or "Owners" shall mean the record Owner or

Owners, whether one or more persons, firms, associations, corporations, or other legal entities, of the fee simple title to any Lot but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to a Mortgagee, unless and until such Mortgagee has acquired title pursuant to foreclosure or deed in lieu of foreclosure, nor shall the term "Owner" mean or refer to any lessee or tenant of any Owner. Developer or a Neighborhood Developer may be an Owner.

1.21 Property or Properties. "Property" or "Properties" shall mean the Existing Land and all additions thereto pursuant to Section 12.12, which is subject to this Declaration or any supplemental declaration under the provisions hereof.

1.22 Record or To Record. "Record" or "To Record" shall mean to record pursuant to the laws of the State of Tennessee relating to the recordation of deeds and other instruments conveying or affecting title to real property.

1.23 The Village at Greenbriar Cove. The Village at Greenbriar Cove is a Neighborhood and shall be developed by Developer and/or a Neighborhood Developer on the Real Property as the first phase of the Project.

ARTICLE II PROPERTIES AND EASEMENTS

2.01 Existing Land. The Real Property which is, and shall be held, transferred, sold, conveyed, leased and occupied, subject to this Declaration and these Covenants, is located in Hamilton County, Tennessee, and is more particularly described on Exhibit "A" attached hereto and incorporated herein together with any additions thereto pursuant to a supplemental declaration recorded in the Register's Office of Hamilton County, Tennessee.

2.02 Common Properties and Improvements Thereon. The Board may, with a simple majority vote, improve the Common Properties with such other improvements as they deem desirable. Developer shall transfer, convey, assign and deliver to the Association, and the Association shall accept the same from Developer, Developer's interest in the Common Properties once all Lots in the Project have been sold by Developer. Notwithstanding the foregoing, Developer shall have the right to transfer, convey, assign and deliver Developer's interests in the Common Properties to the Association at any time prior to the sale of all Lots by Developer. A Neighborhood Developer shall have the same rights granted to Developer in this paragraph but only as to the Neighborhood developed by such Neighborhood Developer and provided that in the event of any conflict between Developer and a Neighborhood Developer, the decision and/or authority of the Developer shall control. The Association shall be responsible for maintaining and keeping in good repair the Common Properties (and all related landscaping) and the cost for such shall be funded by the Owners as part of the "Assessments" (as hereinafter defined).

2.03 Easements. There is hereby established for the benefit of each Lot across all other Lots and the Common Properties perpetual, non-exclusive easements in locations determined and approved by Developer for the installation and ongoing use of utility lines and related equipment and facilities for the purpose of providing water, electric, gas, telephone, sewer, irrigation systems and other utilities to each Lot. Such easements shall be limited to the

area being five (5) feet on either side of the centerline of any such installed utility line and to all easement areas shown on any plat recorded for the Property and/or Project or any portion thereof. There shall be a perpetual, non-exclusive easement along all side and rear property lines on each Lot for drainage and each Lot must be graded so as not to obstruct such drainage easements.

2.04 Developer expressly reserves the right to allow residents of any independent living facility, nursing home facility or assisted living facility located within the Development to use the Common Properties upon payment of an annual assessment in an amount determined by Developer. Any such residents shall not be Owners and shall not be Members of the Association and their right to use the Common Properties shall be subject to the covenants and conditions set forth in this Declaration and further subject to any additional rules and regulations adopted by the Developer or the Association.

ARTICLE III ASSOCIATION

3.01 Membership. Every person or entity who is a record Owner of a fee simple interest in any Lot which is subject to this Declaration shall be a Member of the Association, provided that any such person or entity who holds such title or interest merely as a security for the performance of an obligation shall not be a Member of the Association. Membership shall automatically be transferred to the new Owner upon the conveyance of any Lot and recording of the deed of conveyance in the Register's Office of Hamilton County, Tennessee, plus, payment of any Association initiation fees, assessments, or dues. Membership shall be appurtenant to and may not be separated from ownership of any Lot, which is subject to assessment.

3.02 Voting Rights.

(a) The Voting Rights for Owners of Lots shall be as set forth in the Bylaws for the Association. The Association shall have one class of voting membership.

(b) Occupants and/or lessees who are not an Owner of a Lot shall have no vote or voice in the affairs of the Association. Except as set forth in subparagraph 3.02(c), in no event shall more than one vote be cast with respect to any Lot. When an Owner signs a proxy such vote shall be counted when such proxy is in a written instrument delivered to the Secretary of the Association before the vote is counted. Any Owner who owns multiple lots shall have one (1) vote for each Lot owned.

(c) Notwithstanding the foregoing, the Developer shall have three (3) votes for each Lot owned by the Developer.

(d) An Owner's voting rights under this Declaration and under the Bylaws for the Association shall be suspended and such Owner shall have no right to vote in any matter in which such Owner would otherwise be entitled to vote for so long as such Owner is in default under this Declaration for failure to pay any required Assessments under Article VIII or is otherwise in default under any other provision of this Declaration. This subparagraph (d) shall not apply to Developer or a Neighborhood Developer.

**ARTICLE IV
THE BOARD OF DIRECTORS AND OFFICERS**

4.01 Board of Directors. The administration of the Project on behalf of the Association and all actions to be taken by the Association shall be conducted by a Board of Directors ("Board") which shall consist of five (5) natural persons of legal age, each of whom shall be a Member in good standing of the Association, and will maintain such representation during membership on the Board.

4.02 Initial Board of Directors.

(a) The Developer shall act as the Board of Directors during the first forty-eight (48) months following the date of this Declaration or until all Lots in the Project have been sold by Developer, whichever occurs last. The Developer shall have all powers and authority to act which are granted to the Board of Directors in this Declaration or in the Bylaws for such period of time. However, notwithstanding any provision herein or in the Bylaws to the contrary, Developer shall have the right to terminate its obligations as the initial Board of Directors at any time upon giving notice of its intent to do so to all Owners and upon the election of the first Board of Directors as provided in this Declaration. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, as long as Developer is acting as the Board of Directors, Developer shall have the absolute power and right without the consent of the Owners or Members to amend, change, or alter the provisions of this Declaration and the Bylaws. It is understood that the Project is to be developed in phases and that at certain times the Developer may not own any Lots in the then current or existing phases of the Project but that Developer intends to acquire and add additional portions of the Overall Property to the Project at later dates. No such lapse in Developer's ownership of Lots in the Project shall affect Developer's rights hereunder to act as the Board of Directors of the Association or otherwise affect Developer's rights under this Declaration and no such lapse in Developer's ownership of Lots in the Project shall constitute a waiver of or otherwise terminate any rights granted to or reserved by Developer in this Declaration. For purposes of this Paragraph 4.02(a), all Lots owned by all Neighborhood Developers shall be considered Lots owned by Developer.

(b) Prior to the election of the first Board of Directors as provided in subparagraph 4.02(a) above, Developer may execute and record in the Register's Office of Hamilton County, Tennessee a document stating that the Developer reserves unto itself, its successors or assigns, all or less than all approval or consent rights given to the Developer or Board or otherwise required in this Declaration, including, but not limited to, all or less than all approval and consent rights specified in Article VII, and further stating that said reservation, notice of which is thus provided, shall survive the election of the Board to succeed the Developer. Thereafter, Developer may continue to exercise the rights thus reserved to it until such time as it has sold all of the Lots in the Project or such later date as determined by Developer. Upon the sale of all of the Lots in the Project or at such later time as the Developer determines to relinquish the rights it has reserved to itself, the Developer shall execute and record in the Register's Office of Hamilton County, Tennessee a document assigning those rights to the Board.

4.03 Election. At each annual meeting, subject to the provisions of this Article IV, the Members of the Association shall elect those members of the Board as required under

Sections 4.03 and 4.04 who shall serve the terms set out under **Sections 4.03 and 4.04**; provided, however, the members of the Board elected to succeed the Developer shall be elected at a special meeting of the Association duly and specifically called by the Developer for that purpose and the Board elected at that special meeting shall serve until the first annual meeting of the Association held thereafter. Members of the Board may also serve as Officers of the Association. All Officers of the Association shall be appointed and removed by the Board. Individuals may be nominated for the Board by any Member and each member of the Board shall be elected by majority vote of the Members of the Association. Nominations for a position on the Board shall be made by petition filed with the Secretary of the Association at least seven (7) days prior to the annual meeting of the Association at which the Board is to be elected which petition must be signed by five (5) or more Members and by the nominee named therein indicating such individual's willingness to serve as a member of the Board, if elected.

4.04 Term. Members of the Board shall serve for terms of two (2) years. The members of the Board, President, Vice President and Secretary-Treasurer shall serve until their respective successors are duly elected and qualified, or until their death, resignation or removal. The President, Vice President and Secretary-Treasurer shall serve for a term of two (2) years. All members of the Board and all Officers of the Association must be a Member and the President and Vice-President must also be members of the Board. The foregoing requirements shall not apply so long as the Developer is acting as the Board pursuant to the terms of this Declaration and the Bylaws. Accordingly, Officers of the Association appointed by Developer need not be Members so long as Developer is acting as the Board.

4.05 Resignation or Removal. Any member of the Board, President, Vice-President, and Secretary-Treasurer may resign at any time by giving written notice to the President or Vice-President should the resigning member be the President. Any member of the Board may be removed from elected office by a two-thirds (2/3) affirmative vote of the Association except that a vacancy on the Board shall be deemed to exist in the event of the death of a member, the disability of a member which, in the opinion of the majority of the Board, renders such member incapable of performing his elected duties, or in the event a member shall cease to be a Member of the Association. Whenever there shall occur a vacancy on the Board for any reason, the remaining Board members shall elect a successor member to serve until the next annual meeting of the Association or a special meeting is called for filling vacancies at which time said vacancy shall be filled by the Association for the unexpired term. The provisions of this paragraph regarding removal of the Board shall not apply so long as Developer is acting as the Board pursuant to the terms of this Declaration.

4.06 Compensation. The members of the Board and elected officers shall receive no compensation for their services unless expressly provided for by the Association but shall be reimbursed for reasonable expenses incurred by them in the performance of their duties.

4.07 Powers and Authority of the Board. The Board and elected officers, for the benefit of the Project and the Association, shall enforce the provisions of this Declaration, the Bylaws, and rules and regulations governing the Project promulgated pursuant hereto and the use of the Common Properties. Subject to any provision herein, the Board and elected officers shall have the power and authority to acquire and pay for the following, which shall be deemed Common Expenses of the Association:

(i) Water, sewer, electrical, lighting, and other necessary utilities for the Common Properties and Property.

(ii) Legal and accounting services necessary or advisable in the operation of the Common Properties and Property and the enforcement of this Declaration, these Bylaws, and any rules and regulations made pursuant thereto.

(iii) Painting, maintenance, repair, replacement and landscaping of the Common Properties and Property which shall include the maintenance of any common fencing, signs, lighting, shrubs, grass, and creek areas. The Board shall also have the right from time to time to acquire and dispose of by sale or otherwise and without the necessity of approval by any Owner, furnishings and equipment and other personal property for the Common Properties and to provide maintenance, repair and replacement thereof.

(iv) Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments that the Board is required to secure or pay for pursuant to the terms of this Declaration, the Bylaws or any rules or regulations promulgated pursuant hereto or which, in its opinion, shall be necessary or advisable for the operation of the Common Properties and Property or for the enforcement of this Declaration, the Bylaws, or any rules and regulations promulgated pursuant hereto.

4.08 Additional Powers of the Board. The Board shall have the right to acquire, operate, lease, manage, trade and otherwise deal with the Common Properties as may be necessary or convenient in the operation and management of the Common Properties, and in accomplishing the purposes set forth herein. Subject to the terms of this Declaration and the Bylaws, the Board shall have the exclusive right to contract for all goods, services, including security, and insurance, payment for which are made as Common Expenses. The Association shall have the right at any time to engage the services of a management company to perform and fulfill the administrative functions and duties of the Association, including, but not limited to, collection of Assessments, enforcement of lien rights and the application of the covenants and restrictions set forth in this Declaration.

4.09 Meetings of the Board. Meetings of the Board shall be held at such places within the State of Tennessee as the Board shall determine at least once per quarter and an annual meeting shall be held on the second Monday in September of each year, or at any other time (but not more than thirty (30) days before or after such date) so designated by the Board. Three members of the Board (one of which must be the President or Vice President) shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board. Meetings of the Board shall be chaired by the President or Vice-President of the Association and the minutes shall be recorded by the Secretary-Treasurer of the Association (or an appointee of the Board). Any action required to be or which may be taken by the Board may be taken without a meeting of the Board pursuant to a written consent, setting

forth the action so taken, signed by a majority of the members of the Board.

4.10 Special Meetings. Special meetings of the Board may be called by the President of the Association or by any two Board members.

4.11 Notice of Meetings. Regular meetings of the Board may be held without call or notice. The person or persons calling a special meeting of the Board shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication to all members of the Board. Such notice need not specify the purpose for which the meeting is called. If an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

4.12 Waiver of Notice. Any members of the Board may, at any time, waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance of any member of the Board at any meeting thereof shall constitute a waiver of notice of such meeting unless a Board member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called and does so object by delivering a written document to that effect.

4.13 Fiscal Year. The fiscal year shall be determined by the Board.

4.14 Special Committees. Special committees shall be appointed by the President. The Board shall have rights to call for the formation of committees by motion.

4.15 Rules and Regulations. The Board shall have the power and right to adopt and amend rules and regulations for the purpose of governing details of the operation and use of the Common Properties and setting forth restrictions on, and requirements respecting the use and maintenance of the Common Properties. Copies of the rules and regulations shall be furnished to each Owner prior to the time the same shall become effective.

4.16 Limitation on Capital Additions, Etc. Except as permitted in this Declaration, the Board shall authorize no structural alterations, capital additions to, or capital improvements of the Common Properties, any of which require an expenditure in excess of Ten Thousand Dollars (\$10,000.00) without approval of the majority vote of the Association; provided, however, that the Board shall have the power to make any such structural alterations, capital additions to, or capital improvements of, the Common Properties as are necessary, in the Board's reasonable judgment, to preserve or maintain the integrity thereof without obtaining such approval, if in the opinion of the Board an emergency exists which should be corrected before a meeting of the Association could be reasonably called and held.

4.17 Failure to Insist on Strict Performance Not Waiver. The failure of the Board or its agents to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions in this Declaration, or the Bylaws or with rules and regulations promulgated pursuant hereto or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future, of such terms, covenants, conditions or restrictions, rights, options or notices, but such terms, covenants, conditions, restrictions, rights, options or notices shall remain in full force and effect.

ARTICLE V
THE ASSOCIATION; MEETINGS, OFFICERS, ETC.

5.01 Quorum. The presence in person or by proxy at any meeting of the Association of two-thirds (2/3) of the Owners of Lots subject to assessment in response to notice to all Owners who are entitled to vote at such meeting properly given in accordance with the Bylaws, as the case may be, shall constitute a quorum. Unless otherwise expressly provided in this Declaration, any action may be taken at any meeting of the Association at which a quorum is present upon the affirmative vote of a majority of Owners which are represented at such meeting. Proxy vote representation shall be recognized and counted, should members not submit a proxy then a vote "For" the recommendation of the Board will be assumed.

5.02 Annual Meeting. There shall be an annual meeting of the Association on the second Monday of September at 7:00 P.M. of each year at the Project or at any place or time (but not more than thirty (30) days before or after such date) so designated by the Board. The Secretary-Treasurer shall present a review of the expenses for the prior year and a budget for the coming year or any pertinent actions passed by the Board.

5.03 Special Meeting. Special meetings of the Association may be held at any time and at any reasonable place to consider matters that require the approval of all or some of the Owners, or for any other reasonable purpose. Special meetings shall be called by a majority of the Board, or at least by one-third (1/3) of the Owners by written notice, delivered to all owners not less than fifteen (15) days prior to the date fixed for said meeting. The notice shall contain matters to be considered.

5.04 Parliamentary Rules. Robert's Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with this Declaration or other such rules adopted by the Board.

5.05 Officers. The Officers of the Association shall be a President, Vice-President, and Secretary-Treasurer and any other officers appointed by the Board. Each officer shall be required to be a Member in good standing and the President and Vice-President must be members of the Board. No officer shall receive compensation for serving as such. Officers shall be elected by majority vote of the Board and may be removed or replaced by same. The Board may, in its discretion, require that officers be subject to fidelity bond coverage. Notwithstanding the foregoing and in Developer's sole discretion, for so long as the Developer acts as the Board of Directors of the Association, the officers of the Developer shall act as and fulfill the same offices and duties of the respective Officers for the Association without the need for the consent or election by the Members or, in the alternative, Developer may appoint different individuals to serve as officers which individuals need not be Members. The duties of the Officers of the Association shall be as follows:

- (i) **President.** The President shall preside at all meetings of the Association and of the Board, and may exercise the powers ordinarily allocable to the presiding officer of an association, including the appointment of committees, and such other powers and authority granted to the President by the Board. The President shall be authorized to

provide payment for Association expenses not to exceed \$10,000.00 Dollars or such higher or lower amount approved by the Board.

(ii) Vice-President. In the absence or inability of the President, the Vice-President shall perform the functions of the President.

(iii) Secretary-Treasurer. The Secretary shall keep the minutes of all proceedings of the Board and the Association and shall keep such books and records as may be necessary for the records of the Association and the Board, including the minute book wherein the resolutions shall be recorded. The Treasurer shall be responsible for the fiscal affairs of the Board and the Association. The Secretary and/or Treasurer shall have such other powers and authority granted by the Board. The Secretary and Treasurer do not have to be the same person.

5.06 Bylaws. In the event of any discrepancies between the terms of this Declaration and the Bylaws with regard to the governance of the Association, this Declaration shall control.

ARTICLE VI LIABILITY AND INDEMNIFICATION

6.01 Liability of Members of the Board and Officers. The members of the Board, the officers and any agents and employees of the Association shall: (i) not be liable to the Members or the Association as a result of their activities as such for any mistake of judgment, or otherwise, except for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (ii) have no personal liability to a Member or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Members in their capacity as such; (iii) have no personal liability in tort to a Member or any other person or entity direct or imputed by virtue of acts performed by them as Board members and/or officers except for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; and (iv) have no personal liability arising out of the use, misuse or condition of the Property, or which might in any other way be assessed against or imputed to them as a result or by virtue of their capacity as such Board members and/or officers.

6.02 Indemnification by Association. To the extent now or hereafter permitted by applicable law, the Association shall indemnify and hold harmless any person, his heirs and personal representatives, from and against any and all personal liability, and all expenses, including without limitation counsel fees and court costs, incurred or imposed, or arising out of or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative instituted by any one or more Members or any other persons or entities, to which he shall be or shall be threatened to be made a party by reason of the fact that he is or was a member of the Board or an officer or agent or employee of the Association; provided, in the case of any settlement, that the Board shall have approved the settlement, which approval is not to be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement or by vote of the Association of the Board, or otherwise. The indemnification by the Association set forth in this Article VI shall be paid by the Board on

behalf of the Association and shall constitute a Common Expense.

6.03 Costs of Suit in Actions Brought by One or More Members on Behalf of All Members. No suit shall be brought by one or more but less than all Members on behalf of all Members without approval of a majority of Members and, if approval is obtained, the plaintiffs' expenses, including reasonable counsel's fees and court costs, shall be a Common Expense unless such suit is brought by one or more Members against other Members, the Association or against the Board, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all Members as defendants, in which event the plaintiffs' expenses, including counsel's fees and court costs, shall not be charged as a Common Expense.

6.04 Notice of Suit and Opportunity to Defend. Suits brought against the Association, or the Board, or the officers, employees or agents thereof, in their respective capacities as such, or the Common Properties as a whole, shall be directed to the President of the Association, who shall promptly give written notice thereof to the other members of the Board and any Mortgagees, and shall be defended by the Board, and the Association and all Members shall have no right to participate other than through the Board in such defense. Suits against one or more, but less than all Members shall be directed to such Members, who shall promptly give written notice thereof to the Board and to the Mortgagees of the Lots affected, and shall be defended by such Members at their expense.

ARTICLE VII PURPOSE, USES AND RESTRICTIONS

7.01 Common Properties. The Common Properties shall not be used except for purposes identified by Developer or as otherwise approved by the Board.

7.02 Dwelling Unit. A Dwelling Unit shall be occupied and used only for a residential townhome or detached single-family, private residence.

7.03 Restrictions.

(a) All Lots shall be known, described and used for residential purposes only and no structure shall be erected, altered, placed or permitted to remain on any Lot other than one (1) townhome (sometimes referred to herein and in other material pertaining to or describing the Project as a patio home) or one (1) detached single-family residence not to exceed two (2) stories in height. Dwelling Units may also have a basement which will not be considered to be a story pursuant to this provision. No Lot shall be used for business or professional purposes of any kind or for any commercial activity including, but not limited to, day care centers or traditional home business.

(b) No fence or wall of any type shall be placed, constructed or allowed to remain upon any Lot unless approved by Developer. Wire or chain link fences are prohibited. All proposed fences must be submitted to the Developer for approval of materials, location, height and design. No structures, plants, shrubs or other obstacles shall be placed or kept on any common pedestrian easement areas.

(c) No noxious or obnoxious, or offensive activity shall be carried on, upon or within any Dwelling Unit or Lot, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to the other Owners or the Project in general.

(d) No signs, billboards, posters or advertising devices of any character shall be erected, permitted or maintained on any Lot or which may be visible from outside a Dwelling Unit except as otherwise permitted pursuant to this Declaration. The right is reserved by Developer to itself or to a builder who acquires a Lot or Lots from Developer for the purpose of constructing a Dwelling Unit thereon, to construct and maintain such signs, billboards or advertising devices as may in their sole discretion be deemed necessary in connection with the sale of Lots or Dwelling Units.

(e) No more than one (1) yard sale shall be held by the same Owner within any six (6)-month period. Such yard sale shall not exceed one (1) week. Notwithstanding the foregoing and in addition to the foregoing permitted yard sales by individual owners, the Association may authorize community-wide yard sales no more frequently than twice a year.

(f) If any Dwelling Unit shall be used for rental purposes, the Dwelling Unit Owner or his agent shall insure that no objectionable or offensive activity is permitted that might disturb any other Dwelling Unit resident or owner. There shall be no subleasing of a Dwelling Unit or assignment of a lease for a Dwelling Unit unless approved in advance by the Board. All leases shall be in writing in a form approved by the Board. Any such lessee shall comply with and shall be bound by this Declaration, any Neighborhood Declaration and the Bylaws of the Association and any Neighborhood Association. The lessee of a Dwelling Unit shall not be an Owner.

(g) No animals, livestock, or poultry shall be raised or kept on any Lot, except that two (2) dogs or up to two (2) cats may be kept as a household pet and providing that they are not kept for commercial purposes.

(h) Each Owner shall keep such Owner's Lot and Dwelling Unit clean and orderly and in good repair. No materials or equipment such as disabled autos or other unsightly objects shall be kept on the Lot. Owners shall abide by all the rules, regulations and ordinances duly enacted by Hamilton County and/or the City of Collegedale which relate to storage and disposal of garbage, rubbish, trash and refuse, which ordinances, as and when enacted, are incorporated herein by reference. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Lot so as to render the same unsanitary, unsightly or offensive. There shall be no burning of any type, including burning of garbage in fifty (50)-gallon drums, permitted on the Lot or Common Properties. Garbage containers must be stored in the enclosed garage for the Dwelling Unit.

(i) No antennae, towers of any kind, satellite signal receiving device or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic radiation shall be erected, used or maintained outdoors on any Lot, except for satellite dishes of eighteen inches (18") or less in diameter placed so as to not be visible from any street.

(j) All access, drainage and utility and other easements as shown on any plat recorded for the Property or any portion thereof are to be kept open and free of obstacles.

(k) No Dwelling Unit shall be altered on the outside including color of paint and/or roof unless written consent shall be given by the Developer.

(l) No more than one birdbath shall be permitted on any Lot and shall be located to the rear of the Dwelling Unit; provided, however, a birdbath will be permitted in the front yard as part of a landscaped garden approved by Developer.

(m) Each Owner shall perform promptly all maintenance and repair work within such Owner's Dwelling Unit which, if permitted, would affect the Property in its entirety or in a part belonging to other Owner(s) and each Owner is expressly responsible for damages and liability which result from Owner's failure to promptly perform such maintenance and repair work. Unless otherwise provided in other Articles of this Declaration, each Owner shall be responsible for the costs of performing all such maintenance and repair work. Maintenance and repairs needed outside the living area of a particular Dwelling Unit shall be the responsibility of and at the expense of that Dwelling Unit's Owner which includes painting, roofing, grounds, lawn and landscaping maintenance (except as otherwise provided in this Declaration) parking areas, fences and all other outside repairs and maintenance needs, whether by normal usage, weather related, preventive or incidental repairs, unless the Association shall have agreed to make such repairs and maintenance as a Common Expense.

(n) Each Owner shall pay such Owner's property tax as billed. If any taxing authority shall levy and tax against any Common Properties, then each Owner shall pay an equal share of said tax.

(o) Owners shall promptly remove any deposits or wastes made by their pets upon the Common Properties or the properties of other Owners. All pets must be leashed if walking on the Property. Pets shall not be permitted to be a nuisance to the neighboring Property Owners.

(p) Notwithstanding any setbacks noted on plats recorded for the Project, or any phase thereof, there is hereby established a minimum front setback of 22 feet on each Lot within the Project; provided, however, Developer reserves the right to establish a greater or smaller front setback as determined in Developer's sole discretion. All other setbacks applicable to the Lots shall be as established by applicable local, county or state requirements. No building shall be erected on any Lot nearer than the setbacks established pursuant hereto; provided, however, Developer shall have full authority, in its sole and independent discretion, to reduce the foregoing minimum front setback on any Lot, and/or to reduce the minimum setback of any rear or side lot line, as long as it meets local, county or state requirements. Exceptions to this requirement are permitted for the construction of townhomes on Lots with zero lot line requirements. The applicable setbacks established pursuant hereto shall take precedence over setbacks noted on any plat recorded for the Project or any phase thereof.

(q) No window air conditioning unit may be located in any part of the Dwelling Unit or accessory structure.

(r) No house trailers or mobile homes, campers or other habitable motor vehicles of any kind, school buses, trucks or commercial vehicles over one (1) ton capacity, shall be kept, stored, or parked overnight on the Property. No recreational vehicles, boats, boat trailers, go-carts, motorcycles, four (4)-wheel vehicles or other vehicles or items, other than passenger cars, SUVs (for family use) and/or pickup trucks, shall be parked outside of the enclosed garage of a Dwelling Unit. No overnight parking of any vehicles whatsoever shall be permitted on the streets of the Project. Owners may not park their vehicles upon the property of other Owners without the other Owner's permission.

(s) When not in use, garage doors on garages are to remain closed so as to prevent an unsightly view from adjoining landowners and passersby. When possible, all vehicles are to be parked inside the enclosed garage area. When not possible, they shall be parked in the driveway area and not in the yard area.

(t) No outside clotheslines shall be placed on any Lot.

(u) There shall be no swimming pools placed on any Lot and there shall be no detached buildings constructed on the Lots, including, but not limited to, sheds, workshops or other out buildings, without the prior approval of Developer. Above-ground pools are prohibited except that above ground spas and Jacuzzis may be permitted if approved in writing by Developer. If a swimming pool is permitted by Developer, the Owner shall obtain all required approvals and permits from all applicable governmental authorities.

(v) No outdoor lighting decorations shall be permitted except for low level non-excessive holiday lighting for the holiday period of Halloween through New Years Day.

(w) No individual water supply (private wells) shall be permitted on any Lot.

(x) Landscaping of all Lots shall be maintained as needed, whether said Lots are improved or unimproved, which maintenance shall include, but not be limited to, seeding and/or sodding of all front, side and rear lawns, mulching, watering, mowing and trimming of all lawns, the pruning and replacing of dead or diseased plants, trees and shrubs and the removal of all trash from said Lot. Developer may elect, or a Neighborhood Developer may elect, to provide or obtain lawn maintenance service for all of the Lots, or any lesser designated number of Lots, or a particular Neighborhood or Neighborhoods, for which the Owners of such Lots shall be assessed an annual landscaping fee (the "Landscaping Fee"). If such lawn maintenance service is provided, the Owners owning Lots for which such lawn maintenance service is provided or obtained may not opt out of such lawn maintenance service. The Landscaping Fee shall be added to and be a part of the Annual Assessment assessed pursuant to Article VIII of this Declaration.

(y) Re-subdivision of Lots in the Project shall be permitted only with the approval of the Developer.

(z) Developer, or its assigns, may carry on such construction, selling and leasing activities on the Property as it deems necessary, and may maintain upon such portions of the Property as it deems necessary, such facilities as may be necessary, expedient or incidental to the completion of construction and to the selling or leasing of Lots, including, but not limited to,

maintenance of a sales office, model residences, signs, storage areas, construction facilities and construction offices.

(aa) No playground or recreational equipment or structures, including, but not limited to, swing sets, basketball goals or trampolines, shall be permitted on any Lot without the prior written approval by Developer; provided, however, swing sets and playground equipment shall be permitted in the backyard of any house located on a Lot. Any such playground or recreational equipment or structures approved by Developer shall be located on the Lot in the area approved by Developer and may not be relocated without Developer's approval. The Owner shall maintain any such playground or recreational equipment or structure in a state of good repair and in the event the Owner fails to do so, Developer shall have the right to enter the Lot and to make such repairs at the expense of the Owner or to otherwise remove such equipment or structure. The Owner shall promptly reimburse Developer for all expenses incurred pursuant thereto upon demand.

(bb) Unless otherwise waived by the Developer, each Owner shall install a five foot sidewalk, not more than six feet from the curb along the street frontage of all Lots in accordance with all applicable requirements and specifications of Hamilton County and/or the City of Collegedale, as applicable.

(cc) All Dwelling Units in the Development will be required to have a Greenbriar Code standard, preaddressed mailbox selected by Developer.

(dd) No firearms shall be unlawfully discharged upon any Lot at any time, and no target practice or contests of marksmanship shall be conducted at any time. "Firearms" includes "B-B" guns, pellet guns and other firearms of all types.

(ee) No permanent cuts may be made in the curbs for any purpose, other than driveways. Owners shall repair damaged curb cuts in front of their respective Lots, except that if another, identifiable Owner causes damage to a curb cut, then such Owner shall be responsible for repairing the damage.

(ff) All construction of a Dwelling Unit and other related construction on a Lot site shall be completed within twelve (12) months from the date of the pouring of the footings for said Dwelling Unit.

(gg) Heating or air conditioning units must be properly screened with evergreen shrubs or fencing approved by the Developer. All garbage and trash containers must be placed in the garage or in enclosed areas of the rear or side yard which must be approved by the Developer as to materials, dimensions, and location. Window and/or wall air conditioning units are prohibited. Propane tanks or other such fuel tanks are prohibited.

(hh) No sign of any kind shall be displayed from any Dwelling Unit or from any Common Properties, with the exception of a "For Sale" sign to facilitate the sale of an Owner's personal residence, which shall only be placed in the front yard of the selling Owner. If a Dwelling Unit is to be sold personally by the Owner, the "For Sale" sign then shall say "For Sale By Owner" and if desired may also show the Owner's phone number. Notwithstanding the foregoing, Developer and the Association shall have the right to erect signs as they deem

appropriate in their sole discretion.

(ii) No exterior flood lighting may be attached to any Dwelling Unit except for flood lights attached to the rear corners of a Dwelling Unit, which must be pointed downward so as not to disturb other Owners. For all other decorative lighting on any Dwelling Unit or Lot Owners must obtain the prior approval of the Board. Owners also must obtain Board approval when replacing any exterior lighting fixtures if the replacement fixtures are different from those originally provided with the Dwelling Unit by the Developer.

(jj) All decks must be approved in writing by Developer prior to construction. The configuration, detailed railing, design of the deck shall be harmonious with the architectural style of the Dwelling Unit.

(kk) No sprinkler irrigation systems of any type which draw from any body of water within the Property shall be installed, constructed or operated by any Owner, other than the Association or Developer, without prior approval of Developer. All Lots which are developed are required to have an underground irrigation system for maintaining all front, side and rear lawns on the Lots and the cost of all water used shall be paid by the Owner of the Lot; provided, however, the cost for such water may be collected from each Owner as part of the Landscaping Fee if the Developer or Neighborhood Developer so elects to provide or obtain lawn maintenance service pursuant to the foregoing subparagraph (x).

(ll) All utilities shall be installed underground unless otherwise specifically permitted by Developer.

(mm) All property located at street intersections shall be landscaped so as to promote safe sight across the street corners. No fence, wall, hedge or shrub planting shall be placed to any where such would create a traffic or sight problem.

(nn) No flagpole in excess of thirteen (13) feet in height shall be erected except as otherwise specifically permitted by Developer.

(oo) No trees greater than six (6) inches in diameter other than diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons shall be removed unless approved in writing by Developer. This exception shall not apply to Developer or the Association.

(pp) All wetlands, lakes, ponds and streams within the Property, if any, shall be storm water retention facilities or aesthetic amenities only and no other use thereof, including without limitation, fishing, swimming, boating, playing or use of personal floatation devices, shall be permitted unless otherwise permitted by Developer or the Association. Developer may elect for the benefit of the Project to allow limited fishing and recreational use of lakes and ponds within the Property subject to limitations imposed by Developer.

(qq) All windows on any structure which are visible from the streets or other Dwelling Units shall have window coverings which have a white or off-white backing or blend with the exterior color of the Dwelling Unit as determined in the sole discretion of the Developer. Reflective window coverings are prohibited.

(rr) Only builders who have been approved by Developer shall be permitted to construct any Dwelling Units in the Project. Developer shall maintain a list of approved builders which list shall be made available to Owners and prospective purchasers of a Lot. Developer may, from time to time, in its own discretion, change the approved builders list by adding additional builders and/or by deleting names of builders no longer approved. An Owner shall be permitted to contract with a particular builder for construction of a Dwelling Unit only if that builder is on that approved builder List at the time the construction contract is entered into.

7.04 Violations and Enforcement. In the event of violations of any one or more of the provisions of this Article or this Declaration, the Developer or the Association, its successors and assigns, including all parties hereafter becoming Owners of any one (1) or more of the Lots to which the provisions of this Declaration apply, may bring action or actions against the violating Owner seeking to enjoin such violation, or attempted violation, and the violating Owner shall be further liable for such damages as may accrue, including court costs and reasonable attorney's fees incident to any such proceedings, which costs and fees shall constitute liquidated damages. By reason of the rights of enforcement of the provisions of this Declaration being given unto Owners of Lots (subject to rights of variance reserved by the Board), it shall not be incumbent upon the Developer or the Association to enforce the provisions of this Declaration or to prosecute any violation thereof. Developer shall not be responsible or liable for any violation of these restrictive covenants set forth in this Declaration by any person other than itself. In the event of a violation of these restrictions or upon request by an Owner, a waiver or variance of the restrictions set forth in this Article VII or elsewhere in this Declaration may be made or granted by the Developer (or the Board if approval authority therefor has been assigned by Developer to the Board) in its sole discretion, if said waiver or variance does not adversely affect the purposes contained herein. Additionally, the Board shall have the right at any time to establish a "Grievance Committee" to receive and review all Owner complaints with regard to alleged violations of this Declaration. In establishing the Grievance Committee, the Board shall record a supplement to this Declaration setting forth the procedure to be followed to address such Owner complaints. In such event, the remedy provided for Owner complaints as established by the Board shall be exclusive of any other remedy, and no Owner shall bring suit against the Grievance Committee, the Association, the Board of Directors or any Member of the Board without first complying with the procedures for complaints as established.

7.05 Easement. The Developer shall have and does hereby reserve a transferable easement on and over all Lots for the purpose of making improvements on adjoining property and for the purpose of doing all things in connection therewith. In that connection and by way of clarification but not limitation, the easements reserved by the Developer, its successors and assigns, in, on, over, under and through the Property include those for the erection, installation, construction, and maintenance of wire, lines, conduits, and necessary or proper attachments in connection with the transmission of electricity, gas, water, telephone, community antennae, television cables, and other utilities; for the construction and use of Dwelling Units and other improvements on the Lots; for the installation, construction and maintenance of storm water drains, public and private sewers, and any other public or quasi-public utility facility; for the use of any streets, drives or temporary facilities installed for parking vehicles in connection with efforts to market the Dwelling Units or Lots; for the maintenance of such other facilities and equipment as in the sole discretion of Developer may be reasonably required, convenient or incidental to the completion, improvement and sale of Dwelling Units or Lots. The Developer or

any builder who acquires a Lot from Developer for the purpose of erecting a Dwelling Unit thereon and their duly authorized agents, representatives and employees shall have the easements as well as an easement for the maintenance of sales offices and/or model residences on the Property for so long as the Developer or its successor builds or owns any Lot for sale in the ordinary course of business.

7.06 Townhomes (as known as Patio Homes).

(a) It is the intent of Developer that certain portions of the Project may consist of townhomes which are also sometimes referred to herein and in other documents pertaining to and describing the Project as patio homes. In such event, the following additional provisions shall apply to the townhomes in addition to all other terms and conditions specified in this Declaration. For purposes of this provision, a "Townhome" shall mean those Dwelling Units within the Project constructed on a "Townhome Site" which site shall be designated in a supplement or amendment to this Declaration or otherwise on a plat for such phase of the Project. A Townhome is a Dwelling Unit and a Townhome Site shall be a Lot but not all Lots shall be a Townhome Site and not all Dwelling Units shall be a Townhome. For purposes of this provision, "Townhome Pod" shall mean each collective grouping of multiple Townhomes constructed so as to share demising walls or otherwise to be physically joined, separate from other groupings of Townhomes. "Townhome Owners" shall mean the owners of Townhomes. A Townhome Owner shall be an Owner. The phase of the Project consisting of Townhomes may also be designated as a Neighborhood and if so shall also be subject to the terms and conditions of Article XI. In the event any special services, including, but not limited to, maintenance, repair and upkeep services are to be performed in common for the benefit of the Townhomes ("Townhome Services") the scope of which Townhome Services shall be determined solely by the Association in its sole discretion, the Association (or the Neighborhood Association, if applicable) shall have the right to specially assess the Townhome Owners for any such additional costs and expenses associated with providing the Townhome Services. The Townhome Services may include, but not be limited to, lawn mowing and other lawn services and landscaping. The cost of any such Townhome Services shall be shared equally by the Townhome Owners who shall pay an additional annual assessment or special assessments above and beyond any annual assessments or special assessments payable by Townhome Owners to the Association as provided in Section VIII hereof. The Townhome Owners are required to accept and participate in whatever Townhome Services the Association or any Neighborhood Association elects to provide for such Neighborhood, and Townhome Owners may not decline any such Townhome Services, may not perform like kind services independent and apart from the in common performance of the Townhome Services, and may not refuse to pay its share of the cost of Townhome Services through annual or special assessments. Specifically excluded from Townhome Services are roof replacement, repair and maintenance and exterior painting and maintenance.

(b) Whether or not included within the Townhome Services, so as to be paid for through annual or special assessments, the following maintenance and repair tasks must be performed contemporaneously and in unison on Townhomes in a single Townhome Pod with such timing in performing these tasks determined by mutual agreement of all Townhome Owners in the Townhome Pod in question: (i) roof replacement and (ii) exterior painting (other than touchup painting). Each Townhome Pod will decide for itself whether and when to perform

these tasks by mutual agreement, and if any Townhome Pod decides to perform such tasks then such decision shall be binding on all Townhome Owners within such Townhome Pod, and each Townhome Owner in a Townhome Pod performing the tasks is obligated to pay its share of the tasks. If the Townhome Owners in a Townhome Pod cannot agree as to when and how to complete the foregoing tasks, the Association shall have the authority on its own initiative to make such determination and the subject Townhome Owners shall be bound by the decision made by the Association. The cost for any such tasks must be quoted in a manner that allocates the total cost amongst the individual Townhomes in the Townhome Pod, and each Townhome Owner in the Townhome Pod will pay the amount that is allocated to his/her Townhome. The costs of performing any of these tasks shall be deemed a special assessment and shall benefit from the provisions of this Declaration pertaining to same including the right to place a lien on a Townhome in the event of non-payment. Based on the foregoing, in the event a casualty causes damage to one or more but less than all of the Townhomes such that exterior painting or roof replacement only for those Townhomes damaged, then such event shall not require the Townhomes unaffected by the damage to participate in any roof replacement or exterior painting.

(c) Notwithstanding the foregoing, the Townhomes are separately owned in fee simple by each Townhome Owner, and they are not a condominium regime with portions of the improvements jointly owned in common. Accordingly, only the Townhome Services shall be performed in common as a convenience to Townhome Owners. All other maintenance and repairs to the Townhomes, including, but not limited to, repair, maintenance and replacement of roofs or the exterior of Townhomes and repair of damage by casualty, shall be the responsibility of each Townhome Owner, and neither the Association nor any Neighborhood Association shall carry insurance coverage for such maintenance or repair or collect and/or maintain a reserve account for any such items. In the event of casualty causing damage to a Townhome, the Townhome Owner of such Townhome shall be required to repair and restore the Townhome to its condition prior to the casualty. Each Townhome Owner shall have the responsibilities for the maintenance, repair and replacement of party walls as set forth in this Declaration.

(d) All exterior architectural and aesthetic elements and characteristics of the Townhomes shall remain unchanged from their appearance as initially constructed so as to preserve the continuity and uniformity of the Townhomes, except that Townhome Owners may make aesthetic exterior changes so long as the changes are uniform to all Townhomes and are approved by the Developer. This provision shall apply to items including, but not limited to, the appearance and style of exterior doors, shutters, light fixtures, paint schemes, trim work, shingles and exterior materials.

(e) Each wall which is built as a part of the original construction of the Townhome upon a Townhome Site and placed on the dividing lines between the Lots shall constitute a party wall and the general rules of law regarding party walls and liability for property damage from negligence or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of a party wall shall be shared by the Townhome Owners who made use of the wall in equal proportions to such use. If a party wall is destroyed or damaged by fire or other casualty, any Townhome Owner who uses the wall may restore it. If other Townhome Owners make use of this wall, they shall contribute to the restoration cost in proportion to such use, without prejudice, however, to the right of any such Townhome Owner to call for a larger contribution from the Townhome Owner under any rule of law regarding liability

for negligent or willful acts or omissions. Notwithstanding any other provisions herein to the contrary, a Townhome Owner, who by such Townhome Owner's negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary repairs as needed. In the event of any dispute arising concerning a party wall, or under the provisions of this Declaration, the Board of Directors shall govern with its decision to be final and conclusive.

(f) Each Townhome Owner shall obtain fire and extended coverage insurance on such Townhome Owner's Townhome in an amount which shall be equal to the maximum insurable replacement value as determined annually and shall annually provide a certificate evidencing the existence of insurance to the Secretary of the Association. Each Townhome Owner shall purchase public liability insurance in an amount not less than Three Hundred Thousand Dollars (\$300,000.00) to protect against claims due to accidents within such Townhome Owner's Townhome and on the outside ground of such Townhome Owner's Townhome and the Common Properties, and annually provide a certificate evidencing same to the Secretary of the Association. Payment of any claim for damage or loss to a Townhome shall be used exclusively for the cost of repair and restoration of such damaged Townhome in its entirety.

(g) Annual termite contracts are to be kept in force by each Owner of a Townhome with a pest control company of their choice, and each such Owner shall annually provide a certificate evidencing same to the Secretary of the Association. This is to insure that no termite damage will occur between Townhomes.

(h) Developer hereby declares that all Dwelling Units constructed in The Village at Greenbriar Cove shall be Townhomes and each Lot within The Village at Greenbriar Cove shall be a Townhome Site (excluding any Lot identified on any plat for The Village at Greenbriar Cove as a community lot or as part of the Common Properties). No further supplement or amendment to this Declaration is required to designate The Village at Greenbriar Cove as such. The Village at Greenbriar Cove shall also be a Neighborhood within the meaning of Article XI of this Declaration.

(i) If any portion of a Townhome encroaches upon an adjacent Townhome Site as a result of the construction of such Townhome, there is hereby granted and reserved an easement in favor of the Townhome Owner whose Townhome encroaches onto the adjacent Townhome Site but only to the extent of the encroachment and only for such purpose; provided, however, no such easement shall arise in favor of a Townhome Owner who creates such encroachment by said owner's intentional or negligent conduct.

7.07 Architectural Controls.

(a) Developer shall have sole architectural and design review authority and all other approval rights for the Property until the Developer has transferred governing authority to the Board in accordance with the Bylaws and these Declarations; provided, however, that prior to calling the meeting of the Association to elect a Board to succeed Developer as provided in the Bylaws, Developer may execute and record a document stating that Developer reserves unto itself, its successors, or assigns, the architectural and design review authority and all other approval rights provided in this Article VII and elsewhere in this Declaration and stating that

said reservation, notice of which is thus provided, shall survive the election of the Board to succeed Developer. Thereafter, Developer shall continue to exercise the rights thus reserved to it until such time as it shall execute and record a document assigning these rights to the Board. Upon such occurrence, the Board shall establish an Architectural Review Committee ("ARC") as soon as is practicable. When such ARC has been established, Developer shall transfer such reviewing and approval authority to it. Developer may elect to transfer to the Board only part of its architectural and design review authority and approval rights granted in this Declaration or Developer may elect to transfer such authority and approval rights in stages or for limited Neighborhoods. Further, Developer shall have the right to transfer and assign its architectural and design review authority and other approval rights for a Neighborhood to the Neighborhood Developer for such Neighborhood.

(b) No Dwelling Unit, other building, structure, fences, exterior lighting, walls, swimming pools, children's play areas, decorative appurtenances, or structures of any type, shall be erected, placed, added to, remodeled or altered and no trees or shrubs shall be cut or removed and no grading shall be commenced until the proposed building plans and specifications (including height, and composition of roof, siding, or other exterior materials and finish), plot plan (showing the proposed location of such Dwelling Unit, building or structure, drives and parking areas), drainage plan, landscape plan or construction schedule, as the case may be, shall have been submitted to and approved by the Developer or the ARC, as the case may be, which plans must be submitted for approval at least forty-five (45) days prior to the proposed dated of construction. In addition, any repainting of a substantial portion of the exterior of any structure in a manner not previously approved by the Developer or the ARC shall be subject to prior approval by Developer or the ARC as provided in the preceding sentence. Developer or ARC shall give written approval or disapproval of the plans within 30 days of submission. However, if written approval or disapproval is not given within 30 days of submission, the plans shall be deemed to have been approved. Developer or the ARC may, by written notice from time to time to the Owners of Lots, exempt certain matters of a non-essential nature from the review requirements subject to the terms and conditions and for the time periods established by Developer or the ARC.

(c) The following building restrictions shall apply to the Property and all Dwelling Units and other improvements and structures to be constructed therein:

(i) No Dwelling Unit may be erected or be allowed to occupy any Lot unless the main structure exclusive of garages, open porches and basements are not less than the following minimum square footage restrictions:

(1) Minimum square footage restrictions for Townhomes shall not be less than 1,300 square feet.

(2) Minimum square footage restrictions for a single-story garden home shall not be less than 1,600 square feet and the minimum square footage restrictions for the ground floor of a two-story patio garden home shall not be less than 1,450 square feet.

(3) Minimum square footage restrictions for a single-family home shall not be less than 1,800 square feet and the minimum

square footage restriction for the ground floor of a two-story single family home shall not be less than 1,600 square feet.

(4) Minimum square footage restriction for single-story estate home shall not be less than 2,200 square feet and the minimum square footage restriction for the ground floor of a two-story estate home shall not be less than 2,000 square foot.

(ii) Heated living area having clear headroom of less than six feet eight inches (6'8") shall not be included within any computation or calculation of heated living area of any Dwelling Unit for purposes of this covenant.

(iii) The exterior of all Dwelling Units shall be constructed of any of the following: stucco, brick or stone masonry, baked-on enamel, wrought iron, copper, wood siding or shingles, or Hardiplank or equivalent siding. Any other exterior material must be approved by the Developer. All retaining walls shall be of stone or brick finish or other materials approved by the Developer. All roof overhangs shall be a minimum of eight (8) inches (except for dormers) and a maximum of twelve (12) inches from the finished face of the exterior wall. All roofs shall have a minimum pitch of 7:12 of front elevation and 6:12 of front-to-back slope unless otherwise approved by Developer. All roofing material must be architectural quality with a minimum of 25-year dimensional shingle, asphalt, shakes or slate and must be black, dark grey, weather wood or another color approved by the Developer. All roof stakes and plumbing vents shall be placed on rear roof slopes wherever possible. Metal roofing may be used for porches, bay windows, roof vents, and dormers and must in all events be approved by the Developer. Metal roofing on the front elevation bay windows may be approved or required by the Developer.

(iv) All construction shall be carried out in compliance with the laws, code rules, regulations and orders of all applicable governmental agencies and authorities. Construction shall equal or exceed requirements set forth by the *Southern Building Code*, Hamilton County and City of Collegedale.

(v) No exposed concrete blocks shall remain on any exterior wall above ground level, unless covered or finished with stucco. No stucco shall be permitted above twenty-four inches (24") from the ground or such other height unless approved by Developer.

(vi) All foundations shall be fully enclosed at the exterior walls; no pier-type foundations or unenclosed foundations shall be permitted.

(vii) All driveways must be of concrete construction and shall be poured with a minimum thickness of four inches (4"). All driveways shall

be not less than ten feet (10') in width, and shall run from the pavement line of the street frontage of each Lot. All Lots must have a front sidewalk poured next to the street curb with a minimum thickness and a minimum width approved by Developer and shall be in conformity with the overall development of the Project.

(viii) No poles for installation of private lighting shall be located or placed forward of the building setback line as shown on the recorded subdivision plats for the Property or any portion thereof.

(ix) All windows shall be wood or vinyl and, if on the front or the side of a Dwelling Unit, must have a mutton pattern. Bay windows and box windows must be continuous to the ground and constructed of brick, fiber cement, wood or stucco. Clad windows are permitted provided such windows have a brick mold surrounding them and are approved by the Developer. Cantilevered bays are prohibited on the front and sides of any Dwelling Unit.

(x) All Owners shall maintain their mailbox in accordance with the Developer's uniform design and construction requirements as set forth in the Design Guidelines (as hereinafter defined).

(xi) All exterior designs, colors, roof brand and colors, as built and established by Developer shall not be changed or altered without Developer's written consent.

(xii) No outbuildings or accessory structures shall be built or permitted to remain on any Lot without the written approval of the Developer.

(xiii) All front yards shall be sodded from the rear building line of the Dwelling Unit to the sidewalk. Shrubs shall be planted and maintained in accordance with the Developer's landscaping requirements.

(xiv) All chimneys or other fireplace structures on the exterior of any Dwelling Unit shall begin at ground level and shall have a painted chimney shroud. Cantilevered fireplaces are not allowed, unless otherwise approved by the Developer on rear elevations. The Developer shall review and approve exterior chimney materials based on location and surrounding wall materials.

(d) There shall be a fee charged for each application submitted for review pursuant to this Article VII. The amount of the fee shall be set in the sole discretion of the Developer or ARC and shall initially be set at Two Hundred and No/100 Dollars (\$200.00).

(e) In addition to the requirements set forth in this Section 7.07, Developer may also prepare and promulgate, on behalf of the Board of Directors, additional design and development guidelines ("Design Guidelines") for the Project. In Developer's discretion, the Design Guidelines may vary the building requirements specified in this Declaration. Copies of the Design Guidelines shall be available from the Developer or the ARC for review. Developer

shall have sole and absolute authority to prepare and amend the Design Guidelines until such time as the architectural review authority for the Project is transferred to the Board. The Design Guidelines shall be available to Owners and builders who seek to engage in development of, or construction upon, all or any portion of the Property, and such Owners and builders shall conduct their operations strictly in accordance therewith. The provisions of this Section 7.07 shall not apply to any construction of improvements on or modifications to the Common Properties made by or on behalf of the Association or to the activities of Developer. The provisions of this Article VII may not be amended without the Developer's prior written consent so long as the Developer owns any portion of the Property or any additional property added thereto. Any Owner, builder or contractor, subcontractor, agent or employee of an Owner or builder who fails to comply with the terms and provisions of this Declaration and the Design Guidelines promulgated by Developer may be fined and/or excluded by the Board or the Developer from the Project without liability to any person subject to any notice and hearing procedures contained in the Bylaws for the Association and any improvements in violation of this Article VII may be razed by Developer and/or the Association without payment or liability to any person.

(f) Approval of any proposed building plan, location, specifications or construction schedule submitted under this Article VII will be withheld unless such plans, location and specifications comply with the applicable restrictive covenants and conditions of this Declaration and the Design Guidelines and unless such construction schedule complies with the provisions of this Article. Approval of the plans and specifications by Developer or the ARC is for the mutual benefit of all Owners and is not intended to be, and shall not be construed as, an approval or certification that the plans and specifications are technically sound or correct from an engineering or architectural viewpoint. Each Owner shall be individually responsible for the technical aspect of the plans and specifications.

(g) All contractors, landscape architects and others performing work on any Lot must be licensed as may be required by the State of Tennessee or any other governmental authority having jurisdiction in order to construct a residence on a Lot or perform services for an Owner.

7.08 55 Plus Age Restriction.

(a) Each Dwelling Unit in the Project, if occupied, shall be occupied by at least one (1) person not less than 55 years of age and no person 18 years of age or under shall reside in any Dwelling Unit. To the extent required by applicable federal or state law, at no time shall less than 90% of the Lots subject to this Declaration be occupied by single families where at least one member of the single family is 55 years of age or older. One (1) member of the family residing in each Dwelling Unit must be 55 years of age or older in order to qualify the Owner of such Dwelling Unit for membership in the Association. No person 18 years of age or under shall be entitled to be a Member of the Association. Any person 19 years of age or older who resides in the same Dwelling Unit with any person 55 years of age or older is eligible for membership in the Association as long as such 55 years of age or older person is a resident of the Project. Any person under 55 years of age who acquires a Dwelling Unit in the Project by purchase or inheritance and who subsequently lives in such Dwelling Unit and is not qualified as above provided, or who, rents, or leases such Dwelling Unit, as a third party, is not eligible for membership in the Association.

(b) Persons under the age of 19 may reside in the Project as guests for a maximum period of ninety (90) days in any 12-month period as long as there is an age-qualified person (as set forth above) occupying the same Dwelling Unit. Persons 19 years of age or older may reside in a Dwelling Unit in the Project as long as there is an age qualified person (as set forth above) also residing in the Dwelling Unit. The age restrictions set forth herein apply to Owners, renters and to house guests who occupy the Dwelling Unit in the absence on an age qualified Owner.

(c) All Owners of a Dwelling Unit in the Project must show evidence that at least one (1) resident in the occupied Dwelling Unit is age qualified by the any of the following documents: (i) driver's license, (ii) birth certificate, (iii) passport, (iv) immigration card, (v) military identification, (vi) any other state, local, national or international official document containing a birth date of comparable reliability, or (vii) a certification in affidavit form by an individual having personal knowledge that such individual is 55 years of age or older.

(d) It is the intent of Developer that no one under the age of 55 be permitted to own a Dwelling Unit or live in a Dwelling Unit located within the Project unless there is an aged qualified resident (as set forth above) in the Dwelling Unit. The Developer and the community constituting the Project considers the Project to be housing for older persons as contemplated by the Fair Housing Amendments Act of 1988 (the "Act") and the rules and regulations promulgated by the Department of Housing and Urban Development pursuant to the authority to do so granted by Congress in the Act. The community constituting the Project considers itself exempt from the "familial" status provisions of the Act and considers it may exclude families with children from purchasing property within the Project or otherwise living within the Project. Towards such end, the following is hereby declared: (i) At all times the community assures that at least 90% of the Dwelling Units shall be occupied by at least one (1) person per Dwelling Unit who is age 55 years or older. This shall be assured by the regular updating of a census of the population of the Project, which census shall be kept according to guidelines suggested by the United States Department of Housing and Urban Development. Such records shall be maintained by the Developer and/or the Association at the Developer's office and/or the Association's office and can be examined at any time during business hours after making an appointment to do so; and (ii) the Developer and/or the Association shall publish and adhere to policies and procedures showing the intent to provide housing for persons age 55 or older. Specifically, this Declaration as recorded in the official records of Hamilton County, Tennessee operates as notice to the world of the contents of this Declaration and the intent to create an aged restricted community. The Association shall also, as part of its regular business practices, enact rules and regulations governing the Project. Such rules and regulations shall be posted at all times in the clubhouse, if any, for the Project and shall be mailed to every Member of the Association and all Owners of a Dwelling Unit. The Association shall regularly print and distribute a newsletter/brochure showing the intent to provide housing for persons age 55 or older.

(e) The Developer and/or Association will vigorously seek any and all remedies available including, but not limited to, assessing fines and liens in amounts determined by the Board of Directors assessed against the offending Owners of Lots and Dwelling Units for non-compliance by any Owner, renter or houseguest who violates the foregoing age restriction.

Additionally, the Developer and/or Association shall have the right to require the sale of a Dwelling Unit in the event of a violation of the age requirement set forth herein or to otherwise repurchase a Dwelling Unit from the Owner thereof if any such age restriction violation occurs and is not remedied within six (6) months from the date of receipt of written notice of such violation from the Developer and/or Association. In the event of a repurchase of a Dwelling Unit pursuant hereto, the repurchase price for any such Dwelling Unit shall be the fair market price of such Dwelling Unit as determined by an independent third party appraiser selected by the Developer and/or the Association. In the event of such repurchase, the closing costs shall be paid by the parties in accordance with custom in the county in which the Project is located.

ARTICLE VIII ASSESSMENTS

8.01 Creation of Lien and Personal Obligation of Assessments. Each Owner by acceptance of a deed conveying a Lot, whether it be expressed in any such deed or other conveyance, by submission of such Lots to this Declaration under the provisions of **Section 2.01** hereof, shall be deemed to covenant and agree to all of the terms and provisions of this Declaration and shall pay to the Association annual assessments and special assessments ("Annual Assessments" and "Special Assessments", respectively, and collectively the "Assessments") for the purposes set forth in this Article or elsewhere in this Declaration, at such time as hereinafter provided. Each Owner of a Lot shall be personally liable to the Association for the payments of all Assessments, whether annual or special, which may be levied while such party is Owner of a Lot. The Assessments, together with interest thereon and costs of collection therefore as hereinafter provided, shall be a charge and continuing lien on the Lot and all of the improvements thereon against which each such Assessment is made. Unpaid Assessments shall bear such interest from due date to date of payment at a rate set by the Board. The failure to pay Assessments shall result in a suspension of an Owner's voting rights as provided elsewhere in this Declaration. Neither the liability for Assessments, nor the amount of Assessments, shall be reduced or voided due to the fact that all or any portions of the Common Properties or any other portion of the Project is not completed. No diminution or abatement of Assessments or set off shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or the Bylaws of the Association or for inconvenience or discomfort arising from the making of repairs or improvements or from any action taken to comply with any law or with any order or directive of any municipal or other governmental authority.

8.02 Purpose of Assessments. The Assessments levied by the Board shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and for the improvement, maintenance and repair (and replacement as needed) of the Common Properties and Project and for payment of all Common Expenses for the Project. Special Assessments shall be used as set forth in **Section 8.04** of this Article. It is the express intent of this Article VIII that each Owner shall pay such Owner's pro-rata share of all Common Expenses for the Project.

8.03 Amount of Monthly Assessments. The initial Annual Assessment per Lot shall be Thirty-Five and No/100 Dollars (\$35.00) per month payable in advance and semi-annually in the months of January and July of each calendar year. A majority of the Board may elect to increase or reduce the Annual Assessment at an annual or special meeting of the Board.

Developer reserves the right without the consent of the Members to increase the Annual Assessment at any time and from time to time while Developer is exercising the rights and duties of the Board of Directors. The Annual Assessment may include estimated amounts for future anticipated expenses or for the establishment and maintenance of a reserve fund for the Project. The Annual Assessment shall also include any Landscaping Fee payable by the Owners.

8.04 Special Assessments for Improvements and Additions. The Board may levy Special Assessments 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 upon the Common Properties (and any addition or improvement to the Common Properties) or Project, including necessary fixtures and personal property related thereto, provided that such Assessment shall have the approval of two-thirds (2/3) of the Owners at a duly called meeting of the Association, written notice shall be sent to Members thirty (30) days in advance setting forth the purposes of said meeting. There shall also be an additional assessment of \$750.00 payable by an Owner each time a Lot which is a Townhome Site is sold and an additional assessment of \$1,000.00 payable by an Owner each time any other Lot is sold (the "Transfer Assessment"). The first transfer of an undeveloped Lot from the Developer to a builder which intends to construct a Dwelling Unit thereon for sale of such Lot as improved to an Owner shall be exempt from such Transfer Assessment. Developer has the right at any time and from time to time to increase the Transfer Assessment without the consent or approval of the Members while Developer is exercising the rights and duties of the Board of Directors. Notwithstanding anything herein to the Contrary, so long as Developer is acting as the Board, Developer shall have the right without the approval of the Members to assess Special Assessments not to exceed \$5,000.00 in a single calendar year. The Transfer Assessment shall be considered part of the Assessment payment of which (with lien rights) may be enforced as set forth in this Article VIII.

8.05 Date of Commencement of Monthly Assessments. The Annual Assessment shall commence on the date fixed by the Developer or the Board to be the date of commencement. Such Annual Assessment will be due and payable semi-annually on the same date of January and July as so established. The due date shall be fixed in the resolution authorizing such Assessment.

8.06 Lien. Recognizing that the necessity for providing proper operation and management of the Common Properties and Property entails the continuing payment of costs and expenses therefor, the Association is hereby granted a lien upon each Lot and the improvements thereon as security for payment of all Assessments against said Lot, now or hereafter assessed, which lien shall also secure all costs and expenses, and reasonable attorney's fees and court costs, which may be incurred by the Association in the enforcement of the lien upon said Lot. The lien granted to the Association may be foreclosed as other liens are foreclosed in the State of Tennessee. Failure by the Owner to pay any Assessments, annual or special, on or before the due dates set by the Association for such payment shall constitute a default, and this lien may be foreclosed by the Association. The right to foreclose includes the power of sale and the right to sell Lots and the improvements thereon by non-judicial foreclosure.

8.07 Lease, Sale or Mortgage of Lot. Whenever any Lot may be leased, sold or mortgaged by the Owner thereof, which lease, sale or mortgage shall be concluded only upon

compliance with other provisions of this Declaration, the Association, upon written request of the Owner of such Lot, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any Assessments which shall be due and payable to the Association by the Owner of such Lot; such statement shall include whether there exists any matter in dispute between the Owner of such Lot and the Association under this Declaration. Such statement shall be executed by an officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement. Should payment of any Assessments be in default when such lease, sale or mortgage should be transacted, then the rent, proceeds of purchase or mortgage shall be applied by the lessee, purchaser or mortgagee, first to payment of any delinquent Assessments to the Association before payment of any rent, proceeds of purchase or mortgage to the Owner of any Lot who is responsible for payment of such delinquent Assessments. In any voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor and the Lot made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

8.08 Developer Owned Lots. All Lots owned by the Developer shall be exempt from all Assessments and Developer shall have no responsibility to pay any Assessments which are otherwise assessed against Lots in the Project. This exemption shall also apply to Lots owned by a Neighborhood Developer. All Lots which are part of the Common Properties shall also be exempt from Assessments.

8.09 Suspension of Voting Rights. An Owner's voting rights under this Declaration and under the Bylaws of the Association shall be suspended and such Owner shall have no right to vote in any matter in which such Owner would otherwise be entitled to vote for so long as Owner has failed to pay any and all Assessments required to be paid by such Owner under this Article VIII or is otherwise in default under any other term or provision of this Declaration. This provision shall not apply to Developer or a Neighborhood Developer.

ARTICLE IX MORTGAGES, MORTGAGEES AND PROCEDURES AND RIGHTS RELATING THERE TO

9.01 Mortgages and Other Liens.

(a) Each Owner shall have the right, subject to the provisions herein, to make or create, or cause to be made or created, any mortgage or other lien on or affecting said Owner's respective Lot; provided, however, that, from the date this Declaration is recorded, no Owner shall have the right or authority to make or create, or cause to be made or created, any mortgage or other lien on or affecting the Property or any part thereof, except only to the extent of said Owner's own Lot.

(b) Subsequent to the recording of this Declaration, no liens of any nature shall be created or arise against any portion of the Property except against an individual Lot. No labor performed or materials furnished with the consent or at the request of a particular Owner

shall be the basis for the filing of a mechanic's lien claim against any Lot other than the requesting Owner's Lot or against the Common Properties. If the performance of the labor or furnishing of the materials is expressly authorized by the Association, each Owner shall be deemed to have expressly authorized and consented to such performance of labor and furnishing of materials, and each Owner shall be liable for the payment thereof in a proportionate share of any due and payable indebtedness, as set forth in this Declaration. An Owner shall not be liable for any claims, damages or judgments entered as a result of any action or inaction of the Association other than for mechanic's liens as set forth above. Each Owner's liability for any judgment entered against the Association shall be limited to said Owner's proportionate share of the indebtedness, as set forth in this Declaration whether collection is sought through assessment or otherwise.

9.02 Rights of First Mortgagees.

(a) Each of the following actions (and only the following actions) shall require, as of the date such action is taken, the prior written approval of all holders or owners of a subsequently recorded mortgage or deed of trust constituting a First Mortgage lien on any one (1) or more Lots:

(i) abandonment or termination of the Association or removal of the Property from the provisions of this Declaration, except for removal provided by law, or in the case of destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(ii) any amendment to this Declaration which changes the interest of the Owners in the Common Properties;

(iii) use of hazard insurance proceeds for losses to the Common Properties for other than the repair, replacement, or reconstruction of such improvements; and

(iv) any amendment to this Article or to any other provision in this Declaration which specifically grants rights to the holders of such First Mortgages.

(b) Upon written request, any First Mortgagee subject to this Declaration shall be entitled to:

(i) inspect the books and records of the Association during normal business hours, upon reasonable notice;

(ii) receive a copy of the annual financial statement of the Association which is prepared for the Association and distributed to the Owners;

(iii) receive written notice of all meetings of the Association and permitted to designate a representative to attend all such meetings;

(iv) receive written notice of any default in the obligations hereunder of any Owner of such Lot encumbered by such First Mortgage lien, not cured within thirty (30) days after notice of such default has been sent to such Owner by the Association; and

(v) receive written notice of any material amendment to this Declaration or the Bylaws of the Association.

However, the Association's failure to provide any of the foregoing to a First Mortgagee who has so requested same shall not affect the validity of any action or decision which is related to the foregoing, nor shall the Association have any liability on account of its good faith failures to so provide.

(c) Upon written request, a First Mortgagee of any one (1) or more Lots shall be entitled to timely written notice in the event of any substantial damage or destruction of any part of the Common Properties or if the Common Properties or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority. No Owner or other party shall be entitled to priority over such First Mortgagee with respect to the distribution to such owner or other party, with respect to such Lot, of any insurance proceeds payable by reason of such damage or destruction or of the proceeds of any such condemnation award or settlement.

(d) The provisions hereof are in addition to all other rights of mortgagees herein contained or under law.

(e) When notice is to be given to any First Mortgagee hereunder, the Board shall also give such notice to the Federal Dwelling Unit Loan Mortgage Corporation, the Federal National Mortgage Association the Veterans Administration, the Federal Housing Administration, the Government national Mortgage Association and any other public or private secondary mortgage market entity participating in purchasing or guaranteeing mortgages of Lots in the Development, if the Board has notice of such participation.

(f) The foregoing rights set forth in this Section 9.02 and any other approval rights granted in this Declaration to Mortgagees are solely for the benefit of First Mortgagees and not any other Mortgagees. Further, to have the benefit of the rights granted in this Declaration, a First Mortgagee must register with the Association by providing written notice of its interest to the Secretary of the Association specifying the name of the Owner executing the First Mortgage and identifying the Lot encumbered by the First Mortgage.

9.03 Subordination of Lien to First Mortgage. The liens provided for in this Declaration shall be subordinate to the lien of a First Mortgage on any Lot if, and only if, all assessments, whether annual or special, with respect to such Lot having a due date on or prior to the date such First Mortgage is recorded have been paid. In the event any First Mortgagee shall acquire title to any Lot by virtue of any foreclosure, deed in lieu of foreclosure, or judicial sale, such First Mortgagee acquiring title shall only be liable and obligated for assessments, whether annual or special, and the costs of proceedings and attorney's fees as shall accrue and become due and payable for said Lot subsequent to date of acquisition of such title. In the event of the

acquisition of title to a Lot by foreclosure, deed in lieu of foreclosure, or judicial sale, any assessments, whether annual or special, and the costs of proceedings and attorney's fees as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Owners as part of the Common Expenses; provided, however, nothing contained herein shall be construed as releasing the party or parties liable for such delinquent assessments or costs of proceedings and attorney's fees from the payment thereof or the enforcement of collection of such payment by means other than foreclosure. The liens provided for in this Declaration shall be superior to all other Mortgages on the Property or a Lot

An Owner or First Mortgagee of a Lot shall have the right to acquire from the Association a certificate showing the amount of unpaid Assessments with respect to the Lot. The Association may not enforce against a First Mortgagee who relies on the certificate any indebtedness as of that date in excess of the amount shown thereon.

By subordination agreement executed by a majority of the Board, the benefits of this Article may be extended to Mortgages other than First Mortgages.

ARTICLE X DEFAULT/REMEDIES

10.01 Event of Default; Notice. If any Owner (either by said Owner's own conduct or by the conduct of any occupant of said Owner's Lot) shall violate any provision of this Declaration, the Bylaws or any rules and regulations promulgated pursuant hereto, and if such default or violation shall continue for twenty (20) days after written notice to the Owner from the Association or Developer, or shall occur repeatedly during any ten (10) day period after such written notice, then such violation shall constitute an event of default ("Event of Default") and the Association shall have the power to issue to said defaulting owner a notice in writing terminating the rights of said defaulting Owner to occupy, control, use and enjoy the Common Properties and to vote as a Member of the Association.

10.02 Remedies in the Event of Default. In an Event of Default, the Association, or its successors and assigns, or its agent, shall have each and all of the rights and remedies which may be provided for in this Declaration or the laws of the State of Tennessee, or which may be provided or permitted at law or in equity, and may prosecute an action or other proceedings against such defaulting Owner and/or others for enforcement of any lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Lot and such Owner's interest in the Property, and to sell the same, as hereinafter in this Declaration provided, or for any combination of remedies, or for any other relief. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the maximum contract rate per annum permitted by law shall be charged to and assessed against such defaulting Owner until paid, and shall be added to and deemed part of said Owner's respective share of the Common Expenses, and the Association shall have a lien for all of the same, as well as for non-payment of said Owner's respective share of the Common Expenses, upon the Lot and ownership interest in the Common Properties of such defaulting Owner and upon all of said Owner's additions and improvements

thereto; provided, however, that such lien shall be subordinate to the lien of any prior recorded First Mortgage or security deed on the Property, or any portion thereof, or on any interest of such Owner, except for the amount of the proportionate share of said Common Expenses which became due and payable from and after the date on which the said mortgage owner or holder either takes possession of the Lot or interest encumbered by such Mortgage or security deed, accepts a conveyance of any interest therein (other than as a security) or files suit or commences other proceedings to foreclose such mortgage or security deed and causes a receiver to be appointed. In the Event of Default by any Owner, the Board shall have the authority to correct such Default, and to do whatever may be necessary for such purpose (including, but not limited to, the right to enter the Owner's Lot and Dwelling Unit to correct such Default) and all expenses in connection therewith shall be charged to and assessed against such defaulting Owner, together with interest thereon at the rate aforesaid. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association. This provision shall not be amended, modified or rescinded without the prior written consent of all lenders who are the holders or owners of a mortgage or security deed recorded prior to the date of such amendment, modification or rescission.

ARTICLE XI NEIGHBORHOODS

11.01 Neighborhoods. Developer intends that Lots may, but need not be, grouped together to form a Neighborhood within the Project. Any such Neighborhood may be designated as such on the subdivision plat recorded for such Lots or in a supplemental declaration to this Declaration. In the event a Neighborhood is so designated, this Article XI shall apply to the Neighborhood. Notwithstanding the establishment of a Neighborhood, this Declaration and all terms, conditions and obligations herein shall continue to apply to all Lots and Owners within the Neighborhood and the Neighborhood Declaration, if any, for such Neighborhood shall be in addition to and subject to this Declaration and the terms, duties and obligations specified in this Declaration. All Lots in a Neighborhood shall continue to be a Lot under this Declaration.

11.02 Neighborhood Declaration. Developer, or Neighborhood Developer, may record instruments subjecting a Neighborhood to a Neighborhood Declaration, upon which event the Neighborhood shall then be subject to both this Declaration and such Neighborhood Declaration. Such Neighborhood Declaration may also create a Neighborhood Association, and such Neighborhood Association may have the same, additional, or different rights, powers, duties or privileges with respect to such Neighborhood as the Association, in which event such Neighborhood shall be subject to the jurisdiction of the Neighborhood Association as well as the Association and may cause the Owners of Lots within the Neighborhood to be members of the Neighborhood Association. A Neighborhood Declaration must be approved by Developer and notwithstanding such approval, when in conflict, this Declaration and all documents pertaining to this Declaration and the Association shall prevail over the Neighborhood Declaration and all documents pertaining to the Neighborhood Association. Notwithstanding the foregoing, a Neighborhood Declaration may establish more stringent requirements for Lots, Dwelling Units and Owners in the Neighborhood to which the Neighborhood Declaration applies but no such Neighborhood Declaration may establish less stringent requirements than are set forth in this Declaration and which are applicable generally to the Project. Any Neighborhood Declaration shall be subject to this Declaration. Developer or a Neighborhood Developer may assign the

right to adopt a Neighborhood Declaration to a third-party; provided, however, that any Neighborhood Declaration as developed by such third-party shall still be subject to the approval of Developer. No Neighborhood Declaration may create or establish Common Properties that are for the sole benefit of the Neighborhood. All Common Properties within the Project shall be for the benefit of all Lots and all Owners in the Project unless otherwise designated as exclusive by Developer in a supplement to this Declaration. Neither the Developer nor the Association shall have the duty or obligation to enforce a Neighborhood Declaration, but shall have the right to if either so chooses. Any Neighborhood Declaration shall provide that it is subject to and in addition to this Declaration. The Association shall have an independent right, but not the duty or obligation, to enforce the provisions of a Neighborhood Declaration and/or the obligations of a Neighborhood Association.

11.03 Neighborhood Developer. In connection with the development of a Neighborhood, Developer shall have the right, but not the obligation, to transfer and assign to a Neighborhood Developer all or part of Developer's architectural and design review authority and other approval rights set forth in this Declaration but only to the extent applicable to the Neighborhood and only to the extent so specified by the Developer. Notwithstanding any such assignment, a Neighborhood Developer may not grant variances to or exemptions from the restrictions specified in this Declaration without the written approval of Developer. Any such assignment may be revoked at any time by Developer.

11.04 Neighborhood Assessments. A Neighborhood Declaration may provide for Neighborhood Assessments to provide for Neighborhood Expenses (as hereinafter defined) incurred for the Neighborhood. "Neighborhood Assessments" shall mean assessments levied by either a Neighborhood Association or the Association against the Lots in a particular Neighborhood to fund the Neighborhood Expenses of such Neighborhood. The Association shall not be responsible for the assessment or collection of Neighborhood Assessments except to the extent the Association elects to assess and/or impose Neighborhood Assessments itself. Further, if specific entrance signage or other entrance markers are constructed for the Neighborhood, the Association shall have the right to assess the Lots in the Neighborhood the cost to maintain, repair and replace any such signage if it is not otherwise assessed and collected by a Neighborhood Association or is not otherwise collected as part of a Neighborhood Assessment. Notwithstanding the right of the Neighborhood Association to assess Neighborhood Assessments, the Association shall also have the independent right to assess the members of a Neighborhood Association and such Neighborhood Association and/or the Owners of Lots in a Neighborhood for Neighborhood Expenses incurred or to be incurred by the Association for such Neighborhood Association and/or for the benefit of the Neighborhood. Any such assessments by the Association shall also be a Neighborhood Assessment and shall be part of the overall Assessments payable by Owners in such Neighborhood pursuant to Article VIII and shall be collected in the manner set forth in this Declaration and the Association shall have all rights and remedies provided in this Declaration for the failure to pay Annual or Special Assessments in the event any such assessment for the Neighborhood is not paid. It shall not be necessary for there to be a Neighborhood Association or a Neighborhood Declaration in order for the Association to assess Neighborhood Assessments for Neighborhood Expenses and the Association may elect to assess Neighborhood Assessments for Neighborhood Expenses upon its own initiative. "Neighborhood Expenses" shall mean and include those actual, anticipated and/or estimated expenses incurred or to be incurred by the Association or Neighborhood

Association for the benefit of the Owners of Lots within a particular Neighborhood or Neighborhoods, which expenses may include a reasonable reserve for deferred maintenance, repairs and replacements, all as specifically authorized from time to time by the Board of the Association or by the Board of the applicable Neighborhood Association. Neighborhood Assessments may include (but do not have to include) estimated amounts for future anticipated expenses or for the establishment and maintenance of a reserve fund for the Neighborhood for which the Neighborhood Assessment is assessed. Neighborhood Assessments shall be in addition to and not in place of Annual Assessments and Special Assessments levied by the Association for such Neighborhood pursuant to Article VIII of this Declaration. Neighborhood Expenses may also include fees and expenses for maintaining landscaping on the Lots for the Neighborhood if the Developer of Neighborhood Developer elects to provide such service pursuant to Article VII of this Declaration. The Association expressly reserves the right, but does not have the obligation, to undertake and complete the ongoing maintenance of Neighborhood amenities if such are not otherwise maintained by the Neighborhood Association or the Owners of Lots in the Neighborhood and to charge such Owners for all costs so incurred.

11.05 Delegation of Duties. The Association shall have the right and power, but neither the duty nor the obligation, to delegate in whole or in part, exclusively or non-exclusively, and on a permanent or temporary basis, to any Neighborhood Association any obligation of maintenance or repair created under this Declaration or by delegation from Developer. If a Neighborhood Association does not exercise such rights and obligations in a manner consistent with the standards established by the Association, the Association shall have the right, but not the obligation, by its sole act, to terminate such assignment, and again fulfill such rights and obligations. A Neighborhood Association shall have the right at any time to engage the services of a management company to perform and fulfill the administrative functions and duties of the Neighborhood Association including, but not limited to, collection of Neighborhood Assessments, enforcement of lien rights and the application of the covenants and restrictions set forth in this Declaration.

11.06 Creation of Neighborhood Associations.

(a) For as long as Developer is exercising the powers of the Board of Directors pursuant to Article IV of this Declaration or until Developer or a Neighborhood Developer, if applicable, has sold all Lots within the Neighborhood for which a Neighborhood Association is to be established, whichever occurs last, Developer or the Neighborhood Developer for the Neighborhood if the Developer has assigned development authority for such Neighborhood to the Neighborhood Developer, shall have the right and authority to establish a Neighborhood Association for such Neighborhood and such right to establish a Neighborhood Association is expressly reserved to the Developer or the Neighborhood Developer, if applicable. Additionally, at any time after the authority of the Developer or Neighborhood Developer to establish a Neighborhood Association pursuant hereto has lapsed and if a Neighborhood Association has not previously been established for a Neighborhood, then upon written request of at least 51% of the Members of the Association living in the Neighborhood for which a Neighborhood Association is sought to be established as evidenced by a written petition presented to the Board of Directors or upon written request of at least 51% of all Members of the Association as evidenced by a written petition presented to the Board, the Board shall establish a Neighborhood Association for the Neighborhood requested. The Board shall verify all

signatures included on any petition submitted pursuant hereto prior to forming such Neighborhood Association. The cost for forming any such Neighborhood Association shall be a Neighborhood Expense payable by the Owners in the Neighborhood for which the Neighborhood Association is to be formed. Owners of Lots in a Neighborhood for which a Neighborhood Association is formed pursuant this Declaration shall not have the right to opt out of the Neighborhood Association for such Neighborhood regardless of whether or not such Owners supported the formation of the Neighborhood Association and regardless of when the Neighborhood Association is formed.

(b) A Neighborhood Association shall be established by the recording of a supplement to this Declaration specifying the Neighborhood for which the Neighborhood Association is being established and declaring that such Neighborhood Association is a Neighborhood Association within the meaning of this Declaration and attaching thereto the bylaws for such Neighborhood Association. A Neighborhood Declaration is not required for there to be a Neighborhood Association for a Neighborhood. The governing authority vested in the Neighborhood Association pursuant hereto shall be subject to the authority of the Association and the terms of this Declaration and shall not override or supersede the authority of the Association or the terms and conditions of this Declaration; provided, however, the Association may elect to transfer and assign to any such Neighborhood Association all or some of the governing authority, duties, obligations and approval rights for such Neighborhood which are otherwise granted to or imposed upon or reserved by the Association for such Neighborhood pursuant to this Declaration and subject further to the right of the Association to cancel any such transfer and assignment at any time and for any reason and to reacquire such previously assigned authority, duties, obligations and approval rights. Further, upon approval of a majority of the board of directors of a Neighborhood Association and upon acceptance by the Association, exercised in the Association's sole discretion and without the need for the consent of any Mortgagee, a Neighborhood Association may elect to transfer governing authority for such Neighborhood to the Association following which the Association shall exercise all such authority, including, but not limited to, the right to assess and collect Neighborhood Assessments for such Neighborhood.

(c) The Board and all officers of the Association shall fulfill such roles for a Neighborhood Association until such time as a board of governors and officers for such Neighborhood Association are elected. The Developer and/or Neighborhood Developer, if applicable, shall have the right to act on behalf of the board of directors of any Neighborhood Association for as long as deemed necessary by the Developer or the Neighborhood Developer, as applicable, and the bylaws for such Neighborhood Association shall provide for such ongoing authority of the Developer or Neighborhood Developer, as applicable.

ARTICLE XII GENERAL PROVISIONS

12.01 Acceptance of Provisions. Each Owner, by the acceptance of a deed of conveyance, accepts the same subject to all easements, restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all easements, rights, benefits and privileges of every character hereby granted,

created, reserved or declared, and all impositions and obligations imposed hereby shall be deemed and taken to be covenants running with the land, shall bind any person having at any time any interest or estate in said land and shall inure to the benefit of such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

12.02 Notices. Any notices required or permitted to be given under this Declaration unless otherwise specified shall be either personally hand delivered or sent registered or certified mail with return receipt requested, at the respective address of the Owners, or the Association or to such other address as an owner or the Association may from time to time designate in writing to the Association. Any notice shall be deemed to have been given at the time it is hand delivered or it is placed in the mail with sufficient postage prepaid.

12.03 Amendments. This Declaration may be amended or modified in any respect from time to time by the Developer prior to the date that the governing authority for the Project is transferred from the Developer to the Board in accordance with provisions of this Declaration and/or for so long as Developer is acting as the Board of Directors. Thereafter, this Declaration may be amended or modified in accordance with the following procedure:

(i) An Amendment to this Declaration may be considered at any annual or special meeting of the Association; provided however, that if at an annual meeting, notice of consideration of the Amendment and a general description of the terms of such Amendment shall be included in the notice of the annual meeting provided for in **Section 5.02**, and if at a special meeting, a similar notice shall be included in the notice of the special meeting provided for in **Section 5.03**. Notice of any meeting to consider an Amendment shall also be sent to each Mortgagee listed upon the register of the Association.

(ii) At any such meeting, the Amendment must be approved by an affirmative two-thirds (2/3) vote of those Owners present and voting.

(iii) If an Amendment is approved as set forth in Paragraph (b) of this Section and if such Amendment requires the approval of a First Mortgagee, the Secretary shall mail a true copy of the Amendment to each First Mortgagee registered with the Association, informing such First Mortgagee that it shall have twenty (20) days from such notice within which to reply, in writing, to the Secretary of the Association and to indicate its approval or disapproval of such Amendment. Any Amendment which requires the approval of a First Mortgagee must be approved by an affirmative seventy-five percent (75%) vote of the First Mortgagees registered with the Association.

(iv) An Amendment adopted pursuant hereto shall become effective upon its recording in the Register's office of the Hamilton County, Tennessee, and the President and Secretary shall execute, acknowledge and record the Amendment and the Secretary shall certify on

its face that it has been adopted in accordance with the provisions of this Section; provided that in the event of the disability or incapacity of either, the Vice President shall be empowered to execute, acknowledge and record the Amendment. The certificate shall be conclusive evidence to any person who relies thereon in good faith, including, without limitation, any Mortgagee, prospective purchaser, tenant, lien or title insurance company that the Amendment was adopted in accordance with the provisions of this Section.

(v) This certificate referred to in Paragraph (d) of this Section shall be in substantially the following form:

C E R T I F I C A T E

I, _____, do hereby certify that I am the Secretary of Greenbriar Cove Residential Homeowners' Association, Inc. and that the within Amendment to the Declaration of Covenants and Restrictions for Greenbriar Cove Residential Development and Bylaws for Greenbriar Cove Residential Homeowners' Association, Inc. was duly adopted by the Owners of said Association and First Mortgagees, if applicable, in accordance with the provisions of **Section 12.03** of said Declaration.

WITNESS my hand this day of _____, _____,
20__.

Secretary

(vi) No Amendment shall be made affecting the Common Properties which is in any manner inconsistent with the permitted uses and purposes for such properties set out in this Declaration. No Amendment to this Declaration shall be made unless it conforms to any local, county, or state governmental planning and zoning laws and regulations. No Amendment to this Declaration shall be made which shall adversely affect the rights of Mortgagees under Article IX.

12.04 Severability. The invalidity of any restriction hereby imposed, or any provision hereof, or of any part of any such restriction or provision, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration and all of the terms hereof are hereby declared to be severable.

12.05 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a first class residential Project.

12.06 Conveyance Of Interest In Common Properties. The Developer shall have the right, at any time, to transfer, convey, assign and deliver to the Association all of Developer's

interest in and right to the Common Properties and the Association shall accept such transfer of the Common Properties. An Owner's interest in the Common Properties shall not be separated from the Lot to which such interest appertains and shall be deemed conveyed or encumbered with the Lot even though such interest is not expressly mentioned or described in the deed of conveyance or other instrument.

12.07 Effective Date. This Declaration shall be effective upon recordation.

12.08 Headings. The headings of paragraphs and sections in this Declaration are for convenience or reference only and shall not in any way limit or define the content or substance or such paragraphs and sections.

12.09 Number and Gender. As used in this Declaration, the singular shall include the plural, and masculine, feminine, and neuter pronouns shall be fully interchangeable, where the context so requires.

12.10 Perpetuities and Restraints on Alienation. This Declaration and the covenants and restrictions herein shall run with the Property and title thereto, or to any parties thereof, and shall benefit the Owners, Developer and Association, in perpetuity. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule of property known as the rule against perpetuities, then such provision shall continue in force and effect only until fifty (50) years after the date hereof.

12.11 Attorney Fees and Court Costs. In the event any Owner shall violate the restrictions, covenants or obligations herein, the Developer, the Association or other party seeking to enforce restrictions, covenants and obligations shall be entitled to recover, and said violating party agrees to pay, damages or other dues for such violations, including but not limited to reasonable attorney's fees and court costs.

12.12 Additions to Property.

(a) Developer, its successors and assigns, shall have the right, without further consent of the Association, to bring within the plan and operation of this Declaration additional Common Properties and additional properties in future stages or phases of the Project beyond those described in Exhibit "A", including, but not limited to, any portion of the Overall Property, so long as such additional lands are contiguous with then existing portions of the Project. For purposes of this paragraph, contiguity shall not be defeated or denied where the only impediment to actual "touching" is a separation caused by a road, right-of-way or easement, and such shall be deemed contiguous. The additions authorized under this provision shall be made by filing a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the covenants and restrictions of this Declaration to such additional property after which such additional property shall be included within the definition of Property as herein set forth. Such Supplementary Declaration may also increase or decrease the minimum square footage requirements for a Dwelling Unit within such additional property and shall contain such other complimentary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Developer, to reflect the different character, if any, of

the added properties and as are not inconsistent with this Declaration, but such modifications shall have no effect on the Property as originally described herein.

(b) It is acknowledged that future phases of the Project may be acquired and developed by persons or entities other than Developer, including, but not limited to, a Neighborhood Developer. Accordingly, any future phases of the Project acquired or developed by a person or entity other than Developer shall also be submitted to and included within the scope of this Declaration without the consent of the Association or any other party by any such party executing and recording a Supplementary Declaration, or similar document, subjecting such additional property to this Declaration and the terms, provisions and obligations hereof. Any such additional property shall be included within the definition of Property used in this Declaration. Any additional property added to the Project and brought within the scope of this Declaration may be brought into the Project as part of any existing Neighborhood or as a new Neighborhood subject, however, to approval by Developer, and the Neighborhood Developer of an existing Neighborhood.

12.13 Mergers. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, in the alternative, the properties, rights and obligations may, by operation of law, be added to the properties of the association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants established by this Declaration.

12.14 Developer Reserved Rights. Notwithstanding any other provisions herein to the contrary, Developer reserves unto its self, its successors and assigns, the following rights, privileges and powers: to subdivide Lots, to combine Lots or parts of Lots, to rearrange boundaries of Lots, to cause any part of any Lot to become a part of the Common Properties or, to cause portions of the Common Properties to become a part of any of the Lots bordering them and to convey the Common Properties to the Association. Further, the Developer or the Board may grant variances of the restrictions set forth in this Declaration if such variances do not, in the sole discretion of the Developer or the Board, adversely affect the purposes sought to be obtained by this Declaration.

12.15 Developer Enforcement. By reason of the rights of enforcement of the provisions of this Declaration being given to Owners of Lots (subject to rights of variances reserved by the Developer and the Board), it shall not be incumbent upon the Developer or the Board to enforce the provisions of this Declaration or to prosecute any violation thereof. Developer shall not be responsible or liable for any violation of this Declaration by any person other than itself.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Developer has caused this instrument to be executed as of the day and date first above written.

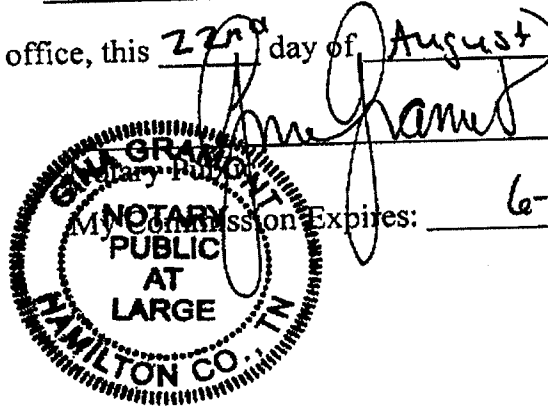
LANDVEST DEVELOPMENT PARTNERS I, LLC, a Tennessee Limited Liability Company

By: [Signature]
Name: GREG A. VITAL
Title: President & C.M.

STATE OF Tennessee
COUNTY OF Hamilton

Before me, Gina Gramont, a Notary Public in and for the state and county aforesaid, personally appeared Greg A. Vital, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the President & Chief Manager of LANDVEST DEVELOPMENT PARTNERS I, LLC, a Tennessee limited liability company, the within named bargainor, and that he as such officer, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by personally signing the name of the limited liability company by himself as President & Chief Manager

WITNESS my hand and seal, at office, this 22nd day of August, 2005.



My Commission Expires: 6-10-2006
[SEAL]

EXHIBIT "A" Book and Page: GI 7661 454

[Real Property]

Lots fourteen (14) through and including Lot thirty-three (33), Final Plat Greenbriar Cove, Phase One, "The Villages of Greenbriar," as shown on plat of record in Plat Book 79, Pages 100-101, in the Register's Office of Hamilton County, Tennessee

SUBJECT TO all matters of record.

Source of Developer's interest is Warranty Deeds recorded at Book 6583, Page 576, Book 7282, Page 907 and Book 7282, Page 916, aforesaid Register's Office.

EXHIBIT "B"

BYLAWS FOR
GREENBRIAR COVE RESIDENTIAL
HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I
NAME

1.01 The following provisions shall constitute the Bylaws of **GREENBRIAR COVE RESIDENTIAL HOMEOWNERS' ASSOCIATION, INC.** (the "Bylaws"), a nonprofit corporation (the "Association") which shall, along with the provisions of the Charter of the Association (the "Charter"), the Declaration of Covenants and Restrictions for Greenbriar Cove Residential Development, as such may be amended from time to time (the "Declaration"), and the rules and regulations adopted by the Board of Directors of the Association (the "Board"), govern the administration of Greenbriar Cove Residential Development (the "Development") and the real and personal property in the Development owned by the Association (the "Common Properties"). Capitalized terms used in these Bylaws (unless otherwise defined herein) shall have the same meanings as such terms are defined in the Declaration.

ARTICLE II
OFFICES

2.01 The principal office of the Association shall be located at:

8325 Highway 60
P. O. Box 249
Georgetown, Tennessee 37336
Attention: President

or at such other place either within or without the State of Tennessee, as shall be lawfully designated by the Association, or as the affairs of the Association may require from time to time.

ARTICLE III
PURPOSES

3.01 The purposes of the Association shall be to provide for the establishment of a residents' association for the government of the Development in the manner provided by the Charter, the Declaration and these Bylaws. The aims of the Association are to be carried out through any and all lawful activities, including others not specifically stated in the Charter, the Declaration, or these Bylaws but incidental to the stated aims and purposes; provided that any such activity or contribution shall conform to any applicable restrictions or limitations set forth in the Charter or which are imposed on real estate homeowners' associations by the Internal Revenue Code of 1986, as amended, and the regulations thereunder, as presently enacted or as they may hereafter be amended or supplemented. All present or future owners or tenants, or their employees, or any other person who might use the facilities in the Development in any manner, shall be subject to the covenants, provisions or regulations contained in the Declaration

and these Bylaws, as amended, and shall be subject to any restriction, condition or regulation hereafter adopted by the Association.

ARTICLE IV ASSOCIATION

4.01 **Membership.** Every person or entity who is a record Owner of a fee simple interest in any Lot which is subject to the Declaration shall be a Member of the Association, provided that any such person or entity who holds such title or interest merely as a security for the performance of an obligation shall not be a Member of the Association. Membership shall automatically be transferred to the new Owner upon the conveyance of any Lot and recording of the deed of conveyance in the Register's Office of Hamilton County, Tennessee, plus, payment of any Association initiation fees, assessments, or dues. Membership shall be appurtenant to and may not be separated from ownership of any Lot, which is subject to assessment.

4.02 **Voting Rights.**

(a) The Voting Rights for Owners of Lots shall be as set forth herein for the Association. The Association shall have one class of voting membership.

(b) Occupants or lessees who are not an Owner of a Lot shall have no vote or voice in the affairs of the Association. Except as set forth in subparagraph 4.02(c), in no event shall more than one vote be cast with respect to any Lot. When an Owner signs a proxy such vote shall be counted when such proxy is in a written instrument delivered to the Secretary of the Association before the vote is counted. Any Owner who owns multiple lots shall have one (1) vote for each Lot owned.

(c) Notwithstanding the foregoing, the Developer shall have three (3) votes for each Lot owned by the Developer.

(d) An Owner's voting rights under these Bylaws shall be suspended and such Owner shall have no right to vote in any matter in which such Owner would otherwise be entitled to vote for so long as such Owner is in default under the Declaration for failure to pay any required Assessments under Article VIII thereof or is otherwise in default under any other term or provision of the Declaration. This provision shall not apply to Developer or a Neighborhood Developer.

ARTICLE V THE BOARD OF DIRECTORS

5.01 **Board of Directors.** The administration of the Project on behalf of the Association shall be conducted by a Board of Directors ("Board") which shall consist of five (5) natural persons of legal age, each of whom shall be a Member in good standing of the Association, and will maintain such representation during membership on the Board.

5.02 **Initial Board of Directors.**

(a) The Developer shall act as the Board of Directors during the first forty-

eight (48) months following the date of the Declaration or until all Lots in the Project have been sold by Developer, whichever occurs last. The Developer shall have all powers and authority to act which are granted to the Board of Directors in the Declaration or these Bylaws for such period of time. However, notwithstanding any provision herein or in the Declaration to the contrary, Developer shall have the right to terminate its obligations as the initial Board of Directors at any time upon giving notice of its intent to do so to all Owners and upon the election of the first Board of Directors as provided in the Declaration and these Bylaws. Notwithstanding any provision of the Declaration or these Bylaws to the contrary, as long as Developer is acting as the Board of Directors, Developer shall have the absolute power and right to amend, change, or alter the provisions of the Declaration or these Bylaws. It is understood that the Development is to be developed in phases and that at certain times Developer may not own any Lots in the then current or existing phases of the Development but that Developer intends to acquire and add additional portions of the Overall Property to the Development at later dates. No such lapse in Developer's ownership of Lots in the Development shall affect Developer's rights hereunder to act as the Board of Directors of the Association or otherwise affect Developer's rights under this Declaration and no such lapse in Developer's ownership of Lots in the Development shall constitute a waiver of any rights granted to or reserved by Developer in this Declaration.

(b) Prior to the election of the first Board of Directors as provided in subparagraph 5.02(a) above, Developer may execute and record in the Register's Office of Hamilton County, Tennessee a document stating that the Developer reserves unto itself, its successors or assigns, all approval or consent rights given to the Board or otherwise required in the Declaration, including, but not limited to, all approval and consent rights specified in Article VII of the Declaration, and further stating that said reservation, notice of which is thus provided, shall survive the election of the Board to succeed the Developer. Thereafter, Developer may continue to exercise the rights thus reserved to it until such time as it has sold all of the Lots in the Project. Upon the sale of all of the Lots in the Project or at such time as the Developer determines to relinquish the rights it has reserved to itself, the Developer shall execute and record in the Register's Office of Hamilton County, Tennessee a document assigning those rights to the Board.

5.03 Election. At each annual meeting, subject to the provisions of this Article V, the Members of the Association shall elect those members of the Board as required under Sections 5.03 and 5.04 who shall serve the terms set out under Sections 5.03 and 5.04; provided, however, the members of the Board elected to succeed the Developer shall be elected at a special meeting of the Association duly and specifically called by the Developer for that purpose and the Board elected at that special meeting shall serve until the first annual meeting of the Association held thereafter. Members of the Board may also serve as Officers of the Association. All Officers of the Association shall be appointed and removed by the Board. Individuals may be nominated for the Board by any Member and each member of the Board shall be elected by majority vote of the Members of the Association. Nominations for a position on the Board shall be made by petition filed with the Secretary of the Association at least seven (7) days prior to the annual meeting of the Association at which the Board is to be elected which petition must be signed by five (5) or more Members and by the nominee named therein indicating such individual's willingness to serve as a member of the Board, if elected.

5.04 **Term.** Members of the Board shall serve for terms of two (2) years. The members of the Board, President, Vice President and Secretary-Treasurer shall serve until their respective successors are duly elected and qualified, or until their death, resignation or removal. The President, Vice President and Secretary-Treasurer shall serve for a term of two (2) years. All members of the Board and all Officers of the Association must be a Member and the President and Vice-President must also be members of the Board. The foregoing requirements shall not apply so long as Developer is acting as the Board pursuant to the terms of the Declaration and these Bylaws. Accordingly, officers of the Association appointed by Developer need not be Members so long as Developer is acting as the Board.

5.05 **Resignation or Removal.** Any member of the Board, President, Vice-President, and Secretary-Treasurer may resign at any time by giving written notice to the President or Vice-President should the resigning member be the President. Any member of the Board may be removed from elected office by a two-thirds (2/3) affirmative vote of the Association except that a vacancy on the Board shall be deemed to exist in the event of the death of a member, the disability of a member which, in the opinion of the majority of the Board, renders such member incapable of performing his elected duties, or in the event a member shall cease to be a Member of the Association. Whenever there shall occur a vacancy on the Board for any reason, the remaining Board members shall elect a successor member to serve until the next annual meeting of the Association or a special meeting is called for filling vacancies at which time said vacancy shall be filled by the Association for the unexpired term. The provisions of this paragraph regarding removal of the Board shall not apply so long as Developer is acting as the Board pursuant to the terms and the Declaration and these Bylaws.

5.06 **Compensation.** The members of the Board and elected officers shall receive no compensation for their services unless expressly provided for by the Association but shall be reimbursed for reasonable expenses incurred by them in the performance of their duties.

5.07 **Powers and Authority of the Board.** The Board and elected officers, for the benefit of the Project and the Association, shall enforce the provisions of the Declaration, these Bylaws, and rules and regulations governing the Project promulgated pursuant hereto and the use of the Common Properties. Subject to any provision herein, the Board and elected officers shall have the power and authority to acquire and pay for the following, which shall be deemed Common Expenses of the Association:

(i) Water, sewer, electrical, lighting, and other necessary utilities for the Common Properties and Property.

(ii) Legal and accounting services necessary or advisable in the operation of the Common Properties and Property and the enforcement of the Declaration, these Bylaws, and any rules and regulations made pursuant thereto.

(iii) Painting, maintenance, repair, replacement and landscaping of the Common Properties and Property which shall include the maintenance of any common fencing, signs, lighting, shrubs, grass, and creek areas. The Board shall also have the right from time to time to

acquire and dispose of by sale or otherwise and without the necessity of approval by any Owner, furnishings and equipment and other personal property for the Common Properties and to provide maintenance, repair and replacement thereof.

(iv) Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments that the Board is required to secure or pay for pursuant to the terms of the Declaration, these Bylaws or any rules or regulations promulgated pursuant hereto or which, in its opinion, shall be necessary or advisable for the operation of the Common Properties and Property or for the enforcement of the Declaration, these Bylaws, or any rules and regulations promulgated pursuant hereto.

5.08 **Additional Powers of the Board.** The Board shall have the right to acquire, operate, lease, manage, trade and otherwise deal with the Common Properties as may be necessary or convenient in the operation and management of the Common Properties, and in accomplishing the purposes set forth herein. Subject to the terms of the Declaration and these Bylaws, the Board shall have the exclusive right to contract for all goods, services, including security, and insurance, payment for which are made as Common Expenses.

5.09 **Meetings of the Board.** Meetings of the Board shall be held at such places within the State of Tennessee as the Board shall determine at least once per quarter and an annual meeting shall be held on the second Monday in September of each year, or at any other time (but not more than thirty (30) days before or after such date) so designated by the Board. Three members of the Board (one of which must be the President or Vice President) shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board. Meetings of the Board shall be chaired by the President or Vice-President of the Association and the minutes shall be recorded by the Secretary-Treasurer of the Association (or an appointee of the Board). Any action required to be or which may be taken by the Board may be taken without a meeting of the Board pursuant to a written consent, setting forth the action so taken, signed by a majority of the members of the Board.

5.10 **Special Meetings.** Special meetings of the Board may be called by the President of the Association or by any two Board members.

5.11 **Notice of Meetings.** Regular meetings of the Board may be held without call or notice. The person or persons calling a special meeting of the Board shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication to all members of the Board. Such notice need not specify the purpose for which the meeting is called. If an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

5.12 **Waiver of Notice.** Any members of the Board may, at any time, waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance of any member of the Board at any meeting thereof shall constitute a waiver of notice of such meeting unless a Board member attends the meeting for the express

purpose of objecting to the transaction of any business because the meeting was not lawfully called and does so object by delivering a written document to that effect.

5.13 **Fiscal Year.** The fiscal year shall be determined by the Board.

5.14 **Special Committees.** Special committees shall be appointed by the President. The Board shall have rights to call for the formation of committees by motion.

5.15 **Rules and Regulations.** The Board shall have the power and right to adopt and amend rules and regulations for the purpose of governing details of the operation and use of the Common Properties and setting forth restrictions on, and requirements respecting the use and maintenance of the Common Properties. Copies of the rules and regulations shall be furnished to each Owner prior to the time the same shall become effective.

5.16 **Limitation on Capital Additions, Etc.** Except as permitted in the Declaration and except for so long as Developer is acting as the Board, the Board shall authorize no structural alterations, capital additions to, or capital improvements of the Common Properties, any of which require an expenditure in excess of Ten Thousand Dollars (\$10,000.00) without approval of the majority vote of the Association; provided, however, that the Board shall have the power to make any such structural alterations, capital additions to, or capital improvements of, the Common Properties as are necessary, in the Board's reasonable judgment, to preserve or maintain the integrity thereof without obtaining such approval, if in the opinion of the Board an emergency exists which should be corrected before a meeting of the Association could be reasonably called and held.

5.17 **Failure to Insist on Strict Performance Not Waiver.** The failure of the Board or its agents to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions in this Declaration, or these Bylaws or with rules and regulations promulgated pursuant hereto or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future, of such terms, covenants, conditions or restrictions, rights, options or notices, but such terms, covenants, conditions, restrictions, rights, options or notices shall remain in full force and effect.

ARTICLE VI **THE ASSOCIATION; MEETINGS, OFFICERS, ETC.**

6.01 **Quorum.** The presence in person or by proxy at any meeting of the Association of two-thirds (2/3) of the Owners of Lots subject to assessment in response to notice to all Owners who are entitled to vote at such meeting properly given in accordance with the Bylaws, as the case may be, shall constitute a quorum. Unless otherwise expressly provided in the Declaration, any action may be taken at any meeting of the Association at which a quorum is present upon the affirmative vote of a majority of Owners which are represented at such meeting. Proxy vote representation shall be recognized and counted, should members not submit a proxy then a vote "For" the recommendation of the Board will be assumed.

6.02 **Annual Meeting.** There shall be an annual meeting of the Association on the second Monday of September at 7:00 P.M. of each year at the Project or at any place or time (but

not more than thirty (30) days before or after such date) so designated by the Board. The Secretary-Treasurer shall present a review of the expenses for the prior year and a budget for the coming year or any pertinent actions passed by the Board.

6.03 **Special Meeting.** Special meetings of the Association may be held at any time and at any reasonable place to consider matters that require the approval of all or some of the Owners, or for any other reasonable purpose. Special meetings shall be called by a majority of the Board, or at least by one-third (1/3) of the Owners by written notice, delivered to all owners not less than fifteen (15) days prior to the date fixed for said meeting. The notice shall contain matters to be considered.

6.04 **Parliamentary Rules.** Robert's Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Declaration or other such rules adopted by the Board.

6.05 **Officers.** The Officers of the Association shall be a President, Vice-President, and Secretary-Treasurer and any other officers appointed by the Board. Each officer shall be required to be a Member in good standing and the President and Vice-President must be members of the Board. No officer shall receive compensation for serving as such. Officers shall be elected by majority vote of the Board and may be removed or replaced by same. The Board may, in its discretion, require that officers be subject to fidelity bond coverage. Notwithstanding the foregoing and in Developer's discretion, for so long as the Developer acts as the Board, the officers of the Developer shall act as and fulfill the same offices and duties of the respective officers of the Association without the need for the consent or election by the Members or, in the alternative, Developer may appoint individuals to serve as officers which individuals need not be Members. The duties of the officers of the Association shall be as follows:

(a) **President.** The President shall preside at all meetings of the Association and of the Board, and may exercise the powers ordinarily allocable to the presiding officer of an association, including the appointment of committees, and such other powers and authority granted to the President by the Board. The President shall be authorized to provide payment for Association expenses not to exceed \$10,000.00 Dollars or such higher or lower amount approved by the Board.

(b) **Vice-President.** In the absence or inability of the President, the Vice-President shall perform the functions of the President.

(c) **Secretary-Treasurer.** The Secretary shall keep the minutes of all proceedings of the Board and the Association and shall keep such books and records as may be necessary for the records of the Association and the Board, including the minute book wherein the resolutions shall be recorded. The Treasurer shall be responsible for the fiscal affairs of the Board and the Association. The Secretary and/or Treasurer shall have such other powers and authority granted by the Board. The Secretary and Treasurer do not have to be the same person.

4.03 **Bylaws.** In the event of any discrepancies between the terms of the Declaration and these Bylaws with regard to the governance of the Association, the Declaration shall control.

ARTICLE VII

LIABILITY AND INDEMNIFICATION

7.01 **Liability of Members of the Board and Officers.** The members of the Board, the officers and any agents and employees of the Association shall: (i) not be liable to the Members or the Association as a result of their activities as such for any mistake of judgment, or otherwise, except for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (ii) have no personal liability to a Member or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Members in their capacity as such; (iii) have no personal liability in tort to a Member or any other person or entity direct or imputed by virtue of acts performed by them as Board members and/or officers except for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; and (iv) have no personal liability arising out of the use, misuse or condition of the Property, or which might in any other way be assessed against or imputed to them as a result or by virtue of their capacity as such Board members and/or officers.

7.02 **Indemnification by Association.** To the extent now or hereafter permitted by applicable law, the Association shall indemnify and hold harmless any person, his heirs and personal representatives, from and against any and all personal liability, and all expenses, including without limitation counsel fees and court costs, incurred or imposed, or arising out of or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative instituted by any one or more Members or any other persons or entities, to which he shall be or shall be threatened to be made a party by reason of the fact that he is or was a member of the Board or an officer or agent or employee of the Association; provided, in the case of any settlement, that the Board shall have approved the settlement, which approval is not to be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement or by vote of the Association of the Board, or otherwise. The indemnification by the Association set forth in this Article VII shall be paid by the Board on behalf of the Association and shall constitute a Common Expense.

7.03 **Costs of Suit in Actions Brought by One or More Members on Behalf of All Members.** No suit shall be brought by one or more but less than all Members on behalf of all Members without approval of a majority of Members and, if approval is obtained, the plaintiffs' expenses, including reasonable counsel's fees and court costs, shall be a Common Expense unless such suit is brought by one or more Members against other Members, the Association or against the Board, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all Members as defendants, in which event the plaintiffs' expenses, including counsel's fees and court costs, shall not be charged as a Common Expense.

7.04 **Notice of Suit and Opportunity to Defend.** Suits brought against the Association, or the Board, or the officers, employees or agents thereof, in their respective capacities as such, or the Common Properties as a whole, shall be directed to the President of the Association, who shall promptly give written notice thereof to the other members of the Board and any Mortgagees, and shall be defended by the Board, and the Association and all Members shall have no right to participate other than through the Board in such defense. Suits against one or more, but less than all Members shall be directed to such Members, who shall promptly give

written notice thereof to the Board and to the Mortgagees of the Lots affected, and shall be defended by such Members at their expense.

ARTICLE VIII
GENERAL PROVISIONS

8.01 **Businesses.** Nothing contained in these Bylaws shall be construed to give the Board the authority to conduct any business for profit on behalf of the Association or any Member.

8.02 **Amendment.** These Bylaws may be amended, modified, or revoked in any respect from time to time by Developer prior to the election of the first Board to succeed the Developer, and thereafter by an affirmative two-thirds (2/3) vote of those Members of the Association who are present or represented at a meeting duly called for that purpose, **PROVIDED, HOWEVER,** that the contents of these Bylaws shall always contain those particulars which are required to be contained herein by the laws of the State of Tennessee. At any such meeting the Developer shall have the number of votes as provided in Section 4.02(b) hereof. Notwithstanding the foregoing, any amendment shall not be required to be recorded with the register's office of Hamilton County but must be kept on file with Developer or the Secretary and available to all Members upon written request.

8.03 **Notices.** Any notice required to be sent to any Member under the provisions of these Bylaws shall be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to the last known address of the Member on the records of the Association at the time of such mailing. Notice to one of two or more co-owners of a Lot shall constitute notice to all co-owners. It shall be the obligation of every Member to immediately notify the Secretary in writing of any change of address. Any notice required to be sent to the Board, the Association or any officer thereof, under the provisions of these Bylaws shall likewise be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to such entity or person at the following address:

8325 Highway 60
P. O. Box 249
Georgetown, Tennessee 37336
Attention: President

8.04 **Conflict.** In the event of any conflict between these Bylaws and the provisions of the Charter, the Charter shall control and govern. In case of any conflict between the Declaration and these Bylaws, the Declaration shall control and govern.

8.05 **Non-Waiver of Covenants.** No covenants, restrictions, conditions, obligations or provision contained in the Declaration or these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

8.06 **Agreements Binding.** All agreements and determinations lawfully made by the Association in accordance with the procedures established in the Declaration and these Bylaws

shall be deemed to be binding on all Members, their heirs, successors and assigns.

8.07 **Severability.** The invalidity of any covenant, restriction, condition, limitation or any other provisions of these Bylaws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of these Bylaws.

8.08 **Books and Records.** The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Charter and these Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable costs.

ADOPTION OF BYLAWS

The undersigned as the Developer of the Development hereby adopts the foregoing Bylaws of the Association, this 22nd day of August, 2005.

LANDVEST DEVELOPMENT PARTNERS I,
LLC, Developer

By:

Title:

Guy A. Vitell
President & C.O.

LENDER CONSENT AND SUBORDINATION

The undersigned, **REGIONS BANK**, possessing a security interest in the Real Property (as more particularly described in the foregoing Declaration of Covenants and Restrictions For Greenbriar Cove Residential Development and Bylaws for Greenbriar Cove Residential Homeowners' Association, Inc.) (A 55 Plus Age Restricted Community) (the "Declaration") pursuant to that certain (i) Tennessee Deed of Trust and Security Agreement dated September 22, 2004, recorded September 23, 2004, in Book 7282, Page 926, Register's Office of Hamilton County, Tennessee (the "Deed of Trust"), (ii) Assignment of Leases and Rents and Assignment of Sales Contracts, dated September 22, 2004, recorded in Book 7282, Page 945, aforesaid register's office (the "Assignment"), (iii) UCC-1 fixture filing recorded in Book 7282, Page 957, aforesaid register's office (the "UCC") and (iv) any and all other documents securing the loan described in the Deed of Trust (collectively the "Other Documents") (the Deed of Trust, Assignment, UCC and Other Documents collectively the "Security Documents") hereby consents to the Declaration and the easements, rights, restrictions and covenants created and established pursuant to the Declaration and subordinates its security interest in the Real Property as evidenced by the Security Documents to the Declaration and the easements, rights, restrictions and covenants created and established thereby.

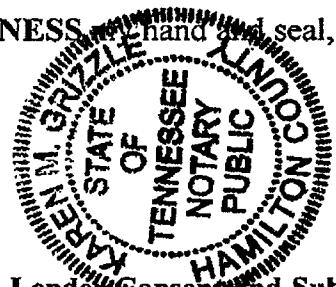
REGIONS BANK

By: [Signature]
Title: SVP
Date: 8/22/05

STATE OF TN
COUNTY OF Hamilton

Before me, Karen M. Grizzle, a Notary Public in and for the State and County aforesaid, personally appeared Tim Collins, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged herself/himself to be the SVP of **REGIONS BANK**, the within named bargainor, and that she/he as such SVP, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by personally signing the name of the bank by herself/himself as SVP.

WITNESS my hand and seal, at office, this 22 day of Aug., 2005.



[Signature]
Notary Public
My Commission Expires: My Commission Expires Oct. 8, 2008

NOTE: This Lender Consent and Subordination is attached to and made a part of the Declaration of Covenants and Restrictions For Greenbriar Cove Residential Development and Bylaws For Greenbriar Cove Residential Homeowners' Association, Inc. (A 55 Plus Age Restricted Community).