

This Instrument Prepared By:  
G. Richard Hostetter  
Suite 505 Warehouse Row  
Chattanooga, TN 37402

DECLARATION OF COVENANTS  
OF  
BRIER BRANCH ASSOCIATION, INC.,

Prior Recording Reference  
Sequatchie County, Tennessee

PLAT: Cabinet A, Page 46A  
DEED: Book 84, Page 358

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FOR BRIER BRANCH ASSOCIATION, INC.

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DECLARATION OF COVENANTS  
OF  
BRIER BRANCH ASSOCIATION, INC.

ARTICLE I  
DECLARATION OF COVENANTS

The property, and any documents including but not limited to this Declaration, the Articles of Incorporation and By-Laws of Brier Branch Association, Inc., the Plat known as Brier Branch which is described on the Plat recorded in Cabinet A, Page 46A of the Register's Office of Sequatchie County, Tennessee, a copy of which is attached hereto as Exhibit A, which property is herein referred to as the Property, and any amendments thereto which relate to or affect the Property, shall be subject to the covenants, restrictions and assessments contained herein and those shown on the Plat.

ARTICLE II

MEMBERS  
(OWNERS)

Section 1. BRIER BRANCH ASSOCIATION, INC. This Association shall be formed, pursuant to the Articles of Incorporation attached hereto and made a part hereof as Exhibit B, a Tennessee Mutual Benefit Association having the name Brier Branch Association, Inc., (the Association), which Association shall be the governing body for all of the Owners, for the maintenance, repair, replacement, administration and operation of the Property, and the Common Elements as provided in this Declaration and the By-Laws. The Association shall have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Association is organized, and to do every other act not inconsistent with law which may be appropriate to promote and attain the purposes set forth in this Declaration or the By-Laws. All of the Owners irrevocably constitute and appoint the Association, in their names as attorney-in-fact to effectuate the above. This power is coupled with an interest and may not be revoked. The initial By-Laws for the Association shall be the By-Laws attached to this Declaration and made a part hereof as Exhibit C. The Board of Directors of the Association shall be elected and shall serve in accordance with the provisions of the By-Laws and of Section 48-52-10 of the Tennessee Non-Profit Corporation Act, (the Act). Subject to the Act, the Board shall have standing to act in a representative capacity on behalf of the Owners, as their interests may appear, in relation

to matters involving that portion of the Property which is shown on the Plat but is not a part of any Lot, which such property is herein referred to as the Common Element, and which Common Elements have been or are being deeded to the Association, subject to the provisions of this Declaration. The fiscal year of the Association shall be determined by the Board and may be changed from time to time as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the sole benefit of the Owners, and all funds received by the Association shall be held in trust and applied by it for the use and benefit of Owners in accordance with the provisions of the Declaration and By-Laws.

Section 2. ELIGIBILITY. BRIER BRANCH ASSOCIATION, INC. The Association, shall have one class of membership, consisting of the respective owners of 27 lots numbered 1 through 3, 3A, 3B, 4, 5, 5A and 6 through 24 of Brier Branch a subdivision of part of the Shuford Johnston Property located near Lewis Chapel, Seventh Civil District, Sequatchie County, Tennessee and any subsequent lots added by amendment as otherwise provided herein. Each such owner's respective membership and ownership interest in the Association shall be the percentage derived by dividing one by the number of lots in the Brier Branch Subdivision as shown on the Plat as amended from time to time (herein called the Owners Percentage Interest).

SECTION 3. SUCCESSION. The ownership and membership in the Association of each Owner shall automatically terminate when he/she ceases to be an Owner, and upon conveyance, transfer or other disposition of a Owners's ownership interest in a lot, said Owner's membership and ownership in the Association shall automatically be transferred to the new Owner succeeding to such ownership interest. No partial transfers shall be recognized. If a corporation, partnership, or other legal entity shall become an owner such entity shall designate no more than one person who shall be entitled to the privileges of membership, subject however, to the voting provisions of the By-Laws.

### ARTICLE III

#### ASSESSMENT

SECTION 1. PROPORTIONATE SHARING. Each Owner shall pay his proportionate share of the common expenses of maintaining the Common Elements (herein the Common Expenses), which proportionate share shall be in the same ratio as his percentage of ownership interest in the Common Elements. Payments of Common Expenses shall be in such amounts and at such times as determined in the manner provided in the By-Laws. No Owner shall be exempt from payment of his proportionate share of the Common Expenses by

waiver or non-use or non-enjoyment of the Common Elements or by abandonment of his Lot, and such proportionate share of the Common Expenses shall be a personal obligation of the Owner for which such Owner shall have personal liability.

## SECTION 2. LIENS

(a) It shall be the duty of every lot Owner to pay his proportionate share of the Common Expenses as provided and as assessed in the manner herein provided and as provided in the By-Laws.

(b) If any lot Owner shall fail or refuse to make any such payment of the Common Expenses within ten (10) days of when due, the amount thereof, together with a late fee or charge in such amount as is prescribed from time to time in the rules and regulations of the Association as promulgated by the Board, and further together with interest on such late Common Expense payment at the maximum contract rate per annum permitted by applicable law, or such lesser rate as approved by the Board, from and after the date on which said Common expenses become due and payable (provided that such interest, but not the late charge, will be waived if the Common Expenses are paid within ten (10) days, excluding the ten (10) day grace period, after the date on which said Common Expenses are due and payable), shall, without necessity of Recording any lien instrument, automatically constitute a lien, enforceable by the Board, on the interest of such lot Owner in his lot, provided, however, that the Board, at its option, may Record a notice of such lien to provide public notice of its existence. If any of such Common Expenses remain unpaid twenty (20) days after the date on which the Common expenses are due (excluding the ten (10) day grace period), the Board at its option, may accelerate payment of all Common Expenses to be paid by the defaulting Owner for the balance of the fiscal year of the Association, and the same will be due and payable immediately and will bear interest at the aforesaid rate from the date of acceleration until paid, and all such amounts shall constitute a lien on the lot as aforesaid. Such lien in favor of the Association shall be subordinate to the lien of any First or Second Mortgage which is Recorded prior to the date such lien for unpaid Common Expenses attached. If such First or Second Mortgagee with a First or Second Mortgage which is Recorded prior to the date such lien for unpaid Common Expenses attached, or a purchaser at foreclosure of such First or Second Mortgage obtains title to a lot by reason of foreclosure or deed in lieu of foreclosure, such First or Second Mortgagee or such purchaser, its successors or assigns, shall take such lot or other interest in the Property free of any claims for unpaid Common Expenses, except for the amount of said proportionate share of such Common Expenses which becomes due and payable from and after the date on which such First or Second Mortgagee or purchaser either takes possession of the lot or the interest

encumbered by such First or Second Mortgage, or accepts a conveyance, transfer or assignment of the lot or of any interest therein (other than as security) in lieu of any foreclosure of such First or Second Mortgage, or forecloses or files suit to foreclose its First or Second Mortgage or causes a receiver to be appointed to take possession of the Lot. This provision shall not prevent the Association from enforcing any rights to which it is entitled against the prior lot Owner who shall remain individually liable for all such amounts. The provisions of this Section 7(b) shall not be amended, modified or rescinded without the prior written consent of all First or Second Mortgagees who are the holders or owners of a First Mortgage recorded prior to the date of such amendment, modification or rescission.

(c) The Association or its successors and assigns, or the Board or its agent, shall have the right to maintain a suit to foreclose any such lien, and there shall be added to the amount due the costs of said suit and other fees and expenses, together with legal interest and reasonable attorneys' fees to be fixed by the court. The Board or the Association shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Act, this Declaration, and the By-Laws, or as are otherwise provided or permitted at law or in equity, for the collection of all unpaid assessments.

(d) A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

#### ARTICLE IV

##### USE AND OCCUPANCY RESTRICTIONS

###### SECTION 1. GENERAL.

(a) Each Owner at his/her own expense shall maintain their Lot and any improvements thereon, in good condition and in good order and repair. Subject to the provisions of this Declaration and these By-Laws, each Lot and the improvements thereon shall be used solely as a single family residence and for no other purpose. The Common Elements shall be owned by the Association and shall be devoted to the recreational amenities and the related common purposes for which the Property was designed.

(b) The Common Elements shall be used only by the Lot Owners and Occupants and their guests, servants, tenants, family members, customers, invitees and licensees and, in the case of recreational amenities shall be used only by the Lot Owners and



their immediate family and, if supervised by such Lot Owner, by their guests, subject to rules and regulations promulgated from time to time by the Board. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Owner, and shall be subject to any lease, concession, license or easement presently in existence or entered into by the Board at some future time affecting any part or all of said Common Elements.

Without limiting the generality of the foregoing provisions of this Section 1, use of the Property by the Lot Owners shall be subject to the following restrictions and to the rules and regulations adopted or approved by the Board from time to time:

(1) Nothing shall be stored by Owners in the Common Elements without prior consent of the Board except as otherwise herein expressly provided;

(2) Nothing shall be done to any Lot or kept in or on any Lot or in the Common Elements which will increase the rate of insurance for the Property or cause the cancellation of insurance on other Lots or on the Common Elements without the prior written consent of the Board. No Lot Owner shall permit anything to be done or kept in or on his Lot or in or on the Common Elements which will result in the cancellation of insurance on any Lot or any part of the Common Elements, or which will be in violation of any law;

(3) No waste shall be committed in or on the Common Elements;

(4) No Lot shall be further subdivided.

(5) Only one antenna or dish satellite antenna shall be permitted per Lot, and same shall be fifty (50) feet from Lot lines and blend with the surroundings as much as possible (e.g. black mesh shall be required for a dish antenna). Plans shall be submitted to the Board for approval prior to construction.

(6) No unlawful noxious or offensive activity shall be carried on around or in any Lot or on or in the Common Elements nor shall anything be done therein or thereon which in the reasonable judgment of the Board either is or may be or become an annoyance, noise, disturbance or nuisance to the other Lot Owners or other persons or which unreasonably interferes with other Lot Owners' use of their Lots or the Common Elements.

(7) Nothing shall be altered or constructed in or removed from the Common Elements except with the prior written consent of the Board;

(8) No trailer and no structure of a temporary character shall be permitted on any Lot at any time except with the prior written consent of the Board; provided, however, that temporary structures may be erected for use in connection with the construction or repair of any building;

(9) No fences, or walls shall be erected or maintained upon the Lots, except as approved by the Board;

(10) No mobile home shall be permitted on any Lot;

SECTION 2. ANIMALS. No animals shall be raised, bred or kept on any Lot for any commercial purpose. Pets of Owners shall be kept in strict accordance with the administrative rules and regulations relating to pets from time to time adopted or approved by the Board, provided that any such pet shall not in the judgment of the Board constitute an unreasonable annoyance or disturbance to others.

SECTION 3. TRASH. Trash, garbage and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner in strict accordance with the rules and regulations adopted or approved by the Board from time to time.

## ARTICLE V

### MAINTENANCE, REPAIRS AND REPLACEMENTS

SECTION 1. RESPONSIBILITY FOR MAINTENANCE, REPAIRS, AND REPLACEMENTS. Each Lot Owner, at his own expense, shall furnish and be responsible for all maintenance of, repairs to and replacements within his own Lot and the improvements thereof. Subject to the rules and regulations of the Association, each Lot Owner hereby is granted an easement over and across the roads and access ways of the Common Elements for the purpose of maintaining, repairing and replacing all equipment for which such Lot Owner is responsible. Except as otherwise set forth herein or in the Declaration, maintenance of, repairs to and replacements within the Common Elements shall be the responsibility of and shall be furnished by the Association. The cost of maintenance of, repairs to and replacements within the Common Elements shall be part of the Common Expenses, subject to the provisions of these By-Laws and the rules and regulations of the Association.

SECTION 2. BOARD'S AUTHORITY TO MAINTAIN AND REPAIR. In addition to the discretionary authority provided herein for maintenance of all or any portion of the Common Elements, the Board shall have the authority to maintain and repair any Lot, if such maintenance or repair is reasonably necessary in the

discretion of the Board to protect the Common Elements or preserve the appearance and value of the Property and the Lot Owner of said Lot has failed or refused to perform said maintenance or repair directed by the Board; and the Board shall have the right to levy a special assessment against the Lot Owner of such Lot for the cost and expenses incurred for such necessary maintenance or repair.

SECTION 3. DAMAGE TO COMMON ELEMENTS. If, due to the act or negligence of a Lot Owner, or of his agent, servant, tenant, family member, invitee, licensee or household pet, damage shall be caused to the Common Elements or the a Lot Or Lots owned by others, and maintenance, repair or replacement are required, the cost of which would otherwise be a Common Expense, then such Lot Owner shall pay for such damage or maintenance, repair and replacement as any be determined by the Association, and the cost of such damage shall be deemed to be a special assessment against such Lot Owner except to the extent that the damage is covered by policies of insurance maintained by the Board.

SECTION 4. AUTHORIZATION FOR ACCESS TO LOTS AND COMMON ELEMENTS. The authorized representatives of the Association or the Board, or the authorized representatives of the Managing Agent, with approval of the Board, shall be entitled to reasonable access to the individual Lots and Common Elements as may be required in connection with the preservation of any individual Lot or the Common Elements in the event of an emergency, or in connection with maintenance of, repairs to or replacements within the Common Elements, or any equipment, facilities, or fixtures affecting or serving other Lots or the Common Elements, or in the making of any alteration required by any governmental authority.

## ARTICLE VI

### AMENDMENTS

Subject to the requirements of Article III, Section 2 hereof requiring the consent of certain lien holders under certain circumstances and Article VIII hereof requiring the consent of the Developer, this Declaration may be amended, modified, or rescinded, from time to time, by means of an amendment to the Declaration. Any such amendment, modification, or rescission shall be valid and effective only upon the Recording thereof in the Office of the Registrar of Sequatchie County, Tennessee. Any such recorded amendment, modification, or rescission shall be maintained in the corporate records of the Association. Notwithstanding, the foregoing provision of this Article VI neither this Declaration nor the By-Laws or Plat shall be amended, modified or rescinded until the first to occur of (i) the date which is seven (7) years after the Recordation of this Declaration, or (ii) the

date on which the Developer determines not to develop additional phases of Brier Branch, as evidenced by its certified letter to the Association stating such determination, or (iii) the date by which the Developer has completed the expansion of Brier Branch regime on the Additional Land and sold all of the Lots which may be constructed thereon in accordance with Article VIII of this Declaration, without the prior written consent of the Developer.

## ARTICLE VII

### INDEMNIFICATION

SECTION 1. GENERAL. The Association shall indemnify and hold harmless each of its Directors and officers, each member of any committee appointed pursuant to the By-Laws of the Association, and the Board and the Developer against all contractual and other liabilities to others arising out of contracts made by, or other acts of, such Directors, Board, officers, committee member, or the Developer, unless any such contract or act shall have been made fraudulently or with gross negligence, willful misconduct, bad faith, or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other, in which any such Director, officer, Board, committee member, or Developer; provided however, that such indemnity shall not be operative with respect to (a) any matter as to which such or proceeding to be liable for gross negligence, fraud or a crime in the performance of his duties as such Director, officer, Board, committee member, or Developer, or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person being adjudged liable for gross negligence, fraud or a crime in the performance of his duties as such Director, officer, Board committee member, or Developer.

SECTION 2. SUCCESS ON MERITS. To the extent that the Board, the Developer, a Director, an officer of the Association or a member of any committee appointed pursuant to the By-laws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 of this Article VII, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

SECTION 3. ADVANCE PAYMENT. Expenses incurred in defending a civil or criminal action, suit or proceeding may be

paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in the specific case, upon receipt of any undertaking by or on behalf of the person or entity seeking such indemnification or payment in advance to repay such amount unless it shall ultimately be determined that such person or entity is entitled to be indemnified by the Association as authorized in this Article VII.

SECTION 4. MISCELLANEOUS. The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Article, provided, however, that the liability of any Owner arising out of any contract made by or other acts of the Directors, Board, officers, members of such committees, or Developer, or out of the aforesaid indemnity in favor of the Directors, Board, officers, members of such committees, or Developer, shall be limited to the Lot Owner's percentage interest in the Common Elements. Each Owner's liability under any agreement made by the Directors, Board, officers, members of Association committees, Developer or the Managing Agent on behalf of the Owners shall be limited to the same proportion of the total liability thereunder as his Lot Owners' percentage interest in the Common Elements. The indemnification provided by this Article VII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board or otherwise, both as to action in their official capacity and as to action in another capacity while holding office. Such right to indemnification shall continue as to a person or entity who has ceased to be the Developer, Director, member of the Board, officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, personal representatives, successors and assigns of such person or entity.

## ARTICLE VIII

### EXPANDABLE PROPERTY

SECTION 1. RIGHT TO EXPAND. Attached hereto as Exhibit D is a description of property herein called Additional Land. The Additional Land is not a part of Brier Branch and is not subject to this Declaration or the Plat as of the date of its recording. However, Developer hereby reserves the right, exercisable at its sole option, to expand the Property of Brier Branch from time to time to include additional Lots and additional Common Elements, upon the Additional Land or any portion or portions thereof at such time and in such proportions and Phases as Developer may deem expedient. Except for zoning and other governmental requirements, there are no limitations as to the location of the

improvements on the Additional Land. If the Developer determines to add the Additional Land to Brier Branch and not to develop it as a separate development, the Additional Land so added shall be subject to the use restrictions set forth herein when it is added to the Property. Any expansion under this section shall be accomplished by Developer's executing and recording the amendment to this Declaration and the Plat at Developer's sole expense, and shall be effective immediately upon recording. The Lots thereby created and added shall be owned by Developer but if added the Common Elements shall be deeded to and owned by the Association. Notwithstanding any provision of the Act or this Declaration which might be construed to the contrary, Developer shall not be required to expand Brier Branch or to add all or any portion of such Additional Land thereto, nor shall the exercise of any such right to expand obligate Developer to further expand Brier Branch. Further, the exercise of any such right to expand shall not be predicated upon Developer's first obtaining the consent or vote of any Owner.

SECTION 2. RESERVATION OF EASEMENT TO FACILITATE EXPANSION AND COMPLETION. Developer reserves transferable easements in, on, over, across, through and under the Common Elements on the Property and when and if added, the Additional Land, for the purpose of making improvements on the Property and on the Additional Land pursuant to the expansion provisions of this Declaration and for the purpose of doing all things reasonably necessary and proper in connection therewith.

SECTION 3. USE BY THE DEVELOPER. During the period of sale of any Lot by the Developer, the Developer and its respective agents, employees, successors, assigns, contractors, subcontractors, brokers, licensees, invitees, and the respective agents and employees thereof shall be entitled to the use of parking, access, ingress to and egress from the Common Elements, without charge, as may be required for purposes of the sale of Lots and other activities of the Developer on or about the Property. While the Developer owns any Lots and until each lot sold by it is occupied by the purchasers thereof, the Developer and its respective agents and employees thereof and the respective agents and employees thereof, may use and show one or more of such unsold or unoccupied Lots as a Model Lot or Lots and may use one or more of such unsold or unoccupied Lots and any improvements thereon or a portion of the Common Elements, without charge, as a sales office, administrative office, management office or for other uses and further use and display such customary signs, banners, equipment and lighting in connection therewith as the Developer may see fit. This section may only be amended or modified with the express written consent of the Developer.

ARTICLE IX

ADDITIONAL POWERS

In addition to, and in furtherance of, the powers referred to in this Declaration, the Association shall (a) have all the powers permitted to be exercised by a not-for-profit corporation under the Act, as amended, and (b) have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Association is organized, and to do every other act not inconsistent with law which may be appropriate to promote and attain the purposes set forth in this Declaration, the By-Laws or the Act, as amended.

In Witness Whereof the undersigned Developer and the Owners of all Lots in Brier Branch have executed this Declaration as of the 1st of January, 1993, to be effective upon recordation in the Office of the Registrar of Sequatchie County, Tennessee.

George S. Johnston, Jr., Trustee

*George S. Johnston, Jr. Trustee*

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me personally appeared George Shuford Johnston, Jr., Trustee, to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

WITNESS my hand and seal the 7<sup>th</sup> day of April 1993.

*Brenda E. Thiel*  
NOTARY PUBLIC

My Commission Expires:  
10-23-96

WITNESS our hands this the 7<sup>th</sup> day of April 1993.

[Handwritten signatures]

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me personally appeared Terry Rutherford to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

WITNESS my hand seal this 7<sup>th</sup> days of April 1993.

Brenda E. Hill  
NOTARY PUBLIC

My Commission expires:  
10-23-96

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me personally appeared J. Richard Brown to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.



WITNESS my hand and seal this 7<sup>th</sup> day of April, 1993.

Brenda E. Hull  
NOTARY PUBLIC

My Commission Expires:  
10-23-96

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me personally appeared Hampton L. Johnston to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

WITNESS my hand and seal this 20<sup>th</sup> day of April, 1993.

Sharon McKee  
NOTARY PUBLIC

My Commission Expires:  
Jan. 25, 1997

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me personally appeared John C. Parker to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

WITNESS my hand and seal this 5<sup>th</sup> day of May, 1993, 1993.

Butler J. Harrison  
NOTARY PUBLIC

My Commission Expires:  
6-22-94

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me personally appeared Stetson Bright to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

WITNESS my hand and seal this 26<sup>th</sup> day of May 1993.

Monnie J. Rogers  
NOTARY PUBLIC

My Commission Expires:  
3-25-96

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me personally appeared Steven Lewis to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

WITNESS my hand and seal this 8<sup>th</sup> day of June 1993.

Pattie J. Harrison  
NOTARY PUBLIC

My Commission Expires:  
6-22-94

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me personally appeared Joe Beedmore to me known (or proved to me on the basis of satisfactory evidence) to be the person described in and who executed the foregoing instrument, an acknowledged that he executed the same as his free act and deed.

WITNESS my hand and seal this 8<sup>th</sup> day of June 1993.

Pattie J. Harrison  
NOTARY PUBLIC

My Commission Expires:  
6-22-94

EXHIBIT BCHARTER OFBRIER BRANCH ASSOCIATION, INC.

Under Section 48-52-102 of the  
Tennessee Nonprofit Corporation Act

1. Name. The name of the corporation is  
BRIER BRANCH ASSOCIATION, INC.
2. Mutual Benefit. This corporation is a mutual benefit corporation.
3. Registered Office. The location of the initial registered office of the corporation is 1110 Market Street, Suite 505, Chattanooga, Tennessee, 37402. The initial registered office is located in Hamilton County, Tennessee. The name of the initial registered agent at that office is G. Richard Hostetter.
4. Incorporator. The incorporator is George M. Derryberry, whose address is 1110 Market Street, Suite 502, Chattanooga, Tennessee, 37402.
5. Principal Office. The principal office of the corporation is 1110 Market Street, Suite 505, Chattanooga, TN 37402.
6. Non-Profit. The corporation is not for profit.
7. Members. The corporation will have members.
8. Purposes. The corporation is organized for the purposes of carrying on one or more of the functions of an owners' association, including, without limitation, the administration, through a Board of Directors of the development known as Brier Branch and the ownership and management of the recreational and other common amenities, which includes, without limitation, the acquisition (either in its own name or as nominee for the Members of said residential development), construction, management, maintenance, and care of the corporation's property as well as the preservation and architectural control of the recreational and other improvements of said development.

(a) Exercise all of the powers and privileges, and perform all of the duties and obligations

Declaration of Covenants and Restrictions for Brier Branch to be recorded in the Register's Office of Sequatchie County, Tennessee, as the same may be amended from time to time (the Declaration).

(b) Fix, levy, collect and enforce payment of all charges and assessments pursuant to the terms of the Declaration, pay all expenses called for thereunder, including such licenses, taxes or other governmental charges levied or imposed against the property of the Corporation.

(c) Have and exercise any and all powers, rights and privileges which a corporation organized under the privileges provisions of the Tennessee Nonprofit Corporation Act relating to not-for-profit corporations may now or hereafter have or exercise.

9. Liquidation, Dissolution. In the event of liquidation, dissolution or winding up of the corporation, whether voluntary, involuntary or by operation of law, the residual assets of the corporation shall be distributed to , George S. Johnston, Jr., Trustee, or its assigns.
10. Director's Liability. A director of the corporation shall not be personally liable to the corporation or its members for monetary damages for breach of fiduciary duty as a director, except for liability (a) for any breach of the director's duty of loyalty to the corporation or its members; (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or (c) under Section 48-58-304 of the Tennessee Nonprofit Corporation Act. If the Tennessee Nonprofit Corporation Act is hereafter amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the corporation, in addition to the limitation on personal liability provided herein, shall be limited to the fullest extent permitted by the amended Tennessee Nonprofit Corporation Act.
11. Indemnification. The corporation shall have the power to indemnify its directors and officers to the fullest extent permitted by the Tennessee Nonprofit Corporation Act.

IN WITNESS WHEREOF, the undersigned incorporator has signed this charter the \_\_\_ day of \_\_\_\_\_, 1993.

\_\_\_\_\_  
George M. Derryberry,  
Incorporator

EXHIBIT CBY-LAWSOFBRIER BRANCH ASSOCIATION, INC.

## ARTICLE I

MEMBERS  
(OWNERS)

SECTION 1. OFFICES. The principal office of the corporation within the State of Tennessee shall be located at 1110 Market Street; Suite 505; Chattanooga, Tennessee 37402, or at such other place as the Board of Directors may determine. The corporation may also have offices and places of business at such other places, within or without the State of Tennessee, as the Board of Directors may from time to time determine or the business of the Corporation may require.

SECTION 2. REGULAR MEETINGS. The members of Brier Branch Inc., a Tennessee Mutual Benefit Association, shall hold a regular annual meeting, a purpose of which shall be to elect members of the Board. The first regular annual meeting of members (the "First Meeting") shall be held on the first Saturday in March, or such other date which is within forty-five (45) days thereof, as the Board shall prescribe. Subsequent to the First Meeting, an annual meeting of members shall be held on such date; provided, however, that if such date is a legal holiday, the meeting shall be held on the next secular day following. At each annual meeting, the members in accordance with and subject to the other provisions of the Declaration and these By-Laws shall elect a Board of Directors and transact such other business as may properly come before the meeting. All such meetings of members shall be held at the office of the Association or at such other place and at such time as shall be designated by the Board of Directors of the Association. Written notice of each meeting, specifying the time, date, and place thereof, shall be delivered to all owners of lots in Brier Branch, sometimes referred to herein as owners or members, at least twenty-one (21) days and not more than forty (40) days prior to the date of such meeting. Such notice shall also state the purpose of such meeting.

SECTION 3. SPECIAL MEETINGS. Special meetings of the members may be called by the President or shall be called by the President or Secretary at the request in writing of a majority of the Directors of the Board, or at the request in writing more

than 75% of the members. Special meetings shall be called by delivering written notice to all members not less than seven (7) days nor more than thirty (30) days prior to the date of said meeting, stating the date, time, place and purpose of said special meeting. Any matter subject to the approval of members as set forth by statute and these By-Laws shall be submitted to the members by the Board at a special meeting called pursuant to the provisions of this paragraph.

SECTION 4. DELIVERY OF NOTICE OF MEETINGS. Notices of meetings shall be delivered by or at the direction of the Secretary of the Association, and may be delivered either personally or by mail to each member at the address given to the Board by said member for such purpose.

SECTION 5. VOTING. The aggregate number of votes shall be the number of lots then subdivided and forming a part of Brier Branch as then shown on the Plat as amended and described in the Declaration as amended, and shall be divided equally among the respective Owners of such Lots. If any Owner consists of more than one Person, the voting rights of such Owner shall not be divided, but shall be exercised as if the Owner consisted of only one Person in accordance with the proxy or other designation made by the Persons constituting such Owner. The Developer may exercise the voting rights with respect to lots owned by it. If an Owner is a trust, then the voting rights of said Owner may be exercised by a beneficiary of such trust, and if an Owner or such a beneficiary is a partnership, then the voting rights of said Owner or beneficiary may be exercised by a general partner of such Owner or beneficiary, and if an Owner or such beneficiary or such partner is a corporation, then the voting rights of said Owner, beneficiary or partner may be exercised by an officer or duly authorized agent of that corporation. The Association may not exercise voting rights with respect to lots owned by it; provided, further that when a specified percentage of ownership in the lots is needed to approve any measure under consideration by the members or to constitute a quorum of members, pursuant to these By-laws, any percentage of ownership in the lots owned by the Association shall not be taken into account when determining whether the requisite percentage has been met. Except for the election of Directors and except as set forth below, all matters shall be determined by an affirmative vote by members owning a majority of the lots voting at such meeting at which a quorum is in attendance. The following matters shall require the approval of members owning not less than seventy-five percent (75%) of the total undivided ownership of the lots, by affirmative vote at a meeting duly called for that purpose or by written proxy or consent: (a) the merger or consolidation of the Association; (b) the sale, lease, exchange, mortgage, pledge, or other disposition of all or substantially all of the property and assets of the Association; and (c) the purchase or sale of land on behalf of all members. At any meeting of members, each Owner shall be entitled to vote in person or by proxy.

SECTION 6. QUORUM. The quorum required for any action which is subject to a vote of the members at an open meeting of the Association shall be as follows:

The first time a meeting of the members is called to vote on a particular action proposed to be taken by the Association, the presence at the meeting of members or proxies holding sixty percent (60%) of the total lots shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, a second meeting may be called subject to the giving of proper notice and the required quorum at such meeting shall be the presence of members or proxies holding twenty-five (25%) of the total lots. In the event the required quorum is not forthcoming at the second meeting, a third meeting may be called subject to the giving of proper notice and there shall be no quorum requirements for such third meeting. Unless otherwise provided, any reference hereafter to "votes cast at a duly called meeting" shall be construed to be subject to the quorum requirements established by this ARTICLE II, Section 7, and any other requirements for such "duly called meeting" which may be established by the By-Laws of the Association.

SECTION 7. RULES OF THE MEETING. The Board may prescribe reasonable rules for the conduct of all meetings of the Board and members.

## ARTICLE II

### BOARD OF DIRECTORS

SECTION 1. NUMBER, ELECTION AND TERM OF OFFICE. The Board of Directors of the Association shall have all rights, titles, powers, privileges and obligations vested in or imposed upon the Board of Directors and their successors in office under Section 48-52-102 of the Tennessee non-profit corporation Act (The Act). The initial Board shall consist of not less than three (3) Directors and thereafter the Board shall consist of no more than nine (9) Directors. Directors shall be elected by plurality vote at the regular annual meeting of members by the vote of members, except the Directors of the First Board shall be appointed by the Developer. Those candidates for election as Director receiving the greatest number of votes cast at a duly called meeting either in person or by proxy shall be elected. One (1) member of the First Board shall hold office until the First Meeting, and two (2) other members of the First Board shall hold office until the second regular annual meeting of members; at each annual meeting of the members, the members shall elect Directors to fill the expiring terms for a term of three (3) years. No Director shall serve more than two consecutive terms.

SECTION 2. QUALIFICATIONS. Except for members of the First Board, each Director shall be an Owner or the spouse of an Owner, or, if a Owner is a trustee of a trust, then a beneficiary of such trust may be a Director, and if an Owner or such beneficiary is a partnership, then a general partner of such Owner or beneficiary may be a Director, and if a Owner or such beneficiary is a corporation, then an officer of such corporation may be a Director. If a Director shall cease to meet such qualifications during his term, he shall thereupon cease to be a Director and his place on the Board shall be deemed vacant.

SECTION 3. VACANCIES. Any vacancy occurring in the Board for any reason shall be filled by an Owner who shall be elected by majority vote of the remaining members of the Board, except that a vacant position on the Board which was last filled by a member of the First Board shall be filled by a person appointed by the Developer who need not be an Owner. Any Director so elected or appointed to fill a vacancy shall hold office for a term equal to the unexpired term of the Director which he succeeds.

SECTION 4. MEETINGS. Regular meetings of the Board shall be quarterly, one of which (the "Regular Annual Meeting of the Board") shall be held within ten (10) days after the regular annual meeting of members. Special meetings of the Board shall be held upon a call by the President or at the written request of any two members of the Board of Directors on not less than three (3) days notice in writing to each Director, delivered personally or by mail or telegram. Any Director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A Director's attendance at a meeting shall constitute his waiver of notice of said meeting. Each member shall receive at least twenty-one (21) days prior notice (in the same manner as that provided herein for the giving of notice of the annual Owners' meeting) of any meeting of the Board concerning the adoption of the proposed annual budget or any increase thereof, or concerning the establishment of an assessment. Meetings of the Board shall be open to members.

SECTION 5. RESIGNATION AND REMOVAL. Any Director may resign at any time by written notice to the Association effective as of the date of such notice is received by the Association. Any Director may be removed from office with or without cause by the vote of members owning not less than a majority of the total provided however, a member of the Board appointed by the Developer may be removed from office only for cause and by vote of members owning not less than eighty percent (80%) of the total lots.

SECTION 6. COMPENSATION. Directors shall receive no compensation for their services as Directors, unless expressly provided for by a resolution duly adopted by members owning



eighty percent (80%) of the total lots. The Board may, however, reimburse any Director for his reasonable expenses in attending any meeting of the Board.

SECTION 7. QUORUM. A majority of the Directors shall constitute a quorum. An affirmative vote of a majority of this Directors present at a meeting at which a quorum is in attendance shall be necessary to transact business.

SECTION 8. PARTICIPATION IN MEETINGS BY TELEPHONE. Any one or more members of the Board may participate in a meeting of the Board by means of conference telephone or similar communication equipment allowing all persons participation in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

SECTION 9. CONSENTS. Whenever by any provision of law or of the Articles of Incorporation or these By-Laws or the Declaration of the vote of the Board at any meeting thereof is required or permitted to be taken in connection with any corporate action, the meeting and the vote of the Board may be dispensed with, if all of the members of the Board who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such corporate action being taken.

SECTION 10. POWERS AND DUTIES. The Board shall exercise for the Association all duties and authority vested therein by the Act, the Declaration, the Articles of Incorporation or these By-Laws, except for such powers, duties, and authority reserved thereby to the members of the Association. The powers and duties of the Board shall include, but shall not be limited to, the following:

(a) To elect and remove the officers of the Association as hereinafter provided and to establish compensation for such officers, provided that officers shall receive no compensation for their services unless expressly provided for by a resolution duly adopted by members holding a majority of the total undivided ownership of the common Elements;

(b) To administer the affairs of the Association and the Property

(c) If desired by the Board, to engage the services of a Managing Agent or other personnel to maintain, repair, replace, administer and operate the Property or any part thereof for all of the Owners, upon such terms, and for such compensation and with such authority as the Board may approve;

(d) To administer, manage, and operate the Property, including the Common Elements, and to formulate policies therefore;

- (e) To adopt rules and regulations, with written notice thereof to all members, governing the details of the administration, management, operation and use of the Property and the Common Elements, and to amend such rules and regulations from time to time;
- (f) To provide for the operation, care, upkeep, maintenance, repair, replacement and improvement of the Common Elements and payments therefor, including, without limitation, the right to restore the Property in the case of a casualty loss and to approve payment vouchers or to delegate such approval to the officers of the Association, or the Managing Agent, if any;
- (g) To have access to each lot from time to time as may be necessary for the maintenance, repair, or replacement of and Common Elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Elements or to one or more other lots.
- (h) To obtain adequate and appropriate kinds of insurance.
- (i) To provide for the designation, employment, and dismissal of employees and other personnel necessary or advisable for the maintenance and operation of the Common Elements, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements, and to delegate any such powers to the Managing Agent, if any (and any employees or agents of the Managing Agent);
- (j) To appoint committees of the Board and to delegate such committees authority to carry out certain duties of the Board;
- (k) To determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;
- (l) To estimate the amount of, prepare, adopt, and distribute the annual budget, and to provide the manner of maintenance, repair, replacement, administration, management and assessing, levying or collecting from the Owners their respective shares of the Common Expenses, as hereinafter provided;
- (m) To keep detailed, accurate records of the receipts and expenditures affecting the use and operation of the Property;
- (n) To act in a representative capacity in relation to matters involving the Property and Common Elements on behalf of the Owners, as their interest may appear;

(o) To exercise all other powers and duties of the Board of Directors or referred to in the Act, and all powers and duties of a Board of Directors referred to in this Declaration of Covenants;

SECTION 11. NON-DELEGATION. Nothing in this Article or elsewhere herein shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law or by the Declaration, have been retained and/or delegated to the Owners.

### ARTICLE III

#### OFFICERS

SECTION 1. EXECUTIVE OFFICERS. The executive officers of the Association shall be:

(a) A President, who shall be a Director and who shall preside over the meetings of the Board and of the members, and who shall be the chief executive officer of the Association;

(b) One or more Vice-Presidents, who in the order of their seniority shall, in the absence of the President, perform the duties and exercise the powers of the President and severally assist the President in the management of the business of the Association;

(c) A Secretary, who shall keep the minutes of all meetings of the Board and of the members, and shall be designated as the officer to mail and receive all notices served by or upon the Board or the Association and execute amendments to the Declaration (including the Plat and the Plan) and these By-Laws, and shall, in general, perform all of the duties incident to the office of secretary, and may be a representative of Managing Agent;

(d) A Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported;

(e) Such additional officers as the Board shall from time to time designate.

(f) The offices of Secretary and Treasurer may be held by the President or any Vice President.

SECTION 2. POWERS. The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

SECTION 3. TERM OF OFFICE. Each officer shall hold office for the term of one year and until his successor shall have been appointed or elected and qualified, provided that officer may succeed himself.

SECTION 4. VACANCIES. Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at either a regular or special meeting of said Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds.

SECTION 5. REMOVAL. Any officer may be removed with or without cause at any time by vote of a majority of the Board at a regular or special meeting thereof and may resign by written notice to the Association.

#### ARTICLE IV

##### NOTICES

SECTION 1. FORM; DELIVERY. Notices to Directors and Members/Owners shall be in writing and may be delivered personally or by mail. Notice by mail shall be deemed to be given at the time when deposited in the post office or a letter box, in a post-paid sealed wrapper, and addressed to Directors or Owners at their respective addresses appearing on the books of the Association, unless any such Director or Owner shall have filed with the Secretary of the Association a written request that notices intended for him be mailed or delivered to some other address designated in such request. Notices to Directors and Owners shall state the place, day and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called and the person or persons calling the meeting.

SECTION 2. WAIVER OF NOTICE. Whenever a notice is required to be given by statute, the Articles of Incorporation or these By-Laws, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to such notice. In addition, any Owner attending a meeting of members in person or by proxy without protesting prior to the conclusion of the meeting the lack of notice thereof to him, and any Director attending a meeting of the Board without protesting prior to the meeting or at its commencement such lack of notice shall be conclusively deemed to have waived notice of such meeting.

## ARTICLE V

## ASSESSMENT

SECTION 1. ANNUAL BUDGET. The Board shall cause to be prepared and shall adopt and distribute to all members a detailed estimated proposed annual budget for each fiscal year of the Association. Such budget shall set forth with particularity all anticipated Common Expenses by category as well as all anticipated assessments, other income, and cash requirements for the year, including, but not limited to, salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power contributions to reserves, capital expenditures and all other Common Expenses. Such budget shall also set forth each Owner's proposed annual Common Expenses assessment. To the extent that the aggregate assessments and other cash income collected from the Owners during the preceding year are more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account in the budget. The annual budget shall also take into account the estimated net available cash income for the year from the lease, operation or use of the Common Elements. The annual budget shall also provide for a reserve for contingencies and a reserve for replacements, in reasonable amounts as determined by the Board. Each Owner shall receive a copy of the proposed annual budget at least ten (10) days prior to the adoption thereof by the Board.

SECTION 2. ASSESSMENTS. Unless otherwise directed by the Board, on or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each lot Owner shall pay, as his respective monthly assessment for the Common Expenses, one twelfth (1/12) of the Lot Owner's Percentage Interest as determined by the Declaration, multiplied by the Common Expenses for such year as shown by the annual budget. The percentage of ownership of Common Expenses payable with respect to each lot may be adjusted either as a result of the addition of a new Phase to Brier Branch or as otherwise permitted in the Declaration and these By-Laws, with such adjustments (whether upward or downward) being customarily implemented by the Board at the beginning of the Association's next fiscal year. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Owner shall continue to pay each month the amount of his respective monthly assessment as last determined. Each Owner shall pay his monthly assessment to the Managing Agent or as may be otherwise directed by the Board. No Owner shall be relieved of his obligation to pay his assessment by abandoning or not using his lot or the Common Elements.

SECTION 3. PARTIAL YEAR OR MONTH. If the first fiscal year, or any succeeding fiscal year, is less than a full year, then the monthly assessment for each Owner shall be proportionate to the number of months and days in such period covered by such budget.

SECTION 4. ANNUAL REPORT. Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Owner, an itemized accounting of the Common Expenses for the preceding year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget or assessment, and showing the net excess or deficit of income over expenditures plus reserves.

SECTION 5. SUPPLEMENTAL ASSESSMENTS. In the event that during the course of any year, it shall appear to the Board that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated Common Expenses for the remainder of such year, or if there shall be any non-recurring Common Expenses or any Common Expenses not set forth in the annual budget as adopted, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of the year, or such non-recurring Common Expenses or other Common Expenses, copies of which supplemental budget shall be furnished to each Owner, and thereupon a supplemental assessment shall be made against each Owner for his proportionate share thereof.

SECTION 6. EXPENDITURES. Except for any expenditures and contracts specifically authorized by this Declaration and By-Laws, the Board shall not incur any expenditures in excess of Five Thousand Dollars (\$5,000) unless required for emergency repair, protection or operation of the Common Elements, nor enter into any contract of more than five (5) years duration without the prior approval of Owners owning not less than two-thirds (2/3) of the total ownership of the lots.  
equity, for the collection of all unpaid assessments.

SECTION 7. RECORDS AND STATEMENT OF ACCOUNT.

(a) The Board shall cause to be kept detailed and accurate records, in chronological order, of the receipts and expenditures affecting the Common Elements, specifying and itemizing the Common Expenses incurred. Such records and the vouchers authorizing the payments involved shall be available for examination by the Owners at convenient hours during weekdays. Payment vouchers may be approved in such manner as the Board may determine.

(b) The Board shall, upon receipt of ten (10) days written notice to it or the Association and, if desired by the Board, upon payment of a reasonable fee, furnish to any Owner a

statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

SECTION 8. STATEMENT OF ACCOUNT IN CASE OF A PROPOSED SALE. In the event of a proposed sale of a lot by an Owner, and within ten (10) days after receipt of a written request from an Owner (together with payment of a reasonable fee, if any, set by the Board), the Board shall provide such Owner with a statement containing the following information:

(a) The status of said Owner's account and the amount of any unpaid assessments or other charges due and owing from the Owner;

(b) A brief description of any expenditures for major repairs, alterations, additions, or improvements to the Common Elements which are anticipated by the Board for the period of twelve (12) months from the date of the statement; and

(c) The status and amount of any and all capital reserves.

SECTION 9. DISCHARGE OF LIENS. The Board may cause the Association to discharge any mechanic's lien or the encumbrance which, in the opinion of the Board, may constitute a lien against the Property or the Common Elements, rather than a lien against only a particular lot. When less than all the Owners are responsible for the existence of any such lien, the Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien.

SECTION 10. HOLDING OF FUNDS. All funds collected hereunder shall be held and expended for the purposes designated herein and (except for such special assessments as may be levied hereunder against less than all the Owners and for such adjustments as may be required to reflect delinquent or unpaid assessments) shall be deemed to be held for the benefit, use and account of all the Owners in accordance with each Owner's respective percentage of ownership interest in the Common Elements.

## ARTICLE VI

### CONTRACTUAL POWERS

SECTION 1. INTERESTED DIRECTORS. To the extent and under the circumstances permitted by law of the State of Tennessee, no contract or other transaction between the Association and one or more of its Directors, or between the Association and any other corporation, firm, association or other entity in which one or more of its Directors are directors or officers, or are financially interested, shall be either void or voidable for this

reason alone, or by reason that such Director or Directors are present at the meeting of the Board which authorizes such contract or transaction, or that his or their votes are for such purpose. Except as otherwise provided by statute, common or interested Directors may be counted in determining the presence of a quorum or at a meeting of the Board, which authorizes any such contract or transaction.

SECTION 2. CONTRACTS, ETC. Unless otherwise directed by the Board, the President, the Vice President or Treasurer shall have the power to make and execute contracts and to sign deeds, bonds, mortgages, tax returns, and other instruments on behalf of the Association. The President may authorize the execution of any such documents by such other officers, agents and employees as may be selected by them from time to time and with such limitations and restrictions as the authorization may provide.

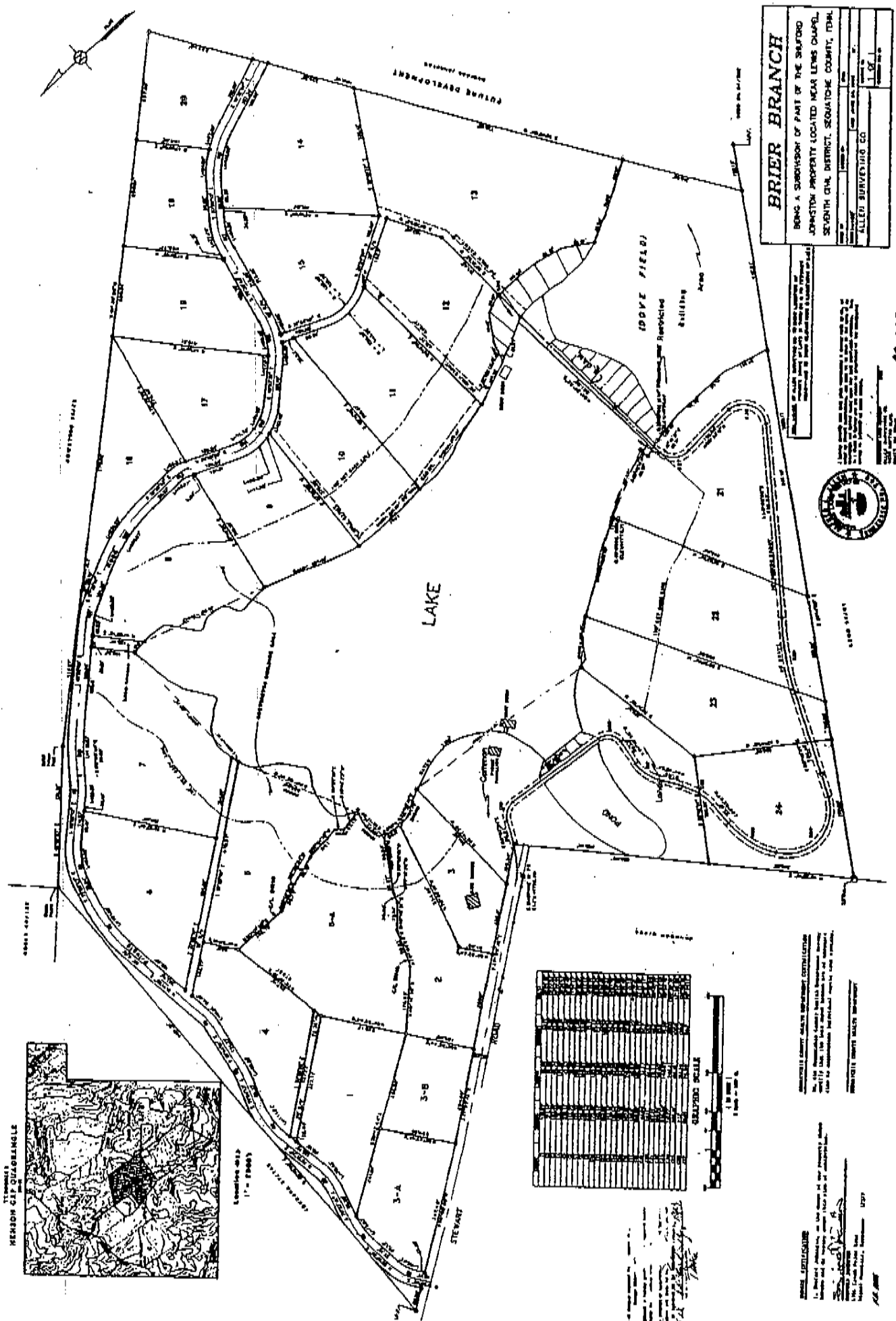
SECTION 3. CHECKS, NOTES, ETC. All checks or other orders for payment of money and notes or other instrument evidencing indebtedness or obligations of the Association shall be signed by the President, Vice-President, or Treasurer or such other person or persons as the Board may from time to time designate.



EXHIBIT DADDITIONAL PROPERTY

That portion of the property described in the attached deed that is not platted under the Plat recorded in Cabinet A, Page 46A of the Register's Office of Sequatchie County, Tennessee.

EXHIBIT A



**BRIER BRANCH**  
 BEING A SUBDIVISION OF PART OF THE SHAFORD  
 JOHNSON PROPERTY LOCATED NEAR LEWIS DAM,  
 SEVENTH CIVIL DISTRICT, SEQUOIA COUNTY, TEXAS.  
 ALLEN SURVEYING CO. ENGINEERS  
 10101 W. 10th St., Suite 100, Fort Worth, TX 76132  
 Phone: (817) 336-1111  
 Fax: (817) 336-1112  
 www.allensurveying.com



89-222

PROVIDE A COPY OF THIS PLAT TO THE COUNTY CLERK OF SEQUOIA COUNTY, TEXAS, AT THE CLERK'S OFFICE, 10101 W. 10th St., Suite 100, Fort Worth, TX 76132, FOR RECORDATION. THE CLERK'S OFFICE IS OPEN MONDAY THROUGH FRIEDAY, 9:00 AM TO 5:00 PM. THE CLERK'S OFFICE IS CLOSED ON SATURDAY, SUNDAY, AND HOLIDAYS. THE CLERK'S OFFICE IS NOT RESPONSIBLE FOR THE CONTENTS OF THIS PLAT.

ALLEN SURVEYING CO. ENGINEERS  
 10101 W. 10th St., Suite 100, Fort Worth, TX 76132  
 Phone: (817) 336-1111  
 Fax: (817) 336-1112  
 www.allensurveying.com  
 J. Allen  
 1/10/11