

MAINTENANCE AGREEMENT

BETWEEN

**GREENBRIER HOMEOWNERS ASSOCIATION,
INC.**

AND

VESTA PROPERTY SERVICES, INC.



VestaTM

Vested in your community.

MAINTENANCE AGREEMENT

This Maintenance Agreement (“Agreement”) is made and entered into as of _____ 1, 2019, (the “Effective Date”) by and between a Florida not-for-profit corporation, **Greenbrier Homeowners Association, Inc.** (“Association”), in Duval County, and Vesta Property Services, Inc., a Florida corporation (“Vesta” or “Agent”). Association and Agent shall each be a ‘party’ or collectively the ‘parties’.

RECITALS

WHEREAS, the Association is a homeowners association incorporated as a not-for-profit corporation under the laws of the State of Florida that is responsible for the operation of the community known as **Greenbrier Homeowners Association, Inc.** (the “Community”) located in Duval County, Florida, pursuant to that certain Declaration of Restrictions, Covenants, and Easements for **Greenbrier Homeowners Association, Inc.** recorded in the Public Records of Duval County, Florida (the “Declaration”); and

WHEREAS Vesta is a licensed Community Association Management Company and is in the business of providing property management, maintenance, administrative, and compliance services to community associations; and

WHEREAS, the Association desires to retain Vesta to provide the janitorial, maintenance and other services described in this Agreement, to maintain the Common Elements of the Community, and to provide the services as set forth in the Scope of Services outlined herein (collectively, the “Services”). The term “Common Elements” means those portions of the Community dedicated to the common use and enjoyment of the property owners (“Owners”) except as otherwise provided in this Agreement. The Common Elements include, without limitation, the amenities center which includes recreational facilities and amenities plus related facilities and equipment including, without limitation, a fitness center, sports courts, pavilions, swimming pools with associated decking and facilities, multi-purpose rooms and facilities for social functions, play areas; and open spaces (the “Amenities Center”); and

A. Term and Termination. Notice.

1. Term. The Association hereby employs the Agent exclusively to manage the Association for two (2) years (the “Initial Term”), commencing on January 1, 2019. The agreement will automatically renew for one (1) year following the Initial Term and for subsequent years on the anniversary of the Effective Date (each a “Term”).

2. Termination. Either party may propose to terminate this Agreement with ninety (90) days written Notice delivered by certified mail to the other party. The Notice shall provide a detailed, written and itemized list of the reasons for the proposed termination and the other party shall have thirty (30) days to cure each item listed in the Notice. If the items are not satisfactorily cured, then the Agreement shall terminate on the ninetieth (90th) day following receipt of the Notice.

3. Notice.

Any notice required or permitted to be served hereunder may be served by registered mail or in person as follows:

1. If to the AGENT:
Vesta Property Services, Inc.
P.O. Box 353187
Palm Coast, FL 32135
2. If to the ASSOCIATION,
(To the President of the
Association at his/her home address)

Either party may change the address for notice by notice to the other party. Notice served by mail shall be deemed to have been served when deposited in the mail.

B. Compensation

In addition to all reimbursable costs, for which the Association shall pay the Agent, the Association agrees to pay the Agent the below applicable monthly fees in advance on the first day of each month via ACH payment until the expiration or termination of this Agreement, as provided herein. Any changes to the Agent's compensation shall be negotiated annually and agreed upon by both parties and reflected in the Association's annual budget approved by the Board of Directors.

The maintenance fee will be \$1,340 per month for the first year.

The maintenance fee will be \$1,407 per month for the second year.

Additional work not specified in this Agreement will be subject to our standard hourly rate of \$50 per hour plus supplies. Emergency Services will be billed at \$75 per hour with a minimum two (2) hour charge per incident.

C. Agent's Services

During the Term hereof, and any renewal or extension thereof, the Agent shall perform the following Services when and if needed, or as otherwise specified herein, in the name and on behalf of the Association as directed by its board of directors ("Board").

Services to be performed at each visit: Two (2) visits per week November through March (22 weeks) and three (3) visits per week (Monday/Wednesday/Friday) April through October (30 weeks) to include the following:

Pool Area Services

1. Empty trash cans and replace with provided liners
2. Arrange pool furniture each visit and clean (weekly)
3. Wipe tables

4. Clean and polish drinking fountains
5. Pick up trash on pool deck and patio areas
6. Knock down cobwebs

Fitness Center Services

1. Clean and disinfect equipment
2. Pick up trash, empty trash cans and replace with provided liners
3. Vacuum
4. Clean glass mirrors, and windows
5. Restock gym wipes/sanitizer
6. Clean windowsills, baseboards, marks on walls and ceiling fans (as needed)
7. Clean a/c vents (as needed)

Restroom Services

1. Clean and disinfect toilets, urinals, walls and sinks
2. Sweep and mop
3. Empty trash and replace with provided bags
4. Restock toilet paper, paper towels and soap
5. Additional charges for Bathroom Emergencies \$100/Bathroom Emergencies on Holidays/Weekends \$150

Grounds Services

1. Police grounds, parking lot, and mail kiosk for trash at amenities
2. Empty trash cans and replace with provided liners
3. Empty pet waste from (7) dog stations three times per week and replace with provided bags/liners
4. Miscellaneous minor repairs and maintenance of clubhouse building and common areas, any materials needed will be reimbursed by HOA.

All toilet paper, paper towels, trash bags, gym wipes and sanitizer to be supplied by HOA.

Note: Maintain janitor's closet and ensure that enough supplies are kept on hand and available.

D. Agency

All actions taken by the Agent with respect to the Agent's Services under the provisions of this Agreement shall be taken as agent for the Association and all obligations or expenses incurred in the performance of the Agent's Services shall be for the account, on behalf, and at the expense of the Association, except as is otherwise expressly provided herein. The Agent shall not be obligated to make any advances to or for the account of the Association or to pay any sum, except out of funds held or provided by the Association or by its members, nor shall the Agent be obligated to incur any liability or obligation on behalf of the Association without absolute and unconditional assurance that the necessary funds for the discharge thereof are immediately and presently available. It is understood and acknowledged that the Agent does not

have any power-of-attorney to sign for, or execute any document in the name of, the Association or the Board.

E. Right of Access

The Agent shall have access to all elements of the Property at all reasonable times as may be necessary for the maintenance, repair or replacement of any portion of the Property, or for the making of emergency repairs necessary to prevent damage to any portion thereof.

F. Designations

The Association shall designate, in writing, a single individual who, except as specified herein as to certain approvals, consents, and authorizations, shall be authorized to deal with the Agent on any matter relating to this Agreement. In the absence of any such designation, the President of the Association shall have such authority.

G. Independent Contractor

The Agent is and shall be deemed to be an independent contractor, and not an employee of the Association. The Agent shall be free to contract for similar services to be performed for other entities, wherever located, while it is under contract with the Association.

H. Liability and Indemnification of Agent and Association

The Agent shall not be liable to the Association, the Owners or other occupants for any loss or damage to person or property, unless caused by the Agent's own gross negligence, willful misconduct or unauthorized acts. The Association shall, and does hereby agree to, indemnify, save, defend and hold harmless the Agent and its officers, directors, agents and employees for any liability for damages, costs and expenses, including, but not limited to, reasonable attorneys' and paraprofessional fees and associated costs on the trial and appellate levels, in connection with the administration and carrying out of Agent's Services hereunder, unless such liability shall result from the Agent's gross negligence, willful misconduct or unauthorized act. All personal property placed or moved into the Community will be at the risk of the Association or the Owner, as the case may be. Agent will not be liable to the Association for any damage to or injury to person or property, real or personal, arising from theft, vandalism, HVAC malfunction, the bursting or leaking of water pipes, any act or omission of any owner or occupant of a Home; however, the foregoing will not relieve Agent from any such liability for damage or injury resulting from Agent's gross negligence, willful misconduct or unauthorized act. In no event will Agent be liable for consequential damages to the Association.

Agent agrees to indemnify, defend and hold harmless the Association, its Directors Officers and employees for any liability from damages, costs and expenses, including (but not limited to) reasonable attorneys' fees (including paralegal fees) at trial, appellate, and administrative adjudicatory level arising out of Agent's gross negligence, willful misconduct, or unauthorized act. The provisions set forth in this Section I shall survive the expiration or earlier termination of this Agreement.

The Association shall not interfere, nor permit, allow or cause any of its individual Officers, Directors or Members to interfere with the Agent in the performance of their duties or the exercise of any of their powers hereunder.

I. Related Entity Disclosure. Preferred Vendor Network.

It is understood and agreed by the parties that Vesta and/or its affiliates hold licenses for and/or perform services in a variety of areas related to the provision of the Services, including but not limited to insurance, real estate sales, collections, wireless technology, network integration & maintenance, website creation and maintenance, data connection and digital video services, security services using a Class B license, transportation services, event planning, food & beverage services, grounds maintenance, building maintenance, and residential services and/or maintenance (the “Related Services”). It is further understood and agreed that such Related Services may be provided to the Association by affiliated vendors. Accordingly, Santa Rosa Island Company, Mortgage Advisors, Inc, Community Cable Finance, LLC, Association Finance, LLC, Broadband CTI, LLC and ECO Energy LLC are all disclosed as affiliates of Vesta.

In addition, the Association further understands and agrees that Vesta may enter preferred vendor relationships, including through membership in a cooperative, network or other grouping of vendors or providers (collectively the “Preferred Vendor Network”). In conjunction, Agent may (i) negotiate partnerships with the Preferred Vendor Network, including financial institution(s) that provide cash management services to Associations, in an effort to reduce overall costs to Associations and (ii) be provided marketing credits or other consideration that can be used to upgrade Agent’s infrastructure, software, hardware, and/or other products that assist in the efficient provision of the Services and therefore benefit the Association.

J. Miscellaneous Items

1. Prevailing Party. In any litigation or arbitration arising from or pursuant to this Agreement or the provision of the Services, the prevailing party shall be entitled to recover all costs and reasonable attorneys’ and paraprofessional fees (including fees and costs for appellate proceedings, post-trial proceedings and proceedings to determine entitlement and reasonableness of attorney fees) incurred, in addition to all other damages and relief at law, or in equity. Any litigation, arbitration or other formal proceedings arising out of, or related to, this Agreement shall be brought, exclusively, in the State or Federal Courts in and for the County identified on page 2 of this agreement.

2. Waiver. No waiver of a breach of any of the covenants contained in this Agreement shall be construed to be a waiver of any succeeding or other breach of the same, or any other covenant.

3. Modification. No modification, release, discharge or waiver of any provision hereof shall be of any force or effect, unless in writing, signed by both parties to this Agreement.

4. Non-Solicitation. The Association hereby agrees that they will not hire, employ or otherwise recruit, solicit or induce any person employed, formerly employed or supplied by the Agent during any Term of the Agreement for a period of two years from the last

day the Services are provided. Furthermore, it is understood that an employee of the Agent who was terminated prior to the last day of Services provided to the Association would fall under the restrictions outlined above. In any legal proceeding brought by the Agent to enforce the terms of this non-solicitation covenant, the Agent shall be entitled to recover all reasonable attorney's fees and costs incurred.

5. Entire Agreement. No Third-Party Beneficiaries. This Agreement constitutes the entire understanding and agreement between the parties hereto, and supersedes all prior written or oral agreements, with respect to its subject matter. This Agreement shall be binding upon the parties hereto. Nothing contained herein shall be deemed to create third-party beneficiary rights in persons or entities not parties hereto, except as specifically set forth herein.

6. Independent Contractor Licensing. The Agent will require that all independent contractors performing services for the Association provide a copy of license and certificates of insurance for workers compensation, general liability, and property damage. Any independent contractors hired directly by the Association without appropriate license and insurance will require a written waiver of liability to the Agent. In addition, the association agrees to include the Agent for coverage under the Association's Liability Policy.

7. Arbitration of Disputes Required (in lieu of litigation). To the greatest extent possible under applicable law, any dispute or claim that arises out of or that relates to this maintenance agreement, or that relates to the breach of this agreement, or that arises out of or that is based in any way upon the association management relationship described in the maintenance agreement, including but not limited to tort claims, shall be resolved by binding arbitration in accordance with the then effective arbitration rules of the Revised Florida Arbitration Code and judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof.

8. Counterparts. This agreement may be signed in counterparts, a complete set of which shall constitute a single document.

9. Assignment. Neither the Association nor Vesta may assign this Agreement or any monies to become due hereunder without the prior written approval of the other, which approval may be withheld for any reason or no reason. Any purported assignment without such written approval is void.

10. Negotiation of Agreement. This Agreement has been negotiated fully between the Parties in an arm's length transaction. The Parties participated fully in the preparation of this Agreement and received, or had the opportunity to receive, the advice of counsel. In a dispute concerning the interpretation of any provision of this Agreement, all Parties are deemed to have drafted, chosen, and selected the language, and the doubtful language will not be interpreted or construed strictly in favor or, or against either party.

11. Confidentiality. Other than as required or permitted by applicable law, neither Party shall, without the other Party's prior written approval, which approval may be withheld for any reason or no reason, make any general or other public announcements, nor announce in any media publicity, or solicitation communications, the terms and conditions of this Agreement, the names of the Parties, or the transactions contemplated in this Agreement.

12. WAIVER OF RIGHT TO JURY TRIAL. THE PARTIES HEREBY EXPRESSLY COVENANT AND AGREE TO WAIVE THE RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION OR JUDICIAL PROCEEDING RELATING TO, DIRECTLY OR INDIRECTLY, OR CONCERNING THIS AGREEMENT OR THE CONDUCT, OMISSION, ACTION, OBLIGATION, DUTY, RIGHT, BENEFIT, PRIVILEGE OR LIABILITY OF A PARTY UNDER THIS AGREEMENT TO THE FULL EXTENT PERMITTED BY LAW. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN AND IS KNOWINGLY, INTENTIONALLY AND VOLUNTARILY MADE BY THE PARTIES. THE PARTIES HAVE HAD AN OPPORTUNITY TO SEEK LEGAL COUNSEL CONCERNING THIS WAIVER. THIS WAIVER IS INTENDED TO AND DOES ENCOMPASS EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A JURY TRIAL WOULD OTHERWISE ACCRUE. THE PARTIES FURTHER CERTIFY AND REPRESENT TO EACH OTHER THAT NO PARTY, REPRESENTATIVE OR AGENT OF THE PURCHASER OR THE SELLER (INCLUDING, BUT NOT LIMITED TO, THEIR RESPECTIVE COUNSEL) HAS REPRESENTED, EXPRESSLY OR OTHERWISE TO EITHER OF THE PARTIES OR TO ANY AGENT OR REPRESENTATIVE OF THE PARTIES (INCLUDING, BUT NOT LIMITED TO, THEIR RESPECTIVE COUNSEL) THAT THEY WILL NOT SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL. THIS PROVISION IS A MATERIAL INDUCEMENT OF ALL PARTIES ENTERING INTO THIS AGREEMENT. THIS WAIVER SHALL APPLY TO THIS AGREEMENT AND ANY FUTURE AMENDMENTS, SUPPLEMENTS OR MODIFICATIONS OF THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE EXPIRATION OR ANY TERMINATION.

{Signatures Appear on Following Page}

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Initial _____

[SIGNATURE PAGE TO MAINTENANCE AGREEMENT]

IN WITNESS WHEREOF, the Parties have caused these presents to be validly executed as of the Effective Date.

**GREENBRIER HOMEOWNERS
ASSOCIATION, INC.**

VESTA PROPERTY SERVICES, INC.

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Witness: _____

Witness: _____

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Initial _____