



**HOMEOWNERS ASSOCIATION  
MANAGEMENT AGREEMENT**

**ASSOCIATION NAME**

*Stamar Management Corp*

Initials \_\_\_\_\_ / \_\_\_\_\_

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STAMAR MANAGEMENT CORP

HOMEOWNER ASSOCIATION MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (the "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between \_\_\_\_\_, a non-profit corporation (hereinafter referred to as the "Association") and its Board of Directors, (hereinafter referred to as the "Board") and Stamar Management Corp, an Texas corporation (hereinafter referred to as the "Managing Agent").

I. APPOINTMENT

1.1 Association hereby appoints Managing Agent as the exclusive Managing Agent of the Association and Managing Agent hereby accepts the appointment under the terms, covenants and conditions provided herein. The Association shall appoint a representative to furnish information and instructions to the Managing Agent for the performance of its duties. In the event that a representative is not specifically named, the representative shall be the President of the Association. Managing Agent shall be entitled to rely on the instructions of the representative as the final authority and instructions from the Board except as may be indicated otherwise by the Board.

1.2 The Board for the Association has been granted the authority, pursuant to the Articles of Incorporation (the "Articles"), the Association By-laws (the "By-Laws") and the Declaration of Covenants, Conditions and Restrictions (the "CC&R's") to contract for all services imposed upon the Association pursuant to the CC&R's with such contractor, manager or other personnel as the Board shall, in its discretion, determine.

II. LIMITATION OF AUTHORITY

2.1 Limitation of Authority. It is understood that the authority and duties hereunder conferred upon the Managing Agent by the Association and the Board are limited to those provided within this Agreement.

III. TERM

3.1 Effective Date of Control. Managing Agent will commence performance of its obligations and responsibilities under this Agreement as of 12:01 a.m., \_\_\_\_\_, 2010 (the "Commencement Date"). The processing and payment of all costs incurred in connection with the Association prior to the Commencement Date will be the responsibility of the Board and not of Managing Agent Invoices or other requests for payment received by Managing Agent after the Commencement Date for services rendered to or other expenses of the Association which cover a period which includes time before and after the Commencement Date shall be prorated from the Commencement Date by Managing Agent on the basis of the best information available. After making any necessary pro-rations, Managing Agent shall forward to the Board, for disposition by the Board, any statements, invoices or other requests for payment relating to costs and expenses of the Association for the period prior to the Commencement Date. The Board shall promptly cause all valid claims to be paid and shall hold Managing Agent harmless from any and all expenses, claims or other liabilities of any kind or description connected with the Association which were incurred or which accrued prior to the Commencement Date.

3.2 Term. This Agreement shall commence as of the date set forth in Section 3.1 hereof and shall continue until 11:59 p.m., \_\_\_\_\_, 2010, (the "Initial Term"). Either party may terminate this Agreement with not less than thirty (30) days written notice. In the event this Agreement is terminated with thirty (30) days notice, by the Board, on any day after the 1st day of the calendar month, the Board shall pay Managing Agent an amount equal to the sum of the total management fee collected by Managing Agent for the calendar month the Agreement is terminated plus one additional calendar month, if Managing Agent produces an operating statement for the following calendar month.

3.3 Agreement Renewal and Extensions. The Board and the Managing Agent agree that this Agreement may be renewed and extended after the Initial Term of this Agreement. Unless notified by the Board thirty (30) days prior to the end of the Initial Term, as set forth above in Section 3.2, this Agreement shall be considered by both parties as renewed and extended for the same term as set forth above in Sections 3.1 and 3.2 and under the same terms and conditions at contained herein including the renewal provisions set forth in Exhibit "A".

IV. DUTIES OF MANAGING AGENT

4.1 Collection of Revenue. Managing Agent shall take all reasonably necessary action to collect all assessments and other charges when due from the homeowners of the Association in accordance with the terms of the CC&R's, the Community Collection Policy (the "Collection Policy") and the By-Laws and may execute all receipts or

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any other documents reflecting receipts for said sums on behalf of the Board. The Board authorizes Managing Agent to request, demand, collect, and receive all such assessments and other charges and, where Managing Agent deems it advisable, and subject to the prior written approval of the Board, to initiate legal proceedings in the name of, and as an expense of, the Board for the collection thereof and such expense may include the engaging of legal counsel (approved by the Board) for any such matter. Managing Agent shall incur no liability and shall be fully protected and indemnified by the Board if it acts in accordance with the opinions and instructions received from Managing Agent's or the Board's legal counsel and otherwise in accordance with this Agreement. Managing Agent may charge a reasonable fee, as set forth in Exhibit "A", for its efforts involved in collection of delinquent Assessments.

4.2 **Managing Agent Disbursements.** Managing Agent shall, to the extent that monies are available, from the monies collected and deposited pursuant to Section 4.1, pay when due and prior to delinquency, in the following order of priority:

- (a) Amounts due and payable to Managing Agent by the Association under the terms and conditions of this Agreement, including Managing Agent's compensation and reimbursement of expenses. The Board shall not have the right to withhold Managing Agent's compensation and reimbursement of expenses.
- (b) All expenses of the Association, including, but not limited to, property taxes, income taxes, utilities, insurance, service contracts and salaries of personnel (if applicable), in the order of priority selected by Managing Agent or as instructed in writing by the Board,
- (c) Notwithstanding the foregoing, Managing Agent is hereby granted authority to make any non-budget expenditures, as provided for in this section, at its own discretion up to Five Hundred Dollars (\$500.00). Managing Agent shall obtain approval for any extraordinary expense of the Association, as needed.

4.3 **Annual Budget.** Managing Agent shall prepare and submit to the Board for approval, or disapproval, the following budgets for the operation of the Association during the term of this Agreement:

- (a) Within forty-five (45) days front the Commencement Date hereof Managing Agent shall use its best efforts to prepare and deliver to the Board a budget (the "Initial Budget") for the operation of the Association for the remainder of the fiscal year (if applicable), which shall include an itemized statement of the estimated receipts and disbursements for the remaining fiscal year, based upon a proposed assessment schedule included therein and taking into account, without limitation, the general condition of the Association, rate of completion of contemplated repairs needed by the Association, contracts and physical condition of the common areas. The Board shall review and approve, or disapprove, the Initial Budget no later than thirty (30) days from the date of receipt and the approved Initial Budget shall constitute a guideline for the operation of the Association for the remainder of the fiscal year.
- (b) In accordance with the guidelines as set forth in the Condominium Declaration of Covenants, Conditions and Restrictions (the "CC&R's") and/or the By-Laws or within sixty (60) days before the beginning of each new fiscal year, Managing Agent shall prepare and deliver to the Board a budget (the "Budget") setting forth an itemized statement of the estimated receipts and disbursements for the next fiscal year, based upon a proposed assessment schedule included therein and taking into account, without limitation, the general condition of the Association, rate of completion of contemplated repairs to the Association, contracts and physical condition of the common areas. The fiscal year of the Association shall be in accordance with the Association's CC&R's and/or the By-Laws.
- (c) The Board shall review and approve, or disapprove, the Budget no later than as provided in the CC&R's and/or By-Laws. Once approved the Budget shall constitute a guideline for the operation of the Association during said fiscal year. In the event the Budget is not approved thirty (30) days prior to the beginning of the fiscal year, Managing Agent is hereby authorized to proceed with homeowner assessments in the amount currently being assessed for the previous period until such time as the Budget is approved.

4.4 **Maintenance and Operation.** Managing Agent shall, on behalf of and as agent for the Association, under the general supervision of the Board, perform the following services and duties, as may be required:

- (a) Recruit, supervise and coordinate licensed contractors and cause to be made all necessary repairs

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and corrective work to the Association common areas. All proposed contracts shall be submitted to the Board for approval before any necessary repairs or corrective work is performed.

- (b) At least annually, take inventory of all furniture, equipment, tools and supplies, and recommend purchase of same where necessary and provide the Board with a copy of inventory.
- (c) Maintain a friendly, businesslike and professional relationship with all homeowners. Maintenance service requests (if applicable) will be responded to, by priority, within a reasonable amount of time. Phone calls from homeowners will be answered as soon as possible but all will be returned within twenty-four (24) hours, except holidays or weekends, but then as soon thereafter as reasonably possible. Requests or complaints which are deemed extraordinary by Managing Agent, after a thorough investigation, shall be reported to the Board with appropriate recommendations.
- (d) Managing Agent will conduct a periodic walk-through of the common areas and supplemented with a bi-weekly drive through of the Association. Written reports of the results shall be sent to the Board,
- (e) Maintain the common areas in accordance with the standards set by the Board.
- (f) Enforce all deed restrictions and rules and regulations as directed by the Board.
- (g) On behalf of the Board, receive all requests from homeowners for architectural modifications, and variances from architectural control restrictions and forward said requests to the appropriate Association entity. Maintain files for all such requests and coordinate approval/disapproval from the Association with the homeowner.
- (h) Negotiate contracts with vendors or service providers for services including utilities, trash removal, landscape, pest control, necessary building equipment and other contract services as directed and approved by the Board in accordance with the Budget. All proposed contracts shall be submitted to the Board for approval before entering into any such contracts for services any such third party contracts will be a direct contract between the Association and the third party contractor, and Managing Agent will act solely as the agent of the Association in negotiations and maintenance of such contract and not as the contracting party. Managing Agent will, upon receipt of the Board's instructions or resolution, discharge any Association contractors that the Board decides are not meeting the standards, specifications or criteria established by the Board.
- (i) Unless otherwise provided in the Budget, the expenses incurred for any one item of repair or replacement shall not exceed the sum of Five Hundred and no/100 Dollars (\$500.00) without prior written authorization by the President, Treasurer, or a Board Member. Managing Agent may take any action it deems necessary in the event of an emergency involving danger to life and property, repairs immediately necessary for safety of the homeowners and/or to prevent, in the opinion of Managing Agent, additional damage or a greater total expenditure will be required if prompt action is not taken. The Managing Agent shall notify the Board promptly whenever emergency repairs have been ordered. Managing Agent shall not be responsible for, and shall not be in breach of this Agreement because of, any inability of Managing Agent to properly maintain the Association, if such inability to properly maintain the Association is caused by the failure of the Board to approve any request for work or capital expenditure.

4.5 **Managing Agent Personnel.** Managing Agent shall investigate, hire, pay, supervise and discharge the personnel necessary to be employed in order to properly maintain and operate the Association. All employees of Managing Agent shall be authorized to act as the Board's agents solely for the purpose of carrying out Managing Agent's responsibilities hereunder. Managing Agent reserves the right to assign new employees and make substitutions for employees currently assigned to the Association at anytime during the term of this Agreement. The Board shall have fourteen (14) days from the date of written notification of such new assignee or substitution to approve or reject said employee. A failure or refusal to approval or reject said assignee or substitution within said time shall be deemed approval. Such personnel shall in every instance be deemed employees of Managing Agent and not of the Board, who shall have no right to supervise or direct such employees, but may require Managing Agent to discharge or remove from employment at the Association such employees as the Board deems unsatisfactory. Managing Agent and all personnel of Managing Agent who handle or who are responsible for the handling of the Board's monies shall, without expense to the Board, be bonded in favor of the Board by a fidelity bond reasonably acceptable both to Managing Agent and the Board. The Board shall maintain a fidelity bond per the CC&R's with the Managing Agent designated as agent. Managing Agent understands and agrees that its relationship to the Board is that of independent contractor and that it will not represent to anyone that its relationship to the Board is other than that of independent contractor.

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4.6 **Books and Records.** Managing Agent shall maintain full and accurate books and records of the accounts of the Association, which shall be open to the inspection of the Board at Managing Agent's home office after reasonable notice to Managing Agent.

- (a) Managing Agent shall render to the Association a monthly statement within fifteen (15) days after the last day of each calendar month consisting of a balance sheet, income and expense statement, delinquency list, and a transaction journal or general ledger, all prepared in accordance with generally accepted accounting principles on a cash basis. Within seventy-five (75) days after the end of each fiscal year, or as otherwise required by law, Managing Agent shall prepare and deliver to the Board a final report of operations of the Association for such fiscal year, which report shall include an income and expense statement for the fiscal year and a statement of balances in any bank accounts as of the end of such fiscal year. Managing Agent will reasonably assist auditors retained by the Association for the purpose of preparing income taxes and audit statements.
- (b) Individual files for each Owner shall be maintained together with any documentation provided Managing Agent relating to each lot. Managing Agent shall record changes of ownerships upon receipt of notice and with supporting documentation. Transfer of ownership shall be processed by Managing Agent for the fee set forth in Exhibit "A".
- (c) Managing Agent shall maintain files for all correspondence relating to the Association and its members,
- (d) All preparation and mailing of newsletters requested by the Board, shall be prepared, copied and mailed at the Special Project Rate set forth in Exhibit "A". Any additional or future newsletters will be prepared, copied and mailed, as directed by the Board, at the same rate and at the expense of the Association.
- (e) All requests by the Board for copies of homeowners documents, correspondence, reports, etc., shall be made at the expense of the Association. Requests for said items by an individual member or other person shall be at the expense of the individual making the request.
- (f) All current records, letters, and memorandums relating to the operation of the Association shall remain the sole property of the Association and shall remain in the Managing Agent's office or in Managing Agent's storage facilities, as the need may be, and shall not be moved to any other location without the prior written authorization of the Board. Managing Agent shall return any and all such records and correspondence to the Association, or to any entity or person designated by the Board, upon termination of this Agreement. Historical records, prior to Managing Agent's involvement, shall be the responsibility of the Association to maintain and at the Association's expense.
- (g) The Board shall establish a policy for the inspection of the Association's books and records by unit owners, or their authorized representatives, upon reasonable notice of not less than forty-eight (48) hours to the Managing Agent and during normal business hours. Access to the confidential information shall be allowed only with written notice from the Board.
- (h) Managing Agent encourages the Association, in the event it does not have a reserve study, to contract with reserve study preparation company to create and maintain a reserve study for the Association, and the Managing Agent shall supervise the preparation and updates of a reserve study, if requested by the Board.

4.7 **Insurance.** The Board agrees to maintain, at its own expense and at all times, adequate insurance coverage and protection for the Association. Managing Agent shall, upon written request from the Board, cause to be placed and kept in force all forms of insurance required by law or any part of the Association to protect the Board, including but not limited to public liability insurance, fire and extended coverage insurance, burglary and theft insurance, and boiler and machinery insurance. All insurance coverage shall be placed with such companies, in such amounts, and with such beneficial interest appearing therein as shall be acceptable to the Board and otherwise be in conformity with the requirements of this Agreement and the CC&R's. Managing Agent shall have no responsibility, obligation or liability for determining the amount or type of insurance which is required with respect to the Association, however, Managing Agent shall maintain reasonable communication with the Association's insurance agent and will assist the Board in reviewing and renewing insurance coverage, including solicitation of bids for such coverage. Should the Board elect to place such insurance coverage directly, the Board shall provide the Managing Agent with a duplicate copy of the original policy, and the Managing Agent shall thereafter keep such insurance in force. Managing Agent shall be named as an additional insured on all insurance policies maintained by the Board with respect to the

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Association. Unless the Board shall provide such insurance and furnish such certificate within sixty (60) days from the date of this Agreement, Managing Agent may, but shall not be obligated to, place said insurance, and charge the costs thereof to the account of the Board. All such insurance policies shall provide that Managing Agent shall receive not less than thirty (30) days written notice prior to cancellation of the policy.

In the event of any loss, damage or injury covered by any policy of insurance carried by the Board, Managing Agent shall:

- (a) Notify the Board promptly after Managing Agent receives notice of such loss, damage or injury;
- (b) Take no action (such as admission of liability) which might bar the Board from obtaining any protection afforded by any policy the Board may hold, or which might prejudice the Board in its defense to a claim based on such loss, damage, or injury; and
- (c) Assist the Board in the defense of any claim in respect thereto to the extent requested by the Board in writing; provided that the Board shall have the exclusive right, at its option, to conduct the defense to any claim, demand or suit. Any expenses of Managing Agent arising out of such assistance to the Board shall be reimbursed pursuant to Exhibit "A".

Managing Agent shall, throughout the term of this Agreement, at Managing Agent's sole cost and expense, maintain the following insurance coverages:

- (a) A Fidelity Bond with coverage for all Managing Agent's employees, when applicable, to protect the Association's funds, if any;
- (b) Managing Agent's liability insurance and comprehensive general liability coverage, including automobile liability, complete operations, blanket contractual and personal injury coverage, with combined single limits of One Million Dollars (\$1,000,000.00) property damage and liability;
- (c) Worker's Compensation Insurance in the statutory amount, covering any of Managing Agent's employees; and
- (d) Errors and Omissions coverage with limits of One Million Dollars (\$1,000,000.00).

No person who shall be engaged as an independent contractor by either the Board, Managing Agent, or both, shall be considered an employee, servant, agent or other person for whom either the Board or the Managing Agent (as the case may be) is responsible for the purposes of this Section 4.7.

4.8 **Construction Administration.** Managing Agent, when requested by the Board in writing, shall supervise the construction, reconstruction, completion, addition, extension or modification of improvements to the Association. In the performance of such work, Managing Agent may negotiate contracts with all necessary contractors, subcontractors, materialmen, suppliers, architects and engineers on behalf of the Board and may compromise and settle any dispute or claim arising therefrom. Managing Agent shall furnish all personnel necessary for proper supervision of the work and may, without abating any fee payable hereunder, assign personnel located at the Association to such supervisory work. Managing Agent shall be reimbursed for its services performed at the rate of Seventy-five Dollars (\$75.00) per hour or ten percent (10%) of the "Cost of Construction", whichever is greater.

"Costs of Construction" shall mean the actual cost of materials and labor for all build-out, interior and exterior construction, renovation, repair activities, other than ordinary maintenance and repair, including capital improvements, in, on or about the Property, and major refurbishment as determined by bid, or as otherwise determined or approved in writing by the Board. The construction administration fee shall be due and payable upon issuance of a certificate of occupancy, execution of final lien waiver or other comparable evidence of completion from an appropriate governmental authority or contractor, unless otherwise agreed to in writing by Manager.

4.9 **Separation of the Board's Money.** Managing Agent shall establish and maintain a lock box in a bank whose deposits are insured by the Federal Deposit Insurance Corporation, and in a manner to indicate the custodial nature thereof for the Board's benefit. Managing Agent shall establish and maintain a separate bank account or accounts as provided for in the CC&R's and/or the By-Laws (the "Trust Account") for the deposit of the funds of the Association, which funds may be withdrawn upon the sole signature of Managing Agent or as may be directed by the Board. All cash receipts from the Association will be deposited in this account and Managing Agent may make disbursements from the account for the benefit, and to pay the obligations of the Association in accordance with the approved Budget or as otherwise directed in writing by the Association's Board, and otherwise pursuant to this

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Agreement, including disbursements pursuant to Section 4.2 of this Agreement. Managing Agent may authorize a person in the direct employment of Managing Agent to transfer monies from or to be a signatory on the Trust Account.

Managing Agent will be limited to investing funds on the Association's behalf in money market savings accounts which are federally insured. Any such investment will be at the Association's sole risk, and Managing Agent assumes no obligation or responsibility with respect to such investment. All interest earned on the investment shall be credited to the Association's account. All applicable sales tax (if any) on the interest will be paid by the Association.

4.10 **Contracts and Agreements.** After the Commencement Date of this Agreement Managing Agent shall not execute and enter into and bind the Board with respect to any contract or agreement having a term in excess of one (1) year, unless said contract or agreement contains a thirty (30) day cancellation provision, without the prior written consent of the Board, including, but not limited to, contracts and agreements on behalf of the Board for the management, operation, maintenance and servicing of the Association. Managing Agent shall have no responsibility for the term limitations for contracts negotiated by the Board prior to the Commencement Date of this Agreement.

4.11 **Meeting of the Board of Directors.** At the direction of the Board and with advance notice, the Managing Agent shall arrange for and schedule places, dates and times to conduct the meetings called by the Board. The Board will make an effort to accommodate conflicts in Managing Agent's requirements and provisions of the CC&R's and the By-Laws of the Association, as directed by the Board. Managing Agent shall maintain the original, but not prepare meeting minutes, prepare and present for approval reports, such as financial, contractual, operational and others reports of a regular nature and as required by the Association. Special reports shall be prepared in accordance with requests by the Board, at a charge to be mutually agreed upon. All mailings, notices, ballot, etc., shall be at the expense of the Association. Meetings are expected to last between one and two hours, at the Managing Agents discretion, Managing Agent may invoice the Association for meetings that last longer than two (2) hours at the Special Meeting rate set forth in Exhibit "A".

The Managing Agent shall attend no more than twelve (12) Board meetings annually and one (1) annual membership meeting as may be required under the By-laws of the Association. If manager is required to attend additional meetings, either Bond meetings or annual meetings, then the Association agrees to pay the Managing Agent a consulting fee of Fifty and no/100 Dollars (\$50.00) per hour for attending the meeting.

4.12 **Statutory Agent.** The Managing Agent shall be the statutory agent for the Association for the purpose of accepting all process on behalf of the Association and shall execute, promptly after receipt, any and all documents required by law in order to assume its obligations hereunder as statutory agent for the Association. Managing Agent shall deliver to the President of the Association a copy of all process served upon it within forty-eight (48) hours after receipt thereof and shall notify the President by telephone immediately after its receipt. Notwithstanding the foregoing, in the event Manager brings suit against the Association or the Board or both, the service of such process shall be made upon the President of the Board.

4.13 **Normal Business Hours.** Normal business operating hours are from 9:00 AM to 4:30 PM, Monday through Friday. The Managing Agent will observe the following legal holidays:

January 1st - New Years  
Last Monday in May - Memorial Day  
July 4th - Independence Day  
First Monday in September - Labor Day  
Fourth Thursday and Friday in November - Thanksgiving  
December 25th - Christmas

In the event that the holiday falls on a weekend, then the holiday will be celebrated on the Friday before or the Monday after the holiday.

## V. DUTIES OF THE BOARD

5.1 **Taxes.** Managing Agent shall, at the Board's direction, pay real and personal property taxes and other taxes or assessments levied and assessed against the Association. Managing Agent shall have no responsibility for payment of real property taxes, personal property taxes or any other assessments or taxes, if the Board fails to provide Managing Agent with all information necessary to pay said taxes or assessments.

Managing Agent shall reasonably assist the tax preparation firm retained by the Board to prepare the necessary income tax filings for the Association. Managing Agent shall prepare all IRS Form 1099 and IRS Form 1096 reports required for the Association. If the Board shall make said request, then the Board hereby grants Managing Agent the authority to sign all IRS Form 1096 reports and submit the same to the federal taxing authority on the Board's behalf.

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5.2 **Documentation.** The Board agrees to promptly furnish Managing Agent with all documents and records to properly manage the Association, including but not limited to, correspondence pertaining thereto, reports on the status of homeowner payments, loan payment information, mortgages, security interests, copies of existing service contracts, and copies of all insurance policies and any required endorsements which are carried by the Board during the term of this Agreement. Within thirty (30) days following the Commencement Date of this Agreement, the Board will also furnish to Managing Agent copies of all available guarantees and warranties pertinent to the equipment of the Association and in force at the time of the execution of this Agreement and all available construction plans and “as built” drawings. Managing Agent shall be entitled to rely upon the documents provided by the Board in connection with operation and management of the Association and the payment of expenses relating thereto.

5.3 **Working Capital.** The Board agrees to provide sufficient working capital funds to Managing Agent so that all amounts due and owing with respect to the Association may be promptly paid by Managing Agent. If at any time there is not sufficient cash in the account described in Section 4.9 with which to promptly pay the bills due and owing, including the compensation of Managing Agent and reimbursement of Managing Agent’s expenses, then Managing Agent will request that the Board take the necessary action pursuant to the CC&R’s and the By-Laws to cause the necessary funds to be deposited in the Trust Account.

5.4 **Indemnity.** The Board agrees to indemnify and save Managing Agent and its employees, officers or directors, completely harmless in respect to any action, cause of action, suit, debt, cost, expense, claim, or demand whatsoever brought by any third person (collectively “Claims”) whomsoever, at law or in equity, in connection with the Association or the performance by Managing Agent of any and all of its obligations under this Agreement, including without limitation, any damage or injury whatsoever to any employee or other persons or property arising out of the use, administration or control of the Association or any other assets of the Board during the term of this Agreement, provided, however, that the foregoing indemnity and hold harmless covenant shall not apply if any claims are the result, in whole or in part, of Managing Agent’s and/or its agents or employees gross negligence or willful misconduct

## VI. COMPENSATION

6.1 **Monthly Management Fee.** The Board shall pay Managing Agent for its property management services a monthly fee (the “Management Fee”) as set forth in Exhibit “A” attached hereto and made a part hereof by this reference. Managing Agent is authorized to deduct the Management Fee and other compensation due Managing Agent each calendar month as the first charge and is payable on or before the 10<sup>th</sup> day of each month. In the event this Agreement is terminated prior to the date set forth in Section 3.2 of the Initial Term the Board agrees to pay the Managing Agent an amount equal to the sum of the total Management Fee’s collected by Managing Agent for the three (3) months immediately prior to termination of this Agreement and serves as liquidated damages and not as a penalty. The actual damages resulting to Managing Agent from early termination of this Agreement during the Initial Term would be difficult or impossible to measure because of the amount of the initial time spent by Managing Agent at the beginning of this Agreement, and the parties agree that the fee stated above is a reasonable estimate of what those damages would be. This sum shall be considered earned and paid on or before the written termination date of this Agreement.

The Board shall, in addition to and at the same time the Management Fee is due and payable under this Agreement, pay to Managing Agent the amount of any rental, excise, sales, or transaction privilege tax now or hereafter imposed by any taxing authority upon Managing Agent or upon Managing Agent’s receipt of the Management Fee.

6.2 **Start-up Fee.** Managing Agent shall receive a set-up fee of Fifty and no/100 Dollars (\$50.00) per hour for the installation of the Association books and records into the management systems and the development of any necessary reporting forms for the Board if the books and records for the Association are not in good order and accurate. Upon inspection of the books and records received, Managing Agent shall notify the Association of the need to charge this time prior to the beginning of the work.

6.3 **Reimbursement of Expenses.** All expenses incurred by Managing Agent in connection with the operation and management of all or any part of the Association shall be reimbursed by the Association when due and without offset, provided that Managing Agent was authorized to incur such expense in accordance with this Agreement. Such expenses shall include, but shall not be limited to:

- (a) All obligations or expenses incurred by Managing Agent in performing its obligations, including those expenses specified in Exhibit “A”; and
- (b) Expenses incurred by the main office for postage, photocopying, facsimiles, long distance phone calls, forms, envelopes and other supplies used in the operation of the Association and directly attributable to the Association; and

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- (c) Labor expenses incurred by the Association while utilizing Managing Agent's in-house maintenance staff for normal maintenance and operation of the Association, at labor rates set forth in Exhibit "B" or as agreed to in writing prior to the commencement of the work or other approved rates, including the Budget; and
- (d) If applicable, all labor expenses incurred by the Managing Agent for the benefit of the Association while utilizing its on-site maintenance staff for normal maintenance and operation of the Association. Managing Agent is hereby authorized to deduct from the Association's available funds, and reimburse Managing Agent, all labor expenses incurred by Managing Agent, on the same day as the on-site maintenance staff is paid. Managing Agent is authorized to sign a check, on its sole signature, for this reimbursement; and
- (e) In addition to any fees or other sums that are due upon cancellation or termination of this Agreement, the Board agrees to pay Managing Agent, an additional sum equal to the last full month's Management Fee for expenses incurred in the transfer of management services, for whatever reason. This sum shall cover expenses incurred by Managing Agent after the cancellation or termination date in completing final bookkeeping, billings, transitional services and any other items normally involved in the management transfer process and shall have been deemed earned by the Managing Agent upon termination or cancellation. This sum shall be considered earned and paid on or before the written termination date of this Agreement.

All payments made by Managing Agent which are reimbursable hereunder may be reimbursed by Managing Agent from funds deposited in the account established pursuant to Section 4.9 hereof, but the lack of sufficient funds in said account shall not relieve the Board of the Board's liability for reimbursement of such expenses at any time Managing Agent demands reimbursement in writing. Anything in this Agreement to the contrary notwithstanding, Managing Agent shall not be required to make any advance to or for the account of the Board, or to pay any sums, except out of funds held in any account maintained under Section 4.9 and which are in excess of those funds necessary to pay the compensation of and any other amounts due Managing Agent under this Agreement, including without limitation reimbursements pursuant to this Section 6.3.

6.4 **Additional Board Services.** If Managing Agent or any of the executives of Managing Agent shall be requested by the Board in writing to perform additional services outside the scope of this Agreement, such as engaging in special negotiations, preparing special projections, market surveys and/or market analysis, or performing other services and activities which are in addition to the services otherwise required to be performed by Managing Agent hereunder ("Additional Board Services"), Managing Agent shall receive additional compensation from the Board for the performance of Additional Board Services according to a schedule to be agreed upon between the Board and Managing Agent before Additional Board Services are rendered, or, if no such Agreement is reached, Additional Board Services shall be compensated for at a rate comparable to the prevailing rate in the local market areas for Additional Board Services, but not less than Seventy-five Dollars (\$75.00) per hour per person. Such compensation shall be in addition to the compensation otherwise payable to Managing Agent pursuant to this Article VI and, unless otherwise agreed, shall be payable immediately upon undertaking by Managing Agent of such Additional Board Services.

6.5 **Additional Homeowners Services.** Should Managing Agent provide any services to any homeowner which are not customary services or services not required hereunder ("Additional Homeowner Services"), then a separate charge for Additional Homeowner Services shall be made to the homeowner receiving such Additional Homeowner Services and the separate charge shall be paid to and retained by Managing Agent for its own account, and the Board shall have no interest therein. Managing Agent shall pay all costs incurred in providing such Additional Homeowner Services.

6.6 **Emergency Services Compensation.** Emergency services or calls, during non-business hours, requiring a property manager to travel to the Association for the purpose of supervising the emergency will be invoiced to the Association at the rate of Seventy-five and no/100 Dollars (\$75.00) per hour, with a two (2) hour minimum. Emergencies that can be addressed without travel will be completed at no charge.

6.7 **Gifts and Business Courtesies.** It is a common and accepted business practice to exchange customary gifts and business courtesies in the course of business relations with anyone with whom the Managing Agent does business or may potentially do business. The purpose of business courtesies or gifts in a commercial setting is to create good will and promote sound working business relationships. Managing Agent's employees may give or receive customary gifts or business courtesies consistent with accepted practices and within the Managing Agent's guidelines. However, Managing Agent and its employee's shall at all times exercise good judgment and act with moderation.

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## VII. MISCELLANEOUS

7.1 **Termination.** Immediately after the expiration (if not renewed) or termination of this Agreement, Managing Agent shall assign to the Board any assignable contracts relating to the operation and maintenance of the Association as the Board shall require. The Board shall assume all liability under such contracts and shall indemnify and hold Managing Agent harmless from and against any and all claims, liabilities and expenses, including attorneys' fees, which Managing Agent may incur in connection with:

- (a) such contracts; and
- (b) any funds held by Managing Agent and surrendered to the Board ; and
- (c) copies of all invoices or related documents (if not already provided on a monthly basis) in Managing Agent's possession. The cost of copying any document shall be an Association expense; and
- (d) all building plans, environmental studies, condition, covenants and restrictions, inspection reports, contracts, keys, warranties, insurance policies, personal property or other documents in the possession of Managing Agent.

Managing Agent shall also, provided the Board has paid to Managing Agent all sums due Managing Agent under this Agreement, deliver to the Board after the expiration or termination of this Agreement:

- (a) within five (5) days, a list of all homeowners delinquencies; and
- (b) within thirty-five (35) days, reimbursement of all monies remaining in the Association accounts maintained by Managing Agent, except for monies needed for unpaid obligations incurred during the term of the Agreement; and
- (c) within thirty-five (35) days, an up-to-date accounting reflecting the balance of income and expenses for the Association as of the date of termination; and
- (d) within thirty-five (35) days, receipts for deposits and unpaid bills (if any) which are the property of the Board; and
- (e) within seventy-five (75) days, a final accounts receivable and payable list and a final bank account reconciliation; and
- (f) after delivery of the above designated items to the Board, the Board shall have fifteen (15) days in which to notify Managing Agent in writing of any claimed inaccuracy in said accounting in the amount of monies delivered to the Board, in the on-site papers and documents delivered to the Board, or any other items delivered to the Board. If Managing Agent is not notified within such time period of any inaccuracy, Managing Agent shall be deemed released by the Board from any and all liability or obligation to the Board arising out of this Agreement and the performance thereof by Managing Agent.
- (g) Managing Agent may retain originals or copies or duplicates of all documents, accounting records and invoices, and other papers delivered to the Board that are required to be maintained or retained under, or in order to comply with, the law of the state in which the Association is situated and/or the state in which the Managing Agent's offices are located or that Managing Agent may be required to provide at a later date. The cost of making all copies will be an Association expense.

7.2 **Assignment.** This Agreement shall be binding upon the parties hereto, their legal representatives, successors and permitted assigns, and may not be assigned by the Managing Agent without the prior written consent of the Board.

7.3 **Attorneys' Fees.** In the event Managing Agent or the Board shall institute legal proceedings against the other arising out of the term of this Agreement or the performance thereunder, the prevailing party shall recover from the other party all reasonable attorneys' fees, costs and expenses incurred in any such action.

7.4 **Notice.** Any notice required under the terms herein shall be in writing and given by personal delivery, commercial air courier service, or by deposit in the United States mail, postage prepaid, certified, return

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receipt requested and addressed to the address set forth below or sent via facsimile transmission with the original to follow to the address and/or fax number below via first class mail. Any notice shall be deemed effective upon receipt if by personal delivery or commercial air courier service or three (3) days after deposit if by U.S. mail. Said address may be changed by either party at the last designated address of the other party as provided below:

**“BOARD”**

**Name:**  
**Address:**  
**City, State and Zip Code**  
**Phone:**  
**Fax:**

**“MANAGING AGENT”**

**STAMAR MANAGEMENT CORP**  
**15851 DALLAS PARKWAY, SUITE 600**  
**ADDISON, TX 75001**  
**PHONE: (800) 765-9015**  
**FAX: (214) 291-7197**

7.5 **Nondiscrimination.** Managing Agent is an equal opportunity, nondiscriminatory employer. Managing Agent and the Board each mutually agree that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, religion, creed, sex, or national origin in leasing, transferring, use, tenure or enjoyment of the Association nor shall the Board or Managing Agent permit any such practice or practices of discrimination or segregation with reference to the selection, location, number use or occupancy of tenants.

7.6 **Affiliated Parties.** Managing Agent shall not enter into any contract with a party which is owned directly or indirectly by Managing Agent or any affiliate of Managing Agent unless such contract is an arm's length contract providing for payments not in excess of those amounts charged by competent unaffiliated parties in Dallas, Texas for similar services. Subject to the above, the Board does hereby agree to allow Managing Agent to utilize, wherever possible, Managing Agent's in-house maintenance staff to perform normal and routine maintenance within the Association, subject to Exhibit "B".

7.7 **Conflicting Demands.** Notwithstanding any provision of this Agreement to the contrary, if conflicting demands are made upon Managing Agent hereunder, Managing Agent may (a) hold money or documents until the rights of the contesting parties are determined by agreement or appropriate court action; (b) initiate any interpleader action in the appropriate court depositing the monies or documents in dispute with the court, whereupon Managing Agent shall be relieved of all liability arising therefrom.

7.8 **Construction.** Unless the context clearly requires otherwise, the singular number herein includes the plural, the plural number shall include the singular, and any gender shall include all genders. Title and captions herein shall not affect the construction of this Agreement,

7.9 **Severability.** If any one or more of the provisions of this Agreement or the applicability of any such provision to a specific situation shall be held invalid or unenforceable, such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of this Agreement and all other applications of such provisions shall not be affected thereby.

7.10 **Managing Agent's Employees.** The Board understands and agrees that Managing Agent has expended great amounts of time and effort in the selection, hiring and training of its employees and that Managing Agent's business, and the conduct thereof, is dependent to a large extent upon maintaining and retaining employees who have been trained by Managing Agent and that Managing Agent faces extreme hardship and monetary loss whenever such employees leave its service. For the above reasons, the Board agrees that it shall not, directly or indirectly, during the term of this Agreement and for two (2) years after the expiration of the term of this Agreement, employ or solicit for employment, or otherwise engage, Managing Agent's employees, any affiliate of Managing Agent's employees and any employer of Managing Agents employees or any person or corporation with any business relationship with Managing Agent's employees. The Board further agrees that Managing Agent shall be entitled to injunctive relief, monetary damages or both, upon the Board's violation or breach of the foregoing.

7.11 **Americans With Disabilities Act Disclosure Notice.** Managing Agent hereby advises the Board that it may be subject to the American With Disability Act (the ADA), a Federal law codified at 42 UCS Section 12101 et seq. Among other requirements of the ADA that could apply to your Association, Title III of the ADA requires the

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Board and tenants of “public accommodation” to remove barriers to access by disabled persons and provide auxiliary aids and services for hearing, vision or speech impaired persons. The regulations under Title III of the ADA are codified at 29 CFR Part 36.

Managing Agent recommends that the Board review the ADA requirements with the Board’s legal council, and determine if this law would apply to the Association. These are legal issues and the Board is responsible for conducting an independent investigation. Managing Agent cannot give legal advice on these issues. The Board hereby acknowledges responsibility for compliance with all ADA laws and agrees to indemnify and defend Managing Agent against any and all claims unless the same are caused, in whole or in part, by Managing Agent’s failure to comply with the same.

7.12 **Hazardous Substances Indemnity.** The Board hereby shall indemnify, defend and save Managing Agent and Managing Agent’s respective officers, directors, shareholders and employees harmless from and against any and all of the costs (including attorneys’ fees), penalties and charges assessed against or imposed upon Managing Agent by reason of the Board or any other third party keeping on or around the Association, whether prior or subsequent to the date of this Agreement, for use, disposal, treatment, generation, storage or sale any substances, wastes, or materials designated as, or containing components designated as hazardous, dangerous, toxic or harmful and/or which are subject to regulation by any federal, state or local law, regulation, statute or ordinance (collectively the “Hazardous Substances”). The Board shall be exclusively liable for any clean-up, monitoring, reporting, civil or criminal penalties, charges, fees or expenses (including attorneys’ fees or costs) with respect to the Hazardous Substances, and the Board shall indemnify and defend Managing Agent against the same.

7.13 **Governing Law.** This Agreement and the obligations of the Board and Managing Agent shall be interpreted, construed and enforced in accordance with the laws of the State of Texas.

7.14 **Compliance with Laws.** The Board shall fully comply with all statutes, ordinances, rules and regulations governing the Association and the business conducted therein; provided, that at Managing Agent’s election, Managing Agent may take such action as may be necessary to comply with all statutes, rules, regulations, ordinances, orders or requirements affecting the Association, promulgated by a federal, state, county or municipal authority having jurisdiction thereover, and all applicable orders of the Board of Fire Underwriters or similar bodies. Notwithstanding any voluntary action taken by Managing Agent on behalf of the Board, Managing Agent shall be released from any responsibility in connection with any statute, ordinance, rule or regulation pertaining to the Association or the business conducted thereof, and the Board assumes full and complete responsibility for compliance therewith and for the payment of any and all penalties, taxes, impositions and fines resulting from a failure to comply with such statutes, ordinances, rules and regulations unless such failure is caused in whole or part by Managing Agent’s breach of any of its responsibilities hereunder or any gross negligence on the part of Managing Agent, its agents and/or employees. It shall be the responsibility of Managing Agent to comply with all applicable state or federal labor laws.

7.15 **Arbitration Provision.** In the event of a dispute over the performance and/or non-performance by either party in this Agreement, the alleging party shall offer arbitration to the offending party prior to initiating legal action to gain compliance with the terms and conditions set forth by the Agreement.

Prior to requesting arbitration, the alleging party must provide the offending party written notice of the dispute. Such notice shall allow for a reasonable time, not exceed thirty (30) days (the “Notice Period”), for the offending party to comply with the Agreement. After the expiration of the Notice Period the alleging party can proceed to binding arbitration or can elect to file suit. Upon acceptance of a written demand for arbitration the dispute shall be submitted to arbitration with a single arbitrator mutually selected by the parties from a list of five (5) arbitrators submitted by the American Arbitration Association. The determination of the arbitrator shall be binding on both parties. The arbitration shall be conducted pursuant to the rules of the American Arbitration Association and shall be submitted with one hundred twenty (120) days of submission. Upon making a written demand for arbitration, the dispute shall be submitted promptly to an arbitrator mutually selected by the parties and the determination of the arbitrator shall be binding upon both parties. If the arbitrator shall determine that the offending party has committed a material breach of the Agreement, then such finding shall furnish the aggrieved party with the right to terminate the contract thirty (30) days after the final decision of the arbitrator and the offending party shall bear all costs of the arbitration proceeding. In the event the parties cannot mutually select a single arbitrator, the arbitrator will be selected by the American Arbitration Association for the remaining names. The arbitrator shall award the prevailing party its costs, including reasonable attorney fees.

7.16 **Time of Essence.** Time is of the essence in the performance of this Agreement.

7.17 **Amendments.** Any and all amendments, additions, deletions or other modifications to the Agreement shall be in writing signed by both parties.

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7.18 **Entire Agreement.** This document represents the entire agreement between the parties with respect to the subject matter hereof, and related to the subject matter hereof, supersedes all other agreements, representations and covenants, oral or written.

7.19 **Counterparts.** This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

**IN WITNESS WHEREOF**, the parties have executed in multiple contracts, each of which shall have the force and effect of an original on the day and year first written above.

**“BOARD”**

NAME OF ASSOCIATION

BY: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**“MANAGING AGENT”**

**STAMAR MANAGEMENT CORP**

BY: \_\_\_\_\_

Mark A. Railey

Its: Vice President

Date: \_\_\_\_\_

Stamar Management Corp

**EXHIBIT "A"**

Monthly Management Fee: Flat Fee (\$.00)  
Annual contract renewal increase: Five percent (5.0%)

In addition to the Monthly Management Fee, Managing Agent shall be entitled to charge fees for the following additional services provided to the Association and homeowners.

**Miscellaneous Direct Charges:**

Copies	\$0.15 Per Page
Color Copies	\$0.25 Per Page
Mailings to Member/Per Page or Piece	At Cost
Postage	At Cost
Reports	The monthly operating report at copy cost, binding reports at \$25.00 per copy
Office Staff Time for Special Projects	At Cost (Minimum \$25.00per hour) + 15%
Maintenance Staff	See Exhibit "B"
Long Distance Telephone Calls and Faxes	At Cost
Travel and Mileage Expenses	At Cost
Preparation of Annual Coupon Books	\$3.00 per Door (Does not Include Return Envelopes)
Return Envelopes for Coupon Books	5.50 each
Storage Fee	\$10.00 per month
Special Assessments Fee	\$10.00 per door
Special Meeting Rate	\$50.00 per hour (rounded to the nearest half hour)
Setup Fee	\$50.00 per how (if applicable)
Court Time	\$75.00 per hour
Deposition	\$75.00 per hour
Emergency Service Compensation	\$75.00 per hour (minimum two (2) hours)
Zone Hearings/Special Meetings	\$75.00 per hour
Clerical & Research	\$25.00 per hour
1099 Preparation	\$12.00 each
Mailing Label Preparation	\$3.00 per sheet
Web Site Preparation	Web Side Designer Cost plus \$100 setup fee
Web Site Monthly Maintenance Fee	\$75.00 (Association is Responsible for Web Hosting)

**Additional fees for specific procedures:**

Original Transfer Fee (Declarant):	\$25.00
Transfer Fee:	\$150.00 per Transfer - Payable by Homeowner
Late Notice/Re-billing Notice:	\$10.00 per Notice - Payable by Homeowner
Demand Letter	\$25.00 per Letter - Payable by Homeowner
Lien Processing Fees:	\$150.00 per Lien - Payable by Homeowner
Condo/PhD Certification	\$50.00 per Certification - Payable by Homeowner
Owners Ledger Statement	\$25.00 per Statement - Payable by Homeowner
Refinance Statement	\$50.00 per Statement - Payable by Homeowner
Disclosure Package Fee	\$175.00 per Package - Payable by Homeowner
NSF Fees	\$25.00 per Charge - Payable by Homeowner
New Owner Coupon or Replacement Books	\$8.00 per book - Payable by Homeowner

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**EXHIBIT "B"**

**SALARIES, WAGES, RATES AND BENEFITS**

This Exhibit "B" attached hereto and made a part of this Agreement set forth the salaries, wages, rates and benefits to be reimbursed to Managing Agent by the Association for services provided by Managing Agent to the Association as defined within this Agreement. All salaries, wages, rates and benefits may be adjusted from time to time as circumstances may warrant with the Board's prior written approval. Invoicing for all labor rates listed below will be based on one-half hour increments plus all applicable federal, state and local taxes (if any) required under law. Hourly rates are subject to change with thirty (30) days written notice.

**PHYSICAL FACILITIES MAINTENANCE LABOR RATES**

1. Maintenance Supervisor - \$65.00 per hour, minimum one-half hour, plus mileage.
2. HVAC Maintenance Personnel -\$58.50 per hour, minimum one-half hour, plus mileage.
3. Electrical and Plumbing Maintenance Personnel - \$55.00 per hour, minimum one-half hour, plus mileage.
4. Painting and Unskilled Labor - \$38.00 per hour, minimum one-half hour, plus mileage.
5. Porter Personnel and Service - \$20.00 per hour, minimum one-half hour, plus mileage.
6. On-site Personnel - At total employee expense plus fifteen percent (15%) administration fee.
7. Other Personnel - to be invoiced at agreed upon rates prior to the beginning of requested work, which includes rates approved in the Budget.
8. Mileage will be invoiced at the maximum amount allowable by law, which currently is 0.50 per mile.
9. All overtime for all above personnel shall be invoiced at one and one-half times the minimum hourly rate in increments of one-half hour. Travel time to and from the job site will be included at the overtime rate for emergency after hours calls during the normal work week (normal working hours are from 8:00 am to 4:30 pm, Monday through Friday) and on weekend a plus a one-time per call trip charge of Thirty Five and no/100 Dollars (\$35.00) for all emergency after hour calls.

NOTE: ANY CHARGES NOT ITEMIZED ABOVE, OR SET FORTH IN THE AGREEMENT, ARE ASSUMED NOT TO BE A PART OF THIS AGREEMENT, OR THE MONTHLY MANAGEMENT FEE, AND WILL BE SEPARATELY REIMBURSED BY THE ASSOCIATION, OR THE HOMEOWNER, AS THE CASE MAY BE.

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