

MANAGEMENT AGREEMENT

This agreement is made and entered into by and between
PLANTATION SETTLEMENT AT FIRST COLONY ASSOCIATION, INC.

A Texas Non-Profit Corporation
(The "ASSOCIATION")

and

FIRST COLONY COMMUNITY SERVICES ASSOCIATION, INC.
d/b/a/ FIRST COLONY COMMUNITY ASSOCIATION.

A Texas Non-Profit Corporation having its registered office at
4350 Austin Parkway, Sugarland, TX 77479
("FCCA")

In respect of that certain community known as

PLANTATION SETTLEMENT AT FIRST COLONY
(The "COMMUNITY")

In consideration of the terms, conditions and covenants herein contained, the parties mutually agree as follows:

ARTICLE I

APPOINTMENT OF MANAGING AGENT

The Association hereby appoints FCCA and FCCA hereby accepts such appointment on the terms and conditions herein contained as the Managing Agent of the Association in accordance with the terms and provisions of this agreement and to otherwise perform the obligations as hereinafter set out.

ARTICLE II

RESPONSIBILITIES OF MANAGING AGENT

The role of the Managing Agent is to implement the decisions and the policy established by the Board of Directors of the Association. The Board of Directors of the Association has control of all common areas and amenities and is responsible for the administration of the programs, services, and activities of the Association as established in the Association's Governing Documents and as amplified or clarified by resolution of the Association. Subject to direction by the Board of the Association, FCCA's functions, duties, responsibilities, and authority may include the following:

1. **Administrative Services:**
 - 1.1 Organize meetings of Owners, including the preparation of notices, agendas, and other necessary documents.
 - 1.2 Organize meetings of the Board of the Association, including the preparation of notices, agendas and other necessary documents.
 - 1.3 Guide and assist members of the Board in the performance of their obligations.
 - 1.4 Guide and assist the Board in the development of policies and procedures.
 - 1.5 As requested by the Board, to the extent practical, assist in the administration of the provisions of the Declaration, Articles of Incorporation, By-Laws, rules and regulations and policies of the Association (the "Governing Documents").
 - 1.6 Keep all records of the affairs of the Association and the Board, including, but not limited to, the Declaration, Articles of Incorporation, By-Laws, rules and regulations, policies, minutes of meetings, copies of contracts, financial records, etc. (which initial documents are to be provided to FCCA by the Association) and maintain all such documents in a current status. All such records shall belong to the Association.
 - 1.7 Maintain registers of Owners, Officers and Directors and such other registers or schedules as may be required by the Governing Documents, the initial information for all of which is to be provided to FCCA by the Association.
 - 1.8 Attend to necessary correspondence.

1.9 Assist in resolving individual Owner requests as they pertain to the administration of the Association, the Common Elements, and Governing "Rules and Regulations."

2. **Fiscal Services:**

2.1 Prepare a recommended annual budget 60 days prior to year-end. The budget shall be based on prior operating expenditures, estimated future expenses, and required or needed capital reserves. FCCA shall not be responsible for any discrepancies between the budget and actual expenses, the budget being an estimate to be used only as a guide. The budget shall be submitted to the Board for its consideration and adoption.

2.2 Account for all assessments and other charges due by or received from Owners.

2.3 Maintain checking, savings and other investment accounts in the name of the Association with at least two members of the Board being amongst the authorized signatories on behalf of the Association and maintain comprehensive records thereof; each of such accounts to be separate and apart from all other accounts of FCCA and the amounts therein not to be commingled with any other funds controlled by FCCA.

2.4 Mail notice of delinquency to any Owner in arrears and take such reasonable action for the collection of the delinquent assessments and for other charges or fees due the Association as the Board may determine in accordance with the Governing Documents and adopted policy procedures.

2.5 Make all disbursements from assessments collected for normal recurring expenses. All capital expenditures, which have not been previously budgeted, shall require prior Board approval. Approval shall also be deemed granted upon the acceptance of the monthly financial statement at the subsequent meeting of the Board, by resolution of the Board.

2.6 Furnish a monthly financial statement prepared on a accrual basis, which will include all income and expenses and will reflect the net cash position of the Association.

3. **Physical Management:**

3.1 As authorized by the Board, direct and order to be done those things, which are necessary to maintain the property in accordance with the provisions of the operating budget. FCCA shall not be responsible for taking any action unless directed by the Board.

3.2 On behalf of the Association, direct employees dedicated exclusively to the Association, if any. Any employee hired for the Association may be an employee of the Association or of FCCA as may be mutually agreed upon. All remuneration payable to such employees and/or salaries, tax and other expenses payable on account of such employees shall be operating expenses of the Association and shall be paid by FCCA out of the funds of the Association.

3.3 As authorized by the Board, negotiate and execute, on behalf of the Association, contracts for water, electricity, landscaping, trash removal, and such other services for the COMMUNITY as may be necessary and advisable. FCCA shall also purchase on behalf of the Association such

equipment, tools, appliances, materials and supplies for the proper maintenance of the COMMUNITY. All such purchases and contracts shall be in the name and at the expense of the Association. All such contracts shall be for a term of no more than one year without prior approval of the Board.

- 3.4 FCCA has not been given control of the common areas and amenities and shall not be considered an owner for any purposes. FCCA may only implement the decisions of the Board. FCCA shall not be responsible for determining if the community is in compliance with any and all local, state and federal laws, but to the extent that they are aware (without any duty to investigate or perform any research) shall advise the Board if it becomes aware of changes in applicable laws which may be material to associations.

4. **Deed Restrictions**

- 4.1 Physically visit the Community on a monthly basis to record, monitor, and observe deed restriction violations. This includes entering data and maintenance of computerized reports of violations, sending notices to owners, maintaining current status of violations, and interacting with the Board of Directors regarding violations.
- 4.2 Coordinate and assist in the administrative and secretarial functions of the New Construction Committee (NCC/MC), including preparation of standard applications, correspondence to owners requesting NCC/MC compliance or completion of applications, and correspondence with the NCC/MC to assist in their functions.

5. **Expenditures**

Notwithstanding anything to the contrary contained in this Article and the limitations herein imposed, FCCA may, but shall have no obligation, on behalf of the Association without prior consent, to expend any amount, or incur a contractual obligation in any amount required to deal with emergency conditions which may involve a danger to life or property, or may threaten the suspension of any necessary service to the COMMUNITY within a reasonable time of becoming aware of the condition. As soon as is reasonably possible after becoming aware of the emergency condition, FCCA shall notify a Board member to discuss possible action.

6. **Clarity of Duties**

Everything done by FCCA under the provisions of this Article shall be done as an agent for the Association, and all obligations or expenses incurred hereunder shall be for the account, on behalf, and at the expense of the Association. Any payments to be made by FCCA hereunder shall be made out of such sums as are available in the banking or investment accounts of the Association. FCCA shall not be obliged to make any advance to or for the account of the Association or to pay any sum, except out of funds held or provided as aforesaid, nor shall FCCA be obliged to incur any liability or obligation for the account of the Association without assurance that the necessary funds for the discharge thereof will be provided.

7. **Degree of Care**

FCCA shall not be held to a higher degree of care in regards to the performance of its tasks than a Director of the Association as provided in the Texas Non-Profit Corporation Act. Specifically, FCCA shall discharge its duties, in good faith, with ordinary care, and in the manner that FCCA reasonably believes to be in the best interest of the Association.

ARTICLE III

INSURANCE

1. FCCA shall, if requested by the Association, cooperate in investigating and reporting all accidents or claims for damage relating to the Association's ownership, operation and maintenance of real or personal property within the COMMUNITY and shall prepare claims when required and follow-up on payment. Investigating, reporting, and following-up on payment on insurance claims for damages covered by the Association's insurance shall be subject to an administrative charge (presently \$75 per hour) or 10% of the claim, whichever is the greater, which shall be regarded as part of the loss and shall be included in the claim.
2. FCCA agrees to carry at its own expense --
 - 2.1 Worker's Compensation Insurance in compliance with Texas Employers Liability Act and all amendments thereto.
 - 2.2 Public Liability Insurance with minimum limits of liability of \$1,000,000.
 - 2.3 Auto Liability Insurance.
 - 2.4 Fidelity Bond coverage in an amount of \$500,000.
3. The premium in regard to any increase in the amount of coverage set forth in paragraph 2 above required by the Association shall be paid by the Association and shall be considered as an expense of the operation of the COMMUNITY.
4. FCCA shall be named an additional insured on the Association's general liability insurance policies and Directors and Officers liability insurance, which policies shall be maintained in full force and effect during the entire term of this management agreement and in such amounts as the Association and FCCA may agree. The Association's insurance shall be considered primary coverage for the benefit of FCCA.

ARTICLE IV

TERM OF AGREEMENT

This agreement shall commence on the date reflected in Exhibit "A" and shall continue for a period of one year. If neither party has given the other 30 days' written notice of its desire to terminate this agreement at the end of the initial period of one year, then the term shall be automatically renewed for an additional one year term and such renewals shall continue on a year-to-year basis unless terminated as hereinafter provided. This agreement may be terminated by either party providing the other thirty (30) days advance written notice.

ARTICLE V

COMPENSATION

For FCCA's services under this agreement, FCCA shall receive the amounts specified in Exhibit "A" attached hereto, which amounts shall be payable monthly in advance. In each annual budget, FCCA and the Association may adjust the monthly management fee specified in Exhibit "A" FCCA is authorized and directed to deduct or obtain payment of such compensation when due from the COMMUNITY'S funds regardless of any other payments then required to be made.

ARTICLE VI

MISCELLANEOUS

1. **Notices:**

Any notice or communication hereunder must be in writing or transmitted electronically, and shall be personally delivered, or sent by telegram, telex or facsimile, or by registered or certified mail, return receipt requested, and if given by registered or certified mail, same shall be deemed to have been given and received three days after its mailing, postage prepaid to the address listed below. Such notices or communication shall be given to the parties hereto at the following addresses:

To the Association at the address of the President of the Association at the date of the notice or communication.

To FCCA at 4350 Austin Parkway, Sugar Land, Texas 77479.

Any party may at any time, by giving ten days written notice to the other party, designate any other address in substitution of the foregoing address to which such notice or communication shall be given.

2. **Hold Harmless/Indemnification**

- 2.1 To the fullest extent permitted by applicable law, each party to this Agreement shall and does hereby agree to indemnify, protect, hold harmless and defend the other and, its officers, directors, and employees, hereinafter referred to as "Indemnitees" from and against all claims, demands, damages, injuries, losses, liens, causes of action, suits, judgments, penalties, liabilities, debts, costs and expenses, including court costs and attorneys' fees (collectively, "Liabilities"), of any nature, kind or description, whether arising out of contract, tort, strict liability, misrepresentation, violation of applicable law and/or any cause whatsoever (including without limitation, claims for injuries to or death of any person, or damages to or loss of any property) of any person or entity directly or indirectly arising out of, caused by, in connection with, or resulting from any act or omission of Association, any of their respective employees, agents, servants, officers, directors, or members.
- 2.2 Each party shall promptly advise the other in writing of any action, administrative or legal proceeding or investigation as to which indemnification may apply, and the party owing the indemnity shall at it's expense, assume on behalf of Indemnitees and conduct with due diligence

and in good faith the defense thereof with civil trial counsel satisfactory to Indemnitee, provided, however, that Indemnitees shall have the right, at their own option, to be represented therein by advisory counsel of their own selection and at their own expense.

- 2.4 In the event of the failure by a party to fully perform its obligations in accordance with this Agreement, Indemnitees, at their option, and without relieving the other party of its obligations hereunder, may so perform, but all costs and expenses so incurred by Indemnitees in that event shall be reimbursed by the responsible party to Indemnitees, together with interest, on the same from the date any such expense was paid by Indemnitees until reimbursed by Association, at the rate of ten percent (10%) per annum. The indemnification shall not be limited to damages, compensation or benefits payable under insurance policies. It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under this Section, such legal limitations are made a part of indemnification obligations and shall operate to amend the indemnification obligations to the minimum extent necessary to bring the provisions into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect.
- 2.5 Neither party shall be entitled to indemnity for its acts of willful misconduct and/or gross negligence.
- 2.6 The provisions of this paragraph 2 shall survive the termination of this agreement, and shall continue in full force and effect subsequent to the termination of this agreement.

3. **Security:**

FCCA SHALL NOT IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. NEITHER SHALL FCCA BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY. THE BOARD OF DIRECTORS ON BEHALF OF THE ASSOCIATION, ALL OWNERS AND OCCUPANTS OF ANY DWELLING, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT FCCA DOES NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES, OR OTHER SECURITY SYSTEMS (IF ANY ARE PRESENT) WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. THE BOARD OF DIRECTORS ON BEHALF OF THE ASSOCIATION, EACH OWNER AND OCCUPANT OF ANY DWELLING AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT FCCA IS NOT AN INSURER AND THAT EACH OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT FCCA HAS MADE NO REPRESENTATIONS OR WARRANTIES

EXHIBIT "A"

Exhibit to the Management Agreement entered into between FCCA and ASSOCIATION.

COMPENSATION

1. \$500.00 per month due and payable from the first day of each month during the term of this agreement, commencing from January 2004 to June 2004; \$1,000.00 per month due and payable on the first day of each month from July, 2004 to December 2004; and \$1,500.00 per month due and payable on the first of each month from January 2005 to December 2005.
2. Additional charges:
 - 2.1 Reimbursement for reasonable out-of-pocket expenses made on behalf of the COMMUNITY.
 - 2.2 Ten cents (\$0.10) for each photocopy required in the management of the COMMUNITY.
 - 2.3 Fifty cents (\$0.50) plus the postage payable for each item mailed to the owners other than correspondence with individual owners, except for notices of the annual general meeting or other official communications from the Association to Members required by the Governing Documents.
 - 2.4 FCCA shall attend the annual meeting; and regularly scheduled Board of Directors meetings. FCCA will attend any additional meetings or conferences for which the Association will reimburse FCCA at an hourly rate, which is presently \$150 per hour.
 - 2.5 Appearance in court and preparation for lawsuits involving the Association will be billed to ASSOCIATION at its hourly rate, which is presently \$150 per hour.
 - 2.6 Reimbursement of the salary and benefits plus an amount equal to 10% of any salaries payable to employees dedicated exclusively to the Association. This fee includes the preparation and filing of all payroll forms.
 - 2.7 FCCA shall furnish the certificates relating to assessments and shall record resale changes of ownership upon receipt of notice from title companies. Transfers of ownership, in resales, shall be processed at an additional fee chargeable to the Seller/Buyer. The fee presently being charged by FCCA for each of these services is \$100 per Unit/Lot for transfers, \$100 per Unit/Lot for a resale certificate (\$300 per Unit/Lot if the resale certificate is required within seventy-two (72) hours of the request for such certificate being made), and \$75 per Unit/Lot for a certificate of compliance (\$200 per Unit/Lot if the certificate of compliance is required within seventy-two (72) hours of the request of such certificate being made). Documentation required from the Association for financing or refinancing of Units/Lots shall be prepared by FCCA at an additional fee to the borrower. The fee presently being charged for this service is \$25 per Unit/Lot.
 - 2.8 The Association shall pay any applicable sales taxes in regard to the compensation payable by the Association to FCCA if and when such taxes are determined payable.

FCCA shall not assign its interest under this agreement except with the sale of all or a substantial part of its management business. In the event of such assignment, FCCA shall be released from any and all liabilities by the Association.

9. Amendments:

This agreement constitutes the full understanding of the parties and no prior or contemporaneous oral or written representations made by either party shall be binding. This Agreement may be modified only in writing signed by the President of FCCA and by the duly authorized representative of the Association.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on this the _____ day of _____, 2004.

FOR: ASSOCIATION

BY: Sandra K. Denton
Sandra K. Denton, President

WITNESS:

Holbe M. Curtice

FOR: FCCA

BY: Rod Craig
Rod Craig, President

WITNESS:

[Signature]