

# MANAGEMENT STANDARDS

EXHIBIT "C"

MANAGEMENT STANDARDS AGREEMENT

I. DEFINITIONS

1. Agreement shall mean this Management Standards Agreement.
2. Approval shall be deemed secured either when written notice to such effect has been received or when thirty (30) days have elapsed following Prior Notice and no response has been received.
3. Financial Management shall mean billing, collection, and accounting activities.
4. Lead Carrier shall mean the insurance company providing the principle coverage for the Association.
5. Manager shall mean a Professional Community Management Firm.
6. Prior Notice shall mean the posting of notice to whomever intended or required by certified, receipt requested mail thirty (30) days in advance of a proposed action.
7. Professional Community Management Firm shall mean a bona fide business enterprise that undertakes the management or provides management consulting services to common interest residential communities which have common areas, landscaped parkways and areas subject to easement, which are under the care, custody and control of an association whose members are the residents of such a community. Further, there is a presumption that for such a firm to be qualified to provide management services for a common interest community, it shall have demonstrated satisfactory competence.
8. Property Management shall mean bid invitations, contract negotiations and supervision related to all services, personnel and insurance coverage, as required by this Declaration and any Supplemental Declaration.
9. Required Insurance shall mean such insurance and related provisions as are set forth in this Agreement as it may be amended from time to time.

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## II. ADMINISTRATIVE AND OPERATING PROCEDURES

- A. The Board of Directors shall employ a Professional Community Management Firm or Firms to perform Financial and Property Management on behalf of the Association, subject to the following requirements and conditions:
1. The Professional Management Firm shall supply the Board of Directors with an affirmative statement that those persons with such firm who will meet with the Board and give advice relative to the administrative operations of the Association (involving matters of insurance, accounting, statutory requirements and similar technical matters) have at least a reasonable level of knowledge and understanding of such matters sufficient to advise the Board as to actions it is considering or involved in. Such a stipulation shall not require such personnel to render advice which is restricted to licensed professionals such as attorneys, engineers and insurance agents, but should clearly impose upon the Firm the burden of providing to the Board representatives who possess a competency beyond that of an ordinary layman with respect to the various technical skills required in routine functioning of the Association.
  2. The Board of Directors reserves the right to solicit and negotiate arrangements with Professional Community Management Firms and registered, licensed professionals such as certified public accountants, lawyers, engineers and similar individuals or groups.
  3. The Manager shall not accept from vendors, independent contractors or others who provide services or goods to the Association any remuneration in the form of commissions, finders' fee, service fees or the like in consideration for such goods and services.
  4. Financial Management Requirements:
    - (a) The method of accounting shall be the accrual method for General, Cluster and Limited Common Area purposes reflecting income and expenses at both community-wide and Cluster levels.
    - (b) In order to maintain adequate financial control procedures, the person posting cash receipts shall not be the same as the one who deposits and/or receives the cash.
    - (c) The cash accounts of the Association shall not

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be commingled with accounts of any other organization or person.

(d) The Financial Manager shall provide to the Board and each Cluster Committee not less than once per quarter financial reports that include at least the following:

- (1) Balance Sheet
- (2) Income Statement, in an actual-versus budget form
- (3) Cash activity report

At such time as projected annual expenses exceed \$50,000, the financial reports shall be provided monthly.

(e) The Financial Manager shall provide a monthly list of delinquent accounts and shall give affected First Mortgagees notice of assessment delinquencies of more than thirty (30) days.

(f) The Financial Manager shall continually review receipts and expenditures and provide notice to the Board of actual or pending obligations which appear to represent an adverse trend relative to the adopted budget. Failure of the Manager to provide such notice shall not be construed as negligence on his part; however, this provision shall impose a standard of competency upon the Manager which, if not met, may be deemed a just cause for contract termination or removal from office.

(g) Books and records of the Association shall be annually audited by an independent certified public accountant on an individual Cluster and a consolidated Association basis.

#### 5. Property Management Requirements:

(a) The Manager shall have the authority to commit Association funds up to \$750 or such other limit as may be imposed by the Board of Directors for any single expenditure, provided such commitment does not serve to obligate the Association for more than one year and that it is within the budget authorization. All other expenditures shall require prior approval by the Board of Directors and, if more than \$750 or such other limit as may be set by the Board of Directors, competitive bids as well.

Notwithstanding this provision, the Manager shall have the authority to commit Association funds up to \$5,000 for emergency repairs immediately.

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necessary for the preservation and safety of the Association or its members or to avoid the suspension of life support services, without prior approval of the Board of Directors, providing prompt notice is given to the president or other designated officer.

- (b) The Manager must disclose the extent of financial interest that he may have in any firm's or person's activities when such firm or person is providing goods or services to the Association.
  - (c) The Manager shall provide employee supervision and give advice to the Board on personnel matters; however, the Board of Directors reserves the right to hire, fire and discipline all employees and set compensation rates and benefits.
6. The term of the management contract shall be for not more than two (2) years and allow termination after not more than sixty (60) days notice. The contract may be renewed with the same Manager for subsequent terms.
  7. If and when it is the Board's intention to change Managers, then the Board shall give Prior Notice to the First Mortgagees. Approval of the Lead Lender shall be required to effect a change in Managers.
  8. The Board of Directors may undertake a program of self-management, provided it first secures the advice and counsel of a Professional Management Firm and the Approval of a plan of management from the Lead Lender; except that the Board of Directors may undertake a program of Property self-Management, with the continuing advice and counsel of a Professional Management Firm, provided the association leaders have undergone a program of training in association management techniques and procedures conducted by a Professional Management Firm, have given Prior Notice to the First Mortgagees and have secured the Approval of the Lead Lender.

B. Rights of First Mortgagees

1. All Institutional Lenders who have an interest in the Properties shall have a right to inspect the books and records of the Association during normal business hours.
2. Within ninety (90) days after the end of the fiscal year,

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the treasurer shall submit to all First Mortgagees an annual report, which includes the audited financial statements and the Association's budget.

3. The Secretary shall give to all known First Mortgagees notice of meetings of members. Such mortgagees may send a non-voting representative to such meetings.
4. The Board shall give the Lead Lender and such other First Mortgagees as may request it, expeditious notice of any civil action or liens lodged against the Association or officers or directors regarding their conduct in administering the affairs of the Association.

### III. INSURANCE

#### A. Location of Policies

1. True copies of all insurance policies required pursuant to this Agreement shall be furnished to the Lead Lender.
2. The Association shall retain the original of all insurance policies whatsoever in place of safekeeping such as in a safe deposit box or a safe in the Professional Management Firm's office.

#### B. Notice of Change in Insurance Coverage

1. No change whatsoever in the Association Property Insurance provisions, as to the risks covered, the ratio to value of coverage or endorsements by way of additions, deletions or modifications may be effected by the Association without Prior Notice to Lead Lender as regards Required Insurance.
2. The Association may designate new carriers and/or agents at any time, such change to be effective sixty (60) days thereafter.
3. Insurance policies required pursuant to this Exhibit shall be reviewed annually with the carriers and/or agents handling the insurance and a determination shall be made as to the adequacy of coverage and dollar limits.

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C. Qualifications of Carrier

1. Carrier issuing Required Insurance shall have a financial rating by Bests' Insurance Reports of Class VI or better. Additionally, the rating must represent a surplus at least equal to one hundred percent (100%) of the insured value of the personal and real property of the Association. In the event that Carrier does not meeting the qualifications set forth above, re-insurance by a re-insurer with a rating equal to Class XI or better shall be acceptable. The general policyholder's ratings of the carrier issuing Required Insurance shall be B+ or better, as rated by Bests' Insurance Reports, or such carrier as is acceptable to the Federal Home Loan Mortgage Corporation.

Only in the event there is no carrier meeting qualifications may the Association accept Required Insurance from an unqualified carrier.

2. The insurance carrier issuing Required Insurance must be specifically authorized by laws of and licensed by the State of Texas to transact such business as required to provide the Required Insurance.

D. Required Policy Provisions as to Coverage, Amounts and Endorsements

1. Property Insurance

If the Association owns or comes to own or construct one or more community buildings or other structures with a value in excess of \$1,500 per item, the Association shall obtain property insurance in an amount equal to the full replacement value (i.e., 100% of current "replacement cost" exclusive of land, excavation and other items normally excluded from coverage) of such structures (including all building service equipment and the like) with an "Agreed Amount Endorsement" or its equivalent, and if economically feasible a "Demolition Endorsement" or its equivalent, and an "Increased Cost of Construction Endorsement" or "Contingent Liability from Operation of Building Laws Endorsment" or the equivalent. The policy shall afford protection against at least the following:

- (a) Fire, Extended Coverage, Vandalism and Malicious

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Mischief, and Special Extended Coverage, or their equivalent, as prescribed by the Texas State Board of Insurance; and

- (b) such other risks as shall customarily be covered with respect to projects similar in construction, location and use.

Full replacement values must be reviewed and amended as necessary not less than annually.

The Board may, in its discretion, purchase a Boiler and Machinery Policy in the amount of at least \$50,000 per accident per location, including repair and replacement, as may be determined to be applicable.

- 2. A Comprehensive General Liability Insurance policy shall be purchased covering the Association and Owners, as Members of the Association, including but not limited to endorsements for Severability of Interests, Blanket Contractual, Broad Form Property Damage, Additional Interest of Employees, Personal Injury, Incidental Malpractice, Host Liquor Liability, Independent Contractors, Products, Completed Operations, Watercraft Non-Ownership, Fire Damage Legal Liability, Advertiser's Liability, World-Wide Products, Auto Liability, Auto Non-Ownership and Hired Car, Garage Liability, as may be applicable.

- (a) The General Liability limits at a minimum shall be:

Bodily Injury	\$300,000.00 each occurrence
	\$300,000.00 aggregate
Property Damage	\$100,000.00 each occurrence
	\$100,000.00 aggregate

- (b) The Automobile Liability limits at a minimum shall be:

Bodily Injury	\$100,000.00 each occurrence
	\$300,000.00 aggregate
Property Damage	\$ 50,000.00 each occurrence

- (c) A \$1,000,000.00 "Umbrella" Liability policy, including First Dollar Defense coverage, shall be maintained in full force covering, in addition to the above items, such other risks as are customary under such policy, with an insured's retention of not more than \$25,000.00.

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3. Association Personnel Coverages

Should the Association employ personnel, all coverages required by law, such as Workmen's Compensation and Employers Liability, shall be maintained in full force.

A specific prohibition exists under this Agreement against the Board "contracting" with any person who is not bona fide independent contractor. The Board shall obtain from each contractor his employer identification number and, where applicable, evidence of having a policy in force of general liability and property damage acceptable to the Board.

4. Association General Insurance Provisions

In all cases as applied to paragraph 1 above and to the extent clearly applicable to paragraph 3, the insurance obtained shall be subject to the following provisions and limitations:

- (a) The named insured shall be the Association who, through the Board, acting as trustee for the owners collectively and severally, shall negotiate loss claims, receive and administer funds received pursuant to claim settlements.
- (b) In no event shall the insurance coverage obtained and maintained pursuant to the requirements of this Agreement be brought into contribution with insurance purchased by the Owners of the Living Units or Lots of their mortgagees.
- (c) Such policies shall provide that coverage shall not be prejudiced by: (1) any act or neglect of the Owners of Living Units or Lots; (2) conditions over which the Association has no control.
- (d) All policies shall provide that coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without Prior Notice to the insured and Lead Lender.
- (e) All such policies shall contain a waiver of subrogation.

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- (f) All policies of property insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to make a cash settlement in lieu of the right to restore, such option shall not be exercisable without the prior written approval of the Board.
- (g) Each and every policy for Required Insurance shall contain a stipulation that the carrier received a copy of the Governing Instruments, including this Agreement, and that all provisions of each and every policy issued are in conformance with the provisions of said instruments as the carrier shall have been in possession of at the time of issuance of such policies.
- (h) In the event the requirements of the foregoing paragraphs (a) through (g) above cannot be complied with for the reason that the same are contrary to the Laws of the State of Texas or of the Rules and Regulations of the Texas State Board of Insurance, the Board of Directors may waive such requirement or requirements to the extent that the provisions and limitations of this paragraph 4 are not approved by the State Board of Insurance.

5. Association Fidelity Insurance

The Board shall be required to maintain adequate fidelity coverage to protect against loss of money through any fraudulent or dishonest acts on the part of officers, directors, employees or others who are responsible for handling funds of the Association. Such fidelity bonds shall meet the following requirements:

- (a) All such fidelity bonds shall name the Association as an obligee; and
- (b) In determining the amount of coverage, the Board shall consider such factors as projected annual income, reserve account balances, financial control procedures, recommendations of its auditor and Professional Community Management Firm, and requirements of Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or their institutional or governmental purchasers or insurers of mortgagees.
- (c) Such fidelity bonds shall contain an endorsement

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affording coverage for non-compensated officers and directors.

- (d) Such bonds shall provide that they may not be cancelled or adversely modified (including cancellation for non-payment of premium) without at least fifteen (15) days Prior Notice to the insured and the Lead Lender.

6. Association Flood Insurance

Where sale of flood insurance has been made available under the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973, the Association may obtain a standard policy from the National Flood Insurers Association in the amount of the aggregate outstanding mortgage balance of all units, or the maximum amount of insurance available under such Acts, whichever is less.

7. Association Directors and Officers Insurance

The Board of Directors is authorized to obtain insurance to provide for liability of Directors and Officers of the Association arising out of their official duties.

8. Notice of Claim Filings

The Board shall notify the Lead Lender of any claims filed in excess of \$5,000.

9. Owner's Property Insurance

- (a) Each Owner shall purchase a policy of property insurance in an amount equal to a full replacement value, including all alterations and betterments (i.e., 100% of current "replacement costs" exclusive of land, excavation and other items normally not insurable) of the real property of the Owner. The policy shall have a "Replacement Cost Endorsement" or its equivalent.

The policy shall afford protection against at least Fire, Extended Coverage and physical Loss, or their equivalent, as prescribed by the Texas State Board of Insurance.

Full replacement values must be reviewed and amended as necessary not less than annually.

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- (b) Each Owner agrees to give a blanket waiver of subrogation to all other Owners and the Association; and this paragraph shall be such waiver of subrogation, executed in writing, prior to any loss.
- (c) Each Owner agrees that, notwithstanding any provisions of any policy which gives the carrier the right to make a cash settlement in lieu of the right to restore the damaged or destroyed property, such option shall not affect the obligation of the Owner to cause such repairs and restoration of the property to commence not later than three (3) months from the date such loss and/or damage occurs and to complete the same suitable for habitation not later than eight (8) months from the date of such loss and/or damage. All such repairs and restoration shall be in accordance with the provisions of the Governing Documents relating to the powers of the Board of Directors and of the Covenants Committee. The failure of an Owner to comply with the provisions of this sub-paragraph 9(c) shall entitle the Board of Directors to seek specific performance of the Owner's obligation hereunder in any appropriate civil court under the laws of the State of Texas.
- (d) Each Owner shall furnish the Association with a Certificate of Insurance evidencing that the policy of property insurance required by this sub-paragraph 9 is in full force and effect.
- (e) All requirements and provisions of paragraphs A, B, and C of this Article III shall be deemed to be requirements of this sub-paragraph 9.

#### IV. RESERVE ACCOUNTS

- A. The Board of Directors shall maintain in separate interest-bearing account or instrument reserves for Operations and for major Capital Replacement and Repair.
- B. The annual contribution to the Reserve for Operations shall be equivalent to three percent (3%) of the assessment income for the year. The annual contribution to the major Capital Replacement and Repair Reserve shall be equivalent to the cost of replacement divided by the life of each major capital improvement owned by the Association; according to the Schedule of Reserves approved by the Board from time to time and filed with the Lead Lender.

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C. Withdrawals

1. Withdrawals from any reserve Account shall be authorized by a two-thirds (2/3) vote of the Board of Directors, following Prior Notice to the Lead Lender, such notice to include the amount and purpose of the withdrawal.
2. Withdrawals from the major Capital Replacement and Repair Reserve may only be used for restoration, repair and replacement of existing capital investments, not for new facilities or additions or improvements to existing facilities or property.
3. Operating Reserve withdrawals may only be used for unanticipated major expenditures, uninsured casualty losses and single year budget overruns caused by uncontrollable and unforeseen events.
4. The Board of Directors may borrow against the Reserve Accounts for current operations, providing such loans are repaid to the Reserve Account within two (2) years.

V. AMENDMENTS

Amendments to this Agreement shall be valid only when:

1. A majority of the Board of Directors has affirmatively agreed to the proposed amendment,
2. Approval is secured from the Lead Lender and a majority of the First Mortgagees,
3. Prior Notice has been given to all Owners, and
4. The amendment has been recorded.

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