

ASSOCIATION MANAGEMENT AGREEMENT

DEFINED TERMS

EFFECTIVE DATE: January 1, 2020

PARTIES:

Association: ORCHARD PARK HOMEOWNERS ASSOCIATION, INC., a Texas nonprofit corporation

Manager: TEXAS HAWKIZE PROPERTY MANAGEMENT, LLC, a Texas limited liability company

MANAGEMENT TERM: Beginning with the Effective Date and continuing for an initial term of twenty-four (24) months duration after the Effective Date; however, this Agreement will renew automatically for successive one year periods unless either party gives notice of termination not less than thirty (30) days written notice, as more fully set forth in Paragraph 7 of this Agreement. This Agreement is subject to early termination for those reasons as described in Paragraph 7 of this Agreement.

CONSIDERATION: Both the Association and the Manager acknowledge that the mutual agreements of the Parties contained in this Agreement and the amounts to be paid to Manager from the Association are sufficient consideration for the making of this Agreement.

ASSOCIATION TO BE MANAGED: Manager is to manage the affairs of the Orchard Park Homeowners Association, Inc. (the "Association") subject to the terms and limitations set forth in this Agreement. The Orchard Park Homeowners Association has been created for the purposes described in the Declaration of Covenants, Conditions, Restrictions and Easements (the "Declaration") for ORCHARD PARK, an Addition to the City of Lubbock, Lubbock County, Texas, said Declaration being recorded in Clerk's Documents No. 2007035703, 2008045752, 2009029735, 2010010896, and 2012005965 of the Official Public Records of Lubbock County, Texas (collectively referred to in this Agreement as the "Declaration"). Manager will also manage for the Association the Common Properties (as "Common Properties" is defined in the Declaration) to the extent that the Association is responsible for the management and maintenance of the Common Properties.

OTHER DEFINED TERMS: Words and phrases defined in the Declaration will have the same meaning when used in this Agreement except when otherwise indicated.

AGREEMENT:

For the Consideration, the Manager and the Association agree as follows:

1. Independent Contract Management, Fee. Manager agrees to manage the Association for the Management Term according to the terms of this Agreement. Manager and the Association stipulate that Manager is an independent contractor for the reason that Manager's

work will be subject to the Association's supervision only as necessary for the Association to know that the Association is being managed properly; the Association may not control the details of Manager's work. As compensation for its duties under this Agreement, the Manager is entitled to the fees described on the "Fee Schedule" attached to this Agreement as **Exhibit "A."** Any portion of the fees to be paid to Manager on a monthly basis is to be paid by the Association to Manager by the first day of each month during the Management Term.

2. Manager's General Responsibilities and Duties.

2.1 Management; Agency Agreement. Subject to the terms and conditions set forth in this Agreement, Manager shall manage, operate and maintain the Association in an efficient and satisfactory manner. Association appoints Manager as the sole and exclusive management agent for the Association to perform the tasks described in this Agreement, subject to the terms of this Agreement. To assist Manager in performing its duties under this Agreement, the Association is providing Manager upon the execution of this Agreement with a copy of all documents which govern the Association, including but not limited to the bylaws, certificate of formation, the Declaration (complete with all amendments and supplements), and documents governing the Architectural Control Committee. Throughout the Management Term, the Association will provide Manager with additional governing documents as such documents are created by the Association.

2.2 Basic Scope of Work. For and in consideration of \$1,750.00 per month (the "Monthly Management Fee"), Manager will provide the following services to Association during the Management Term:

(a). *Ownership Records.* Manager will maintain a membership roster of all "Owners" who are Members of the Association ("Owners" being defined in the Declaration as "each and every Person who is a record owner of a fee or undivided fee interest in any Lot"). Manager will communicate with title companies and closing agents in an effort to keep a current list of Owners, including absentee-Owners. As Lots are sold to new Owners, Manager will provide "welcome packets" to the new Owners on behalf of the Association.

(b). *Collection of Assessments.* Manager will collect the Assessments owing by the Owners under the terms of the Declaration. Manager will provide the Owners with annual billings in accordance with the terms of the Declaration, and prepare and mail statements as required to maintain the accounts owing to the Association. Manager will provide the Owners with ACH (direct debit), eCheck, and credit card payment options for payment of the Assessments owing by the Owners. Manager is authorized to collect from Owners administrative charges including but not limited to, application fees, returned check fees, and late charges to the extent that such administrative charges are permitted by the Declaration or by applicable law. All money so collected shall be deposited in the Operating Account.

(c). *Enforcement of Payment Obligations.* Manager will perform preliminary collection services to collect Assessments owing by delinquent Owners. As used in this Agreement, "preliminary collection services" means the sending of all required notice letters at such intervals as required by the Declaration or by applicable law, including, but not limited to, such practices as written notifications, contact by telephone, or any necessary means available. For Assessments which cannot be collected from the Manager's preliminary collection services, Manager will recommend to Association which accounts should be referred to attorneys of the Association's selection for further collection efforts. The Association will be solely responsible for the employment and payment of attorneys to collect Assessments which cannot be collected by the Manager's preliminary collection services. Manager agrees that it will not settle, compromise, or withdraw any action without the prior consent of the Association. In the event that any claims or actions are instituted by any party against Manager or the Association, Manager will promptly notify Association in writing of said action or threatened action. All legal expenses incurred in bringing such suits and proceedings shall be operating expenses.

(d). *Communications with Owners.* Manager will receive communications from Owners and either respond to such communications; or, as necessary, refer the communications to the Association. Manager will contribute to the Association's website as required to update Owners with pertinent information regarding the Association; however, Manager will not be required to design or create a website for the Association.

(e). *Attendance at Meetings.* Manager will attend the Annual Meeting of the Association. As directed by the Association, Manager will attend all scheduled meetings of the Board of Directors of the Association. Manager will assist with the notification of Owners regarding the annual Meeting of the Association. The Association is responsible for notifying Manager of the date of each annual meeting of the Association and also the date by which each notice of the meeting must be sent to the Owners in accordance with the bylaws of the Association and applicable law.

(f). *Enforcement of Declaration.* Manager will assist the Association in the enforcement of the Declaration by performing periodic inspections to determine violations (not less than bi-weekly) and generating violation letters to the Owners who are in violation of the Declaration. For violations of the Declaration which are not corrected in response to the actions of Manager, Manager will recommend to the Association which violations should be referred to attorneys of the Association's selection for further enforcement action. The Association will be solely responsible for the employment and payment of attorneys to enforce the covenants, conditions and restrictions contained in the Declaration. Manager agrees that it will not settle, compromise, or withdraw any enforcement action without the prior consent of the Association.

(g). *Architectural Control Assistance.* Manager will assist the Architectural Control Committee (the "ARC"), as requested or designated by the ARC in accordance with the terms of the Declaration. If requested by the ARC, Manager will (i) receive and process requests for architectural changes; (ii) maintain architectural control logs; (iii) conduct site inspections to determine if the covenants, conditions and restrictions set forth in the Declaration are being followed; and (iv) issue approval and denial letters of Plans as approved or denied by the ARC or its designated representatives in accordance with the Declaration. Manager will not be required to perform any services of the ARC except to the extent expressly authorized by the ARC in writing, and except as permitted by the Declaration.

(h). *Conflict Resolution.* Manager will receive complaints from Owners and endeavor to resolve conflicts within the limitations and requirements of the Declaration and applicable law. Any conflicts which cannot be resolved by Manager will be referred to the Association for further consideration by the Association. The Association will have the final authority in resolving conflicts between the Owners and the Association, and any decisions to employ attorneys to resolve conflicts will be made by the Association.

(i). *Resale Certificates and Subdivision Information.* Manager will complete and deliver the information required by Chapter 207 of the *Texas Property Code* in response to appropriate requests for such information as described in the statute. The Association will cooperate and assist Manager with providing all information required by Chapter 207 of the *Texas Property Code*, and the Association will provide Manager with all policies, procedures, and fees established by the Association in relation to the information which must be provided. Any liability for failure to deliver information in accordance with Section 207.003 of the *Texas Property Code* will be the sole responsibility of the Association, except when such failure results from Manager's sole negligence.

2.3. Schedule of Employees. Manager will maintain and provide to the Association a schedule of employees to be employed "on-site" in the direct management of the Association, if any. The employment of any persons other than Manager and those persons listed on the schedule to be provided to the Association upon the execution of this Agreement is subject to the prior approval of the Association. Manager will identify in the same manner those additional employees whose salaries may from time to time be charged pro rata to the Association for direct services rendered to the Association. Employees whose salaries are eligible to be charged pro rata include, but are not limited to, maintenance personnel and others to be mutually agreed upon by Association and Manager from time to time. The schedule to be provided to the Association shall include the number of employees and their title and salary range. Attached to this Agreement as **Exhibit "B,"** is the initial schedule of employees as

required under this paragraph, and Manager will update the schedule as necessary to provide the Association with current information.

2.4 Approved Budgets. For the first year of this Agreement, Manager will propose an annual budget for the maintenance and operation of the Property. The budget will be provided to the Association upon execution of this Agreement. A proposed budget for each year after the first year will be delivered to the Association no later than October 30th of the calendar year preceding the year involved, with the first such budget being due no later than November 10, of each year .

Manager will inspect the Common Properties as necessary, and propose an annual budget for:

- (i) Specific recommended renovations (with estimated cost estimates);
- (ii) Maintenance;
- (iii) Operations.

The Association will consider the proposed budgets and will then consult with Manager in the ensuing period prior to the commencement of the forthcoming calendar year in order to mutually agree on each year's operating budget (the "Approved Operating Budget") and on a capital budget (the "Approved Capital Budget"). Manager agrees to use diligence and to employ all reasonable efforts to insure that the actual costs of maintaining and operating the Association will not exceed the Approved Budget (Operating or Capital, as the case may be) pertaining thereto either in total or in any one accounting category. All expenses will be charged to the proper account as specified in the relevant Approved Budget and no expense will be classified or reclassified for the purpose of avoiding an excess in the annual budgeted amount of an accounting category. Manager will secure the Association's prior approval for any expenditure (except for utility charges) that will result in an excess of 5% or more in any one accounting category of the Approved Operating Budget; however, if said expenditure is less than \$2,500.00 no approval will be necessary.

During each calendar year, Manager agrees to inform Association of any major increases in costs and expenses that were not foreseen in the budget preparation period (including utility charges) and thus were not reflected in either the Approved Budget (Operating or Capital, as the case may be) and will submit to the Association for approval a revised budget based upon the unforeseen costs and expenses. Manager will not be responsible for shortages in either the Approved Operating Budget or the Approved Capital Budget other than its obligation to inform the Association of the shortages as described in this Agreement.

2.5 Ordinary Repairs and Routine Maintenance. Manager will be responsible for the making and supervision of all ordinary repairs and routine maintenance to the Common Properties which do not exceed \$5,000.00 per particular instance; however, no single expenditure shall exceed \$2,500.00 without prior approval of the Association. Routine maintenance includes purchasing and providing streetlight fixtures to LP&L for replacement, when needed. Disbursements for actual and reasonable expenses for materials and labor for such

purposes will be made from the Operating Account. In case of emergency, the Manager may make expenditures for repairs which exceed the aforementioned amount without prior written approval if Manager deems such expenditure to be necessary to prevent damage or injury to persons or property. Manager will inform the Association of any such emergency expenditure as soon as is practical after incurring such expenditure.

2.6 Landscaping Oversight. Manager will be responsible for general oversight and coordination with Association's general landscaping contractor to ensure timely and effective completion of its respective duties, including but not limited to tree pruning, shrub trimming, and weeding.

2.7 Capital Expenditures and Extraordinary Repairs. The approved Capital Budget will, except as limited by this Paragraph 2.6, constitute an authorization for Manager to expend the funds in accordance with such budget only for amounts equal to or less than \$2,500.00. Any extraordinary repair (repairs exceeding \$5,000 per incident) or capital expenditure must be specifically authorized in writing by Association if for: (i) items not included in the Approved Capital Budget, (ii) items limited by this Paragraph 2.6, or (iii) for amounts more than \$5,000.00. For those extraordinary repairs and capital expenditures which exceed \$5,000 in cost, and which Association authorizes Manager to subcontract, Association shall be responsible for actual costs and will be invoiced for a management fee equal to ten percent (10%) of the actual costs incurred by Association. With respect to the purchase and installation of major items of new or replacement equipment, Manager shall recommend that Association purchase these items when Manager believes such purchases to be necessary or desirable. The Association may arrange to purchase and install such items itself or may authorize Manager to do so subject to such supervision and specification requirements and conditions as the Association may prescribe in any such approval. Unless the Association specifically waives such requirements, all new or replacement equipment exceeding \$2,500.00 shall be awarded on the basis of competitive bidding, solicited in a manner approved by the Association. The Association may pay for capital expenses from its own resources, or may authorize payment out of the Operating Account.

2.8 Service Contracts. Manager will not enter into any contract for cleaning, maintaining, repairing, or servicing the Common Properties without the prior consent of the Association unless provided for in the Operating Budget. As a condition of obtaining such consent, Manager will supply the Association with a copy of the proposed service contract, and will advise the Association of the relationship, if any, between Manager (or the person or persons in control of Manager) and the party proposed to supply such goods or services, or both. Neither the Manager nor any entity or sole proprietorship in which the Manager owns an interest will be prohibited from entering into a service contract with the Association, provided that (i) the Association is first advised of Manager's relationship to the service provider, and (ii) the service contract is approved by the Association. Each service contract will: (i) be in the name of the Association, (ii) be assignable at Association's option to Association's nominee (iii) where possible, include a provision for cancellation thereof by Association or Manager effective upon thirty (30) days written notice, and (iv) shall require that all contractors provide evidence of sufficient insurance.

2.9 Taxes, Mortgages. Manager will, if such amounts are included in the Operating Budget, pay bills for real estate and personal property taxes and other similar charges which are or may become liens against the Common Properties. In addition, Manager will make payments on account of any mortgage, deed of trust or other security agreement effecting the Common Properties to the extent that Association directs that Manager make such payments (either in the Approved Budgets or otherwise).

3. Insurance.

3.1 Association's Insurance. At its own expense, the Association will carry fire and extended coverage insurance on the Common Properties, including vandalism, malicious mischief, and other such coverage's as desired by the Association or required by its mortgagee. In addition, and at its own expense, the Association will carry commercial general liability insurance in such amounts as Association desires to obtain; however, in no case will the amount of the commercial general liability insurance be less than \$1,000,000.00 combined single limit per occurrence on the basic policy. Unless the Manager is covered by the policy form language, Manager will be named as an additional insured on said policies or policy. The Association will hold Manager harmless from any liability on account of loss, damage or injury actually insured against by the Association, provided Manager: (i) notifies Association within ten (10) business days after Manager receives notice of any such loss, damage or injuries; (ii) takes no action (such as admission of liability) which bars Association from obtaining any protection afforded by any policy Association may hold; and (iii) agrees that Association will have the exclusive right, at Association's option, to conduct the defense to any claim, demand or suit within limits prescribed by the policy or policies of insurance. The Manager agrees to furnish whatever information is requested by the Association for the purpose of establishing the placement of insurance coverage's and shall aid and cooperate in every reasonable way with respect to such insurance and any loss thereunder.

3.2 Manager's Insurance. At Manager's expense, Manager will carry general liability insurance for Manager, which insurance is stipulated as secondary and excess to the Association's liability insurance. Manager must furnish a certificate evidencing worker's compensation or non-subscriber occupational accident insurance in compliance with statutory laws; Employers Liability with limits not less than \$500,000.00; Commercial General Liability with limits not less than \$1,000,000.00 combined single limit; Blanket Crime Insurance which includes employee dishonesty coverage, naming Association as loss payee; Auto Liability with limits not less than \$1,000,000.00. The certificates will have attached an endorsement that: (i) the Association will be given at least thirty (30) days prior notice of cancellation or any material change in coverage; (ii) waive rights of subrogation against the Association; and (iii) name the Association as an "additional insured" with respect to the Commercial General Liability and Auto Liability policies. The Association will not reimburse Manager for Manager's cost of such insurance except as otherwise provided in this Agreement...

4. Financial Reporting, Record Keeping and Accounting. All financial reporting, recordkeeping and accounting with respect to the Association and the Common Properties and

the ownership, management, operation, repair, and maintenance thereof, as well as all collections and expenditures relating thereto will be the responsibility of the Manager and will be adequately maintained. If the Association establishes a system of classification of accounting entries, Manager will adhere to such system or classification in any relevant data furnished to the Association by Manager.

The financial reports will include a comparison of monthly and year-to-date actual income and expense with the Approved Operating Budget for the Property. As additional support to the monthly financial statements, Manager will provide to the Association, on request, copies of the following: (i) bank statements, bank deposits slips and bank reconciliations; (ii) detailed cash receipts and disbursement records; (iii) paid invoices; (iv) summaries of adjusting journal entries; and (v) supporting documentation for payroll, payroll taxes and employee benefits.

5. Bank Accounts.

5.1 The Manager will deposit all Assessments and other funds collected from the operation of the Association in a bank approved by the Association in a special account or accounts (hereinafter referred to the "Operating Account," whether one or more) for the Association. The bank will be informed in writing that the funds are held in trust for the Association. Out of the Operating Account, Manager will pay the operating expenses of the Association (including, without limitation, sums due to Manager pursuant to the terms of this Agreement) and any other payments relative to the Association as required by the terms of this Agreement. At any time that the Operating Account contains inadequate funds to meet current expenses and reasonable reserve, the Association will provide the needed funds for the Operating Account. Manager will attempt to provide the Association with advance notice of the need for additional operating funds.

5.2 Change of Banks. The Association may direct the Manager to change a depository bank or the depository arrangements.

5.3 Access to Account. Through the use of signature cards, authorized representatives of the Association will be permitted access to any and all funds of the bank accounts described in Paragraph 5.1. Manager's authority to draw against such accounts may be terminated at any time by the Association upon fifteen (15) days' written notice to Manager. In the event of such a termination, the Association will assume full liability for all existing financial obligations for the Association which were incurred prior to such termination by the Manager pursuant to and in accordance with, the terms of this Agreement.

6. Payments of Expenses.

6.1 Manager's Costs to be Reimbursed. All costs of the gross salary and wages or pro-rata share thereof, payroll taxes, insurance, workers compensation, and other benefits of the on-site employees working for the benefit of the Association, and employees required to properly, adequately, safely and economically manage, operate, and maintain the

Association will be deemed reimbursable costs to be charged initially to Manager in accordance with the written schedule described in Paragraph 2.3 of this Agreement setting out such salaries and wages and other benefits from the Association to Manager, but to be paid by the Association or for which the Association will reimburse Manager, if paid by Manager. Reimbursement of Manager for such employees requires that said employees have been identified by position and enumerated on the schedule to be furnished to the Association by Manager and approved by the Association. Manager will not be reimbursed for administrative costs or salaries incurred by or paid to supervisory personnel who are not full-time employees at the Property. Manager will be reimbursed for the following (unless such expenses are paid directly by the Association):

- (a) Unless the following described items are the result of the Manager's negligence, the Association will reimburse Manager for the costs to correct any violation of federal, state and municipal laws, ordinances, regulations, and orders relative to the operation of the Association or to the maintenance and repair of the Common Properties, or relative to the rules, regulations, or orders of the local fire inspection department, the agency or board (state or local) of casualty insurance underwriters, or other similar body.
- (b) Actual and reasonable cost of making all repairs, decorations and alterations.
- (c) Costs incurred by Manager in connection with any service agreement entered by Manager in accordance with authorization in this Agreement or approved of by the Association
- (d) Cost of collection of delinquent Assessments including, but not limited to, court fees paid in the course of collection.
- (e) Cost of printed forms, postage, and supplies required for use for the benefit of the Association.
- (f) Costs of communications with Owners.
- (g) Cost of capital expenditures subject to the restrictions set forth in this Agreement.
- (h) All out-of-pocket expenses incurred by Manager in the normal course of doing business on behalf of the Association, including but not limited to long distance telephone calls, copying, and mailing costs.
- (i) Cost of Association-approved advertising.

6.2 Manager's Cost Not to be Reimbursed. Except to the extent that such costs and expenses are approved for payment by the Association, the following expenses or costs incurred by or on behalf of Manager in connection with the management of the Association will be at the sole cost and expense of Manager and will not be reimbursed by the Association:

- (a) Costs, expenses and fines contributable to losses arising from negligence or fraud on the part of Manager or Manager's employees, or caused by the failure of Manager or Manager's employees to comply with all laws, rules, regulations and ordinances for which Manager is responsible for compliance under the terms of this Agreement.
- (b) Cost of all salary, payroll taxes, insurance or other benefits, or bonuses paid by Manager to or for the benefit of Manager's employees unless such bonuses have prior written approval of the Association.

6.3 Consents and Approvals. The Association's consents or approvals may be given only by the representative(s) of the Association designated in writing by the Association. Notice of any change in the Associations' representative will be provided to Manager by notice given in accordance with Paragraph 9 of this Agreement. All such consents or approvals must be in writing to the extent that written notice is required under the terms of this Agreement. Until notified otherwise, the Association's initial representative(s) authorized to give consents and approvals under the terms of this Agreement are:

HOA Contact Information:

Name: David McClure, 2019 President of the Association
Address: 4012 109th St.
Lubbock, TX 79423
Email: dpmcluretx@sbcglobal.net

7. Term and Termination.

7.1. Term. This Agreement is for a term of twenty-four (24) months, subject to the provisions of this Paragraph 7. The term of this Agreement will commence on January 1, 2020, and will expire on December 31, 2021. At that time, all elements of this Agreement will be reviewed for applicability. Unless amendments are made at that time, this Agreement will be automatically renewed on an annual basis unless terminated in accordance with this Paragraph 7.

7.2 Termination for Cause. This Agreement will terminate immediately without further action from the Association in the event Manager breaches any of its obligations to the Association under the terms of this Agreement (herein defined to be "default") and fails to cure such default within thirty (30) days after receipt of written notice from the Association specifying the nature of such default.

7.3 Termination without Notice. Cessation on the Manager's part to continue to do business; or bankruptcy, insolvency, or assignment for the benefit of the creditors of the Manager will cause an immediate termination of the Agreement without notice.

7.4. Termination by Either Party. After the initial term stated in Paragraph 7.1 of this Agreement, either party may terminate this Agreement without cause at any time upon at least thirty (30) days written notice to the other party.

7.5 Obligations After Termination. Upon any termination of this Agreement, the obligations of the parties will cease as of the date specified in the notice of termination. Upon termination of this Agreement for any reason, Manager will deliver to the Association all records, contracts, receipts for Assessments paid, unpaid bills, and other papers or documents which are in Manager's possession and which relate to the Association; and, Manager will assign and convey to the Association all service contracts and personal property relating to or used in the operation and maintenance of the Association, except any personal property which was paid for and is owned by the Manager. At its own cost and expense, the Manager will remove all signs that it may have placed at the property of the Association indicating that it is the manager of same. Upon or before the date of termination, the Association will pay Manager all compensation owing to the Manager through the date of termination.

8. Legal Matters. Manager may, at the Association's approval and expense, engage legal counsel to provide legal advice as necessary and to and cause such legal proceedings to be initiated as may be necessary to collect Assessments and enforce the covenants, conditions, and restrictions contained in the Declaration. Manager is not responsible for the compliance of the Association with any law, ordinance, regulation, or rule unless the Association has first instructed the Manager to perform an action for the purpose of compliance with an applicable law. Except as may be delegated to Manager in writing by the Association, the Association is responsible for compliance with all laws, ordinances, regulations, and rules governing the operation, maintenance, and governance of the Association, including but not limited to the Texas Residential Property Owners Protection Act (Chapter 209, *Texas Property Code*) and Chapters 202 and 207 of the *Texas Property Code*.

9. Notices. All notice, demands, consents and reports provided for in this Agreement which are required to be in writing shall be given to the parties at the address set forth below or at such other address as they individually may specify thereafter in writing:

For the Association:

ORCHARD PARK HOMEOWNERS ASSOCIATION, INC
Attention: David McClure
Address: 4012 109th St.
Town: Lubbock, TX 79423
Email: Dpmccluretx@sbcglobal.net

For Manager:

TEXAS HAWKIZE PROPERTY MANAGEMENT, LLC
Attention: Ms. Brenda Hawkins

3917 114th St., Ste. B
Lubbock, Texas 79423

Such notice or other communication may be mailed by United State Registered or Certified Mail return requested, postage prepaid and may be deposited in any United States Post Office or a depository for the receipt of mail regularly maintained by the Post Office. Notice may also be by fax to the numbers state above. Such notice, demands, consents and reports may also be delivered by hand or by any other method or means permitted by law.

10. Miscellaneous Provisions.

10.1 No Assignment. This Agreement is not assignable by either party.

10.2 Amendments. Any amendments, additions, or deletions to this Agreement are void unless first approved by the parties in writing.

10.3 Headings. All Headings are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.

10.4 Representations. Manager represents and warrants that it is fully qualified and licensed to the extent required by law, to manage real estate and perform all obligations assumed by Manager hereunder.

10.5.1 Manager's Indemnification. Subject to Association's compliance with the terms and conditions set forth in this Agreement, Manager agrees to indemnify and hold harmless Association and all of its officers, directors, employees, agents, and representatives (collectively, "Association Indemnitees") against any and all costs, losses, liabilities, expenses (including reasonable attorney fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred (collectively, "Losses") in connection with third party claims against any Association Indemnitee that result from any act or omission constituting gross negligence or willful misconduct by any officer, director, partner, agent, or employee of Manager in connection with Manager's performance under the Management Agreement, unless Losses incurred by Association would customarily be covered by Association's property or commercial liability insurance applying typical insurance industry standards.

10.5.2 Owner's Indemnification. Subject to Manager's compliance with the terms and conditions set forth in this Agreement, Association agrees to indemnify and hold harmless Manager and all of its officers, directors, employees, agents, and representatives (collectively, "Manager Indemnitees") against any Losses up to the amount of \$1,000,000 in connection with third party claims against any Manager Indemnitee:

- (a) For property damage or bodily injury that Manager becomes legally obligated to pay and that arises from its performance under the Management Agreement:

- (b) That result from any act or omission by or on behalf of Manager in connection with Manager's actions under the Management Agreement:
- (i) Unless the act or omission constitutes gross negligence or willful misconduct, in which event the Manager Indemnitees will not be indemnified under this Agreement; or
 - (ii) Unless the act or omission: (A) is not permitted by the Management Agreement, or (B) is not within the scope of Manager's duties under the Management Agreement, (C) is not within Manager's delegated authority under the Management Agreement, (D) constitutes intentional torts on the part of the Manager or those acting on its behalf, or (E) would subject Manager to criminal liability; or
 - (iii) Unless the failure to comply, by Manager or those acting on its behalf, with Association's policies and procedures as promulgated by Association, was the result of willful misconduct or gross negligence, and the Losses to be indemnified are directly attributable to the failure to comply; or
- (c) That result from any act or omission constituting gross negligence or willful misconduct by the Association or those acting on its behalf in connection with the Management Agreement.

Notwithstanding anything herein to the contrary, Manager acknowledges and agrees that in the event that any of the Losses of Manager Indemnitees that might be eligible for indemnification hereunder are covered by Manager's insurance, then Manager will be indemnified only to the extent of any uninsured Losses. The amount of Manager's insurance deductible will not be subject to this indemnification. It is agreed that this indemnity will be void if Manager fails to carry the insurance as required in Section 3.2.

10.6 Attorney's Fees. If any party incurs reasonable expenses of any kind, including without limitation attorney's fees, in order to enforce the terms of this Agreement, such party is entitled to recover such expenses from the party against whom enforcement actions were taken.

10.7. Complete Agreement. This Agreement and the attached Exhibits supersede and take the place of any and all previous agreements entered into by and between the parties hereto. The Exhibits attached to this Agreement are intended to be part of this Agreement for all purposes; provided however, to the extent there is an inconsistency between the Agreement and any Exhibit hereto, the terms of the Agreement shall control.

In witness thereof, the parties have executed this Agreement as of the date and year first above written.

THE ASSOCIATION:

ORCHARD PARK HOMEOWNERS
ASSOCIATION, INC., a Texas nonprofit
corporation

By: 

Print Name: David McClure

Title: President

MANAGER:

TEXAS HAWKIZE PROPERTY
MANAGEMENT, LLC, a Texas
limited liability company

By: _____

Print Name: Brenda B. Hawkins

Title: _____

EXHIBIT "A"
FEE SCHEDULE

Management Services

Monthly Management Fees -

Price
\$1,750.00

One-Time Fees:

Setup/Conversion

\$400.00

Collection Management Fee Each Occurrence (lien/foreclosure)

\$ 50.00

Certification Processing Fee (billed to buyer/seller at closing)

\$ 100.00

Current Owner Search (returned mail, lender foreclosure, etc.)

\$ 15.00

Ongoing Monthly Costs

Statements/Coupon Books/Supplies & Postage

Billed at cost

Mailing Services

Billed at cost

Miscellaneous/Optional Costs

Newsletter production services (per page)

\$ 25.00

Social Media maintenance

\$ 25.00/hr

Special event coordination/administration

Priced per event

Capital Expenditure Project Management

10% of project

EXHIBIT “B”
INITIAL SCHEDULE OF EMPLOYEES

Brenda B. Hawkins
Carol Lindsey-Mize
John W. Hawkins
Merritt Mize
Anita Ward