

# PROPERTY MANAGEMENT AGREEMENT

This agreement is entered into by and between TEMPLE VALLEY RANCH PROPERTY OWNERS ASSOCIATION, INC (the "Association") and Colby Property Management (the "Manager"). This agreement shall be referred to hereafter as the "Agreement" or the "Management Agreement". The Commencement Date on which Manager shall take over management of the Association is November 1, 2018.

The Association hereby contracts with Manager as an independent contractor, with agency authority, on an exclusive basis to manage the Association as described herein.

## [1] THE COMMUNITY

The Community is the Valley Ranch Addition Subdivision. The legal description of the property governed by the Association (the "Property") is contained in the Declaration of Covenants, Conditions, Easement and Restrictions or similar document (the "Declaration") and as recorded in the Bell County Office of Public Records Document 2005-035646, et al. The plat for the subdivision is recorded under Bell County Office of Public Records Cabinet D, Plat 21-A, et al.

## [2] MANAGEMENT RESPONSIBILITY AND AUTHORITY.

Subject to the terms of this agreement, Manager shall have the duty and authority to manage Association, including the following responsibilities.

(1) *Due diligence.* At Board direction, Manager shall generally do and perform or cause to be done and performed all acts and things reasonably necessary to assure proper and efficient management and operation of the Association in accordance with the governing documents and state law, as well as the maintenance and appearance of the common elements and/or common areas. Manager shall use due diligence in management of the Association and maintenance of the common area under the terms of this Agreement.

(2) *Association legal documents.* Manager shall become familiar with Association documents, including the corporate charter, declaration, rules and regulations, bylaws, policies of the Association regarding fines, collections and foreclosures.

(3) *Attendance at meetings.* Manager shall prepare for and attend all monthly or quarterly Board meetings and the annual Association membership meeting, and shall prepare and mail out Association meeting notices as requested. Manager shall be compensated for additional special meetings on a reasonable hourly basis. Manager shall be compensated on an hourly basis for any Board or Association meeting lasting longer than two hours with the exception of the Annual Meeting. Manager's hourly fee after two hours is \$75.00 per hour.

(4) *Minutes of meeting.* Unless requested otherwise, the Property Manager shall be responsible for preparing minutes of Board meeting and Association meeting, including regular and specially called meetings.

(5) *Maintenance of the common elements.* With Board approval, Manager shall contract for and oversee the maintenance of the common elements and/or common areas, including (if applicable) amenity centers, parking lots, landscaping, garbage receptacles, playground equipment, trails, detention or drainage facilities, street sweeping as applicable, and any other agreed upon common element.

(6) *Property Inspection.* Manager shall inspect the Property twice monthly to determine needed maintenance, cleanup or repairs to the common area and to ascertain visible rule or declaration violations by owners or tenants.

(7) *City/state inspections.* Manager shall coordinate with appropriate parties for governmental inspections for any regulated common elements.

(8) *Contract services for the Association.* Manager shall, as directed by the Board from time to time, make contracts in the name of the Association acting as agent for the Association, for common area electricity, gas, water, sewer, telephone, trash removal, cleaning and lawn maintenance, or any other services deemed as necessary.

(9) *Purchase of supplies.* As agents for the Association, Manager shall purchase supplies, chemicals and equipment, as needed, for maintenance.

(10) *Authority to hire and fire personnel.* With the Board's approval, Manager shall have authority to hire, fire, control and direct employees or contractors of the Manager who will be doing the day-to-day managing of the Association. Manager may hire temporary onsite personnel as needed, also with Board approval.

(11) *Payment of expenses.* Manager shall have authority to pay, on the Association's behalf and with Association funds, any indebtedness, property taxes, sales taxes, and all other expenses of the Association, subject to the limitations set forth in this agreement.

(12) *Budget preparation.* Manager shall timely prepare operating budgets for the review and approval of the Board and/or the Association.

(13) *Capital expenditure recommendations.* Manager shall make recommendations to the Association for any capital expenditures for common areas, and utility conservation measures which are reasonably needed in Manager's judgment. Manager's right to expend money to remedy unsafe or unlawful conditions shall be subject to the Association's approval and funding of any costs of same. In event of an emergency, Manager shall be authorized to expend Association funds in the amount of \$500.00 without prior approval.

(14) *Taxes of Association Property.* Manager shall coordinate with the local taxing authorities regarding any taxes on Association common area or commonly owned facilities that should be taxed pro rata to the individual members of the Association on their dwelling ad valorem tax bill, rather than to the Association. This is allowed under state statute.

(15) *Collection of Association revenues.* Manager shall use due diligence in the collection of all sums due to the Association in the normal course of operations, including monthly assessments, late fees, hot check fees, damages, interest, fines and attorneys fees. Collection of delinquent monies due the association shall be included in Manager's monthly management fee to the Association; and all late fees and hot check fees shall belong to the Association, however Collection Fees as called out in Exhibit B shall be retained by the Manager at the time they are collected.

(16) *Reports to the Board.* Manager shall provide to the Association's Board of Directors (the "Board") itemized monthly and annual statements of receipts and expenses of the Association, as well as a register of the checks issued, a list of delinquencies and other appropriate information.

(17) *Association membership roster.* Manager shall maintain a membership roster, showing names and mailing addresses of all Association members that have been provided to the Association.

(18) *Custodian of Association records.* Manager shall be responsible for the custody of all Association records, including corporate charter, declaration, bylaws, rules and regulations, membership lists, board minutes, income tax returns, letters to the memberships, invoices, budgets, checkbooks, deposit slips, bank statements, etc.

(19) *Income tax return.* Manager shall coordinate with the Association's accountant for filing annual income tax returns for the Association.

(20) *Enforcement of declarations and rules.* Manager shall have initial responsibility for enforcing the declarations and rules, in accordance with Board direction, including enforcement against owners, tenants, visitors, and workmen. Enforcement may involve oral, emailed or written notices, fines, suspension of voting, suspension of common area use rights, as permitted under declaration or state law, with the assistance of the Association's attorney as may be authorized by the Board from time to time.

(21) *Towing.* Manager shall be responsible for making contractual arrangements for towing of illegally parked vehicles in common area, in accordance with Board policy or Association rules and regulations. Calling the towing company to tow specific vehicles shall be the responsibility of the Board of Directors and/or Management.

(22) *Lawsuits.* Manager shall keep up to date the information at the Texas Secretary of State's office regarding the Association's corporate registered agent for service and registered office. Manager shall accept service of citation for any lawsuit against the Association and shall work with the Association's attorney or insurance company attorneys regarding lawsuits by or against the Association.

(23) *Interface with title companies, casualty insurance agents, real estate agents, and city officials.* Manager shall be responsible for answering questions from title insurance companies, casualty insurance companies, real estate sales and leasing agents, and city officials about the Association.

(24) *Compliance with laws.* Manager and Manager's employees shall comply with all state, local and federal laws in the Management of the Association. Manager shall use reasonable diligence to discover and correct conditions as directed by the Board which are (a) hazardous to human health and safety, (b) detrimental to the preservation of the Property, and (c) in violation of local, state, or federal laws.

(25) *Assistance regarding laws applicable to the Association.* Upon consultation with an attorney as needed, Management Company shall assist the Association in:

- (a) compliance with state statutes and local ordinances regarding towing of illegally parked vehicles;
- (b) compliance with state statutes regarding security device duties of owners who rent their units; and state and local laws regarding common area lighting and common area safety and security;
- (c) compliance with state structural pest control laws regarding building exteriors and landscaped areas;
- (d) compliance with ADA disability access requirements for common areas and any onsite offices;
- (e) compliance with federal ADA and state disability employment laws when hiring employees or contractors for the Association;
- (f) compliance with local ordinances regarding fire lane designations, common area lighting, and fire hazards; and

(g) Recommending corporate charter changes to minimize risks of personal liability for members of the Association's Board of Directors;

(26) *Purchase of insurance.* Manager shall assist the Association in the purchase of insurance according to Section [14].

(27) *Summary of insurance.* Manager shall cause to be prepared the insurance summary which is required to be attached to resale certificates.

(28) *Casualty losses.* Manager shall advise the Association on casualty losses when they occur and shall, with the assistance of the Association's attorney, as necessary, be responsible for working with the insurance carrier on settlements and/or lawsuits to recover proceeds due the Association. Any settlements shall require Board approval.

(29) *Sales taxes.* Manager shall use best efforts to comply with sales tax laws as set forth in Section [12].

(30) *Resale certificates and related documents.* Manager shall, on behalf of the Association, prepare resale certificates and resale certificate updates for owners of units or lots, as needed, and shall upon request provide owners with copies of relevant documents, such copies of the declarations, bylaws, rules, minutes, model residential or a person designated by such owner upon request of the unit owner or the owner's agent. Payment for such documents shall be made payable to the Manager. This agreement authorizes the Manager to be reimbursed when the owner, title company, or other third party makes payment to the Association in error for these services when Manager is in possession of a written invoice for same.

(31) *Transfer of ownership.* As Manager becomes aware of transfers of ownership and consummated sales of lots or units, it will record in the Association records the name, lots or identification, and mailing address and telephone number of the new owner. Transfer fees ("new owner set-up fees") shall be paid to Manager by the Transferee according to the agreed on rate schedule.

(32) *Establish bank accounts for the Association.* The Manager is authorized, effective the signing date of this Agreement, to establish bank accounts for the Association, and to be placed on the Association accounts as a signer.

### **[3] STATUS AS INDEPENDENT CONTRACTOR AND AGENT.**

As between the Association and Manager, neither Manager nor any employee, servant, contractor or subcontractor of Manager shall be or shall be deemed to be the employee, servant, contractor or subcontractor of the Association. However, Manager and its employees shall have authority, as agents of the Association in the Association's name, to contract with the various suppliers, contractors, insurance companies, utility companies, and service companies necessary for operation of the Association and maintenance of the common area. Insofar as the Association and members of the public are concerned, the Association acknowledges that Manager acts as an agent of the Association under public liability laws and that this Management Agreement cannot alter such relationship.

### **[4] MANAGEMENT FEES.**

The Association agrees to pay Manager a monthly management fee, payable on the 1st of the month. The monthly management fee will be based on the number of Lots with conveyed homes using the rates in Exhibit C while the Agreement is in effect. Such fees may be paid by the Manager from the operations account for the Association. As additional compensation for Manager's service, all payments by unit or lot owners or their agents for resale certificates, transfer fees, declarations, bylaws, and rules or other instruments as allowed shall be made directly to Manager. The Management Fee and the Management Fee schedule in Exhibit C is subject to change upon written consent by both parties.

### **[5] COMMENCEMENT, DURATION, AND TERMINATION OF MANAGEMENT AGREEMENT.**

(a) Terms of Management Agreement. Manager shall take over management of the Property on the Commencement Date and shall continue management of the Property until either party gives notice in (c) below.

(b) Renewal; Term. The Initial Term of this Agreement shall be 1 year. After the Initial Term, the term of this Agreement shall automatically extend by one month on the 15<sup>th</sup> of the last month being managed. By way of example, the first extension of this Agreement will take place on 11/15/2019, and will extend the Agreement by one month to 12/31/2019. Renewal extensions do not take place after termination notice is given.

(c) Termination. The Agreement may be terminated by either party at any time, with or without cause, by providing written notice to the other party. The Association must give at least 30 day notice to the Manager. The Manager must give at least 90 day written notice to the Association. The Management Agreement remains in effect during the final 30 day or 90 day service period, whichever is applicable, and does not end mid-month.

(d) Procedures for termination. In event of termination of this Agreement, the procedures set forth in Section [20] shall apply.

**[6] INITIAL FUNDING OF MANAGEMENT OPERATING ACCOUNT.**

At the commencement of management of the Association by Manager, the Association shall make available sufficient funds in the operating account for the Association.

**[7] REPAIRS TO COMMON AREAS AND UNITS OR LOTS.**

Manager shall use its experience and best judgment on methods, timing and choice of personnel or contractors for the purpose of making needed maintenance, repairs or improvements to the common area. If repair or maintenance personnel or contractors are affiliated or associated with Manager, such information shall be disclosed to the Board in advance.

**[8] CONTROL OF FUNDS; ACCOUNTING.**

Manager shall deposit all monies of the Association in a bank account(s) in the name of the Association. Manager shall at all times keep and maintain full, true and accurate books and records to reflect fully all monies received and all monies paid out in connection with the management of the Association. Books and records may be kept on computer. Manager's employees or contractors who have authority to deposit monies or write checks on connection with the Association shall be bonded. Accounting and bookkeeping shall be done on a cash basis. If Board requests or the Declaration require an independent audit of the books and records of the Association, and if fiscal malfeasance or mismanagement by the Manager in excess of 1% of the total Annual Budget is discovered, the cost of the audit will be borne as an expense of the Manager, not the Association; otherwise the cost of the audit shall be considered an expense of the Association.

**[9] CHARGES TO OWNERS FOR DOCUMENTS.**

Manager shall determine the amount of all charges to unit owners for information such as resale certificates and copies of the declaration, bylaws, rules, minutes, and financial records. The cost for various documents is detailed in the Service Fee List which is attached.

**[10] RE SALE CERTIFICATES.**

Resale certificates and any accompanying documents shall be prepared by Manager upon request by unit or lot owners or their agents and distributed to the owner or his agent. For purpose of this contract, the following definitions apply: "Resale certificates" are certificates issued by the Association similar to TREC No 37-1 Subdivision Information. "Transfer fees" are fees charged by the Manager for processing the paperwork for new owner, e.g., changes in ownership records, setting up accounts receivable, sending the new owner payment coupons (if applicable), rules, and other relevant information. Manager is authorized to issue and sign such resale certificates for the Association.

**[11] ASSOCIATION EXPENSES.**

(a) *Operating expenses.* Manager shall have authority to incur and payout of the Association operating account on Association's behalf, expenses and disbursements which are necessary for the management of the Association in the reasonable judgment of Manager, and in accordance with the approved budget for the Association. Funds may be removed from the Association's reserve account only upon express approval of the Board, or in emergencies, the approval of the Board president. In the event the Board president and Manager are the same, the approval of the Board treasurer shall suffice.

(b) *Contract services.* With express approval of the Board, Manager shall have authority to make contracts in the name of Association and on Association's behalf for common area electricity, gas, water, sewer, telephone, trash removal, common element and common area repairs, pest control for common areas, pest control in individual units or lots as expressly authorized by the Board, security service, landscape installation and maintenance, preparation of IRS returns, and/or other services as Manager shall deem reasonably necessary, but in no event shall Manager become liable for any indebtedness related to the Property. Manager may terminate such contracts for cause. If Association employs onsite personnel (as distinguished from Manager's representative who offices in Manager's main office), then the expenses of onsite employee drug test shall be considered Association expenses.

(c) *Supplies and services.* Manager shall have authority to incur, purchase, and pay for out of the Association's operating account, as agent of the Association and on Association's behalf: all onsite maintenance supplies, tools and equipment, and other items and services necessary for the proper management, operation and maintenance of Association and the common area. Manager shall pay for, with Association funds, all license, permits, taxes and governmental charges which the Association may be required by law to pay in connection with the management, operation and maintenance of the Association and the common area, Accountant's fees for Federal income tax

returns or audits of the Association shall be considered an expense of the Association. Long distance calls concerning the Association shall be considered an expense of the Association.

(d) *Attorneys fees.* Manager shall have authority, upon approval of the Board, to retain the services of an attorney when in the judgment of Manager and the Board, it is necessary for the Association to obtain immediate advice on Association problems which have potential for lawsuits. Otherwise, retention of attorneys may be done only upon prior approval of the board, on a case by case basis or in accordance with written Board policy on retaining the services of an attorney.

(e) *When Board approval is required for expenditure.* If any one item of expenditure (other than insurance, taxes, utilities, and management fees) exceeds \$500.00, Manager shall secure prior approval of the Board for such expenditures except in an emergency. An expenditure previously approved by the Board and/or the Association in a budget or via an approved bid procedure shall be considered prior approval.

#### **[12] SALES TAX.**

Association acknowledges that sales taxes must be paid, as required by state law, on certain products and services which are purchased from or furnished by third-party vendors for the benefit of Association, including but not limited to materials, tools, supplies, landscape maintenance, landscape installation, cleaning, repair (commercial condominiums only), security, trash removal, etc. Association acknowledges that when taxable invoices are received from third-party vendors without the tax amount stated or without a notation on the invoice by the vendor stating "all sales taxes included", Manager must pay sales tax on the amount of the invoice.

#### **[13] MANAGEMENT CERTIFICATE AND SIGN.**

(a) The Association and Manager shall execute the "Management Certificate" form to assist title insurance companies in determining whom it contact to find out about unpaid assessments, Association lien releases, resale certificates, etc. Such notice shall be recorded at the Association's expense.

(b) Subject to the Association's prior approval, Manager may place a sign or signs on the Property indicating that it is managed by Manager.

#### **[14] INSURANCE.**

Manager shall advise and consult with the Association concerning all insurance:

(a) *The Association's fire and extended coverage insurance.* Manager shall, on behalf of the Association and with prior approval of the Board, contract for fire and extended coverage insurance on common areas and on any other improvements required by the declaration to be insured by the Association, including vandalism and malicious mischief. All known mortgagees of the various units or lots shall be named as mortgagees on the fire and casualty policy. Manager shall obtain and use best efforts to keep current a list of names, addresses, and telephone numbers of all mortgagees. Certificates of such insurance shall be provided by the insurance agent to any lender(s) having a lien on a unit or lot.

(b) *The Association's liability insurance.* With express authorization of the Board, Manager shall contract on Association's behalf and in the name of the Association for comprehensive general liability insurance with broad form endorsement, along with any automobile liability insurance for non-owned automobile and used by any person in the employ of the Association or Manager driving his own or a borrowed vehicle on Association business. Manager shall be named as an additional insured on the Association's liability insurance policies.

(c) *Subcontractor insurance.* Manager shall require any contractor or subcontractors engaged by Manager on behalf of the association in connection with Manager's duties hereunder to maintain liability insurance coverage's in amounts acceptable to the Association in order to avoid potential liability for the Association or Manager. Manager shall request and retain certificates of insurance for all contractors and subcontractors, as applicable.

(d) *Evidence of insurance.* If the Association contracts for any insurance relating to the Property, Manager shall be the custodian of any policies for certificates in insurance furnished by the carriers and shall promptly provide the Association a copy same upon the Association's request. If the Association contracts directly for any insurance relating to the Property, the Association shall promptly provide Manager with a copy of such policies, including waivers of subrogation or satisfactory evidence of same.

(e) *Manager's insurance.* Manager shall maintain own insurance at Manager's own expense. Manager will also carry fidelity bond coverage for all employees handling Association's funds. Manager's fidelity bond shall be presented to a Board representative upon request.

**[15] WAIVER OF SUBROGATION.**

If waiver of subrogation is not contained in the form language of the insurance policy, Association or Manager may require that the other party's fire, casualty, or liability insurance policy contain a waiver of subrogation clause. For purposes of waiver of subrogation, Association and Manager release each other and their respective officers, directors, employees, and agents from any claims for loss, damage, or injury insured against under insurance policies carried by Association or Manager. The foregoing shall not apply to losses, damages, or injuries that are in excess of policy limits. Upon written request, Manager shall furnish to the Association copies of the policies of insurance referred to in this Agreement, including waivers of subrogation or satisfactory evidence of same.

**[16] INDEMNIFICATION.**

(a) *Reliance on data.* Association may rely on all data furnished to Association by Manager. Manager may rely on all data furnished to Manager by Association. Manager shall promptly contact the Association's insurance carrier and Association regarding threatened or actual litigation. Association shall promptly contact Manager regarding threatened or actual litigation.

(b) *Indemnification.* Manager shall indemnify and hold harmless Association, Association's officers, members, or affiliates from all claims, damages, lawsuits, cost, attorneys fees and other expenses in connection with acts or omissions of Manager within, outside of, or in violation of this Agreement. Association shall indemnify and hold harmless Manager from all claims, damages, lawsuits, cost, attorney fees, and other expenses in connection with the acts or omissions of the Association within, outside of, or in violation of this Agreement.

**[17] EXPENSES BORNE BY THE ASSOCIATION.**

Routine office supplies, copying, printing, and long distance calls directly related to the management of the Property shall be considered expenses of the Manager and are included in the Manager's Fee to the Association. Charges for postage, attorney fees, or other Association business shall be considered expenses of the Association. Subject to the foregoing, Association funds shall not be used for the payment of Manager's overhead, including the salary or compensation of Manager's representative assigned to the day-to-day administration of the association's affairs.

**[18] OWNERSHIP OF PERSONAL PROPERTY.**

All supplies, tools and equipment purchased by Manager with Association funds for use in onsite management, operation, and maintenance of the Association shall be delivered to and stored on the Property and shall be owned by the Association and used only in connection with the Property. Manager shall furnish to the Association an inventory of supplies, tools, and equipment located on the Property.

**[19] OWNERSHIP OF RECORDS.**

All minutes, utility and service agreements, contracts and amendments, correspondence and agreements with owners, owner notices, work order, invoices, tax returns, sales tax reports, and similar records regarding same shall be owned by the Association. The 'back office' software, databases, and servers used to manage the Association's books and accounting records shall be the property of the Manager, provided however, at any time while Manager is managing the association, the association may inspect all books, correspondence, and records and make copies of same at the expense of the Association. Any paper originals in the possession of Manager, as well as electronic copies of the managerial books, correspondence, and records shall be delivered to the Association after the last day of Management by the Manager.

*Website and Web Portal.* The Association website is provided as a service by the Developer. Developer and Manager will work together to ensure accurate and timely updates are made to the Association website by the Developer. Developer will provide a link to separate 'Owners Area' web portal hosted by the Manager which will provide owners additional information regarding their private accounts. The account data displayed by the Manager's web portal (account information, statements, violation histories, etc) are part of the books and records of the Association; the Manager's web portal pages, underlying code, graphics and other support objects are the property of the Manager.

**[20] TERMINATION OF MANAGEMENT AGREEMENT.**

The following shall apply to termination of this Agreement by either party:

(a) *Accounting and funds.* At the expiration or termination of this Agreement, the parties shall account to each other with respect to all matters that are outstanding. Manager shall make a full accounting of all revenues collected and

monies disbursed. All Association funds shall be turned over to the association, provided however, Manager may for 30 days after the termination of the term of this Management Agreement withhold funds in an amount reasonably sufficient to pay expenses previously incurred but not yet invoiced (including sums due Manager under this Agreement) and to close the association's bank accounts. Thereafter, all remaining monies shall be refunded to the Association.

(b) *Records*. At the termination of this Agreement, Manager shall turn over to the Association or the Association's designated representative the records which are owned by the Association as set forth in Section [19].

(c) *Keys the Association's personal property; and contract rights*. At the termination of this Management Agreement, Manager shall turn over to the Association or the Association's designated representative all keys, if any, to the Property which is in Manager's possession and all of the Association's personal property as described in Section [18]. If necessary, Manager shall assign to the Association all rights Manager may have in existing agreements, contracts, accounts receivable, claims, licenses, and permits relating to the operation of the Association and maintenance of the common area and the Property.

#### **[21] INFORMATION ABOUT THE ASSOCIATION.**

The Board, on behalf of the Association, will provide or assist Manager in obtaining, as soon as possible after the signing of the Agreement, the following information:

(a) the information called for in a resale certificate form;

(b) a recorded copy of the declaration and any amendments (showing volume and pages numbers of recording); a copy of the Association's corporate charter; and current copies of the by laws and any amendments thereto, rules and regulations, and resolutions of the Association;

(c) a subdivision map (or maps) showing the lot or lots subject to the declaration;

(d) a surveyor map of the Property showing locations, if applicable, of buildings, streets, parking areas, and cutoffs for water, gas, exterior lighting, electric, and sprinkler systems;

(e) An inventory of the personal property and tools of the Association to be left on the Property,

(f) the Association's files and past records;

(g) whether or not the Association has a federal income tax exemption under the Internal Revenue Code;

(h) whether or not the Association has a state franchise tax exemption as allowed under state law, and;

(i) whether the taxes for common areas are (1) billed directly to the Association, or (2) incorporated as a part of the taxes on the respective units or lots.

#### **[22] RENOVATIONS.**

In the event the Association desires to make major renovations to the common area in excess of \$50,000 for one project, Manager's fees for (1) analysis and submission of renovation plans and/or supervision, and (2) implementation of such plans, shall be separately negotiated by the Association and Manager, as the need arises.

#### **[23] CORPORATE RESOLUTIONS.**

The Association is a corporation, organized under the laws and currently in good standing with the State of Texas. The Association's name at the beginning of this Agreement is not an assumed name.

#### **[24] WARRANTIES.**

Manager makes the following representations and warranties to the Association.

(a) *Organization and licenses*. Manager is duly organized, validly existing, and in good standing under the laws of the State of Texas. At all times during the term hereof: Manager shall comply with all applicable laws in order to conduct business in Texas. Manager has and will continue to have the power and authority required to execute, deliver and perform this Agreement. Manager has and will continue to have sufficient resources to carry out Manager duties hereunder in a prompt, efficient and diligent manner. Manager has or will obtain all licenses and permits necessary to legally and validly execute, deliver and perform the Agreement.

#### **[25] NON WAIVER.**

The Association's or Manager's acceptance of past due sums or failure to complain of any action, non action, delayed payment, or default, whether singular or repetitive, shall not constitute a waiver of rights or obligations under this Agreement. The Association's or Manager's waiver of any rights or any defaults shall not constitute waiver of other rights, violations or defaults, or subsequent rights, violations or defaults under this Agreement.

#### **[26] MISCELLANEOUS.**

The Agreement contains the entire agreement of the parties. No other written or oral promises or representations have been made, and none shall be binding. This Agreement shall not be amended or changed except by written instrument, signed by both the Association and Manager. The representatives of the respective parties have no authority to amend or modify this Agreement except in writing. All payments and other sums due under the Agreement shall be made in the county where Manager is located. All other obligations of the parties shall be performed in such county except to the extent that a particular obligation must be physically necessary or performed in another county. Texas laws shall apply to this Agreement. This Agreement shall not be construed against either party more or less favorably by reason of authorship or origin of language. If any date of performance or exercise of a right ends on a Saturday, Sunday or state holiday, such date shall be automatically extended through the next business day. Either party may require that disputes between the parties be submitted to binding mediation prior to litigation. In the event of litigation under this Agreement, the prevailing parties shall recover attorney's fees from the non prevailing party, together with all out-of-pocket costs. If any provision of this Agreement is invalid under present or future laws, the remainder of the Agreement shall not be affected. All signatories to this Agreement warrant that they have been duly authorized to execute same and that no other signatures are necessary for the Agreement to be binding.

**[27] NOTICES.**

All notices require or permitted under this Agreement shall be deemed given of delivered personally or if mailed by certified mail, return receipt requested to the address set forth below. Delivery shall also be deemed if such notice is actually received by mail, private courier, or fax at such address. If any party changes such address, such party shall notify the other party of same by the notice procedures of this paragraph.

**[28] EFFECTIVE DATE OF AGREEMENT.**

The effective date of this Agreement is the date on which all of the undersigned have signed. The management Commencement Date is as stated in Section [5]. The date of this Agreement for identification purpose only shall be the Commencement Date shown at the top of page 1 of the Agreement.

**[29] ASSOCIATION'S COVENANT NOT TO HIRE MANAGER'S PERSONNEL.**

The Association covenants and agrees not to solicit or hire, directly or indirectly, the personnel of Colby Property Management for the purpose of providing management, maintenance, or supervisory services to the Association prior to or subsequent to the termination of this Agreement for a period of three (3) years.



**[32] EXHIBITS.**

The exhibits attached to this Agreement are as follows:

**Exhibit A** - Service Fee List

**Exhibit B** – Collection Policy

**Exhibit C** – Management Fee Schedule

**[33] AUTHORITY TO SIGN.**

All signatories to this Agreement warrant that they have been duly authorized to execute same and that no other signatures are necessary for the Agreement to be binding.

ASSOCIATION:

Temple Valley Ranch POA, Inc

By: Dean A. Stanfield  
(signature)  
Printed Name: Dean A. Stanfield

Title: President

Date: 26 July 2018

MANAGEMENT COMPANY:

Colby Property Management

By: Colby Colby  
(signature)  
Printed Name: Colby Colby

Title: President

Date: 20 July 2018

## Exhibit A - Schedule of Fees

### Temple Valley Ranch Property Owners Association, Inc

#### TO THE ASSOCIATION

Base Management Fee	Exhibit C <i>(flat fee)</i>
Transition Fee (one time)	WAIVED (covers 'set up' work)
Collection Actions by manager	Exhibit B
Certified/Return Receipt Letter Fees	At Cost
Postage	At Cost
Credit card payment acceptance	At Cost

#### These items are included in our base management fee:

Office Supplies	\$0 <i>(included in base fee)</i>
Welcome Packets	\$0 <i>(included in Transfer Fee)</i>
Telephone	\$0 <i>(included in base fee)</i>
HOA Website	n.a.
Online Board Portal	\$0 <i>(included in base fee)</i>
Online ACC Portal	if needed <i>(included in base fee)</i>
Financial Statements	\$0 <i>(included in base fee)</i>
ACH withdrawal service	\$0 <i>(included in base fee)</i>
Property inspections (3 week intervals)	\$0 <i>(included in base fee)</i>

#### TO THE HOMEOWNER

Resale Certificate	\$285 (to the Seller)
Transfer Fee	\$165 (to the Buyer/Transferee)

#### *There are no charges for routine items other companies charge for, such as:*

- Governing Documents
- Statement of Accounts
- Refinance Questionnaire completion
- Payment Plan set up and administration

## Exhibit B - Collection Policy

### Temple Valley Ranch Property Owners Association, Inc

Our collection program consists of the items listed below.

There will be a \$10.00 collection fee assessed to each delinquent homeowner's account for any account with an overdue balance of \$50.00 or more as of the last day of the calendar month or other date as dictated by your documents. This collection fee will be assessed in addition to any late fees assessed by the association. This fee will be charged directly to the homeowner and billed to his/her account and retained by the Manager.

<u>SERVICE</u>	<u>DATE SENT</u>	<u>COST PER TRANSACTION</u>
Late notice & invoice	30 days delinquent	Collection Fee: \$10.00 Late Fee: (see CCRs)
Demand Letter & invoice	60 days delinquent	Collection Fee: \$10.00 Late Fee: (see CCRs)
Intent to forward to Attorney; intent to file lien; invoice	90 days delinquent	Collection Fee: \$10.00 Late Fee: (see CCRs)
Late notice & invoice	Each month thereafter	Collection Fee: \$10.00 Late Fee: (see CCRs)
Forwarding to Attorney for any action	(At Board's request only)	<i>[No charge to Association]</i>
Filing paperwork for small claims court	(At Board's request only)	<i>[No charge to Association]</i>
Representing HOA in small claims court	(At Board's request only)	\$75/hour <i>[same rate as 'meeting overtime']</i>

## Exhibit C - Management Fee Schedule Temple Valley Ranch Property Owners Association, Inc

The monthly Management Fee called out for in Section [4] of the Agreement will be based on the number of conveyed Lots in the Association. This Schedule is based on a build out of 164 Lots; should the Developer increase the number of Lots in the Association by adding additional Sections or Phases, Manager and Association will revise this Schedule.

<u>LOTS SOLD</u>	<u>MONTHLY MANAGEMENT FEE</u>
up to 80	\$260
81-99	\$310
100-119	\$360
120-139	\$410
140+	\$460

By way of example, if the 100th lot is sold in September, the October Management Fee payable on 10/1 will be \$360.