

## MANAGEMENT AGREEMENT

This MANAGEMENT AGREEMENT (hereinafter referred to as the “Agreement”) is made this 21st day of October 2022, by and between **Smith Farms HOA** (hereinafter referred to as the “Association”), and METROPOLITAN PROPERTY MANAGEMENT, LLC (hereinafter referred to as the “Agent”) (hereinafter referred to collectively as the “Parties”).

### WITNESSETH

In consideration of the terms, conditions and covenants hereinafter set forth, the Parties hereto mutually agree as follows:

#### ARTICLE I: DEFINITIONS

For the purpose of this Agreement, the following terms shall have the meanings respectively ascribed to them by this Article.

- 1) *ASSOCIATION.* The entity responsible for the administration and management of the common property.
- 2) *COMMON ELEMENTS.* A part or parts of the property as set forth in the declaration in which all of the owners have an undivided interest.
- 3) *COMMON EXPENSES.* The expenses arising out of ownership of Common Elements for which the owners are liable to the Association in accordance with the declaration and bylaws.
- 4) *COMMON SURPLUS.* The excess of all receipts of the Association arising out of ownership of Common Elements over the amount of Common Expenses.

#### ARTICLE II: APPOINTMENT

The Association hereby appoints the Agent, and the Agent hereby accepts appointment on the terms and conditions hereinafter provided, as exclusive managing Agent of **Smith Farms HOA** an Association, located in the State of Tennessee. The Agent fully understands that the role of the Agent is to implement the decisions and policy established by the Board of Directors of the Association. The Board of Directors of the Association has control of all common areas and amenities and is responsible for the administration of the programs, services, and activities of the Association as established in the founding documents and as amplified or clarified by resolution.

#### ARTICLE III: SPECIFIC DUTIES OF AGENT

Subject to the direction of the Board of the Association, the Agent’s functions, duties, responsibilities and authority shall include the following:

1. Maintain businesslike relations with owners whose service requests shall be received, considered and recorded in systematic fashion in order to show the action taken with respect to each. Complaints of a serious nature shall, after reasonable investigation, be reported to the Association Board of Directors with the appropriate recommendations.
2. As a part of a continuing program, use its best efforts to secure full performance by the owners of all items and maintenance for which they are responsible.
3. Collect all regular and special assessments due from the owners. The Association hereby authorizes and directs the Agent to request, demand, collect, and receive and receipt any and all assessments,

charges, fees or liens which may at any time be or become due to the Association and, at the expense of the Association member necessitating collection activities, take such action in the name of the Association by way of legal process or authority granted the Association under the documents as may be required for the collection of delinquent assessments or other charges. The Agent's responsibility for collecting funds includes the printing and distribution of coupon books, notices and envelopes required for such collection. The Agent shall implement collection proceedings on any account which is unpaid as of the 20<sup>th</sup> of the following month for which it was due, unless otherwise advised by the Board of Directors or stated in the Association's documents. The Agent warrants that its employees who handle or are responsible for the safekeeping of Association's funds shall be covered by a fidelity bond, at Agent's cost, in a minimum amount of Three Hundred and Fifty Thousand Dollars (\$350,000.00) with an insurance company determined by Agent.

4. On the basis of any operating schedule approved by the Board of Directors, investigate, hire, pay, supervise and discharge personnel and independent contractors necessary to be employed in order to maintain and operate the Association and the Association's Common Elements. All independent contractors will be hired at the expense of the Association and ideally expended for in the Association's annual operating budget. Neither the Association nor the Agent on behalf of the Association shall contract with any vendors or contractors that do not have liability insurance and worker's compensation coverage adequate to protect against risks associated with the type of work such contractors and vendors perform.
5. Cause the property which is to be maintained by the Association to be maintained according to standards acceptable to the Association, including but not limited to lawn maintenance, landscaping, painting, road/curb maintenance, lighting, tennis courts, guard house, gates, leaf/debris removal, drainage system maintenance and such other normal maintenance and repair work as may be necessary, subject to limitations imposed by the budget, the Association, and those contained in this Agreement.
6. Agent will not authorize any expenditure for repair, maintenance or replacement in excess of the amount budgeted therefore or Five Hundred Dollars (\$500.00), whichever is greater, unless Agent is specifically authorized by the Association. Provided, in the event of an emergency involving manifest danger to life or property, or immediately necessary for the preservation and safety of the property, or the safety of the members, or required to avoid the suspension of any necessary service to the property, an expenditure in excess of Five Hundred Dollars (\$500.00) may be made by the Agent, it being understood and agreed that the Agent will, if at all reasonably possible, confer with the designated person of the Association prior to making any such expenditure. The Agent will not undertake any expenditure for repair, maintenance or replacement, for which a budget may or may not exist, that is not a routine expenditure such as utilities, lawn maintenance and other contracted services. For non-routine expenses or for new projects, Agent will act only on specific Board authorization.
7. Take such action as may be necessary to cause compliance with any and all orders or requirements affecting the premises placed therein by any Federal, State, County, Municipal or other governmental or regulatory authority, subject to the same limitation contained in the Agreement in connection with making repairs or alterations. The Agent shall not take any action under this Section, so long as the Association is contesting the order or requirement. The Agent shall notify the Association within two (2) working days of all such notices and orders.
8. Subject to approval of the Association, and at the expense of the Association, place orders for such equipment, tools, appliances, materials and supplies as are necessary to properly maintain and repair the property.
9. At the expense of the Association, (but within the limitations of the budget) cause to be placed and kept in force all forms of insurance of the type and in the amount requested by the Association, in

writing, to protect the Association and its owners, as shall be requested by the Association. The Agent shall furnish to the Board of Directors of the Association copies of all such insurance policies maintained and kept in force. The Agent shall cooperate in investigating and reporting all accidents or claims for damage relating to the ownership, operation and maintenance of the property, and shall assist in the preparation of claims when required and follow-up on payment.

10. From the funds collected and deposited in the special and operating accounts as hereinafter provided, or as provided in the Association documents, cause to be disbursed regularly and punctually:
  - a) Fire and other property insurance premiums, electrical, water, sewer, trash and similar charges, including any amount specified by the Association for allocation to reserves;
  - b) The Agent's compensation and any contractor bills and expenses;
  - c) Other sums otherwise due and payable by the Association as operating expenses authorized to be incurred under the terms of this Agreement; and
  - d) After disbursement in the order herein specified, any balance remaining in any such accounts may be disbursed or transferred from time to time, but only as specifically directed by the Board of Directors.
11. Maintain a system of office records, books and accounts, in regard to the Agent's duties hereunder in a manner, which complies with the requirements of the Tennessee Not For Profit Corporation Act, and in a manner approved by the Association. Such records shall be kept in the office of the Agent and shall be available for inspection by the representative of the Association, by appointment, at reasonable times during normal business hours.
12. The Agent shall furnish to the Board of Directors of the Association no later than the 25<sup>th</sup> day after each month the following records and information:
  - a) Balance sheets for Operating and Reserve funds;
  - b) Statement of income and expenses prepared using the accrual method of accounting, showing monthly and year to date expenses as compared to current month and year to date budgets;
  - c) A list of aged accounts receivable;
  - d) A list of all disbursements, by check number;
  - e) A report of General Ledger transactions for the month; and
  - f) Copies of monthly bank statements.

The Agent shall prepare, file and cause to be paid all forms, reports, and licenses required by law, except that Agent shall furnish to Association's accounting firm all information necessary for the timely filing of federal income tax returns by accounting firm. At the expense of the Agent, annual balance sheets and general ledger statements shall be prepared without audit for the Association and delivered to the Association within thirty (30) days following the end of the fiscal year. The Association at its option and its expense shall have the right to an independent audit to be performed by a certified public accountant, chosen by the Board of Directors of the Association.

13. The fiscal year of the Association commences on January 1<sup>st</sup>. At least sixty (60) days before the beginning of each new fiscal year, the Agent shall arrange for the Association's proposed budget for the operation of the property for the ensuing year, together with such financial and other information in regard to the Agent's duties as the Association requests and as is reasonably necessary for the Association to review and finalize said budgets. The budget shall serve as a supporting document for the schedule of assessments proposed for the new fiscal year and for expenditures hereunder.
14. It shall be the duty of the Agent at all times during the term of this Agreement to operate and maintain the property according to the standards consistent with the overall plan of the Association.

The Agent shall see that all owners are reasonably informed with respect to such rules, regulations and notices as may be promulgated by the Board of Directors of the Association from time to time. The Agent shall be expected to perform such other acts and deeds as are responsible, necessary and proper in the discharge of its duties under this Agreement.

15. Maintain a current list of owners of the Association, including each owner's contact information, and furnish a copy of such owners list to the Association's representative on request, and notify the Association of changes in the list as they occur from time to time.
16. Prepare and mail notices, proxies, ballots, agendas in accordance with the requirements of the governing documents of the Association. All administrative expenses such as copies and postage that are related to any and all Association correspondence will be at the expense of the Association. The Agent shall attend quarterly Board meetings and an annual homeowner's meetings each year. In the event that the Board requests that the Agent attend additional meetings, Agent shall be entitled to Ninety-Five Dollars (\$95.00) per professional hour. The Agent agrees to take meeting minutes on behalf of the Board of Directors to reflect motions, votes and actions taken at the meetings and to publish written minutes to owners at the direction of the Board of Directors within one week of meetings.
17. The Association recognizes and agrees that the Agent is not an onsite property manager and is not expected to or required to conduct services normally performed by an onsite agent. However, Agent will perform routine property inspections (minimum one time monthly) to ensure that outside vendors and contractors, such as landscaping vendors, are performing their duties according to contract or agreement.
18. Regarding a pending sale or financing of an owner's property, upon request by an authorized closing agent or attorney, Agent will prepare a notarized certificate stating the total amount of outstanding assessments or other fees owed by the member to the Association and to be collected at the closing and remitted to the Association. Agent shall charge a transfer fee of Four Hundred and Fifty Dollars (\$450.00) per closing or transaction. Transfer fee can be amended at sole discretion of Agent.
19. The Association will allow Agent to place Agent's "Managed By" sign on the property.

#### ARTICLE IV: AGENCY RELATIONSHIP

Everything done by the Agent under the provisions of Article III shall be done as Agent of the Association. Any payments to be made by the Agent under this Agreement shall be made out of such sums as are available in the accounts of the Association, or as may be provided by the Association. The Agent shall not be obligated to make any advance to or for the accounts of the Association, or to pay any sum except out of funds held or provided as aforesaid, nor shall the Agent be obligated to incur any liability or obligation for the accounts of the Association without assurance that the necessary funds for the discharge thereof will be provided. The Board shall designate a single individual who shall be authorized to deal with the Agent on any matter relating to the management of the property. The Agent is directed not to accept directions or instructions with regard to management of the Association from anyone else. In the absence of any other designation by the Board, the President of the Board of Directors shall have this authority.

#### ARTICLE V: BANKING PROCEDURES

The Agent shall establish and at all times maintain bank accounts as Agent of the Association. The accounts shall be in a Federal chartered bank whose deposits are insured by the Federal Deposit Insurance Corporation and reflect the custodial nature thereof, said bank account to be maintained by the Agent to discharge any liabilities or obligations incurred pursuant to this Agreement and for the payment of Agent's fee, all of which payments shall be subject to the limitations set forth in this Agreement. Association hereby grants Agent the

signature authority on all accounts and the authority to employ the use of any bank lock box services for the collection of Association funds. Any such charges related to use of banking “lock box” services shall be paid by the Association. Such funds shall not be commingled with similar or other funds, and, specifically, such funds shall not be commingled with funds of any other Association. All monies in excess of current needs shall be placed in interest bearing accounts earning the highest interest available consistent with maturities approved by the Association. In the event that the amount deposited in the aforesaid account exceeds the limits of the Federal Deposit Insurance Corporation coverage, then the Agent shall, after receiving approval from Association, have the authority to establish additional, identical accounts in the name of the Association. The Agent will be endorsed with Agents rider onto the Association’s current existing fidelity bond as its interest may appear. Association shall furnish the Agent a copy of its fidelity bond showing the Agent’s interest pursuant thereto.

#### ARTICLE VI: TERM AND CANCELLATION

The initial term of this contract shall be for a one (1) year period beginning on the 1 day of November 2022, and ending on the 31 day of October 2023, and thereafter for successive annual periods. This Agreement may be terminated by The Agent or The Declarant upon sixty (60) days prior written notice to the other. Following turnover of the association from the declarant to the homeowners, the agreement may not be terminated until the passing of one calendar year, after which time a sixty (60) days prior written notice is required by either party to terminate the agreement. At such time any new board member is seated for a term, Agent shall be allotted a 90 day period of time, during which no notice of cancellation may be submitted by The Association, to form a working relationship between parties. Upon termination of this Agreement by either party, all outstanding charges or expenses incurred by Agent under the terms of this Agreement, which are to be paid or reimbursed by Association, but not paid at the time of termination, shall be paid by Association. Any funds of the Association which are in excess of said outstanding charges or expenses shall be paid over to the Association by the Agent within ten (10) days after termination of this Agreement. Agent, within ten (10) days after termination, shall supply a final statement of account in the nature of the monthly accounting required of the Agent and shall make available to the Association office records, books and accounts to enable it to continue to maintain and operate.

#### ARTICLE VII: DUTIES SEVERABLE

Each duty of the Agent or Authority delegated to the Agent is severable and separate from any and every other duty or authority and the enforceability or illegality of any duty or authority shall not affect any or every other duty of authority or the validity of this Agreement.

#### ARTICLE VIII: LIABILITY FOR INJURY OR DAMAGE

The Agent shall not under any circumstances, be liable under or by reason of this Agreement, directly or indirectly, for any personal accident or injury or breakage or damage of any machinery or appliance or equipment or other part or portion of the property, not attributable to the action or inaction of the Agent or its employees which is the result of negligence, misfeasance or nonfeasance. Nor shall it be held responsible or liable for any loss, damage, detention or delay in furnishing materials or failure to perform duties as herein provided when such is caused by fire, flood, strike, act of civil or military authorities, or by insurrection or riot or by any other cause which is unavoidable or beyond its control. Agent shall be named as additionally insured under the Association’s public liability policy. Agent shall hold harmless the Association and its members from any liability or claim made against them and any expense caused to them, including a reasonable attorney’s fee, by Agent’s failure to perform any of its obligations under the terms of the Agreement or because of its negligent or improper performance of same, or because of any action taken by Agent which is not authorized by the terms of this Agreement.

#### ARTICLE IX: AGENT’S COMPENSATION

The Association agrees to pay Agent for its services each month in advance the minimum sum of \$250 per month upon commencement of this contract and during the terms of this contract. Currently there exists plans

for 182 properties. Association shall pay Agent monthly, a per door fee of \$7 per door as units close from Developer to third party owner(s). Should The Association expand beyond 182 properties, the per door fee follows at \$7 per door per closed unit from Developer to third party owner(s). Agent shall charge additional fees for office overhead such as copies, paper, other office expenses, and the direct costs of postage necessary in the management of the Association. Agent shall charge in accordance with the attached exhibit. The Agent shall be able to amend such exhibit with the approval of the Board of Directors, and such approval shall not be unreasonably denied. Agent's monthly compensation may be amended with agreement between the Agent and the Board of Directors for the Association. Other than the fees specifically stated herein, any other fee to be paid to the Agent shall be agreed to in advance in writing by the Board. Monthly payments shall commence on the term The Association understands and agrees that the Agreement imposes on it the firm and irrevocable obligation to pay the full fee and perform the other provisions hereof for the full term of this Agreement; subject, however, to the cancellation of this Agreement pursuant to Article VI hereof, and the Agent shall have, in addition to the other provisions for the enforcement, and payment of the fee and other changes herein covenanted to be paid by the Association, any and all other rights and remedies in connection with the enforcement and collection thereof as are provided by law. The exercise of one or more of the rights and remedies provided for herein shall not be construed as a waiver of the others. The Agent shall be entitled to be reimbursed for all costs reasonably incurred and associated with the extraordinary collection of delinquent assessments or other fees, such costs to be charged to the affected owner's account. Specifically, collection costs include those charges which may be prompted by the judicious collection of outstanding fees heretofore uncollected by the Association, such as but not limited to, court appearances, certified mail costs, long distance telephone charges, foreign country postage rates, and similar identifiable expenses. The Agent shall maintain availability for services related to certain non-routine duties for which the need may or may not arise. Non-routine services may include, without limitation, the following: (i) insurance claim litigation, restoration and administration in cases involving extensive property damage and personal injury items covered under the Association's insurance policies; (ii) participation in legal actions initiated by the Association exclusive of those related to collection of annual assessment; and (iii) administration of architectural/design review submittals and meetings. Compensation for non-routine services shall be at Ninety-Five Dollars (\$95.00) per professional hour and/or as a portion of the insurance claim or settlement for litigation as determined between the Agent and the Association's Board of Directors.

#### ARTICLE X: HOME MAINTENANCE

This Agreement does not contemplate, nor is the Agent responsible for or required to perform the upkeep service and repair of the individual homes.

#### ARTICLE XI: INTERFERENCE

The Association shall not interfere, nor permit, allow or cause any of its officers, directors, owners or residents to interfere with the Agent in the performance of its duties or the exercise of any of its powers hereunder, except as herein otherwise provided.

#### ARTICLE XII: INDEMNIFICATION

The Association and Agent shall mutually indemnify, defend and save each other harmless from all suits, losses, liabilities or claims brought against one or the other by third parties arising out of, connected with, or related to this Agreement with respect to the intentional misconduct or negligence of either party. The Association or Agent, as the case may be, shall pay all expenses incurred by the other as a result of any such indemnified claim or action, including, but not limited to, all attorneys' fees, costs and expenses.

#### ARTICLE XIII: ASSIGNMENT

This contract is personal in nature to the parties and cannot be assigned by either party without the consent in writing of the non-assigning Party.

ARTICLE XIV: ENFORCEMENT

Should it become necessary for either Party to enforce the terms of this Agreement due to default of the other Party, all court costs and attorney's fees including appellate attorney's fees, shall be paid by the defeated party to the prevailing Party.

ARTICLE XV: GOVERNING LAW

This Agreement shall be construed according to the laws of the State of Tennessee. The parties hereto agree that the venue for any dispute arising out of this Agreement shall rest in a court of competent jurisdiction in Nashville, Davidson County, Tennessee.

ARTICLE XVI: AGREEMENT

This Agreement states the entire agreement between the Parties hereto and shall inure to the benefit of and be binding upon them and upon their respective successors and assigns.

ARTICLE XVII: COMPLIANCE WITH PROVISIONS OF ASSOCIATION DOCUMENTS

Agent acknowledges receipt of copies of the governing Association documents, including the Master Deed, the Declaration of Covenants, Conditions and Restrictions, Articles of Incorporation, By-Laws and any other constituent documents of the Association. Agent covenants to comply with the provisions of said documents in performing its duties hereunder and acknowledges that the terms of this Agreement are subject to the provisions of the aforesaid documents.

ARTICLE XVIII: LIMITATION UPON AUTHORITY

Other provisions herein to the contrary notwithstanding, Agent's authority to incur expenses on behalf of or to be reimbursed by the Association shall be limited to the provisions and limitations of the budget adopted by the Association.

ARTICLE XIX: ACCOUNTABILITY

Agent shall be accountable to the Association for all receipts, expenditures and balances on hand, on a month-to-month basis.

ARTICLE XX: EMPLOYMENT CONTRACTS

The Agent shall not enter into contracts for employment or services that bind the Association in any way to third parties unless the Association gives its prior written consent thereto.

ARTICLE XXI: CONSENT REQUIRED

The Agent shall make no expenditures from monies held in reserve for capital improvements unless such expenditures are approved pursuant to the provisions of the Association's governing documents and constituent documents. Agent shall take no action on behalf of the Association that the Association's governing documents or other constituent documents require to be approved by the Board of Directors or Association membership unless such approval is first obtained.

*[SIGNATURE PAGE FOLLOWS]*

IN WITNESS WHEREOF, the Association and the Agent have duly executed this Agreement as of day and year first written.

ATTEST: SMITH FARMS HOA

BY ITS PRESIDENT

DocuSigned by:



B3D695209906435...

10/21/2022

DATE

BY ITS SECRETARY

DocuSigned by:

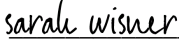


77037CF8AAAB49F...

10/21/2022

DATE

DocuSigned by:



W6E71E3C805C4A1...

sarah wisner

PRINTED NAME OF WITNESS

ATTEST:

METROPOLITAN PROPERTY MANAGEMENT, LLC.

BY ITS PRESIDENT

DocuSigned by:

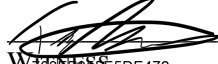


ZACH JOHNSON

10/21/2022

DATE

DocuSigned by:



W103F8955E5DE472...

Teddy Christenberry

PRINTED NAME OF WITNESS