

**Management Agreement
For
The Cloister at St. Henry**

THIS AGREEMENT made and entered into this 15th day of December, 2005, by and between *The Cloister Owners Association Inc.*, a Tennessee not-for-profit corporation (the "Association") and David Floyd & Associates, Inc., a Property Management Company incorporated under the laws of Tennessee ("the Agent").

It is understood and agreed that the Association is the governing body of The Cloister at St. Henry (the "Property"), in accordance with the Horizontal Property Act of Tennessee, Master Deeds, and By-Laws, governing the administration of the Property; and

The Association is authorized to employ Agent on behalf of the Owners of the dwelling units at the Property, "Unit Owners") to manage the Property; and

The Association desires to employ the Agent to manage the property, and the Agent desires to be employed to manage the Property;

IN CONSIDERATION, of the terms, conditions, and covenants hereinafter set forth, the parties hereto mutually agree as follows:

1. **Employment:** The Association hereby employs the Agent, and the Agent hereby accepts employment, on the terms and conditions set for in this document, as Managing Agent of the Property, located in Davidson County, Tennessee with the power, authority, and responsibility to act as such at the cost and expense of the Association.
2. **Limitation of Authority:** (a) It is expressly understood and agreed that the authority and duties conferred upon the Agent hereunder are confined to the Common Elements, Limited Common Elements and Community Facilities, as defined in the Master Deeds, except as included in Paragraph (4) h herein, and shall not include supervision or management of Units.

(b) The Agent shall have no authority to make any structural changes in the Property or to make any other alterations or additions in or to any building or equipment therein, except such emergency repairs as may be required because of danger to life or property, or which are immediately necessary for the preservation and safety of the Property, or the safety of the Unit Owners and the occupants, or as are required to avoid the suspension of any necessary services to the Property.

3. Term: This Agreement shall be in effect for a term of one (1) year, commencing on the 1st day of January 2006.

This Agreement will automatically be renewed at the end of the original term for successive terms of one year each year, unless either party notifies the other of its intention not to renew the Agreement or to renegotiate to the other, in writing, within sixty (60) days prior to the expiration of the Agreement.

4. Services: The Agent agrees to perform the following services under the supervision of the Board of Directors of the Association ("The Board").

(a) The Agent shall strive to the utmost to perform all relative and specific duties determined by the Board of Directors. Emergency Service 24 hours per day, 365 days per year is understood and agreed to be a part of the Agent's specific duties.

(b) The Agent shall hire the personnel required to maintain and operate the Property. Agent will endeavor to hire capable, responsible, and professional workmen as its employees. All such personnel shall be employees of the Agent. All salaries, taxes, and other expenses payable on account of such employees shall be considered an operating expense of the Agent. The Association shall reimburse the Agent for its cost of labor and materials within the limits provided by the applicable fiscal year budget.

(c) Agent shall be responsible for the conduct and safety of its employees, and subcontractors (including employees) of the Agent in the performance of the requirements of this Agreement and while on or about the Property. Agent agrees that it will hold the

Association and its officers harmless from loss or liability and will indemnify them from and against any and all claims of any of its employees, and subcontractors (including employees) of the Agent for death or personal injuries suffered by any of such employees while in performance of the requirement of this Agreement and while on or about the Property. This paragraph does not include the subcontractors and employees of the subcontractors under express contract with the Association within its scope.

(d) The Agent agrees to maintain businesslike relations with Unit Owners whose service requests shall be received and considered in systematic fashion. Complaints of a serious nature shall, after thorough investigation, be reported to the Association with the appropriate recommendations.

(e) The Agent shall collect all monthly assessments and other charges due from Unit Owners for operation of the Property, and all rental or other payments due for use of the Association's property or equipment. Agent shall be responsible for initiation and execution of collection proceedings of delinquent accounts in accordance with the Association's By-Laws, Rules and Regulations. All expenses and costs arising out of this collection will be paid by the Association. As a standard practice, the Agent shall furnish the Association with an itemized list of all delinquent accounts with financial reports at the regular Board Meetings. A notice of delinquency shall be mailed to all delinquent Unit Owners following the ~~sixteenth (15th)~~ ^{tenth (10th)} of each month, and a second notice of delinquency letter shall be mailed to all delinquent Unit Owners if payment is not received within ten (10) days from date of first notice. Agent shall account only for assessments and monies actually collected.

(f) It shall be the responsibility of the Managing Agent to advise the Board through weekly comprehensive personal observations of any resident's failure to comply with the Master Deed, bylaws and/or regulation. Further, the Managing Agent will supply the Board in written form, a list of such cases on a monthly basis for the Board's disposition. During such observations, it is expected that any facility or condition requiring action will be also referred. A copy of all written communications that is the responsibility of the C.O.A. to and from residents will be sent to the Secretary of the C.O.A. In addition one will be put in the residents clubhouse file. Also copies of written correspondence responding to Board or committee members queries or instructions will be sent to the secretary of the C.O.A. E-mail may be used if appropriate.

(g) For all items of repair or replacement, the expense incurred shall not exceed the sum of Five Hundred Dollars (\$500.00), unless specifically authorized by the Association, provided, however, if the Agent is not able to contact the representative of the Association after a good faith effort to do so, then the Agent is hereby authorized to commit in excess of Five Hundred Dollars (\$500.00), in emergency situations to make necessary repairs to prevent danger to life or property, or those repairs immediately necessary for the preservation and safety of the Property, or for the safety of the Unit Owners, or those repairs required to avoid the suspension of any necessary service to the Property. Notwithstanding this authority as to emergency repairs and expenditures, it is understood and agreed that the Agent will, if at all possible, confer immediately with the Association regarding every such expenditure.

(h) Subject to the direction of the Association, the Agent shall negotiate and obtain contracts for water, electricity, gas, fuel, oil, telephone, trash removal, fire equipment, vermin extermination, building equipment, and other necessary services, or such of them as the Association shall deem advisable. The Agent shall also place orders for such equipment, tools, appliances, materials, and supplies as are necessary to maintain the Property. All such contracts and orders shall be made in the name of and at the expense of the Association and shall be subject to the limitations set forth in Paragraph 4(g) of this Agreement. When taking bids, the Agent shall be under a duty to secure for, and credit to, the Association any discounts or rebates obtainable as a result of such purchases.

(i) The Agent shall provide the management and personnel necessary to perform the following duties and services:

- 1) Prepare, reproduce, type, and distribute Association newsletters, letters, financial reports, minutes; and;
- 2) Prepare, type, reproduce, and distribute special notices and flyers; and

3) Maintain the Association's files.

(j) Upon written direction from the Board, the Agent, at the expense of Association, shall cause to be placed and kept in force insurance needed adequately to protect the Association, its members and mortgagees holding mortgages covering Units, as their respective interests appear. All of such insurance coverage shall be placed with companies in such amounts and with such beneficial interests appearing therein as shall be acceptable to the Association and the mortgagees holding mortgages covering the Units. The Agent shall promptly investigate and make a written report to the Association concerning all accidents or claims for damage relating to the management, operation, and maintenance of the Property, including any damage or destruction to the Property, and injury to persons occurring on or about the Property. The Agent shall cooperate and make any and all reports required by an insurance company in connection therewith.

(k) From the funds collected and deposited in the operating account hereinafter provided, the Agent shall cause to be disbursed regularly and punctually (1) fire and other property insurance premiums as provided in Paragraph 4(j), (2) the amount specified for allocation to the reserve fund for replacements, (3) sums otherwise due and payable by the Association as operating expenses authorized to be incurred under the terms of this Agreement, including the Agent's compensation.

(1) The Agent shall maintain office records and accounts in a manner satisfactory to the Association showing all receipts and expenditures relating to the Property, which records shall be subject to examination by authorized agents of the Association at all reasonable hours. As a standard practice, the Agent shall render to the Association each month at the Board meeting, a statement of receipts and disbursements as of the end of the previous month.

(m) At least sixty (60) days before the beginning of each new fiscal year, the Agent shall prepare a draft budget setting forth an itemized statement of the anticipated receipts and

disbursements for the new fiscal year based upon the then current schedule of monthly assessments, and taking into account the general condition of the Property. Each such budget, together with a statement from the Agent outlining a plan of operation and justifying the estimates made shall be submitted to all Unit Owners in final draft at least thirty (30) days prior to the commencement of the annual period for which it has been made. Following adoption of the budget by the Association, copies of the budget shall be delivered to all Unit Owners. The budget shall serve as a supporting document for the schedule of monthly assessments proposed for the new fiscal year. It shall also constitute a major control under which the Agent shall operate, and there shall be no substantial variances therefrom, except such as may be sanctioned by the Association. By this it is meant that no expenses may be incurred or commitments made by the Agent in connection with the maintenance and operation of the Property in excess of the amounts allocated to the various classifications of expense in the approved budget without prior written consent of the Association, except that, if necessary because of an emergency or lack of sufficient time to obtain such prior consent, an overrun may be experienced, provided it is brought promptly to the attention of the Association.

(n) The Agent shall prepare and distribute to all Unit Owners an annual financial report of the management and operation of the Property for the preceding year, provided that this service shall not be construed to require the Agent to supply an audit. Duplication and mailing of said reports shall be an expense of the Agent. Any audit required by the Association shall be prepared at its expense by accountants of its selection.

(o) The Agent shall procure and maintain Workers' Compensation Insurance for its employees and subcontractors with the limits and forms of coverage required by the Workers' Compensation Law of Tennessee, *and shall furnish the Assoc. with a certificate to that effect,*

(p) The Agent shall procure and maintain general liability insurance in a combined single limit of one million

dollars (\$1,000,000.00) insuring both the Agent and the Association against loss and liability arising from the activities of the Agent in the performance of its duties pursuant to this Agreement. The Agent shall furnish the Association with a certificate of insurance reflecting the limits of insurance and forms of insurance in force and naming the Association as an additional insured.

(q) The Agent shall indemnify and hold the Association and its officers harmless from all loss, liability, damage and expense arising from death, personal injury and property loss or damage resulting in whole or in part from any act or omission of the Agent, its employees, and subcontractors (including employees) of the Agent in the performance of the requirements of this Agreement. This paragraph does not include the subcontractors and employees of subcontractors under express contract with the Association within its scope.

5. Expenses Incurred: Everything done by the Agent under the provisions of Paragraph 4 shall be done as Agent of the Association, and all obligations or expenses incurred thereunder shall be for the Association, except for postage, office supplies, and duplication costs which shall be the expense of the Agent. The Agent shall not be obligated to make any advance to or for the account of the Association or to pay any sum for any purpose whatsoever, except out of funds held or provided as aforesaid, nor shall the Agent be obligated to incur any liability or obligation for the account of the Association.

6. Individual Dwelling Units: Notwithstanding any other provision of this Agreement, the Agent is given no authority or responsibility for maintenance of or repairs to the interior of individual dwelling units at the Property. Such interior maintenance and repairs shall be the sole responsibility of the Unit Owners individually. Each individual Unit Owner may contract with the Agent on an individual basis for the provision of certain maintenance and other related services which will be paid for in accordance with the agreement between the Agent and the individual Unit Owner. Such shall not be considered to be conflict of

interest or otherwise obligate the Agent to take any action except as it may agree to with the individual Unit Owner.

7. Custodial Accounts: (a) The Agent agrees that all monies collected by it on behalf of the Association shall be deposited in custodial accounts in a state or national bank where deposits are fully insured by the Federal Deposit Insurance Corporation. The funds on deposit in these accounts are the property of the Association and shall be maintained separate and apart from the Agent's own funds. One of such custodial accounts shall be an operating account which shall be used for paying operating costs and may earn no interest. Other such custodial accounts shall be interest bearing capital expenditure reserve accounts which shall be used for accumulating a capital reserve on a monthly basis for future capital expenditure. The interest earned by the above accounts shall be property of the Association.

(b) The Agent agrees to verify that the amount on deposit in the operating account is sufficient for paying all checks written by the Agent and presented to the Board for signature.

(c) All withdrawals from the above described custodial accounts shall be by check or draft signed as required by Article IV, Section 6 of the By-Laws of the Association.

(d) The Agent agrees that all of its employees who handle, or are responsible for the safekeeping of any monies of the Association, shall be covered by a fidelity bond protecting the Association. This bond shall be written by a company rated A+. XV as promulgated by A.M. Best Company Rating and Financial Size.

(e) The Agent shall indemnify and hold the Association harmless from all loss, liability, damage and expense arising from the acts or omissions of the Agent and its employees in the handling of or accounting for monies of the Association.

8. Rules, Regulations and Notices: The Agent shall see that all Unit Owners are informed with respect to such rules, regulations, and notices as may be promulgated by the Association from time to time, and shall see that each new Unit Owner is furnished promptly with set of Rules and Regulations.

David Lloyd's
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9. Compensation:

The compensation which the Agent shall be entitled to receive for services performed under this Agreement shall be as follows:

Commencing on the first (1st) day of January, 2006, the Association shall pay to Agent, a fee of Thirty-Four Thousand Thousand Six-Hundred and fifty dollars (\$34,650) in (12) equal payments paid on or before the 15th day of each month. Said fee shall continue at the same rate for the term of this agreement or until terminated pursuant to the provisions of section 12 infra.

10. Covenants of the Association. The Association covenants and warrants to indemnify, defend and save the Agent harmless from all loss, liability, damages and expense resulting in whole or in part from any act or omission of the Association, its employees, directors and subcontractors in performance of this Agreement and/or in connection with the Property and to carry at its own expense public liability insurance.

11. Non-compliance or Violations: In the event it is alleged or charged that the Property or any equipment therein or any act or failure to act by the Association with respect to the Property or sale, rental or other disposition thereof, or the hiring of employees to manage it, fails to comply with, or is in violation of, any of the requirements of any constitutional provision, statute, ordinance, law or regulation of any governmental body or any order or ruling of any public authority or official thereof having or claiming to have jurisdiction thereover, and the Agent in its sole and absolute discretion considers that the action or position of the Association with respect thereto may result in damage or liability to the Agent, the Agent shall give written notice of the suspected violation to the Association. The Association shall then have a period of thirty (30) days from the date of receipt of such notice to cure or correct the suspected violation. If the suspected violation has not been cured or corrected to the satisfaction of the Agent at the expiration of the thirty (30) day notice period then the Agent shall have the right to terminate this Agreement by giving written notice to the Association of its election to terminate the Agreement. Such

termination shall not terminate any liability or obligation of the Association to the Agent for any payment, reimbursement or other sum of money then due and payable to the Agent hereunder.

12. Termination:

(a) This Agreement may be terminated by mutual consent of the parties at the end of any calendar month.

(b) This Agreement may be terminated by the Association during the term of the Agreement on not less than sixty (60) days prior written notice to the Agent.

(c) In the event a petition for bankruptcy is filed by or against either party, or in the event that either of them shall make an assignment for the benefit of creditors or take advantage of any insolvency act, either party hereto may terminate this Agreement without notice to the other. Upon termination, the contracting parties shall account to each other with respect to all matters outstanding as of the date of the termination, and the Association shall furnish the Agent security, satisfactory to the Agent, against any outstanding obligations or liabilities which the Agent may have incurred hereunder.

13. Notice: Any notice required or permitted to be served hereunder may be served by registered mail or in person as follows:

(a) If to the Agent:

David Floyd & Associates, Inc.
P.O. Box 150947
Nashville, Tennessee 37215

(b) If to the Association:

~~Ed R. Davies, Attorney~~
~~P.O. Box 2726~~
~~Nashville, Tennessee 37219~~
~~214 Second Avenue North, Suite 200~~
~~Nashville, Tennessee 37201~~

DAVIES, HUMPHREYS + EVA
PO. Box 190609
150 Second Avenue North
Suite 725
Nashville, TN 37201-194

Either party may change the address for notice by notice to the other party. Notice served by mail shall be deemed to have been served when deposited in the mail.

14. Binding Effect: This Agreement shall be binding upon and inure to the benefit of the successors and assigns of both the Agent and the Association. Notwithstanding the preceding sentence, the Agent shall not assign its interest under this Agreement except

in connection with the sale of all, or substantially all of, the assets of its business. In the event of such a sale, the Association shall have the prior right to approve the assignee and to terminate this Agreement.

15. Entire Agreement: This Agreement shall constitute the entire Agreement between the contracting parties, and no variance or modification thereof shall be valid and enforceable, except by supplemental agreement in writing executed by both parties.

16. Execution: For the convenience of the parties, this Agreement has been executed in duplicate originals, which are in all respects identical and each of which shall be deemed to be complete in itself.

17. Titles: The titles to the various paragraphs herein are for the convenience and reference only and are not intended to add, limit, define, or describe the contents of the Agreement or to be used in construing the terms hereof.

18. Applicable Law: This Agreement shall be governed by and in accordance with laws of the State of Tennessee.

IN WITNESS WHEREOF the parties hereto executed this Agreement the day and year first above written.

The Cloister Owners' Association

By: J. E. Tohill
President

Date: 01/04/2006

David Floyd & Associates, Inc.

By: [Signature]
President

Date: 12/15/05