

# MANAGEMENT AGREEMENT

**THIS AGREEMENT** (the "**Agreement**") is made this \_\_\_\_ day of \_\_\_\_\_, 2004 between Verona-Main Street Condominium Association, Inc., a Wisconsin non-stock corporation (the "**Association**") and \_\_\_\_\_, a Wisconsin Corporation (the "**Manager**").

## RECITALS:

A. The Association is the owners' association of Valencia Lofts Condominium (the "**Condominium**"), a condominium created by the Declaration of Condominium for Verona-Main Street Condominium recorded on \_\_\_\_\_, 2004 as Document No. \_\_\_\_\_ in the office of the Dane County Register of Deeds (the "**Declaration**").

B. Manager is experienced in managing residential real estate.

C. The Association desires to hire, and Manager desires to be hired, as property manager for the Condominium as provided in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants hereinafter set forth, the parties agree as follows:

## ARTICLE I

### Scope

**SECTION 1.01 Appointment and Acceptance.** The Association hereby exclusively appoints the Manager for the performance of the property management and other services set forth in this Agreement and gives to Manager the authority and power necessary and desirable for Manager to perform such management and other services. Manager hereby accepts such appointment and agrees to perform the property management and other services set forth in this Agreement.

**SECTION 1.02 Description of Property.** The property to be managed pursuant to this Agreement, hereinafter referred to as the "**Property**," consists of all Common Elements, Limited Common Elements and facilities of the Condominium which the Association may control and maintain under the terms of the Declaration and the Bylaws of Verona- Main Street Condominium Association, Inc. (the "**Bylaws**").

**SECTION 1.03 Term.** This Agreement shall take effect on the date first written above and shall remain in effect for a period of twenty-four (24) complete calendar months thereafter, unless terminated sooner by mutual agreement of Association and the Manager or by either party unilaterally under Article IV. Upon termination of this Agreement Manager shall provide the Association with all monies, books and records, contracts and materials that are the property of the Association. The Association shall

reimburse Manager for any outstanding debts owed to the Manager for service or materials provided to the Association during the term of this Agreement.

**SECTION 1.04 Capitalized Terms.** Capitalized terms not defined in this Agreement shall have the definitions given such terms in the Declaration.

## **ARTICLE II**

### **General Functions of the Manager**

#### **SECTION 2.01 Management Services.**

- (a) Repairs and Maintenance. Manager shall perform or shall cause to be performed and shall supervise all inspection, repairs and maintenance required to keep the Property maintained in an attractive condition and in a good state of repair at Association's expense. Manager shall perform or shall cause to be performed and shall supervise any additional maintenance, repairs, remodeling, reconstruction or alterations as directed by the Association. Manager shall make no expenditure that exceeds \$1,000.00 for work referred to in this Section 2.01(a) without prior approval of the Association except that Manager may make expenditures which exceed such amount without the Association's prior approval if the repairs are immediately necessary to prevent loss of life or property and Manager would not have the time to notify the Association or the Association's representative in advance. Such expenditure shall be for a single instance and shall not be cumulative.
  
- (b) Collection of Charges and Assessments. Manager shall bill Unit Owners for all Common Expenses, General Assessments, Special Assessments, and any other charges or assessments payable by the Unit Owners to the Association. Manager shall use its best efforts to collect all such amounts payable to the Association and shall timely file statements of liens for all unpaid assessments or charges. Manager may institute legal actions or proceedings in the Association's name for the collection of amounts and/or enforcement of any lien on a Unit which is held by the Association. Manager may engage counsel for these matters at Association's expense.
  
- (c) Repair of Units. Manager shall receive and respond to any service requests of the Unit Owners and will record such requests and any actions taken by Manager in a systematic manner. Manager will use its diligent efforts to secure performance by the Unit Owners of any repair, maintenance or duty imposed upon the Unit Owners by law, the Declaration, the Bylaws, and any rules and regulations promulgated by the Association. Manager shall perform any repair and maintenance of any Unit which the Association may perform under the terms of the Declaration and the Bylaws and shall bill the Unit Owner for the cost of such work as provided in Section 2.01(b) of this Agreement. Manager shall not be

responsible for Unit repairs which the Association is not permitted to perform under the terms of the Declaration and the Bylaws.

- (d) Contracts. Manager shall enter contracts with utilities or others for electricity, gas, water, sewer, telephone, rubbish removal, janitorial services or public services required to operate the Property as Manager deems proper, at Association's expense.
- (e) Employees. Manager shall hire, discharge and supervise all persons it deems necessary to carry out the Manager's duties under this Agreement. Such persons shall be deemed to be employees of Manager and not of the Association. The Association shall reimburse Manager for the time spent by Manager's employees in rendering services to the Property, to the extent provided by the current operating budget. Further, Manager shall engage attorneys, accountants, engineers, architects, and other professionals of Manager's choice and at the Association's expense to carry out Manager's responsibilities under this Agreement, including without limitation, repairing, altering or remodeling the Property.
- (f) Supplies. Manager shall purchase any equipment, tools and other supplies for the above repairs, maintenance, reconstruction, remodeling, or alterations. The Association shall reimburse Manager for all such items. Any items that are purchased by Manager for its exclusive use shall be deemed to be owned by Manager.
- (g) Deposit of Association Funds. Manager shall deposit all funds received by Manager for or on behalf of the Association or for or on behalf of others to be collected or received by the Association in a separate account (the "**Association Account**").
- (h) Payment for Services. Manager shall prepare for payment and pay from the Association Account the expenses associated with management and other services which should be paid by the Association, including without limitation, the payments due Manager under this Agreement. If there are insufficient funds in the Association Account, Manager may (but is not obligated to) advance its own funds, in which case the Association shall reimburse Manager for all such expenses so advanced, to the extent such expenses are provided for in the current operating budget.
- (i) Property Income. Manager shall collect on behalf of the Association any payments, fees or charges for the use, rental or operation of any portion of the Property.
- (j) Net Proceeds. Manager shall remit to the Association the net proceeds from operations available for distribution after payment of all debt service, expenses and the maintenance of such reserves as established from time

to time by the Association. Manager shall disburse or maintain any such net proceeds as directed by the Association.

- (k) Meetings. Manager will attend regular or special meetings as requested by the Association, but not more than three (3) meetings per twelve (12) calendar month time period (a “Year”). If the Association requires Manager to attend more than three meetings per Year, the Association shall pay Manager \$45.00 per hour for attendance at all meetings in excess of three meetings per Year. Manager shall prepare and send to Unit Owners all notices and documents relating to meetings.

## **SECTION 2.02 Insurance.**

- (a) Duty to Obtain Insurance. It shall be the duty and responsibility of Manager to obtain and maintain all forms of insurance required by the Declaration or Bylaws and to review periodically all property damage, fire, worker's compensation, hazard, liability, fidelity and other insurance carried for the account of the Association in connection with the Property. Manager shall consult with such insurance brokers and agents as it deems necessary or advisable and shall submit to the Association for the Association's approval the policy or policies which Manager, acting on the recommendation of such insurance brokers or agents, deems necessary or advisable. The Association shall have 10 days to approve or reject such insurance coverage. If the Association does not act within said 10-day period, the insurance policies shall be deemed approved by the Association and Manager may execute, as attorney-in-fact for the Association and in the Association's name, such documents as are necessary to place and maintain such insurance in force.
- (b) Payment of Premiums. Manager shall pay on the Association's behalf from the Association Account the premiums for all policies of insurance approved by the Association pursuant to Section 2.02(a).
- (c) Claims. Manager shall have the authority to settle all insurance claims for amounts less than \$10,000. Any claim for more than \$10,000 shall require the Association's consent before the claim is settled.

## **SECTION 2.03 Books, Records and Reports.**

- (a) Books and Records. Manager shall maintain the following books and records: 1) a current roster listing the name and address of each owner of any interest in each Unit; 2) a current roster containing the name and address of each mortgagee, land contract vendor, and holder of any security interest in any Unit; 3) a list of all unpaid assessments or charges and any liens filed on each Unit; and 4) books of account of all receipts and disbursements incurred by the Manager in connection with the

Property. Upon the written request of an owner, purchaser or holder of a security interest in any Unit, Manager shall issue a certificate of status of lien for such Unit.

- (b) Tax Reports. Within thirty (30) days of the end of each calendar year, Manager will provide year-end financial statements to the Association for tax purposes.
- (c) Monthly and Annual Reports. Manager shall provide the Association with a “**Month End**” report within fifteen (15) days of the last day of each calendar month and a “**Year End**” report within thirty (30) days of the last day of each calendar year. Each Month End and Year End report shall contain, for the period covered by such report, the following information relating to the Property: a profit and loss statement prepared on a cash basis; a balance sheet; collection report; check and deposit register; and a written overview of the condition and status of the Property.
- (d) Reporting Standards and Audits. All reports, books and records referred to in this Section 2.03 shall be open for inspection and copying by the Association. Such reports, books and records need not be prepared in accordance with generally approved account principles. The Association may audit the books and records of Manager relating to the Property at the Association's expense upon at least ten (10) days prior notice at Manager's place of business. Upon the termination of this Agreement, the Manager shall turn over to the Association all financial documents, books, records, and reports relating to the Property, including but not limited to those described in this Section 2.03.

**SECTION 2.04 Operating Budget.** Manager shall manage the Property in accordance with the current operating budget provided by the Association. The Manager will prepare and present a proposed operating budget for the next fiscal year to the Association at least sixty (60) days prior to the end of the current fiscal year. The Association will provide Manager with a final approved current operating budget ten (10) days prior to the start of the next fiscal year. The Manager will deliver the final approved operating budget to the Unit Owners promptly after Manager receives it. Manager may not make any changes to the current operating budget without the prior written consent of the Association.

**SECTION 2.05 Other Functions and Powers of Manager.** In addition to the foregoing, Manager shall have such other general authority and powers as may be necessary or advisable to effectuate the intent and purposes of this Agreement.

## **ARTICLE III** **Compensation**

**SECTION 3.01 Management Services.**

- (a) Management Fees. The Association shall reimburse Manager for all direct expenses related to the management of the Property pursuant to the terms of this Agreement as provided in the current operating budget. The Association shall pay Manager a monthly management fee of (i) \$45.00 per hour of services performed by Manager and its staff employees in connection with the Property, until 75% of the Units are sold to Purchaser; (ii) \$18.00 for each occupied Unit per month, as determined on the first day of each calendar month, beginning on the first day of the first complete calendar month after the 75% threshold is met. Such fee will be prorated for each Unit occupied after the first day of a month. The management fees are due and payable monthly on the first day of each month and may be paid from revenues collected by Manager. In addition, Association shall compensate Manager for the services of Manager's maintenance personnel at the rate of \$24.50 per hour. These rates are subject to annual adjustment by Manager, provided that the adjusted rates at all times shall remain commensurate with the then-current market rates for such services.
- (b) Payment of Subcontractors. The Association agrees that Manager may subcontract its management duties. Manager agrees that if Manager subcontracts its management responsibilities with respect to the Property, the management fee paid to such sub-manager shall not be a reimbursable expense provided in Article II, but shall be paid by Manager from Manager's management fee. Manager may subcontract maintenance and other services and charge the cost thereof to the Association as permitted under Section 2.01(d).

**SECTION 3.03 Construction Management Services.** If extraordinary repairs are made to all or any portion of the Property or all or any portion of the Property is rehabilitated or reconstructed and the Association selects Manager to supervise such repairs, reconstruction or rehabilitation, the Association shall reimburse Manager for its actual staff time associated with construction activities and out-of-pocket expenses. During construction, this fee shall be paid to Manager upon a monthly basis.

## **ARTICLE IV** **Termination**

This Agreement shall not be terminated by either party before the date provided in Section 1.03 except for cause. Cause exists only when: (i) either party to this Agreement fails to perform any agreement, covenant or obligation to be performed or fails to pay any amounts to be paid when due under this Agreement (an "**Event of Default**"); and (ii) such Event of Default continues for more than thirty (30) days after written notice specifying such default has been given by the aggrieved party. Should the defaulting party cure the Event of Default within thirty (30) days following giving of said notice, no cause for termination shall exist. Furthermore, either the Association or

Manager may terminate this Agreement at any time after the date specified in Section 1.03 without cause upon delivery of ninety (90) days' notice of termination to the other.

## **ARTICLE V** **Attorney-in-Fact**

**SECTION 5.01 Grant of Power of Attorney.** The Association hereby makes, constitutes and appoints Manager its true and lawful attorney-in-fact for the following purposes:

- (a) Signing contracts and other documents with respect to the Property for Association and in the name of Association to the extent Manager is given the authority to enter into such contracts on behalf of the Association;
- (b) Instituting, prosecuting and completing for the Association and in the name of the Association any action or suit for the collection of assessments or other charges payable to the Association or the enforcement of any lien held in the name of the Association, with the power to commence, prosecute and complete any suits or actions therefor;
- (c) Executing or signing any other documents with respect to the Property for the Association and in the name of the Association necessary or appropriate to effectuate the purposes of this Agreement to the extent Manager is given such authority under this Agreement.

## **ARTICLE VI** **Indemnification**

**SECTION 6.01 Association's Obligations.** Manager agrees to exercise its best efforts to perform its obligations under this Agreement. However, Manager, its directors, officers, and employees, when carrying out the provisions of the Agreement or the directions of Association, shall not be liable to Association or to any other person for any act or omission except in cases of fraud, gross negligence, or intentional or grossly negligent failure to comply with laws, regulations, or orders of governmental authorities, or breach of this Agreement.

**SECTION 6.02 Manager's Obligations.** Manager shall indemnify and hold Association, its officers, employees, directors, and attorneys-in-fact harmless from and against any and all claims, damages, losses, and expenses (including attorney fees) arising out of or resulting from the gross negligence or willful misconduct on the part of Manager, its officers, agents, and employees in the performance of Manager's duties under this Agreement or breach of this Agreement.

## **ARTICLE VII**

### **Miscellaneous**

**SECTION 7.01 Notices.** All notices, requests, demands, or other communications hereunder shall be in writing, and shall be deemed to have been duly given if delivered in person, or within five days after deposit in the United States mail, postage prepaid, certified mail, with return receipt requested, to the Association at 145 E. Badger Road, Suite 200, Madison, WI 53713 c/o The Alexander Company, Inc., or to the Manager at 7600 Terrace Ave., Suite 201, Middleton, WI 53562. Either party to this Agreement may change the address at which it receives written notices by so notifying the other party in writing.

**SECTION 7.02 Independent Contractor.** Manager is an independent contractor and not an employee, agent, co-venturer or partner of the Association for any purpose.

**SECTION 7.03 Amendment.** This Agreement may not be amended or modified unless such amendment or modification is in writing and signed by both parties to this Agreement.

**SECTION 7.04 Assignment.** This Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties hereto, and their respective successors and assigns; provided, however, that this Agreement may not be assigned by Manager without prior written consent of the Association, or by the Association without prior written consent of Manager. Anything in the foregoing to the contrary notwithstanding, Manager may, without the consent of Association, delegate the performance of (but not responsibility for) any duties and obligations of Manager to any independent contractor or entity.

**SECTION 7.05 Choice of Law.** This Agreement has been made and entered into in the State of Wisconsin, and the laws of such state so govern the validity and interpretation of this Agreement and the performance due hereunder.

**SECTION 7.06 Licensing of Manager.** Manager shall at all times during the term of this Agreement maintain such licenses and permits as are required for any of the various services to be performed by Manager on behalf of Association.

**SECTION 7.07 Delivery of Documents.** Upon Manager's execution of this Agreement, the Association will provide Manager with a copy of the Declaration, the Bylaws, the current operating budget for the Condominium, a set of plans and specifications of the buildings and improvements located on the Land, and any guaranties and warranties that are currently in force for the Property.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date first above written.

**\* MANAGER \***

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

**\* ASSOCIATION \***

**VERONA – MAIN STREET CONDOMINIUM  
ASSOCIATION, INC.**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_