Whitnall Park Square

Condominium Owners Association, Inc.

iv. Management & Employment Contracts

AGREEMENT

THIS AGREEMENT made this 10 day of Oct, 2014 and between FOREST GREEN REALTY & MANAGEMENT. (hereinafter referred to as "Manager") and WHITNALL PARK SQUARE CONDOMINIUM ASSOCIATION INC.(hereinafter referred to as the "Association") for property located at 6500 – 6512, 10200 – 10270 Parkedge Circle, 10300 – 10354 Parkwood Drive, 10401 – 10403 Parkcrest Circle, 6505 – 6507, 6463 – 6497 Whitnall Edge Road., Franklin, WI for property known as Whitnall Park Square Condominium.

Recitals:

WHEREAS, the Association exists for the purpose of maintaining and operating certain properties and generally promoting the health, safety, welfare and betterment of its members; and

WHEREAS, the Association required the assistance of an independent contractor to perform the management services for collection of condominium association fees, payment of association bills, and maintenance of the common elements outside of the buildings which make up the condominium development; and

WHEREAS, Manager engages in the business of performing said services required by the Association and is fully qualified to do so; and

WHEREAS, the Association wishes to engage Manager and manager wishes to accept such engagement;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Association and Manager agree, as follows:

1. **Authority of the Board of Directors.** The Board of Directors of the Association, having the power to enter into this agreement, hereby appoints Manager to manage the property and Manager accepts appointment to manage.

2. **Management Services.** Manager shall perform the following management services.

a. **Collection of Assessments.** Manager shall perform the following in relation to the collection of assessments for the Property:

(1) Bill, collect, bank and post all monthly and other member assessments and other monies that are due the Association and all rental or other payments from member or vendors, if any.;

(2) Maintain individual member account status; and

(3) Process delinquent accounts in according with delinquency procedures established by the Board of Directors. To accomplish the above, the Association hereby authorizes Manager to request, demand, collect and receive any and all assessments and charges which may at any time be or become due to Association from any source including but not limited to those listed above.

b. **Association Accounts and Record of Income and Expenditures.** Manager shall maintain as directed by the Association, a bank account for the deposit of funds of the Association, with authority to draw thereon for any payment to be made by Manager to discharge any liabilities or obligations incurred pursuant to this agreement, including the payment of Manager's compensation. Manager shall account to the Association for all such expenditures of Association funds at least monthly and provide a statement of receipts and disbursements for the prior period, including a statement of the balance in the operating account. Manager and Association to agree upon when said statement shall be made available to the Association in

such a timely fashion for reporting to the Board of Directors or the members of the Association.

c. **Preparation of Annual Budget.** 60 days prior to the beginning of each fiscal year, which begins on January 1st, Manager shall prepare and submit to the board a recommended Annual Budget for the next year covering anticipated income and expenses and projected assessments for the members. See paragraph 13.3.

d. **Submission of Annual Report.** Within 30 days after the end of each fiscal year, Manager shall submit to the Association a 12 month summary of all receipts and disbursements relating to the property for the preceding year. This shall not be a requirement of filing an audited summary.

e. **Maintenance of Certain Common Elements.** Subject to the direction of the board, at the expense of the Association in accordance with the Association's approved budget, Manager shall be responsible to maintain the common elements of the property. Said common elements shall be maintained according to appropriate standards of maintenance consistent with the character of the property. This shall include such repair and maintenance of the landscaping and grass cutting on the common elements, and snow and ice removal from walkways, parking lots and driveways as shall be agreed from time to time between Manager and the Association as well as common element building maintenance and repair("Management Services") Manager shall not be liable for any damages caused by contractors hired to perform those services or for delays in the performance of those services beyond the reasonable control of Manager. Manager may expend Association funds and contract for those maintenance services for the benefit of the Association in accordance with procedures established from time to time by the Association and Manager At this time the Association shall require that all contracts negotiated on behalf of the Association shall be approved and executed by the properly designated Association Board member and not executed by the manager. Manager's expanding of Association funds shall be regulated as follows:

-Manager may expand funds for those regularly scheduled vendor provided services such as utilities, landscaping, snowplowing and the like.

-Non-scheduled expenses paid by the Manager shall be limited to the sum of $ 500.00 otherwise such sum shall require prior approval from the association.

-In the case of emergency situations the Manager shall use sound business judgment and act in good faith in disbursement of any Association funds when prior approval is not possible.

Manager agrees to provide the Association with the names of all contractors hired by Manager to perform the services described above.

f. **Payment of Expenses, Expenditure of Association Funds and Contract for Services.** Manager shall expend Association funds and contract for services for the proper operation of the Association in accordance with procedures which shall be agreed to by the parties. Manager shall account to the Association for all such expenditures of Association funds at least monthly. Manager shall not have access to withdraw funds in any of the reserve accounts maintained by the Association. Manager shall deposit into the reserve funds or turn over to the Board of Directors for deposit if the Manager is not able to transact such deposit, that portion of the regularly collected maintenance fees budgeted for reserves on the same frequency as the unit owners pay over such funds to the Association (monthly/quarterly/yearly etc.). As to special assessment funds the Manager shall immediately turnover said funds to the Association for deposit if the Manger is not able to complete such deposit. Also, see paragraphs 11.1 and 11.2.

Manager agrees to be available (or to designate a representative of Manager who will be available) during normal business hours Monday through Friday (except holidays) on matters pertaining to the Management Services. The parties shall agree on an after hour's emergency response procedure to handle those emergency issues arising after normal business hours and for weekends and holidays.

3. **Management Fees.** The Association shall compensate Manager for its said management services to be performed under this Agreement at the rate of $1,274.00 per month ($13.00 per unit) as a flat fee per the agreement of the parties, payable in advance on the first of each calendar month. That rate may be adjusted from time to time by mutual agreement of the parties but such adjustment shall be at least annually upon approval, by the board, of the annual budget. At the time of contract approval there will be a $200.00 one time set-up fee due. Per this agreement, Board of Director meetings will commence one time per quarter and there will be one annual meeting per year. If additional meetings are necessary there will be a $40.00 fee due after completion of the additional meeting. Manager shall be the custodian of the records of the Association. However, Manager shall not be required to record minutes of meetings without additional compensation. If Manager is requested to record minutes of the meeting an additional fee of $50.00 per meeting will be charged.

a. **Contract Signing Bonus.** Forest Green Realty & Management has agreed to waive the 1st Month Management Fees for this agreement. The management fee for the month of January, 2015 will be waived totaling $1,274.00. Manager has also agreed to waive the $200.00 set-up fee. Should Association cancel agreement with Manager prior to termination date, Association will be required to re-pay signing bonus to Manager immediately.

4. **Term of Agreement and Termination.** The Association employs Manager exclusively to provide the Management Services for a period of two years, beginning January 1, 2015, and thereafter for yearly periods unless on or before sixty days prior to the expiration of any such renewal period either party shall notify the other party in writing that it elects to terminate this agreement, in which case this agreement shall be terminated at the end of that period. Early termination shall be permitted if both parties agree. Each party shall have the right to terminate the contract for just cause if such cause or breach is not cured within 30 days of receipt of written notice to the other party.

Upon termination of the contract, by either party as provided for herein, Manager shall be required, within 7 days of the effective termination date, to turn over to the Association those documents to which the Association is entitled, to include but not be limited to (a) electronic and paper copies of detailed general ledger, all accounts payable and records, all accounts receivables and records, profit and loss and balance sheet statements calculated up to the date of termination (b) transfer all funds to the designated depository as directed by the Association within the 7 days of the date of termination (c) turn over all records relating to contracts, bids, work in process and insurance of all kinds within the 7 days of the date of termination

Failure of the Manager to turn over the records in a timely fashion as set forth above shall result in a daily liquidated damage amount of $100 being assessed against the Manager.

5. **Indemnification.** The Association agrees to indemnify and hold Manager harmless from all suits, claims, damages and expenses sustained by Manager when Manager is carrying out the provisions of this Agreement or acting under the express or implied direction of the board, and to indemnify and hold Manager and Manager's agents and employees, harmless from all damages and expenses sustained by the

Manager as a result of the actions of the Association or Association's contractors other than Manager. The provisions of this article shall survive the termination of the Agreement. The Association shall pay all expenses incurred by Manager, including, but not limited to, all attorneys' fees, costs and expenses incurred to represent manager in regard to any such suits, claims, damages and expenses as well as any actions involving alleged negligence of Manager or its employees in connection with or arising out of the management of the Property. All provision of this Agreement that require the Association to have insured or to defend, reimburse, or indemnify Manager shall survive any termination; and if Agent is or becomes involved in any proceeding or litigation by reason of having been the Association's Manager, such provisions shall apply as if this Agreement were still in effect.

6. **Manager Not Responsible for Maintenance of Individual Units.** Notwithstanding any other provision of this agreement, the Manager has no authority or responsibility for maintenance or other repairs to the individual units, as defined in the Declaration of the development, in the Condominium. Such maintenance and repairs shall be the sole responsibility of the individual unit owners.

However, in the event of an emergency and in furtherance of the best interests of the Association and all other unit owners the Manager may enter a unit without the unit owner's consent to protect and preserve the interests of the Association. The Manager shall first make reasonable efforts to contact the unit owner of such unit that is to be entered, documenting the same in its records and if possible seek approval to enter.

7. **Association Contact Person.** The Association shall designate a specific individual board member or officer of the Association who shall be authorized to deal with the Manager on specific matters relating to the Management Services to be provided by Manager under this agreement. Manager is directed not to accept direction or instructions with regard to those management services from any one else. In the absence of any other designation by the Association, the President of the Association shall have this authority.

8. **Employment of Personnel and Payment of Employment Taxes.** Manager may hire, pay negotiate with, supervise and discharge whatever personnel that may be required to maintain and operate the Property on behalf of the Association in addition to independent contractors who are contracted with to perform and/or provide agreed upon services and goods. Any personnel that are employees of Manager shall be billed to the Association at rates previously approved by the Association. Such employees of Manager shall be supervised, managed and paid by Manager and all taxes and withholdings, shall be the responsibility of the Manager.

9. **Limitations on Manager's Authority and Responsibility.** Manager's authority and responsibility to act shall be subject to the following limitations:

9.1 **Structural Changes.** Manager shall not have any authority to make any structural changes or major alterations to the Property.

9.2 **Building Compliance.** Manager shall not be responsible for the compliance of the Property or any of its equipment with the requirements of any building codes or with any Federal or State laws, ordinances, rules or regulations. However, Manager shall notify Association promptly of any notice of any type received by Manager as to such matters. Association, to the best of its collective knowledge represents that the Property complies with all requirements and holds Manager, its agents and employees harmless and agrees to indemnify Manager and its agents and employees from any liability and expenses imposed on them by reason of any present or future violation or alleged violation of such laws, ordinances, rules or regulations.

9.3 **Manager Assumes No Liability.** Manager assumes no liability for any acts or omissions of the board, the Association or any previous boards or previous management companies. Likewise Manager assumes no liability for the acts or omissions of any individual unit owner.

9.4 **Decisions by Manager Outside of Scope of Authority**. In the event Manager, without majority Board of Director approval, shall make a decision or exercise its authority beyond the scope of this Agreement or beyond the scope of the condominium documents(including the declaration, by laws and rules and regulations) and the Association shall suffer damage, the Manager shall fully be responsible to reimburse the Association for such damages. Reimbursement shall be made directly by the Manager or through a claim to be made against Manager's errors and omissions carrier if such action of the Manger is a covered peril.

10. **Other Specific Services of Manager.** To be negotiated.

11. **Disposition of Funds.** Manager shall deposit collections and pay expenses of the Association and its Property as follow:

11.1 **Deposit Collections.** Manager shall collect and deposit all monies of the Association in a bank or depository whose deposits are insured by the federal government. The funds of the Association shall be held separate from the funds of the Manager. Managers designated agents/employees shall be the only parties authorized to draw upon such accounts for the legitimate business of the Association. The Manager shall not be held responsible for any bankruptcy or insolvency of the financial institution.

11.2 **Payments by Manager.** Manager shall pay all expenses of the operation and management of the Association from the funds held in account by the Manager. Any amounts owed to Manager shall also be paid from such accounts held by Manager on behalf of Association. Manager shall not be required to advance funds on behalf of the Association.

11.3 **Bonding of Employees**. All employees of Manager who handle any monies of Association shall be covered by a bond protecting the Association. Evidence of such bonding shall be provided to the Association within 7 days of execution of this Agreement. The Association shall then have 5 days to review the bonding evidence with professionals of its choice to determine the satisfactory nature of the evidence and then approve the same in writing to the Manager, such approval not to be unreasonable withheld.

12. **Attendance at Board Meetings** Attendance at Board meetings or unit owner meetings shall be negotiated between the parties as needed and the extent of participation at such meetings and time involved and compensation paid to Manager shall be agreed upon in writing prior to any attendance.

13. **Obligations of Association**. It shall be the obligation of the Association to:

13.1 **Maintain Liability Insurance.** Association shall be responsible to maintain and carry on a continuous basis, at its own expense, public liability, boiler, fire and extended coverage and all such other insurance as may be necessary or appropriate. Manager shall be named as an additional insured and certificates of insurance evidencing the same shall be provided to Manager. Manager is under the duty, acting on behalf of the Association, to secure bids on the broadest based coverage possible to protect the interests of the Association as well as the Manager which is being named as an additional insured.

13.2 **Pay All Expenses of Litigation.** The Association shall be responsible to pay all costs incurred by Manager, including but not limited to any liability, fines, penalties or the like, settlement amounts, and attorneys fees for counsel employed to represent Manager or the Association in any proceeding or suit involving any alleged or actual violation by Manager or the Association or the board, or any combination of all of them, of any law or regulation of any sort. However, the Association shall not be responsible for any expenses of Manager in the event Manager is finally adjudged to have personally, and not in an agency capacity, violated any such law.

13.3 **Approve Annual Budget.** Within 30 days of receipt of the recommended annual budget prepared by Manager, the board shall take such steps to review and either approve the same or submit in writing those items which are unacceptable to the board so the budget can be agreed upon. Failure to provide such notice to manager within 30 days shall be deemed as approval of the annual budget by the board and the Manager shall be authorized to operate and manage the property in accordance with the annual budget.

14. **Wisconsin Law and Partial Invalidity.** This agreement shall be construed and interpreted in accordance with the laws of the State of Wisconsin. If any part of this agreement is found to be invalid the balance of the agreement shall be in considered to be in full force and effect.

15. **Notices.** Notices shall be sent to either party by certified mail R/R/R at the address listed below, by fax or by e-mail listed below. Any required notice must be sent by 2 of the 3 listed forms of notification:

Manager: Forest Green Realty & Management
Attn: Kirsten Capps
8575 W. Forest Home Ave #140
Greenfield, WI 53228

Phone: 414-425-3134 Fax: 414-425-4946 e-mail:kcapps@forestgreenrealty.com

Association: _____

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Phone: _____ Fax: _____ E-mail: _____

16. **Relationship of Agent to Association.** The relationship of the parties shall be that of Principal and Agent, and all duties to be performed by Agent under this Agreement shall be for and on behalf of, in the name of and for the account of the Association.

17. **Entire Agreement.** This agreement shall constitute the entire agreement between the contracting the parties, and no variance of modification thereof shall be valid or enforceable unless in writing signed by both parties.

18. **Agreement Binding on Successors and Assigns**. This Agreement shall be binding upon and inure to the benefits of the administrators, successors and assigns of Manager and the administrators, successors, and assigns of the Association. No assignment permitted without prior consent of other the party.

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

FOREST GREEN REALTY & MANAGEMENT

By: Paulanne Phillips
Paulanne Phillips, Broker

WHITNALL PARK SQUARE CONDOMINIUM ASSOCIATION, INC.

By: Annette Marbourski
~~President~~ Treasurer

Attest: David Tedesco
Vice President