

MANAGEMENT AGREEMENT

AGREEMENT made as of the 14th day of APRIL 2004 by and between the Board of Directors of the Tideview Condominium Association, Inc. (the "Board") on behalf of the Tideview Condominium Association (the "Association"), of Dover, NH and Evergreen Management, Inc., a New Hampshire corporation, having a principal place of business at 360 Route 101, #14C, Bedford, New Hampshire 03110-5047 ("Management").

Witnesseth:

WHEREAS, the Association desires to have Management utilize its represented experience and knowledge to assist the Association in the management, supervision, and administration of the Association (hereinafter alternately referred to as the "Condominium").

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter contained, the parties agree as follows:

1. **Appointment and Acceptance.** The Board hereby appoints Management and Management hereby accepts appointment, on the terms and conditions hereinafter provided, as managing agent of the Association.

1.1. Management fully understands that the function of the Board is the operation and management of the condominium; and Management will, notwithstanding the authority given to Management in this agreement, confer fully and freely with the Board as to the performance of its duties as herein set forth and will attend membership or directors' meetings at any time or times requested by the Board. It is further understood that the authority and duties conferred on Management hereunder are confined to the common areas and facilities and the limited common areas and facilities as defined in the plan of condominium ownership. Such authority and duties do not and shall not include supervision or management of residential units except as directed by the Board.

1.2. Management accepts the relationship of trust and confidence established between itself, the Board, and the Association by virtue of entering in this Agreement. Management covenants to furnish its best skill and judgment and to cooperate in furthering the interests of the Association. Management agrees to furnish efficient business administration and supervision and to perform its administrative, financial and management responsibilities, in the best manner consistent with effective management techniques and in the most expeditious and economical manner consistent with the best interests of the Unit Owners' Association.

1.3. All books, records, programs, documents, and procedures prepared, developed, and/or implemented pursuant to this Agreement shall be the property of the Association.

1.4. Management shall conduct its duties consistent with the provisions and intents of Revised Statutes Annotated Chapter 356-B of New Hampshire, known as the Condominium Act (hereinafter referred to as the Act) and, in general, consistent with Federal, State, and local laws and regulations as they pertain to the operation of the Association.

2. **Description of Condominium.** The Condominium to be managed by Management under this agreement is in Dover, New Hampshire.

3. Term.

3.1. The Board employs Management to manage the Condominium for a period of two (2) years, beginning 01 January 2004. This Agreement shall automatically renew for subsequent two (2) year terms.

3.2. Either party may terminate this agreement without cause or penalty, upon thirty (30) days prior written notice to the other party.

4. Duties of Management.

4.1. Management shall collect and, as necessary, issue a receipt for all monthly or other assessments or other charges collected due to the Association for the operation of the Condominium and all rental or other payments, if any. Management's duties in the collection of delinquent assessments or other charges shall include the sending of notices of delinquency, filing of a lien pursuant to state statute so as to protect the Association's interests and the appearance, if necessary, in the local district court to initiate and settle small claims actions filed on behalf of the Association.

4.2. Management shall maintain records showing all its receipts and expenditures relating to the Condominium and shall promptly submit to the Association or Board a cash statement indicating the balance or deficit in the Association's account(s) for the Condominium on or before the tenth (10th) day of the following month. Any transfer of money from one Association account to another Association account shall require the prior approval of the Board of Directors. Association funds shall not be commingled with the funds from other Associations.

4.3. Management shall prepare and submit to the Board, on or before three (3) months prior to the end of each fiscal or calendar year, a recommended budget for the next year showing anticipated receipts and expenditures for such year.

4.4. Within thirty (30) days after the end of each fiscal year or ten (10) days after the Board awards the contract to an auditor, whichever is later, Management shall submit to the Board a summary of all receipts and expenditures relating to the Condominium for the preceding year, provided that this service shall not be construed to require Management to supply an audit. Any audit required by the Board shall be prepared at its expense by accountants of its selection.

4.5. Management will endeavor to cause the property to be maintained and repaired, in accordance with state statutes and local ordinances, in a condition at all times acceptable to the Board, including but not limited to such work as cleaning, painting, decorating, plumbing, carpentry, grounds care, and such other maintenance and repair work as may be necessary. Incident thereto, the following provisions will apply:

- 4.5.1. Special attention will be given to preventative maintenance.
- 4.5.2. Management will contract with qualified independent contractors approved by the Board (except in emergency circumstances), for repairs to the property.
- 4.5.3. Notwithstanding any provision to the contrary, the prior approval of the Board will be required for any contract in excess of One thousand dollars (\$1,000.00) and in any single expenditure which exceeds one thousand Dollars (\$1,000.00) in any one instance, for labor, materials or otherwise in connection with the maintenance and repair of the property; except for recurring expenses within the limits of the operating budget or for

emergency repairs involving manifest danger to persons or property or required to avoid suspension of any necessary service to the property. In the latter event, Management will inform the Board of the facts as promptly as possible.

- 4.5.4. Management shall take such action as may be required to comply with any and all orders and requirements affecting the Condominium, placed thereon by federal, state, county or municipal authority having jurisdiction thereover; Management is nonetheless subject to the same limitations contained in paragraph (4.5.3) of this section in connection with the making of repairs or alterations. Management shall give notice to the Board on any such action taken regarding such compliance. Management shall not take any action under this paragraph (4.5.4) as long as the Board is contesting or has affirmed its intention to contest, in writing, any such order of requirement.
- 4.5.5. All maintenance or repairs performed by Management at Management's expense which is subsequently charged to the Association, shall be paid within fifteen (15) days of receipt of the statement rendered by Management to the Board.
- 4.5.6. All expenses of operation and management may be paid from the Association's funds held by Management, and Management is authorized to pay any amounts coming due under the annual budget approved by the Association and owed to Management by the Association from such account at any time without prior notice to the Board. Management shall have no obligation to advance funds to the Association for any purpose whatsoever.
- 4.5.7. Other functions of Management incident to the maintenance and repair of the Condominium include those items on Schedule A attached hereto and incorporated herein by reference.

4.6 On the basis of the budget, job standards and wage rates previously approved by the Board, Management shall hire, pay, supervise and discharge personnel required to maintain and operate the Condominium properly.

4.7. Subject to the direction of the Board, Management shall negotiate and execute on behalf of the Association contracts for services for the common elements of the Condominium as may be necessary or advisable. Management shall purchase on behalf of the Association, upon the Board's approval, such equipment, tools, appliances, materials and supplies as are necessary for the proper operation and maintenance of the Condominium. All such purchases and contracts shall be in the name and at the expense of the Association, and shall remain the property of the Association.

4.8. Management shall pay from the funds of the Association all governmental charges, and all other charges or obligations incurred by the Board with respect to the maintenance or operation of the Condominium or incurred by Management on behalf of the Board pursuant to the terms of this agreement or pursuant to other authority granted by the Board. If any charges or obligations appear to be excessive or abnormal, then Management shall inform the Board of said obligation and receive signed authority to pay said charge or obligation from the Board.

4.9. Management shall maintain appropriate records of all insurance coverage carried by the Association. Management shall cooperate with the Board in investigating and reporting all

accidents or claims for damage relating to ownership, operation and maintenance of the common elements of the Condominium including any damage or destruction to them.

- 4.9.1. Management shall not, as part of this management agreement, act on the Association's behalf in the settlement and oversight of common area repairs of any insurance claims placed or arising against the Association's Master Insurance Policy or any insurance policy carried by the Association.
- 4.9.2. The Board may delegate to Management settlement and insurance claim repair oversight authority as outlined in 4.9.1, and Management's compensation for these additional duties shall be paid at a rate determined by the insurance company and shall be paid from insurance claim proceeds.

5. **Structural Changes, Repairs, Compliance.** Management shall have no authority to make any structural changes in the Condominium or to make any other alterations in or to any building or equipment therein, except such emergency repairs as may be required because of danger to life or property of which are immediately necessary for the preservation or safety of the Condominium or the safety of the Owners and occupants or for those repairs or alterations which are required to avoid the suspension of any necessary service to the Condominium.

6. **Association Manager.** One of Management's staff will be designated Association Manager for the Condominium. The Association Manager or other representative of Management shall attend monthly Board Meetings and Association's annual meeting. The Association Manager shall be custodian of the official records of the Board and the Association and shall transcribe the minutes of said meetings.

7. **Records and Reports.** In addition to any other requirements specified in this Agreement, Management will have the following responsibilities with respect to records and reports:

- 7.1. Management will establish and maintain a comprehensive system of records, books, and accounts in a manner satisfactory to the Board. All records, books, and accounts will be subject to examination at reasonable hours by the Board, Unit Owners and/or its authorized representative(s). As part of the Management Report to the Board, Management will identify which employee was on-site, for what reason and if the Association would be charged for the visit.
- 7.2. Within thirty (30) days following the end of each fiscal year of the property, the Board shall be furnished with a complete annual financial report for the Association, based upon an examination of the books and records held by Management and containing a detailed, itemized statement of all income and expenditures.
- 7.3. Except as otherwise provided in the Agreement, all bookkeeping, clerical and other management overhead expenses will be borne by Management out of its own funds and will not be treated as property expenses.

8. **Bids, Discounts, Rebates, etc.** Management will solicit on behalf of the Association for Board approval contracts, materials, supplies, utilities, and services on the most advantageous terms to the Association. Management is required to solicit bids, on a best efforts basis, in writing for all non-routine maintenance costs greater than \$1,000.00 for those items that can be obtained from more than one source. Management shall inform the Board of all solicited bids in writing, and the Board shall select the winning bid.

9. **Emergency Answering Service.** The condominium unit owners will be provided an emergency telephone number and property repair capability on a twenty-four (24) hour basis. This expense will be borne by Management and not the Association.

10. **Bond.** A fidelity bond insuring Management for the benefit of the Association shall cover all Management employees who handle or are responsible for the safekeeping of any funds of the Association. Each bond shall be in an amount and with a company to be determined by Management.

11. **Non-Discrimination.** In the performance of its obligations under this Agreement, Management will comply with the provisions of any federal, state, or local law prohibiting discrimination in housing on the grounds of race, color, creed, or national origin.

12. **Management Fees.**

- 12.1. The Association shall pay Management a management fee equal to One thousand four hundred ninety-seven and 50/100 dollars (\$1497.50) per month. The management fee shall be paid monthly in advance. Any non-routine clerical services performed for the Board or the Association which are not directly related to Management's functions set forth in section 4 hereinabove, such as preparation and circulation of notices and newsletters and general correspondence of the Board, shall be at the expense of the Board.
- 12.2. The Association shall pay to Management all copying, envelope and postage costs incurred by Management on behalf of the Association. Said costs to be reimbursed to Management at the following schedule: Copying - \$0.12/copied page; Envelopes - Actual Management Cost; and Postage - Actual Management Postage cost.
- 12.3. The Association shall pay to Management a fee of five percent (5%) of the total cost of all capital and/or major projects in excess of \$5,000.00.
- 12.4. In accordance with section 3.1, upon each subsequent two year renewal, the management fee under 12.1 shall increase by four (4%) percent.

13. **Management's Compensation for Additional Non-routine Services.** Management shall maintain availability for services related to certain non-routine activities for which the need may or may not arise. Non-routine services are services not listed in section 4 hereinabove and may include, without limitation, the following:

- 13.1. Participation in legal actions initiated by the Board or the Association exclusive of those related to collection of annual assessments and legal activities relating to covenant enforcement which have not been subjected to court action, those exceptions being included in reoccurring services and fees as outlined in Section 4.1.
- 13.2. Negotiations and claims of a protracted nature arising from warranty claims for work by any contractor prior to effective date of this Agreement.

Charges for services performed under Sections 13 shall be at a rate of \$75.00 per hour.

14. **Individual Units.** Notwithstanding any other provision of this Agreement, Management has no authority or responsibility for maintenance of or repairs to non-Association portions of the dwelling units in the Condominium. Such maintenance and repairs shall be the sole responsibility of the Owners individually as specified by the Association's governing documents.

15. **Indemnity; Indemnification Expense.** Management shall not be liable, and the Association shall hold Management harmless, for any loss or damage caused by any contractor or other worker whose hiring was approved by the Board of Directors for Association work. The Association shall indemnify Management in all such cases.

16. **Insurance.**

16.1. The Association shall carry at its own expense public liability insurance and, should the Association's master insurance policy so require, workers compensation insurance naming the Board and Management as insured in such amounts adequate to protect their interests and in form, substance and amounts reasonably satisfactory to Management and the Board, and furnish insurance certificates evidencing the existence of such insurance unless the Board shall provide such insurance.

16.2. Should the Association Board of Directors agree to participate in the master Association insurance program offered through Management, then the Association and its owners will be named as an additional insured under Management's Insurance Program. The limits of Management's Insurance Program will equal or exceed the limits outlined in the Association's Declaration or Bylaws. The Association would be responsible for paying the Association's respective cost of Management's Insurance Program in consideration for being covered by Management's Insurance Program. Management's Insurance Program provides coverage as per the Association's condominium documents. Individual Unit owners would be responsible for purchasing their own insurance coverage for liability, betterments and improvements, interior contents and any other optional coverage such as earthquake and loss assessment, etc.

16.3. Should the Association Board of Directors choose not to participate in the master Association insurance program offered through Management, then Management shall not, as part of this management agreement, act on the Association's behalf in the settlement and oversight of common area repairs of any insurance claims placed or arising against the Association's Master Insurance Policy or any insurance policy carried by the Association.

16.4. The Board of Directors may delegate to Management settlement and insurance claim repair oversight authority as outlined in 16.3, and Management's compensation for these additional duties shall be paid from insurance claim proceeds. Such charges by Management under sections 16.3 and 16.4 shall be considered a normal expense item in filing a claim and administering the application of insurance proceeds and shall accordingly be submitted with the claim. Management's compensation in the filing and administration of any insurance claim filed shall be determined by the insurance company.

17. **Additional Documents Incorporated Herein.** In order to facilitate efficient operation, Association shall furnish Management, to the extent possible, with a complete set of the plans and specifications of the condominium as finally approved by the office of the Attorney General of the State of New Hampshire.

In addition, the Declaration of Condominium of the Association, the Association's Bylaws, the Rules and Regulations and Board Resolutions, including all modifications, amendments, and changes issued subsequent to the execution of this Agreement, shall have the automatic concurrence of Management except to the extent that such changes materially alter Management's responsibilities and rights under this Agreement. If any conflict shall arise within this Agreement, the Declaration, Bylaws, Rules and Regulations and Board Resolutions as of the date of this Agreement, the Declaration, Bylaws, Rules and Regulations and Board Resolutions shall control.

18. **Notices.** All notices which are provided for under any of the provisions of this Agreement shall be in writing addressed to the parties at their addresses set forth herein below and given by first class mail, postage pre-paid:

If to Management: Thomas E. Ducharme, President
 EVERGREEN MANAGEMENT, INC.
 360-1402 Route 101, #14C, Bedford, NH 03110-5047

If to the Board: President, Board of Directors
 Address of the Board President
 Tideview Condominium Association
 Dover, NH 03820

19. **Assignment.** Management shall not sell or assign any of its duties under this agreement.

20. **Successors.** This agreement shall be binding upon and inure to the benefit of the parties to this agreement and their representatives, successors and assigns, subject to the limitations contained in Section 19 hereinabove.

21. **Arbitration.** All claims or disputes arising out of this agreement shall be determined by arbitration in accordance with the rules of the American Arbitration Association, with all such arbitration taking place in Manchester, New Hampshire. Each party shall have the right to appeal any decision to court for legal or equitable relief within thirty days from the date of that decision. Each party waives the affirmative defense of limitations to the extent of the delay caused by and the period of arbitration.

22. **Waiver.** No waiver of any breach of this Agreement shall constitute a waiver of any other breach or waiver of any provision hereof.

23. **Severability.** Any provision of this Agreement which is invalid under or prohibited by the law of any appropriate jurisdiction shall be ineffective to the extent of such a provision without invalidating the remaining provisions of this Agreement, which shall remain in full force and effect.

24. **Entire Agreement.** This Agreement, including schedule A attached hereto, embodies the full understanding of the parties, and there are no other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof. This Agreement may be amended or modified only in writing signed by the parties hereto.

25. **Applicable Law.** This Agreement shall be governed by, and any question arising hereunder shall be construed and interpreted according to, the laws of the State of New Hampshire.

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

WITNESS:

TIDEVIEW CONDOMINIUM ASSOCIATION

Roger Fortier

By: Mary Golden
Board of Directors, President

EVERGREEN MANAGEMENT, INC.

Smith Hill

By: Thomas E. Ducharme President
Thomas E. Ducharme, President

File: Tideview Management Agreement/Proposal

SCHEDULE A

Summary of Services Included in Evergreen Management's Monthly Management Fee

FISCAL

- Fee/Assessment Collection
- Bill Payment Processing
- Delinquency Follow Up
- Preparation of Monthly Financial Reports
- Lien Filings
- Fee Statement
- Budget Preparation
- Replacement Budget Fund Analysis
- Year-End Financial Report
- Bill Approval
- Foreclosure Proceedings

ADMINISTRATIVE

- Board Meeting Attendance
- Meeting Minutes Transcription
- Association Status Report
- Contract Awarding
- Special Meeting Attendance
- Annual Meeting Coordination
- Annual Meeting Attendance
- Owner Roster Maintenance
- Records and File Maintenance
- Welcome Package Preparation
- Legal Liaison
- Insurance Liaison
- Rules & Regulations Enforcement
- Document Amendments
- Review & Implementation of Standard Operating Procedures
- Work Orders Recording, Processing & Distribution
- Information Concerning Laws and Ordinances
- Specification/Bid Preparation and Coordination

BUILDINGS & GROUND MAINTENANCE

- Preventative Maintenance Program
- Yearly Maintenance Plan
- Report on Outside Contractor Performance
- Building/Amenity/Grounds Inspection Reports
- Oversight of all routine maintenance work as Directed by the Board of Directors.



EVERGREEN

MANAGEMENT INC.

MANAGEMENT AGREEMENT ADDENDUM

To the Management Agreement between the Board of Directors of the **Tideview Condominium Association** on behalf of the Tideview Condominium Association, Dover, NH and **Evergreen Management, Inc.**, 17 Commerce Drive, Bedford, NH 03110 dated 14 April 2004;

THE PARTIES AGREE AS FOLLOWS:

1. Section 15 of the Management Agreement shall be deleted and the following inserted as new Section 15:

15. Indemnity; Indemnification Expense.

15.1. The Association shall hold harmless and indemnify Management and its subsidiary(s) and/or affiliate entity(s), including attorney fees, costs and indemnity defense for any claims, actions, or liabilities made against Management in any way arising out of Management's duties pursuant to this Agreement. Mere allegations of negligence, non-performance, actual breach, or omission shall not overcome the provisions of this hold harmless, defense and indemnity Agreement provision. In all cases, the Association's Master Policy shall be primary as to Management.

15.2. Management agrees to indemnify, defend and hold harmless the Board of Directors (collectively and individually), the Association, and Association officers (collectively, the "Indemnitees") from and against any and all claims, demands, actions, liabilities, damages, costs, losses and expenses, including attorney's fees and costs of suit (collectively, "Damages") which the Indemnitee may incur, suffer or be required to pay by reason of Management being found negligent on an unappealable decision by a New Hampshire court in the performance of this Agreement.

2. Section 12.2 of the Management Agreement shall be deleted and the following inserted as new Section 12.2:

12.2. The management fee shall include the following administrative expenses:

- Copying, envelope and postage costs associated with Association, Unit Owner and Board Member communication.
- Copying, envelope and postage costs associated with preparing and distributing the annual meeting notice.
- Website: Provided to the Association no additional charge.
- Website Updates: Provided at no charge.
- Association Welcome Package to new Owners.

Evergreen Management, Inc.
Corporate Office

17 Commerce Drive
Bedford, NH 03110-7059
603/622-7000 Fax: 603/623-7200
EMI@evergreenmgt.com

Seacoast
Regional Office

72 Portsmouth Ave.
Stratham, NH 03885
603/622-7000 Fax: 603/623-7200
EMISeacoast@evergreenmgt.com

Lakes Region
Regional Office

67 Water St., Suite 203
Laconia, NH 03246
603/528-3044 Fax: 603/524-1331
EMILaconia@evergreenmgt.com

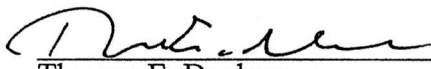
Massachusetts
Regional Office

300 Brickstone Sq., Suite 201
Andover, MA 01810
978/662-5386 Fax: 978/662-5201
EMIAndover@evergreenmgt.com

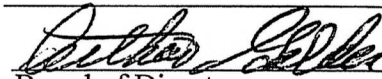
3. The monthly management fee outlined in section 12.1 shall be \$1,826.49 per month.
4. All other provisions of the Management Agreement remain unchanged and in full force and effect.

These Management Agreement changes shall be effective as of 01 January 2012.

Date: Dec. 16, 2011 2011.



Thomas E. Ducharme
President
Evergreen Management, Inc.



_____, President
Board of Directors
Tideview Condominium Association



EVERGREEN
MANAGEMENT INC.