

## **ASSOCIATION MANAGEMENT AGREEMENT**

THIS AGREEMENT, signed and made effective as of the 15th day of November, 2016 (herein referred to as Effective Date) with services scheduled to commence on the 1<sup>st</sup> day of January, 2017 (herein referred to as Commencement Date), is by and between GLENWYCK FARMS HOMEOWNERS' ASSOCIATION, INC. (herein referred to as "Association") acting by and through its Board of Directors (the "Board" or "Board of Directors") and GUARDIAN ASSOCIATION MANAGEMENT, LLC (herein referred to as "Manager"). The parties are sometimes referred to herein collectively as the "Parties" and individually as a "Party."

This Agreement is by and between the Association and the Manager.

**1. MANAGER APPOINTMENT** The Association represents that it is the lawful agent of the property owners comprising the Association and that it has the right to collect owner fees and manage the property known as GLENWYCK FARMS (the "Property"). The Association hereby engages the services of the Manager to operate and manage the Property under the direction of the Board.

**2. TERM** This Agreement shall begin on the Commencement Date and shall automatically renew on a month to month basis unless otherwise terminated. Either party may terminate this Agreement without cause by giving the other party at least ninety (90) days written notice. Such notice shall not affect or impose any right which has accrued to either party prior to the date of notice, including the Association's duty to indemnify, duty to defend, and duty to hold harmless Manager as set forth below. This Agreement shall terminate automatically upon termination of the Association's right to collect assessments, fines, damages, interest and costs from members of the Association.

**3. MANAGEMENT** Manager shall operate and manage the Association's property consistent with industry standards in the locale in which the property is situated.

**4. OPERATING BANK ACCOUNT AND RESERVE BANK ACCOUNT(S)** Manager shall use diligent efforts to collect all owner fees and other money due to the Association including, but not limited to: owner charges, periodic assessments, and special assessments. All receipts shall be deposited in the Association's operating bank account. Manager shall make all disbursements from the operating bank account. Manager may pay bills of the association by auto-debit, auto-draft, credit card, or such other method as is customarily used by Manager in its accounting processes, provided, however, that the Association does not incur any additional cost or expense associated with such method. Manager may establish an interest bearing bank account(s) on behalf of the Association. The Association's bank accounts shall be at an institution of Manager's selection. Periodically, Manager may transfer excess funds from the operating bank account into the interest bearing bank account(s).

**5. INITIATE LEGAL PROCEEDINGS** When necessary, Manager may, with the Association's Board of Directors approval, initiate and pursue legal proceedings in suits for collection of delinquent owner fees. All expenses incurred in collection of money owed to the Association shall be the responsibility of the Association and may be paid from the operating account of the Association by Manager. In addition, Manager may assess a collection fee payable by the Association to Manager and charged back to the delinquent owner to compensate Manager for the time and expense incurred in collecting past due accounts.

**6. MAINTENANCE AND REPAIRS** Manager shall perform maintenance and repairs in the ordinary course of operating the Property. No single expenditure for these purposes shall exceed \$1,500 (Maintenance repair limit) without prior approval of the Association. If the Association's written approval is requested by Manager, it shall be promptly tendered by the Association. It is understood that all maintenance and repair expenses shall be paid from the operating account of the Association by Manager. In order to prevent damage or injury to persons or property or otherwise pursue the legitimate interests of the Association, Manager may make expenditures for maintenance and repairs which exceed the aforementioned Maintenance Repair Limit without approval in which event the Association will be promptly notified of such expenditures.

**7. SERVICE CONTRACTS** Manager may enter into service contracts for the cleaning, maintenance, or repair of the Property with Association approval. Contract expenses shall be paid from the operating account of the Association by Manager.

**8. INSURANCE** It is the responsibility of the Association to obtain comprehensive insurance coverage against damage or injury to property or persons which might arise out of the operation, management, maintenance, repair or occupancy of the Property. The Association will provide Manager a copy of the master policy covering the Property. At the Association's request, Manager will solicit recommendations from qualified agencies for coverage and coverage amounts specified by Association. The final decision as to coverage and amounts of coverage lies with the Association. Manager may pay insurance premiums from the operating account. The Association will furnish to Manager Certificates evidencing the existence of public liability and property hazard insurance. Any new or existing liability coverage for the Association and/or the Property shall include Manager as "Additional Insured". Manager will be an "Additional Insured" on the general liability insurance policy and directors and officers liability policy of the Association. Any cost to include the Manager as "Additional Insured" shall be considered an expense of the Association. If the Association does not provide certificates evidencing the existence of public liability and property hazard insurance, Manager may place said insurance and pay the premium out of the operating account. To coordinate insurance costs to the annual operating budget of the Association, Manager may change the policy period to run from October 1<sup>st</sup> to September 30<sup>th</sup>.

**9. TAXES AND OTHER ASSESSMENTS** Real estate taxes, personal property taxes, improvement assessments, and other like charges shall be paid by Association. Manager may pay same from the Association's operating account. Upon the Association's request, Manager shall review and verify assessments, taxes, and other like charges and recommend payment or appeal. Manager may procure the services of property tax analysts in analyzing property tax expenses and/or preparing protests and filing returns relating to such taxes. The Association shall pay the expenses and fees associated with such protests and filings.

**10. FRANCHISE, SALES, AND INCOME TAXES AND AUDITS** Franchise taxes, income taxes, sales taxes, and other like charges shall be paid by the Association. Manager may pay such costs from the Association's operating account. Manager may procure the services of legal and accounting professionals for the preparation of franchise, income, and sales tax filings. In the event the Association is a corporate entity and is not in good standing with the Secretary of State, Manager may retain the services of a professional to take action necessary to bring the Association's corporate entity into good standing with the Secretary of State. Manager may further retain the services of a professional to obtain an exemption from state franchise taxes and the annual filing of a franchise tax return. In the alternative, Manager may provide the aforementioned services to the Association. Fees relating to bringing the Association's

corporate entity into good standing and/or obtaining exemptions available to the Association's corporate entity shall be paid by Manager from the Association's operating account. Manager may solicit and retain a professional to prepare an annual audit, or such other periodic audits, as may be approved by the Association. The Association is encouraged to obtain an annual audit.

**11. BOOKS OF ACCOUNT** Manager shall maintain separate books of account for the Association. All entries shall be supported by sufficient documentation to ascertain that said entries are properly and accurately recorded. Manager shall maintain:

- Complete copies of all property reports rendered to Association
- Detailed cash account reconciliations
- Bank statements and supporting documentation of all debits and credits
- Bank account registers
- Explanations of all adjusting journal entries

Manager shall provide to the Association the Manager's standard Chart of Accounts used for classification purposes. All accounting records shall be based on a calendar year unless otherwise required by the governing documents of the Association.

**12. BUDGET** An annual operating budget shall be prepared for the Association and sent to the Association Board of Directors for approval. Manager shall use its best efforts to manage the Property within the approved budget.

**13. ENFORCEMENT OF DECLARATION AND BYLAWS** Manager shall reasonably enforce the Association's Declaration and Bylaws. Enforcement action to be taken by Manager against an owner shall be at the directive and on behalf of the Association's Board of Directors.

**14. MEETINGS** Manager will attend association meetings as requested and as set forth herein.

**15. COSTS TO BE REIMBURSED OR PAID TO MANAGER** During the term of this Agreement, Manager may reimburse or pay itself (or another third party) out of the Association's operating account for management fees, bank charges, owner assessment coupons, statements copies, postage, storage, and office supplies attributable directly to the Association as set forth in Addendum A.

**16. ADDITIONAL SERVICES MANAGER IS WILLING TO PROVIDE** If requested by the Association, Manager will:

- a. Provide ACH (Automated Clearing House) services by drafting Association members' bank accounts for assessments in which case the Association will pay bank charges associated with same.
- b. Negotiate and settle insurance claims on behalf of the Association in which case Manager will be paid a fee as set forth in Addendum A.
- c. Assist in obtaining/renewing loans for the Association in which event Manager will be paid a fee equal to 1% of the loan amount, however, this only applies to loans in excess of \$25,000.
- d. Act as the point of contact for architectural control submission and will provide site inspections to confirm architectural compliance at a rate to be agreed upon between the Association and Manager.
- e. Maintain separate proprietary database files at a rate to be agreed upon between the Association and Manager (some associations have very unique, specific databases that they want maintained by the Manager).

f. Provide tax, accounting, and/or administrative fees as outlined in Paragraph 10. Such services will be billed by Manager to the Association at rates to be agreed upon by the parties prior to Manager's undertaking such services.

**17. ASSOCIATION'S COVENANT TO NOT HIRE MANAGER'S PERSONNEL** The Association covenants and agrees not to solicit or hire, directly or indirectly, the personnel of Manager for the purpose of providing management, maintenance, or supervisory services to the Association prior to or subsequent to the termination of this Agreement for a period of two (2) years. This covenant represents part of Manager's consideration for the services to be provided under this Agreement. This covenant includes the event of the Managers' personnel taking a new or existing position with one of Manager's competitors, moving to a new company and/or creating a new company, then the Association hiring that new company or newly created company.

**18. ASSOCIATION'S RIGHT TO AUDIT** The Association shall have the right to conduct an audit, at the Association's expense, of the Association's books and records maintained by Manager. Should errors in record keeping be discovered by the Association, Manager shall correct such errors within a reasonable time after discovery. Manager shall inform the Association in writing of the action taken to correct such errors.

**19. FINAL ACCOUNTING** Upon termination of this Agreement for any reason whatsoever, Manager shall deliver to Association within thirty (30) days after termination, the following:

- A final accounting, reflecting income, expenses and ending cash balance,
- The balance of any money of Association under Manager's control, and
- Unpaid bills for which the Association is responsible.

If, subsequent to termination, operating funds are not sufficient to pay Property obligations, the Association will be directly responsible for payment of same and will make payment within five (5) days from date of notice of such insufficiency.

**20. COMPENSATION** Manager shall pay itself the management fee, reimbursements, and other costs described in this Agreement and as set forth in Addendum A from the Association's operating account. Manager shall bill members of the Association directly for Resale Certificates, Transfer Fees, and/or Mortgagee Questionnaires; however, if such payments are erroneously paid to the Association, then Manager may deposit such funds into the operating account of the Association and may pay itself from the operating account of the Association.

**21. COMPLIANCE WITH BUILDING REGULATIONS** Manager assumes no responsibility for compliance of any building, structure or equipment on the Property with the requirements of any statute, ordinance, law, code, rule or regulation of any governmental body, public authority or official thereof having jurisdiction. Manager shall notify the Association promptly, or forward to the Association, any complaints, warnings, notices or summonses received by it relating to such matters. The Association represents that to the best of its knowledge that the buildings, structures and equipment on the Property comply with all such requirements. The Association authorizes Manager to disclose ownership of the Property to any such officials.

**22. NOTICES, ETC.** All notices, demands, exhibits, consents and reports provided for in this Agreement shall be in writing and shall be given to the Association or Manager at the address set forth herein or such other address as they may from time to time specify.

For purposes of notification, the addresses for Association and Manager are:

Association

Glenwyck Farms Homeowners' Assn., Inc.

Attn: John Schilsky, President  
1610 Fair Oaks Drive  
Westlake, Texas 76262  
[johnschilsky@gmail.com](mailto:johnschilsky@gmail.com)  
214-403-7245

Manager

Guardian Association Management, LLC.  
12890 Hillcrest Road  
Suite 106  
Dallas, Texas 75230

Attn: David Garrett

**23. MISCELLANEOUS PROVISIONS** (a) Except otherwise provided in this Agreement, the Association's consents and approvals may be verbal or may be in writing and may be given only by the Association or its duly authorized representative. (b) Any and all amendments, additions or deletions to this Agreement shall be in writing. (c) Manager represents and warrants that it is qualified and licensed, to the extent required by law, to manage real estate and perform all obligations assumed to Manager hereunder.

**24. INDEMNITY AND HOLD HARMLESS:**

A. Indemnification by the Manager. Manager shall indemnify, protect, defend and hold harmless the Association, its officers, directors and its members from and against any and all claims, demands, losses, costs, expenses, settlements, obligations, liabilities, damages, recoveries, and deficiencies, including, but not limited to, interest, penalties, and attorney's fees and disbursements (even if incident to any appeals) ("**Claims**"), arising out of or caused by the negligence, willful misconduct, or bad faith of Manager, its agents, employees or subcontractors, in the performance or omission of Manager's duties hereunder or by a breach by Manager of the terms or conditions contained herein.

B. Indemnification by the Association. The Association shall indemnify, defend, and hold harmless Manager and its successors and assigns, and their partners, affiliates, officers, stockholders, directors, employees and agents from and against any and all Claims (as defined above) in which it may become involved by reason of being or having been Manager hereunder; provided, such indemnification shall not extend to any action, suit, or other proceeding arising directly or indirectly in connection with any negligence, willful misconduct, or bad faith of Manager or its employees, agents or subcontractors or by a breach by the Association of the terms or conditions contained herein.

**THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.**

**25. FORCE MAJEURE** The obligations of the parties are subject to force majeure, and neither Party shall be in default under this Agreement if failure or delay in performance is caused by strike, labor disputes, power fluctuations, surges or failures, acts of God, fire, flood, adverse weather conditions, ordinances, laws, regulations, restrictions, condemnation or

exercise of rights of eminent domain, war, terrorism or civil disorder, or any other cause beyond the reasonable control of either Party.

**26. GOVERNING LAW AND VENUE AND WAIVER OF JURY TRIAL** This Agreement shall be governed by, and constructed under and in accordance with the laws of the State of Texas. Venue for any legal action or arbitration arising out of this Agreement shall be in Dallas County, Texas, and the Association and the Manager waive the right to sue or be sued elsewhere. The Parties waive their right to a jury trial.

**27. COMPLETE AGREEMENT** This Agreement, together with all Addenda attached hereto and made part thereof, supersedes and takes the place of any and all previous agreements entered into between the parties hereto.

**28. SEVERABILITY CLAUSE** If any provision of this agreement shall be determined to be valid and unenforceable to any extent, the remainder of this Agreement other than that which is determined invalid or unenforceable, shall not be affected thereby, and the remaining provisions hereof shall remain in full force and effect.

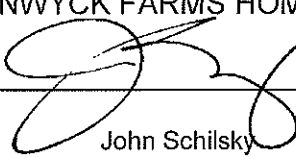
**29. LIMITATION OF LIABILITY OF MANAGER:**

**IF MANAGER FAILS TO PERFORM SERVICES AS PROVIDED HEREIN, OR IS NEGLIGENT IN THE PERFORMANCE OF THE SERVICES, THE LIABILITY OF MANAGER FOR ANY AND ALL CLAIMS RELATED HERETO IS LIMITED TO THE AMOUNT ACTUALLY PAID BY THE ASSOCIATION TO MANAGER FOR THE SERVICES DURING THE THREE MONTH PERIOD PRECEDING THE MONTH IN WHICH SUCH A CLAIM IS ASSERTED.**

**EXECUTED** as of the Effective Date

GLENWYCK FARMS HOMEOWNERS' ASSOCIATION:

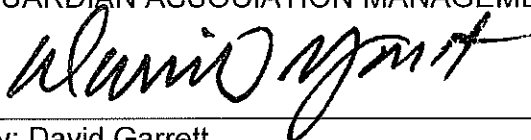
By:  
Its:



John Schilsky  
President

THE MANAGER:

GUARDIAN ASSOCIATION MANAGEMENT, LLC.



By: David Garrett  
Its: President

**ADDENDUM A**  
**MANAGEMENT FEE SCHEDULE**

MANAGEMENT FEE:	\$1,575.00 per month
ADDITIONAL CHARGES:	
One Time Setup Fee for Association:	\$500.00
Copies/prints:	\$0.15 per copy/print.
Color Copies:	Color copies, color prints or scanned images \$0.75 per item.
Statements:	\$2.00 per unit for statements
Postage:	Current standard rates as charged by the United States Postal Service.
Envelopes:	\$0.15 per envelope – both return and outgoing.
Franchise Tax Report – Accounting Support : (if necessary)	\$50.00 per hour.
Federal Income Tax Extension – Accounting Support: (if necessary)	\$50.00 per hour.
Management Certificate – onetime fee:	\$150.00
Fax:	\$1.00 per page (outgoing only)
1099's:	\$25.00 per vendor
Meetings:	\$75.00 per hour for attendance at the annual meeting of the Association or quarterly Board meetings that extend after 9pm
Storage of Association Records:	\$25.00 per month if off-site storage is required.
Late Charge, Late Notice, Collection/compliance Letter and/or Demand Letter:	\$15.00 per item – charged back to the homeowner account.

Fees Related to further Collection Efforts:

Cost charged for item, billed back to the homeowner account – such as Attorney Fees, lien filing costs, collection fee, etc.

Oversight of extraordinary projects/claims:

10% of total cost of project such as insurance claims or major repairs/renovations exceeding a cost of \$10,000.00 per project/claim as agreed to in advance by Board and Management Company

Assistance obtaining loans:

1% of loan value in excess of \$10,000

Assisting the Association's Legal Counsel in Preparing for Trials, Mediations or Hearings in any Litigation or Arbitrations Involving the Association or depositions, or attending any trial/deposition/mediation: (if necessary)

\$125.00 per hour

Accounting Assistance outside the normal Scope: (if necessary)

\$75.00 per hour

ADMINISTRATIVE FEES (Billed to individual homeowners):

Status of Dues, Resale Certificate, Lender Questionnaires, Refinance or Related Forms

\$50.00 - \$300.00 (depending on form)

Transfer of Ownership Record

\$125.00

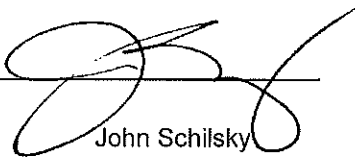
NSF Charge

\$35.00 per check

GLENWYCK FARMS  
HOMEOWNERS' ASSOCIATION, INC

Guardian Association  
Management, LLC.

By:



John Schilsky

Its: President

By:



David Garrett

Its: President