

FHA FORM NO 3281
Aug. 1962

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

MODEL FORM OF
MANAGEMENT AGREEMENT FOR CONDOMINIUMS
(Section 234)

Agreement made this _____ day of _____, 19____, between the _____ for the _____ Condominium, hereinafter called the "Association", organized and established in accordance with the Plan of Apartment Ownership executed and recorded in the Office of the Recorder of the County of _____ State of _____, in Book of _____ Deeds at page _____, having its principal office at _____ and _____, having its principal office at _____, hereinafter called the "Agent"

WITNESSETH:

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

FIRST (a) The Association hereby appoints the Agent, and the Agent hereby accepts appointment, on the terms and conditions hereinafter provided, as exclusive managing agent of the condominium known as _____, located in the County of _____ State of _____, and consisting of _____ dwelling units.

(b) The Agent fully understands that the function of the Association is the operation and management of the Condominium; and the Agent agrees, notwithstanding the authority given to the Agent in this Agreement, to confer fully and freely with the Directors of the Association in the performance of its duties as herein set forth and to attend membership or Director's meetings at any time or times requested by the Association. It is further understood and agreed that the authority and duties conferred upon the Agent hereunder are confined to the common areas and facilities and the restricted common areas and facilities as defined in the Plan of Apartment Ownership. Such authority and duties do not and shall not include supervision or management of family units except as directed by the Association.

SECOND. In order to facilitate efficient operation, the Association shall furnish the Agent with a complete set of the plans and specifications of the Condominium as finally approved by the Federal Housing Administration, and with the aid of these documents and inspection made by competent personnel, the Agent will inform itself with respect to the layout, construction, location, character, plan and operation of the lighting, heating, plumbing, and ventilating systems, as well as elevators, if any, and other mechanical equipment in the Condominium. Copies of guarantees and warranties pertinent to the construction of the Condominium and in force at the time of the execution of this Agreement shall be furnished to the Agent.

THIRD. The Agent shall hire in its own name all managerial personnel necessary for the efficient discharge of the duties of the Agent hereunder. Compensation for the services of such employees shall be the responsibility of the Agent. Those employees of the Agent who handle or are responsible for the handling of the Association's monies shall, without expense to the Association, be bonded by a fidelity bond acceptable both to the Agent and the Association.

FOURTH Under the personal and direct supervision of one of its principal officers, the Agent shall render services and perform duties as follows:

(a) On the basis of an operating schedule, job standards, and wage rates previously approved by the Association on the recommendation of the Agent, investigate, hire, pay, supervise, and discharge the personnel necessary to be employed in order properly to maintain and operate the Condominium. Such personnel shall in every instance be in the Association's and not in the Agent's employ. Compensation for the services of such employees (as evidenced by certified payrolls) shall be considered an operating expense of the Condominium.

* Name of association, cooperative or corporation of unit owners.

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(b) Immediately ascertain the general condition of the property, and if the accommodations there afforded have yet to be occupied for the first time, establish liaison with the general contractor to facilitate the completion by him of such corrective work, if any, as is yet to be done; also, cause an inventory to be taken of all furniture, office equipment, maintenance tools and supplies, including a determination as to the amount of fuel on hand.

(c) Coordinate the plans of owners of family units in the condominiums, hereinafter referred to as "Members" for moving their personal effects into the Condominium or out of it, with a view towards scheduling such movements so that there shall be a minimum of inconvenience to other Members.

(d) Maintain businesslike relations with Members whose service requests shall be received, considered and recorded in systematic fashion in order to show the action taken with respect to each. Complaints of a serious nature shall, after thorough investigation, be reported to the Association with appropriate recommendations. As part of a continuing program, secure full performance by the Members of all items and maintenance for which they are responsible.

(e) Collect all monthly assessments due from Members, all rents due from users of garage spaces and from users or lessees of other non-dwelling facilities in the Condominium; also, all sums due from concessionaires in consequence of the authorized operation of facilities in the Condominium maintained primarily for the benefit of the Members. The Association hereby authorizes the Agent to request, demand, collect, receive, and receipt for any and all charges or rents which may at any time be or become due to the Association and to take such action in the name of the Association by way of legal process or otherwise as may be required for the collection of delinquent monthly assessments. As a standard practice, the Agent shall furnish the Association with an itemized list of all delinquent accounts immediately following the tenth day of each month.

(f) Cause the buildings, appurtenances and grounds of the Condominium to be maintained according to standards acceptable to the Association, including but not limited to interior and exterior cleaning, painting, and decorating, plumbing, steamfitting, carpentry, and such other normal maintenance and repair work as may be necessary, subject to any limitations imposed by the Association in addition to those contained herein. For any one item of repair or replacement the expense incurred shall not exceed the sum of _____* unless specifically authorized by the Association; excepting, however, that emergency repairs, involving manifest danger to life or property, or immediately necessary for the preservation and safety of the property, or for the safety of the Members, or required to avoid the suspension of any necessary service to the Condominium, may be made by the Agent irrespective of the cost limitation imposed by this paragraph. Notwithstanding this authority as to emergency repairs, it is understood and agreed that the Agent will, if at all possible, confer immediately with the Association regarding every such expenditure. The Agent shall not incur liabilities (direct or contingent) which will at any time exceed the aggregate of _____** or any liability maturing more than one year from the creation thereof, without first obtaining the approval of the Association.

(g) Take such action as may be necessary to comply promptly with any and all orders or requirements affecting the premises placed thereon by any federal, state, county, or municipal authority having jurisdiction thereover, and orders of the Board of Fire Underwriters or other similar bodies, subject to the same limitation contained in Paragraph (f) of this Article in connection with the making of repairs and alterations. The Agent, however, shall not take any action under this Paragraph (g) so long as the Association is contesting, or has affirmed its intention to contest any such order or requirement. The Agent shall promptly, and in no event later than 72 hours from the time of their receipt, notify the Association in writing of all such orders and notices of requirements.

(h) Subject to approval by the Association, make contracts for water, electricity, gas, fuel oil, telephone, vermin extermination, and other necessary services, or such of them as the Association shall deem advisable. Also, place orders for such equipment, tools, appliances, materials and supplies as are necessary properly to maintain the Condominium. All such contracts and orders shall be made in the name of the Association and shall be subject to the limitations set forth in Paragraph (f) of this Article. When taking bids or issuing purchase orders, the Agent shall act at all times under the direction of the Association, and shall be under a duty to secure for and credit to the latter any discounts, commissions, or rebates obtainable as a result of such purchases.

* From \$100 to \$500, depending upon the size of the Condominium.

** From \$1,000 to \$5,000, depending upon the size of the Condominium.

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(i) When authorized by the Association in writing, cause to be placed and kept in force all forms of insurance needed adequately to protect the Association, its members, and mortgagees holding mortgages covering family units, as their respective interests appear (or as required by law), including but not limited to workmen's compensation insurance, public liability insurance, boiler insurance, fire and extended coverage insurance, and burglary and theft insurance. All of the various types of insurance coverage required shall be placed with such companies, in such amounts, and with such beneficial interests appearing therein as shall be acceptable to the Association and to mortgagees holding mortgages covering family units. The Agent shall promptly investigate and make a full written report as to all accidents or claims for damage relating to the management, operation and maintenance of the Condominium, including any damage or destruction to the Condominium, the estimated cost of repair, and shall cooperate and make any and all reports required by any insurance company in connection therewith.

(j) From the funds collected and deposited in the special account hereinafter provided, cause to be disbursed regularly and punctually (1) salaries and any other compensation due and payable to the employees of the Association, and the taxes payable under paragraph (k) of this Article, (2) fire and other property insurance premiums and the amount specified in the Regulatory Agreement for allocation to the Reserve Fund for Replacements and to the General Operating Reserve, and (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 commission. After disbursement in the order herein specified, any balance remaining in the special account may be disbursed or transferred from time to time, but only as specifically directed by the Association in writing, but such balance must be within the limits of the fidelity bond which shall be in an amount equal to the gross monthly collections.

(k) Working in conjunction with an accountant, prepare for execution and filing by the Association all forms, reports, and returns required by law in connection with unemployment insurance, workmen's compensation insurance, disability benefits, Social Security, and other similar taxes now in effect or hereafter imposed, and also requirements relating to the employment of personnel.

(l) Maintain a comprehensive system of office records, books, and accounts in a manner satisfactory to the Association and to the consenting parties, which records shall be subject to examination by their authorized agents at all reasonable hours. As a standard practice, the Agent shall render to the Association by not later than the tenth of each succeeding month a statement of receipts and disbursements as of the end of every month.

(m) On or about _____ and thereafter at least 60 days before the beginning of each new fiscal year, prepare with the assistance of an accountant, if need be, an operating 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 Condominium. Each such budget, together with a statement from the Agent outlining a plan of operation and justifying the estimates made in every important particular, shall be submitted to the Association in final draft at least 30 days prior to the commencement of the annual period for which it has been made, and following its adoption by the Association, copies of it shall be made available, upon request, for submission to the consenting party. 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 is meant that no expenses may be incurred or commitments made by the Agent in connection with the maintenance and operation of the Condominium in excess of the amounts allocated to the various classifications of expense in the approved budget without the prior 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 in writing.

(n) The Agent shall actively handle the renting of any garage spaces or other non-dwelling accommodation, arranging for the execution of such leases or permits as may be required.*

(o) It shall be the duty of the Agent at all times during the term of this Agreement to operate and maintain the Condominium according to the highest standards achievable consistent with the overall plan of the Association and the interests of the consenting party. The Agent shall see that all Members are informed with respect to such rules, regulations and notices as may be promulgated by the Association from time to time. The Agent shall be expected to perform such other acts and deeds as are reasonable, necessary and proper in the discharge of its duties under this Agreement.

* If desired, a clause may be included whereby the Agent, upon the request of the owner of any family unit, agrees to serve as broker or agent in the sales or rentals of individual family units for a specified commission.

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FIFTH. Everything done by the Agent under the provisions of Article FOURTH shall be done as Agent of the Association, and all obligations or expenses incurred thereunder shall be for the account, on behalf, and at the expense of the Association, except that the Association shall not be obligated to pay the overhead expenses of the Agent's office. Any payments to be made by the Agent hereunder shall be made out of such sums as are available in the special account of the Association, or as may be provided by the Association. The Agent shall not be obliged to make any advance to or for the account of the Association or to pay any sum, except out of funds held or provided as aforesaid, nor shall the Agent be obliged to incur any liability or obligation for the account of the Association without assurance that the necessary funds for the discharge thereof will be provided.

SIXTH. The Agent shall establish and maintain, in a bank whose deposits are insured by the Federal Deposit Insurance Corporation and in a manner to indicate the custodial nature thereof, a separate bank account as Agent of the Association for the deposit of the monies of the Association, with authority to draw thereon for any payments to be made by the Agent to discharge any liabilities or obligations incurred pursuant to this Agreement, and for the payment of the Agent's fee, all of which payments shall be subject to the limitations in this Agreement.

SEVENTH. The sole compensation which the Agent shall be entitled to receive for all services performed under this Agreement shall be a fee computed and payable monthly in an amount equivalent to _____ (%) of gross collections, exclusive of all surcharges.

EIGHTH. (a) Unless cancelled pursuant to section (b), (c), or (d) of this Article, this Agreement shall be in effect for a term of _____ from the date of execution, provided that in no event shall it be of any force and effect until there is endorsed hereon the consent of the consenting party.

(b) This Agreement may be terminated by mutual consent of the parties as of the end of any calendar month, but not without prior written notice to the consenting party.

(c) In the event a petition in bankruptcy is filed by or against Agent, or in the event that he 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, but prompt advice of such action shall be given to the consenting party.

(d) It is expressly understood and agreed by and between the parties hereto that the Federal Housing Administration shall have the right to terminate this Agreement at the end of any calendar month, with or without cause, on 30 days' written notice to the Association and the Agent of its intention so to do. It is further understood and agreed that no liability shall attach to the Federal Housing Administration in the event of termination of this Agreement pursuant to this section.

(e) Upon termination, the contracting parties shall account to each other with respect to all matters outstanding as of the date of 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.

NINTH. As used in this Agreement:

(a) The term "consenting party" shall mean the Federal Housing Administration acting through its Commissioner or his duly authorized representatives.

(b) The term "assessments" shall mean those monthly rates established by the Association which the Members are bound to pay as their share of the common expenses under the Master Plan of Apartment Ownership.

(c) The term "gross collections" shall mean all amounts actually collected by the Agent, either as assessments or as rents.

(d) The term "Association" as used herein shall mean an association, cooperative or corporation consisting of all of the owners of family units in the Condominium organized and existing under state law for the purpose of administering the Condominium established by the Plan of Apartment Ownership.

TENTH. (a) This Agreement, which is made subject and subordinate to all rights of the Federal Housing Administration as insurer of mortgages on family units in the Condominium, shall inure to the benefit of and constitute a binding obligation upon the contracting parties, their respective successors and assigns; and to the extent that it confers rights, privileges, and benefits upon the consenting party, the same shall be deemed to inure to its benefit, but without liability, in the same manner and with the same force and effect as though the Federal Housing Administration was a signatory to this Agreement.

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(b) 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 and approved in the same manner as this Agreement

(c) For the convenience of the parties, this Agreement has been executed in several counterparts, which are in all respects similar and each of which shall be deemed to be complete in itself so that any one may be introduced in evidence or used for any other purpose without the production of the other counterparts. Immediately following endorsement of the consenting parties, counterparts will be furnished to the consenting parties so that each may be advised of the rights, privileges, and benefits which this Agreement confers.

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

(Association)

By _____

(Agent)

By _____

The Federal Housing Administration hereby consents to the foregoing Management Agreement and the Managing Agent designated therein.

DATE: _____

(Federal Housing Commissioner)

By _____
(Authorized Agent)