

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

In re:

JADE WINDS ASSOCIATION, INC.,

Case No. 15-17570-RAM

Debtor.

Chapter 11

JADE WINDS ASSOCIATION, INC.,

Plaintiff,

v.

Adv. P. 17-_____

FIRST SERVICE RESIDENTIAL
FLORIDA, INC., f/k/a THE
CONTINENTAL GROUP, INC.,

Defendant.

**ADVERSARY COMPLAINT AGAINST FIRST SERVICE
RESIDENTIAL FLORIDA, INC., f/k/a THE CONTINENTAL GROUP, INC.**

Plaintiff/Reorganized Debtor JADE WINDS ASSOCIATION, INC. (“Jade Winds”), by and through undersigned counsel, hereby sues Defendant/Claimant FIRST SERVICE RESIDENTIAL FLORIDA, INC., f/k/a THE CONTINENTAL GROUP, INC. (“First Service”) and states as follows:

JURISDICTION, VENUE, AND CORE PROCEEDING

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334.
2. Venue is proper in this Court pursuant to 28 U.S.C. § 1409(a).
3. This proceeding is brought pursuant to Federal Rule of Bankruptcy Procedure 7001(1).

GENERAL ALLEGATIONS

4. This is an action for damages in excess of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of interest, costs and attorney's fees.

5. Jade Winds is a Florida not-for-profit corporation doing business in Miami-Dade County, Florida. Jade Winds is a multi-condominium association with 916 total units.

6. First Service is a corporation doing business in Miami-Dade County, Florida. According to its website, First Service promotes itself as **“one of Florida's premier residential property management companies – a trusted partner of associations representing communities of every type and size.”** As explained herein, First Service grossly and egregiously abused the trust of its “partner” – Jade Winds – to the financial detriment of Jade Winds.

7. First Service began providing property management services to Jade Winds in 2007.

8. On or about April 29, 2011, First Service (under a prior corporate name) entered into a written Association Management contract with Jade Winds. A copy of the contract is attached hereto as Exhibit A.

9. First Service and Jade Winds amended the original contract by a certain Addendum to Management Contract dated March 24, 2014. A copy of the Addendum is attached hereto as Exhibit B.

10. First Service and Jade Winds entered into a Second Addendum to Management Contract dated June 10, 2014. A copy of the Second Addendum is attached hereto as Exhibit C.

11. Pursuant to Second Addendum, commencing on June 1, 2014, First Service was responsible for the day-to-day bookkeeping services of Jade Winds. First Service's bookkeeping responsibilities are set forth in Paragraph 3 of the Second Addendum.

12. As is set forth herein, due to the mismanagement, self-dealing and corruption of First Service and its employees, Jade Winds has suffered catastrophic financial damages.

THE MISCONDUCT OF FIRST SERVICE

13. During the tenure of First Service as the property management services provider for Jade Winds, a host of calamities befell Jade Winds and the unit owners who reside in the community, the responsibility for which rests squarely with First Service.

14. The First Service employee who served as the property manager of Jade Winds throughout most or all of First Service's tenure was Donna Mantin. As the result of gross negligence, incompetence and/or intentional misconduct, Mantin – acting on behalf of First Service and within the course and scope of her employment – oversaw, instituted or encouraged a series of actions or inactions that caused grievous harm to Jade Winds.

15. As an illustrative and non-exhaustive list of the wrongdoing that took place during the tenure of First Service, and for which it is legally responsible, Jade Winds points to the following:

- First Service failed to ensure that Jade Winds made timely and sufficient utility payments, resulting in threats to cancel service, late fees, liens, and other penalties;

- First Service failed to ensure that Jade Winds contracted for or made payments necessary for maintenance of the common areas, resulting in life-safety hazards at the property;
- First Service failed to timely pay certain contractors, vendors and other professionals that were hired, resulting in liens, lawsuits and other claims (for instance, the elevators failed inspections in three consecutive years resulting in the imposition of over \$45,000 in fines from the County yet First Service continued to hire the same elevator company, and First Service did not advise the Jade Winds Board of Directors that it permitted liens of some \$470,000 to be recorded against foreclosed units by former counsel to Jade Winds), which ultimately led to the filing of the related Bankruptcy action;
- First Service failed to ensure that Jade Winds was hiring suitable contractors and vendors, rather than those who would cost Jade Winds more, but had personal or business relationships with the board president or others;
- First Service oversaw the 40-year recertification process, which Jade Winds failed, thus requiring another recertification that will cost Jade Winds over \$2.6 million;
- First Service failed to ensure that Jade Winds made appropriate payments related to special capital assessment projects, the result of which was to fritter away hundreds of thousands of dollars taken from Jade Winds unit owners in special assessments for work not performed, leading to the shuttering of the Jade Winds common area tower building for years;

- First Service failed to ensure that Jade Winds comply with Miami-Dade County building codes and ordinances, the result of which was the assessment of over \$100,000 in fines, and liens recorded against the various condominium buildings;
- First Service failed to prevent the imposition by Miami-Dade County of a Notice to Vacate on an improperly permitted and maintained Jade Winds building, which Notice to Vacate was removed and attempted to be hidden from unit owners by First Service employee/property manager Donna Mantin, and those acting at her direction;
- First Service failed to ensure that the financial practices of Jade Winds were in order, resulting in repeated qualified, and hence substandard, audits being issued by the outside auditors of Jade Winds;
- First Service oversaw the establishment of a crooked parking system, where guests at Jade Winds were charged exorbitant amounts to park, were required to pay in cash with exact change (the system was so draconian that security did not allow a hearse to enter and pick up the body of a deceased unit owner because the driver lacked exact change, an outrageous incident that was reported on television and which tarnished the reputation of Jade Winds), and were not given receipts, the result of which was to create a slush fund not subject to accounting and the theft of funds properly belonging to Jade Winds;
- First Service advised on and oversaw purported amendments to the Jade Winds Declarations of Condominium, Corporate By-laws and Articles of Incorporation that were non-compliant and ultimately adjudicated invalid by the Department of

Business and Professional Regulation, Division of Florida Condominiums, Timeshares and Mobile Homes;

- First Service advised on and oversaw the targeted imposition of unwarranted and punitive fines and fees on certain unit owners in violation of law;
- First Service advised on and oversaw Jade Winds Board of Directors elections that were invalid and in violation of law, which elections were designed to keep in place a corruptly led board that was aligned with and compensating Mantin so as to support malfeasance (Santiago Perez, the board president at the time, and his wife paid some \$60,000 for Mantin to have extensive dental work performed, titled three Jade Winds units to Bamboo Garden Land Trust with Mantin as trustee, and provided her with other unwarranted and improper benefits, all in a successful effort to have First Service disregard its obligations to Jade Winds and to instead give a green light to the misconduct of Perez, which included a fraudulent insurance claim by Perez against Jade Winds and its insurance carrier in which Mantin's daughter represented Perez and his father);
- First Service, through its designated employee/property manager Donna Mantin, failed to maintain proper books and records for Jade Winds, failed to provide unit owners with access to books and records, and altered or destroyed the books, records and other documents of Jade Winds in an attempt to hide the wrongdoing that was taking place, including the disappearance and theft of funds paid by unit owners that were in the Jade Winds security deposit account;

- First Service grossly mishandled the case of Jade Winds unit owner Miriam Joel, who refused to pay maintenance or assessments for some seven years because First Service failed to address repair requests, ultimately resulting in Joel prevailing in a Department of Business and Professional Regulation arbitration against Jade Winds where it was determined that Jade Winds had undertaken material changes without required member approval by closing three gates, removing grass landscaping and expanding the parking lot, thereby forcing Jade Winds to waive the back maintenance, assessments and interest of over \$150,000 and to pay \$15,000 to Ms. Joel's counsel;
- First Service failed to cooperate with outside professionals attempting to work on behalf of Jade Winds, the result of which was to force the resignations of Jade Winds' independent accountant and its outside general counsel.

16. Upon the termination of First Service, Jade Winds was able to obtain competent, honest property management services from another provider (the provider that initially replaced First Service resigned within two weeks because – without the knowledge of the Jade Winds Board of Directors – Perez had required the management company to hire Mantin, yet it found her to be uncooperative and obstructive of its efforts to communicate with other board members) and to discover the depths of its financial woes that had developed on First Service's watch and as a result of First Service's actions. As a direct result thereof, Jade Winds was compelled to declare bankruptcy in the instant action.

17. All conditions precedent to filing this action have occurred or have been waived.

18. Jade Winds has retained undersigned counsel to represent it in these proceedings and has agreed to pay counsel a reasonable fee and costs, which are recoverable from First Service pursuant to the terms of the Association Management contract.

COUNT I - BREACH OF CONTRACT

19. Jade Winds re-alleges and re-avers paragraphs 1 through 18 as if fully set forth herein.

20. Pursuant to the original contract and the addendums to it, First Service was to perform management services for Jade Winds.

21. First Service materially breached the express and implied terms (including the implied covenant of good faith and fair dealing) of the contract as amended by, inter alia, not properly and in the contractually mandated manner providing the services required of it, including, but not limited to:

- a. Failing to provide proper accounting and bookkeeping services as set forth in the Second Addendum to the Management Contract;
- b. Failing to properly supervise its employees who worked under the contract with Jade Winds;
- c. Failing to remove employees who worked under the contract with Jade Winds despite First Service's knowledge of illegal and improper conduct, including violations of the contract, statutory obligations and regulatory requirements;
- d. Altering and destroying Jade Winds' records and documentation;
- e. Signing documents on Jade Winds' behalf without necessary approval;
- f. Failing to maintain documents, records and written material;

- g. Failing to adhere to corporate by-laws and rules of governance;
 - h. Failing to oversee work being performed by contractors or that appropriate expenditures were being made for work performed;
 - i. Failing to provide in a timely fashion invoices and billing;
 - j. Improper and unauthorized billing, including billing for work not performed;
 - k. Establishing and enforcing illegal and improper parking and towing policies;
 - l. Failing to advise the Board of Directors and counsel of Jade Winds of complaints brought to the attention of First Service;
 - m. Failing to provide suitable advice to the Board of Directors of Jade Winds;
- and
- n. Generally failing to provide appropriate, professional and satisfactory property management services.

22. As a result of these breaches of contract, Jade Winds has suffered damages.

WHEREFORE, Jade Winds demands judgment against First Service for damages, interest, attorney's fees and costs as provided by the contract, and such other relief as may be deemed just and proper.

COUNT II - GROSS NEGLIGENCE

23. Jade Winds re-alleges and re-avers paragraphs 1 through 18 as if fully set forth herein.

24. Pursuant to the Association Management Contract, as amended, First Service was to perform services pertaining to the management, maintenance and operation of Jade Winds.

25. In accordance with the terms of the Association Management Contract, First Service had a duty to perform its work and services in a professional and legally proper manner and method to avoid damage or loss to Jade Winds.

26. First Service further had a duty to manage and supervise its employees working on behalf of Jade Winds in a professional and legally proper manner and remove or discipline employees for their negligent actions, substandard performance, intentional misconduct, and violation of its employment policies.

27. First Service breached its duties and performed in a grossly negligent manner by, among other things:

- a. Failing to provide proper accounting and bookkeeping services;
- b. Failing to properly supervise its employees who worked on behalf of Jade Winds;
- c. Failing to remove employees who worked on behalf of Jade Winds despite First Service's knowledge of illegal and improper conduct, including violations of the contract, statutory obligations and regulatory requirements;
- d. Altering and destroying Jade Winds' records and documentation;
- e. Signing documents on Jade Winds' behalf without necessary approval;
- f. Failing to maintain documents, records and written material;
- g. Failing to adhere to corporate by-laws and rules of governance;

- h. Failing to oversee work being performed by contractors or that appropriate expenditures were being made for work performed;
- i. Failing to provide in a timely fashion invoices and billing;
- j. Improper and unauthorized billing, including billing for work not performed;
- k. Establishing and enforcing illegal and improper parking and towing policies;
- l. Failing to advise the Board of Directors and counsel of Jade Winds of complaints brought to the attention of First Service;
- m. Failing to provide suitable advice to the Board of Directors of Jade Winds; and
- n. Generally failing to provide appropriate, professional and satisfactory property management services.

28. As a direct and proximate result of First Service's gross negligence in the performance of its duties, Jade Winds has suffered damages.

WHEREFORE, Jade Winds demands judgment against First Service for compensatory damages, punitive damages, interest, costs, and such other relief as may be deemed just and proper.

COUNT III - BREACH OF FIDUCIARY DUTY

29. Jade Winds re-alleges and re-avers paragraphs 1 through 18 as if fully set forth herein.

30. Throughout the time that First Service was providing property management services to Jade Winds, the relationship between First Service and Jade Winds was fiduciary in nature.

31. Pursuant to the parties' fiduciary relationship, Jade Winds was dependent upon First Service, and First Service undertook to advise, counsel and protect Jade Winds. Indeed, as reflected on its website, First Service invited the "trust" of Jade Winds, its dependent "partner."

32. As set forth in detail herein, First Service breached its fiduciary duty to Jade Winds.

33. As a direct and proximate result of First Service's breach of its fiduciary duty, Jade Winds has suffered damages.

WHEREFORE, Jade Winds demands judgment against First Service for compensatory damages, punitive damages, interest, costs, and such other relief as may be deemed just and proper.

COUNT IV - NEGLIGENCE RETENTION AND SUPERVISION

34. Jade Winds re-alleges and re-avers paragraphs 1 through 18 as if fully set forth herein.

35. At all times relevant, First Service was engaged in providing association management services for Jade Winds.

36. Pursuant to that engagement, First Service assigned certain of its employees to work at and on behalf of Jade Winds, including but not limited to Donna Mantin.

37. First Service was responsible for properly supervising the employees that it assigned to work at and on behalf of Jade Winds, including but not limited to Donna Mantin, and for only retaining those suitable for the employment.

38. First Service owed a duty to Jade Winds to properly supervise the employees that it assigned to work at and on behalf of Jade Winds, including but not limited to Donna Mantin, and to only retain those suitable for the employment.

39. First Service was careless and negligent in supervising and retaining certain employees that it assigned to work at and on behalf of Jade Winds, including but not limited to Donna Mantin, and in permitting them to continue working at and on behalf of Jade Winds after being advised of their improper conduct.

40. In doing so, First Service breached its duty to Jade Winds.

41. First Service had knowledge of the unsuitability of certain of its employees that it assigned to work at and on behalf of Jade Winds, including but not limited to Donna Mantin, by being repeatedly advised by Jade Winds unit owners and agents that management on the property was acting improperly, yet First Service failed to satisfactorily investigate, take action or rectify the situation.

42. First Service further had knowledge of its employee, Donna Mantin, engaging in gross negligence and other misconduct in performing her duties, including improper accounting of Jade Winds' financial records, failure to oversee financial accounts resulting in missing funds, and violations of law.

43. First Service was aware that, under its property management, the independent auditors of Jade Winds repeatedly provided only qualified audits, a red flag ignored by First Service.

44. As a direct and proximate result of First Service's negligent supervision and retention of certain employees that it assigned to work at and on behalf of Jade Winds, including but not limited to Donna Mantin, Jade Winds has suffered damages.

WHEREFORE, Jade Winds demands judgment against First Service for compensatory damages, punitive damages, interest, costs, and such other relief as may be deemed just and proper.

COUNT V – OBJECTION TO CLAIM

45. Jade Winds re-alleges and re-avers paragraphs 1 through 18 as if fully set forth herein.

46. On August 26, 2015, First Service filed claim number 26-1 (the "First Service Claim") for \$156,796.21 in Jade Winds' main bankruptcy claim based on Jade Winds' alleged breach of the Management Contract, as subsequently amended.

47. On September 23, 2016, Jade Winds filed a timely objection to the First Service Claim in Jade Winds' main bankruptcy case.

48. As set forth in the preceding counts of this Complaint, First Service is the party which breached the Management Contract, as subsequently amended.

49. Accordingly, Jade Winds properly terminated the Management Contract, as subsequently amended.

50. Moreover, due to the extensive damage caused by First Service to Jade Winds set forth in the preceding counts of this Complaint, First Service is indebted to Jade Winds in an amount which exceeds the First Service Claim.

WHEREFORE, Jade Winds demands a judgment against First Service striking and disallowing the First Service Claim in its entirety, awarding attorney's fees and costs provided by the contract, and such other relief as may be deemed just and proper.

Respectfully Submitted:

SHRAIBERG, LANDAU & PAGE, P.A.

Attorneys for Reorganized Debtor
2385 NW Executive Center Drive, #300
Boca Raton, Florida 33431
Telephone: 561-443-0800
Facsimile: 561-998-0047

By: /s/ Eric Pendergraft

Eric Pendergraft
Florida Bar No. 91927
ependergraft@slp.law

and

COFFEY BURLINGTON, P.L.

Co-counsel for Jade Winds Association
2601 South Bayshore Drive, Penthouse
Miami, Florida 33133
Tel: 305-858-2900
Fax: 305-858-5261

By: /s/ Daniel F. Blonsky

Kendall B. Coffey, Esq., Florida Bar No. 259861
kcoffey@coffeyburlington.com
Daniel F. Blonsky, Esq., Florida Bar No. 972169
dblonsky@coffeyburlington.com
Justin E. King, Esq., Florida Bar No. 121408
jking@coffeyburlington.com
groque@coffeyburlington.com
service@coffeyburlington.com

ATTORNEY CERTIFICATION

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this Court set forth in Local Rule 2090-1(A).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via Notice of Electronic Mail through the Case Management/Electronic Case Filing to those parties registered to receive electronic notices of filing in this case on this the 2nd day of October 2017.

By: /s/ Eric Pendergraft
Eric Pendergraft

EXHIBIT A



ASSOCIATION MANAGEMENT CONTRACT

THIS CONTRACT ("Contract") is made and entered into on 29 April, 2011, by and between JADE WINDS CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation ("Association"), and THE CONTINENTAL GROUP, INC., a Florida Corporation ("TCG").

A. The Association is the entity responsible for the operation of JADE WINDS ("Community"), located at 1720 NE 191st Street, North Miami Beach, FL 33179, established by the documents thereof recorded in the Public Records of Miami-Dade County, Florida ("Declaration"), which Community consists of 916 units/lots ("Units/Lots").

B. The Association desires to retain TCG, and TCG desires to be so retained, to manage the Community.

NOW, THEREFORE, for other good and valuable consideration received by each party from the other, the receipt, adequacy and sufficiency of which are hereby acknowledged, and in further consideration of the mutual covenants and agreements hereinafter set forth, the parties hereby agree as follows:

1. **EXCLUSIVE MANAGER.** The Association hereby retains and appoints TCG, and TCG hereby accepts such retainer and appointment, on the terms and conditions hereinafter set forth, as exclusive manager of the Association.

2. **TERM AND TERMINATION.**

2.1 This Contract shall commence on May 1, 2011 and shall continue for a term ending on the last day of April, 2014 ("Initial Term"), subject to termination as provided herein.

~~2.2~~ This Contract may be canceled, with or without cause, by either party with 30 days' written notice. Upon the effective date of any termination or cancellation, the Association shall not be obligated for any additional fees to TCG, but shall be responsible for all accrued and unpaid fees and all costs incurred or contracted for by TCG pursuant to this Contract through such date.

2.3 Unless either party provides not less than 30 days' written notice prior to the expiration of the Initial Term or any renewal term of this Contract, as applicable, the Contract shall automatically be extended on a month-to-month basis. During the period of time when the Contract has been extended on a month-to-month basis, either party shall have the right to terminate the Contract without cause upon 30 days' written notice to the other party.

3. **TCG'S SERVICES.** During the term hereof, TCG shall assist the Association in performing the following services as requested by the Association, when and if needed, or as otherwise specified herein, to assist the Association, and shall appoint at least 1 employee (i.e. the Community Association Manager ("CAM")) to effectuate same:

3.1 In addition to those employees of TCG stipulated in Schedule I of this Contract, TCG shall employ and supervise such persons as needed (which person or persons may be employed on a part-time or full-time basis) or assist the Association in engaging as independent contractors or employees working on behalf of the Association such persons, firms or companies necessary to properly maintain and operate the Community, according to TCG's reasonable judgment, the budget of the Association and the directives of the Board of Directors of the Association ("Board of Directors"). The Association understands that all personnel so employed by TCG and any persons, firms or companies engaged by the Association as independent contractors shall be employed or engaged as agents for the Association. TCG shall also assist the Association in coordinating the work of any independent contractors engaged by the Association with the day to day activities of the Association. However, under no circumstances shall TCG or an employee of TCG be designated to serve as the Association's Representative in any contract.

3.2 Cause those portions of the common areas of the Community ("Common Areas"), to be maintained and repaired including, but not limited to, landscaping, painting, roofing, cleaning and such other ordinary and extraordinary maintenance and repair work together with the purchase of materials, equipment and supplies as may be necessary consistent with the approved budget or as requested by the Association; provided, however, TCG shall not obligate the Association for any single item of repair, replacement, refurbishing, materials, equipment or supplies the cost of which exceeds the sum of \$1,000.00 without the prior approval of the Association, unless provided for in the approved budget of the Association. Notwithstanding anything contained herein to the contrary, TCG shall have the right, but not the duty, without first obtaining the approval of the Association, to make emergency repairs and replacements which, according to TCG's reasonable belief, are required to eliminate or avoid danger to persons or to property, or as

are necessary in TCG's reasonable belief for the preservation and safety of the Association or for the safety of persons or in order to avoid suspension of any necessary service to the Association.

3.3 Take such actions as may be reasonably necessary to advise the Association, owners of Units/Lots ("Owners"), and/or occupants of the need to comply with all pertinent laws, statutes, ordinances and rules of appropriate governmental authorities having jurisdiction, and advise the Association, Owners and/or occupants of any violations thereof actually known by TCG. Furthermore, TCG shall advise Owners and occupants of the need to comply with the Declaration, Articles of Incorporation and By-Laws of the Association and applicable rules and regulations, in connection with the operation of the Community and any violations thereof actually known by TCG. Notwithstanding anything contained in this Contract to the contrary, the Association hereby acknowledges that in no event shall TCG be liable for the failure of the Association, the Owners and occupants to comply with all such laws, statutes, ordinances and rules of governmental authorities and the Declaration, Articles of Incorporation, By-Laws of the Association and applicable rules and regulations of the Community. Notwithstanding anything to the contrary contained herein, TCG does not have the authority to provide and shall not be responsible for providing legal advice to the Association regarding the interpretation or application of law.

3.4 Subject to the direction of the Association and the Association budget, TCG shall solicit, analyze and negotiate contracts on behalf of the Association, as needed or annually, for services reasonably necessary with respect to the operation, maintenance, upkeep, repair, replacement, and preservation of the Common Areas. All contracts shall be approved and executed by an officer of the Association. The Association acknowledges that within the scope of this Contract and in carrying out all of its duties and responsibilities hereunder, including but not limited to those set forth in this paragraph, TCG is acting solely as an agent for the Association and, accordingly, any expenses or liabilities incurred by TCG hereunder, whether in its name or that of the Association, shall be the sole obligation of the Association and not that of TCG. Neither TCG nor any of its partners, stockholders, officers, directors, employees, servants or agents shall be personally liable in any fashion for any contract made in compliance with the provisions of this Contract. The parties hereto acknowledge and agree that notwithstanding anything to the contrary contained herein or elsewhere in this Contract, TCG shall not perform, nor be expected to perform, the services which would normally be performed by a construction manager and/or an engineer on construction projects undertaken, or to be undertaken, by the Association.

3.5 Engage a payroll processing service or other entity, at the Association's direction and expense, to prepare, as needed, all payroll and file the necessary forms, as needed, for employment insurance, withholding and social security taxes and all other forms relating to employment of the Association's employees, if any, required by federal, state or municipal authorities. (This subparagraph relates only to those direct employees of the Association, if any, not to employees of TCG who provide services to the Association under this Contract.)

3.6 Retain and engage, as needed, at the Association's direction, approval and expense and as agents of the Association, such attorneys, accountants, insurance consultants, tax consultants and other experts and professionals, whose services the Association may reasonably require.

3.7 Maintain, as needed, appropriate records of all insurance coverage carried by the Association, including, but not limited to, procurement of loss runs if necessary to obtain insurance quotes.

3.8 Accept applications and references of prospective Unit/Lot purchasers and facilitate transfers and leases of Units/Lots, all as needed; provided, however, that the actual approval or disapproval of the same shall be given and executed by a proper officer of the Association as and if required by the Declaration.

3.9 Prepare and send, as needed, all letters, reports and notices as may be reasonably requested by the Association, and attend **bimonthly** meetings of the Board of Directors, annual meeting and budget meeting of the Association and file minutes thereof, which minutes shall be prepared and recorded by the Association or its designee. **Should the Association request in writing** the attendance of administrative support staff in addition to the CAM at any of the aforementioned meetings, the Association shall pay TCG \$40.00 per hour for each administrative support staff member (with a 3 hour minimum). **Any additional meetings** held between the hours of 5 PM Friday through 8 AM Monday, or on holidays, shall be at an additional expense to the Association of \$200.00 per meeting for attendance of the CAM and \$40.00 per hour (with a 3 hour minimum) for the time of administrative support staff, if needed.

3.10 Perform routine visual property inspections and make recommendations to the Board of Directors as to maintenance and improvements to the Common Areas.

3.11 Provide regular reports to the Board of Directors of the status of pending and completed operations affecting the Association.

3.12 INTENTIONALLY OMITTED.

3.13 TCG shall have access to the Common Areas at all times as may be necessary so as to perform its duties hereunder.

3.14 TCG represents and warrants that the person or persons employed by TCG to directly provide any community association management services as defined in Chapter 468, Florida Statutes as required under this Contract

shall have at all times a Community Association Manager's License from the Florida Department of Business & Professional Regulation, and that TCG shall otherwise comply with provisions of Section 468.432, Florida Statutes.

3.15 The assumption of obligations by TCG under this Contract is as agent of the Association and does not require TCG to pay any of the costs and expenses which are the obligation of the Association, except as specifically assumed by TCG in this Contract

4. **DESIGNATION.** The Association shall designate in writing a single individual who shall be authorized to deal with TCG on any matter relating to this Contract. In the absence of any such designation, the President of the Association shall have this authority. The Association shall not interfere nor permit, allow or cause any of its Officers, Directors or members to interfere with TCG in the performance of its duties or in the exercise of any of its powers hereunder.

5. **INSURANCE.** The insurance requirements set out in the following subparagraphs are independent from all other obligations of the parties to this Contract and apply whether or not required by any other provision of the Contract, and regardless of the enforceability of any other provisions of this Contract. If, at any time, either party hereto allows any of its required insurance policies to lapse, the other party may immediately terminate this Contract upon delivery of written notice to the other party.

5.1 The Association hereby agrees to maintain at all times and to provide evidence of the following insurance coverages:

A. Commercial General Liability Insurance extended to include: 1) \$1,000,000.00 limit each occurrence for bodily injury and property damage, \$2,000,000.00 general aggregate limit, \$1,000,000.00 products and completed operations limit; 2) contractual liability coverage, 3) \$1,000,000.00 limit for non-owned and hired automobile liability, 4) "your real estate manager" included within the definition of "insured" in the policy language, and 5) "THE CONTINENTAL GROUP, INC. and any and all of its affiliated or related entities, directors, officers, employees, servants and agents" to be specifically designated as "additional insured" using ISO Additional Insured Endorsement CG 20 26 11 85 or endorsements providing equivalent or broader coverage to the additional insureds. Coverage for additional insureds shall apply as primary and non-contributing insurance before any other insurance or self insurance, including any deductible, maintained by or provided to the additional insureds.

B. Directors' and Officers' Liability Insurance with limits of not less than \$1,000,000.00 per claim and aggregate, providing a retroactive date back to the inception date of the Association, and naming "THE CONTINENTAL GROUP, INC. and any and all of its affiliated or related entities, directors, officers, employees, servants and agents" to be specifically designated as "additional insureds".

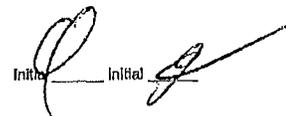
C. Workers' Compensation Insurance according to state statutory limits covering all employees, subcontractors, or volunteers of the Association, with employer's liability limits of not less than \$500,000.00 each accident for bodily injury, \$500,000.00 each employee for bodily injury caused by disease, and \$500,000.00 policy limit for bodily injury caused by disease. Said policy shall be endorsed to include a waiver of subrogation in favor of TCG.

D. Umbrella or Excess Liability Insurance: 1) with limits of not less than \$3,000,000.00 each occurrence and aggregate, 2) providing follow-form coverage over the General Liability, Directors' and Officers' Liability and Employer's Liability policies, 3) coverage must include as insureds all entities that are additional insureds on the Commercial General Liability policy, and 4) coverage for such additional insureds shall apply as primary before any other insurance of self-insurance, including any deductible, maintained by or provided to the additional insured other than the Commercial General Liability, Directors' and Officers' Liability and Employer's Liability coverages maintained by the Association.

E. Fidelity Bond with limits of not less than \$500,000.00 or such other minimum amount as may be required by applicable law including TCG as a named insured.

F. The insurance carriers providing the coverages outlined above must be financially sound, be rated A IX or better by A.M. Best Company, and must be licensed or authorized to do business in the State of Florida.

G. Prior to the commencement of work under this Contract, the Association shall provide a current and original certificate of insurance providing evidence of the aforementioned insurance requirements. Said certificate shall show "THE CONTINENTAL GROUP, INC. and any and all of its affiliated or related entities, directors, officers, employees, servants and agents" as "additional insureds" on the Commercial General Liability, Directors' and Officers' Liability, Umbrella and Excess Liability policies, and not merely a certificate holder. A copy of the additional insured endorsement to the Commercial General Liability policy indicated in Paragraph 5.1 A. shall be appended to the certificate of insurance. In the "Cancellation" provision of the certificate it shall read as follows: "Should any of the above described policies be canceled before the expiration date thereof, the issuing company will endeavor to mail 30 days' written notice to certificate holder named in the certificate". It is agreed by all parties that no work shall commence under the terms of this Contract until the original Certificate of Insurance is received and approved by TCG. No later than the renewal date

Initial  Initial 

of any insurance policies required by this Contract, the Association will supply TCG with a new, original Certificate of Insurance in compliance with the terms of this Contract.

5.2 TCG hereby agrees to maintain at all times and to provide evidence of the following insurance coverages:

A. Commercial General Liability Insurance extended to include: 1) \$1,000,000.00 limit each occurrence for bodily injury and property damage, \$2,000,000.00 general aggregate limit, \$1,000,000.00 limit for personal and advertising injury, and \$1,000,000.00 products and completed operations limit; 2) contractual liability coverage.

B. Commercial Auto Liability with a combined single limit of \$1,000,000.00 and \$1,000,000.00 limit for non-owned and hired automobile liability.

C. Workers' Compensation Insurance according to State statutory limits covering all employees or subcontractors of TCG, with employer's liability limits of not less than \$500,000.00 each accident for bodily injury, \$500,000.00 each employee for bodily injury caused by disease, and \$500,000.00 policy limit for bodily injury caused by disease.

D. Umbrella or Excess Liability Insurance with limits of not less than \$5,000,000.00 each occurrence and aggregate providing follow-form coverage over the General Liability and Employers' Liability policies.

E. Prior to the commencement of work under this Contract, TCG shall provide a current and original Certificate of Insurance showing the coverages outlined above. On the renewal date of any insurance policies required by this Contract, TCG will supply the Association with a new, original Certificate of Insurance in compliance with all terms of this Contract.

5.3 The Association expressly waives all rights of subrogation against TCG for damages caused by perils, regardless of whether or not covered by any insurance obtained by the Association or required to be obtained by the Association pursuant to this Contract. The policies of insurance required to be carried by the Association pursuant to this Contract shall include an express waiver of subrogation either by endorsement or policy language. The waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly and whether or not the person or entity has an insurable interest in the property damaged.

6. COMPENSATION AND COST REIMBURSEMENT

6.1 The Association agrees to pay TCG the sum(s) stipulated in Schedule I of this Contract per month ("Contract Price"), in advance on the first day of each month, or as otherwise stated in Schedule I. The Contract Price may be increased due to any increases in social security, Medicare, unemployment or other governmental imposed taxes or charges, and/or due to any increases in workers' compensation insurance rates as stipulated by NCCI, and shall be a direct pass through to the Association as of the effective date of any such increase. The Association shall establish and properly fund an account with such federally-insured bank to be designated for ACH withdrawal by TCG to meet the Association's obligations for all amounts owed to TCG under this Contract. Association shall reimburse TCG bi-weekly, in arrears, for actual wages paid (as per agreement by both parties) plus any labor burden as stipulated in Schedule I if labor is provided on that basis. Association agrees that all outstanding balances due in excess of 30 days will be assessed interest at the maximum rate as allowed by law on the unpaid balance. Further, if payments for on-site staff are more than 15 days delinquent, TCG shall have the ability, notwithstanding anything to the contrary contained in this Contract, to remove on-site staff members upon 7 days' written notice to the Association. During the period of time that on-site staff members have been removed from the property, TCG shall have no responsibility for performance of services under this Contract that would be performed by on-site staff members.

6.2 Any additional hours or staff, including, but not limited to staff needed to work for employees who take provided sick, vacation or holiday time, or bonuses requested by the Association shall be paid for at the individual's compensation plus labor burden as stipulated in Schedule I. Any non-exempt employee working in excess of 40 hours per week will be paid at time and one half.

6.3 Increases in benefits based on employee's length of employment with TCG, and additional benefits shall be in accordance with TCG's standard employment policies and/or governing law. Any additional benefits beyond those provided by TCG shall be at the discretion of the Association and shall be approved by the Association.

6.4 In addition, any on-site Community Association Manager or maintenance supervisor who is an employee of TCG will be required to attend periodic off-site continuing education programs or training sessions arranged by TCG. TCG will attempt to arrange such sessions to minimize any inconvenience to the Association, and such sessions shall be kept to a minimum.

6.5 Except as is otherwise expressly provided herein, the Association shall pay or reimburse TCG for all costs (as are more specifically set forth by illustration only in Schedule II hereto, made a part hereof by this reference) which may be incurred by TCG in providing services, materials and supplies immediately upon receipt of an invoice

therefore, except that TCG shall not be entitled to reimbursement for salaries of officers of TCG and general office overhead of TCG, as said items are actually included within the Contract Price.

6.6 Without limiting the provisions of Paragraph 6.5, if the Association requests in writing that TCG provide project coordination services to coordinate the project with the day-to-day affairs of the Association, TCG may charge as follows:

A. For restoration of Common Areas after Acts of God and other insurable claims such as, without limitation, hurricanes, fire or floods, the Association agrees to reimburse TCG 5% of the total cost of the project for the additional administrative burden TCG will incur in coordinating the repair and restoration process by contractors engaged by the Association with the day to day activities of the Association. TCG may also charge such a cost to the Association for other construction projects undertaken by the Association which TCG reasonably determines will create additional administrative burdens.

B. In the event of a natural disaster or other catastrophe, the Association shall be billed at \$50.00 per hour for additional time the Community Association Manager spends on the property. Any amounts billed hereunder shall be credited against the fee TCG is entitled to receive under this paragraph.

7. **ENGAGEMENT OF EMPLOYEES BY ASSOCIATION.** The Association recognizes that TCG is engaged in the specialized and competitive property management and maintenance business and TCG invests time and money in the hiring, training and development of its employees at all levels, which promotes productivity, efficiency and the employment of a competent and specialized workforce. Accordingly, the Association covenants and agrees that it shall not hire, employ, or otherwise engage any employees, prospective employees TCG presents for consideration, or former employees who provided services to the Association, or contract with or in any way engage the services of any firms employing any such employees, prospective employees TCG presents for consideration, or former employees of TCG while this Contract remains in force and continuing for a period of 12 months following the expiration or earlier termination of this Contract. For this purpose, "employees, prospective employees TCG presents for consideration, and former employees" are those individuals employed by TCG who provided services to the Association, or prospective employees who were presented to the Association for consideration, at any time during the 12 month period prior to the termination or expiration of this Contract. Should the Association violate this paragraph, it agrees to pay, as liquidated damages, and not a penalty, the sum of 30% of the annual salary/wages of said employee(s) at time of termination or resignation of said employee(s) by or from TCG. The provisions set forth in this paragraph shall survive the termination or expiration of this Contract.

8. **NOTICES.** All notices required hereunder shall be in writing and shall be effective when deposited in the United States mail, with proper postage prepaid, certified mail, return receipt requested, and shall be properly addressed:

To Association:
To the current President
At the Association's address of record

To TCG:
THE CONTINENTAL GROUP, INC.
2950 North 28 Terrace
Hollywood, FL 33020
Attention: Anthony A. Kalliche,
Executive Vice President & General Counsel

or to such other address or person as either party shall, from time to time, designate for itself, in writing, to the other party, provided that notice of any change of address or contact person shall not be effective until received.

9. **LIABILITY.** The Association hereby expressly agrees and understands that TCG shall not be liable to the Association, its members or to Owners, their guests and invitees for any injury, loss or damage to person or property, unless caused solely by TCG's own gross negligence or willful misconduct, or arising solely out of a material breach by TCG of this Contract. To the fullest extent of the law, the Association and its members will, and do hereby agree to indemnify, save, defend and forever hold harmless TCG, its affiliated or related entities, partners, officers, directors, agents, servants and employees from any liabilities, damages, costs, penalties, fines, fees, losses, suits, demands, causes of action, judgments, obligations, claims and expenses, including but not limited to reasonable attorneys' fees and associated costs (whether pre-trial, at trial, mediation or at arbitration and/or in connection with any appeals) incurred, sustained, arising out of or connected with any injury to person or property however caused, or from any matter whatsoever arising from or in connection with TCG's performance of services hereunder, including without limitation any and all losses arising out of TCG's own or sole negligent acts or omissions, unless such liability shall result solely from TCG's own gross negligence or willful misconduct or solely from a material breach of this Contract by TCG. All personal property placed or moved into the Community will be at the risk of the Association or the Owner or occupant. TCG will not be liable to the Association or others for any damage or injury to person or property, real or personal, arising from theft, vandalism, HVAC malfunction, the bursting or leaking of water pipes, the presence of mold, mildew or any pollutant, and any act or omission of any Owner or occupant or of any other person. However, the foregoing will not relieve TCG of liability for damage or injury resulting solely from TCG's gross negligence or willful misconduct. To the

Initial  Initial

extent that such liability results solely from TCG's gross negligence or willful misconduct, TCG shall indemnify and hold harmless the Association. In no event will TCG be liable for consequential damages to the Association, a Owner or any third-party. The Association shall procure contractual liability insurance covering its obligations arising out of this paragraph; however the indemnification shall not be limited to damages, compensation or benefits payable under insurance policies. It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under this Contract, such legal limitations are made a part of the indemnification obligations and shall operate to amend the indemnification obligations to the minimum extent necessary to bring the provisions into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect. The provisions set forth in this paragraph shall survive the expiration or earlier termination of this Contract.

10. MISCELLANEOUS.

10.1 In any legal action arising from this Contract or connected herewith the prevailing party shall be entitled to recover all costs and reasonable attorneys' fees incurred (whether pre-trial, at mediation, arbitration or trial and in any appeals).

10.2 In any litigation arising from this Contract, venue shall be solely in Broward County, Florida.

10.3 Association and TCG hereby irrevocably and unconditionally waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal action or proceeding arising out of or relating to this Contract or any contract or transactions contemplated hereby, and for any counterclaim in connection herewith.

10.4 No waiver of a breach of any of the covenants contained in this Contract shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

10.5 No modification, release, discharge or waiver of any provision hereof shall be of any force, effect or value, unless in writing, signed by both of the parties to this Contract, their respective successors and assigns.

10.6 If any term or condition of this Contract is, to any extent, invalid or unenforceable, the remainder of this Contract is not to be affected thereby and each term and condition of this Contract is to be valid and enforceable to the fullest extent permitted by law. This Contract will be construed in accordance with the laws of the State of Florida.

10.7 Except to the extent otherwise expressly provided herein, TCG shall be deemed to be an independent contractor and not an employee of the Association. TCG shall be free to contract for similar services to be performed for other entities, wherever located, while it is under contract with the Association. Under no circumstances shall the Association, or any of its members, officers, directors, agents or employees, look to TCG as its or their employer, or a partner or principal. Nothing herein contained shall be deemed to create or be construed as constituting a joint venture or partnership between the Association and TCG. The Association, its members, officers, directors, agents or employees shall not be entitled to, nor shall they make any claim for, any benefits accorded to TCG's employees, including, but not limited to, workers' compensation, vacation or sick pay.

10.8 This Contract constitutes the entire understanding and agreement between the parties hereto, superseding all prior written or oral agreements with respect to its subject matter. This Contract shall be binding upon the parties hereto and their respective successors and assigns.

10.9 The Association represents and warrants that the execution, delivery and performance of this Contract by the Association will not conflict with, nor result in the breach of, any agreement, whether oral or written, document, indenture or other instrument to which the Association is a party or under which it is bound. The Association further represents and warrants that it has full power and authority to execute and deliver this Contract, and to perform the obligations hereunder, and that it has taken all actions necessary to authorize the execution, delivery and performance of this Contract. The Association also represents that it is not bound by the terms of any collective bargaining agreement and there has been no action taken by its employees which would subject the Association to the collective bargaining process under applicable labor laws. The Association is not aware of any labor organizing efforts involving its employees.

10.10 To the extent Chapter 718 is applicable to this Community; the parties hereto hereby acknowledge and agree that this Contract complies with Section 718.3025, Florida Statutes.

10.11 TCG shall not in any way be considered an insurer or guarantor of security within the property. Neither shall TCG be held liable for any loss or damage by reason of failure to provide adequate security nor for ineffectiveness of security measures undertaken. The Board of Directors on behalf of the Association, Owners and occupants, tenants, guests and invitees, as applicable, acknowledge that TCG does not represent or warrant that any fire protection, burglar alarm systems, access control systems, patrol services, surveillance equipment, monitoring devices, security systems (if any are present) will prevent loss by fire, smoke, burglary, theft, hold-up or otherwise, nor that fire protection, burglar alarm systems, access control systems, patrol services, surveillance equipment, monitoring devices or other security systems will provide the detection or protection for which the system is designed or intended. The Board of Directors on behalf of the Association, each Owner and occupant of any dwelling and each tenant, guest and invitee of an Owner, as

applicable, acknowledges and understands that TCG is not an Insurer and that each Owner and occupant of any Unit/Lot and each tenant, guest and invitee of any Owner assumes all risks for loss or damage to persons, to Units/Lots and to the contents of Units/Lots and further acknowledges that TCG has made no representations or warranties nor has the Association, any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire protection, burglar alarm systems, access control systems, patrol services, surveillance equipment, monitoring devices or other security systems recommended or installed or any security measures undertaken within the property.

10.12 The Association agrees to provide a safe and healthy work environment for all employees provided by TCG.

10.13 During the term of this Contract and to the extent not prohibited by the governing documents, TCG reserves the right to affix and maintain a sign in a prominent location on the property to identify TCG ("Professionally Managed by ..."). Said sign shall be in a location likely to come to the attention of those entering the property, and shall have approximate dimensions of 15"w x 12"h.

10.14 Association acknowledges and agrees that it and/or Owners may from time to time receive email contact from TCG regarding topics including, but not limited to, discounts obtained by TCG for various services which are being made available to Owners, promotions being offered by TCG or services being offered by TCG and/or its affiliated or related companies or subsidiaries.

11. **DISCLOSURE.** TCG, through its affiliated or related companies, or divisions, offers certain goods or services to community associations. TCG hereby wishes to ensure that these relationships are disclosed to the Association. TCG and the current subsidiary/related companies providing services in Florida are: FirstManagement Financial, Inc.; FirstService Financial, Inc.; The Continental Group, Inc. d/b/a Continental Front Desk Services; Lukes' Landscaping, Inc.; Lukes' Landscaping, Inc. d/b/a All Florida Pest Control and Fertilization; Lukes' Landscaping, Inc. d/b/a Lukes'-Sawgrass Landscape; Lukes' Landscaping, Inc. d/b/a Sawgrass Landscape Services; Service America Enterprise, Inc.; Continental Painting, Waterproofing and Restoration, Inc.; Simplikate Systems, LLC; EmeraldShores Services, Incorporated; FirstService Residential Realty Florida; The Continental Group Realty, Inc.; FBS Continental Property Tax Abatement, LLC and Red Rock Financial Services Florida, LLC. The Association is not obligated in any manner to use any of the aforementioned affiliated or related companies or divisions to perform services other than those provided by TCG under this Contract, nor is TCG precluded from obtaining competitive bids, when required, to present to the Board of Directors for approval.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written:

Witness as to Association:

Donna Tollefsen
Signature

Donna Tollefsen
Printed Name

JADE WINDS CONDOMINIUM ASSOCIATION, INC.

[Signature]
Signature

President
Printed Title

Witness as to TCG:

Judi Vorderbruggen
Signature

JUDI VORDERBRUGGEN
Printed Name

THE CONTINENTAL GROUP, INC.

[Signature]
Signature

[Signature]
Printed Title

Initial CL Initial [Signature]

SCHEDULE I
JADE WINDS CONDOMINIUM ASSOCIATION, INC.
916 Units/Lots

ADMINISTRATIVE MANAGEMENT

Includes supervising regional director and ContinentalConnect™

<u>EFFECTIVE</u>	<u>MONTHLY</u>
May 2011	\$3,715.00
May 2012	\$3,864.00
May 2013	\$4,019.00
Post term	4% annual increase if Contract is extended on a month-to-month basis

The administrative management fee shall be waived for the months of May 2012 ("2012 Waived Fee") and May 2013 ("2013 Waived Fee"). Should the Association elect to terminate this Contract with a termination date on or before April 30, 2013, the 2012 Waived Fee shall become due and payable. Should the Association elect to terminate this Contract with a termination date after April 30, 2013 but before April 30, 2014, the 2013 Waived Fee shall become due and payable.

ON-SITE STAFF (IF APPLICABLE)

The on-site staff shall consist of the following positions to be provided by TCG. This is the minimum staffing and may only be increased upon prior written approval of the Association and TCG:

<u>Position</u>	<u>Hours Per Week</u>	<u>Labor Burden</u>	<u>Vacation</u>	<u>Monthly Medical</u>
Licensed CAM	Full-time	25 %	20	\$372.00 single standard
Assistant Association Manager	40	25 %	10	\$372.00 single standard
Administrative Assistant	80	25 %	10	\$372.00 single standard
All additional administrative	Per mutual approval	25 %	10	\$372.00 single standard
All additional concierge/front desk	Per mutual approval	35 %	10	\$372.00 single standard
All additional non-administrative	Per mutual approval	35 %	5	\$372.00 single standard

Labor burden as stipulated above includes, but is not limited to, social security tax, federal/state unemployment tax, workers' compensation insurance, TCG's contribution to employee 401(k) benefit, drug testing, criminal background checks, recruitment expense, payroll processing and human resource administration.

On-site staff shall receive the following minimum benefits (if the Association elects eligible full-time employees of TCG for a part-time position at the Association, these benefits will be on a pro-rata basis):

1. Single standard medical benefits at a cost to the Association per month, per employee as stipulated above. The premiums for such coverage are due in full as to any employee that elects coverage and is employed as of the first of the month, and there is no credit or pro-rata return of any portion of the monthly premium should an employee be on FMLA leave, resign, be terminated or transferred after the first of the month. Rates are guaranteed through June 30, 2011.
2. The fees stipulated in this Schedule I are inclusive of 6 paid annual sick days; 6 paid holidays (New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day); and annual paid vacation days as stipulated above.

SCHEDULE II
JADE WINDS CONDOMINIUM ASSOCIATION, INC.

- A. The following office expenses will be charged to and become a cost of the Association and will be reimbursed to TCG. These office expenses shall be substantiated with back-up documentation itemizing each charge.
1. **If approved in writing by the Association**, any fees and costs to provide a unified communications system/resident alert system.
- B. The following office expenses will be charged to the Owner or third party:
1. Should the Association select a screening company which uses TCG to assist in the screening process and/or the secure storage of screening reports, TCG may be reimbursed by the screening company in an amount as TCG and the screening company may mutually determine.

EXHIBIT B



FirstService
RESIDENTIAL

ADDENDUM TO MANAGEMENT CONTRACT

THIS ADDENDUM "(Addendum)" is made and entered into on MARCH 24, 2014 by and between JADE WINDS ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association") and FIRSTSERVICE RESIDENTIAL FLORIDA, INC., a Florida corporation ("FirstService").

WHEREAS, the Association and FirstService f/k/a The Continental Group, Inc. entered into that certain Management Contract dated April 29, 2011 (the "Contract"); and

WHEREAS, the Contract provides for a term expiring on April 30, 2014; and

WHEREAS, the Association and FirstService have agreed to amend the Contract as more particularly set forth herein;

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration received by each party from the other, the receipt, adequacy, and sufficiency of which are hereby acknowledged, and in further consideration of the mutual covenants and agreements hereinafter set forth, the parties hereby agree as follows:

1. All of the statements contained in the above recitations are true and correct and are hereby incorporated by reference.
2. The Contract incorrectly identified the Association as JADE WINDS CONDOMINIUM ASSOCIATION, INC. The Contract is amended to reflect the correct name of the Association as JADE WINDS ASSOCIATION, INC.
3. Paragraph 2 of the Contract, entitled *Term and Termination*, is hereby modified as follows:
 - a. Subparagraph 2.1 is modified to provide that the term of the Contract is extended to April 30, 2017 unless terminated sooner in accordance with the provisions of the Contract.
 - b. Subparagraph 2.2 is deleted and replaced with the following:

"In the event that either party defaults by failing to perform its obligations set forth in this Contract, the other may give 30 days' written notice of its intent to cancel with specific detail as to the alleged breach. Should the default not be cured within the 30 day period (or in the case of a default requiring more than 30 days to cure, unless reasonable steps have been taken to cure such default and such cure is diligently pursued thereafter), the non-defaulting party shall have the right to cancel this Contract and/or the right to institute appropriate legal proceedings to recover such damages as allowed by law."
4. Paragraph 3.9 of the Contract is hereby modified to provide that the frequency of attendance at meetings of the Board of Directors is changed from bimonthly to up to 4 times per year.
5. Paragraph 5 of the Contract, entitled *Insurance*, is hereby modified as follows:
 - a. Subparagraph 5.1 D is modified to provide that the Umbrella or Excess Liability Insurance coverage to be maintained by the Association shall include a minimum of \$5,000,000.00 each occurrence and aggregate.
6. The following paragraph, entitled *Special Terms*, is added to the Contract:

"12. SPECIAL TERMS.

12.1 **Greater Benefit for Time Off.** If the Association's vacation policy provides a greater benefit to the employee, the employee shall receive the greater benefit. The Association's policy is as follows:

Community Association Manager: 20 days of annual paid vacation

12.2 **Removal or Transfer of CAM.** As long as this Contract remains in effect, FirstService shall not remove or transfer the CAM without prior written approval of the Association, unless due to said employee's gross negligence in the performance of his/her duties, his/her intentionally tortious conduct, or his/her alleged violation of FirstService's standard employment policies, but shall do so if requested in writing by the Association for legitimate, nondiscriminatory reasons or if requested by the employee.

Initial SP Initial [Signature]

12.3 **Removal of FirstService Employees.** As long as this Contract remains in effect, FirstService shall remove any on-site employee of FirstService upon prior written request of the Association for legitimate, nondiscriminatory reasons."

7. Effective **May 1, 2014**, Schedule I of the Contract is hereby deleted and replaced as attached hereto, and by reference hereof, made a part of this Addendum.

8. The paragraph of the Contract entitled *Disclosure* is hereby deleted and replaced with the following:

"DISCLOSURE. FirstService, through its affiliated or related companies, or divisions, offers certain goods or services to community associations. FirstService hereby wishes to ensure that these relationships are disclosed to the Association. FirstService and the current subsidiary/related companies providing services in Florida are: FirstService Financial, Inc.; Luke Brothers, Inc.; Luke's Landscaping, Inc.; Luke's Landscaping, Inc. d/b/a All Florida Pest Control and Fertilization; Luke's Landscaping, Inc. d/b/a Luke's-Sawgrass Landscape; Luke's Landscaping, Inc. d/b/a Sawgrass Landscape Services; Service America Enterprise, Inc.; FirstService Residential Realty, LLC; Bristol Management Services Inc.; Uhlig LLC; WelcomeLink, Inc.; APS of Hollywood LLC; APS of Hollywood, Inc. d/b/a American Pool Service; and Paul Davis Restoration, Inc. The Association is not obligated in any manner to use any of the aforementioned affiliated or related companies or divisions to perform services other than those provided by FirstService under this Contract, nor is FirstService precluded from obtaining competitive bids, when required, to present to the Board of Directors for approval."

9. Except as herein modified, all of the terms and conditions of the Contract and all of the rights and responsibilities of the parties with respect to the Contract are hereby ratified and shall remain in full force and effect.

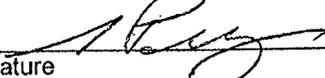
IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the day and year first above written:

Witness as to Association:


Signature

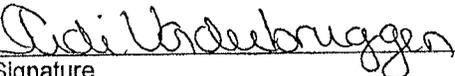
DOUNNA MARTIN
Printed Name

JADE WINDS ASSOCIATION, INC.


Signature

PRESIDENT
Printed Title

Witness as to FirstService:


Signature

JUDI VORDERBRUGGEN
Printed Name

FIRSTSERVICE RESIDENTIAL FLORIDA, INC.


Signature

Printed Title

**SCHEDULE I
JADE WINDS ASSOCIATION, INC.
916 Units/Lots**

ADMINISTRATIVE MANAGEMENT

Includes supervising regional director and FSRConnect

<u>EFFECTIVE</u>	<u>MONTHLY</u>
May 2014	\$4,019.00
May 2015	\$4,180.00
May 2016	\$4,347.00
Post term	4% annual increase if Contract is extended after Initial Term (rounded to nearest dollar)

ON-SITE STAFF (IF APPLICABLE)

The on-site staff shall consist of the following positions to be provided by FirstService. This is the minimum staffing and may only be increased upon prior written approval of the Association and FirstService:

<u>Position</u>	<u>Minimum Hours Per Week</u>	<u>Labor Burden</u>
Licensed CAM	Full-time	25 %
Assistant Association Manager	40	25 %
Administrative Assistant	80	25 %
All additional administrative	Per mutual approval	25 %
All additional concierge/front desk	Per mutual approval	35 %
All additional non-administrative	Per mutual approval	35 %

Labor burden as stipulated above includes, but is not limited to, social security tax, federal/state unemployment tax, workers' compensation insurance, FirstService's contribution to employee 401(k) benefit, drug testing, criminal background checks, recruitment expense, payroll processing and human resource administration.

Eligible on-site staff shall receive the following minimum benefits (if the Association elects eligible full-time employees of FirstService for a part-time position at the Association, these benefits will be on a pro-rata basis):

- Single standard medical benefits shall be offered to all eligible on-site staff members who are employees of FirstService with the Association responsible for 100% of the coverage. The payment amount for 2014 is \$435.00 per month, per person and is guaranteed through December 31, 2014. The payment for such coverage is due in full as to any employee that elects coverage and is employed as of the first of the month, and there is no credit or pro-rata return of any portion of the monthly payment should an employee be on FMLA leave, resign, be terminated or transferred after the first of the month.
- The fees stipulated in this Schedule I are inclusive of paid time off for holidays, vacation, and personal time off ("PTO") as stipulated in FirstService's standard employment policies.

EXHIBIT C



FirstService
RESIDENTIAL

ADDENDUM TO MANAGEMENT CONTRACT

THIS ADDENDUM ("Addendum") is made and entered into on June 10, 2014 by and between JADE WINDS ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association") and FIRSTSERVICE RESIDENTIAL FLORIDA, INC., a Florida corporation ("FirstService").

WHEREAS, the Association and FirstService f/k/a The Continental Group, Inc. entered into that certain Management Contract dated April 29, 2011 which was subsequently modified by addendum (addenda) or amendment(s) thereto (the "Contract"); and

WHEREAS, the Contract provides for a term expiring on April 30, 2017; and

WHEREAS, the Association and FirstService have agreed to amend the Contract as more particularly set forth herein;

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration received by each party from the other, the receipt, adequacy, and sufficiency of which are hereby acknowledged, and in further consideration of the mutual covenants and agreements hereinafter set forth, the parties hereby agree as follows:

1. All of the statements contained in the above recitations are true and correct and are hereby incorporated by reference.
2. Paragraph 2 of the Contract, entitled Term and Termination, is hereby modified as follows:
 - a. Subparagraph 2.1 is modified to provide that the term of the Contract is extended to **May 31, 2017** unless terminated sooner in accordance with the provisions of the Contract.
3. Effective **June 1, 2014**, FirstService shall be responsible for the day-to-day bookkeeping services for the Association. Accordingly, Paragraph 3.12 of the Contract is hereby deleted and replaced with the following:

"3.12 Provide the day-to-day bookkeeping services, as needed or monthly, necessary to pay the bills of the Association. This service shall include, but not be limited to:

A. Keep all records of and perform all services in connection with the payment of bills, payrolls and such other items as may be provided for in the budget. Checks shall be executed by two designees of the Board of Directors or, with the approval of the Board of Directors and either the chief executive officer or chief operating officer of FirstService, by one designee of the Board of Directors and one designee of FirstService.

B. Collect all regular and special assessments levied by the Board of Directors, as needed or monthly, from the Association's members and other revenues, which may be due the Association. The Association hereby authorizes FirstService to request, demand, collect, receive and receipt for any and all assessments and charges which may be due the Association and to advise the Association's attorney to take such action in the name, and on behalf, of the Association by way of making, recording, satisfying or foreclosing the Association's liens therefore, initiating legal process or taking such other action as FirstService shall deem necessary or appropriate, in its reasonable judgment, subject to the Association's approval, for the collection of such assessments.

C. Approve all bills received by the Association, as needed or monthly, for services, work and supplies ordered in connection with maintaining and operating the Community, and cause to be paid by the Association from Association's available funds all such proper bills as and when the same shall become due and payable.

D. Maintain, as needed, the Association's financial record books, accounts and other financial related records as provided by the Association's By-Laws and pursuant to applicable law and issue certificates of account to Owners and their mortgagees and lienors together with such other documents as may be generally requested or provided in connection with sales, mortgages, or other transfers of Units/Lots or interests therein, without liability of FirstService for errors and/or omissions unless as a result solely of its gross negligence or willful misconduct. FirstService may charge reasonable fees to Owners, purchasers of Units/Lots, their mortgagees and lienors as additional compensation to FirstService for the preparation of a certificate of account and for such other documents as may be generally requested or provided in connection with sales, mortgages, or other transfers of Units/Lots or interests therein, to the extent not prohibited by applicable law, and for preparation and delivery of documents to be delivered to a purchaser in connection with the sale of a Unit/Lot. The records shall be kept at the office of FirstService or at a location designated

Initial SP 

**SCHEDULE I
 JADE WINDS ASSOCIATION, INC.
 916 Units/Lots**

ADMINISTRATIVE MANAGEMENT

Includes supervising regional director, bookkeeping services, and FSRConnect

<u>EFFECTIVE</u>	<u>MONTHLY</u>
June 2014	\$8,599.00
June 2015	\$8,943.00
June 2016	\$9,301.00

Post term 4% annual increase if Contract is extended on month-to-month basis (rounded to nearest dollar)

ON-SITE STAFF (IF APPLICABLE)

The on-site staff shall consist of the following positions to be provided by FirstService. This is the minimum staffing and may only be increased upon prior written approval of the Association and FirstService:

<u>Position</u>	<u>Minimum Hours Per Week</u>	<u>Labor Burden</u>
Licensed CAM	Full-time	25 %
Assistant Association Manager	40	25 %
Administrative Assistant	80	25 %
All additional administrative	Per mutual approval	25 %
All additional concierge/front desk	Per mutual approval	35 %
All additional non-administrative	Per mutual approval	35 %

Labor burden as stipulated above includes, but is not limited to, social security tax, federal/state unemployment tax, workers' compensation insurance, FirstService's contribution to employee 401(k) benefit, drug testing, criminal background checks, recruitment expense, payroll processing and human resource administration.

Eligible on-site staff shall receive the following minimum benefits (if the Association elects eligible full-time employees of FirstService for a part-time position at the Association, these benefits will be on a pro-rata basis):

1. Single standard medical benefits shall be offered to all eligible on-site staff members who are employees of FirstService with the Association responsible for 100% of the coverage. The payment amount for 2014 is \$435.00 per month, per person and is guaranteed through December 31, 2014. The payment for such coverage is due in full as to any employee that elects coverage and is employed as of the first of the month, and there is no credit or pro-rata return of any portion of the monthly payment should an employee be on FMLA leave, resign, be terminated or transferred after the first of the month.
2. The fees stipulated in this Schedule I are inclusive of paid time off for holidays, vacation, and personal time off ("PTO") as stipulated in FirstService's standard employment policies.

SCHEDULE II
JADE WINDS ASSOCIATION, INC.

- A. The following office expenses will be charged to and become a cost of the Association and will be reimbursed to FirstService. These office expenses shall be substantiated with back-up documentation itemizing each charge.
1. Black & White copies at \$0.15 per page (no charge if performed on-site).
 2. Postage, printing, and mailings at actual cost (no charge if performed on-site).
 3. Courier services at actual cost (no charge for regularly scheduled courier between FirstService and Association).
 4. Long distance phone calls at actual cost (no charge if performed on-site).
 5. Document preparation (i.e. labeling, stuffing and collating) at \$0.15 each (no charge if performed on-site).
 6. Maintenance fee and special assessment coupons/statements at \$7.00 per Unit/Lot per complete coupon book and \$3.00 per Unit/Lot per statement.
 7. Record storage and retrieval costs at \$40.00 per trip.
 8. Annual \$120.00 fee for miscellaneous office expenses (i.e. trans file boxes, annual file folder updates, customized association laser checks, 1099 forms and preparation, etc.).
 9. Special assessment processing shall be charged at \$2.50 per Unit/Lot per assessment installment period throughout the payment term of the assessment.
 10. Meeting minute preparation at \$50.00 per meeting (no charge if performed by on-site staff).
 11. Administrative fees for production and inspection of records by Association members (billed at \$50.00 per hour for staff and \$100.00 per hour for senior staff) (no charge if performed on-site).
 12. Administrative fees for litigation support services, including, but not limited to, court appearances and preparation, production of documents, discovery, meetings with counsel, depositions, etc. (billed at \$75.00 per hour for staff, \$250.00 per hour for senior staff, and \$300.00 per hour for any officers of FirstService).
 13. Certified mail handling fee at \$5.00 per piece (no charge if performed on-site).
 14. Violation letters at \$1.50 each.
 15. Any fees and costs to provide a unified communications system/resident alert system.
 16. In the event the governing municipality imposes a charge for a business tax receipt, occupational license or similar charge related to FirstService's performance of services for the Association from Association's on-site management office, the actual charge shall be paid by the Association.
 17. In the event the Association cannot provide accurate financial information at the commencement of bookkeeping services which would include, but is not limited to, accurate general ledger beginning balances, Owners' ledgers, financial statement packages and supporting documents or schedules, any additional time of FirstService to assist in the process of obtaining accurate financial information shall be charged to the Association at the rate of \$50.00 per hour for accounting employees and \$100.00 per hour for any of FirstService's vice-presidents or accounting directors.
- B. The following office expenses will be billed to the Association and charged to the delinquent Owner for reimbursement to the Association:
1. Delinquent account reminder letters at \$5.00 each; collection demand letters at \$25.00 each, and attorney transfer packages on collection matters at \$50.00 each. These amounts will be billed to the Association and charged to the delinquent Owner.
 2. If the Association elects to have FirstService send out the statutorily required pre-lien letter, and governing law or regulation does not preclude FirstService from preparing this letter, a reasonable charge may be billed to the Association and charged to the delinquent Owner.
- C. The following office expenses will be charged to the Owner or third party:
1. Should the Association select a screening company which uses FirstService to assist in the screening process and/or the secure storage of screening reports, FirstService may be reimbursed by the screening company in an amount as FirstService and the screening company may mutually determine.
 2. FirstService may charge, collect and retain NSF check costs as authorized by applicable law to compensate FirstService for the preparation of the statutorily required notice.