

# PROPERTY MANAGEMENT AGREEMENT

*Young Hawaii Homes, Inc., 2131 S. Beretania St., #204, Honolulu, Hawaii 96826*

1. **PARTIES**

In consideration of the covenants herein, \_\_\_\_\_ hereinafter referred to as "Owner" and \_\_\_\_\_, hereinafter referred to as "Agent", knowingly and willingly enter into the following Property Management Agreement, hereinafter referred to as "Agreement".

2. **AGENCY**

Owner hereby appoints Agent as the sole and exclusive agent of Owner to rent, lease, operate and manage on Owner's behalf the property located at \_\_\_\_\_ (hereinafter referred to as "Premises"), and any additional properties which may be added to this Agreement, and Agent accepts this exclusive appointment upon the terms and conditions set forth in this agreement. Owner warrants that Owner is the sole owner of the Premises, or has unconditional authority to execute this Agreement on behalf of any Co-Owner and that the Premises are not subject to current legal action or foreclosure. Any individual Owner shall have the authority to hereafter take action and enter into further agreements with Agent on behalf of all Co-Owners. During the term of this Agreement, Owner shall not authorize any other person(s) to negotiate or act as rental agent with respect to any leases for the Premises.

3. **PROPERTY DESCRIPTION**: As described in Schedule "A".

4. **RENTAL INFORMATION**

Desired Monthly Rental Range:                      Market rent  
Minimum Desired Lease Period:                      \_\_\_\_\_  
Maximum Desired Lease Period:                      \_\_\_\_\_  
Pets allowed?     No     Yes: Restrictions: \_\_\_\_\_  
Other Desired Requirements:                      No waterbeds; \_\_\_\_\_

*NOTE: Lease periods, number of occupants, and acceptance of pets are subject to provisions of any applicable Association By-Laws, House Rules of the property, City and County Ordinances, and State and Federal Laws.*

5. **TERM**

This agreement shall be for a period of \_\_\_\_\_ ( ) months **beginning on \_\_\_\_\_ and ending on \_\_\_\_\_**, thereafter for annual periods. Either Owner or Agent may terminate this agreement by a written thirty (30) days notice prior to the expiration of any renewal period. Termination of this agreement does not invalidate any existing rental agreements made by the agent on the owner's behalf. Upon termination, Agent shall deliver to owner all files, correspondence and agreements held in Agent's possession, together with a closing statement of the account. The tenant's security deposit will be forwarded as directed by the Owner.

6. **DUTIES OF AGENT**

(A) **LEASING & RENTING**

Agent shall use all reasonable efforts to keep the Premises rented by procuring tenants for the Premises. Agent shall investigate references provided by prospective tenants. Agent will enter into lease agreements with tenants utilizing Hawaii Association of Realtors and/or Agent forms exclusively. Agent is authorized to negotiate, prepare and execute all leases, including renewals and extensions of leases and to cancel and modify existing leases. Agent assumes no responsibility for the management of personal property left by Owner at Premises.

(B) **RENTALS AND COLLECTIONS**

Agent shall collect all rents, charges and other amounts receivable on Owner's account in connection with the management of the Premises. Agent may accept payments in cash, money order, cashier's check, personal check, or direct deposit, but shall not be liable to Owner for ultimate collection of such payments.

*Owner's initials* \_\_\_\_\_

(C) ADVERTISING

Agent is authorized to advertise the Premises for rent, using print ads, internet/web sites or such other means as Agent deems proper and advisable. Owner agrees to reimburse Agent for all advertising costs.

(D) PROPERTY SURVEYS and TERMITE INSPECTIONS

Agent shall perform interior and exterior surveys at its discretion or when deemed prudent by Agent. Owner acknowledges that Agent is not a professional inspection company and will notify Agent if a professional termite inspection or inspection of the Premises is desired.

(E) VENDORS

Agent shall award vendor contracts and otherwise deal with vendors based upon price, availability, workmanship and industry reputation. Should Owner desire to utilize a specific Vendor, Vendor must sign a Vendor Contract with Agent and provide proof of Liability Insurance. Agent reserves the right to refuse to use any Vendor who refuses to sign a Vendor Contract and provide proof of insurance. Agent shall provide Vendor yearly 1099 statements, if applicable. Agent does not provide 1099 statements to, and assumes no liability for, any Vendor hired and paid for directly by Owner.

(F) DEPOSIT FUNDS

Agent will deposit funds collected on behalf of the owner in a client trust account in an insured bank or trust company designated by Agent until the net proceeds (gross rental income less any fees and expenditures properly deducted and accounted for) are disbursed to the owner with an accompanying monthly statement reflecting receipts and disbursements.

(G) MONTHLY STATEMENTS

Agent shall provide Owner monthly statements of cash receipts and disbursements, either via the internet or via the postal service. Agent shall also provide Owner yearly 1099 statements.

(H) DISTRIBUTION OF INCOME TO OWNER

Agent shall deduct from gross rental income received any agent's fees and reimbursements for authorized expenditures. To the extent there are amounts available for distribution, Agent shall distribute amount to Owner, or as Owner may direct. Disbursements shall be electronically transferred to Owner's account, deposited directly to Owner's account or sent via check. In the event disbursements shall be in excess of the rents collected by Agent, Owner shall pay such deficit promptly upon request by Agent.

Agent will render monthly statements of cash receipts and disbursements by the 15<sup>th</sup> day of each month, or as soon as possible thereafter if tenant rent is paid late, or as agreed upon.

(I) SECURITY DEPOSITS

Agent shall deposit security deposits in a trust account in an insured bank or trust company designated by Agent and separate from Agent's personal accounts. Agent shall collect and hold security deposits on tenant's behalf, (1) to be used to replace or repair items damaged by tenant except for normal wear and tear, (2) to be applied towards cleaning of the premises chargeable to tenant, (3) to compensate for damages by a tenant who wrongfully quits the unit, (4) for tenant failure to pay rent or for failure to return keys at the terminations of the rental agreement. The remaining security deposit will be refunded to tenant or disbursed to owner at the termination of the rental, as agent may determine. Interest earned from the security deposit shall be credited to the Agent.

**Note:** By law, Agent or Owner may not collect more than one month's rent as a Security Deposit, nor can Agent collect a Pet Deposit.

Owners of new accounts with current tenants agree to provide an accounting of all security deposits and to supply Agent with matching funds prior to the execution of this Agreement. Should the Premises sell or upon termination of this Agreement, Owner authorizes Agent to deduct any outstanding fees owed by Tenant to Agent from the Security Deposit and to release the remainder of the funds to Tenant or as directly by Owner.

(J) NO UNDISCLOSED FEES

Agent agrees not to collect or charge undisclosed fees, rebates or discounts.

(K) NO FUND ADVANCEMENT

Agent is not obligated to make any advance of funds or incur any liability for Owner's account, including but not limited to emergency repairs. Therefore, Agent shall not be held liable for any loss sustained by Owner due to nonpayment or late payment of any expenses.

Owner's initials \_\_\_\_\_

(L) RESIDENTIAL LANDLORD-TENANT CODE and FAIR HOUSING LAWS

Agent shall use its best efforts to comply with the provisions of Hawaii's Residential Landlord-Tenant Code concerning the rights, obligations and remedies of landlords and tenants. Agent shall promptly notify Owner of complaints, warnings or summonses relating to such matters. Owner and Agent agree to follow all Federal and Local Fair Housing Laws. If Owner should at any time request that Agent disregard Fair Housing Laws and/or Landlord-Tenant Laws, this contract will be terminated immediately and the management fees for the balance of this contract or \$\_\_\_\_\_, whichever is greater, will be due immediately.

(M) LEGAL ACTION

Agent is hereby authorized to institute and prosecute actions in Owner's name and at Owner's expense to evict tenants and recover possession of the premises, to sue tenants for rents and other sums due, and to settle, compromise or dismiss such actions. Any such legal action shall be brought through Owner's attorney or, if none is specified by Owner, through an attorney selected by Agent at Owner's expense. Owner agrees that Agent is not responsible for the collection of delinquent accounts and is not liable for monies that are uncollectible or for any damages or costs related to the tenancy and the property.

Owner agrees to pay all expenses incurred by Agent including, without limitation, attorney's fees for counsel employed to represent Agent or Owner in any proceeding or suit involving an alleged violation by the Agent or Owner, or both, of any constitutional provision, statute, ordinance, law or regulation of any governmental body pertaining to fair employment, Federal Fair Housing, including, without limitation, those prohibiting or making illegal discrimination on the basis of race, creed, color, religion, national origin, marital status, mental or physical handicap in the sale, rental or other disposition or housing or any services rendered in connection therewith, but nothing herein contained shall require Agent to employ counsel to represent the Owner or himself in any such proceeding or suit. Owner shall not hold Agent liable for any error of judgments or mistake of law except in cases of willful misconduct or gross negligence.

(N) SERVICE CONTRACTS

Agent is authorized to arrange for all utility services necessary for proper operation and protection of the premises and any such other services as Agent shall deem advisable. Owner agrees to set up any Service Agreements in the Owner's name but in care of Agent, using Agent's mailing address. Owner to assume the obligation for any contracts entered on Owner's behalf.

**7. DUTIES OF THE OWNER**

(A) INVENTORY LETTER

Owner shall provide to Agent, and update as necessary, a complete inventory of furniture and fixtures in the premises. Owner shall immediately notify Agent of any inventory changes.

(B) KEYS, HOUSE RULES

Owner shall furnish Agent with three (3) complete sets of keys to the premises. Two (2) sets of keys are to be issued to tenant and one (1) set is to be retained by Agent. Owner shall also furnish two (2) copies of house rules with one (1) set being issued to the tenant and the other being retained by Agent. The owner shall provide a copy of all service contracts in effect for the property.

(C) MINIMUM BALANCE IN OWNER'S TRUST ACCOUNT (Reserves)

Owner will deposit with Agent the sum of \$\_\_\_\_\_, which agent may apply for expenses incurred on owner's behalf or agent's fees. If balance in owner's reserves falls below this sum, Owner shall restore this balance by depositing additional funds within ten (10) days of Agent's request for such additional funds. Agent may also restore amount by applying rental income received to the account.

(D) FORECLOSURES

Owner agrees to keep all mortgages, property taxes, association fees, or any other obligations which could lead to a foreclosure action against the property current and paid in full. Should Agent be notified that a foreclosure action has been initiated against the Premises, Owner authorizes Agent to freeze all Owner related funds to that property and Agent will not make any further disbursements to Owner. Should Owner fail to stop the foreclosure process, Owner authorizes Agent to release the Tenant from their rental agreement and all future rental payments, refund the security deposit to Tenant and deduct from Owner's funds on hand all amounts due to Agent or Tenant, including, but not limited to, any refund to Tenant of prorated rents or expenses and all management fees and other fees described within this Agreement.

Owner's initials \_\_\_\_\_

(E) CHANGES

Owner shall notify Agent in writing concerning any changes to this Agreement, such as, but not limited to, (1) Property on the Market for Sale, (2) Foreclosure Pending, (3) Claims from Federal or State Income Tax Liens or Real Property Tax Liens, (4) Lapse of Insurance on Real Property, (5) Claims that Affect Owner's Property.

(F) INSURANCE

Owner shall purchase and maintain complete Owner, Landlord and Tenant liability insurance at his own expense for the premises, naming Agent as an additional insured in an amount not less than \$500,000.00. A copy of the policy or an endorsement thereto shall be delivered to Agent. Where Agent is not named as an additional insured, Agent is authorized to obtain the required insurance at Owner's expense when not done by Owner prior to, or upon the date of this Agreement. If insurance coverage changes in manner or degree at any time this Agreement is in effect, Owner must provide Agent with a copy of the insurance certificate evidencing such change within ten (10) days of the change.

(E) TAXES

Owner is responsible for the payment of all taxes related to Premises. Hawaii General Excise Taxes must be paid on the GROSS rent collected by any person renting real property in the State of Hawaii. The Federal Internal Revenue Form 1099 stating the amount of rents collected shall be filed with the Internal Revenue Service and the State of Hawaii Department of Taxation per Hawaii Revised Statutes, Section 237.

- Owner authorizes Agent to pay the General Excise Tax.
- Owner chooses to file and pay own General Excise Taxes.

(G) HOLD HARMLESS

All obligations or expenses incurred hereunder will be for the account on behalf, and at the expense of Owner. Owner shall indemnify, defend, hold harmless and release Agent from and against all claims of all parties, including Owner, tenants and third parties in connection with Agent's management of the premises, including claims for personal injury or property damage from any cause whatsoever in or about the premises. Owner will reimburse Agent for all costs and expenses including attorney's fees paid or incurred by Agent in connection with the defense of any such claim or demand. Agent shall not be liable to owner for any error of judgment or for any mistake of law or fact, or for anything it may do or refrain from doing, except in cases of willful misconduct or gross negligence.

If at any time during or after the term of this Agreement, the Premises are found to be contaminated with hazardous waste, Owner agrees to indemnify and hold Agent harmless from all claims, demands, actions, liabilities, costs expenses, damages and obligation of any nature arising from, or as a result of, said hazardous waste. The foregoing indemnification shall survive the termination or expiration of the Agreement.

It is expressly agreed and understood that all persons employed in connection with the Premises are employees of the Owner and not the Agent. The Owner's obligation under this section shall include the payment of all costs, expenses, suits, claims, settlements, judgments, damages, liquidated damages, penalties, forfeitures, back pay, court costs, litigation expense, worker's compensation claims, and attorney fees.

8. AUTHORIZED FEES AND EXPENSES

(A) Owner agrees to pay to Agent:

- (1) An initial fee of \_\_\_\_\_ ( ) percent for renting the premises of the first full month's gross rental income received; and
- (2) A monthly fee thereafter of \_\_\_\_\_ ( ) percent of the monthly gross rental income received, or \$ \_\_\_\_\_ per month if vacant for longer than one month.
- (3) Any late fees collected from tenants will be split \_\_\_\_\_ ( ) percent to the owner and \_\_\_\_\_ ( ) percent to the agent. If the net rental income from the returned check has already been transmitted to the owner, both the returned check fee and the late fee collected from the tenant shall be paid to the agent in consideration of Agent's services.

Owner's initials \_\_\_\_\_

(B) Owner authorizes Agent to pay at owner's expense:

- (1) Rental advertising and tenant verification costs;
- (2) Expenses for cleaning, minor repairs, window washing, carpet shampooing, extermination and other customary services Agent may consider necessary to maintain safe, healthy and livable standards (including purchasing or renting, on Owner's behalf, any equipment, tools, materials, and other items necessary);
- (3) Repairs and replacements, as Agent may consider necessary or advisable. Agent agrees to seek prior approval of owner on all expenditures **in excess of \$\_\_\_\_\_** for any one time, except monthly or recurring operating charges and/or emergency repairs deemed necessary by agent;
- (4) Long distance telephone communications with Owner;
- (5) All expenses incurred to rent, maintain, replace and repair the property. This may include utility costs during periods of vacancies.
- (6) Expenses listed on Schedule "A" attached to this agreement

(C) Owner further agrees that normal Property Management does not include providing onsite management services, property sales, refinancing, preparing property for sale or refinancing, modernization, fire or major damage restoration, rehabilitation, obtaining income tax, accounting, or legal advice, representation before public agencies, advising on proposed new construction, debt collection, counseling, or attending Homeowner Association meetings. If Owner requests Agent to perform services not included in normal property management or specified above, a fee shall be agreed upon for these services before the work begins (minimum of \$\_\_\_\_\_).

(D) Extraordinary maintenance is defined as rehabilitation work that exceeds \$\_\_\_\_\_, insurance claims and major systems upgrades. (Examples may include roof replacement, major tree work, exterior painting, vandalism repairs, etc.). A fee shall be agreed upon for these services before the work begins (minimum of \$\_\_\_\_\_).

(E) Normal property management services do not include showing property to real estate agents, inspectors, appraisers, or prospective buyers while property is for sale. Should Owner request Agent to perform these services, a fee based at \$\_\_\_ per hour may be assessed at Agent's discretion.

(F) Any time of Agent or Agent's employee(s) expended in preparation for and attendance in court on Owner's behalf will be billed at the rate of \$\_\_\_\_\_ for each eviction or \$\_\_\_\_\_ per hour for other litigation. Owner and Agent agree that such charges will be paid by the Owner but charged to the Tenant.

(G) Owner further agrees that Agent may receive fees and charges from tenants for:

- (1) Processing credit applications,
- (2) Bounced check fees or service fees,
- (3) Mortgage verifications,
- (4) Re-renting fees from tenant when breaking a lease,
- (5) Fees charged for lock-outs,
- (6) Other services not in conflict with this Agreement.

(H) Due to Agent's business relationships with Vendors and other professionals, certain benefits in the form of rebates, gratuities and discounts are sometimes made available to Agent and its employees. Agent does not mark up invoices or charges to the Owner and therefore Agent is authorized to retain all available rebates, gratuities and discounts.

## 9. **OTHER**

(A) Normal Wear and Tear Defined: Normal wear and tear means the deterioration that occurs based upon the use for which the rental unit is intended and without negligence, carelessness, accident, misuse or abuse of the premises or contents by the tenants, their family, or their guests. For the purposes of this agreement, the following are considered normal wear and tear: nail holes used to hang pictures, minor spot painting between tenants, traffic wear in carpet, carpet replacement after 5-7 years, scuffed hardwood floors, sometimes minor cleaning between tenants, worn toilet seats, re-keying or replacement of worn locks, blind replacement due to sun or wind damage, caulking or any other preventative maintenance.

(B) Yard: Agent is not responsible for the care of the yard for the Premises. Owner must indicate in writing who is to care for any yard, whether it is the Tenant, an independent contractor, or the Owner themselves. If Tenant is responsible for yard care, either the Owner or an independent contractor assumes responsibility for yard care between tenancies. Owner acknowledges that, for liability reasons, Tenant will not be allowed to trim any trees. Agent is authorized to contract for periodic tree trimming and other major yard maintenance at Owner's expense.

Owner's initials \_\_\_\_\_

(C) Lead Paint Disclosure: Housing built before 1978 may contain lead based paint. Lead from paint, paint chips and dust can pose health hazards if not taken care of properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, landlords and owners must disclose the presence of known lead based paint. Owner acknowledges that:

They have no knowledge of lead based paint/hazards.

**OR**

Known lead based paint/hazards are present:

They have provided lead based paint/hazards records

They have no records pertaining to lead based paint/hazards

As of April 2010, all painting done on pre-1978 housing must follow strict federal guidelines. Any contractors performing renovation, repair and painting projects that disturb lead-based paint must be certified and must follow specific work practices to prevent lead contamination. Owner is aware that there may be additional costs and time required to complete any renovation or repair involving painting.

(D) Dual Agency: Owner acknowledges that Agent may manage properties that are in the same building or similar in size and in the same general area as the Owner's unit. Agent may occasionally be showing these other properties to prospective tenants at the same time as Owner's unit is for available for rent.

(E) Changes: Owner acknowledges that, as laws that govern our business change, the Management Agreement terms may also change.

#### 10. POWER OF ATTORNEY

Owner hereby appoints Agent his true and lawful attorney in fact, with full power of substitution, with authority to sign and acknowledge on owner's behalf any lease of the premises and to take any actions necessary to enforce compliance with such lease, including eviction of any tenant. This special power of attorney coupled with an interest, is irrevocable during the term of this agreement and shall survive the incapacity or death of Owner.

#### 11. INTEREST ON DEPOSITS

Owner is aware and agrees that if the tenant's security deposit is placed into an interest bearing account, all interest thereon will accrue and be payable to Agent.

#### 12. TERMINATION EXPENSE

In consideration of Agent's efforts, Owner agrees to pay Agent a termination fee equal to \_\_\_% of one month's rent, if Owner terminates this agreement for any reason while there is a lease in effect for the premises.

Termination by the owner: The owner may terminate the contract with thirty days notice as a result of non-performance by the managing agent per terms and understandings, at which point there would be no termination expense.

#### 13. MEDIATION DISPUTES

Owner and Agent agree to mediate any dispute or claim between them arising out of this contract or any resulting transaction before resorting to arbitration or court action. Mediation fee, if any, shall be divided equally among the parties involved. Before the mediation begins, the parties agree to sign a document limiting the admissibility in arbitration or any civil action of anything said, any admission made, and/or any documents prepared in the course of the mediation. If any party commences an arbitration or court action based on a dispute or claim to which this paragraph applies without first attempting to resolve the matter through mediation, then at the discretion of the arbitrator or judge, that party shall not be entitled to recover attorney's fees and costs even if they would otherwise be entitled to such.

Owner's initials \_\_\_\_\_

14. **MISCELLANEOUS**

This is the entire agreement between the parties and shall be governed by and construed under the laws of the State of Hawaii. Any and all disputes concerning this agreement, of the performance of any duties under this agreement, shall be litigated in the District or Circuit Court of the First Circuit Court, State of Hawaii. This agreement shall be binding upon the successors and assigns of Owner or Agent. Should any Section or any part of any Section of this Agreement be rendered void, invalid, or unenforceable by any reason by any court of law exercising competent jurisdiction, such a determination shall not render void, invalid, or unenforceable any other Section or any part of any Section in this Agreement. Owner is advised to consult an attorney if he has any questions concerning the terms of this agreement.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The receipt of a copy of this agreement is acknowledged by all parties.

\_\_\_\_\_  
OWNER DATE

\_\_\_\_\_  
OWNER DATE

\_\_\_\_\_  
OWNER DATE

\_\_\_\_\_  
AGENT DATE

03/2013  
Owner Form #OW1