

## PROPERTY MANAGEMENT AGREEMENT



This Property Management Agreement ("Agreement") is made and effective this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between \_\_\_\_\_ ("Owner") and \_\_\_\_\_ ("Agent"), a company duly organized and existing under the laws of the State of Utah with its office located at: \_\_\_\_\_.

### RECITALS:

**A.** Owner holds title to the following described real property:

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**B.** Agent is experienced in the business of operating and managing real estate similar to the above described property.

**C.** Owner desires to engage the services of agent to manage and operate the property, and agent desires to provide such services on the following terms and conditions:

In consideration of the mutual covenants contained herein, the parties agree:

### 1. EMPLOYMENT OF AGENT

Agent shall act as the exclusive agent of owner to manager, operate and maintain the property.

### 2. BEST EFFORTS OF AGENT

On assuming the management and operation of the property, agent shall thoroughly inspect the property and submit a written report to owner. The written report shall contain the opinion of agent concerning the present condition of the property and/or the present efficiency under which the property is being managed and operated, and recommend changes, if necessary, in the management structure of the property in the rehabilitation of the property, and any other matters that will improve the efficient management and operation of the property. After conferring with Owner and obtaining approval to make any necessary improvements, agent shall undertake completion of the improvements.

### 3. LEASING OF PROPERTY

Agent shall make reasonable efforts to lease the property and shall be responsible for all negotiations with prospective tenants. Agent shall also have the right to execute and enter into, on behalf of Owner, leases and tenancies of the property and/or its units. Agent may negotiate all extensions and renewals of such tenancies and leases. Agent shall not, without the prior written consent of Owner, enter into any lease for a term less than \_\_\_\_\_ months or more than \_\_\_\_\_ months. Agent shall have the right to make concessions, including rental concessions and inducements to prospective tenant to occupy the property.

#### 4. ADVERTISING AND PROMOTION

Agent shall advertise vacancies by all reasonable and proper means on owner's behalf, however owner will be responsible for all newspaper classified advertising costs when property is advertised in local newspapers. Owner shall be responsible to provide property photos. We offer professional photography as an additional service.

#### 5. MAINTENANCE, REPAIRS AND OPERATIONS

**5.1:** Agent shall use the best efforts to insure that the property is maintained in an attractive condition and in a good state of repair. In this regard, Agent shall use its best skills and efforts to serve the tenants of the property and shall purchase necessary supplies, make contracts for, or otherwise ensure the maintenance of electricity, gas, water, refuse disposal, pest control and any other utilities or services required for the operation of the property. Agent shall make or cause to be made and supervise necessary repairs and alterations. Expenditures for repairs, alterations, maintenance or utility expenditures in excess of \$\_\_\_\_\_ shall not be made without prior written consent of Owner, except in the case of emergency, or if agent in good faith determines that such expenditures are necessary to protect the property from damage, to prevent injury to person or loss of life, or to maintain services or habitability conditions as may be required by the Utah Fit Premises Act.

In the event of an "emergency" that must be remedied on an emergency basis to protect the property and maintain habitability, Agent is authorized to make such emergency expenditures as are necessary, including those in excess of the authorized amount of \$\_\_\_\_\_. The owner agrees to bear the expense of each repair or expenditure under these provisions plus a service fee of \_\_\_\_ % to the Agent. Agent reserves the right to require \_\_\_\_ % of estimated costs of repairs prior to work being started.

Nothing herein shall be construed to require Agent to advance any monies for the care, repair or maintenance of the property. If funds are not available from property revenue for necessary care, repair or maintenance, Owner shall upon demand from Agent provide funds for such necessary care, repair or maintenance. If such funds are not provided in that Agent cannot in good faith perform its duties under this Agreement, Agent may terminate this Agreement as provided in Section 18.

**5.2 UTILITIES:** Owner shall be responsible for all utility expenses incurred on the property. The Owner directs, however, that when lease or rented, the Tenant shall accept responsibility and pay for the following utilities:

**TENANT WILL PAY** and accepts responsibility for the following:

\_\_\_\_ water \_\_\_\_ sewer \_\_\_\_ gas \_\_\_\_ electricity \_\_\_\_ garbage \_\_\_\_ Other \_\_\_\_\_

**OWNER WILL PAY** for and remain responsible for the following utilities, and payment for utilities may be paid by Agent from rents received for the property on behalf of the Owner.

\_\_\_\_ water \_\_\_\_ sewer \_\_\_\_ gas \_\_\_\_ electricity \_\_\_\_ garbage \_\_\_\_ Other \_\_\_\_\_

Owner further acknowledges, though, that despite the above, utilities will be maintained at the Owner's expense if Tenant fails to appropriately pay or maintain utilities to ensure the safety of the property as well as habitability conditions.

## **6. EMPLOYEES**

**6.1:** Agent shall employ, discharge and supervise all on-site employees or contractors required for the efficient operation and maintenance of the property. All personnel, except independent or third-party contractors and employees of independent/third-party contractors, shall be the employees of Agent. Agent shall pay the salaries of such employees, and to the extent there are revenues from the property available, pay all charges for services rendered by independent/third party contractors and the employees of such.

**6.2:** Employees of Agent shall include, but not limited to, managers, maintenance personnel, and other administrative staff rendering services or performing activities on the property or in connection with its operation.

## **7. GOVERNMENT REGULATIONS**

Agent shall manage the property in full compliance with all laws and regulations of any federal, state, county or municipal authority having jurisdiction over the property.

## **8. INSURANCE**

Owner shall maintain insurance on the property in an amount either required by any existing mortgages or in an amount reasonable for insurance industry standards on other similar properties. Owner \_\_\_\_ shall \_\_\_\_ shall not require renters of the premises to maintain renter's insurance.

## **9. COLLECTION OF INCOME; INSTITUTION OF LEGAL ACTION; ASSIGNMENT OF TENANT ACCOUNTS**

**9.1:** Agent shall use its best efforts to collect promptly all rents and other income issuing from the property when such amounts become due. It is understood that Agent does not guarantee the collection of rents. Agent shall not advertise the premises or execute a lease on the premises for less than the minimum monthly rent amount of \$ \_\_\_\_\_ unless express written approval is obtained from Owner. In the event this Agreement is used for multiple properties of Owner, the parties shall create an addendum to identify the minimum monthly rental amounts and minimum lease periods (as provided in Section 3) for each rental unit subject to this Agreement.

**9.2:** Agent shall, on behalf of Owner, execute and serve such notices and demands on delinquent tenants as Agent may deem necessary or proper. Agent, on behalf of Owner, shall institute, settle or compromise any legal action and make use of such methods of legal process against a delinquent tenant or the property of a delinquent tenant as may be necessary to enforce the collection of rent or other sums due from the tenant to enforce any covenants or conditions of any lease or tenancy, and to recover possession of the premises or any part thereof.

**9.3:** Agent shall, on behalf of Owner, execute any other legal notices and demands on tenants as Agent may deem necessary or proper, i.e. nuisance notices, end of term notices, termination notices for nuisance and/or criminal activity. Agent, on behalf of Owner, shall institute, settle or compromise any legal action and make use of such methods of legal process against tenants in

breach of the lease or tenancy as may be necessary to enforce the covenants or conditions of any lease or tenancy, and to recover possession of the premises or any part thereof.

**9.4:** As provided herein, Owner expressly agrees that Agent may retain legal services to enforce the terms of lease agreements with tenants during the tenancy or after the tenancy on any basis, including a contingency basis. Tenant accounts may be assigned to a collection agency or law office for such legal proceedings; Owner acknowledges and agrees that Owner is bound to any legal services contracts executed on Owner's behalf. Owner acknowledges there may be costs and fees involved in pursuing such legal matters against tenants and/or for recalling such accounts from a collection agency or law office; when applicable, Owner will pay such costs and fees if Owner intends to continue legal action on any particular tenant account.

## **10. SECURITY DEPOSITS**

Agent shall collect and hold security deposits in amounts to be determined in Agent's sole discretion. Such security deposits shall be held, retained and/or refunded in compliance with industry standards and regulations as well as state law.

## **11. BANK ACCOUNTS**

Agent shall deposit all revenues from the property into the general property management account of Agent. From the revenues deposited in the account, Agent shall pay all items with respect to the property for which payment is provided in this Agreement, including repairs and maintenance in accordance with Section 5, the compensation and commission of Agent in accordance with Sections 14 and 15, and deposits to the reserve accounts as provided for in Section 12. After such payments, Agent shall remit any balance of any monthly revenue to Owner concurrently with the delivery of a monthly report referred to in Section 13.

## **12. RESERVE ACCOUNT**

**12.1:** Agent may establish a reserve account which may be used for any of the following items: taxes, assessments, debt service, insurance premiums, repairs (other than normal maintenance), replacement of personal property, and refundable deposits. Agent shall use its best judgment in transferring adequate funds from the trust account to the reserve account in order to pay the above items without incurring late pay interest fees, cancellations or forfeitures. If the reserve account contains inadequate funds to pay any of the above items, Agent must obtain approval from Owner before paying the items directly from the general property management account. If Owner determines that the funds in the reserve account are excessive, Owner shall direct the Agent return such excess funds to the general property management account.

**12.2:** Anything in this Agreement to the contrary, notwithstanding, Agent shall not be liable for any failure or bankruptcy of any bank used as a depository of any funds maintained in the accounts.

## **13. RECORDING AND REPORTS**

**13.1:** Agent will keep books, accounts and records that reflect all revenues and all expenditures incurred in connection with the management and operation of the property. The books, accounts and records shall be maintained at the principal place of business of Agent. Agent shall, during regular business hours, make the books, accounts and records required to be maintained hereunder available to Owner or the representatives of Owner for examination and audit by

appointment on no less than 3 days' prior notice. All such audits shall be at the expense of Owner.

**13.2:** Agent shall furnish Owner, no later than the end of the next succeeding month, a detailed statement of all revenues and expenditures for each preceding month. Owner shall retain for safekeeping and store owner statements and other documents delivered by agent with respect to the property.

**13.3:** Within 30 days after the end of each calendar year, Agent shall prepare and deliver to Owner a detailed statement of revenues received and expenditures incurred and paid during the calendar year that result from operations of the property. Within 30 days, following expiration or termination of this Agreement, Agent shall deliver to Owner all books, accounts and records pertaining to the property.

**13.4:** Along with the monthly statement as provided in Section 13.2, Agent shall remit to Owner net revenues for that month, if any, after deducting amounts as provided in this Agreement, specifically in Sections 5, 12, 13, 14, 15 or as otherwise may be agreed upon by the parties.

#### **14. COMPENSATION OF AGENT**

**14.1:** Agent shall receive a management fee equal to \$\_\_\_\_\_ of the gross monthly rent collected from the operation of the property, or a flat amount of \$\_\_\_\_\_. Gross monthly rent is defined as the monthly rent amount per the terms of the lease and not inclusive of late fees, other fees that may be required by the lease (i.e. service of notice fee, eviction turnover fee, etc.), or any other amounts collected from the tenant for any reason. Utility reimbursement fees are however considered a part of gross monthly rent.

**14.2:** Owner acknowledges and agrees that Agent may charge and retain fees to tenants, including but not limited to, NSF fees, service fees, lease initiation fees, renewal fees, collection fees, eviction turnover fees, etc. Late fees will be divided equally between agent and owner.

**14.3:** Agent shall receive a maintenance fee equal to \_\_\_\_\_% of maintenance performed on the property. For example, if a plumber fixes a water leak for \$100, Owner shall pay Agent \$10 as a maintenance fee.

**14.4:** Any management fee due Agent as provided in this Agreement shall be paid to Agent within 15 days after the end of each month, if not otherwise retained by Agent in collecting monthly rent and other incomes from the property.

#### **15. COMMISSIONS FOR NEGOTIATING LEASES**

Agent shall receive a commission of \$\_\_\_\_\_ of the first month's rent for negotiating a lease with any new tenant. If a tenant is already placed at execution of this agreement, no commission or set-up fee will be charged.

At times a tenant may be referred by a third party such as the MLS (Multiple Listing Service) or other related real estate brokerages. In the event a tenant is referred and placed by a licensed real estate broker or such real estate service, a one-time fee of \$\_\_\_\_\_ will be paid by Owner to Agent.

## 16. ADDITIONAL DUTIES AND RIGHTS OF AGENT

In addition to the foregoing, Agent shall perform all services that are necessary and proper for the operation and management of the property, and shall report to Owner promptly any condition concerning the property that, in the opinion of Agent, requires the attention of Owner.

In order to properly perform the services required by this Agreement, Agent is authorized to engage, on behalf of Owner, any entity that is an affiliate or employee of Agent, provided that the compensation paid for the services shall be competitive with nonaffiliated entities providing the same or similar services.

## 17. TERMINATING AND RENEWAL

This Agreement shall be for a term commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and ending on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. At the termination of this Agreement, it shall be renewed automatically on a month-to-month basis that may be terminated by either party by giving not less than 30 days' notice in writing to the other party.

## 18. TERMINATION FOR CAUSE

**18.1:** In the event that either party breaches any of the terms of this Agreement or demands action/inaction in regards to the property which demands would be contrary to any governing body having jurisdiction over the property, or otherwise prevents the other party from performing its duties in good faith in accordance with this Agreement, either party may provide written notice to the other of such breach. If either party fails to remedy the breach within 5 days after receiving the above described notice, either party may terminate this Agreement.

**18.2:** In the event of termination for cause as described in this section by either party, Owner shall make written demand for all monies due and owing through the termination date. Such demand shall also specifically state that Owner demands any applicable security deposits of tenants being held by Agent. If demand for security deposits is not made within 10 days after this Agreement is terminated for cause, then Agent may refund any and all applicable security deposits to the proper tenants without further liability to Owner.

**18.3:** Upon written demand for all monies due and owing to Owner through the termination date, Agent shall send all books, accounts and records for the property along with all monies properly owed to Owner within 15 days after demand is made or within 30 days if demand is not made.

## 19. SALE OF PROPERTY

If at any time during this agreement, Owner desires to sell the property, Owner shall notify Agent of the intent prior to the property being marketed or advertised prior to such activity. Owner elects to participate in the management fee rebate program: Accept [ ☐ ] Decline [ ☐ ]

Upon the delivery off the deed of conveyance thereof, this Agreement shall automatically terminate. Owner, or any agent of the Owner agree to respect and honor the rights of any tenant within the property. Owner acknowledges the sale of the property may not necessarily terminate any leases existing with the property.

Owner is [ ☐ ] is not [ ☐ ] a licensed real estate agent or broker with the Division of Real Estate in the State of Utah.

## **20. CONDEMNATION**

This Agreement shall terminate in the event of a total condemnation of the property or the property is deemed uninhabitable by any governing body with jurisdiction over the property. If there is a partial condemnation of the property, this agreement may be terminated at the option of Owner. If such a partial condemnation of the property reduces the compensation of Agent by more than 30%, Agent may terminate this Agreement.

## **21. BANKRUPTCY, FORECLOSURE**

**21.1:** If bankruptcy proceedings, whether voluntary or involuntary, are commenced against either Owner or Agent, either party may terminate this Agreement by giving 10 days' written notice to the other party.

**21.2:** Owner agrees to keep all mortgage obligations, property taxes, association fees, or any other obligations which could lead to a foreclosure action against the property current and paid in full as required. Should Agent be notified that a foreclosure action has been initiated against the property, such action shall be deemed a material breach by Owner. At Agent's option Agent may terminate this contract as provided in Section 18; or, Agent may require Owner to correct and make current the obligation that initiated the foreclosure action within a reasonable amount of time in Agent's sole discretion. Nothing herein shall preclude Agent from terminating this contract per Section 18 at any point when a foreclosure action is pending. Owner and Agent agree that nothing in this paragraph shall limit Agent's other legal remedies to collect from Owner any unpaid amounts due to Agent.

## **22. NO PROPERTY INTEREST CREATED**

Nothing contained in this Agreement shall be deemed to create or shall be construed as creating in Agent any property interest in or to the property.

## **23. LICENSING OF AGENT**

Agent shall at all times during the term of this Agreement maintain such licenses, registrations and permits as are required for any of the various services to be performed by Agent on behalf of Owner.

## **24. RELATIONSHIP OF THE PARTIES**

Agent is an independent contractor and not an employee of Owner for any purpose.

## **25. NOTICE**

All notices, requests, demands or other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered in person, or within 7 days after deposited in the mail postage prepaid, emailed or otherwise actually delivered to Owner and Agent.

Either party hereto may change the address at which it receives notice by so notifying the other party hereto in writing.

## **26. PARTIES BOUND; ASSIGNMENT**

This Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties hereto, and their respective successors and assigns; provided, however, that this Agreement may not be assigned by Agent without prior written consent of Owner, or by Owner

without prior written consent of Agent. Anything in the foregoing to the contrary notwithstanding, Agent may, without the consent of Owner, delegate the performance of any duties and obligations of Agent to any independent contractor or entity.

**27.EFFECT OF PARTIAL INVALIDITY**

Should any section or any part of any section of this Agreement be rendered void, invalid or unenforceable for any reason by any court or 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.

**28.INDEMNIFICATION**

Owner agrees to indemnify, defend and hold Agent harmless from all suits in connection with the property and from liability for damage to property, bodily injury or death of any person in connection with the property. Owner shall not be responsible to Agent for any such expenses in the event Agent is finally adjudicated to have personally, and not in a representative capacity, violated the law.

**29.GOVERNING LAW**

This Agreement has been made and entered into in the State of Utah and the laws of such state shall govern the validity and interpretation of this Agreement and the performance due hereunder.

**30.INTEGRATION**

The drafting, execution and delivery of this Agreement by the parties have been induced by no representations, statements, warranties or agreements other than those expressed in this Agreement. This Agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof unless expressly referred to in this Agreement.

**31.ATTORNEY FEES**

Should either party bring suit to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover court costs and reasonable attorney fees.

**32.MODIFICATION**

This Agreement may not be modified unless such modification is in writing and signed by both parties to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Owner Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_

Agent Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_