



**Property Management Agreement**

DATE: \_\_\_\_\_

COMMENCEMENT DATE: \_\_\_\_\_

**Owner Information**

OWNER: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_ UNIT: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_ EMAIL: \_\_\_\_\_

OWNERSHIP %: \_\_\_\_\_ CO-OWNER:  Yes  No

**Co-Owner Information**

CO-OWNER: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_ UNIT: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_ EMAIL: \_\_\_\_\_

OWNERSHIP %: \_\_\_\_\_

THIS PROPERTY MANAGEMENT AGREEMENT (“*Agreement*”) is made as of this date, between the Owner and Empire Property Management, LLC (“*Manager*”) with respect to the property/properties identified below (the “*Property*”), which is owned by *Owner*. *Owner* and *Manager* are sometimes referred to herein as a “*Party*” or the “*Parties*”.

PROPERTY ADDRESS: \_\_\_\_\_ County: \_\_\_\_\_

UNIT: \_\_\_\_\_ CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_ County: \_\_\_\_\_

UNIT: \_\_\_\_\_ CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_ County: \_\_\_\_\_

UNIT: \_\_\_\_\_ CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_ County: \_\_\_\_\_

UNIT: \_\_\_\_\_ CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

LIMIT OF MANAGER'S AUTHORITY FOR COSTS: \_\_\_\_\_

MINIMUM BALANCE TO BE HELD FOR OWNER: \_\_\_\_\_

DEPOSITS TO BE HELD IN POOLED ACCOUNT (*see Section 3.4*)

MINIMUM LIABILITY INSURANCE COVERAGES BY OWNER: \$500,000 combined single-limit coverage

COMPENSATION OF MANAGER: Per Schedule B, attached.

**1. Exclusive Agency**

Owner appoints Manager as its sole and exclusive agent to manage the Property on Owner's behalf. The scope of the appointment is described in Sections 3 and 4 of this Agreement. Manager accepts such appointment and agrees to perform its obligations in accordance with the terms of this Agreement.

**2. Term**

The term of this Agreement shall commence as of the Commencement Date, and shall continue until the Expiration Date (the "Initial Term"), when it will expire. This Agreement shall automatically renew as of the expiration date of each term for an additional period of one (1) month ("Renewal Term"), unless either Party gives the other written notice of termination at least thirty (30) days prior to expiration of the Initial Term or any Renewal Term. Performance of this Agreement during any Renewal Term will be under the terms and conditions set forth in this Agreement, unless the Parties otherwise agree in writing. Upon expiration or other termination of this Agreement, the Owner shall remain bound by the obligations of all contracts for services, supplies, alterations Manager has entered into in connection with the performance of this Agreement.

Fixed Term Beginning on the before-stated Commencement Date and Ending: \_\_\_\_\_  
Expiration Date

Month-to-Month Beginning: \_\_\_\_\_

**3. Management Services**

Owner hereby appoints the Manager as Owner's exclusive agent for the purpose of management and operation of the Property, for the Owner's account. The specific services to be provided by Manager are specified below. Manager shall perform the duties through an on-site manager, through Manager's employees or through third-party vendors and independent contractors.

**3.1 Repairs**

Manager shall, in the name of and at the expense of Owner, make or cause to be made, such repairs and alterations to the Property as Manager may deem advisable or necessary; and to purchase all fuel, supplies, fixtures and equipment deemed necessary by Manager for operations of the Property. However, not more than an amount equal to the Limit of Manager's Authority set forth above shall be expended at any one time for any single repair, alteration or purchase without Owner's prior approval, except for monthly or recurring operating charges or items specified in an approved operating budget (if any). The foregoing monetary limitations shall not apply to emergency repairs, alterations or purchases it, in the Manager's sole opinion, such repairs, alterations or purchases are reasonably necessary to protect the Property from damage or to maintain services to tenants as called for in their leases or rental agreements or as otherwise required by law. All expenses incurred pursuant to this Section 3.1 shall be charged to Owner as Expenses under Section 6.2 of this Agreement.

**3.2 Service Contracts**

Manager shall, in the name of and at the expense of Owner, contract with or hire third-party vendors for such utilities, trash removal, cleaning, security, window washing, supplies, equipment maintenance, glass replacement and other Property operation and maintenance services as reasonably determined by Manager. Attached as Schedule C is a list of employees or business in which Manager has a pecuniary interest that will perform work on the Property. Owner acknowledges that Manager shall not be responsible to Owner for any act, omission, negligence, or contract default of such third parties. The Manager shall only contract with or hire third-party vendors that are Licensed with the state of Oregon and adequately bonded and insured. Manager shall disclose to Owner in writing and in a timely manner, any use of employees or a business in which the Manager has a pecuniary interest, to perform work on the Property. Manager shall, at Owner's expense, purchase and furnish the Property, with supplies reasonably necessary to carry out its obligations under this Agreement. All expenses incurred pursuant to this Section 3.2 shall be charged to Owner as Expenses under Section 6.2 of this Agreement. Owner shall be credited with all rebates, refunds, allowances and discounts allowed to Manager to the extent such items are specifically identified to the Property.

**3.3 Collection and Segregation of Rents.**

Manager shall take reasonable steps to collect rent, additional rent, security deposits, and other charges provided for under the leases or rental agreements associated with the Property (collectively, the "Client Funds"), in the name of the Manager or the Owner. Manager is expressly authorized to use a lock box for such collection activities, if deemed appropriate by Manager.

### 3.3 Collection and Segregation of Rents (Continued).

*Manager* shall prepare a written receipt for any cash funds received under this *Agreement*; all receipts shall meet the requirements of the regulations adopted the *Oregon Real Estate Agency* (the "REA Rules"). *Manager* is authorized to impose a late fee for rental payments received more than four days later, and a fee for any NSF check received from any tenant. Such fees will be charges to the tenant's account and, when paid, shall be retained by *Manager* as consideration for administrative costs and expenses incurred in connections with such late payment. All *Client Funds* received by *Manager* shall be deposited in a bank trust account maintained by *Manager* for the deposit of funds received on behalf of owners of property managed under property management agreements ("*Clients Trust Account- Property Management*"). All such deposits shall be made and accounted for in the manner specified in applicable *REA Rules*. *Manager* shall be the authorized signer on the *Clients' Trust Account- Property Management*, and shall control the receipts and disbursements on such account. *Client Funds* shall not be commingled with the funds of *Manager*. *Owner* acknowledges that the *Manager* does not guarantee the collection of *Client Funds*. *Owner* hereby authorizes *Manager* to transfer funds between two or more ledgers and/or accounts maintained for *Owner*. At the time of any such transfer the *Manager* shall enter the transfer information on each affected ledger, including, without limitation, the amount of the transfer, date of transfer and source of transferred funds.

### 3.4 Collection and Segregation of Security Deposits.

Tenant security deposits shall be deposited and held in either a pooled account or an isolated account, as indicated on the first page of this *Agreement*, and as further described below:

**If Held in a Pooled Account (all owners; all properties)**, then all security deposits received by *Manager* under the leases or rental agreements regarding the *Property* ("*Security Deposits*") shall be deposited in a client trust bank account ("*Clients Trust Account – Security Deposits*"). Such account shall be established and maintained by *Manager* for security deposits received by *Manager* in performance of property management activities. If a *Security Deposit* is received as part of a larger check containing funds other than the *Security Deposit*, *Manager* may deposit the check in the *Clients' Trust Account – Property Management* so long as the portion constituting the *Security Deposit* is transferred to the *Clients' Trust Account – Security Deposits*, within three (3) banking days after *Manager* receives the check. All *Security Deposits* shall be maintained as provided under Oregon law and *REA Rules*. *Manager* shall promptly refund any *Security Deposit* to a tenant in the manner required by the applicable lease or rental agreement and in accordance with the applicable *REA Rules*.

**If Held in an Isolated Account (single owner' single property)**, then all security deposits received by *Manager* under the leases or rental agreements regarding the *Property* ("*Security Deposits*") shall be deposited in a federally-insured client trust bank account, established separately for the *Property* ("*Client's Trust Account [name of property]*"). All deposits of *Security Deposits* funds made into such account shall be disbursed to *Owner* or to an account as directed by *Owner* in the account period in which they are received. All *Security Deposits* received shall be maintained as provided under Oregon law and *REA Rules*. Upon *Manager's* request, *Owner* shall promptly refund any *Security Deposit* to a tenant in accordance with the terms of the applicable lease or rental agreement and in accordance with the applicable *REA Rules*. *Owner* shall send a copy of the refund check to *Manager*.

### 3.5 Expenditures.

All expenditures authorized by this *Agreement* shall be considered *Expenses* (as defined in *Section 6.2* below) to be paid from the *Client Funds*. In the event *Expenses* exceed the amount of *Client Funds* available in the *Clients' Trust Account- Property Management* as reflected on the *Owner's* ledger, *Owner* agrees to advance such amount to *Manager* within two (2) business days after written request. *Manager* may at its discretion retain a minimum balance of funds for *Owner* in the amount stated on the first page of this *Agreement* in the *Clients' Trust Account – Property Management*. The *Owner* agrees to not commit to the expenditure of funds which cannot be paid in a timely fashion, either through rent receipts or *Owner* contribution. Funds may be transferred from one property account to another provided that both properties are owned by the same ownership entity.

### 3.6 Other Payments.

*Manager* shall pay or reserve for the *Owner's* account amounts necessary in *Manager's* reasonable discretion to pay those charges indicated by boxes checked on the first page of this *Agreement* as the same shall relate to the *Property*. *Manager* shall have no responsibility to pay any item of expense not checked above, and *Owner* hereby agrees to timely pay all such expenses from funds outside the *Client Funds*.

### **3.7 Additional Services.**

At *Owner's* request, for an additional fee, *Manager* may, at *Manager's* election, perform additional services for *Owner*, including but not limited to:

- i. supervise or oversee construction of tenant improvements, remodels, or capital improvements;
- ii. provide or arrange special accounting services;
- iii. act as property consultant;
- iv. secure estoppels certificates;
- v. assist in the refinance of loans or other debt;
- vi. perform due diligence; or;
- vii. assist in prosecuting tax appeals.

The fee for such additional services shall be established at the time *Manager* agrees to undertake those services. *Owner* understands that *Manager* may, from time to time, offer various services and products for sale directly to the tenants. *Owner* authorizes *Manager* to engage in such sales activity on the *Property*; provided, however, *Manager* is solely responsible for any and all liability arising thereof.

### **3.8 Enforcement Actions and Proceedings.**

*Manager* shall have the right to sign and deliver to tenants, any notice of default provided for under a lease or rental agreement, either in the name of *Manager* or *Owner*. *Manager* shall, at *Owner's* request and expense to be paid from *Client Funds*, engage an attorney for advice and assistance and cause negotiations and legal proceedings to be instituted or defended in the name of *Owner*, and completed as may be necessary to enforce the leases and rental agreements including, without limit, payment of rent and comprising disputes that may arise under any lease or rental agreement. Such actions may include, without limitation:

- i. suite to recover unpaid rent or other amounts due under the applicable leases or rental agreement;
- ii. attachment, garnishment and levies upon a tenant's property and;
- iii. eviction actions.

The *Owner* authorizes *Manager* to present all uncollected tenant obligations to a collection agency. The *Owner* agrees to pay all fees charged by the collection agency. Upon termination of this *Agreement*, any outstanding collections shall be transferred to the *Owner's* name and *Manager* is relieved from further collection responsibility. *Manager* is granted the specific authority to settle and compromise any dispute with a tenant so long as the amount involved does not exceed the *Limit of Manager's Authority* for any single dispute or event of default.

### **3.9 Leasing Services.**

*Owner* has appointed *Manager* as its exclusive agent to perform the following brokerage services related to the *Property*. Compensation to be paid by *Owner* to *Manager* for the following services is specified in *Schedule B*.

### **3.10 Tenant and Owner Communication.**

*Owner* agrees that *Manager* is authorized to handle all communication from tenant, including requests for maintenance, questions regarding property features, rent payments, and/or any other communications. *Owner* shall alert *Manager* if tenant contacts *Owner* for any reason. *Owner* may contact tenant for the reason listed below:

- Maintenance previously requested through *Manager* and forwarded to *Owner*, should *Owner* prefer to perform their own maintenance.

## **4. Rental of Space within the Property.**

*Manager* shall use commercially-reasonable efforts to serve present tenants, to obtain suitable tenants as vacancies occur, to furnish all services and to supervise all labor reasonably required for the management, operation and maintenance of the *Property*, subject to the limitations, definitions, and spending authority of this *Agreement*. *Manager* shall promptly advise the *Owner* of circumstances that *Manager* may encounter which require attention, but which in *Manager's* opinion, are beyond the regular operating scope of this *Agreement*. Such circumstances might include, but are not limited to: unusual or large maintenance, repair or property-damage issues; unusual or serious issues involving tenants; issues involving local, state or federal regulatory authority, unusual and serious issues involving vendors providing services to the *Property*. *Manager* shall rent all space located on the *Property* ("*Rentable Space*") as it becomes vacant during the *Initial Term* and any *Renewal Term*. *Manager* may have such services provided by an on-site manager (if an on-site manager exists for the *Property*), or by any other person hired by *Manager*. When appropriate, *Manager* may engage the services of other real estate professionals for the *Owner's* account to lease *Rentable Space*.

#### **4.1 Negotiation of Leases.**

*Owner* shall refer all inquires concerning the rental of *Rentable Space* to the *Manager*. All negotiations with prospective tenants shall be conducted or directed by the *Manager* or its designated employee(s). For month-to-month tenancies and leases or rental agreements of one year or less, *Manager* and/or its designated employee(s), is authorized to sign on *Owner's* behalf so long as the appointed rent is consistent with the *Rental Rates* specified by *Section 4.3*.

#### **4.1 Negotiation of Leases (Continued).**

All leasing decisions for leases longer than one year are subject to the final approval of *Owner*. Such approval may be granted or withheld in *Owner's* sole discretion, but no decision will be unreasonably delayed. *Manager* shall submit a master copy of all leases and rental agreements, and all modifications and renewals thereof, to *Owner* for review and approval. *Owner* hereby agrees to furnish *Manager* with an approved copy within three (3) business days.

#### **4.2 Advertising and Marketing Expenses.**

At *Owner's* discretion and expense, *Manager* may advertise *Rental Space* as it becomes available for rent and shall arrange for such signs, renting plans, brochures and other forms of advertising as is commercially reasonable.

#### **4.3 Rental Rates.**

*Manager*, in consultation with *Owner*, shall establish rental rates for the *Property* from time-to-time ("*Rental Rates*"). *Owner* may at any time, in writing, override *Manager's* determination of such *Rental Rates*, in which event *Manager* shall apply the *Rental Rates* determined by *Owner*, until further notice from *Owner*. *Manager* may, from time-to-time, make recommendations to *Owner* with respect to basic rental rates that are market appropriate for the *Property*. *Owner's* right to set *Rental Rates* shall not require *Manager* to violate any law, nor prevent the *Manager* from negotiating lease terms sheets or letters of intent that include reasonable economic terms in addition to the *Rental Rates*.

### **5. Client Trust Accounts; Books and Records.**

#### **5.1 Disbursements from Clients' Trust Account-Property Management.**

If sufficient funds are available in the *Clients' Trust Account – Property Management* as reflected on the account ledger, *Manager* shall have the right to withdraw from such account, any and all earned compensation and reimbursements to *Manager* provided for under the terms and conditions of this *Agreement* and any and all expenses and expenditures as provided in this *Agreement*. Such withdrawal may be made as such amounts are due, and at least once each month. The accounts and records entries for payment of such sums shall include the date, the amount of compensation and reimbursements withdrawn, the check number, and the *Owner's* ledger account number or identifying code (which may be the *owner's* name). Disbursement from the *Clients Trust Account-Property Management* may be based on deposits made into the account by wire or electronic transfer so long as the deposit is first verified by the *Manager* in the manner specified in applicable *REA* Rules. After deducting its compensation and any other sums due from *Owner* pursuant to any provision of this *Agreement*, once each month the *Manager* shall remit to *Owner* a check in the amount of the net *Client Funds* collected, minus reserves and minus such sums as *Owner* may have directed herein or otherwise.

#### **5.2 Supplements to Client's Trust Account-Property Management.**

*Owner* shall at all times maintain sufficient funds in the *Client's Trust Account-Property Management*, to enable *Manager* to pay reasonably-anticipated obligations of the *Property* in a timely manner. *Owner* and *Manager* agree that *Manager* shall maintain a minimum balance as indicated on the first page of the *Agreement* to ensure adequate funds are available to pay the operating expense of the *Property*. If collections are projected to insufficient or will not be received in time to satisfy this requirement, *Owner* shall provide *Manager* with the necessary funds within two (2) business days following *Manager's* request therefor. If *Owner* has not provided said funds within seven (7) days after *Manager's* request, *Manager* may, at its sole option, terminate this *Agreement*. *Manager* shall not be required to advance funds for *Owner's* account. However, should *Manager* make a payment for *Owner's* account and should a deficit occur therein, upon notification by *Manager*, *Owner* shall immediately remit to *Manager* sufficient funds to remove the deficit.

#### **5.3 Interest on Client's Trust Accounts.**

*Owner* hereby authorizes, but not require *Manager* to establish the *Clients Trust Account* referred herein as a federally-insured interest-bearing trust bank account. If such account is an interest-bearing account, *Manager* expressly acknowledges that all earning on such account shall be owned by and shall inure to the benefit of *Owner*.

#### **5.4 Owner's Deliveries.**

Upon commencement of this *Agreement*, *Owner* shall promptly furnish *Manager* with all documents and records required for the management of *Property*, including but not limited to all then-existing: leases, rental agreements, amendments, and correspondence related thereto; the status of rental payment, mortgage loan information and payment instructions; copies of service contracts in effect; and all applicable insurance policies.

#### **5.5 Accounts, Records, and Monthly Statements.**

*Manager* shall keep complete and detailed accounts and records of its property management activities relating to the *Property* in accordance with Oregon laws and *REA Rules*. Such records shall include, without limitation, a separate *Owner's* ledger with reference to *Manager's* receipts and disbursements with respect to the *Property*. When funds from more than one property are deposited into a *Clients' Trust Account*, each entry for a receipt or disbursement shall be identified with the code assigned by the *Manager* to the corresponding property management agreement with an owner. *Manager* will keep such records in its standard format; *Manager* will provide reports in any reasonably-available, non-standard format requested by *Owner* at an additional charge. *Manager* shall account for all checks, including voided checks, as part of *Manager's* record-keeping obligation under this *Agreement*. *Manager* shall reconcile all *Clients' Trust Accounts* at least once per month. Such reconciliation shall comply with applicable *REA Rules*. *Owner* shall have reasonable access to such accounts and records during *Manager's* regular business hours upon reasonable notice to *Manager*. *Manager* shall retain and store all records required by this *Agreement* for a period of six (6) years from and after termination or expiration of this *Agreement*, and will destroy those records after that time unless otherwise requested by *Owner* in writing prior to that destruction date. Such storage shall comply with applicable *REA Rules*. On or before that last day of each month during the *Term*, *Manager* shall deliver a financial report to *Owner*. Upon expiration or earlier termination of this *Agreement*, *Manager* shall turn over the records and accounts if, and as required by Oregon law and *REA Rules*. *Manager* assumes, and shall have, no liability for loss of records due to fire, flood or other causes beyond *Manager's* reasonable control.

### **6. Compensation.**

#### **6.1 Fees and Commissions.**

As compensation for performance of its obligations under this *Agreement*, *Owner* shall pay *Manager* the fees and/or commissions set forth in *Schedule B*. *Manager* shall be responsible to pay all costs incurred by *Manager* in connection with performance of *Manager's* duties under this *Agreement*, including, without limitation, employee salaries, fringe benefits, payroll taxes, withholding taxes, unemployment insurance, social security, workers compensation, and other charges imposed by any governmental authority or provided for in a union agreement (collectively, "*Employee Costs*"). *Manager's* employees are not employees of *Owner*. *Manager* shall prepare payroll tax reports for its employees and make payment of appropriate taxes and other withholdings from *Client Funds*. If *Owner* terminates *Manager's* services before the end of the then-current term of this *Agreement*, *Owner* agrees to immediately compensate *Manager* for the balance of such term in an amount equal to the greater of the compensation that would be earned by *Manager* if the *Property* were rented for the balance of the term at:

- i. the rent last advertised for the *Property*;
- ii. the rent last charged for the *Property*;
- iii. the scheduled rent for the *Property* during such term.

### **7. Compliance with Laws; Environmental; Indemnity.**

#### **7.1 Compliance with Laws.**

*Owner* shall be solely-responsible to assure that *Property* will not conflict with any law, statute, ordinance, code, rule, regulation, requirement, license, permit, certificate, judgment, decree, order or direction of any governmental or quasi-governmental authority, agency, department, board, panel or court (singularly and collectively "*Laws*"), excepting those conditions, activities or related to a tenant's possession or use of the *Property*. *Owner* shall, at *Owner's* expense, promptly comply with all *Laws* which are now in effect, or which may hereafter be in effect, and with the requirements of any board of fire insurance underwriter or similar bodies now or hereafter constituted relating to or affecting the conditions, use or occupancy of the *Property* and all structures located on the *Property*. *Owner* shall obtain and maintain in effect at all times throughout the term of this *Agreement*, all licenses and permits required for the proper and lawful conduct of *Owner's* business and operation of the *Property*, and shall at all times comply with such licenses and permits. Notwithstanding this requirement, *Owner* has no responsibility, and shall not be liable for damages, for any violations or conflicts committed, caused or allowed by a tenant.

## **7.2 Compliance with Environmental Laws and Court Requirements.**

In addition to satisfying the requirements of *Sections 7.1*, *Owner* is and shall remain solely responsible for compliance with, liability under and bodily injury, property damage and other damages arising under all:

- i. *Environmental Laws*;
- ii. common-law liability for environmental matters and conditions; and,
- iii. any and all court orders, decrees and judgments regarding environmentally-related matters applicable to the *Property*. Such matters shall include, without limitation, conditions arising from related to water intrusion, such as mold and mildew, property damage, bodily injury, death and other human and environmental consequences related to them (collectively, "*Water Intrusion Claims*"). *Owner's* responsibility under this *Section 7.2* shall include, without limitation, compliance with all legal requirements relating to censure, governmental notice, employee of occupant notice, record-keeping, and remedial work.

## **7.3 Compliance with Fair Housing Laws.**

In particular, *Manager* shall comply with the requirements of the *Fair Housing Act of 1968* and the *Federal Fair Housing Act of 1988*. Should *Owner* elect to operate the *Property* as a "55 and Older" community or with policies which may be or are found to be in violation of such laws, *Owner* shall indemnify, defend and save *Manager* harmless from any and all claims, demands, claims, liabilities, losses, fines, costs, expenses, damages, judgments and attorney fees arising from or in connection with implementation and enforcement of such policies.

## **7.4 Earthquake; Terrorism; Acts of God.**

*Owner* is and shall remain solely-responsible for any and all liability, loss, damage, claim, costs and expenses associated with or arising out of earthquake, hazards, earthquakes, terrorist acts, acts of God, fire, flood, and other casualties on or about the *Property*.

## **7.5 Environmental Indemnification.**

*Owner* shall, and hereby agrees to, hold *Manager*, its shareholders, partners, members, directors, officers, employees, agents, affiliates, successors, and assigns leave (all collectively referred to as "*Management*"), harmless from, indemnify them for, and defend them against any and all losses, damages, liens, costs, expenses, and liabilities directly or indirectly arising out of or attributable to:

- i. any violation of or liability arising under any *Environmental Law*, except for violations created by *Management*,
- ii. any liability arising under common-law related to environmental condition on or about the *Property*, except for conditions created by *Management*;
- iii. any loss related to any casualty including, without limitations, earthquake, earthquake hazard, terrorism, acts of God, fire, flood and other casualties, except for any casualty create by *Management*.
- iv. any *Water Intrusion Claim*, unless created by *Management*;
- v. any claim related to the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a *Hazardous Substance* on, under, or about the *Property*, including, but no limited to, the cots of any required repair, restoration, cleanup, containment, or detoxification of the *Property* or any other land, site, property or resource, the preparation and implementation of any closure remedial or other required plans, attorney fees and costs (including by not limited to those incurred in any proceeding and in any review or appeal), fees, penalties, and fines, except for any *Hazardous Substance(s)* brought onto the *Property* by *Management*. If *Management* has any indications or evidence of any *Hazardous Substance* being on the *Property*, the *Management* has a contractual obligation to notify and report the condition to the *Owner* by phone and in writing or by text message or email within 48 hours.

## **7.6 Definition.**

For purposes of this *Section 7*, "*Environmental Law*" means any federal, state, or local law, statute, ordinance, or regulation pertaining to *Hazardous Substances*, health, industrial hygiene, land use, wetlands, surface or subsurface conditions, mining, or environmental conditions, including, but not limited, the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA")*, AS AMENDED, 42 US §§9601-9675, and the *Resource Conservation and Recovery Act of 1976 ("RCRA")*, AS AMEDED, 42 USC §§690 1-6992. For the purposes of this *Section 6*, "*Hazardous Substance*" includes without limitation:

## 7.6 Definition (Continued).

- i. hazardous substances, hazardous wastes, extremely hazardous substances, hazardous chemicals, toxic chemicals, and all other substance defined as hazardous or toxic under the *Environmental Laws*, or any similar law or regulation now existing or hereafter promulgated;
- ii. all materials, substances, and wastes that are or which contain:
  - (a) asbestos;
  - (b) polychlorinated biphenyls;
  - (c) explosives, except such explosives as are used during construction in accordance with law;
  - (d) petroleum, and any fractions thereof; or,
  - (e) radioactive materials and
  - (f) such other substances, materials, and wastes that are or become regulated or classified as hazardous or toxic under federal, state, or local laws or regulations.

## 7.7 Survival.

The indemnity obligation set forth in *Sections 7.3 and 7.5* above shall survive the expiration or termination of this *Agreement*.

## 8. Termination.

Any termination of this *Agreement* shall occur pursuant to one of the following:

### 8.1 Termination upon Property Sale.

This *Agreement* shall terminate upon the sale of the *Property* to a person or entity that is not affiliated with *Owner*; provided that on or before the closing date of such sale *Owner* has paid *Manager*:

- i. all pre-closing costs advanced by *Manager*;
- ii. all fees, compensation and commissions earned, pursuant to the terms of this *Agreement*, and,
- iii. any *Early Termination Fee* required by *Section 8.2*, below; provided, that the *Early Termination Fee* shall be waived if the *Property* is sold through a listing *Manager* as real estate broker.

*Owner* shall make best efforts to give *Manager* notice of:

- i. any listing of the *Property* for sale within five (5) business days after the listing agreement is signed;
- ii. execution of any agreement to sell the *Property* within five (5) business days after the sale agreement is signed and;
- iii. termination of this *Agreement* at least thirty (30) days prior to the closing date of any sale.

### 8.2 Early Termination Fee.

If *Owner* cancels this *Agreement* for any reason during the *Initial Term* other than as a result of *Manager's* breach (see *Section 8.4* below), such cancellation shall not be effective unless the cancellation notice is accompanied by a cancellation fee equal to the minimum monthly *Management Fee* specified in *Schedule B* to this *Agreement* times the number of months remaining in the term of this *Agreement* before its expiration ("*Early Termination Fee*"). *Owner* shall have the right to terminate this *Agreement* during the *Initial Term*, without cause, upon payment of the *Early Termination Fee*. If no minimum monthly *Management Fee* is stated in *Schedule B*, the minimum monthly *Management Fee* shall be deemed to be the monthly fee that would be payable if the *Property* were fully rented at the rental rate last paid by tenant(s) or last advertised, whichever is greater.

### 8.3 Failure to Comply with Laws.

If *Owner* shall fail or refuse to comply with or abide by any rule, order, judgment, decree, determination, ordinance or law of any federal, state or municipal authority after thirty (30) days' notice of same from *Manager* to *Owner* or within the time period required by applicable governmental authority, whichever period is longer, *Manager* may terminate this *Agreement*, upon giving twenty-four (24) hours' written notice mailed to *Owner* at *Owner's* address set forth in this *Agreement*, detailing the reason(s) for termination.

### 8.4 Termination by Breach.

Except as otherwise provided in *Sections 8.1 through 8.3* above, this *Agreement* may be terminated by *Owner* only for cause, which is defined as *Manager's* material and substantial breach of any provision of this *Agreement* which is not cured within thirty (30) days, such breach shall be deemed cured if *Manager* commences curative action within such thirty-day period and thereafter reasonably pursues the action to completion.



## **8.5 Bankruptcy and Insolvency.**

In the event a petition seeking a bankruptcy discharge is filed by or against either *Owner* or *Manager*, or in the event that either makes an assignment for the benefit of creditors or take advantage of any insolvency act, either party hereto may immediately terminate this *Agreement* by written notice. Remedies set forth herein shall be in addition to and shall not exclude any other remedy available under applicable law to *Parties* hereto.

## **8.6 Effect of Termination.**

If this *Agreement* is terminated for any reason, the *Manager* shall comply with all requirements set forth in the *REA Rules* regarding such termination. Upon termination or expiration of this *Agreement* *Manager* shall transfer all Leases and other documents as are required by the *REA Rules* to *Owner*. *Manager* may retain copies of all Leases and such other documents as required by the *REA Rules*. The *Owner* shall bear all copy expenses.

## **8.7 Actions Upon Termination.**

Upon any expiration or earlier termination of this *Agreement*, *Manager* shall:

- i. within sixty (60) days turn over to *Owner* any and all non-obligatory funds within the *Owner's Clients Trust Account* (as that term is defined in this *Agreement*);
- ii. within ninety (90) days deliver a final accounting to *Owner*; and,
- iii. retain all records required to be maintained pursuant to the *REA Rules*.

## **9. Indemnity; Insurance; Waiver of Subrogation.**

### **9.1 Indemnification; Non-Responsibility and Release.**

*Owner* agrees:

- i. that *Manager* shall not be responsible for, any *Manager* is hereby released from, any liability for any claim by *Owner* whatsoever arising out of or in connection with the loss of any *Client Funds* in any *Client's Trust Account* where such loss is incurred as a result of bank conduct or omission and such loss exceeds applicable federal deposit insurance limitations;
- ii. to reimburse *Manager* upon demand for any moneys which *Manager* is required to pay out, for any reason whatsoever, under this *Agreement* or in connection with it, or as an expense in defense of any claim, civil or criminal action, proceeding, charge, or prosecution made, instituted or maintained against *Manager* or *Owner* and *Manager*, jointly or severally, affecting, arising out of or based upon any law, regulation, requirement or contract relating to the *Property*;
- iii. and, to defend promptly and diligently, at *Owner's* sole expense, any claim, action, or proceeding brought against *Manager*, *Manager's* employees, or *Manager* and *Owner*, jointly or severally, arising out of or connected with any of the foregoing, and to hold harmless and fully indemnify *Manager* from any judgment, loss, expense, or settlement on account thereof. Nothing contained in this *Section 9.1* shall indemnify *Manager* or its shareholders, partners, members, directors, officers, employees, agents, affiliates, successors, and assigns (all collectively referred to as "*Management*"), for any liability, claim, loss, civil or criminal action, proceeding, charge, or prosecution that results from *Management's* willful misconduct or reckless, negligent, or criminal act of behavior.

The indemnity obligations of this *Section 9.1* shall survive the expiration or termination of this *Agreement*.

### **9.2 Insurance.**

*Owner* agrees to obtain and maintain in effect continuously throughout the *Initial Term* and any *Renewal Term*, casualty (fire and extended coverage property insurance), public liability, contractual liability (specifically insuring the indemnity provision contained herein), steam boiler (if applicable), and other such insurance as the *Owner* reasonably decides to be necessary or desirable for the protection of the interests of *Owner* and *Manager*. Public liability insurance shall include bodily injury, property damage, and personal injury coverage in amounts not less than those stated on the first page of this *Agreement*; or those carried in form and coverage amount commonly carried by reasonable owners of properties similar in type, location, and value, whatever amount is highest.

*Manager* may require *Owner* to increase such coverages above the minimum amounts stated on the first page of this *Agreement* to match the amounts carried by such other owners, as determined in *Manager's* reasonable discretion. *Owner* shall deliver a certificate and copy of each policy issued by the carries, together with a copy of each policy, promptly to *Manager*. All policies shall provide for ten (10) days' written notice to *Manager* prior to cancellation.

## **10. Miscellaneous.**

### **10.1 Independent Contractors.**

It is expressly understood and agreed that *Manager* will act as an independent contractor in performance of this *Agreement* and not as an employee of *Owner*. No provision hereunder shall be intended to create a partnership or joint venture with respect to the *Property* or otherwise. All persons employed by *Manager* or by any entity listed in *Schedule B* in the operation of the *Property* shall be deemed employees of *Manager* or a legal entity owned or controlled by *Manager*, and shall not be deemed employees of *Owner*.

Owner acknowledges and agrees that *Manager* will not issue payment to any subcontractor or vendor that is not licensed and insured. Subcontractors and vendors are required to provide *Manager* with proof of license and liability insurance. Should *Owner's* subcontractor or vendor fail to provide required documentation to *Manager*, *Owner* acknowledges and agrees that the *Manager* will not send payment and *Owner* will be responsible for paying subcontractor or vendor directly.

### **10.2 Notice.**

Any notice required or permitted under this *Agreement* shall be deemed given when actually delivered; one (1) day after the date sent if sent via overnight courier; or three (3) days after deposited in the United States mail as certified mail with postage prepaid, return receipt requested, addressed to such party at such party's address stated in this *Agreement*, or such address as is specified from time-to-time by either party in writing.

### **10.3 Tenant Administrative Fees.**

*Manager* may charge tenants and prospective tenants application fees, late fees, and NSF check fees. Such fees accrued to *Manager* and not *Owner*.

### **10.4 Suit or Action.**

If suit or action is instituted in connection with any controversy arising out of this *Agreement*, the prevailing party shall be entitled to recover, in addition to costs, such sums as the court may adjudge reasonable as attorneys' fees in such suit or action and on any appeal from any judgment or decree entered therein.

### **10.5 Audit.**

At reasonable times with reasonable written notice to *Manager*, *Owner* at its own cost and expense may review *Manager's* records relative to the *Property*.

### **10.6 Exhibits, Schedules, and Addenda.**

The following *Schedules*, *Exhibits*, and *Addenda* are attached hereto and made a part hereof as if fully set forth in this *Agreement*:

**Schedule A** – Compensation and Fees

**Schedule B** – Pecuniary Interest Disclosures

### **10.7 Time is of the Essence.**

Time is of the essence for each and every provision of this *Agreement*.

### **10.8 Integration.**

This *Agreement*, including the exhibits, schedules, and any addenda, sets forth the entire understanding of the parties with respect to the subject matter of this *Agreement*, and supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to such subject matter. This *Agreement* supersedes and replaces all prior agreements between the parties for management services for the *Property*, except that *Owner* shall continue to be responsible for all management fees, charges, and liabilities previously accrued, if any.

### **10.9 Severance.**

The terms of this *Agreement* are severable, so that invalidity, illegality, or unenforceability of any provision hereof shall not affect the remaining provision hereof.

### **10.10 Agency.**

The *Owner* acknowledges that all persons having an ownership interest in the *Property* or persons legally authorized to do so having executed this *Agreement*. If the *Owner* is executing this *Agreement* on behalf of a trust, LLC, corporation, partnership, or other ownership entity, *Owner* shall include appropriate documentation demonstrating authority to enter into this *Agreement*. The *Owner* shall inform *Manager* promptly of any change in ownership or *Owner's* authorization to act on behalf of the ownership entity.

**10.11 Governing Law.**

This *Agreement* shall be governed by and constructed in accordance with the laws of the state of Oregon, with exclusive venue in Lane County, Oregon.

**10.12 Heading.**

The headings used in this *Agreement* are solely for convenience of reference, are not part of this *Agreement*, and are not to be considered in construing or interpreting this *Agreement*.

**10.13 Consents.**

Whenever consent or approval of either party is required under this *Agreement*, the party giving such consent or approval shall not unreasonably withhold, delay, or condition the same.

**10.14 Assignment.**

This *Agreement* shall be freely assignable by *Owner* upon any sale of the *Property*. *Manager* may not assign any rights under this *Agreement* without the prior written consent of *Owner*.

**10.15 Binding Effect.**

This *Agreement* shall be binding on and inure to the benefit of the parties and their heirs, personal representatives, successors, and, to the extent permitted by *Section 10.14*, assigns.

**10.16 Singular/Plural.**

As used in this *Agreement*, the singular includes the plural and the plural includes the singular, as indicated by the context, and if *Owner* is identified as including more than one individual or entity, they are each/all entering into this *Agreement* both jointly and severally.

**10.17 Amendment.**

This *Agreement* may be amended only by an instrument in writing executed by both parties.

**10.18 Monthly Owner Payments.**

*Owner* understands that the owner draw shall be issued on the nineteenth of each month, if applicable. *Owner* further understands that should there be outstanding invoices and insufficient funds to cover the full balance, the owner draw will be held and not disbursed until invoices are paid in full.

**10.19 Waiver.**

A provision of this *Agreement* may be waived only by a written instrument executed by the party waiving compliance. No waiver of any provision of this *Agreement* shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Failure to enforce any provision of this *Agreement* shall not operate as a waiver of such provision or any other provision.

**10.20 Survival.**

All obligations of the parties under this *Agreement*, the performance of which is not required before termination of the *Agreement*, shall survive the termination hereof.

**10.21 Multiple Counterparts.**

This *Agreement* may be executed in multiple counterparts and/or facsimile form, each of which shall be an original.

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IN WITNESS WHEREOF, the Parties hereto have executed this *Agreement* in duplicate, as of the date at the beginning of this *Agreement*, with the intent that they be legally bound thereby.

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Empire Property Management, LLC

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Owner

Signed on Behalf of Empire Property Management, LLC by: \_\_\_\_\_  
Property Manager

## Schedule A – Compensation and Fees

### 1. Sign-Up Onboarding Fee.

A fee equal to 9.5% of agreed upon listing price per unit, and/or 9.5% of gross revenues. This fee is due and payable prior to the execution of this agreement. Should the fee return as “unpaid” from the bank or “reverse” online due to insufficient funds or any other reason, and the agreement has already executed, this agreement shall be considered null and void and Manager will have no further obligations towards the Owner, unless Owner repays fee in verified funds within 24 hours of “bounced” or “reversed” funds notification.

### 2. Management Fees.

Owner shall compensate Manager for management of the property as follows:

- A fee equal to 9.5% of gross revenues received each month on the Owner's behalf for the Property. The term “gross revenues” shall include any and all sums due Owner by any tenant under a lease or rental agreement, including, without limitation, base rent, percentage rent, additional rent, security deposits (only if applied or forfeited).

### 3. Construction and Project Oversight Fee.

Owner shall compensate Manager for construction or project oversight as follows:

1. A fee equal to fifteen percent (15%) of the total project construction costs, payable monthly based on total actual costs, including design and construction. Such fee shall to work, such as, but without limitation, (i) maintenance projects exceeding Two Thousand Dollars (\$2,000.00); (ii) all tenant improvement projects; (iii) all remodeling projects exceeding Two Thousand Dollars (\$2,000.00); and (iv) all capital improvement projects.

Initials: \_\_\_\_\_

## Schedule B – Pecuniary Interest Disclosures

### Seven Hills Maintenance

Initials: \_\_\_\_\_