



RESIDENTIAL MANAGEMENT AGREEMENT

This agreement is made by and between _____ hereinafter referred to as BROKER and, _____ hereinafter referred to as OWNER to secure the services of BROKER in the management of real property known as: _____ hereinafter referred to as the PREMISES, for a period beginning on _____, _____ and ending on, _____, _____, and subject to the following terms and conditions.

1. APPOINTMENT AND AUTHORITY OF BROKER

- a. OWNER hereby appoints BROKER as the sole and exclusive BROKER to rent, lease, manage, collect and receipt for rents and operate the PREMISES. The OWNER, however, retains the right to make all management decisions concerning establishing parameters for new tenants, rental terms, and capital or repair expenditures in excess of \$ _____ in any [] month [] year and must advise BROKER of these terms at onset of Agreement.
- b. BROKER is authorized to secure the services of other real estate agents and conduct other marketing activities for purposes of securing a new tenant.
- c. It is agreed that the BROKER is entitled to compensation as provided herein in connection with any lease that may be executed during the term of this agreement, even if said lease was negotiated by the OWNER or any other party. BROKER shall be paid compensation at the rate as provided herein in connection with any lease which is being negotiated at the time of termination of this agreement if the tenant was introduced to the PREMISES by BROKER.

2. TERMS: IN THE EVENT THAT THE PREMISES ARE RENTED OR LEASED THROUGH THE EFFORTS OF BROKER, AND THE LEASE TERM RUNS LONGER THAN THE TERMS OF THE AGREEMENT, BROKER SHALL CONTINUE TO BE COMPENSATED AS STATED IN PARAGRAPH 5.

In the event that the PREMISES is not rented or leased within sixty (60) days of the date of this Agreement, or remains vacant without being subject to a lease for any sixty (60) day period, either party may terminate this Agreement upon thirty (30) days written notice to the other party of such intention to terminate, provided that such written notice is delivered to the other party prior to the rental or lease of the premises through the efforts of BROKER. If the PREMISES contain multiple rental units, the termination provisions of this section will only apply if all units were not rented or leased within sixty (60) days of the date of this Agreement, or all units remained vacant for any sixty (60) day period. Termination of this Agreement shall not adversely affect the rights of tenants under then existing leases.

3. SPECIFIC AUTHORITY FOR REPAIR AND ALTERATIONS

- a. OWNER hereby gives BROKER the following authority and powers and agrees to pay promptly on demand all legitimate expenses in connection with the following: to purchase necessary supplies; to contract for such utility services as BROKER may deem advisable; to make necessary repairs to the PREMISES without the express written consent of OWNER, limited to \$ _____ in any [] month [] year, and to make Owner authorized alterations and decorations. In addition to other authority of BROKER, BROKER may pay or incur without limitation on behalf of OWNER monthly or recurring operating charges and/or emergency repair, if, in the reasonable opinion of the BROKER, such repairs are necessary to protect the property from damage or maintain services to the tenants as called for in state law or Rental Agreement. BROKER is authorized on behalf of OWNER to hire, discharge, supervise and pay any employees or contractors for work performed. **All providers of services shall be deemed to be acting on behalf of the OWNER and not the BROKER.** BROKER will not be liable to the OWNER or others for any act, default or negligence on the part of such persons, contractors or other workmen, providing BROKER has taken reasonable care in engaging them or their employers.
- b. A Reserve Fund will be established and maintained from property proceeds in the amount of \$ _____, to be paid (a) _____ from first rental payments, or (b) _____ \$ _____ per month from rental proceeds.

4. BROKER'S RESPONSIBILITIES

In addition to the foregoing, the BROKER will perform the following functions on OWNER'S behalf:

- a. Make reasonable efforts to collect all the rents and other fees due from tenants when such amounts become due, and deposit same into an agency account maintained on behalf of the OWNER, but BROKER does not guarantee the payment of any tenant's rent;
- b. Withdraw from such account all funds needed for proper disbursements for expenses payable by the OWNER including without limitation, BROKER's compensation; and remit balance of rent to OWNER at OWNER'S address set forth in Paragraph 9 with a written statement within 30 days of rent receipt, indicating said receipts and disbursements; and

[] OWNER, [] OWNER AND [] BROKER HAVE READ THIS PAGE. Form 430 PAGE 1 OF 5

c. Collect and place into escrow accounts, as required by law, security deposits under any lease. BROKER is authorized to disburse the security deposit at such times and to such persons as BROKER shall in good faith believe to be entitled to such funds in accordance with the South Carolina laws governing security deposits. Any interest earned on said deposits, shall with tenant's permission belong to BROKER.

5.

BROKER'S COMPENSATION

In consideration of the services rendered by BROKER, OWNER agrees to pay BROKER the following forms of compensation:

- a. FOR SET-UP/ORIGINATION - a fee of \$ _____ to be paid at the time of execution of the contract.
- b. FOR MANAGEMENT - a fee equal to _____ % of gross receipts collected including all sums collectible under any leases, with a minimum monthly fee of \$ _____ .
- c. FOR LEASING - a fee equal to _____ % of the first full month's rent for each new tenant's lease shall be paid to BROKER, in addition to the management fee provided for in paragraph 5b above, but shall not be payable in connection with renewals.
- d. CHARGES TO TENANTS - Late Rent Administration Charge, Returned Check Charges, Releasing Administration Charge and application fees paid by tenants under any lease are the property of BROKER to offset expenses in enforcing the respective provisions unless otherwise stipulated in paragraph 15.
- e. SALE TO TENANT. If a sale or exchange of the PREMISES to the Tenant, or to anyone acting for or on behalf of a tenant or to any member of a tenant's immediate family is contracted for or effected during the term of this Management Agreement or within _____ months of its termination, the BROKER will be paid by the OWNER promptly a commission of _____ % of the sales price, if the BROKER has a valid South Carolina real estate license for the sale of real property in effect on the date such sale or exchange is closed.
- f. SUPERVISION OF RESTORATION/IMPROVEMENTS; BROKER shall be paid _____ % of the cost of any and all new construction, substantial repairs and capital improvements made to premises during the term of this agreement in excess of \$ _____ , provided that BROKER receives written authorization from OWNER for each specific project. Any such construction shall be scheduled, coordinated supervised by BROKER on behalf of OWNER. No fee will be charged for routine maintenance and repairs.
- g. OWNER further agrees to pay BROKER actual costs for advertising or not more than \$ _____ per _____ , and for all long distance phone calls and other out-of-pocket expenses actually and reasonably incurred in connection with said PREMISES.

6.

BROKER DISCLAIMER: Parties acknowledge that Brokers give no warranties or representations of any kind, expressed or implied as to: (1) condition of the Property, including but not limited to termites, radon, mold, asbestos, moisture, environmental issues, water, waste, air quality, HVAC, utilities, plumbing, electrical or structure, etc. (2) condition of the Property, survey or legal matters, square footage (3) off site conditions; (4) schools (5) title including but not limited to easements, encroachments, projections, encumbrances, restrictions, covenants, setbacks, and the like (6) fitness for a particular purpose of the Property or the improvements (7) zoning ordinances and restrictions (7) projected income, value, marketability, taxes, insurance, or other possible benefits to Buyer. Parties consent that their Brokers may communicate with them via any means; and use or disclose information not made confidential by written instruction of Parties.

7.

BROKER LIABILITY LIMITATION: *Parties agree Brokers provided Parties with benefits, services, assistance, and value in bringing about this Contract. In consideration and recognition of the risks, rewards, compensation and benefits arising from this transaction to Brokers, Parties each agree that they shall pay Brokers' attorneys fees and that Brokers, shall not be liable to either Party or both, either jointly, severally or individually, in an amount exceeding that Broker's Compensation by reason of any act or omission, including negligence, misrepresentation, errors and omissions, or breach of undertaking, except for intentional or willful acts. This limitation shall apply regardless of the cause of action or legal theory asserted against either Broker, unless the claim is for an intentional or willful act. This limitation of liability shall apply to all claims, losses, costs, damages or claimed expenses of any nature from any cause(s), except intentional or willful acts, so that the total liability of either Broker shall not exceed the amount set forth herein. Parties will indemnify and hold harmless and pay attorneys fees for Brokers from breach of contract, any negligent or intentional acts or omissions by any Parties, Inspectors, Professionals, Service Providers, Contractors, etc. including any introduced or recommended by Brokers. Parties each agree that there is valid and sufficient consideration for this limitation of liability and that Brokers are the intended third-party beneficiaries of this provision.*

8.

INDEMNIFICATION

OWNER agrees (a) to indemnify, defend and save the BROKER harmless from all loss, expense, damage, claim suits and costs whatsoever (including without limit attorney's fees and expenses) incurred and arising from performance or attempted performance by BROKER of its duties and powers hereunder whether for personal injury

[_____] OWNER, [_____] OWNER AND [_____] BROKER HAVE READ THIS PAGE. Form 430 PAGE 2 OF 5

and/or property damage suffered by any person whomsoever on or about the PREMISES or otherwise, and (b) to carry at OWNER'S expense liability insurance of at least \$300,000 to protect the interest of the parties hereto. Policies shall be so written as to protect the BROKER in the same manner and to the same extent as they protect the OWNER, and will name the BROKER as an additional insured or certified holder of the policy. The BROKER also shall not be liable for any error of judgment or for any mistake of fact or law or for anything which BROKER may do or refrain from doing, hereinafter, except in cases of willful misconduct or gross negligence. The BROKER shall not be responsible for any damage to the PREMISES, under any circumstance, by the tenant or others.

9. LEGAL PROCEEDINGS

BROKER is empowered to sign and/or cancel leases on OWNER'S behalf, to enforce the provisions of same, to institute legal action or other proper proceedings to collect rents and other sums due, and when expedient, to settle, compromise and release such actions and suits, and to dispossess tenants, and other persons, including without limit institution of eviction proceedings in the name of and on behalf of OWNER. BROKER may select the attorney of BROKER'S choice to handle any such matters and incur court costs at owner's expense. BROKER is not responsible for defending owner against any claim brought in a proceeding or court action.

10. BINDING AUTHORITY

This agreement shall be binding upon the successors and assigns of BROKER, and upon the heirs, administrators, executors, successors, and assigns of OWNER.

11. COMMUNICATIONS/NOTICE

Owner agrees to receive any and all communications from Broker at the address, phone and fax numbers and the email address below. Any notice required or permitted to be given pursuant to the provisions of this agreement shall be deemed given (1) when delivered personally, or (2) on the date such notice is deposited in the United States Mail, postage prepaid, certified or registered mail, return receipt requested, at following addresses.

BROKER

Phone: _____

Fax: _____

Email: _____

OWNER

Phone: _____

Fax: _____

Email: _____

SS/ID# _____

12. OWNER REPRESENTATIONS AND WARRANTIES

a. OWNER represents and warrants to the BROKER that, to the best of OWNER'S knowledge, the PREMISES are free of hazardous and/or toxic wastes and/or substances (as such terms are defined under applicable federal and state laws); that the PREMISES are fit for human habitation; that there are no hidden or latent defects or conditions on or affecting the PREMISES other than _____, that

the PREMISES are not the subject of any order to repair or to demolish or other order of any governmental authority; that the PREMISES comply with all currently applicable laws, statutes and governmental rules and regulations; that the OWNER will at all times during the term of this Agreement fully and promptly comply with the lawful requirements of all applicable governmental authorities.

b. OWNER declares that all mortgage payments have been made and account is current.
c. OWNER warrants that there are operating smoke detectors on the premises.

[____] OWNER, [____] OWNER AND [____] BROKER HAVE READ THIS PAGE. Form 430 PAGE 3 OF 5

13. LEAD-BASED PAINT DISCLOSURE

For dwellings built before 1978, and as required by applicable law, a Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards (the "Disclosure") must be signed by OWNER and attached to this agreement. OWNER represents that either (1) the improvements on the property were all submitted, commenced, and constructed after December 31, 1977, or (2) the Disclosure has been fully completed and is attached to this agreement. OWNER agrees to provide BROKER with any such additional information or reports as may come to OWNER'S possession during the term of this agreement. OWNER acknowledges that BROKER has informed OWNER of the OWNER'S obligations to provide a tenant of the property with the pamphlet "Protect Your Family From Lead in Your Home," to provide information to a Tenant of the property with copies of available records and reports with respect to the property and lead-based paint and lead-based paint hazards, all pursuant to 42USC4582 (d), as amended.

14. FORCE MAJEURE

Any delays in the performance of any obligation of BROKER under this Agreement shall be excused to the extent that such delays are caused by wars, national emergencies, natural disasters, strikes, labor disputes, utility failures, governmental regulations, riots, adverse weather, and other similar causes not within the control of BROKER, and any time periods required for performance shall be extended accordingly.

15. PAYMENT FROM OWNER'S FUNDS

BROKER shall have no duty to expend BROKER's individual funds in fulfillment of BROKER's responsibilities under this agreement. All payments required or permitted to be made by BROKER shall be made from OWNER'S funds. OWNER agrees to deposit with BROKER promptly on demand such funds as may be necessary in BROKER's reasonable judgment for performance by BROKER as provided in this Agreement.

16. AVAILABILITY OF TENANTS

BROKER shall make a good faith effort to obtain tenants for the PREMISES, but BROKER makes no guarantee that tenants can be found.

17. OTHER STIPULATIONS

18. ENTIRE AND BINDING AGREEMENT (MERGER CLAUSE): Parties agree that this Contract expresses the entire agreement between the parties, that there is no other agreement, oral/otherwise, modifying the terms and this Contract is binding on Parties and principals, heirs, personal representatives, successors, and assigns. Illegal provisions are severable.

19. MEDIATION CLAUSE: Mediation is an alternative dispute resolution system and may help avoid potentially expensive and lengthy litigation. The mediation participants voluntarily decide their settlement with the mediator facilitating their decisions and documentation of the settlement. Mediation is not binding arbitration. The mediator does not decide the outcome. The mediation participants make their own decisions include reaching or not reaching a settlement. Any dispute, claim, breach, or services issues relating to this Contract shall be submitted to mediation in accordance with the Procedures of the Dispute Resolution System of the NATIONAL ASSOCIATION OF REALTORS® (info@SCREALTORS.org 1-803-772-5206). Disputes include representations made by any Party, Broker, person or entity in connection with the sale, purchase, financing, condition or any other aspect of the Property, including without limitation allegations of concealment, misrepresentation, negligence or fraud. Any agreement signed by the Parties pursuant to mediation is binding. This mediation clause shall survive the Closing Date. The following matters are excluded from mediation herein: (a) judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or land contract; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; (d) any matter which is within the jurisdiction of a probate court; (e) the filing of a interpleader action to resolve earnest money disputes. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to mediate under this provision, nor shall it constitute a breach of the duty to mediate.

20. SURVIVAL

Indemnification and other provisions of this Agreement which benefit BROKER shall survive any termination of this Agreement.

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21. **FACSIMILE AND OTHER ELECTRONIC MEANS**

The parties agree that the offer, any counteroffer and/or acceptance of any offer or counteroffer may be communicated by use of a fax or other secure electronic means, including but not limited to electronic mail and the internet, and the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

22. **SEX OFFENDER/CRIMINAL INFORMATION**

Owner agrees that Brokers/Property Managers are not responsible for obtaining or disclosing information in the SC Sex Offender Registry and no course of action may be brought against any Brokers/Property Managers for failure to obtain or disclose sex offender or criminal information. Owner agrees that they have sole responsibility to obtain their own sex offender, death, psychological stigma, clandestine laboratory, and crime information from sources (e.g. law enforcement, P.I., web). The Owner may obtain information about the Sex Offender Registry and persons registered with the Registry by contacting the local county Sheriff or other appropriate law enforcement officials.

WHEREFORE, the parties have executed this Residential Management Agreement or caused the same to be executed by their authorized representative.

THIS AGREEMENT supersedes all prior written or oral agreements and can be amended only through a written agreement signed by both parties.

IN WITNESS WHEREOF, the parties hereto have subscribed their names on this _____ day of _____, _____.

BROKER

Witness to BROKER

Broker-in-charge/Property Manager in Charge

Witness to BIC/PMIC

Owner

Witness to Owner

Owner

Witness to Owner

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