[**A Property Management Agreement is a contract between the owner of a piece of property and a company or person hired as the manager of the property. The agreement typically details the terms of the authority granted by the owner to the manager to carry out leasing and other management operations associated with the property covered in the agreement.]**

DISCLAIMER: This is a sample agreement only and may not be appropriate for use in all situations. Using this agreement does not constitute receiving legal advice, nor does it imply or create an attorney-client relationship.

**PROPERTY MANAGEMENT AGREEMENT**

This PROPERTY MANAGEMENT AGREEMENT (this “Agreement”) is entered into as of the Effective Date, by and between Manager and Owner (both as defined below). In consideration of the mutual agreements contained herein, the undersigned parties hereto agree as follows:

1. **Basic Provisions/Definitions**. In addition to other terms defined in this Agreement, the following terms whenever used in this Agreement shall have the meanings set forth in this Section 1, unless such meanings are expressly modified, limited, or expanded herein:

1. Owner:
2. Notice address of Owner:
3. Owner’s Representative:
4. Address of Owner’s
5. Manager:
6. Notice address of Manager:
7. Property:

[Name of Owner] [Address of Owner]

[Name of Owner’s Representative] [Address]

[Property Manager name] [Address]

[Description of Property]

H. Effective Date:

The date that the last of the parties executes this Agreement as indicated below.

1. **Appointment and Authority of Manager**. Owner hereby (a) appoints Manager, on the terms and conditions contained in this Agreement, as its exclusive leasing, managing, and operating agent for the Property, and (b) subject to the terms and conditions hereof, authorizes Manager to exercise such powers with respect to the Property as may be necessary for the performance of Manager’s obligations hereunder. Manager hereby accepts such appointment on the terms and conditions contained in this Agreement.
2. **Term**. This Agreement shall commence on [INSERT DATE] and shall continue in effect for an initial term of [insert number in words (NUMBER)] year(s) (the “Initial Term”), unless extended or earlier terminated as provided herein. This Agreement shall be automatically renewed for successive periods of [insert number in words (NUMBER)] [months / years] (each, a “Renewal Period” or collectively, “Renewal Periods”), unless terminated by one party giving the other party written notice at least thirty (30) days before the expiration of the Initial Term or any subsequent Renewal Period or unless terminated as otherwise provided herein. The Initial Term, together with any Renewal Periods, is referred to as the “Term.”

1

4. **Manager’s Obligations**. During the Term, Manager agrees to use its commercially reasonable efforts in the leasing, maintenance, operation, and management of the Property and, in connection therewith, perform the obligations set forth in this Section 4, all at the expense of Owner, except as otherwise expressly provided for in this Agreement, and subject to there being currently available funds provided directly or indirectly by Owner sufficient to allow Manager to perform such obligations. During the Term, Manager agrees to use its best efforts in the leasing, maintenance, operation, and management of the Property and, in connection therewith, perform the obligations set forth in this Section 4, in compliance with Owner’s instructions.

Manager acknowledges that the Property has been designed to [INSERT

**Comment [1]:** For certain types of properties, it may be appropriate to designate a level or type of service to be expected from the Manager. For example, if the property is Class A or a luxury property, that level of service should be specified in the agreement.

A. Operating Budget. At least [insert number in words (NUMBER)] days prior to the beginning of each [calendar year/fiscal year, as determined by Owner], Manager shall prepare and submit to Owner a proposed budget for the estimated income and expenses for the promotion, leasing, maintenance, operation, and management of the Property, including any capital expenditures (the “Proposed Budget”) for the next [calendar/fiscal] year. With respect to the Proposed Budget for the current [calendar/fiscal] year, within [insert number in words (NUMBER)] days after the Effective Date, Manager will review and revise, if necessary, any existing budget or prepare and submit to Owner a Proposed Budget for the Property for the current [calendar/fiscal] year. Owner shall approve or disapprove any Proposed Budget within 14 days after Manager submits the Proposed Budget to Owner. Manager agrees to use commercially reasonable efforts to ensure that

**Comment [2]:** Discuss with your attorney whether a “commercially reasonable” or “best efforts” standard is appropriate. “Commercially reasonable” is generally the default provision, but certain instances may warrant “best efforts.”

the actual costs of operating the Property during the period covered by the Approved Budget shall not exceed the amounts set forth therein without reducing the quality of the operation of the Property. Manager shall implement the Approved Budget and shall be authorized, without the need for further approval by Owner, to make the expenditures and incur the obligations provided for in such Approved Budget, except with respect to the limitations set forth in this Section 4.

Manager shall not be authorized to make any expenditure or incur any obligation for any item (or group of similar items) which shall exceed the amount budgeted for such item or group of similar items by five percent (5%) or more.

**Comment [3]:** Discuss with your attorney whether a line-item or cumulative budget variance is appropriate. Owners generally want line-item variances, while Managers generally want cumulative variances to give them more flexibility in managing the property.

B. Leases and Tenants. Manager shall maintain all existing leases for space within the Property (“Leases”) and shall use commercially reasonable efforts to retain the existing tenants under such Leases (“Tenants”). In furtherance of the foregoing, Manager will:

1)

coordinate the provision of the services required to be provided by Owner under the Leases, to satisfy and perform on behalf of Owner all of Owner’s obligations under the Leases, and subject to the rights of Owner reserved herein, to enforce, preserve, and keep unimpaired the rights of Owner and the obligations of the Tenants under the Leases;

bill the Tenants monthly (or as otherwise provided in their respective Lease) for all rents, additional rents, Tenants’ share of operating expenses or common area charges and real estate taxes, and all other charges payable under their respective Leases in accordance with the applicable lease provisions, verify that Tenants are paying such rent and all other charges, and use commercially reasonable efforts to collect, and enforce the collection of, all such rents and charges payable by the Tenants under their respective Leases; provided that Manager shall not accept payment from any purported assignee or sublessee of any Tenant unless such assignee or sublessee has been previously approved in writing by Owner;

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DESCRIPTION].

3)

at Manager’s option or Owner’s request, apply all or part of a security deposit to (a) any unpaid rental or other charges due from Tenant, (b) cure any other defaults of such Tenant, or (c) compensate Owner for any loss or damage which Owner may suffer due to such Tenant’s default; and upon expiration or termination of the Lease not resulting from Tenant’s default and after Tenant shall have vacated the demised premises in the manner required by its Lease, Manager shall pay to such Tenant any balance of its security deposit not applied consistent with the foregoing;

handle complaints and requests from Tenants and notify Owner of any major complaint made by a Tenant or of any material defect in the Property known to Manager;

promptly notify Owner upon receiving any notice under any Lease (and furnish a copy of the notice received by it with its notice to Owner) or upon learning of any default or event of default by Owner under any Lease which would impair the rights of Owner, or reduce, release or discharge the obligations of any Tenant under its respective Lease;

promptly notify Owner of any and all Tenant defaults or disputes with Tenants which cannot be readily resolved by Manager; and if any notices to Tenants or legal action

**Comment [4]:** Consider defining what constitutes a “major complaint.” For example, a major complaint could be defined relative to a dollar amount required to address the complaint. In general, anything complained of that interferes with a tenant’s ability to enjoy the property, and therefore could be used as a reason to call a default, should be picked up by the definition of “major complaint.”

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**Comment [5]:** Again, be clear about what constitutes a default or dispute that “cannot readily be resolved.” This type of provision will be driven by how heavily Owner wishes to be involved in the management of the property and how much trust exists between the two parties.

against Tenants becomes necessary, in the reasonable business judgment of Manager, for collection of past-due rent, other charges provided for under the Leases or other defaults under the Leases, such legal action shall be timely recommended to Owner by Manager; and

after consultation with and approval by Owner, institute appropriate legal proceedings in the name of Owner for the collection of past-due rents and other charges, payable by, and the enforcement of the other obligations of, the Tenants under their Leases and for the dispossession of any Tenants in default under their Leases.

7)

**Comment [6]:** Consider who should retain discretion to appoint attorneys to handle such matters. In most instances, it will be the Owner.

C. Collection of Rents; Disbursements. To the extent Manager actually receives payments from Tenants of any rents, additional rents, security deposits (except to the extent provided below), or other miscellaneous revenues, Manager shall send, by regular mail (or such other method as directed by Owner) such funds addressed to Owner to a separate operating account at [INSERT NAME OF BANK] controlled by Manager under the name [INSERT NAME], as agent for Owner (the “Operating Account”) or a lockbox account to the extent Manager has been advised that there is a mortgage on the Property which requires the establishment of such account. Authorized representatives of Manager and Owner shall be permitted access to funds in the Operating Account. Manager agrees that there will be no commingling of the funds in the Operating Account relating to and arising from the Property with funds relating to any other property. Manager shall maintain complete records of all transactions involving the Operating Account.

1. Manager shall ensure payment of all valid and authorized bills and invoices for work performed, or supplies received on account of the management of the Property;
2. Expenditures contained within the Approved Budget or which Manager is otherwise authorized to make by the terms of this Agreement or by other authorization of Owner, including without limitation payments of maintenance costs, real estate taxes, utility charges, assessments, insurance premiums, mortgage payments, and fees due Manager,

3

may be made by Manager from the Operating Account

**Comment [7]:** Owner loan documents may restrict this ability, so be sure to check any mortgage documents for restrictions. A lawyer can help you review the applicable loan documents if you are unsure of any restrictions imposed by the mortgage.

3)

Disbursements from the Operating Account, whether by check, wire transfer of funds, or other available means, for authorized expenditures shall be subject to the following restrictions pertaining to the authorized signatory making such disbursement:

a.

If the amount to be disbursed is under $[NUMBER], it may be made upon the signature of a duly authorized employee of Manager;

If the amount to be disbursed is between $[NUMBER] and $[NUMBER], it may be made upon the signature of an officer of Manager;

If the amount to be disbursed is greater than $[NUMBER], it shall require the signature, or prior written approval of, Owner.

b.

c.

4)

Manager shall at no time pay any bills for which there are not sufficient funds in the Operating Account to make payment. If at any time Manager believes that the balance in the Operating Account is, or soon will be, insufficient to pay expenses relating to the Property, Manager shall promptly notify Owner.

If tenant security deposits must be separately maintained pursuant to Legal Requirements (as defined below), Manager shall open a separate interest-bearing account in the name of Owner. Each such account shall be maintained in accordance with applicable Legal Requirements and designated as required by Owner. Each bank shall be informed that the funds in the separate account are held in trust for Owner. Manager shall maintain detailed records of all security deposits deposited in each account, and such records shall be open for inspection by Owner’s employees or designees and subject to such signatory restrictions as Owner may determine.

Notwithstanding anything to the contrary in this Agreement, in the event of any Emergency, Manager shall have the right to incur and pay from the Operating Account, without the prior consent of Owner, costs and expenses in connection therewith which Manager believes would be approved by Owner if there were sufficient time to obtain Owner’s consent. “Emergency” shall mean circumstances in which Manager believes that human

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Life or the Property is in imminent danger or threatened and which require immediate action to protect the Property against damage or destruction, or prevent the occurrence of accident or injury to persons, so threatened or occurring from any cause. In the event of an Emergency, Manager shall within twenty-four (24) hours thereof notify Owner of such occurrence and of all actions taken and costs incurred and the reasons therefore.

D. Maintenance and Repairs. Manager shall keep the Property in a safe, clean, and sightly condition, make or perform (or to cause to be made or performed) all cleaning, maintenance, repairs, plumbing, and/or alterations and purchase all supplies necessary (1) for the proper operation of the Property, (2) for the fulfillment of Owner’s obligations under all Leases, including Owner’s obligations with respect to the Common Areas (defined for purposes of this Agreement as all areas of the Property used in common by Tenants, Manager, Owner, and the general public) of the Property and the supplying of services thereto, and (3) to comply with Legal

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Requirements; provided that Manager shall not make any purchase of supplies or perform any work pursuant to this Subsection, the cost of which shall exceed the limitations set forth in Subsection 4A, without obtaining the prior approval of Owner, except in the event of an Emergency, or to avoid the suspension of necessary services.

E. Service Contracts. Manager will, and is authorized by Owner to, make contracts in Owner’s name and on behalf of Owner for utilities, waste disposal, extermination, maintenance, cleaning, painting, snow removal, lawn care, gardening, lighting, asphalt repairs, security, and other services required in connection with the maintenance, repair, and operation the Property. Manager shall have the power and authority to enter into such contracts on behalf of Owner as are required to implement the Approved Budget without the need for further approval by Owner. Except with Owner’s prior approval, no service contracts shall have a term exceeding one (1) year, and all service contracts shall be terminable without cause and without penalty on not more than thirty

(30) days notice or upon sale of the Property by Owner. All contracts, the costs for which are not included in the Approved Budget, shall be signed by Owner. Subject to approval of Owner, Manager shall enforce the terms of all service contracts. Under no circumstances shall Manager have any liability for any contract or obligation unless expressly provided for in this Agreement and then only in accordance with the terms of this Agreement.

1. Taxes. If requested by Owner, Manager shall obtain and verify bills for real estate and personal property taxes, improvements, assessments, and other charges that are or may become liens against the Property and shall recommend payment or appeal as Manager deems appropriate. If Manager shall receive a bill or notice of taxes or assessments due directly from the taxing authority, Manager shall submit a copy of such bill to Owner. Manager shall consult with Owner about the advisability of commencing proceedings to contest the real estate taxes on the Property.
2. Insurance. If requested by Owner, Manager shall assist Owner in acquiring and maintaining the insurance coverages described in Section 9 below.
3. Leasing of the Property. Manager shall endeavor to lease the available space in the Property in accordance with this Section on terms and conditions approved by Owner.

1)

When entering into any lease for space in the Property, or any renewal, extension or expansion thereof, Manager shall utilize the form of lease agreement approved by Owner [which is attached hereto as Exhibit A] (“Approved Lease Form”), or other forms approved by Owner. Manager shall not, without the consent of Owner, permit any person to occupy any space in the Property without a written Lease approved by Owner. Without Owner approval, Manager shall not enter into any agreement with any third party whereby such third party may occupy space at the Property without paying rent.

Manager shall procure and investigate references from, and conduct negotiations with, prospective new tenants for space in the Property. With respect to existing Tenants, Manager shall (a) negotiate for the renewal of expiring Leases, (b) conduct other negotiation with existing Tenants when appropriate, and (c) advise Owner as to Tenant requests for assignments and subleases. All new leases and extensions, modifications, and surrenders of existing Leases, shall be subject to Owner’s approval, shall be in the name of Owner, and shall be executed by Owner

2)

5

or Manager acting on behalf of Owner.

3) Unless otherwise approved by Owner, each lease shall provide for a security deposit to be made by tenant in an amount no less than one (1) month’s rental.

I. Personnel. Manager shall have the exclusive right and authority to select, employ, pay, supervise, direct, and discharge all such employees necessary or desirable for the operation and maintenance of the Property. Manager shall obtain worker’s compensation insurance and other insurance coverages covering such employees, all as required by law, pay and file payroll taxes and returns, comply with all federal, state, and local laws, rules, and regulations pertaining to employees. All persons employed in connection with the operation and maintenance of the Property, except those persons specifically hired by Owner as its employees, shall be employees of Manager. Manager shall not enter into any contract or other agreement causing or purporting to cause any person to be an employee or independent contractor of Owner

**Comment [8]:** Owner should consider whether oversight over Manager’s hiring processes is appropriate. Alternatively, consider including additional restrictions on the type of employees Manager may hire.

1. Insurance Claims. Manager shall notify Owner of any fire or other damage to the Property and, in the case of any serious fire or other serious damage to the Property, to also promptly call and provide a written notice thereof to the insurance company or companies insuring the Property so that an insurance adjuster may view the damage before repairs are started and to complete customary loss reports in connection with fire or other damage to the Property.
2. Compliance with Laws and Insurance Requirements. On behalf of Owner, Manager shall obtain, and cause to remain in effect, all licenses and permits required by, and cause the Property to comply with, any and all laws, ordinances, codes, and regulations applicable to the ownership, operation, use, and occupancy of the Property (collectively, “Legal Requirements”) and any insurance company requirements applicable to the Property (“Insurance Requirements”) for which Manager has received written notice. All such licenses and permits shall be applied for and issued in the name of Owner. Manager shall use reasonable efforts and due diligence to assure that Tenants comply with all applicable Legal Requirements (including, without limitation, any hazardous waste laws which may affect the Property) and Insurance Requirements. Manager shall timely collect from all Tenants all insurance certificates or other evidence of insurance required under all Leases, and shall confirm that such certificates are in compliance with the respective Lease, including, without limitation, with respect to required additional insured parties. Manager shall forward to Owner promptly after receipt, all notices of violations received from

**Comment [9]:** In this provision, the Manager is agreeing to ensure that the property complies with all local laws. Depending on the type and use of the property—for example, a manufacturing facility—violations of laws could result in significant fines and penalties (e.g., for waste disposal). Manager should understand its obligations here, and if possible, limit its liability.

governmental authorities or insurance companies relating to the Property (or any portion thereof) and, provided Owner consents, Manager shall either contest such violations or coordinate and supervise any work required to be performed to cure any such violations, as applicable.

1. Annual Tax Returns. Manager agrees to cooperate with Owner’s accountant in preparing (but Manager shall not be responsible for preparing) annual tax returns and annual financial statements relating to the Property.
2. Limitation on Authority. Except as specifically set forth herein, Manager shall not, without the express prior written approval of Owner: (1) retain or collect any rents for more than one month in advance (other than in the ordinary course of business); (2) modify, or in any way alter the provisions of any Lease in a manner which would reduce the rent thereunder, shorten the term thereof, impose additional obligations on the landlord thereunder, or reduce the obligations of the tenant thereunder, including the cancelation, termination, or consent to the surrender of any

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Lease; (3) execute any written document which expressly waives, excuses, condones, discounts, sets-off, compromises, or in any manner releases or discharges any Tenant (or any guarantor under any guaranty of any Lease) from its obligations under its Lease (or such guaranty); (4) relocate any Tenant within the Property; (5) consent to any modification of the express purposes for which any Tenant’s demised premises have been leased; (6) consent to any subletting of any part of the Property, to any assignment of any Lease by any Tenant thereunder, or to any assignment or further subletting of any sublease; (7) institute or defend lawsuits or other legal proceedings on behalf of Owner, including commencing any action, suit, or proceeding for the collection of rent, for ejectment, or for the dispossession of any Tenant or exercise any right of recapture provided in any Lease; (8) pledge the credit of Owner, except for purchases made in the ordinary course of business of operating the Property and expended in accordance with the Approved Budget or except as otherwise contemplated pursuant to this Agreement; (9) borrow money or execute any promissory note, security agreement, or other encumbrance in the name of or on the behalf of Owner; (10) engage the services of any professionals, including, without limitation, architects, engineers, accountants, or attorneys; (11) obligate Owner for the payment of any fee or commission to any third-party real estate agent or broker; (12) use funds from the Property for any purpose unrelated to Property; and (13) convey or otherwise transfer or pledge or encumber any property or other asset of Owner. The limitations set forth in the preceding sentence shall be in addition to all other restrictions on the authority of Manager set forth in this Agreement.

1. **Owner’s Obligations**. During the Term, Owner shall be responsible for the obligations set forth below:
	1. Property Information. Owner will deliver to Manager all current leases, contracts, commitments, correspondence, banking records relating to any accounts for which Manager will be responsible (including the Operating Account), and other documents concerning the operation, management, and maintenance of the Property.
	2. Access. Owner shall ensure that Manager and its agents, representatives, employees, and contractors shall have regular, uninterrupted access to the Property for the purpose of this Agreement.
	3. Operating Account. Owner shall provide or ensure that there are sufficient funds in the Operating Account to pay to the appropriate entity all taxes, assessments, and mortgage payments relating to the Property, on or before the date the same become delinquent, and shall ensure that sufficient funds are deposited in the Operating Account (in excess of the funds, if any, then in such account), as shall be necessary to operate the Property as specified herein for the next [insert number in words (NUMBER)] day period. Owner shall within ten (10) days of receipt of any notification from Manager that there are not sufficient funds in the Operating Account to pay expenses, deposit funds in the Operating Account to meet the current or upcoming expenses and as shall be necessary to operate the Property as specified herein for the next [NUMBER] day period.
	4. Leases and Tenants. Owner shall promptly notify Manager upon receiving any notice under any Lease (and furnish a copy of the notice received by it with its notice to Manager) or upon learning of any default or event of default by Owner under any Lease which would impair the rights of Owner, or reduce, release, or discharge the obligations of any Tenant under any Lease. In

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the event of any such default or event of default, Owner shall take, or authorize Manager to take, such actions as are reasonably necessary to remedy such default. Owner shall promptly notify Manager upon learning of any default or event of default by any Tenant under its Lease.

1. Payments. Owner shall pay Manager the compensation and all costs and expenses incurred in connection with Manager’s activities under this Agreement in a timely manner in accordance with Section 6 below.
2. Owner’s Representative. Owner’s Representative, whose name and address are set forth above, shall be the duly authorized representative of Owner for the purpose of this Agreement, which Owner’s Representative may be changed by providing ten (10) days’ prior written notice to Manager.

6. **Compensation/Reimbursement of Expenses**.

A. Management Fees. As compensation for the services provided herein by Manager, Owner shall pay Manager an amount equal to the greater of (the “Management Fee”) (i) [INSERT %] of the Gross Receipts received by Owner from the operation of the Property for each year (or partial year) during the Term, or (ii) $[NUMBER] per year. The Management Fee may be paid by Manager from the Operating Account; provided that the monthly Financial Report described in Section 7 below shall reflect the amount of the Management Fee paid to Manager with respect to the period covered by such Financial Report. “Gross Receipts

**Comment [10]:** What is included in “gross receipts” will affect the amount of the Management Fee for the life of the agreement, so make sure all parties understand what exactly is to be included. In particular, note that this will be a negotiated term that should be discussed with your attorney.

rent payments made by Tenants under Leases, including base rent payments and additional rent payments, (2) payments for utilities paid by Tenants to Owner under Leases, and (3) payments for parking paid by Tenants to Owner under Leases. Gross Receipts shall not include (i) any payments paid by Tenants as security deposits until such funds are actually applied in lieu of unpaid rent, (ii) any sums paid by Tenants representing proceeds from fire or other casualty losses, (iii) amounts paid by Tenants that are separately enumerated in the Leases or in tenant work letters to reimburse Owner for the cost of capital improvements, remodeling, and tenant changes, including any overhead or interest factor payable by Tenants in connection with such reimbursement, (iv) any rent payments that are allocable to any period prior to or following the expiration or termination of the Term of this Agreement, (v) any funds received from any taxing authority in the nature of real estate tax or other tax refunds, (vi) any condemnation or insurance proceeds received from any governmental authority or from insurers, or (vii) any proceeds arising out of awards, settlements, or any other disposition of any lawsuit or legal proceedings.

1. Additional Services. In the event of the sale or refinancing of the Property during the Term, Manager shall be entitled to additional compensation for services provided in connection with or relating to such sale or refinancing or any other additional services provided by Manager hereunder in amounts mutually agreed upon in advance of the rendering of such services in good faith between the parties.
2. Reimbursements. To the extent not paid directly from the Operating Account as permitted herein, Owner shall reimburse Manager for all costs and expenses incurred in connection with Manager's activities under this Agreement, including without limitation the following: (1) legal expenses incurred by Manager on behalf of Owner; (2) all salaries, wages, taxes, employee benefits, and all other cost and expense incurred in connection with the employment by Manager of all personnel responsible for performing the services of Manager set forth herein, provided,

8

” shall mean (1) the amount of all

however, that if such persons devote less than all of their time to perform the obligations of Manager under this Agreement, Owner shall be responsible to reimburse Manager for only that proportion of such employment related expenses which equal the proportionate amount

**Comment [11]:** If Manager’s employees will NOT be spending all their time on the subject property, consider breaking this out or limiting it to a budget.

spent by such persons in the performance of the management services hereunder; and (3) all of Manager’s other overhead expenses to the extent directly attributable to the Property and beyond the scope of normal office overhead expenses. Notwithstanding the foregoing or anything to the contrary in this Agreement, Manager shall not be obligated to advance, loan, or contribute any funds required or desirable in the management of the Property, all of which financial responsibilities shall remain the obligation of Owner; provided, however, in the event that Manager elects, in the case of an Emergency or other prudent management decision, to advance funds to or for the benefit of the Property, Manager shall have the right to be reimbursed such funds in accordance with this Section.

1. Management Office. Manager, in connection with its management services, will be permitted to maintain, at its option, an office at the Property for which no rental payments shall be required. Manager and Owner shall agree upon the location of such office within thirty (30) days after the Effective Date. In the event that all space at the Property (other than the management office) has been rented and a tenant is willing to rent all or a portion of the space occupied by Manager, Manager, at the expense of Owner, will be relocated to another space in the Property or to another conveniently located building.
2. Survival. Any compensation due or to become due to Manager under this Agreement and the manner in which Manager is to be paid shall survive termination of this Agreement.

**Comment [12]:** In general, Owner will want to discuss and consider the types of reporting that will be appropriate for the property.

7.

1. Records. Manager shall maintain at the Property or such other place approved by Owner, complete and accurate records, books, and accounts in Manager’s standard form or such other form required by the law in which the Property is located. Such books and records shall at all times remain the sole and exclusive property of Owner.
2. Monthly Financial Reports. Manager shall furnish on a monthly basis by computer disc or electronic transfer and/or hard copy (or in such other form as Owner may reasonably request), reports of all transactions respecting the Property for the preceding month, including an operating statement and balance sheet, detailed lists of accounts receivable and accounts payable and the monthly Management Fee, all presented using Manager’s standard format and software or such other form required by the law in which the Property is located. The foregoing reports shall be delivered to Owner no later than 15 days after the end of the preceding month. Manager shall also furnish on a monthly basis a management report for the Property which shall contain a summary of operating results for the month, recommendations regarding the physical condition and operation of the Property, a schedule of proposed capital improvements for the Property, and such other information and analysis as Owner may reasonably request.
3. Annual Reports. At the close of each [fiscal/calendar] year of the Property, Manager shall cause the records to be closed and a balance sheet, statement of operations, and summary of receipts and disbursements to be furnished to Owner within 45 days after the end of such [fiscal/calendar] year.

9

**Statements and Records for the**

**Property**

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of time

D. Audit. The records, books, and accounts may be examined by Owner, or its representatives, at all reasonable times. Owner may, at its option, require that such books and records be examined and audited by a certified public accountant selected by Owner.

8. **Indemnity**.

A. Owner’s Indemnity. Owner shall indemnify and save harmless Manager, its partners, officers, directors, members, shareholders, employees and agents, and all others who could be liable for the obligations of any of them, from and against any and all claims, damages, losses, costs (including reasonable attorney’s fees), causes of action, suits, and liabilities of any kind occasioned by or in connection with or arising out of acts or omissions of Manager, the employees, agents, contractors, or subcontractors of Manager, and relating to the Property and/or the use or occupancy of the Property

Agreement.

**Comment [13]:** The Indemnity provided by Owner will vary with each agreement, and will range from comprehensive to more limited in scope. An attorney can discuss the range of options available and help you consider the scope of the indemnity appropriate for your particular agreement.

**Comment [14]:** Consider additional terms specifying minimum requirements for insurance. An attorney can help you think through what minimum requirements might be appropriate.

9. **Insurance**.

A. Owner’s Insurance. Throughout the Term, Owner shall carry and maintain, at its sole cost and expense, the following insurance coverage:

1)

Commercial general liability insurance on an “occurrence” basis against claims for “personal injury” liability including without limitation bodily injury, death, or property damage liability with a limit of not less than Three Million Dollars ($3,000,000) in the event of “personal injury” to any number of persons or of damage to property arising out of any one “occurrence” (any such insurance may be furnished under a primary policy and/or an umbrella policy);

Contractual liability insurance coverage specifically insuring the indemnity provisions contained herein; and

Such other insurance and additional coverages as may be necessary for the protection of the interests of Owner and Manager.

2)

3)

The commercial general liability insurance and contractual liability insurance must name Manager as additional insured and contain a severability of interest clause and coverage for personal injury insurance.

B. Additional Insurance. Manager shall continuously maintain at its cost and furnish Owner certificates evidencing the existence of the following insurance policies:

1)

Worker’s compensation in the amount of any statutory limits imposed by the state where the Property is located;

Employer’s liability in the amount of $[NUMBER] or such other higher limits imposed in accordance with the requirement, if any, of the laws of the state where the Property is located;

[INSERT OTHER POLICIES AS MAY BE APPROPRIATE]

2)

**Comment [15]:** Consult your attorney and an authorized insurance broker or agent to determine what types of insurance the Manager will be, and should be, required to carry.

3)

C. Access to Property. Manager shall cooperate with and provide reasonable access to the

10

. The provisions of this Section 8 shall survive the termination of this

Property to agents of any and all insurance companies, brokerages, or agencies who may, from time to time, be involved with the issuance of insurance policies or with inspections of the Property in connection with existing insurance policies. Manager agrees to comply with any and all requirements of said insurance and such insurance companies or their agents, and agrees to exercise due care not to use the Property or permit the same to be used for any purpose which would make voidable any of such insurance policies, and shall not keep on the Property any material, machinery, equipment, substance, or other things which may void or make voidable any such insurance policies. Manager shall use its commercially reasonable efforts to see to it that all Tenants are in compliance with the insurance provisions provided for in their respective Leases.

10. **Termination**.

A. Convenience. Owner or Manager may terminate this Agreement for convenience by giving the other party at least thirty (30) days' prior written notice specifying the termination date. In such event, if Owner terminates this Agreement for convenience, Owner will be obliged to pay Manager a termination fee equal to the Management Fee that would have become due to Manager pursuant to Section 6 above during the unexpired portion of the Initial Term

**Comment [16]:** Termination fees will vary and may take many forms. Manager may wish to bargain for authority to pay itself the termination fee from the operating account before returning such accounts to Owner’s control.

1. Insolvency. Owner or Manager may terminate this Agreement upon written notice specifying the termination date if the other party becomes insolvent or unable to pay its debts as they come due or enters into or files (or has filed or commenced against it) a petition, arrangement, application, action, or other proceeding seeking relief or protection under the bankruptcy laws of the United States or any similar laws of the United States or any state of the United States or any other country or transfers all or substantially all of its assets to another person or entity. In such event, Owner will be obliged to pay Manager the Management Fees pursuant to Section 6 above for all services performed by Manager up to the effective date of the termination.
2. Termination by Manager for Cause. This Agreement may be terminated by Manager without notice in the event Owner fails to pay the Management Fees or fails to reimburse Manager for any costs or expenses for which reimbursement is required hereunder or any action by Owner that constitutes fraud, dishonesty, illegal conduct, or the like. In such event, Manager is released from and shall not be subject to the transition obligations set forth below in this Section 10. In addition, Manager may terminate this Agreement by giving Owner thirty (30) days' prior written notice in the event (1) Owner fails to approve a Proposed Budget in a timely manner or Owner approves a budget other than the Proposed Budget and such budget approved by Owner is not sufficient, in Manager’s reasonable judgment, to allow the operation and maintenance of the Property in accordance with this Agreement, (2) Owner fails to fulfill any of its obligations set forth in Section 5, or (3) Owner fails to perform or observe any other material obligation required to be performed or observed by it under this Agreement; provided, however, that such termination will not be effective if Owner has cured such failure prior to the expiration of such thirty (30) day notice period.
3. Termination by Owner for Cause. In the event of any material breach of this Agreement by Manager, Owner may terminate this Agreement by giving Manager thirty (30) days' prior written notice of such breach and termination; provided, however, that such termination will not be effective if Manager has cured such breach prior to the expiration of such thirty (30) day notice period. In addition, this Agreement may be terminated by Owner without notice in the event Manager willfully fails to account for funds belonging to Owner, or fails or refuses to deposit

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rentals and other receipts to the credit of Owner as provided for herein unless such failure to account for funds or such failure to deposit rentals and other receipts is the result of some act or condition beyond the control of Manager.

1. Transition Services. In the event of any termination of this Agreement, Manager will assist in the transition to the new managing agent and turn over to the new managing agent all funds, leases, books, and records pertaining to the Property; provided that Owner shall pay Manager the reasonable costs incurred by Manager in complying with the foregoing.
2. Survival of Obligations. No termination of this Agreement pursuant to this Section shall be deemed to relieve either party of any liability to the other party, which has accrued hereunder prior to or in conjunction with such termination.

11. **Representations and Warranties**. Each party to this Agreement represents and warrants the following

**Comment [17]:** These are basic representations and warranties. Owner may want additional reps and warranties about certain licenses (such as brokerage licenses) or any licenses or qualifications Manager may need to effectively manage the property.

1. It is duly organized, validly existing, and in good standing under the laws of its jurisdiction of formation with all requisite power and authority to enter into this Agreement and to conduct its respective business.
2. This Agreement constitutes the legal, valid and binding obligation of the party and is enforceable in accordance with its terms.
3. No consents or approvals are required from any governmental authority or other person or entity for the party to enter in to and perform this Agreement. All corporate or partnership action on the part of the part necessary for the authorization, execution, and delivery of this Agreement, and the consummation of this transaction contemplated hereby, have been duly taken.
4. The execution and delivery of this Agreement by the party, and the consummation of the transactions contemplated hereby, does not conflict with or contravene the provisions of its organizational documents or any agreement or instrument by which it or its properties are bound or any law, rule, regulation, order, or decree to which it is or its properties are subject.

12. **Miscellaneous**.

1. All notices provided for herein shall be sent certified or registered mail, return receipt requested, nationally recognized overnight courier, personally delivered, or electronically mailed or telecopied with delivery confirmation received, to the address of the party as specified above, unless notice of change of address is given to the other party pursuant to the provisions of this Section. Any notice shall be effective only if and when received by the party to be notified (or the date such receipt is refused by addressee), unless the day it is received is not a business day, and then it shall be deemed received on the next business day.
2. The parties acknowledge and agree that Manager is an independent contractor and nothing in this Agreement, express or implied, shall be construed as creating a partnership, joint venture, or employer-employee relationship between Manager (or any person employed by Manager) and Owner, or any other relationship between the parties hereto except that of property owner and independent contractor.

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1. Each party to this Agreement, by signing below, acknowledge and agree that such party has read and understand the terms and conditions contained in this Agreement, and such undersigned party has received a copy of this Agreement.
2. This Agreement constitutes the entire agreement between the parties hereto and no oral or implied agreement, representation or understanding shall cancel or vary the terms of this Agreement.
3. Manager shall have no right to assign or transfer this Agreement or any of its rights or duties hereunder except with the prior written consent of Owner (any such assignment without the prior written consent of Owner shall be null and void, provided, however, Owner’s consent shall not be required for an assignment to an Affiliate of Manager). Subject to the foregoing and the provisions regarding termination, this Agreement is binding upon the parties hereto, their heirs, administrators, executors, successors, and assigns.
4. This Agreement shall be governed by and construed in accordance with the laws of the state in which the Property is located.
5. The parties agree that time is of the essence in performing their obligations hereunder.
6. If any provision of this Agreement shall be invalid or unenforceable under the governing law, then such provision(s) shall, to the extent possible, be construed or applied in such a manner as will permit enforcement; otherwise this Agreement shall be construed as if such provision(s) had never been made a part hereof.
7. If it becomes necessary for either party to retain an attorney to initiate any legal proceedings in order to secure compliance with this Agreement, then, in addition to all other sums to which the prevailing party may recover, the prevailing party shall also be entitled to recover court costs, reasonable attorney’s fees, pre-judgment and post-judgment interest and all other costs of collection incurred in connection therewith.
8. This Agreement may be executed simultaneously or in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Facsimile and PDF electronic email signatures shall have the same force and effect as original signatures and shall be binding upon the parties.
9. Neither this Agreement, nor any provision hereof, nor any service, relationship, or other matter alluded to herein shall inure to the benefit of any third party (except a successor or assign of Owner and Manager as contemplated herein), to any trustee in bankruptcy, to any assignee for the benefit of creditors, to any receiver by reason of insolvency, to any other fiduciary or officer representing a bankrupt or insolvent estate of either party, or to the creditors or claimants in such an estate. Without limiting the generality of the foregoing sentence, it is specifically understood and agreed that insolvency or bankruptcy of either party hereto shall, at the option of the other party, void all rights of such insolvent or bankrupt party hereunder (or as many of such rights as the other party shall elect to void) except to receive any monies which are due to the insolvent or bankrupt party.
10. No claim may be made by Owner or Manager or any of their respective directors, officers, employees, agents, attorneys or affiliates, for any special, indirect, or consequential damages or,

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to the fullest extent permitted by applicable law, for any punitive damages in respect of any claim or cause of action (whether based on contract, tort, statutory liability, or any other ground) based on, arising out of, or related to this Agreement or any act, omission, or event occurring in connection therewith or the performance of such parties’ obligations hereunder and each of Owner and Manager and hereby waive, release, and agree never to sue upon any claim for any such damages, whether such claim now exists or hereafter arises and whether or not it is now known or suspected to exist in its favor.

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The parties have executed this Agreement through their authorized representatives as of the respective dates set forth below.

OWNER:

By: Printed Name: [Signatory name]

Title: [Signatory title] Date: [Date]

MANAGER:

By: Printed Name: [Signatory name]

Title: [Signatory title]

Date: [Date]

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