

AGREEMENT TO MANAGE AND LEASE REAL ESTATE

(This is a legally binding contract. If you do not understand it, seek legal advice.)

This agreement to manage and lease real estate is made and entered into as of this _____ day of _____, _____ by and between _____ hereinafter called the Owner and _____ hereinafter called the Broker.

Whereas, Owner is the owner of the property known as _____ located at _____ and legally described as _____

Owner hereby employs Broker exclusively to rent, lease, operate and manage said property subject to the terms and conditions of this agreement.

In consideration of the management and leasing functions to be performed by Broker under this agreement, Owner agrees to pay Broker a fee or fees for services rendered at the rates hereinafter set forth. Owner recognizes Broker as agent in any negotiations relative to said property or any part thereof, which may have been initiated during the term hereof, and if consummated, shall compensate Broker in accordance with the rates hereinafter set forth. Such compensation is due and payable on demand and may be deducted by Broker from gross receipts.

Management: _____ (plus sales tax)

Leasing: _____ (plus sales tax)

The term of this agreement shall commence on the _____ day of _____, _____ and expire on the _____ day of _____, _____. This agreement is automatically renewable, upon expiration, for annual periods unless terminated by either party giving 30-days' written notice to the other party in advance of such termination date. However, the termination of this agreement shall not affect the right of Broker to receive leasing commissions or fees which have accrued on the date specified in such notice and have not been paid.

As agent for Owner, Broker owes Owner the duties of loyalty, obedience, disclosure, confidentiality, reasonable care and diligence, and full accounting. Broker must disclose all known material facts about the property which could affect a tenant's use or enjoyment of the property, disclose information which could have a material impact on either party's ability to fulfill their obligations under the lease agreement, respond honestly and accurately to questions concerning said property, and deal honestly and fairly with all parties.

The duties and responsibilities of Broker in connection with the management of said property are as follows:

1. Broker shall take all reasonable steps to collect and enforce the collection of all rentals and other charges due Owner from tenants of said property in accordance with the terms of their tenancies.
2. From gross revenues collected from said property, Broker is hereby authorized to accrue and make disbursements from Owner's funds for contractual mortgage payments, property and employee taxes, salaries and any other compensation due and payable to the employees of Owner, special assessments, premiums for hazard and liability insurance and any other insurance required, and sums otherwise due and payable by Owner as operating expenses which are incurred pursuant to the terms of this agreement including management and other fees as provided herein.
3. Broker shall deposit gross revenues collected into a special trust account in a bank whose deposits are insured by the Federal Deposit Insurance Corporation. Broker shall have authority to endorse checks payable to Owner, deposit funds of Owner into said trust account, and to draw on such account any payment to be made by Broker to discharge any of the liabilities or obligations incurred by Broker pursuant to this agreement.
4. Broker shall arrange all repairs, replacements and decorating necessary to maintain said property in its present condition and for the operating efficiency of said property. The expense of any one item of maintenance shall not exceed the sum of \$ _____ unless authorized by Owner or unless Broker determines it to be an emergency. Owner approval is not required in the event of an emergency where immediate repairs are required to preserve the property, continue essential services to the property, avoid danger to life or property, or to comply with federal, state or local law.
5. Broker shall have the authority to negotiate, prepare and execute all leases and to cancel and modify existing leases as agent for Owner.

6. Broker shall advertise the availability for rent of the property or any part thereof and to display "For Rent" or "For Lease" signs thereon; to show property to prospective tenants; to execute leases, renewals or cancellations of leases relating to said property; to terminate tenancies and to sign and serve for Owner such notices as Broker deems appropriate; to institute legal actions in the name of Owner; to evict tenants and recover possession of said premises; to recover rents and other sums due, and to settle, compromise and release such actions.
7. Broker shall have authority to hire, supervise and terminate on behalf of Owner all independent contractors and property employees, if any, reasonably required in the operation of said property. All such property employees are employees of Owner.
8. Broker shall maintain accurate records of all moneys received and disbursed in connection with its management of said property, and such records shall be open for inspection by Owner at all reasonable times. Broker shall provide monthly financial statements to Owner.

Owner agrees to maintain a minimum balance of \$_____ in Broker's trust account and in the event the amount falls below such minimum balance, Owner hereby agrees to pay such excess promptly upon the request of Broker.

Owner agrees to make available to Broker all data, records and documents pertaining to the property which Broker may require to properly exercise Broker's duties hereunder.

Owner shall complete and submit a lead-based paint disclosure if property is residential and built prior to 1978 as required by federal regulation.

Owner authorizes Broker to:

- a. cooperate with brokers who represent tenants and
- b. compensate cooperating brokers from Broker's fees
- c. compensate Broker's agent

Owner agrees to hold Broker harmless from all damage suits in connection with the management of said property and from liability from injury suffered by any employee or other person whomsoever and to carry, at Owner's expense, adequate public liability insurance and to name Broker as co-insured. 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 hereunder, except in cases of willful misconduct or gross negligence. If suit is brought to collect Broker's compensation or if Broker successfully defends any action brought against Broker by Owner, relating to said property, or Broker's management thereof, Owner agrees to pay all costs incurred by Broker in connection with such action, including reasonable attorney fees.

The execution, interpretation, and performance of this Agreement shall in all respects be controlled and governed by the laws of the State of South Dakota. If any part of this Agreement shall be declared invalid or unenforceable, Agent shall have the option to terminate this Agreement by notice to Owner.

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