

Carolina United Realty, LLC

Exclusive Leasing and Management Agreement

This Exclusive Leasing and Management and Brokerage Agreement (hereinafter "Agreement") by and between _____ (hereinafter "Owner") and **Carolina United Realty** (hereinafter "Agent");

WITNESSETH:

Owner employs Agent to lease and manage a certain property located at:

Street _____

City _____ State _____ Zip _____ (hereinafter "Property")

upon the terms and conditions set forth below and Agent agrees to accept such employment.

- 1. Exclusive Agent; Term.** Agent shall have the exclusive right to lease and manage the Property for a minimum of sixty (60) days from the date of this Agreement, and Agent shall continue to have such right thereafter unless either party terminates with thirty (30) days' written notice as provided for in stipulation #3. Once Property is leased, this Agreement is automatically extended until the resident procured by Agent moves out.
- 2. Agency Disclosure.** Agent acts as the Owner's Agent exclusively under this Agreement, and will not represent any other party involving the Property covered by this Agreement without fully disclosing it, in writing, prior to the event. Agent may provide assistance to prospective residents without violating any duties to Owner. Agent may provide assistance to residents by performing such ministerial acts as preparing offers; locating insurance agents; schools; shopping facilities; places of worship; and other similar services. Performing such ministerial acts shall not be construed to violate the exclusive agency promised under this Agreement, nor shall performing such ministerial acts for residents be construed to form a brokerage engagement with the resident.
- 3. Termination.**
 - (a) If the Property is "not under a lease", Owner can terminate Agent "without cause" with thirty (30) day written notice. If Agent has started marketing said Property, and Owner terminates prior to leasing or expiration of listing term, Owner agrees to pay **50% of the Advertised Monthly Lease Amount** as a marketing fee to reimburse Agent's marketing costs.
 - (b) If the Property is "under a lease", Owner can terminate Agent "without cause" provided the following conditions are satisfied: **1)** Owner shall first give Agent thirty (30) days written notice; **2)** Owner shall pay, prior to termination, a sum equal to the commissions due for the remainder of the current resident's occupancy; **3)** Owner shall indemnify Agent from any and all claims by the current resident pertaining to the security deposit, move-out inspection, and any and all other claims made by resident against Agent that pertain to post termination issues not caused by Agent.
 - (c) Owner may terminate this Agreement "for cause" if the Agent fails to pay any sum payable under this Agreement when due or fails to perform or comply with any of its obligations hereunder at the time or times in the manner required under this Agreement, provided, that Owner must first give Agent thirty (30) days written notice of any such default or breach and allow Agent an opportunity to cure. Should Agent fail to cure any such default or breach with due diligence within thirty (30) days from receipt of written notice, Owner may terminate this Agreement "for cause and without penalty."
 - (d) Agent may terminate this Agreement "for cause" if Owner fails to perform or comply with any of its Agreements hereunder at the time or times in the manner required, including but not limited to failure to reimburse Agent for any sum payable under this Agreement; provided, that Agent must first give Owner thirty (30) days written notice of such default or breach and allow Owner an opportunity to cure; should Owner fail to pay such sum or cure any default or breach with due diligence within thirty (30) days of receipt of said written notice, Agent may terminate this Agreement "for cause."
 - (e) Agent may terminate Owner "without cause" provided Agent gives Owner 30 days written notice and; transfers to Owner all original lease documents executed by the current resident and; transfers to Owner the resident's security deposit and; notifies resident in writing of Owners address and phone number as required by North Carolina Landlord Tenant Law.

- (f) The termination of this Agreement shall not prejudice the rights of either party against the other for any default or breach of this Agreement. The rights and remedies herein granted are cumulative and in addition to the rights and remedies provided by law; the exercise of either party of one or more rights or remedies shall not impair its right to exercise the other right or remedy. Termination of this Agreement does not remove any commission obligation due Agent under this Agreement.
4. **Commissions.** Upon approval of a resident applicant by Agent, Owner agrees to pay Agent the following fees: **1) a Leasing Fee** for marketing the Property equal to **50% of one month's rent.** **2) If** resident renews or extends his/her lease, Owner will pay Agent a **Renewal Fee** equal to **10% of one month's rent** at the renewal rate. If a resident signs a lease for longer than twelve (12) months, Owner agrees to pay Agent a prorated renewal commission in the 13th month; **3) A Monthly Management Fee** beginning the month the Property is first occupied (and ending when this Agreement is terminated), the amount to be **\$80.00 per month or 8% of the monthly rental rate** of the current lease (whichever is greater) or, if otherwise specified here, a flat monthly fee of _____.
 5. **Disclosure.** All rent belongs to the Owner; all other fees, including but not limited to application fees, late fees, collection and administration fees, bad check charges, forfeited reservation deposits and interest on escrow accounts shall be the property of the Agent. Agent may pay (and receive) referral fees, commissions, co-op commissions, rebates and bonuses to (and from) outside real estate agents, tenant referral companies, rental relocation companies, multiple listing companies, builders, developers, home warranty companies, banks, contractors and vendors who assist agent in the marketing, showing, monitoring, leasing, managing and maintaining of the Property, including companies where Agent may be a member, owner, agent, broker, stockholder or partner.
 6. **Non-Discrimination.** Owner understands that in leasing Property, both Agent and Owner must fully comply with all laws and regulations, which prohibit discrimination on the basis of race, color, familial status, religion, national origin, sex, disability or handicap. Owner understands that he/she has no say so in the process of qualifying said resident (unless the tenants offer is substantially different than the asking rent) and is relying on Agent to use its good judgment and knowledge of the laws that govern this business in approving applicants and managing the Property.
 7. **Authority to Execute Lease.** Owner hereby constitutes and appoints **Carolina United Realty, LLC** as his/her true and lawful Attorney-in Fact, for him/her and in his/her name, place and stead to negotiate, make, execute, sign, seal, acknowledge and deliver in his/her name, to lease the Property herein above described which leases shall contain such provisions as the Agent shall deem proper. The lease is between Agent and resident and Owner understands that he/she has no authority over the lease and agrees to have **no communication directly with residents** of the Property while Owner is under this Agreement.
 8. **Management.** Upon leasing the Property, Agent shall also manage it for Owner and, in that regard, Agent shall deposit all income into a special account maintained by Agent. Within the next Owner statement cycle, Agent shall make a remittance to Owner, after deducting the appropriate sums, along with a report to the Owner as to income and expenses related to the Property since the last report. Agent may withdraw from such disbursements, required to be made on behalf of the Owner under this Agreement or the lease, including, but not limited to, Agents' compensation, and other expenses as set forth in this Agreement, or the lease. Owner shall have the right, throughout the term of the Agreement, to inspect invoices and other data supporting receipts collected and disbursements made by Agent. Agent shall at all times retain such invoices and outstanding supporting documents for Owner's use for three (3) years. All application fees, late fees, collection and administration fees, bad check charges, forfeited reservation deposits and interest on escrow accounts shall be the property of Agent. Should Owner have multiple properties with Agent, and one Property account has a negative balance, Agent is authorized to transfer moneys from one account to another to cover said negative balance. **Lease Termination.** Agent is authorized to terminate a lease on Owner's behalf, due to defaults by Residents, and, if Agent deems it proper, to reinstate such leases. **Legal Proceedings.** Agent is authorized to institute and prosecute legal actions (evictions) and proceedings in Owner's name and behalf, to remove residents from Property, and for such purposes, Agent may employ attorneys and incur court costs and litigation costs at Owner's expense. Agent is also authorized to settle or compromise any such legal action or proceedings if Agent deems it proper to do so.
 9. **Repairs, Maintenance, and Owner's Operating Account.** Owner acknowledges that under North Carolina law he/she is responsible for maintenance and repairs of the Property. Agent is authorized to make such repairs to the Property, as Agent reasonably believes to be necessary to protect Property from damage or maintain services to a resident for which services a lease provides. Agent is hereby authorized by Owner, at the Owner's sole expense, to maintain said Property and keep Property in suitable rental condition, purchase necessary supplies and replacement materials and fixtures, that are necessary to maintain the utilities and the services to the Property, including but not limited to electricity, water, gas, maintenance, refuse disposal, termite extermination and pest control, and other services which Agent shall consider advisable and necessary to properly maintain the Property and/or comply with any applicable laws, to make ordinary repairs to the Property provided that expenditures for any one item or repair shall not exceed the sum of **\$300.00**

without prior approval of Owner, unless made under circumstances which Agent deems to constitute an emergency or are contingencies of an approved application for lease, or shall be deemed by Agent to be a safety or health risk to a resident. Agent is expressly authorized by Owner (and at his expense) to employ, discharge, and supervise any and all contractors considered by Agent as necessary or desirable for the efficient maintenance or repairs of the Property, including contractors, which may be affiliates of Agent. If an estimate for a required repair exceeds **\$300.00**, then Owner agrees to pay Agent the amount of the estimate in advance of the repair. Owner shall promptly reimburse Agent for the cost of all repairs, which Agent pays for or which Agent becomes obligated, but Owner understands that Agent is under no obligation to make expenditures in excess of the Owners operating account balance.

- 10. Rehab, Renovations and Replacements.** Agent agrees to manage regular maintenance problems, normal breakdowns, and minor repairs as part of the management fees outlined in this Agreement. Managing rehabs, renovations, replacements, insurance claims, general contractor work and large jobs are not covered by Agents fees as outlined in stipulation #4 of this Agreement. Examples of such items may include, but are not limited to, new septic systems, new roofs, exterior and interior painting, new carpeting, and remodeling kitchens and bathrooms; generally, items over **\$1,000.00**. Owner is encouraged to oversee large projects to save money. Should Owner choose to use Agent to perform such work, and they are not required to, Owner agrees to pay Agent **10%** of the contractor's price as a "Rehab Premium".
- 11. Minimum Account Balance.** Once the Property is rented, Owner agrees to establish and maintain with Agent, in the Rent Trust Account, the sum of **\$0.00** or an amount agreed to by the parties, as a reserve for the operating account noted in stipulation #8 and other expenses specified in this Agreement. Said account shall be refunded to Owner within thirty (30) days of the termination of this Agreement provided all sums due under this Agreement have been paid.
- 12. Promotion and Advertising.** Agent may, at the Agent's expense, advertise the Property in whatsoever manner the Agent may feel appropriate. Agent shall provide no accounting to Owner for advertising as Agent intends to use many different sources and methods to promote said Property, some of which will be generic in nature. Owner authorizes Agent to sign listing agreements on his/her behalf to enter Property in local multiple listing services and websites.
- 13. Condition of Property.** Owner certifies that all heating, cooling, plumbing, electrical systems and appliances are in good working condition. Owner certifies that the roof does not leak and that water does not enter living or basement areas from rain or other subterranean sources. Owner certifies that the house is in good and habitable condition now, and Owner shall, at all times while this Agreement is in effect, be responsible for maintaining the Property in a good, safe and habitable condition, and in compliance with all applicable laws, ordinances and regulations of all government authorities. Owner shall ensure that the house is clean, free of all pests, and the grounds are in good condition at the time Agent begins marketing the Property for rent. Should Owner commit to making certain repairs (or clean the Property) prior to occupancy by a resident and fails to do so within three (3) days of the move in, Agent is hereby authorized and instructed to do said repairs/cleaning at Owner's expense. Upon the execution of this Agreement, Owner shall provide Agent with keys for this Property.
- 14. Insurance:** Owner understands that it is his/her responsibility to maintain adequate fire and extended insurance coverage on the Property. Owner shall, at all times while this Agreement is in effect, maintain liability insurance and will cause Agent to be named as an Additional Insured (or Interested Party) under such liability insurance. Owner shall provide Agent with proof of such insurance coverage prior to Agent leasing the Property. Should Owner fail to provide such coverage Agent is hereby authorized to initiate such coverage at Owners expense.
- 15. Express Release as to Personal Property.** Owner hereby acknowledges that he/she has removed any and all personal property that he/she so desires **before the Property is put on the market for lease**. In the event Owner has left any personal property behind, Owner hereby releases and discharges Agent, its employees, Agents, representatives and successors, for and from any and all obligations to undertake any accounting for this property. Owner expressly acknowledges that any personal property left behind is done at his/her own risk. Owner shall indemnify, defend, hold and save Agent harmless for and from any and all liabilities, damages, claims, actions, causes of action, costs and expenses, including but not limited to, all actual attorney's claims against Agent relating to any personal property. Personal property shall include, but not be limited to, window covering, refrigerator, grills, lawn equipment, furniture, ceiling fans, and washer/dryer.
- 16. Prompt Reimbursement of Expenses, Interest, and Attorney's Fees.** Owner expressly agrees to reimburse Agent, upon written request, within fifteen (15) days after any expenditure on Owner's behalf, as provided for in this Agreement. Monthly Owner's statements that reflect a negative balance shall constitute a written request for reimbursement. Said reimbursement shall be in an amount sufficient to pay the expenses of the Property and maintain the sum set forth in stipulation #10 of this Agreement. Should Owner fail to reimburse Agent for any expense within said fifteen (15) day period, Owner agrees to pay interest to Agent in the amount of **15** percent per annum (plus costs) in accordance with North Carolina law. Failure to pay may be further grounds for termination of this Agreement by Agent;

however, if this Agreement is terminated for nonpayment, said termination shall not result in any forgiveness of any sums due pursuant to this Agreement. Should Agent have to engage an attorney to collect any sum due pursuant to this Agreement, Owner agrees to pay all actual attorney fees in addition to all expenses incurred on said Property and interest therein.

- 17. Indemnity.** Owner and Agent hereby waives and releases any rights of action against the other for loss or damage covered by any insurance policy carried by such party, and each of them covenants and agrees with the other that it will obtain a waiver from the carrier of such insurance releasing such carrier's subrogation rights as against the other. Owner hereby releases and discharges Agent from any liability for any loss or damage, from any cause whatsoever, to Owner's real or personal property, except for loss or damage caused by Agent's sole negligence, recklessness or willful misconduct of Agent's employees. Owner hereby covenants and agrees to indemnify, defend and hold and save Agent harmless from and against all liabilities, damages, claims, actions, causes of action, costs and expenses or failure to perform such duties and responsibilities, whether such duties and responsibilities will be express or implied, other than as a result of willful misconduct, recklessness or sole negligence of Agent. Owner acknowledges that Agent has made no inducements or representations other than those contained in this Agreement. Owner acknowledges and agrees that any oral or written statements by Agent or its representatives concerning the benefits or risks of owning or renting, or employing Agent to manage the Property or similar residential property, does not constitute inducements, warranties or representations. Owner covenants and agrees with Agent that Owner has not purchased, or will not purchase the Property in reliance upon any such statements. Agent hereby disclaims any guarantee, representation, warranty or covenant including but not limited to: **1)** that income will be realized from the Property, **2)** that income realized from the Property will exceed expenses attributable to the Property, or **3)** that any amount due and payable to the Owner by any third party shall be paid when due.

Owner acknowledges and agrees that Agent is engaged in the business of renting and managing residential property. In the event that Agent is attempting to rent the Property at the same time that it is attempting to rent any other residential property, conflicts of interest may arise between the Owner and the owners of such other residential property. Agent agrees to use its best efforts to treat Owner, and the owner of each other residential property managed by Agent, in a substantially equitable manner to be determined by Agent in the circumstances. Nothing contained in this Agreement shall be construed to constitute a promise or guarantee by Agent to equalize the occupancy rates or the amount of income received from the rental of any particular residential property. Agent's services hereunder shall be limited to leasing, maintenance and management of the Property, including regular maintenance, but excluding replacement, restoration, major renovations and insurance or mold claims. Nothing herein contained shall be construed or interpreted to mean that Agent is, in any sense, a general contractor, investment agent or advisor for Owner, or a manager of any assets or affairs of Owner other than the Property. Agent's duties hereunder shall not extend to resolution or attempted resolution of disputes or the issues that arise in connection therewith, as Agent for Owner. Agent frequently pays referral fees, or receives referral fees, from real estate agents and various vendors who assist Agent in meeting customers or assists in the managing or maintenance of such Property.

- 18. Sale of Property.** Owner may list Property for sale with another real estate company thirty (30) days prior to resident vacating Property, or after this Agreement is terminated, or, at any time with Agent's written permission, with no commission obligation to Agent.
- 19. Entire Agreement.** This Agreement constitutes the entire Agreement between the parties and no oral statements or representations shall be binding on either party. Any change in this Agreement shall be in writing signed by both parties.
- 20. Notices.** All notices or other communications required to be given under this Agreement, or otherwise necessary to be given, shall be deemed to have been properly given to Owner at the address shown below his/her signature. Owner may change the address for receiving such notices by giving Agent ten (10) days prior written notice of any such change. All notices shall be in writing and personally delivered or sent by certified mail, return receipt requested. Personal notice shall be effective upon delivery and mailed notice shall be effective three (3) days after the date of mailing.
- 21. Terminology.** Singular pronouns in this Agreement shall be deemed to include the plural.
- 22. Independent Contractor.** It is understood that, in operating and managing the Property, Agent is an independent contractor and is not acting as agent, partner, joint venture, or lessee of Owner and nothing herein shall be construed as reserving to Owner the right to control Agent's business or operations or the manner in which the same shall be conducted.
- 23. Signatures / Faxes.** Owner and Agent agree that this Agreement can be signed by duplicate originals. Faxed signatures are deemed originals. Owner agrees to provide Agent with proof of ownership of the Property and all parties on title agree to be bound by this Agreement, even if only one Owner signs this Agreement. By signing below, Owner warrants they are the exclusive title owner of the Property.

