

# Ponderosa Property Management, Inc.

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Since 1978

## Property Management Agreement

CalBRE: 01310251

*We Make Your House A Home*

\_\_\_\_\_, Owner, of \_\_\_\_\_, Property, and PONDEROSA PROPERTY MANAGEMENT, INC. (Agent), in consideration of the covenants herein contained, agree as follows:

### 1. TERMS:

**A. Term:** Beginning \_\_\_\_\_ and continuing until \_\_\_\_\_ and continuing Month-To-Month thereafter, Owner employs Agent exclusively to rent, lease, operate, and manage the above described Property until either party elects to terminate this agreement by notifying the other party in writing at least 30-days in advance or upon the termination of the last tenant.

**B. Expense Authorization Limit:** \$ \_\_\_\_\_ for a single expense item. (See 7.A for additional terms.)

**C. Operating Reserve:** Owner shall deposit with Agent \$ \_\_\_\_\_ as an initial operating reserve. (See section 7.B for additional terms.)

### 2. COMPENSATION: Owner agrees to pay to Agent fees in the following amounts: (See sections 7.C and 7.D for additional terms.)

#### A. Management Fee:

\_\_\_\_\_ % of gross monthly rents collected each month not including Security Deposits with a minimum fee of \$95.00 per month.

\$ \_\_\_\_\_ flat fee per month.

**B. Lease Fee:** 36% of one months rent for new leases. Does not include marketing property in the Multiple Listing Service.

**C. Bounced Checks:** 100% of Non-Sufficient Funds charges collected from the tenant in compensation for charges by Agent's bank for the tenant's bounced checks.

**D. Late Fees:** 50% of late fees collected from the tenant. (See section 7.E for additional terms.)

**E. Annual Inspection Fee:** \$75.00 fee for a limited annual inspection of smoke and carbon monoxide detectors per California Health and Safety Code Section 13113.7 to cover cost of inspection, prepare report, and photo document problems. (See section 7.F for additional terms.)

**F. Service of Notices:** \$25.00 for the service of 3-Day Notices to Pay, Quit, Perform, Terminate or any other such notices which require personal service.

**G. Tax Withholding Fee:** \$10.00 special handling fee per transmission to California Franchise Tax Board for Non-California Residents. (See section 7.G for additional terms.)

**H. Non-Contracted Services:** Services not specified under this contract shall be performed only by agreement and billed at a rate of \$95.00 per hour. (See sections 7.H and 7.I for additional terms.)

**I. Sale To Tenant:** In the event Owner sells the property to a tenant located by Agent, Agent shall be paid a referral fee of 1% of sales price.

**J. Other:** \_\_\_\_\_

### 3. LEAD-BASED PAINT DISCLOSURE: Owner has initialed the appropriate three (3) lines below:

\_\_\_\_\_ Agent has informed Owner of Owner's obligation under 42 U.S.C. 4852d to disclose to the tenant any known lead-based paint hazards in the property if it was built prior to 1978 and to give them the booklet entitled "Protect Your Family."

\_\_\_\_\_ The property was constructed on or after January 1, 1978.

\_\_\_\_\_ The property was constructed prior to 1978.

\_\_\_\_\_ Owner has no knowledge of lead-based paint hazards in or on the property.

\_\_\_\_\_ Owner has knowledge of lead-based paint hazards in or on the property and will provide Agent with all reports, records and other information on such hazard.

### 4. AUTHORIZATIONS: Owner grants to Agent the following authority and powers:

**A. Advertise:** To advertise the availability of premises for rent or lease and to display "For Rent" signs.

**B. Select Tenant:** To collect and evaluate information on prospective tenants and select a tenant. (See sections 7.N, 7.O, and 7.P for additional terms.)

**C. Create Tenancy:** To negotiate and sign leases on behalf of Owner and in the name of Owner.

**D. Rent Collection:** To collect rents, security deposits, and all other receipts and deposit such monies into Agent's general trust account for Owner with a qualified banking institution. (See sections 7.Q, 7.U. and 7.W for additional terms.)

**E. Terminate Tenancy:** To sign and serve for Owner notices to terminate the tenancies and other such notices as Agent deems appropriate; to institute legal actions in the name of Owner or Agent; to evict tenants and recover possession of the premises; to recover rents and other sums due; and when expedient to settle, compromise and release such actions or suits or reinstate such tenancies. (See section 7.J for additional terms.)

**F. Maintenance & Repairs:** To make, cause to be made, and/or supervise repairs, improvements, alterations and decorations to the property as Agent deems necessary and to hire, supervise and discharge all employees and independent contractors required for the operation and maintenance of the premises and to incur costs for such, on Owner's behalf, up to the Expense Authorization Limit. (See sections 1.C and 7.A for additional terms.)

**G. Contracts & Services:** To sign and execute contracts for utilities and services for the operation, maintenance, and safety of the property on behalf of Owner as Agent deems necessary or advisable. (See section 7.K for additional terms.)

**H. Expense Payments:** To pay all bills and expenses reasonable and necessary in the management and maintenance of the property from Owner's funds.

**5. AGENT'S RESPONSIBILITIES:** Agent agrees to:

**A. Marketing:** Make best effort to procure qualified tenants at fair market rents.

**B. Tenant Screening:** Use due diligence in the screening and selection of tenants and abide by all fair housing laws.

**C. Management:** Do everything reasonably necessary for the proper management of the property including the collection of rent, causing the service of appropriate legal notices, periodic inspections, the supervision of maintenance, arranging for such improvements, alterations, and repairs as may be required of Owner.

**D. Records:** Maintain accurate records of all monies received and disbursed in connection with the management of the Property.

**E. Reports:** Submit monthly statements of all receipts and disbursements by the 20<sup>th</sup> of each month. (See section 7.V for additional terms.)

**F. Lead-Based Paint Disclosure:** Disclose to tenant any known lead-based paint hazards in the Property if it was built prior to 1978 and to give the tenant the booklet entitled "Protect Your Family" on Owner's behalf.

**6. OWNER'S RESPONSIBILITIES:** Owner agrees to:

**A. Documentation:** Provide Agent with all documentation, records, and disclosures as required by law or required by Agent to manage and operate the Property, and immediately notify Agent if Owner becomes aware of any change in such documentation, records, disclosures, or any matter affecting the habitability of the Property. This includes, if applicable: A copy of any Codes, Covenants & Restrictions (CC&R's) that may apply to the Property, or notifications from the Home Owner's Association (HOA) of changes in rules, regulations, pool access, parking, or any other change that might affect the tenant. All necessary information, account numbers, Payee name, address, phone number, and coupons, in the event Owner wants Agent to make payments on the mortgage, property Insurance, HOA, or property taxes.

**B. Insurance:** Carry, at Owner's expense, a general liability policy with a minimum limit of \$500,000 for bodily injury and property damage. Name Ponderosa Property Management as additional insured or additional interested party. Immediately furnish Agent with a certificate of insurance evidencing the above coverage is in force with a carrier acceptable to Agent. (See section 7.L for additional terms.)

**C. Indemnification:** Indemnify, defend, and hold harmless Agent and all of Agent's employees regardless of responsibility, from all costs, expenses, suits, liabilities, damages, attorney fees and claims of every type, including but not limited to those arising out of injury or death of any person, or damage to any real or personal property of any person, including Owner, for any repairs performed by Owner or by others hired directly by Owner or hired by Agent, or those relating to the management, leasing, rental, security deposits, or operation of the Property by Agent, or any other person in Agent's firm, or the performance or exercise of any of the duties, powers or authorities granted to Agent. (See section 7.S for additional terms.)

**D. Expenses:** Assume full responsibility for the payment of any expenses and obligations incurred for the Property in connection with the proper and reasonable exercise of Agent's duties set forth in this Agreement and to forward, immediately upon notification, any funds needed to pay Owner's obligations. (See section 7.M for additional terms.)

**E. Habitability:** Maintain Property in a condition fit for human habitation as required by Civil Code 1941 and 1941.1 and Health and Safety Code 17920.3 and 17920.10 and other applicable law.

**F. Interest:** Pay all interest on the tenant's security deposits if required by local law or ordinance. (See section 7.Q for additional terms.)

**G. Late Charges:** Pay any late charges, penalties and/or interest imposed by lenders or other parties for failure to make payment to those parties, if the failure is due to insufficient funds in Agent's trust account available for such payment.

**H. Mortgage:** Stay current on mortgage payments. (See section 7.R for additional terms.)

**7. ACKNOWLEDGEMENTS:** Owner acknowledges, understands, and agrees that:

**A. Exception to Expense Authorization Limit:** In the event Owner is not reasonably available for consultation and authorization, Agent will, at Agent's discretion, exceed the Expense Authorization Limit if necessary to protect the Property from damage or persons from injury or to perform services to the tenant provided for in their lease or rental agreement.

**B. Minimum Operating Reserve:** The operating reserve shall be maintained at a minimum level equal to the amount identified as Operating Reserve in Section 1C above plus the amount of the Security Deposit and the amount of the monthly mortgage payment if Agent has been instructed to pay the mortgage out of Owner's account.

**C. Third Party Compensation:** Agent may receive and keep compensation from: 1) The tenant for assignment of lease or sublease of the Property, processing credit applications, returned checks, late payments, and other services that are not covered in this Agreement. 2) Affiliated companies or organizations in which Agent may own an interest. 3) The financial institution in which Agent's Trust Account resides in the form of earning credits for the purpose of offsetting bank service charges on Agent's Trust Account.

**D. Expenses:** Expenses incurred for advertising, out of country phone calls, collection costs, legal fees, service of legal notices, and any other expenses associated with the Property are expenses of Owner and may be charged back to Owner's account if paid from Agent's account.

**E. Late Fees:** Any late fees that may be due under the tenant's lease will be levied against the tenant at Agent's discretion.

**F. Inspections:** Annual inspection does not include termites, foundations, roofs, utilities, appliances, structural issues, or any other condition obstructed from view.

**G. Tax Withholding:** If Owner is not a California Resident or a corporation or LLC qualified to conduct business in California, Owner authorizes Agent to withhold and transmit to California Franchise Tax Board (FTB) 7% of the GROSS payments to Owner that exceed \$1,500 received by Agent, unless Owner completes and transmits to Agent FTB form 589, Nonresident Reduced Withholding Request, FTB form 588, Nonresident Withholding Waiver, or FTB form 590, Withholding Exemption Certificate. If Owner is a nonresident alien individual, a foreign entity, or other non-U.S. person, (Foreign Investor) Owner authorizes Agent to withhold and transmit to the Internal Revenue Service (IRS) 30% of the GROSS rental receipts unless Owner elects to treat rental income as "effectively connected income" by submitting to Broker a fully completed IRS form W-8ECI, Certificate of Foreign Person's Claim for Exemption From Withholding on Income Effectively Connected With the Conduct of a Trade of Business in the United States. A Foreign Investor Owner will need to obtain U.S. tax payer identification number and file a declaration with the IRS regarding effectively connected income in order to complete the form given to Agent. Further, the Foreign Investor Owner will be responsible for making any necessary estimated tax payment.

**H. Excluded Services:** Agent's services do not include providing on-site management services, property sales, preparing Property for sale or refinancing, or any other work or maintenance after the last tenant has vacated, modernization, fire or major damage restoration, rehabilitation, obtaining income tax, accounting, or legal advice, representation before public agencies, advising on proposed new construction, debt collection, counseling, attending Owner's Association meetings, or coordinating the sale of or refinancing of the Property with Owner, agents, appraisers, lenders, inspectors, securing signed estoppel certificates or setting appointments for warranty inspections or inspections by buyers, agents, and appraisers, etc., or court appearances as described in 7.I below. If Agent agrees to perform any such services they shall be billed at the Non-Contracted Services billing rate in section 2.H above.

**I. Court Appearances:** Agent shall appear in court only for an Unlawful Detainer of a tenant placed by Agent and only for a maximum time of two hours. All other court appearances, all additional time, and all additional preparation for court shall be billed at the Non-Contracted Services billing rate in section 2.H above for each Agent employee required to appear in court.

**J. Legal Representation:** Agent shall not act as an attorney on behalf of Owner in a legal action. Agent is authorized to secure an attorney on Owner's behalf at Owner's expense as needed for enforcing the collection of rent or eviction of a tenant or other legal matters.

**K. Contracts:** Upon termination of this Agreement, Owner shall assume the obligations of any contracts or outstanding bills entered into on Owner's behalf under this Agreement. Agent shall withhold funds necessary for the payment of bills previously incurred but not yet invoiced for sixty (60) days after the termination of this Agreement.

**L. Insurance Payments:** In the event Owner fails to make the premium payment on the Property's general liability insurance policy or lets the policy lapse, Agent may, at Agent's discretion, make the premium payment from Owner's account, take out an appropriate insurance policy, or immediately terminate this agreement. In the event Agent takes out a new insurance policy, Owner agrees Agent is not responsible for any damages or liabilities not covered by that policy.

**M. Operating Funds:** Agent will not advance funds for payment of Owner's operating expenses and in the event Agent's request for additional funds to pay Owner's obligations is not honored, Agent may, at Agent's option, terminate this Agreement immediately.

**N. Equal Housing Opportunity:** The Property will be offered in compliance with all federal, state, and local Fair Housing and anti-discrimination laws.

**O. Tenant:** Any tenant placed in the Property is the tenant of Owner and not the tenant of Agent.

**P. Tenant Damages:** Agent is not liable for tenant damages, including unpaid rent.

**Q. Trust Interest:** Unless otherwise required by law, Agent's general trust account shall not be an interest bearing account.

**R. Defaults:** Owner is unaware of: 1) any recorded Notice of Default affecting the Property; 2) any delinquent amounts due under any loan secured by or other obligation affecting the Property; 3) any bankruptcy, insolvency, or similar proceeding affecting the Property; 4) any litigation, arbitration, administrative action, government investigation, or other pending or threatened action that does or may affect the Property or Owner's ability to transfer it; and 5) any current, pending, or proposed special assessments affecting the Property. Owner shall promptly notify Agent in writing if Owner becomes aware of any of these items during the term of this Agreement.

**S. Non-Responsibility:** Agent is not responsible for the acts, omissions, defaults, negligence, and costs of attorneys, agents, employees or independent contractors hired on Owner's behalf under this agreement, nor is agent liable for any error of judgment or for any mistake of fact of law, or for anything which Agent may do or refrain from doing except in cases of willful misconduct or gross negligence.

**T. No Recommendations:** Agent makes no recommendation to Owner in regard to Owner's own insurance needs, or the tax and investment consequences of Owner's Property and advises Owner to consult insurance, tax, and investment professionals.

**U. Trust Funds:** Agent shall deposit all receipts into and pay Owner's expenses out of Agent's general trust account at a financial institution whose deposits are insured by an agency of United States Government and Agent is not responsible for the any failure or bankruptcy of such institution.

**V. Disbursements:** Disbursements of all funds due Owner shall be made in the following order: 1) Compensation due Agent under this agreement. 2) All other operating expenses, costs, and disbursements payable from Owner's funds held by Agent. 3) Reserves and security deposits held by Agent. 4) Balance due Owner.

**W. Security Deposit:** As the Security Deposit belongs to the tenant, is held in trust for the tenant, is to be applied to property damage caused by the tenant or other damages under the tenant's lease, and is not a part of Owner's funds, Agent shall hold the Security Deposit in Agent's Trust Account in trust for the tenant. Upon termination of the tenancy, Agent shall disburse any Security Deposit due, plus interest if required by law, to the tenant. In the event Owner is holding the Security Deposit in trust on behalf of the tenant, Owner agrees to forward any Deposit due the tenant upon the termination of the lease with the tenant.

**X. Agency Relationships:** Agent may act as dual agent for Owner and the tenant(s) in any resulting transaction. Agent has property management agreements on other property and potential tenants may consider, make offers on, or lease through Agent, property the same as or similar to Owner's Property. Owner consents to Agent's representation of other Owner's properties before, during, and after the expiration of this Agreement.

**Y. Termination:** In the event Owner terminates this agreement within six months after Agent has placed a new tenant in the Property, Owner shall pay Agent an additional Lease Fee of 50% of one months rent.

**8. NOTICES.**

All notices required to be given hereunder shall be in writing and mailed to the parties hereto at the addresses set forth below.

**9. HEIRS, SUCCESSORS, ASSIGNS.**

This Agreement shall be binding upon the successors and assigns of Agent and the heirs, administrators, executors, successors, and assigns of Owner.

**10. SEVERABILITY.**

If any provision of this agreement, or its application, is held invalid, it will not affect other provisions or application herein which can be given effect without the invalid provision or application. To this end all provisions of this agreement are severable.

**11. ATTORNEY'S FEES.**

In the event of any legal action by the parties arising out of this Agreement, the losing party shall pay the prevailing party reasonable attorney's fees and costs in addition to all other relief.

**12. ADDITIONAL TERMS.** The following are additional terms, conditions, and covenants to which the Parties agree:

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**13. Entire Agreement:** The forgoing constitutes the entire agreement between the parties and may only be modified in writing.

Owner: \_\_\_\_\_ Soc. Sec.# \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Mail Rent To: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Agent Signature: \_\_\_\_\_ Date: \_\_\_\_\_

For: Ponderosa Property Management, Incorporated

