



RESIDENTIAL LETTING MANAGEMENT AGREEMENT

TERMS AND CONDITIONS

1. INTERPRETATION

In this Agreement, unless a contrary intention is apparent:-

- 1.1 "the Agent", "the Advance Expenses", "the Disbursements", "the Expenses Limit", "the Initial Prescribed Period", "the Landlord", "the Professional Fee", "the Property", and "the Rental" are as identified or specified in the Schedule;
- 1.2 "the Act" means the "Residential Tenancies Act 1995";
- 1.3 "the Expenses" include media advertising, promotional brochures, signboards, bank accounts debit tax, postage, cheque costs, telephone and other sundry expenses;
- 1.4 "GST" means any goods and services or similar or comparable tax imposed by and defined in the GST Law;
- 1.5 "GST Law" means A New Tax System (Goods and Services Tax) Act 1999 or any other Act or Regulation pursuant to, associated with, amending or replacing that Act. The term "supply" and any other expression used in this Agreement that is also defined in the GST Law shall have, for the purposes of this Agreement, the meaning used in or attributed to that expression by the GST Law;
- 1.6 "REISA" means The Real Estate Institute of South Australia Incorporated;
- 1.7 "the Term" is as identified in Clause 6 of this Agreement and in the Schedule;
- 1.8 the singular includes the plural and *vice versa* and references to natural persons include corporations and *vice versa*.

2. APPOINTMENT

- 2.1 Subject to the payment of the costs and fees specified herein OR unless otherwise specified in the Schedule the Landlord hereby appoints the Agent as its agent to let and to manage the Property for the Term and the Agent accepts this appointment and undertakes to use its best endeavours in the performance of its duties.

- 2.2 The Landlord agrees with the Agent that this Agreement is transferable and that the Agent may transfer, sell or assign their rights under this Agreement to a third party without the prior consent of the Landlord and upon such transfer the Landlord and the third party shall continue to be bound by the terms and conditions of this Agreement.

3. LANDLORD WARRANTIES, INDEMNITIES AND ACKNOWLEDGEMENTS

- 3.1 The Landlord and any person purporting to act on behalf of the Landlord:-
 - 3.1.1 warrants that it has the authority and legal capacity to enter into this Agreement and that it has not offered the Property for letting or management previously except as specified in the Schedule;
 - 3.1.2 agrees to indemnify the Agent against the whole of any costs, expenses, damage or loss (including any loss of Professional Fee which would otherwise have been payable) suffered by the Agent by reason of any breach of the warranties contained in this clause;
 - 3.1.3 warrants that all information as to the Property given to the Agent at any time is true and correct and undertakes to promptly advise the Agent of any changed or additional information which shall come to the knowledge of the Landlord. The Landlord hereby authorises and instructs the Agent to offer the property to let in accordance with that information;
 - 3.1.4 will indemnify and hold indemnified the Agent from and against all actions, claims, demands, losses, costs, damages and liabilities and expenses properly incurred by the Agent in carrying out its duties and obligations hereunder except in the event of default by the Agent;
 - 3.1.5 acknowledges that the Agent shall not have any liability to the Landlord and the Landlord will indemnify the Agent against all actions, claims, demands, losses, costs, damages and liabilities if the Agent fails or omits to do any act, matter or thing it is obliged to do hereunder if such failure or omission arises from the Landlord's failure to make the appropriate decision in relation to such act matter or thing or to have sufficient moneys available to the Agent to enable the Agent to carry out its obligations hereunder;

- 3.1.6 acknowledges that the Agent may receive an offer of or receive a commission fee or reward from another party in regard to the performance of the duties or functions to be carried out by the Agent and the Landlord consents to the Agent receiving such commissions, fees or rewards specified in the Schedule or otherwise notified by the Agent in writing;
- 3.1.7 acknowledges that the Agents duties and authorities are expressly limited to those contained in this Agreement;
- 3.1.8 acknowledges that the Agent gives no warranty as to the credit worthiness or financial status of any tenant;
- 3.1.9 acknowledges that it is the Landlord's responsibility to provide suitable insurance over the Property;
- 3.1.10 undertakes to provide prompt written advice to the Agent whenever instructions are requested by the Agent.
- 3.1.11 warrants that the whole of the Property:
- 3.1.11.1 comprises residential premises and not commercial premises; and
- 3.1.11.2 is to be used predominantly for residential accommodation.
- 3.1.12 agrees that if the Property either does not commence to be used predominantly for residential accommodation or, after having commenced to be used predominantly for residential accommodation, ceases to be so used then the Landlord shall forthwith notify the Agent of such change;
- 3.1.13 agrees to advise the Agent of the Landlord's GST registration status and the Landlord's Australian Business Number ("ABN") (if applicable) within seven (7) days of being requested to do so.

4. AGENTS AUTHORITY

4.1 The Agent is hereby authorised by the Landlord to:-

- 4.1.1 let the Property and if appropriate to relet the Property as and when it becomes vacant at the Rental or at such other rental as the Landlord from time to time may nominate in consultation with the Agent and in particular to:-
- 4.1.1.1 advertise the Property to let at the Landlord's expense as specified in the Schedule in accordance with the information supplied by the Landlord and in such manner as the Agent considers appropriate including the placing of signage on the Property;
- 4.1.1.2 interview prospective tenants, conduct the necessary checks and to report to the Landlord for instruction if requested so to do;

- 4.1.1.3 negotiate terms and conditions of tenancy with prospective tenants in accordance with the Landlord's instructions and unless otherwise directed, prepare at the expense of the Landlord the Residential Tenancy Agreement and to sign any such Agreement on behalf of the Landlord;
- 4.1.1.4 unless otherwise specified by the Landlord to offer the Property to let on the Application and Residential Tenancy Agreement forms issued by REISA; and
- 4.1.2 manage the Property and in particular, unless the contrary is specified in the Schedule to:-
- 4.1.2.1 collect rents, bonds and other moneys (if any) due to the Landlord from the tenant when the same are due for payment;
- 4.1.2.2 pay from moneys collected by the Agent the Disbursements upon receiving accounts from or for the Landlord;
- 4.1.2.3 account and render statements in writing to the Landlord for all moneys received, paid or appropriated and to pay all moneys due to the Landlord as specified in the Schedule;
- 4.1.2.4 inspect the property from time to time when deemed necessary by the Agent and if requested by the Landlord to report in writing to the Landlord on the state of repair and condition of the Property;
- 4.1.2.5 advise the Landlord of any major damage to or accident occurring in or on the Property immediately upon the Agent becoming aware of same;
- 4.1.2.6 at the expense of the Landlord, effect any maintenance or repair to the Property as is deemed necessary by the Agent, without notice to the Landlord, provided that the cost thereof in any case does not exceed the amount specified in the Schedule;
- 4.1.2.7 advise the Landlord if the Property is or is to become vacant immediately the Agent becomes aware of same and to seek the Landlord's instructions as to reletting. Clause 4.1.1 shall apply to such reletting;
- 4.1.2.8 advise the Landlord as and when tenancies expire or become due for renewal;
- 4.1.2.9 negotiate the terms and conditions of extensions or renewals of Tenancy Agreements with tenants in accordance with the Landlord's instructions;
- 4.1.2.10 refer any application for assignment or subletting to the Landlord;
- 4.1.2.11 advise the Landlord of any known breach of terms of any tenancy agreement immediately upon the Agent becoming aware of same;
- 4.1.2.12 complete and serve all forms and notices required which may be served by the Agent on behalf of the Landlord under the Act;
- 4.1.2.13 appear before the Tenancies Tribunal on behalf of the Landlord;
- 4.1.2.14 attend at the Property, complete and serve an Inspection Sheet as required by the Act.

7.3 If for any reason any supply made under or in connection with this Agreement is not GST free or input taxed (as the case may be) as contemplated by the parties, then the Landlord shall on demand pay to the Agent by way of further consideration for the supply, an amount calculated in the manner specified in clause 7.1 including any penalties and/or interest incurred by the Agent under the GST Law.

7.4 This clause 7 shall survive any termination of this Agreement by either the Agent or the Landlord.

8. PRIVACY ACT 1988

The Agent uses personal information collected from the Tenants and Landlord to act as the Landlord's agent and to perform its obligations under this agreement. The Agent may also use such information collected to promote the services of the Agent and/or seek potential clients.

The Agent may disclose information to other parties including tradespersons, other agents, media organizations, on the internet, to potential buyers, or to clients of the Agent both existing and potential, as well as to parties engaged to evaluate the property, owners, corporations, government and statutory bodies and financial institutions.

The Agent will only disclose information in this way to other parties as required to perform its duties under this agreement, to achieve the purposes specified above or as otherwise allowed under the Privacy Act 1988.

If the Landlord would like to access this information, they can do so by contacting the Agent at the address and contact numbers contained in this agreement. The parties can also correct this information if it is inaccurate, incomplete or out-of-date.

Real estate and tax law requires some of this information to be collected. If the information is not provided, the Agent may not be able to act on the parties behalf effectively or at all.

9. OTHER CONDITIONS

This Agreement includes such other terms and conditions as are specified in the Schedule.

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5. PROFESSIONAL FEES - EXPENSES - DISBURSEMENTS

- 5.1 If the Agent introduces or otherwise procures for the Landlord a tenant and the Landlord thereafter enters into an agreement to let the Property to that tenant or to that tenant's nominee or assign, or if the Property is let by any other means during the Term of the agency the Landlord must at that time pay to the Agent the Professional Fee for letting the Property.
- 5.1.1 Clause 5.1 shall have no effect where this Agreement has been properly terminated and the letting has been obtained by another agent engaged by the Landlord to let the Property.
- 5.2 Where the agent carries out or performs all or any of the duties or functions required to be carried out or performed by the Agent, the Landlord must at that time pay to the Agent the Professional Fee payable in respect of those duties or functions.
- 5.3 The Landlord will observe, perform or carry out the terms and conditions of any tenancy agreement effected by the agent and if any such tenancy agreement is terminated or lapses by reason of the Landlord's breach or default or the Landlord is unwilling to proceed with the tenancy agreement the Landlord will in addition to any moneys payable under this Agreement pay to the Agent as liquidated damages for breach of this clause an amount equal to the Professional Fee for letting and management which would have been payable if the tenancy agreement had been duly completed.
- 5.4 The Landlord must pay to the Agent the amount of the Expenses (including any GST payable in respect to the Expenses) specified in the Schedule and actually incurred by the Agent within seven (7) calendar days of the rendering of an account for same.
- 5.5 The Landlord must pay to the Agent the amount of the Advance Expenses within seven (7) calendar days of the date of this Agreement and the agent may draw upon those moneys to meet incurred expenses.
- 5.6 The Landlord authorises the Agent to deduct any moneys due and payable by the Landlord to the Agent pursuant to this Agreement from any moneys received by the Agent for and on behalf of the Landlord.

6. AGENCY (SOLE AND GENERAL) AND TERMINATION

- 6.1 Unless otherwise specified in the Schedule the Agent is appointed as the sole agent of the Landlord for the Term and the Landlord:-
- 6.1.1 will not endeavour to manage the Property or to let the Property as principal to any person other than one introduced by the Agent to the Landlord, but will refer any interested party to the Agent and advise the Agent accordingly; and
- 6.1.2 must revoke in writing any authority given to any other agent to let or to manage the Property.

- 6.2 After the expiry of the Term of the sole agency, the Agent's appointment as the Landlord's agent shall continue as a general or continuing agency unless the Landlord has at least twenty one (21) calendar days prior to the expiry of the Term of the sole agency given notice in writing to the Agent that this Agreement shall terminate on the said expiry date.
- 6.3 A general agency whether created expressly by appointment or upon expiry of the Term of a sole agency shall continue until terminated by either party by giving sixty (60) calendar days notice to the other party.
- 6.4 This Agreement cannot be terminated by either party during the Term of the sole agency unless either:-

- 6.4.1 the other party consents in writing to the termination, or
- 6.4.2 the Property is unlet for the entire Initial Prescribed Period in which case the agency may then be terminated by giving seven (7) calendar days written notice to the other party provided that the Property remains unlet until termination.

7. GOODS AND SERVICES TAX

The Agent and the Landlord acknowledge and agree that:

- 7.1 If GST applies to any supply made under or in connection with this Agreement by either the Agent or the Landlord:
- 7.1.1 the Agent may, in addition to any amount or consideration expressed as payable in respect of the supply, recover from the Landlord an additional amount on account of GST; and
- 7.1.2 the Landlord shall pay to or reimburse to the Agent or to a third party (as the case may be), any additional amount on account of any GST that is or was incurred, paid or payable by the Agent and/or the Landlord in respect of that supply; and
- 7.1.3 the amount payable by the Landlord to the Agent or to a third party in respect of that supply shall be increased by the product of:
- 7.1.3.1 the rate at which GST is imposed at that time; and
- 7.1.3.2 the amount or consideration payable for the relevant supply; and
- 7.1.4 the Landlord shall pay any additional amount on account of GST at the same time as the payment for the relevant supply is payable or at such other time as the Agent directs.
- 7.2 The Landlord agrees to pay and indemnify the Agent against any taxation penalties and/or interest that may be charged or levied against the Agent in respect of any GST liability under or in connection with this Agreement.

I. Expenses [Clause 5] - Amount is inclusive of GST

- 1) Media Advertising (a) As necessary to secure a tenant
or (b) Up to a limit of \$
- 2) SignBoard \$
- 3) Other \$
- The Expenses Limit (including the Advance Expenses) \$
- The Advance Expenses \$
- 4) B.A.D. Tax/Bank charges
- 5) Postage
- 6) Cheques
- 7) Telephone (non local)
- 8) Other

J. Disbursements [Clause 4.1.2.2] - Amount is inclusive of GST

The landlord requests the manager to pay following outgoings

- Council
- Water and Sewer Rates
- Water Usage Charge
- Land Tax
- Strata/Community Title Levies
- Gardening
- Insurance Building
- Contents
- Emergency Services Levy
- Other

K. Maintenance/Repairs [Clause 4.1.2.6]

Maximum expenditure WITHOUT approval from "the Landlord" \$ Special Instruction / Emergency Contact

L. Payment to the Landlord [Clause 4.1.2.3]

To be paid to
 Institution A/c of
 Branch No. (BSB) Account No.
 Payment to be made and a statement Monthly Other

M. Agent Disclosure [Clause 3.1.6]

Advertising Maintenance Insurance Other

N. Other Conditions [Clause 8]

O. Rates and Charges for water supply

- (1) Landlord to pay
- (2) Tenant to pay
- (3) Other

P. Insurance (these policies to be placed by manager at request of landlord as specifically directed below)

Building Insurer Policy No

Contents Insurer Policy No

Landlord Protection Insurer Policy No

Q. Previous agency agreement with terminated in writing [Clause 3.1.1]

R. Other instructions/information

EXECUTION

On the day of 20

Signed by or on behalf of the Landlord

Signed by or on behalf of the Agent

Receipt of a copy of this Agreement is acknowledged

Landlord- Please Note:-

1. REISA recommends that you should not sign any document unless you are satisfied that you understand its terms. Please raise any concerns that you have with your REISA member who will be happy to help you.
2. Use of this Agreement by a non-member of REISA is a breach of Copyright.
3. Insurance against malicious damage by a tenant, rent default and public liability is recommended.
4. Emergency repairs will be undertaken immediately they are reported. Every effort will be made to contact the Landlord and to advise the emergency. However if it is an after hours emergency the repairs will be carried out at the Landlords expense and the Landlord advised on the next business day.