

damages in an amount equal to (3) three times the highest monthly management fee earned by Manager during the twelve (12) month period immediately preceding such termination of this Agreement by Owner (b) Manager is adjudicated a bankrupt, suffers the filing of any involuntary petition in bankruptcy where such petition is not vacated or dismissed within thirty (30) days, or suffers or allows the appointment of a receiver for all or substantially all of its assets where such receivership is not discharged or vacated within thirty (30) days, or (c) all or substantially all of the Property is taken in condemnation or destroyed by fire or other casualty.

2.3 Termination Without Cause. In the event this Agreement is terminated by Owner prior to the first (1st) anniversary of the Commencement Date of the initial term or any subsequent extended term, for any reason other than as stated in Section 2.2, Owner shall pay to Manager liquidated damages in an amount equal to three (3) times the highest monthly management fee earned by Manager (as provided in Section 12.2) during the twelve (12) month period immediately preceding such written termination of this Agreement by Owner personally delivered or sent by certified or registered mail, postage prepaid, return receipt requested. This Section 2.3 and any obligation of Owner hereunder shall survive any termination of the Agreement.

2.4 Effect of Termination. Upon the termination of this Agreement, Manager shall render an accounting to the Owner, the Owner shall promptly pay Manager (a) all amounts to which Manager would be entitled hereunder as if the date on which Manager's employment is terminated were the first day of the calendar month immediately succeeding the month in which such termination occurs, and (b) any liquidated damages payable to Manager under Section 2.2 and 2.3, and thereafter, neither Manager nor the Owner shall have any rights, duties or obligations hereunder, except for those indemnities and liabilities set forth in Section 12.9.5 and Article XIV hereof, which shall survive the termination of this Agreement.

ARTICLE III

Duties and Responsibilities of Agency Relations

Per Colorado Real Estate Commission Form No. LC15-1-03 Exclusive Right to Lease Listing Contact, for all Types of Premises, Landlord Agency.

The relationship of the parties to this Agreement shall be that of Principal and Agent, and all duties to be performed by Agent under this Agreement shall be for that on the behalf of the Owner, in Owners name and for Owners account. In taking any action under this Agreement, Agent shall be acting only as Agent for Owner, and nothing in this Agreement shall be construed as creating a partnership, joint venture, or any other relationship between the parties to this Agreement except that of Principal and Agent, or as requiring Agent to bear any portion of losses arising out of our connection with the ownership or operation of the Premises. Nor shall Agent at

any time during the period of this Agreement be considered a direct employee of Owner.

Neither

party shall have the power to bind or obligate the other except as expressly set forth in this Agreement, except that Agent is authorized to act with such additional authority and power as may be necessary to carry out the spirit and intent of this Agreement.

3.1 Brokerage firm, acting through Broker, shall provide brokerage services to Landlord. Broker shall exercise reasonable skill and care for Landlord.

Broker, as Landlord's agent shall promote the interest of Landlord with the utmost good faith, loyalty and fidelity, including, but not limited to:

- (1) Seeking rental rates and terms which are acceptable to Landlord; except that Broker shall not be obligated to seek additional offers to Lease the premises while the Premises are subject to an agreement to Lease the Premises;
- (2) Presenting all offers to and from Landlord in a timely manner regardless of whether the Premises are subject to an agreement to Lease;
- (3) Disclosing to Landlord adverse material facts actually known by Broker;
- (4) Counseling Landlord as to any material benefits or risks of a transaction actually known by Broker;
- (5) Advising Landlord to obtain expert advice as to material matters about which Broker knows but the specifics of which are beyond the expertise of Broker; and
- (6) Accounting in a timely manner for all money and property received.

Broker shall not disclose the following information without the informed consent of Landlord:

- (1) That Landlord is willing to accept less than the stated rental rate for the Premises;
- (2) What the motivating factors are for Landlord to Lease the Premises;
- (3) That Landlord will agree to Lease terms other than those offered;
- (4) Any material information about Landlord unless the disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing; or
- (5) Any facts or suspicions regarding circumstances which may psychologically impact or stigmatize any real property pursuant to Colorado law.

Landlord shall not be vicariously liable for the acts of Broker that are not approved, directed or ratified by Landlord.

ARTICLE IV LEASING

4.1 Leases. Manager shall advertise the availability for rental of the Property at the expense of the Owner or Resident whichever is applicable; shall display for rent signs thereon; shall sign, renew and/or cancel leases for the Property; shall collect rents for the Property and give receipts therefore; shall maintain records of the rent and other receipts arising from each separate Property; shall terminate tenancies and take all necessary or appropriate steps to accomplish the same; shall qualify Residents by checking past and current landlord reference, credit and criminal background, payment history and employment verification; shall, if necessary, take appropriate steps (including legal action, if needed) to evict Residents and recover possession of the Property; shall (in appropriate cases) sue on behalf of the Owner to recover rents and other sums due from defaulting Residents; and (if appropriate) shall settle, compromise and release

claims or legal actions against defaulting Residents and/or reinstate such tenancies. Manager shall use its standard form leases, as such forms are refined from time to time, and shall not make any lease extending more than one year from its commencement date. Management may collect from Residents all or any of the following: late rent administrative charge, a non-sufficient check charge, utility service, credit report fee and a reassignment fee, to be retained by Manager for those extra administrative duties.

4.2 Security Deposits. Manager shall collect an appropriate security deposit for each rental unit, usually equivalent to one (1) month's rent. The Security Deposit and Pre paid rents will be held at Independent Bank, FDIC Insured. Each security deposit shall be placed by Manager in a separate escrow account designated for security deposits, only, which account shall not be available to Manager or Owner for any purpose. Any interest earned on said account shall belong to Manager. Manager shall provide each Resident with an accounting of each security deposit upon the termination or expiration of each lease, in accordance with the Colorado Security Deposit Statute. Manager shall have the right and authority to negotiate, compromise and settle controversies that may arise in such accounting. Upon expiration or termination of this Management Agreement or upon deletion of a Property from the terms hereof, and provided with written authorization from each Resident, Manager shall deliver to Owner or Owner's designated agent all security deposits involved, whereupon Owner shall become solely and separately responsible for the return of such security deposits to said Residents. In the event, Owner shall indemnify Manager against, and hold it harmless from, any claims or demand from the Resident relative to a security deposit actually turned over to Owner by Manager. Unless and until a security deposit or portion thereof has been forfeited by the Resident, Manager may not utilize any such security deposits as a set off against any obligation owed it by the Owner, nor may Owner require that any deposit be credited against an obligation of Owner hereunder.

ARTICLE V REPAIRS, MAINTENANCE AND REPLACEMENTS

5.1 Routine Repairs and Maintenance. Manager shall maintain the Property in good repair and condition and in conformity with applicable laws, City Code update and regulations and shall make or cause to be made such routine maintenance, repairs and minor alterations, as it, from time to time, deems necessary for such purposes; provided, however, that unless otherwise approved by Owner in the applicable annual budget for the Property, prior written consent of Owner must be obtained if the expense to be incurred for any one item of repair or maintenance exceeds or is reasonably anticipated to exceed 250.00 or if the cost of such unbudgeted items exceed, in the aggregate, in any calendar month, the sum of One Thousand Dollars (\$1000.00). Any maintenance approved by the Owner shall be paid for in advance with a check, prior to the start of work.

5.1.1 Emergencies. Notwithstanding the foregoing, in the event of an emergency or apparent emergency, Manager may authorize the necessary repairs and incur expense in excess of the cost limitation without first obtaining Owner's prior approval and Manager shall promptly notify Owner of such event as soon as possible thereafter. Owner shall pay for emergency repairs as soon as notified with a check.

5.2 Service Contracts and Seasonal Maintenance. Manager shall make contracts with public utility companies for electric, gas, water, telephone and such other usual services, in the name of Owner. Manager shall enter into such other seasonal service contracts, in the name of Owner, that Manager deems necessary and appropriate for the operation and maintenance of the

Property, including but not limited to, servicing air conditioning and heating maintenance, pest control, parking lot cleaning, snow removal, gutter cleaning, sprinkler startup and shut down, spring and fall landscape clean up, sump pump inspections, routine sewer maintenance and janitorial; provided the costs of such services are reasonable, and provided the term of such contract does not exceed one (1) year and may be terminated with or without cause on not more than thirty (30) days notice. In addition to maintenance service contracts with third parties such maintenance services may be provided by Manager.

ARTICLE VI BOOKKEEPING AND BANK ACCOUNTS

6.1 Books and Records. Manager shall prepare and maintain, and keep available for inspection by Owner and Owner's appointed representatives, complete and accurate books of account and other records of all transactions related to the Property, including, but not limited to, voucher statements, receipted bills and invoices, and all other records in such form as Owner may reasonably require with respect to all collections, disbursements, correspondence, and other data and documentation, including operating statements, profit and loss statements and operating expenses, and if applicable, comparison of the same to the budgets and balance sheets. Any and all such information, summaries, accounts and records relating to the Property shall be the Property of the Manager and upon termination of the Agreement, copies of the same shall be surrendered to Owner. Manager shall cooperate with Owner's auditors and accountants with regard to review and analysis of such records and preparation of annual audited financial statements.

6.2 Bank Accounts. Manager shall maintain a trustee account for deposit of all funds derived from operation of the Property. All charges, debts, liabilities and expenses incurred for the operation of the Property, as otherwise provided herein, shall be paid by Manager from such account. Manager shall not be required to make any advance or payment to or for the account of Owner or the Property except out of such funds or such additional funds to be provided by Owner, as may be required, and Manager shall have no personal liability or obligation therefore. Owner agrees to advance to Manager all funds necessary for the Manager to operate and manage the Property and otherwise perform Manager's obligations under this Agreement.

6.3 Monthly Reports. Manager shall prepare and deliver to Owner by the tenth (10th) day following Manager's monthly accounting cutoff, a monthly statement of receipts and disbursements for the Property as of the end of the preceding reporting period, together with all other statements concerning operations, including but not limited to, written lease analysis, occupancy statements, rental delinquency statements, budget variance statements, narrative summary of Property operations for the period and such other information Manager or Owner deem appropriate. The statements of receipts and disbursements shall additionally include all costs, expenses, fees, charges, outlays, compensations and commissions paid or payable to Manager hereunder.

ARTICLE VII INSURANCE

7.1 Insurance Requirements. Manager may consult with Owner's insurance representative, regarding the type and amount of insurance advisable for the Property, including but not limited to, comprehensive general public liability insurance, fire insurance with extended coverage,

tornado, hurricane, flood, vandalism, malicious mischief, boiler and rent continuation insurance, and any such other insurance required or appropriate with respect to the Property. Agent shall be covered as an additionally insured on all liability insurance maintained with respect to the Premises. Owner agrees to carry a minimum of \$1,000,000 in liability insurance. Upon specific approval and request by Owner. If the subject property is part of a Home Owners Association, Manager hereby recommends Owner obtain additional insurance to supplement the Home Owners Association master policy.

7.1.1 Policies and Endorsements. All insurance policies obtained hereunder shall name Owner, Manager and any others designated by Owner, as **additional insured**, shall be obtained by an insurance company authorized to conduct business in the State of Colorado, and shall contain a provision that the same may not be canceled or materially changed without thirty (30) days prior written notice to Owner and Manager.

ARTICLE VIII TAXES

8.1 Real Estate (General and Special) and Personal Property Taxes. All real estate and personal Property taxes, levies, assessments and similar charges on or relating to the Property during the term of this Agreement shall be paid when due by the Owner, prior to delinquency.

ARTICLE IX FUNDING

9.1 Funding. Owner agrees to advance to Manager and fund any cash requirements of the Property incurred in connection with Manager's performance of the duties hereunder.

9.1.1 Minimum Balance. Owner shall maintain at all times a minimum balance of \$500.00 for each Property, to ensure that expected repair, maintenance or other expense can be promptly paid. Said sum shall be held with interest, if applicable, and any balance shall be returned to Owner within sixty (60) days after expiration or termination of this Agreement.

9.2 Inspection fee. Owner shall pay to Manager a semi-annual inspection fee of \$75.00 to ensure that Property is in good repair and that there are no unreported maintenance items which could be hazardous and cause peril to Residents.

9.3 Mortgages Etc. If so indicated on Exhibit A as to a Property, Manager shall not pay the Mortgages or Deeds of Trust; Property taxes; hazard insurance; Homeowner's Association fees; and any other special items for which information is given on Exhibit A.

9.4 Application of Funds. Owner and Manager agree that all funds paid by Residents and Owner for the Property shall be applied by Manager in the following, descending order of priority (that is, with the highest priority listed first):

- 1) Management Fee
- 2) Expense Reimbursements to Third Parties
- 3) Expense Reimbursements to Manager
- 4) Minimum Reserve Balance
- 5) Utility Expenses
- 6) Maintenance Expenses

Owner specifically acknowledges that Manager shall have no liability or responsibility whatever for any loss occasioned Owner by the failure to pay one or more of the items listed, if Manager has applied the receipts in the order set forth above.

9.5 Payments by Parties. If the receipts from a Property exceed its expenses, Manager shall send Owner a check for such excess, on a schedule agreed to by the parties. If such receipts are less than the expenses incurred, Manager shall indicate the anticipated deficiency, in which event Owner covenants and agrees to pay the required amount to Manager within ten (10) days after the monthly operating statement is mailed. If either party must undertake legal action to collect an amount owed it by another party, the defaulting party shall be liable for the collection expenses (including court costs, reasonable attorney's fees, costs of discovery, witness fees, and so on) of the non-defaulting party. Any sum owed by one party to the other hereunder shall accrue interest at the rate of eighteen percent (18%) per annum from the date of default until paid in full.

ARTICLE X EMPLOYEES

10.1 Employees. All personnel employed at the Property shall be bonded and at all times be the employees of Manager. Manager shall have absolute discretion to hire, promote, supervise, direct and train all employees at the Property, to fix their compensations, and generally, establish and maintain all policies relating to employment.

10.2 Worker's Compensation. Manager shall maintain in full force and effect, during the entire term hereof, worker's compensation insurance in the required statutory amounts. In addition, Manager will ensure that all employees, independent contractors and any other persons employed by Manager to work at the Property are covered by Worker's Compensation Insurance in the required statutory amounts.

ARTICLE XI WAIVER AND PARTIAL INVALIDITY

11.1 Waiver. The failure of either party to insist upon strict performance of any of the terms or provisions of the Agreement, or to exercise any option, right or remedy herein contained, shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, right or remedy, but the same shall continue and remain in full force and effect. No waiver by either party of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by such party.

11.2 Partial Invalidity. If any portion of the Agreement shall be declared invalid by order, decree or judgment of a court, the remainder shall not be effected thereby and it is the intention of the parties that in lieu of each term or provision of this Agreement that is invalid, there shall be added as a part hereof a legal, valid and enforceable provision as similar in content to such invalid provision as may be possible.

**ARTICLE XII
COMPENSATION OF THE MANAGER**

12.1 Start-Up Fee and Owner Reserve. Owner shall pay to the Manager, \$750.00 to include the startup fee of \$250.00 and Owner Reserve amount of \$500.00 prior to any set up to be done on behalf of the Property.

12.2 Management Fee. Owner shall pay the Manager, as its Management Fee, a sum equal to (%) of the Gross Monthly Revenues (as hereafter defined), derived from the operation of the Property, or flat fee of Seventy-five dollars (\$75.00) per month, if the Property is vacant, payable monthly on the 25th day of each month for the preceding reporting period.

12.3 Gross Monthly Revenues. For purpose, hereof, Gross Monthly Revenues shall mean the total of all amounts actually received during the preceding reporting period from rental, charges, income, profits or any source attributable to the Property; provided, however, it shall not include amounts received as security or damage deposits or amounts received as awards upon condemnation, loan proceeds, insurance proceeds, sale proceeds or interest income.

12.4 General Maintenance. Staff employees of Manager pursuant to Article VIII of this Agreement who perform general maintenance and repair on the Property shall be billed at an hourly rate.

12.5 Sub-Contractor Administration. To cover costs of administration, in the event it is necessary for Manager to solicit and employ third party subcontractors on behalf of Owner to perform repairs or maintenance at the Property, costs for such third party services shall be billed to Owner at a rate of cost plus ten percent (10%) for all amounts between \$10.00 and \$2,500.00. Manager shall be compensated for construction coordination and administration of jobs with costs in excess of \$2,500.00 as outlined in paragraph 12.6 below.

12.6 Construction Coordination Fees. In addition to the base management fees, Manager can assist the Owner in the bidding, inspection, reporting and coordination of all remodeling and construction which occurs in the Property, including Resident and public areas for the following additional fees:

6% of that portion of the contract price between \$2,501 and \$10,000; plus, an additional 5% of that portion of the contract price between \$10,001 and \$30,000; plus, an additional 4% of that portion of the contract price between \$30,001 and \$100,000; plus, additional 3% of that portion of the contract price above \$100,001.

12.7 Application Fee. Manager may charge a leasing application fee to cover costs of processing all prospective Residents' applications. Said fee is paid by the prospective Resident.

12.8 Leasing fees: The following commission shall be payable to Manager with respect to leasing of all or part of the Property:

12.8.1 Lease Renewal Leasing Fee. In connection with the renewal of a lease with any existing Resident, Owner shall pay Manager at the time of any Lease renewal 5% of one months' rent.

12.8.2 New Lease Leasing Fee. In connection with the leasing of any vacant unit, Owner shall pay Manager at the time of any validly executed Lease, 10% of one month's rent.

12.9 Compensation for other services:

12.9.1 Coordination of Property information. If the Property goes on the market for sale a coordination fee of \$250.00 shall be paid by Owner to Manager.

12.9.2 Multiple copies. If Owner requests additional copies of end of month statement, Owner will be charged an additional \$25.00 per each report.

12.9.3 Additional services. Should the Owner request the Manager to perform services not included in normal Management, a fee based at \$75.00 per hour may be assess at Manager's discretion after notifying Owner in advance of such a charge.

12.9.4 Sale to Current Resident. If the Owner sells Property to the current Resident, Owner shall agree to pay Armadillo Property Management, Inc. (One Percent) 1 % of the sales price OR \$1000.00 whichever is greater.

12.9.5 Funds Received After Termination. If Manager receives any funds on behalf of Owner after this Agreement ends (for example, rent, damages, past due amounts, and others), Manager will deposit those funds in Agent's trust account and will: (a) pay **10%** of the funds received to Manager as compensation for services (for example, research, accounting, communicating, and processing) rendered at that time; and (b) pay the balance of the funds to Owner. This provision survives termination of this Agreement.

**ARTICLE XIII
ASSIGNMENT**

13.1 Assignment. Armadillo Property Management, Inc. may assign or transfer this Management Agreement with a 30-day written notice to the Owner of the property.

**ARTICLE XIV
MISCELLANEOUS**

14.1 Applicable Law. The Agreement shall be construed under and shall be governed by the laws of the State of Colorado.

14.2 Warranty of Title. Owner hereby represents and warrants to Manager that Owner has valid legal title to each Property on Exhibit A and that if more than one Owner exists for a particular Property, either all of such Owners have signed this Agreement or the Owner(s) who has signed' it has full authority to sign it on behalf of the non-signing Owner(s).

Owner acknowledges that Manager shall be signing leases as Landlord as an accommodation to Owner. Owner therefore indemnifies Manager against, and agrees to hold it harmless from, any loss, liability, or claim made by a Resident, a Mortgagee, or any other party and arising out of a failure or defect of title by Owner. Owner agrees to notify Manager forthwith after receiving notice of any actual or threatened title defect, such as a pending foreclosure, etc. If Owner sells one or more of the properties to a third party during the term of this Management Agreement,

Owner acknowledges that any such sale must be subject to any then-outstanding leases for such properties made by Manager to a third party during the term of this Management Agreement.

14.3 Notices. Notices, statements and other communications to be given under the terms of the Agreement shall be in writing and personally delivered or sent by regular mail:

To Owner:

Phone

e-mail

To Manager: 521 N Taft Hill Rd, Ft Collins, CO 80521

Or at such other address as from time to time designated by the party receiving the notice.

14.4 Representations. Owner represents and warrants that Owner has full power and authority to enter this Agreement: that there are not written or oral agreements affecting the Property other than Resident leases, copies of which have been furnished to Manager; that the building and its construction and operation do not violate any applicable statutes, laws, ordinances, or the like: that the building does not contain any asbestos, radon, or other toxic or hazardous substances: and that no unsafe condition exists.

14.5 Building Compliance. Manager does not assume responsibility for compliance of the Property or any equipment therein with the requirements of any building codes or with any statutes, ordinance, law or regulation of any governmental body having jurisdiction, except to notify Owner promptly or forward to Owner promptly and complaints, warnings, notices or summons received by Manager relating to such matters.

Owner represents that to the best of Owner's knowledge the Property and all such equipment comply with all such requirements, and Owner authorizes Manager to disclose the ownership of the Property to any such officials and agrees to indemnify and hold Manager and its representative, harmless of and from all loss, cost, expense, and liability whatsoever which may be imposed by reason of any present or future violation or alleged violation of such laws, ordinances, statutes, or regulations.

14.6 Lead Based Paint. If the Property was built before 1978, Owner will complete and attach to this Agreement an addendum regarding lead-based paint and lead-based paint hazards that will be made part of any lease of the Property. If the Property was built before 1978, federal law requires the Owner (before a Resident is obligated under a lease) to:

- A. Provide the Resident with the federally approved pamphlet on lead poisoning prevention;
- B. Disclose the presence of any known lead-based paint or hazards in the Property;
and
- C. Deliver all records and reports to the Resident related to such paint or hazards.

14.7 Save Harmless. Owner shall indemnify, defend, and save Manager harmless from all loss, damage, cost expense, attorneys' fees, liability, or claims for suits, personal injury claims, or property damage incurred or occurring in, on, or about the Property.

14.8 Indemnification. Owner agrees to indemnify, defend and save Manager harmless from any and all claims, losses, damages, suits, liabilities, actions, demand or expenses, including reasonable attorney's fees, to or from Owner or third parties arising in connection with the management, operation and leasing of the Property or the performance or exercise of any of the duties, obligations or powers herein provided other than those arising solely as a result of the gross negligence or willful misconduct of Manager.

14.9 Fair Housing. Fair housing laws require the Property to be shown and made available to all persons without regard to race, color, religion, national origin, sex, disability, age, or familial status. Local ordinances may provide for additional protected classes (for example, creed, status as a student, marital status, sexual orientation, source of income, immigration status, or age). Owner agrees that Manager has to comply with all fair housing legal requirements at all times. Owner acknowledges that liability for failure to comply with fair housing legal requirements also extends to Owner. Owner agrees to comply with all fair housing legal requirements at all times. Owner shall not directly or indirectly cause Manager to violate any fair housing legal requirements. Owner shall not issue any directive to Manager, take any action, or exercise any discretion if the result would cause Manager to be liable for violation of any fair housing legal requirement. Owner agrees to not limit Manager's ability to comply with all fair housing legal requirements.

14.10 Modification. This Agreement contains the entire agreement between the parties respecting the matters herein set forth and supersedes all prior agreements between the parties hereto respecting such matter. This Agreement may not be modified except by written agreement executed by the parties.

14.11 Time is of Essence. Time of the essence of this Agreement.

14.12 Binding Effect. This Agreement shall bind the parties, their respective heirs, grantees, personal representatives, administrators, successors and assigns.

14.13 Attorney's Fees; Jury Waiver. In the event of any dispute arising hereunder or any action or proceeding to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorneys' fees. The parties agree that any action or proceeding arising out of or in any way connected with this Agreement, regardless of whether such claim is based on contract, tort, or other legal theory, shall be heard by a court sitting without a jury and thus the parties hereby waive all rights to a trial by jury.

THIS AGREEMENT CONSTITUTES A LEGALLY BINDING CONTRACT ENFORCEABLE BY LAW AND HAS IMPORTANT LEGAL CONSEQUENCES. PARTIES TO THIS CONTRACT SHOULD CONSULT LEGAL COUNSEL BEFORE EXECUTION. EXECUTION BY THE PARTIES ACKNOWLEDGES FULL ACCEPTANCE OF ALL THE TERMS AND CONDITIONS CONTAINED HEREIN

IN WITNESS, WHEREOF, the parties hereto have caused this Agreement to be duly executed.

OWNER _____

MANAGER: _____

This form has not been approved by the Colorado Real Estate Commission. It was Prepared by the Tschetter Sulzer PC, legal counsel for Beverly Ann Perina, Broker/Owner of Armadillo Property Management. It may not be altered other than by completing any blank spaces.

