**MANAGEMENT AGREEMENT
for Low Income Housing Tax Credit Properties**

THIS AGREEMENT is made this the day of , 20XX, between (“Owner”), and (*Company Name*), (“Agent”), to be effective the of , 20XX, (the “effective date”) and in consideration of the mutual covenants and

agreements contained herein, the parties hereby agree as follows:

ARTICLE I.

 EXCLUSIVE AGENCY

1.1 Owner hereby employs Agent exclusively to lease, operate and manage the Property known as , (hereinafter called "Property"), whose legal description is attached hereto as Exhibit "A" and incorporated herein by reference for all purposes.

1.2 Term. The term of this agreement shall commence with effective date and end on the last calendar day of , 20XX, and thereafter automatically renew for annual periods. Either party may terminate this agreement upon thirty days written notice.

 ARTICLE II.

2.1 Agent's Duties: Agent hereby accepts the following responsibilities, authorities and duties relative to the Property, and agrees:

2.1.1 Leasing of Property. To use due diligence and best efforts in the management of the Property for the period and upon the terms herein provided, and to agree to furnish the services of its organization for the leasing, operating and managing of the Property in a manner consistent with the **Low Income Housing Tax Credit (LIHTC) Program as defined by Section 42 of the Internal Revenue Code.** (See Addendum to Management Agreement.)

2.1.2 Books and Records. To maintain books and records of all receipts and disbursements incurred in the operation and management of the Property and to render monthly statements of receipts, expenses and charges; to remit to owner receipts, less disbursements, including Agent's fee. In the event anticipated disbursements shall in any month be in excess of the anticipated revenues, Owner agrees to advance such funds as are required by Agent to meet the obligations of the Property, including Agent's fee within five (5) days of Agent's request. Under no circumstances shall Agent be required or expected to advance funds on behalf of Owner. All books of account and business records pertinent to the management of the Property shall be opened to inspection by Owner or his representative at all reasonable times for the purpose of audit or duplication.

2.1.3 Bank Accounts. To establish and maintain in a bank, the deposits of which are insured by the Federal Deposit Insurance Corporation, a separate account for the deposit of all revenues of the Property. To deposit all receipts collected for Owner (less any sums properly deducted or otherwise provided for herein) in said account. It is agreed that Agent shall have authority, singly, and without the jointer of Owner, to draw on said account, for any payments that Agent must make to discharge any duties, responsibilities, liabilities or obligations incurred pursuant to this agreement, and expressly for the payment of the fee due Agent. All payments shall be subject to the limitations of this agreement. Notwithstanding anything contained herein to the contrary, Agent shall not be responsible for, or liable in the event of, the bankruptcy or the failure of the depository bank.

2.1.4 Independent Contractor. Agent shall be deemed to be an Independent Contractor. Nothing contained in this Agreement shall be regarded as creating any relationship, employeremployee, joint venturer, partner, shareholder, or the like between the parties other than as set forth in this Agreement.

 ARTICLE III.

 AGENT'S AUTHORITY

Owner hereby gives to Agent the following authority and powers and agrees to assume the expenses in connection therewith, to wit:

3.1 Leasing. Where applicable and pursuant to the annual budget, to advertise the availability of the property or any part thereof for lease; and to display "for lease" signs thereon; to organize, manage, supervise and conduct all leasing operations; in the ordinary course of business to sign, renew, extend and/or cancel leases or rental agreements for the Property, or any part thereof; to screen and qualify and to set such standards for the screening and qualifying of all lessees.

3.2 Rental Collections. To collect rents and all other revenues due or to become due Owner and to give receipts therefore; in the ordinary course of business to terminate tenancies of all types and to sign and serve in the name of Owner such notices as are appropriate; to institute and prosecute all legal actions; to evict lessees and to recover possession of the Property or any part thereof; to sue for in the name of the Owner or Agent, and recover such rents and other sums due; and when expedient, to settle, compromise and release such actions or suits or reinstate such tenancies. Agent shall get Owners approval for all actions where the amount in dispute is in excess of $2,000.

3.3 Repairs. To make or cause to be made all necessary repairs and alterations, and to purchase required supplies and materials to the extent funds are available from the revenues of the Property, and to pay all bills, accounts and indebtednesses relative thereto. Agent agrees to secure the prior approval of Owner on all expenditures in excess of Two Thousand Five Hundred Dollars ($2,500.00) for any one item, except monthly or recurring operating charges and/or emergency repairs in excess of the maximum, if, in the opinion of Agent, such repairs are necessary to protect and preserve the Property from damage or to maintain the services to the lessees as called for in their leases.

3.4 Employees. To hire, supervise, direct, and discharge all employees and/or independent contractors required for the operation, leasing, management and maintenance of the Property, and to make all payments for the same from Owner's funds. The compensation to be paid employees and independent contractors shall be competitive in the employment market. All employees shall be included in Agent's workers compensation policy. Reports of withholding, social security and all other payroll taxes shall be made by Agent under Agent's account number. Owner agrees to reimburse Agent for such expenses paid to or for personnel.

3.5 Service Contracts. To make contracts for the supply of electricity, gas, fuel, water, sanitary sewer, telephone, janitorial services, trash removal and such other services as Owner shall direct and as the Agent shall deem advisable; it is agreed that the contracts are the obligation of Owner and Owner shall assume the obligation of any contract or agreement so entered into at the termination of this Agreement. Agent is authorized, on behalf of Owner, to open various trade accounts in the name of Owner, or in the name of the Property, and to negotiate and enter into contracts and agreements with suppliers, vendors, merchants, repairmen, professionals, contractors, subcontractors, and the like, in the name of Owner, or the Property, and to disclose to said suppliers, vendors, merchants, repairmen, professionals, contractors, subcontractors, and the like, that the Agent is acting on behalf of the Property and/or Owner. All agreements, contracts, accounts and other debts opened or incurred for the benefit of the Property and Owner shall remain the agreement, account, debt, and contract of the Property and Owner, even after the termination of this Agreement, and the Owner shall be and does hereby assume complete responsibility for such obligation incurred on its behalf. The Property and the Owner hereby agree to indemnify and hold Agent harmless from all suits, claims, levies, proceedings, actions and causes of action, of any kind and of whatsoever nature, including, but not limited to, costs, litigation expenses and attorneys' fees, (including attorneys' fees on appeal) arising from, growing out of, in connection with, or incidental to, the duties, responsibilities, authority and powers delegated to Agent herein and any agreement, contract, account or other debt incurred by Agent for and on behalf of the Property and/or Owner pursuant to the terms of this contract.

3.6 Loans, Taxes, Insurance. To the extent made possible by Owner and the revenues generated by the Property, Agent is hereby instructed and authorized to service all loans and mortgages on the Property, pay all applicable real estate and personal Property taxes, licenses, fees; to maintain payroll records and to pay payroll taxes and to make all necessary returns required by law; and, to pay from Owner's funds such insurance premiums as requested by Owner.

 ARTICLE IV.

 OBLIGATION OF OWNER

The Owner agrees:

4.1 Indemnity. To indemnify and hold Agent, its officers directors, Agents, and employees, harmless from all fines, suits, levies, proceedings, claims, actions or causes of action, of any kind and of whatsoever nature, whether in contract or in tort, including, but not limited to, court costs, litigation expenses, any applicable sales or use taxes or management fees or services or otherwise and attorneys' fees, (including attorneys' fees upon appeal) arising from, growing out of, in connection with, or incidental to Agent's activities, operation, management or supervision of the Property. Maintenance of any insurance by either party or as required by this Agreement shall not relieve Owner from its obligation to indemnify and hold Agent harmless. Owner agrees to carry, at its own expense, insurance described in Section 4.4, which policies shall be so written as to protect the Agent in the same manner and to the same extent that they protect the Owner, and such policies shall name the Agent as an additional insured. The Agent shall not be liable for any error of judgment or for any mistake of fact or of law, or for anything which it may do or refrain from doing hereinafter, except in the case of willful misconduct or gross negligence.

4.2 In the event that the Property does not generate sufficient revenues as to cover the expenses, Owner shall remit to Agent, upon demand, sufficient funds to meet the obligations as outlined by the terms of this Agreement. Under no circumstances shall Agent ever be required to advance monies on behalf of Owner.

4.3 Agent agrees to promptly inform Owner of any claims, fines, suits, proceedings, actions or causes of action that Agent has notice of. It is expressly understood and agreed that the indemnification provision of Article IV shall survive the expiration or termination of this Agreement.

4.4 Insurance. Owner, at Owner's expense, shall at all times during the term of this Agreement, carry and maintain the following insurance coverage for the protection of Owner and Agent. Owner shall furnish Agent with certificates or duplicates of said insurance policy or policies, which policies shall be issued by companies qualified and authorized to do business within the State of Texas.

4.4.1 General Comprehensive Liability Coverage. Owner shall purchase and maintain at all times during the term of this Agreement a general comprehensive liability policy covering general liability risks and exposures, including, but not limited to the premises and its operations, blanket contractual, personal injury, operations, maintenance, and use of owned, nonowned, or hired automobiles. The limits of which shall be $5,000,000 per occurrence for bodily injury, personal injury, and property damage. Such policies shall include Agent as an additional insured.

4.4.2 Fidelity Coverage. Agent shall, at Agent's expense, secure such fidelity bonds in a reasonable amount to be set by Owner, but under no circumstances to be less than one month’s revenue. Said bonds may be a blanket bond covering all such personnel and other employees of Agent.

4.4.3 Worker's Compensation. Agent shall at Owner’s expense, provide worker's compensation insurance for its employees with coverage protecting Agent for injury, death or occupational disease of Agent or Agent's employees arising out of or within the scope of employment. Employer's liability limits of $500,000 shall be carried. Policies shall include an endorsement naming both Owner and Agent as insureds.

4.4.4 Fire Insurance. Owner, at Owner's expense, at all times during the term of this Agreement, shall carry fire, extended coverage, vandalism and malicious mischief insurance in such amounts as it deems appropriate. Owner shall assume responsibility for the replacement and renewal of all such policies, shall make such changes as Owner deems appropriate in connection therewith, and shall supervise the adjustment of any and all losses or claims under such coverage. Agent shall have no obligation to insure the property or any of its operations for any loss, claim, action or secure any kind of fire or extended coverage.

4.5 Computers. All computers, hardware, software, computer upgrades and maintenance in connection therewith shall be at Owner’s Expense.

 ARTICLE V.

 COMPENSATION

5.1 In consideration for the services to be rendered to Owner by Agent under this Agreement, Owner agrees to pay to Agent percent ( %) of the revenues from the Property actually collected, or $ per month, whichever is greater, which sum shall be deducted by Agent monthly. Gross revenues shall be defined to include any and all rentals, fees or other receipts collected by the property, to include but not be limited to late charges, NSF fees and utility billing collection.

In the event that a sales tax is imposed on Agent for the payment to or receipt of management fees by Agent, then Owner shall be responsible for the payment of such sales tax. Agent is authorized to pay any sales tax imposed upon management fees out of the Property account.

5.2 Expenses. Should Agent ever advance funds for and on behalf of the Owner and/or the Property, or to incur outofpocket expenses for and on behalf of the Property, Agent shall be reimbursed for such amounts monthly at the same time Agent receives its management fee.

5.3 Prohibitions on Compensation. All rebates, discounts, or commissions collected by the Agent, (except a commission pursuant to the terms of this Agreement) or credited to the Agent's use, which relate to the purchasing of supplies or the rendering of services of the Property, shall be fully disclosed to Owner and that part of any rebate, discount or commission that is allocable to the purchasing of supplies or the rendering of services for the Property, shall be credited to the Owner's account.

ARTICLE VI.

 MISCELLANEOUS

6.1 OnSite Management Facilities. At Owner's request, Agent shall maintain a management office within the Property and Owner shall make no rental charge for the same.

6.2 *(State)* Law. This Agreement shall be construed under and in accordance with the laws of the State of *(State)*, and all obligations of the parties created hereunder are performable in County, (*State)*. All monies or sums due Agent shall be due and payable to Agent at its office in *(County)*, *(State)*.

6.3 Parties Bound. This Agreement shall be binding upon and inure to the benefit of parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

6.4 Legal Construction. In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable, in any respect, such invalidity, illegality or unenforceability, shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

6.5 Prior Agreements Superseded. This Agreement contains the sole and only agreement of the parties hereto, and it supersedes any prior understandings or agreements, whether written or oral, between the parties respecting the within subject matter.

6.6 Attorney's Fees. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees from the other party, which fees may be set by the Court in the trial of such action or may be enforced in a separate action brought for that purpose, and which fees shall be in addition to any other relief which may be awarded.

6.7 Counterparts. This agreement and all other copies of this Agreement, insofar as they relate to the rights, duties and remedies of the parties, shall be deemed to be one agreement. This Agreement may be executed concurrently in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6.8 Personnel. Owner agrees that it will not engage, hire, employ or solicit the employment of any employee of Agent, or any of its subsidiaries or affiliates, if any, during the term of this Agreement and for a period of six (6) months following the last date on which Agent employed such person. Additionally, Owner shall not permit any successor management company to employ any such employee at the Property during such period. In the event of a breach of this provision by Owner, Owner agrees to pay an amount equivalent to the rate charged by placement agencies, not to exceed 25% of the annual salary per employee.

"OWNER" "AGENT"

 *(Company Name)*

By: By:

Name:

 *(First and Last Name)*

Title: *(Title)*

 *(Address)*

 *(City, State, Zip Code)*

Tax ID#:

**ADDENDUM TO MANAGEMENT CONTRACT**

**BETWEEN**

**AND**

**(*Company Name)***

**FOR**

 This addendum shall be made part of the certain management agreement between (the “Owner” AND (the manager), dated , 20XX to manage the , located at , (*state*) and containing units.

**COMPLIANCE WITH THE LOW INCOME HOUSING TAX CREDIT PROGRAM**

 By signing this addendum Manager hereby agrees to perform all necessary functions to manage the property under the guidelines set forth in Section 42 of the Internal Revenue Service Code. Said Section 42 pertains specifically to the Low Income Housing Tax Credit Program (the “Program”) administered by the *(State)* Department of Housing and Community Affairs (“DHCA”).

 Manager hereby agrees to take all necessary steps, including attending seminars offered by DHCA, to familiarize Manager with the additional needs associated with the Program. Additional needs will include, but not be limited to, becoming proficient in qualifying tenants for the Program, maintaining the additional record keeping necessary for compliance monitoring and keeping up to date on all changes in the Program.

 **MANAGER:**

 ***(Company Name)***

 A (*State)* corporation

 By:

 *(Name)*

 **OWNER:**

 A (*State)* Corporation

 By:

 *(Title)*

 By:

 DATE:

**Note:**  States have various requirements for management companies involved in LIHTC real estate management, such as a minimum level of compliance experience and ongoing training in Fair Housing laws. Check your state's Qualified Allocation Plan and Compliance Manual to ensure that any agreement takes these requirements into consideration. If in doubt, contact the State Housing Finance Authority directly to clarify.

***IREMFIRST Disclaimer Statement***

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