



## AGREEMENT

THIS AGREEMENT, made the \_\_\_\_\_, 20\_\_\_\_, by and between:

\_\_\_\_\_ (hereinafter "Owner") and  
**Merced Yosemite Realty** (hereinafter "MYR"), agree to as follows:

**1. APPOINTMENT OF MYR:** owner hereby appoints and grants MYR the exclusive right to rent, lease, operate, and manage the Property (ies) known as:

SEE EXHIBIT NUMBER ONE (ATTACHED)

and any additional property which may later be added to this Agreement, (hereinafter "Property"), Upon the terms below, for the period beginning on the date above and ending upon written notice by either party to the other requesting termination of this agreement. Such "notice of termination" shall be delivered to the other party at least 60 days prior to such termination. In the event of an unlawful act by either party hereto or in the event that the terms and/or covenants of this agreement are breached such termination may be unilateral and immediate.

**2. MYR ACCEPTANCE:** MYR accepts the appointment and grant, and agrees to:

- A. Use due diligence in the performance of this Agreement.
- B. Furnish the services of its organization for the rental, leasing, operating, and management of the Property.

**3. AUTHORITY AND POWERS:** Owner grants MYR the authority and power, at Owner's expense, to:

**A. ADVERTISING:** Display FOR RENT, FOR LEASE, and similar signs on the Property; advertise the availability for rental or lease of the Property, or any part of it.

**B. RENTAL/ LEASING:** Initiate, sign, renew, or cancel rental agreements and leases for the Property, or any part of it; collect and give receipts for rents, other charges, and security deposits. Any lease executed by MYR for Owner shall not exceed one year without written approval from Owner.

**Owner shall authorize and approve all rents and deposit amounts prior to the tenant's signing lease/rental agreements. Such authorization and approval may be verbal. Owner shall make the final decision on which tenant shall occupy the Property. Such decision shall be based upon documentation provided by MYR.**

**C. TENANCY TERMINATION:** Sign and serve in Owner's name notices which are required or appropriate; commence and prosecute actions to evict tenants; recover possession of the Property in Owner's name recover rents and other sums due; and when expedient, settle, compromise, and release claims, actions and suits, and/or reinstate tenancies.

**D. REPAIR/MAINTENANCE:** Make, cause to be made, and/or supervise repairs, improvements, alterations, and decorations to the Property, purchase and pay bills for services and supplies. MYR shall obtain prior approval of Owner on all expenditures over \$200.00 for any one month. Prior approval shall not be required for monthly or recurring operating charges, or if in MYR's opinion, emergency expenditures over the maximum are needed to protect the Property or other Property(ies) from damage, prevent injury to persons, avoid suspension of necessary services avoid penalties or fines or suspension of services to tenants required by a lease or rental agreement or by law. MYR shall not advance MYR's own funds in connection with the Property or this Agreement.

Owner and MYR acknowledge receipt of copy of this page,  
which constitutes Page 1 of 6 Pages.

Owner's initials ( ) MYR( )



E. **CONTRACTS/SERVICES:** Contract, hire, supervise and/or discharge firms and person(s), including utilities, required for the operation and maintenance of the Property. MYR may perform any of MYR's duties through attorneys, agents, employees, or independent contractors, and, except for persons working directly for MYR (specifically: Terry Ruscoe and/or Brandon Ruscoe), shall not be responsible for their acts, omissions, defaults, negligence, and/or costs of same.

F. **EXPENSE PAYMENTS:** Pay expenses and costs for the Property from Owner's funds held by MYR in a Reserve (see paragraph "I" below for amount to be maintained) and/or from rents, unless otherwise directed by Owner. Expenses and costs may include, but are not limited to, property management fees and charges, expenses for goods and services,

G. **SECURITY DEPOSITS:** Receive security deposits from tenants, which deposits shall be held in Yosemite Property Managements Trust Account.

H. **TRANSFER FUNDS:** Deposit all receipts collected for Owner in a financial institution specified by Owner, if deposited to MYR accounts MYR check shall be mailed to Owner. MYR shall not be liable in event of bankruptcy or failure of a financial institution. Such transfers shall occur on a monthly basis and be deposited or mailed by the 15<sup>th</sup> day of each month. Any late deposits determined to be the fault of MYR shall bear no more than a 2.5% penalty to MYR.

I. **RESERVES:** Maintain a reserve in MYR's account of: \$ 200.00 or more.

J. **DISBURSEMENT:** Disburse Owner's funds, held in MYR's account, in the following order:  
Compensation due MYR pursuant to paragraph six, herein.  
Then all other maintenance expenses, cost, and disbursements payable from Owner's funds held by MYR.  
Then balance to Owner.

K. **OWNER STATEMENTS:** Rendered monthly, including a listing of all receipts and payment plus the fees to MYR.

**4. OWNER RESPONSIBILITIES:** Owner shall:

A. Provide all documentation and records required by MYR to manage and operate the Property.

B. Indemnify, defend and hold harmless MYR, and all persons in MYR's firm, from all costs, expenses, suits, liabilities, damages, attorney's fees, and claims, 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, in any way relating to the management, rental, security deposits, or operation of the Property by MYR, or any person in MYR's firm, or the performance or exercise of any of the duties, powers, or authorities granted to MYR.

C. Carry and pay for: (i) public and premises liability insurance in an amount of no less than \$1,000,000; and (ii) property damage and worker's compensation insurance adequate to protect the interests of Owner and MYR. MYR shall be named as an additional insured party on Owner's policies.

D. 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 the fact that there are insufficient funds in MYR's trust account available for such payment.

Owner and MYR acknowledge receipt of copy of this page,  
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Owner's initials (    ) MYR(    )



**5. LEAD-BASED PAINT DISCLOSURE:**

**A.** The Property was constructed on or after January 1, 1978. \_\_\_\_\_

**B.** Or the Property was constructed prior to 1978. If so owner is to select here and answer (1) and (2): \_\_\_\_\_

(1) Owner has no knowledge of lead-based paint hazards in the housing except:

(2) Owner has no reports or records pertaining to lead-based paint or lead-based paint hazards in the housing, except the following, which Owner shall provide to MYR:

**6. COMPENSATION:**

**A.** Owner agrees to pay MYR fees in the amounts indicated below for:

(1) Management: 10% of total monthly rents on all Property

(2) Renting or Leasing: Owner agrees to compensate MYR in the above amount for the entire Term of any Lease procured by MYR on Properties specified herein. Owner agrees to compensate MYR 30% of first month's rent on any new leases signed on the Property (this amount shall cover all MYR advertising and clerical fees associated with sourcing and contracting a new tenant).

(3) Evictions: outsourced at Owner's expense (MYR will monitor this process through its resolution providing that no additional costs or overhead are borne by MYR)

(4) Preparing Property for rental or lease: Costs incurred plus overhead.

(5) Managing Property during extended periods of Vacancy: costs incurred plus overhead

(6) Service fee added to the cost of all work performed at the direction of MYR: as negotiated.

(7) Repairs and/or improvements completed by MYR by mutually agreed amounts

(8) Other Services: MYR may assist owner in identifying projects designed to enhance the value of the Property. MYR will assist owner in getting estimates and planning such projects for a negotiated cost.

For items 3, 4, 5, 7 and 8 above: "costs incurred" shall include, but is not limited to, cleaning supplies; repair supplies; tool rental; fuel; hardware; phone; fax; copies, etc. For items 3, 4, 5, 7 and 8 above "overhead" shall be defined as a compensation designed to allow MYR to compensate its owners, employees, and contractors and address those expenses incurred to maintain MYR, its tools, and its equipment. For Owner convenience, MYR maintains an up to date "Cost incurred plus overhead" expense sheet defining the cost for all such compensatory services. The latest sheet is posted in the offices of MYR and available upon request to assure accuracy.

**B.** This Property Management Agreement ("Agreement") does not include providing on-site management services, property sales, re-financing, preparing Property for sale or re-financing, 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, or attending Owner's Association or other meetings. If Owner requests MYR to perform services not included in this Agreement, a fee shall be agreed upon before these services are rendered.

**C.** MYR may divide compensation, fees and charges due under this Agreement in any manner acceptable to MYR.

**D.** Owner further agrees that: MYR may receive fees and charges from tenants for (i) processing credit applications, (ii) late payment fees from Tenants and (iii) returned check fees, and (iii) any other services that are not in conflict with this agreement

**7. AGENCY RELATIONSHIPS:** MYR shall act as the agent for Owner in any resulting transactions. Depending upon the circumstances, it may be necessary or appropriate for MYR to act as agent for both Owner and tenant. MYR shall, as soon as practical, disclose to Owner and election to act as a dual agent for Owner and such tenant.

Owner and MYR acknowledge receipt of copy of this page,  
which constitutes Page 3 of 6 Pages.

Owner's initials ( ) MYR( )



Owner understands that MYR may have or obtain property management agreements on other property, and that potential tenants may consider, make offers on, or lease through MYR, property the same as, or similar to, Owner's Property. Owner consents to MYR's representation of other owners' properties before, during, and after the expiration of this Agreement.

**8. NOTICES:** Any written notice to Owner or MYR required under this Agreement shall be served by sending such notice by first class mail to that party at the address below, or at any different address, which the parties may later designate for this purpose. Notice shall be deemed received three calendar days after deposit into the U.S. Mail.

**9. DISPUTE RESOLUTION:**

**A. MEDIATION:** Owner and MYR agree to mediate any dispute or claim arising between them out of this agreement, or any resulting transaction before resorting to arbitration or court action, subject to paragraph 9C below. Mediation fees, if any, shall be divided equally among the parties involved. If any party commences an action based on a dispute or claim to which this paragraph applies, without first attempting to resolve the matter through mediation, then that party shall not be entitled to recover any attorney's fees, even if they would otherwise be available to that party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED.

**B. ARBITRATION OF DISPUTES:** Owner and MYR agree that any dispute or claim arising between them out of the obligation to pay compensation under this Agreement, which is not settled through mediation, shall be decided by neutral, binding arbitration, subject to paragraph 9C below. The arbitrator shall be a retired judge or justice, or an attorney with at least five years of residential income real estate transactional law experience, unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California Law. In all other respects, the arbitration shall be conducted in accordance with Part III, Title 9 of the California Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered in any court having jurisdiction. The parties shall have the right to discovery in accordance with the Code of Civil Procedure §1283.05.

“NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF MATTERS INCLUDED IN THE ‘ARBITRATION OF DISPUTES’ PROVISION DECIDED BY A NEUTRAL ARBITRATOR AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE ‘ARBITRATION OF DISPUTES’ PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.” “WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE ‘ARBITRATION OF DISPUTES’ PROVISION TO NEUTRAL ARBITRATION” Owner \_\_\_\_\_ MYR \_\_\_\_\_

**C. EXCLUSIONS FROM MEDIATION AND ARBITRATION:**

The following matters are excluded from Mediation and Arbitration, hereunder:

(a) A judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or installment land sale contract as defined in Civil Code §2985; (b) An unlawful detainer action; (c) The filing or enforcement of a mechanic's lien; (d) Any matter which is within the jurisdiction of a probate, small claims, or bankruptcy court; and (e) An action for bodily injury or wrongful death, or for latent or patent defects to which Code of Civil Procedure §337.1 or §337.15 applies. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a violation of the mediation and arbitration provisions.

Owner and MYR acknowledge receipt of copy of this page,  
which constitutes Page 4 of 6 Pages.

Owner's initials ( ) MYR( )



**10. EQUAL HOUSING OPPORTUNITY:** The Property is offered in compliance with federal, state, and local anti-discrimination laws.

**11. ATTORNEY'S FEES:** In any action, proceeding, or arbitration between Owner and MYR regarding the obligation to pay compensation under this Agreement, the prevailing Owner or MYR shall be entitled to reasonable attorney's fees and costs, except as provided in paragraph 9A.

**12. ENTIRE CONTRACT:** All prior discussions, negotiations, and agreements between the parties concerning the subject matter of this Agreement are superseded by this Agreement, which constitutes the entire contract and a complete and exclusive expression of their agreement, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. This Agreement and any supplement, exhibit, or modification, including any photocopy or facsimile, may be executed in counterparts.

**Owner warrants that Owner is the owner of the Property or has the authority to execute this contract. Owner acknowledges that Owner has read and understands this Agreement, and has received a copy.**

Owner \_\_\_\_\_ Print: \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**When we need to contact you (Complete all fields and check the best method to contact you in an emergency):**

Phone \_\_\_\_\_  Cell Phone \_\_\_\_\_  Fax \_\_\_\_\_

E-mail \_\_\_\_\_ Other: \_\_\_\_\_

**When you need to contact us (Your state licensed personal Property Manager's information is below):**

Your Property Manager (print): \_\_\_\_\_ Department of Real Estate # \_\_\_\_\_

Phone \_\_\_\_\_  Cell Phone \_\_\_\_\_  Fax \_\_\_\_\_

E-mail \_\_\_\_\_ Other: \_\_\_\_\_

Approved and accepted:

MYR \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_  
Office Manager or Broker

General Contact Information  
Phone: **209.722.5400** Fax: **209.722.5406** Toll Free: **800.277.5732**  
**On the Web at: [www.MercedYosemite.com](http://www.MercedYosemite.com)**  
**California Real Estate Brokerage License #02092689**

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Owner's initials ( ) MYR( )



EXHIBIT ONE

Rental Unit Address (make additional copies as needed- Additional Copies Shall Serve as Addenda to this Agreement):

Full Address of this Unit: \_\_\_\_\_

Number of Bedrooms: \_\_\_\_\_

Number of Bathrooms: \_\_\_\_\_

Approx. square footage: \_\_\_\_\_

Approx. Year Built: \_\_\_\_\_

Garage: Yes [ ] If yes: Attached [ ] Detached [ ] How many cars: \_\_\_\_\_

number of parking places: \_\_\_\_\_

Fireplace: Yes [ ]

Pool: Yes [ ] Spa: Yes [ ] Patio: Yes [ ] Decks: Yes [ ] Landscaped: Yes [ ]

IS THIS PROPERTY CURRENTLY RENTED: Yes [ ] No [ ]

Requested or Current Rent: \_\_\_\_\_ per month.

Current Rental Deposit Held by Owner: \_\_\_\_\_

Would accept Long Term Lease: Yes [ ] No [ ] If yes, max # of months: \_\_\_\_\_

Would accept Pets: Yes [ ] No [ ] Maybe [ ]

Included Appliances

(Check all that apply): stove [ ] microwave [ ] air conditioning [ ] refrigerator [ ] garbage disposal [ ] trash compactor [ ] whole house fan [ ] number of room fans [ ] washer [ ] dryer [ ] Other Appliances included (specify): \_\_\_\_\_

Other advantages to this Unit: