

Property Management Contract – comments from membership  
February - March 2016

1.		Much needed, thank you.
2.		i like it... thanks!
3.		I reviewed and compared the property management contract with our company contract. It is a well structured document with all the essential requirements included. Look forward to the release of this well overdue contract. Good job!
4.		Wow!! You are all amazing. Thank you soooo much. This form is thorough yet simplified, comprehensive and allows me to put 10 pages of forms/lists/agreements I have into the trash and now use one contract. This is a huge benefit to us as an "independent" Broker. I cannot thank you enough. Mahalo!
5.		I would like to see something similar to the following clause that is contained in our current management agreement. "Tenant Communications: Owner agrees and understands that if Owner has any contact with the Tenant in person, by mail, by phone or otherwise, in the event of a legal dispute which results in litigation, Owner will be required to testify in person in court. Agent strongly urges that all contact with the Tenant be made by and through Agent ONLY. Owner agrees that contact with the Tenant may be grounds for Agent terminating this agreement."
6.		Please include some sort of verbiage re tenants obligations when a property is being sold. This happened last week: I represent Buyer. Buyer, myself and home inspector were in subject property for the home inspection. Proper notice to listing agent (who was also the Prop Mgr) to give tenant 48 hr notice. Tenant gave permission to Prop Mgr for us to access subject prop. Listing Agent let us in. Tenant came home from work during the inspection and was hostile, threatening, loud, physical (struck me with a door) & violent. The environment quickly became very spooky. Thank goodness the inspector was a fire captain and trained to handle difficult people. Inspection was aborted due to the hostile violent behavior of tenant. Tenant refusing to let us finish inspection. Now Buyer afraid tenant is going to damage the property and any of the inspection done is tainted and has no integrity to Buyer. The Purchase Contract doesn't address Sellers obligations re J1 and Seller will not extend the J1 period so Buyer is in limbo-land. Fearful of tenant. Unable to get into property to do her inspection. J-1 date is past but Seller refusing to extend J-1. ALL TRIGGERED BY THE TENANT. HELP!!!! Tenants have an obligation to allow the sales process to occur without fear, intimidation or possible damage to subject property.
7.		Statement should be made that Agent maintain a Fiduciary bank account when managing property. The money in the bank account is property of the owner.
8.		<p>Suggested additions:</p> <ul style="list-style-type: none"> <li>• ASSIGNABILITY Either AGENT may assign its rights hereunder to any other qualified party who shall thereupon assume all of AGENT'S obligations and duties hereunder. Upon such assignment, AGENT shall notify the other, in writing, of said assignment. •</li> <li>• FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA) Pursuant to the Internal Revenue Service (IRS) Code section 1441, the deduction of a withholding tax on all fixed and determinable gross income shall be required of any non-resident alien individual, fiduciary, foreign partnership or foreign corporation unless exempt under provisions provided under said IRS Code section. If OWNER is a non-resident alien individual, fiduciary, foreign partnership or foreign corporation, AGENT requires a written statement from either a Certified Public Accountant or a U.S. Tax Attorney certifying that OWNER is exempt from withholdings. Without this statement, AGENT will be required to withhold and report the appropriate tax to the IRS. A monthly fee of \$25 will be charged to the OWNER for this service.</li> <li>• Select one: OWNER [ ] is [ ] is NOT a non-resident alien individual, fiduciary, foreign partnership, or foreign corporation. •</li> <li>• DISPOSITION OF INCOME Please indicate preferred email address for online statements:  If online statements are not preferred, there will be a charge of \$_____ for each mailed statement.  If bank deposit, OWNER must provide imprinted deposit slips with the name of the bank, branch, and account number. If OWNER requests Direct Deposit, OWNER must provide a VOIDED check and fully complete and sign the ACH form. AGENT to use Direct Deposit? [ ] Yes [ ] No •</li> <li>• PAYMENTS The following services are optional. Please check each service OWNER desires AGENT to perform. OWNER must have positive cash flow. (OWNER to provide monthly billings, payment booklets, etc., for payment to be made.) If AGENT pays any vendor, OWNER must notify vendors</li> </ul>



		<p>E-1. Should there be examples listed to give some idea of "other income" opportunities?</p> <p>F-6. Some agents felt that this was too "one sided". Possibly include that owner can't hold agent liable "after property due diligence" is done in connection with qualifying the tenant.</p> <p>F-7. Spelling correction – authorize(d).</p> <p>G-7. Possibly include "intent to sell" in addition to "date to re-occupy".</p> <p>I-3. Should also add "trustees".</p> <p>I-4. Should also add "trustees".</p> <p>Might want to consider adding portions of Section S – General Provisions from the Purchase Contract - which specifies what is the Acceptance Date, Dates and Times, Electronic Signatures, Counterparts and what constitutes a Complete Agreement.</p> <p>Include a space for the Property Manager (Agent) to sign in addition to the Principal Broker.</p>
13.	Pg. 1	I think the "Real Estate Licensee" should be deleted. This is generally a long term relationship (unlike Listing Agreements) and the Brokerage should be sufficient.
14.	Pg. 1	Page 1., suggestions: found us through: website_____, Yelp_____ Google_____ Referring agent: _____ Company name _____ Telephone number Other: _____
15.	Pg. 1	<p>Page 1., Suggestion:</p> <p>AGENCY The OWNER hereby appoints and employs the AGENT exclusively to lease, rent, operate, and manage the real property, hereinafter called "UNIT" situated in , City and County of Honolulu, State of Hawaii, described as:</p> <p>Property Located at: Building Name: Date Property Built _____</p> <p>If built in 1978 or before, OWNER needs to fill out LEAD-BASED PAINT FORM</p>
16.	Pg. 1	Please add on Page 1; Owner is responsible for paying all applicable taxes on amounts received.
17.	Section B	Section B: Rental Consideration: If the Agent shall determine the terms, why do we need the "desired monthly range" and "lease term"?
18.	D-1	D-1) forms of payment – should re-word to include all other forms of payment...i.e. cash, cashier's check, ACH, auto deposit, credit card, etc.
19.	D-2	Change Item D-2 to Deposit to FDIC bank. Eliminate "Trust Account" or PM would have to have hundreds of separate accounts.
20.	D-2	D-2... Agent shall deposit all funds collected into COMPANY? not agents trust account. left out a few words. You don't need explain the underlying law... no comingling.
21.	D-3	D-3: should have a date proceeds to be given by, for example: Monthly Statements/Distribution of Income to OWNER: AGENT shall provide, within sixteen (16) days after the beginning of each month, a statement of receipts and disbursements for the Premises for the preceding thirty (30) day period.
22.	D-3	funds transmitted to owner. (method not needed)
23.	D-5	D5 I believe words to the effect that the property will be maintained to a standard compatible with safety & health, ethical treatment of tenants, or code requirements. I see a problem with this very often in owners that don't want to maintain a decent standard thus putting us more at risk for liability or simply a bad reputation for not treating people fairly. And frankly, I see management companies doing this very thing all the time (people talk!). I am very glad you are giving some attention to management issues. Ethics in the industry is severely lacking.
24.	D-6	D-6 Security deposits: Said deposits may be utilized by AGENT to replace or repair items damaged by tenant and/or applied towards cleaning of Unit and/or refunded to tenant as AGENT may reasonably determine
25.	E-1	E1; could it be made to say the percentage amount PLUS TAX?
26.	E-1	E-1 Agent fees Add: • Late fees: _____% to owner and _____% to agent • An hourly fee of \$_____ will be charged if AGENT takes the initial inventory. • Credit reports \$____ • \$_____ fee for each filing and paying each semi-annual return and one annual reconciliation of the General Excise Tax to the State of Hawaii. OWNER hereby authorizes AGENT to file on OWNER'S behalf. AGENT to file and pay for GET: 0 Yes 0 No • Mailed statements \$_____
27.	E-2	E-2 Add: insufficient funds: Insufficient Funds: In the event expenses due and owing for the Premises exceed the amount of OWNER'S funds retained by AGENT, AGENT shall not be obligated to advance any funds or to incur any liability for OWNER'S account. AGENT shall not be liable to OWNER for any loss sustained by OWNER by reason of nonpayment or late payment of expenses for the Premises, which nonpayment or late payment resulted from OWNER'S failure to deposit funds or make payments requested by AGENT.
28.	F-2	F-2 Inventory List add: OWNER shall provide to AGENT a complete inventory of furniture, equipment and fixtures in the Premises. OWNER understands that inventory may change from time to time due to breakage and normal wear and tear. AGENT shall not be deemed responsible for the condition of the Premises or the furniture, equipment, and fixtures therein. OWNER shall be informed of substantial changes in inventory.
29.	E-2	There is duplication with the rental agreement. E2 is duplicative
30.	F-3	F-3) Should obligate the owner to provide the most current copy of House Rules

31.	F-4	Keys: I have found this to be problematic as owners will provide 3 sets of keys and are upset when we rekey the property. I realize this is not a law, but I know several PM companies, including Foster Realty, rekey before every occupancy.
32.	F-5	Not sure if we should be the one recommending how much insurance the home owner should carry. Should be insurance agent who does that. Other than that very straight forward nice contract.
33.	F-5	Insurance: We have an additional clause that states "if owner does not provide proof of such insurance within thirty (30) days from the date of this Agreement, Agent may purchase a suitable policy and charge it to the Owner's account"
34.	F-5	F-5 Insurance, add: OWNER will procure and maintain in full force and effect, at OWNER'S sole cost and expense, and at all times while AGENT is managing the property, the following type of insurance:  OWNERS' Landlord and Tenants' Liability insurance policy with a minimum coverage limit of \$_____ (a DP3 policy for single family homes/townhouses or an HO6 policy for apartments and condominiums) and such fire and extended coverage insurance policies on the Unit, or certificates thereof from an Insurance Company authorized to do business in the State of Hawaii.  AGENT is authorized to place required insurance at OWNER'S expense where duplicate policies or certificates of insurance names AGENT as additional interested party are not provided within _____ working days from date of this Agreement. AGENT will not be held liable for inadequate or no insurance.
35.	F-6	F-6 Indemnification add: AGENT shall not be liable to OWNER for any error of judgment or for any mistake of law or fact, or for anything it may do or refrain from doing, except in cases of willful misconduct or gross negligence.
36.	F-7	just need a letter D on authorize
37.	F-7	Typo – F-7 Agent is authorize(d)
38.	G-2	G-2 add: deadbolt, pool, storage
39.	G-4	G-4 add: Cable basic, cable premium, telephone, gas, pool service, AGENT to bill tenant for the following charges (OWNER provides billings to AGENT): (this is for properties where utilities billed in maintenance fees)  [ ] Electricity [ ] A/C [ ] Water [ ] Sewer [ ] Other  If OWNER is providing a Statement of Charges to AGENT, OWNER must submit charges to AGENT upon receipt. If OWNER does not submit charges to AGENT within 30 days, OWNER will absorb charges.
40.	G-4	G-4 – add Solar/PV systems
41.	G-5	I ask my owners to add _____Realty (name of brokerage firm) as "additional insured" and they must send me a copy of the face. That takes care of G5
42.	G-7	G-7 needed?
43.	G-8	G-8 Property Contacts add:  Termite/pest control service _____ Phone number _____  Pool Service: _____ Phone number: _____  Yard service: _____ phone number: _____  Insurance coverage: Owner has liability coverage with: Company name: _____ Policy # _____ Agent name: _____ Telephone # _____  Owner has fire coverage with: Company name: _____ Policy # _____ Agent name: _____ telephone # _____
44.	G-9	Para G-9, please delete the word "problems". I might have missed it, but is there a requirement for owners to keep addresses, phone #s and email address absolutely current? Thank you.
45.	H-1	I saw a couple of typos, but other than that, I think it would be good in Section H, if there 1 or 2 spaces for custom Addenda so that a management company could use their own addenda for anything else they might need to address in the contract.
46.	H-1	H-1 Addendum: add: Real Property tax change of address form