

**PROPERTY MANAGEMENT AGREEMENT [SAMPLE]**

**Between**

**RUDG, LLC or Affiliates**

**(“Owner”)**

**and**

**TRG Management Company, LLP**

**(“Manager”)**

**2200 North Commerce Parkway  
Suite 100  
Weston, FL 33326**

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## **PROPERTY MANAGEMENT AGREEMENT**

This PROPERTY MANAGEMENT AGREEMENT is effective as of the        day of 2022, by and between RUDG, LLC or Affiliates (the “Owner”), and TRG Management Company, LLP (“Manager”), located at 2200 North Commerce Parkway, Suite 100, Weston, Florida 33326.

### **RECITALS:**

A. Owner purchased real property located at 6521 SW 62 Avenue, South Miami, FL and desires to engage the Manager to manage and operate the same. Said Property has 355 rental units (the “Property”).

B. Owner desires that Manager manages the Property and Manager desires to manage the Property.

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged and in consideration of the above premises, the parties agree as follows:

### **AGREEMENT**

#### **ARTICLE 1. THE MANAGED PROPERTY**

1.1 Retaining Manager. Owner hereby retains Manager to manage the Property in accordance with the terms and conditions hereof utilizing trained, experienced personnel employing the real estate management practices and techniques typical of the industry.

1.2 Prior to the date of this Agreement, the Manager may have advised and assisted the Owner as to Project marketing and management considerations during the predevelopment phase. Responsibilities may include, but are not limited to the following:

- (a) Preparation and submission to the Owner of a recommended Operating Budget for the Initial Operating Year of the Project;
- (b) Participation in pre-occupancy conferences; and
- (c) Make preparations for marketing and managing the Project according to the requirements of this Agreement.

#### **ARTICLE 2. TERM OF AGREEMENT**

2.1 Term. The term of this Agreement shall commence as of the date hereof and shall continue for a term of one (1) year with automatic renewals up to five (5) years thereafter, or until such time after the initial year term as either Owner or Manager elects to terminate this Agreement,

which election shall be in writing and shall be effective on the date which is thirty (30) days after such notice is given.

**ARTICLE 3.**  
**MANAGER'S RESPONSIBILITIES**

3.1 Management. Manager shall use its best efforts to manage, operate and maintain the Property in a manner in substantial conformance with the Annual Business Plan (as defined in Section 3.6 below) prepared by Manager and approved by Owner. Manager shall use its best efforts to hire management staff that has experience with HUD Section 8 and Low Income Housing Tax Credit programs. In performing such duties, with respect to the proper protection of and accounting for Owner's assets. Manager shall deal at "arm's length" with all third parties. Manager shall use its best efforts to ensure tenant and Owner compliance with all leases and/or third party agreements.

3.2 Employees: Independent Contractor. Manager shall have in its employ or under independent contract at all times a sufficient number, as determined by Manager in its sole discretion, of capable persons to enable it properly, adequately, safely and economically to manage, operate, maintain and account for the Property. All matters pertaining to employment, contracting, supervision, compensation, promotion and discharge of such employees or contractors shall be the sole responsibility of Manager.

Manager shall negotiate with any union lawfully entitled to represent any such employees, if any, and may execute in its own name, and not as agent for Owner, collective bargaining agreements or labor contracts resulting therefrom. Manager shall fully comply with all applicable laws and regulations having to do with worker's compensation, social security, unemployment insurance, hours of labor, wages, working conditions, and other employer-employee related subjects. Manager represents that it is and will continue to be an equal opportunity employer and, to the extent that Manager advertises for employees, will advertise as such.

This Agreement is not one of general agency by Manager for Owner, but one with Manager engaged independently in the business of managing properties on its own behalf, as an independent contractor, and in that respect having only limited agency as specifically set forth in this Agreement. All employment arrangements are, therefore solely Manager's concern and Owner shall have no liability with respect thereto. No party employed or under contract with Manager shall in any respect be deemed an employee of or under contract with Owner.

3.3 Schedule of Employees. Prior to execution hereof, Manager will provide Owner with a schedule of the parties to be employed in the direct management of the Property.

3.4 Compliance with Laws, Mortgages, etc. Manager, at Owner's expense, shall be responsible for substantial compliance with federal, state and municipal laws, ordinances, regulations and orders related to the ownership, leasing, use, operation, repair and maintenance of the Property and with the rules, regulations or orders of the local Board of Fire Underwriters or other similar bodies (collectively, the "Governmental Requirements"). Manager will be responsible for compliance with all restrictions associated with the project's Section 8 Contract, if applicable, and all regulatory requirements of the project's financing. Manager shall promptly

remedy, at Owner's expense, any violation of any such law, ordinance, rule, regulation or order which comes to its attention and which cure Manager is authorized hereby to perform.

Expenses incurred in remedying violations shall be paid from the Operation Account described hereafter provided such expenses do not exceed One Thousand Dollars (\$1,000.00) in any one instance. When more than such amount is required or if the violation is one for which the Property or Owner might be subject to monetary penalty, Manager shall notify Owner promptly, but no later than the fifth business day following the day Manager has been notified of such violation to the end that prompt arrangements may be made to remedy the violation and to pay for such expense. Manager shall be responsible, at Owner's expense, for full compliance with all terms and conditions contained in any ground lease, space lease, mortgage, deed of trust, loan agreement or other security instruments affecting the Property of which true, correct and complete copies it has been furnished (collectively, "the Mortgages") to the Manager. Project compliance reports shall be provided to Owner within fifteen (15) calendar days of receipt by the Manager.

### 3.5 Compliance with Equal Opportunity Requirements.

"Equal Opportunity" is defined as (1) adherence to Federal, State, and local fair housing laws, and (2) positive efforts to ensure that a wide spectrum of persons of various races, creeds, religions, and national origins are made aware of the housing development and of its benefits.

In conjunction with the marketing of multifamily housing, Manager shall follow all applicable HUD rules and regulations and:

(a) All advertising, brochures, leaflets, and other printed material shall include the Equal Housing Opportunity logo and the slogan or statement; and all advertising depicting persons shall depict persons of majority and minority groups.

(b) The Equal Housing Opportunity slogan, "Equal Housing Opportunity", utilized in the newspaper classified advertisements should be at least eight (8) point bold-faced type. Display advertising must include the Equal Housing logo and slogan. If other logotypes are used in the advertisement, then the Equal Housing Opportunity logotype should be of a size equal to the largest of other logotypes.

(c) All signs, off-site and on-site, must prominently display the logo and slogan, or the statement in a size that would not be smaller than the largest letters used on the sign.

(d) The logo and slogan, or the statement and the HUD Equal Housing Opportunity Poster, HUD Form 928.1 (dated 3-89), must be prominently displayed in the on-site office or wherever applications are being taken.

The Equal Housing Opportunity insignia are as follows:

(i) Equal Housing Opportunity Logo and Slogan



(ii) Equal Housing Opportunity Statement

“We are pledged to the letter and spirit of the policy of achievement of equal housing opportunity. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing on the basis of race, religion, gender, national origin, disability, family status, or age.”

3.6 Annual Business Plan. Manager shall prepare and submit to Owner for Owner’s approval an Annual Business Plan for the Property for the promotion, leasing, operations, repair and maintenance of the Property for each calendar year of fiscal year as designated by Owner during which this Agreement is in effect. Such Annual Business Plan shall include a detailed budget of projected income and expenses. The Annual Business Plan shall be prepared within 60 days of the takeover of management, and by October 31<sup>st</sup> of each year thereafter. If Owner does not submit any objections to the Annual Business Plan to Manager in writing within thirty (30) days of submission, Owner shall be deemed to have approved such Annual Business Plan and waived any future objection thereto. A template version of an acceptable Annual Business Plan is attached hereto as Exhibit “B” as an example of what Owner and Manager acknowledge is acceptable.

Manager agrees to use diligence and to employ all reasonable efforts to ensure that the actual cost of maintaining and operating the Property shall not exceed the operating budget which is a part of the approved Annual Business Plan (the “Operating Budget”) either in total or in any one accounting category. Any expense causing or likely to cause a variance of greater than ten percent (10%) or \$1000.00, in any one accounting category for the current month shall be promptly explained to Owner by Manager in writing. All expenses must be charged to the proper account as specified in a Schedule of Accounts to be submitted by Manager to Owner 30 days prior to commencement of lease-up or takeover, and no expense may be classified or reclassified for the purpose of avoiding an excess in the annual budgeted amount of an accounting category. Manager shall secure Owner’s prior written approval of any expenditure that will result in an excess of the greater of One Thousand Dollars (\$1,000.00) or ten percent (10%) of the annual budgeted amount in any one accounting category of the Operating Budget; provided, however, that Owner’s consent shall not be required for an excess expenditure that includes, but shall not be limited to, mortgage payments, taxes, utilities and insurance (for the coverage required hereby) and emergencies.

During the calendar year, or fiscal year if applicable, the Manager shall inform Owner of any increases or decreases in costs, expenses and income that were not reflected in the Annual Business Plan which exceed the greater of ten percent (10%) of the estimate included in the Annual Business Plan, or \$5,000.00.

3.7 Utilities. Manager shall, on behalf of Owner, enter into or renew contracts for electricity, gas, telephone, fuel oil and other necessary utility services for the Property.

3.8 Collection of Rents and Other Income. Manager shall use diligent efforts to collect all rents and other charges, which may become due at any time from any tenant or from others for services provided in connection with or for the use of Property or any portion thereof. Manager shall collect and identify any income due Owner from miscellaneous services provided to tenants or the public including, but not limited to, parking income, tenant storage, and coin operated machines of all types (e.g., washers, dryers, vending machines, pay telephones, etc.). All monies so collected shall be deposited in the Operating Account.

(a) The Manager will collect when due all rents, charges, and other amounts receivable on the Owner's account in connection with the management and operation of the Project. These receipts, except resident security deposits, which will be handled as specified in subsection b. of this Section, shall be deposited in a custodial account separate from all other accounts and funds and shall be maintained with a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation or any successor thereto and shall be used exclusively by the Manager as funds of this Project. This custodial account will be carried in the project's name and designated as the "Project Operating Account". Except for amounts due the Manager for the Management Fee, the Manager shall have no property interest in this account.

(b) The Manager will collect, deposit, maintain and disburse resident security deposits in accordance with the terms of each resident's lease and the provisions of the Landlord-Tenant Code of the applicable state where the Project is located or any successor Act as applicable to residential dwelling units. If security deposits are held in escrow, they shall be deposited by the Manager with a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation or any successor thereto in an interest-bearing custodial account separate from all other Project accounts and funds and will be carried in the Manager's name and designated as the Project Security Account. If the Owner wishes to give a bond in lieu of escrow pursuant to the Landlord Tenant Act, Manager must also maintain an escrow account equal to 25% of all security deposits.

3.9 Competitive Bidding. All contracts for repairs, capital improvements, goods, and services, except salaries for full-time employees shall be awarded at no higher than prevailing market rates and for amounts exceeding Ten Thousand Dollars (\$10,000.00) shall, unless otherwise required by Owner, be awarded on the basis of competitive bidding, solicited in the following manner:

(a) A minimum of three (3) bids shall be required.

(b) Each bid shall be solicited in a form prescribed by Owner, if any, so that uniformity will exist in bid quotes.

(c) Manager may accept a low bid without prior approval from Owner, if the expenditure is for a budget approved item and will not result in an excess of the annual budgeted accounting category of the applicable approved Operation Budget or the Capital Budget

("Budget") which is a part of the approved Annual Business Plan. Otherwise, approval of a bid may be required by Owner before acceptance.

(d) Manager shall not accept other than the lowest bid without the prior approval of Owner. If Manager advised acceptance of other than the lowest bidder, Manager shall adequately support, in writing, its recommendations to Owner.

(e) Owner shall be free to accept or reject any and all bids.

(f) Manager may request Owner, but Owner is not compelled, to waive competitive bidding rules.

Owner shall pay for all expenses of such bidding procedure and may pay for such expenses from its own resources or may authorize payment by Manager out of the Operating Account. Expenses incurred under this Section 3.9 shall not be charged to any account category.

3.10 Repairs. The Manager shall, at Owner's expense, attend to the asking and supervision of all ordinary and extraordinary repairs, replacements, additions, improvement, maintenance, decorations and alterations, subject to the limits of the approved Annual Business Plan, including expenditures to refurbish, rehabilitate, remodel, or otherwise prepare areas covered by new leases. Such activities shall be performed to the end that the property is maintained and furnished as a typical apartment project in the applicable marketplace so long as adequate funds are available. To the extent that such work requires the services of an architect or licensed contractor, the cost to do same includes the architect's or contractor's fees. All such activity shall be made with as little hindrance to the operation of the Property as is reasonably possible.

In case of an emergency, Manager may make expenditures for repairs, which exceed the limits described in this Section 3.10 without prior written approval if it is necessary to prevent damage to the Property, injury to persons or damage to the property of third parties. Owner must be informed of any such expenditure before the end of the next business day.

3.11 Capital Improvements. The approved Annual Business Plan constitutes an authorization for Manager to expend money for authorized capital projects. With respect to the purchase and installation of capital items (cost in excess of Twenty-Five Thousand Dollars (\$25,000.00)) and new or replacement equipment, Manager shall recommend that Owner purchase those items when Manager believes such purchase to be necessary or desirable. Owner may arrange to purchase and install the same itself or may authorize Manager to do so subject to prescribed supervision and specification requirements and conditions. The competitive bid rules outlined in Section 3.9 will be observed in all capital projects involving an excess of Twenty-Five Thousand Dollars (\$25,000.00).

3.12 Service Contracts. Manager shall not enter into any contract (or contracts, if they are for a substantially similar purpose) for cleaning, maintaining, repairing or servicing the Property or any of its constituent parts that requires annual payments in excess of ten percent (10%) of the amount approved in the appropriate budget category of the Annual Business Plan without the prior written consent of Owner. As a condition to obtaining such consent, Manager shall supply Owner with a copy of the proposed contract and shall state to Owner the relationship, if any,

between Manager (or the persons in control of Manager) and the party proposed to supply such goods or services, or both.

All service contracts shall: (a) be in the name of Owner and executed by Manager; (b) be assignable, at Owner's option, to Owner's nominee; (c) include a provision for cancellation thereof by Owner, thirty (30) days' written notice (any exception to this provision must have the prior written consent of Owner); and (d) shall require that all contractors provide evidence of insurance sufficient to meet the requirements of Section 4.3. Unless Owner specifically waives such requirements, either by memorandum or as an amendment to the contract, all service contracts shall be subject to bid under procedure as specified in Section 3.9.

### 3.13 Taxes, Mortgages.

(a) Taxes. Manager shall obtain and verify bills for real estate and personal property taxes, improvement assessments, water charges and other like charges which are or may become liens against the Property and recommend payment or appeal as in its best judgment it shall determine. Such recommendations shall be supported by Manager's completion of data on the assessments on comparable properties determined on a net rentable, usable or gross building area basis. Manager shall, to the extent funds are available in the Operating Account, pay such bills promptly avoiding penalty for late payment and taking advantage of discounts. In the event that any tax due or imposed in respect to any such payments and such tax is the obligation of Owner, Manager shall make the required tax payment after verification of the amount due. When requested by Owner, Manager shall, without charge, except for out-of-pocket expenses (which may include an appropriate tax consultant), render advice and assistance to Owner in the negotiation and prosecution of all claims for the abatement of property taxes and other taxes affecting the Property, for awards, for any taking by eminent domain affecting the Property, and all other government regulations affecting the Property which Owner elects to contest.

(b) Mortgages. Following Owner's written request, Manager shall make all payments on or before the due date therefore required under any Mortgage, provided a copy of any such Mortgage has previously been delivered by Owner to Manager, and provided further the funds adequate for such payments are in the Operating Account. Subject to the provisions hereof, Manager shall deliver to Owner, no later than the due date, evidence that such Mortgage payment has been made, and perform all covenants (which Manager has the authority hereunder to perform) required to be performed or observed by Owner under any such Mortgage.

3.14 Use and Maintenance of Premises. Manager agrees not to knowingly permit the use of the Property for any purpose which might void any policy of insurance relating to the Property which might render loss thereunder uncollectible, or which would be in violation of any Governmental Requirement.

3.15 Other. Manager shall perform such other acts and deeds as are reasonable, necessary and proper in the discharge of its duties under this Agreement so long as such acts and deeds are authorized hereby. In addition to the foregoing, Manager shall execute or cause to be executed all leases in compliance with the Real Estate License Law of the applicable State where the Project is located, as amended. The Manager will secure the full compliance of each resident with the terms of his or her lease, and for this purpose is authorized to consult with legal counsel

approved by Owner. The Manager shall have the power to terminate and accept terminations of tenancies; settle, compromise and release claims against residents; reinstate leases; give consents provided for in all leases; institute suits to enforce Owner's rights under the lease; and take all other required action to enforce the leases in effect in the Project.

3.16 Notice to Owner. Manager shall promptly notify Owner: (a) In the event that the condition of the Property or any part thereof fails (to the knowledge of Manager) to meet the standards of the Mortgage or any other agreement relating to the Property, or to meet the standards of the Governmental Requirements; (b) Upon receipt by Manager of any notice, demand or similar communication with respect to any obligation of Owner under the Governmental Requirements, the Mortgage, or other agreement involving Owner, the Property, or any portion thereof; (c) Upon receipt by Manager of any summons, notice, demand or similar communication regarding any action at law or in equity or before any regulatory body in connection with or involving Owner, the Property, or any portion thereof; (d) Upon receipt by Manager of any notice or communication from an insurance carrier regarding insurance coverage or the insurability of the Property; or (e) Upon receipt by Manager of any notice or communication of any nature, written or oral, which is the reasonable opinion of Manager may have a material adverse effect on Owner or the Property.

3.17 Adequate Funds. Wherever the Manager is obligated to make a payment, and such obligation is qualified by there being adequate funds for such payments, the Manager shall have the right to choose which payments are made and shall have no liability for preferring one creditor over another.

3.18 Rentals. The Manager will offer for rent and will rent the dwelling units, parking spaces, commercial space and other rental facilities and concessions in the project. In connection with these duties, the Manager will carry out the following.

- (a) Make the necessary preparations as described in the Annual Business Plan.
- (b) Follow the requirements of the regulations governing the LIHTC program (the "Regulations"), if applicable HUD regulations, and the Marketing and Management Plan and Affirmative Fair Housing and Marketing Plan (Form 935.2) related to resident eligibility for occupancy;
- (c) Show the Project to prospective residents;
- (d) Take and process resident applications for rentals, counsel applicants as to eligibility for occupancy in the Project; verify income and eligibility certifications in accordance with the Regulations.
- (e) The Manager shall terminate the lease agreement and evict an individual or family for any violation of the tenant lease. The Owner shall include the following lease items in the residential lease agreement for each unit.
  - (i) The lease shall provide that upon 24 hours written notice to the resident the Owner and/or Manager shall be permitted to enter the dwelling unit during reasonable hours for the purpose of performing an inspection.

(ii) The lease must include a mechanism which shall allow termination of the agreement and eviction for violation. Manager may not terminate the tenancy or refuse to renew the lease of a resident except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable federal, state or local law; for completion of the transitional housing tenancy period; or for other good cause. Any termination or refusal to renew must be preceded by a 30-day written notice specifying the grounds for the Action.

(iii) Manager shall maintain the premises in compliance with the Owner's design standards and local code requirements.

(iv) The lease must contain a provision for the resident to provide accurate information to determine eligibility at move-in and annual re-certifications.

(A) On commencement of the lease agreement, and every one year thereafter, the resident shall provide Manager with such certifications, verifications and information as Manager may require in order to perform an examination, reexamination or determination of the family's income and eligibility as provided in the rules of applicable federal or state programs. A failure to provide such certification, verifications and information, or any falsification or willful misrepresentation thereof shall be deemed to be a violation of the lease agreement.

(B) If pursuant to Paragraph (a) above, Manager determines that the resident's family income exceeds the maximum limit, the resident shall be permitted to continue to occupy such dwelling unit; provided, however, that the resident shall be required to pay the applicable rent.

(v) The lease must include a provision for the resident to execute a release for verification for utilities on an annual basis, if applicable

(vi) The lease must include:

(A) Security deposit amount and utility information.

(B) Monthly rental amount.

(C) Signatures of all parties.

(D) A statement that the lease agreement complies with all state and local laws.

(vii) The lease must agree to give the resident a thirty (30) day advance written notice of any increase in the monthly rent.

(viii) Any material misrepresentation in resident's application for the leased premises, whether intentional or otherwise, may be treated by Manager, at its sole option, as an act of default under the lease and all remedies available to Manager (or Owner) in the event of other defaults shall likewise be available to Manager (or Owner) in such case.

(ix) The lease may not contain any of the following provisions:

(A) Agreement to be sued. Agreement by the resident to be sued, to admit guilt or to a judgment in favor of the Manager or in the name of Owner in a lawsuit brought in connection with the lease.

(B) Treatment of property. Agreement by the resident that the Manager or Owner may take, hold or sell personal property of household members without notice to the resident and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the resident concerning disposition of personal property remaining in the housing unit after the resident has moved out of the unit. The Manager or Owner may dispose of this personal property in accordance with state law.

(C) Excusing Owner or Manager from responsibility. Agreement by the resident not to hold the Owner or the Manager legally responsible for any action or failure to act, whether intentional or negligent:

(D) Waiver of notice. Agreement of the resident that the Manager or Owner may institute a lawsuit without notice to the resident.

(E) Waiver of legal proceedings. Agreement by the resident that the Manager or Owner may evict the resident or household members without instituting a civil court proceeding in which the resident has the opportunity to present a defense, or before a court decision on the rights of the parties.

(F) Waiver of a jury trial. Agreement by the resident to waive any right to a trial by jury.

(G) Waiver of right to appeal court decision. Agreement by the resident to waive the resident's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.

(H) Resident chargeable with cost of legal actions regardless of outcome. Agreement by the resident to pay attorney's fees or other legal cost even if the resident wins in a court proceeding by the Manager or Owner against the resident. The resident, however, may be obligated to pay cost if the resident loses.

#### **ARTICLE 4.** **INSURANCE**

4.1 Owner's Insurance. Owner, as a property operating expense, will obtain and keep in force insurance against physical damage (e.g., fire with extended coverage endorsement, boiler and machinery, etc.) and against liability for loss, damage or injury to property or persons which might arise out of the ownership or occupancy of the Property in the following amounts:

(a) Commercial Property: Total insured value; and

- (b) General Public Liability: \$1,000,000.00 / \$2,000,000.00 Aggregate per occurrence.

Manager shall furnish whatever information is reasonably requested by Owner for the purpose of establishing the placement of insurance coverage and shall aid and cooperate in every reasonable way with respect to such insurance and any loss thereunder. Owner shall include in its hazards policy covering the Property, personal property, fixtures and equipment located thereon, and Manager shall include in any fire policies for its appropriate clauses pursuant to which the respective insurance carriers shall waive all rights of subrogation with respect to losses payable under such policies. Manager shall be named as additional insured with respect to Owner's liability policies. Owner's insurance coverage shall seek to include a waiver of subrogation rider to the benefit of Manager in all coverages procured hereunder.

4.2 Manager's Insurance. Manager shall maintain, at its expense, insurance coverage in the following minimum amounts:

- (a) Workers Compensation: Statutory Amount;
- (b) Employer's Liability: \$100,000.00 minimum;
- (c) Comprehensive General Liability:
  - (i) \$1,000,000.00 bodily injury per person, \$2,000,000.00 aggregate for property damage and/or bodily injury; or
  - (ii) Umbrella coverage of no less than \$20,000,000.00; and
- (d) A fidelity bond or other surety acceptable to Owner in an amount not less than \$500,000.00

Manager shall furnish Owner with certificates evidencing the aforesaid coverage, which shall include provisions to the effect that either Party will be given at least thirty (30) days prior written notice of cancellation. Manager's insurance coverage shall seek to include a waiver of subrogation rider in favor of Owner in all coverages procured hereunder.

4.3 Subcontractors' Insurance. Manager shall require that all parties performing work on or with respect to the Property, including, without limitation, subcontractors and service vendors, maintain insurance coverage at such party's expense, in the following minimum amounts:

- (a) Workers Compensation: Statutory Amount;
- (b) Employer's Liability: \$100,000.00 minimum; and
- (c) Comprehensive General Liability:
  - (i) \$1,000,000.00 per occurrence, \$2,000,000.00 aggregate for property damage and/or bodily injury; or

Manager must obtain Owner's consent to waive any of the above requirements, which consent shall not be unreasonably withheld in light of the character or the work performed. Manager shall obtain and keep on file a Certificate of Insurance, which shows that each such party is so insured.

The limits provided for in Section 4.2 and 4.3 may be increased from time to time and at any time upon mutual consent of Owner and the Manager to give effect to increases in current liability exposure and inflationary cost increases. Changes in the amounts and types of insurance provided for hereunder shall be made as part of the Annual Business Plan.

#### 4.4 Fidelity Bond.

The Manager will as a Project expense furnish a Blanket Position Fidelity Bond (Employee Dishonesty) in the amount equal to one month's total rent for the entire Property. The bond shall cover all persons involved in handling of funds of the Manager, Owner and development. Minimum amount of coverage required is equal to one (1) month's income potential.

### **ARTICLE 5.** **INDEMNIFICATION**

5.1 Indemnification. Each party hereto shall defend and save the other harmless from any liability on account of loss, damage or injury arising out of such party's gross negligence or willful misconduct. The Indemnified Party shall:

(a) Promptly notify the indemnifying party (the "Indemnifying Party") and the insurance carrier after the Indemnified Party receives notice or becomes aware of any such loss, damage or injury.

(b) Cooperate in all reasonable respects with the Indemnifying Party and its insurers in the defense of such injury or claims.

(c) Not take action (such as admission of liability) which might bar the Indemnifying Party in its defense to a claim based on such loss, damage or injury.

(d) The failure of the Indemnified Party to comply with the requirements of this Section 5.1 shall not reduce or otherwise affect the Indemnified Party's right to recovery hereunder except to the extent such failure shall increase the liability of the Indemnifying Party hereunder.

Notwithstanding anything to the contrary contained in this Article 5, neither party shall be required to indemnify the other for or defend or hold it harmless from any claims, actions or proceedings resulting from acts or omissions which: (a) constitute gross negligence or willful misconduct on the part of the party claiming the right to be indemnified, its employees, agents, guests, invitees, or contractors; (b) are outside the scope of the party's authority or responsibility hereunder (unless expressly assumed by the Indemnifying Party); (c) are in breach of any duties hereunder; or (d) constitute intentional torts on the part of the party claiming the indemnity, its employees, agents, guests, invitees or contractors.

Manager agrees that Owner shall have the exclusive right, at its option, to conduct the defense to any claim, demand or suit within limits prescribed by the policy or policies of insurance described in Section 4.1 hereof.

The provisions of this Article 5 shall survive the expiration or termination of the Agreement. It is the intention of the parties that this indemnity merely requires establishing liability by a court of competent jurisdiction or by settlement agreed to by both parties and does not require payment as a condition precedent to recovery by the Indemnified Party under this indemnity. To the extent permitted by law, each party, one to the other, waives the right of subrogation that any insurance company may have by reason of having paid an insured claim with respect to the Agreement on the Property.

## **ARTICLE 6.**

### **FINANCIAL REPORTING AND RECORD KEEPING**

6.1 Books of Accounts. Manager shall maintain adequate and separate books and records for the Property, the entries to which shall be supported by sufficient documentation to ascertain that said entries are accurate. Such books and records shall be maintained by Manager at Manager's offices located at 2200 North Commerce Parkway, Suite 100, Weston, FL 33326 or at such other location as may be mutually agreed upon in writing. Manager shall ensure such control over accounting and financial transactions as is reasonably required to protect Owner's assets from theft, negligence or fraudulent activity on the part of Manager's employees or other agents.

(a) In addition to the financial reporting requirements of this Agreement and any and all additional reports as may be requested, the Manager will prepare and maintain records and any and all reports including but not limited to the following:

(i) A comprehensive system of permanent records, books, and accounts satisfactory to the Owner and prepared in conformity with generally accepted accounting principles.

(ii) Furnish information requested by the Owner from time to time with respect to the Project.

(b) The Manager will cause to be prepared and will submit to Owner within ninety (90) days after the end of each fiscal year an audited financial statement prepared by a certified public accountant acceptable to Owner and based upon the preparer's examination of the Project books and records. The cost of this financial statement shall be paid from the Project Operating Account as a Project expense.

(c) All records, books and accounts for the Project will be subject to examination and reproduction at reasonable hours by any authorized representative of the Owner or a certified public accountant selected by Owner.

(d) All records must be retained for three (3) years after the affordability period as defined by the applicable state Code.

(e) In the event the Project has received Federal HOME Investment Partnerships Program funds, the Manager shall comply with the recordkeeping requirements of 24 C.F.R. Sections 92.508(2)(iv), (3)(i), (ii) and (iii), (5)(i), (ii), (iv), (vi), (vii) and (ix) and (6)(iii).

6.2 Financial Reports. Manager shall furnish reports of all transactions occurring during each calendar month. These reports are to be received by Owner no later than twenty (20) calendar days after the end of each month. In addition, Manager shall furnish a summary report of all transactions occurring within each calendar year, which summary report shall be delivered to Owner within forty-five (45) days of the end of each calendar year. All such reports must show all collections, delinquencies, uncollectible items, vacancies, and other matters requested by Owner pertaining to the management, operation, and maintenance of the Property during the year. The reports shall include balance sheet, summarized or detailed operating statement, general ledger, cash flow report (annual), budget variance report (quarterly), rent roll, tenant account receivables, as well as any other items specified in the Annual Business Plan. Manager shall prepare such information on forms reasonably acceptable to Owner to facilitate the input of financial information into Owner's accounting system. Manager shall provide Owner with such other reports, summaries, projections, estimates and information, as Owner shall reasonably request. In addition, Manager shall cooperate to the extent reasonably possible with Owner's accountants in the preparation of annual financial statements (and related management letters). Such annual financial statements and management letters are to be issued within one hundred twenty (120) days after the end of each fiscal year.

6.3 Supporting Documentation. As additional support to the monthly financial statements, Manager shall at Owner's reasonable request, not more often than quarterly, provide copies of the following:

- (a) All bank statements, bank deposit slips and bank reconciliations;
- (b) Detailed cash receipts and disbursement records;
- (c) General ledger listing (periodically, Owner may request copies of all invoices paid during a specific period);
- (d) All invoices for capital expenditures and non-recurring items;
- (e) Summaries of adjusting journal entries; and
- (f) Copies of paid bills.

In addition, Manager shall maintain the following for inspection in its offices:

- (i) Detailed trial balance (if available); and
- (ii) Supporting documentation for payroll, payroll taxes and employee benefits.

6.4 Transfer of Funds. All cash balances shall be maintained by Manager in the Operating Account to be used in accordance with the terms and provisions of this Agreement.

To the extent funds are available, all operating expenses shall be paid by Manager from the Operating Account. Each month Manager shall pay all operating expenses, its management fee and then remit the excess remaining, if any, to Owner as needed or requested and allowed as per the applicable Partnership Agreement affecting the Project. Checks for remittances should be delivered to Owner, independent of required financial reports, in the most expeditious manner possible.

The minimum balance required in the operating account under this agreement is one month's worth of operating expenses, including any applicable debt service for the Project.

6.5 Accounting Principles. All financial statements and reports required by Owner will be prepared in accordance with generally accepted accounting principles with the exception that Owner may specify that the statements be prepared on a cash basis.

6.6 Owner's Property. All books, records, invoices and other documents received by Manager pursuant to its obligations hereunder shall be the property of Owner and shall be promptly delivered to Owner upon termination hereof.

6.7 Failure to Maintain Records. The failure by the Manager to maintain the books and records shall not result in consequential damages to Owner unless such failure is due to gross negligence and willful misconduct.

## **ARTICLE 7.** **OWNER'S RIGHT TO AUDIT**

7.1 Right to Audit. Owner reserves the right for Owner's employees or other agents appointed by Owner, to conduct examinations during regular business hours, upon twenty-four (24) hours' notice to Manager, of the books and records maintained for Owner by Manager. Owner also reserves the right to perform any and all reasonable additional audit tests relating to Manager's activities either at the Property or at any office of the Manager; provided such audit tests are related to those activities performed by Manager for Owner, and further provided that such examinations do not interfere with the other business of the Manager.

Should Owner's employees or appointees discover either weaknesses in internal control as established by generally accepted accounting standards or errors in record keeping, Manager shall correct such discrepancies either upon discovery or within a reasonable period of time after notice from Owner specifying such weaknesses or errors. Manager shall inform Owner, in writing, of the action taken to correct such audit discrepancies.

Any and all audits conducted either by Owner's employees or appointees will be at the sole expense of Owner.

## **ARTICLE 8.** **BANK ACCOUNTS**

8.1 Operating Account. Manager shall deposit all rents and other funds collected from the operation of the Property, including any and all advance rents, in a bank or banks designated

by Manager and approved by Owner in its reasonable discretion, in a special account or accounts (the "Operating Account") for the Property.

Owner shall be given written notice of each such account number and location. If more than one account is required to operate the Property, each account shall have a distinct name.

The funds in the Operating Account shall be segregated from all funds of Manager. Manager shall be entitled to draw against the Operating Account for Operating Expenses.

8.2 Security Deposit Account. Unless otherwise required by law, a separate non-interest bearing account will be opened by Manager at a bank designated by Manager which has been approved by Owner in its reasonable discretion for tenant security accounts.

8.3 Change of Banks. Owner may direct Manager to change a depository bank or the depository arrangements for any reasonable business purpose agreed upon by the parties.

8.4 Access to Accounts. Through the use of signature cards, authorized representatives of Owner shall be permitted access to any and all funds in the bank accounts described in Sections 8.1 and 8.2; provided, however, that Owner shall give prior written notice of its intention to draw upon such account to Manager and provide applicable documents of such purpose.

## **ARTICLE 9.**

### **PAYMENT OF EXPENSES**

9.1 Employment Cost to be Reimbursed. Owner shall reimburse Manager for the total compensation and related expenses of any of Manager's employees who are stationed at the Project and do work solely for the Project if such compensation and related expenses are set forth in the Annual Business Plan approved by Owner. It is agreed that costs of such related expenses shall include cost of group insurance, standard, retirement benefits, and the employer's pro rata share of FICA taxes, state and federal unemployment assessments and worker's compensation premiums or assessment, which may be payable based on the gross pay and taxable income of employee. Manager shall preserve all records supporting the basis for such charges to Owner, and shall prior to reimbursement, submit to Owner upon request.

All matters pertaining to the employment of such employees are the responsibility of Manager, who shall be in all respects the employer of such employees and who shall fully comply with all applicable laws and regulations affecting the employer/employee relationship, including without limitation, laws and regulations having to do with payroll withholdings, worker's compensation, discrimination, social security, unemployment insurance, hours of labor, wages, and working conditions. Since this Agreement is not one of agency by Manager for Owner but one with Manager engaged independently in the business of managing properties on its own behalf, all employment arrangements are therefore solely Manager's concern.

9.2 Costs Eligible for Payment from Operating Account. Manager may and shall pay the following expenses directly from the Operating Account subject to the conditions outlined in Article 3:

(a) Costs to correct any violation of Federal, State and Municipal laws, ordinances, regulations and orders relative to the leasing, use, repair and maintenance of the Property, or relative to the rules, regulations or orders of the local Board of Fire Underwriters or other similar body, provided such costs are not the result of Manager's gross negligence or willful misconduct.

(b) Actual and reasonable costs of making all repairs, decorations and alterations, provided such cost is not the result of Manager's gross negligence or willful misconduct.

(c) Costs incurred by Manager in connection with all service agreements approved by Owner.

(d) Cost of collection of delinquent rentals collected through a collection agency.

(e) Reasonable legal fees of attorneys.

(f) Cost of capital expenditures subject to the restrictions in Section 3.10.

(g) Cost of printing checks for each bank account required so that Manager can fulfill its duties hereunder.

(h) Leasing incentives and consultant fees payable by Owner to third parties.

(i) Cost of service contracts and cost of utilities.

(j) Cost of advertising and promotional activities.

(k) Cost of printed forms and supplies required for use at the Property.

(l) Cost of long-distance telephone charges and special postage charges.

(m) Cost of travel expenses for Property supervision and training seminars incurred by Manager or its employees in connection with the property.

(n) Cost of software licensing for property operations and accounting

(o) Cost for Compliance personnel and including related expenses

9.3 Non-reimbursable Costs. The following expenses or costs incurred by or on behalf of Manager in connection with the management of the Property shall be at the sole cost and expense of Manager and shall not be reimbursed by Owner:

(a) Cost of gross salary and wages, payroll taxes, insurance, worker's compensation, and other benefits of Manager's off-site management, accounting and office personnel and independent contractors.

(b) General accounting and reporting services which are considered to be within the reasonable scope of the Manager's responsibility to Owner.

(c) Cost of forms, paper, ledgers, and other supplies and equipment used in Manager's office at any location off the Property.

(d) Cost of electronic data processing or any pro-rata charge thereof, for data processing provided by computer service companies except for annual software licensing fees necessary for onsite operations of the property.

(e) Political or charitable contributions.

(f) Cost of advances made to employee and travel by Manager's employees or agents to and from the Property except for supervisory personnel.

(g) Cost attributable to losses arising from gross negligence, willful misconduct or fraud on the part of Manager, Manager's associates, or Manager's employees.

(h) Costs of comprehensive crime insurance or fidelity bonds purchased by Manager for its own account.

(i) Employment fees unless specifically approved by Owner.

(j) Advertising expenses of Manager except for help wanted advertising in connection with the Property.

(k) Any expenses of Manager's principal or branch offices.

(l) Any part of Manager's capital expense.

(m) Manager's overhead or general expenses.

## **ARTICLE 10.** **OPERATING ACCOUNT**

10.1 Priorities. From the funds collected and deposited by the Manager in the Operating Account, the Manager will promptly make the following disbursements in the following order when due and payable:

(a) The amount required to be paid monthly by the Manager on behalf of Owner to any lenders for principal amortization and interest on any mortgage loans and annual servicing and other fees;

(b) The amount required to be paid monthly by the manager on behalf of Owner for all real estate taxes, utilities, insurance premiums, reserve funds, and other escrow payments;

(c) The Manager's fee, as determined by this Agreement;

(d) Reimbursement to the Manager for compensation as permitted hereunder;  
and

(e) All other amounts otherwise due and payable by the Owner authorized to be incurred by the Manager under the terms of this Agreement as a Project expense.

10.2 Statement of Unpaid Items. After Manager has paid to the extent of available gross income, all bills and charges based upon the ordered priorities set forth in Section 10.1, Manager shall submit to Owner a statement of all remaining unpaid bills, which Owner shall promptly provide funds for.

10.3 Segregation of Accounts. In each instance where Manager manages several properties for Owner, Manager shall segregate the income and expenses of each property so that gross income from each property will be applied only to the bills and charges from such property.

## **ARTICLE 11.** **MANAGER'S EMPLOYEES**

All personnel with respect to the Project will be employees of the Manager and will be hired, paid, supervised and discharged by the Manager. Compensation for the personnel will include salary or wages, all fringe benefits, unemployment and workmen's compensation insurance premiums, and all Federal, state and local taxes incident to the employment of personnel (including social security taxes) and will be in compliance with all applicable minimum wage requirements.

## **ARTICLE 12.** **C OOPERATION; NON-DISCRIMINATION**

12.1 Cooperation. Should any claims, demands, suits or other legal proceedings be made or instituted by any person against Owner which arise out of any of the matters relating to this Agreement, Manager shall give Owner all pertinent information possessed by Manager and reasonable assistance in the defense or other disposition.

12.2 Non-Discrimination.

(a) Manager shall comply with all applicable federal, state, and local laws and shall not:

(i) Refuse to lease or otherwise deny or withhold any unit from any person because of race, or color, religious creed, ancestry, sex, national origin, familial status, or handicap or disability of any prospective occupant of such unit or refuse to lease a unit to any person due to use of a guide dog because of blindness of the prospective occupant.

(ii) Discriminate against any person in the terms and conditions of any lease for a unit or in furnishing facilities, services or privileges in connection with the occupancy or use of a unit of the Project because of the race, color, religious creed, ancestry, sex, national origin or handicap or disability of any present or prospective occupant of the Project.

(iii) Print, publish, or circulate any statement or advertisement relating to the Project which indicates any preference limitation, specification or discrimination based upon race, color, religious creed, ancestry, sex, national origin or handicap or disability, or print, publish or circulate any statement or advertisement relating to the lease of any unit which indicates any preference, limitation, specification, or discrimination based upon use of a guide dog because of blindness of the occupant.

(b) Manager shall NOT make inquiries to elicit any information, make or keep records or use any form of application, containing questions or entries concerning race, color, religious creed, ancestry, sex, national origin or handicap a disability in connection with the lease of any unit in violation of applicable laws or HUD guidelines or to make inquiries, elicit information, make or keep records or use any form of application, containing questions or entries concerning the use of a guide dog because of blindness or the occupant in connection with the lease of any unit in violation of any applicable laws or HUD guidelines.

(c) During the term of this Agreement, the Manager agrees as follows:

(i) Manager shall not discriminate against any employee, applicant for employment, independent contractor, or any other person because of race, color, religious creed, ancestry, national origin, age, or sex. Manager shall take affirmative action to insure that applicants are employed, and that employees or Managers are treated during employment, without regard to their race, color, religious creed, handicap, ancestry, national origin, age, or sex. Such affirmative action shall include, but is not limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. Manager shall post in conspicuous places, available employees, Managers, applicants for employment, and other persons, a notice to be provided by the contracting Owner setting forth the provisions of this nondiscrimination clause.

(ii) Manager shall, in advertisements or requests for employment placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, handicap, ancestry, national origin, age, or sex.

(iii) Manager shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of Manager's noncompliance with the nondiscrimination clause of this Agreement or with any such laws, this Agreement may be terminated or suspended, in whole or in part.

(iv) Manager shall furnish all necessary employment documents and records to, and permit access to its books, records, and accounts by the contracting Owner for purposes of investigation to ascertain compliance with the provisions of this clause. If Manager does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting Owner.

(v) Manager shall include the provisions of this nondiscrimination clause in every subcontract, so that such provisions will be binding upon each subcontractor.

(vi) Manager obligations under this clause are limited to Manager's facilities within the Property.

12.3 Resident-Management Relations. To the extent that problems affecting the Project and its residents may be avoided or solved on the basis of mutual self-interest and understanding, the Manager will encourage and assist representative organizations to promote their common interests, upon the request of residents. At all times, the Manager will make a good faith effort to maintain communications with organizations who represent residents of the Project. The Manager shall adhere to the Owner's fair lease and grievance procedures, if applicable.

12.4 Resident Selection Process. It is understood and agreed that the housing covered by the within transaction is to be residential rental housing used for the benefit of the general public and those of low income. In this connection, the Manager agrees that once available for occupancy each unit in the Project shall be rented or available for rental on a continuous basis to members of the general public on other than transient basis.

12.5 Monthly Rental Amounts. Monthly rental amounts shall, at all times, comply with such limits as may be required under the applicable program guidelines.

### **ARTICLE 13.** **COMPENSATION**

13.1 Compensation. The Manager shall be compensated in accordance with the fees outlined and reflected on **Exhibit A** attached hereto and made a part hereof.

### **ARTICLE 14.** **TERMINATION**

14.1 Termination. This Agreement shall terminate thirty (30) days after written notice by Owner to Manager of (a) the substantial destruction of the Property; or (b) the taking, by eminent domain, of a substantial part of the Property.

14.2 Authority to Execute Termination Notices. Notices of termination shall be signed by an officer or other authorized agent of Owner.

14.3 Termination by Owner. This agreement shall terminate upon (a) termination or suspension of Manager's real estate brokerage license, if such license is required as a condition to managing the Property; or (b) complete cessation on Manager's part to do business; or (c) default by Manager's or any of its affiliates under applicable documents affecting Manager and Owner; or (d) bankruptcy, insolvency, or assignment for the benefit of the creditors of Manager shall, at the sole election of Owner effect a termination of this Agreement thirty (30) days after written notice from Owner to Manager.

14.4 Termination for Cause. Owner may terminate this Agreement at any time during the term hereof for any of the following causes:

(a) Manager fails to pay any material sum payable when sufficient funds are available in the Operating Account under this Agreement when due or fails to perform or comply with any of its obligations hereunder at the time or times and in the manner required under this Agreement provided that Owner first give, Manager thirty (30) days written notice of such default or breach and Manager, when the default or breach is the failure to pay a sum payable hereunder,

fails to pay such sum within five (5) days thereafter, and when the default or breach is other than the failure to pay a sum payable hereunder, fails to commence curing such default or breach within five (5) days, or after commencing the same fails to diligently pursue the curing of such default to completion within ten (10) days after commencement of the cure; or

(b) A default occurs under any Mortgage or other agreement affecting the property caused by Manager's act or omission or commission which occurrence is not timely cured by Manager.

14.5 Termination by HUD. If applicable, HUD may require the Owner to terminate the agreement: (i) immediately, in the event a default under the Mortgage, Note, Regulatory Agreement, or Subsidy Contract attributable to the Project; (ii) upon 30 days written notice, for failure to comply with the provisions of the Management Certification or other good cause; or (iii) if and to the extent HUD exercises its authority to take over the Project. If HUD terminates this Agreement, Owner will promptly make arrangements for alternative, replacement management reasonably satisfactory to HUD. The Manager will immediately turn over to Owner all of the books, records, project's cash, trust accounts, investments, and other contracts and records immediately, but in no event more than 30 days.

14.6 Final Accounting. Upon termination of this Agreement, Manager shall deliver to Owner within thirty (30) days:

(a) A final accounting, reflecting the balance of income and expenses of the Property as of the date of termination or withdrawal, to be delivered within thirty (30) days after such termination.

(b) Any balance or monies of Owner and tenant security deposits, or both, held by Manager with respect to the Property, to be delivered immediately upon such termination.

(c) All keys, garage cards, parking permits and passes, records, contracts, leases, receipts for deposits, unpaid bills and other papers or documents which pertain to the Property, to be delivered immediately upon such termination. Upon such termination, Owner will assume responsibility for payment of all approved or authorized unpaid bills.

14.7 Obligation to Vacate. Upon termination of this Agreement, Manager shall promptly vacate any office space provided by Owner for the location of Manager's personnel and shall restore any such office space to the same condition that it was in at the time such space was first provided to Manager.

14.8 Assignment of Accounts. Upon the expiration or termination of this Agreement for any reason the Manager will: (1) assign to the Owner within twenty-four (24) hours after such termination, all monies in all Project accounts including but not limited to the Project Operating Account, Resident Security Deposit Account, and the Residual Reserve Fund, (2) cause settlement with the Owner of all unpaid bills, (3) deliver outstanding leases, contracts, insurance policies, bonds, warranties, books, records and all other unspecified materials, documents and records pertaining to the Project, (4) notify each resident to make all future rent payments to the Owner or the Owner's designee, and (5) submit to the Owner any financial statements required. Manager will make a general reporting to Owner of all items enumerated in this Subsection within twenty-

four (24) hours after termination of this Agreement. The expiration or termination of this Agreement shall not cut off, divest or otherwise diminish the rights or remedies, outstanding obligations, duties or liabilities of any party under this Agreement in either law or equity, which exist prior to expiration or termination of this Agreement. As against each other the principal Parties waive the defense of impossibility of performance.

**ARTICLE 15.**  
**SUBSIDIARIES AND AFFILIATES**

15.1 Subsidiaries and Affiliates. Any contract or lease of any kind whatsoever between Manager and any person, corporation or other entity owned or controlled by, under common ownership or control with owning or controlling Manager with respect to the Property shall be on terms no less favorable to Owner than are generally available in the market and will be subject to the prior written approval of Owner.

**ARTICLE 16.**  
**NOTICES**

16.1 Notices. All notices, demands, consents and reports provided for in this Agreement shall be in writing and shall be given to Owner or Manager at the addresses set forth below or at such other address as they individually may specify thereafter in writing:

OWNER: RUDG, LLC or Affiliates  
2850 Tigertail Ave, Suite 800  
Miami, FL 33133  
Attention: Tony Del Pozzo  
Phone: 305-533-0049  
Tony@relatedgroup.com

MANAGER: TRG Management Company, LLP  
2200 North Commerce Parkway  
Suite 100  
Weston, FL 33326  
Attention: Marilyn Pascual  
305-442-8628  
mpascual@relatedgroup.com

Such notice or other communication may be mailed by United States registered or certified mail, return receipt requested, postage prepaid and may be deposited in a United States Post Office or a depository for the receipt of mail regularly maintained by the post office. Such notices, demands, consents and reports may also be delivered by hand. For purposes of this Agreement notices will be deemed to have been “given” upon personal delivery thereof or forty-eight (48) hours after having been deposited in the United States mail as provided above.

**ARTICLE 17.**  
**OWNER’S PERFORMANCE OF MANAGER’S OBLIGATION**

17.1 Owner's Performance. In the event Manager fails to perform any of its obligations and undertakings hereunder, Owner may, after giving Manager ten (10) days' notice thereof (unless such default creates an emergency in Owner's judgment, in which case no notice need be given by Owner), perform any of Manager's obligations (including payment of any monies due) and Owner shall be immediately reimbursed by Manager for any monies so expended (to the extent there are funds in the Operating Account); provided, however, that any part of such monies expended by Owner which represent penalties, interest or Owner's expenses or costs (including attorney's fees) incurred wholly or in part by reason of Manager's default under this Agreement shall not be charged to the Operating Account, but shall be paid by Manager to Owner. Any performance by Owner of any obligation of Manager hereunder shall not be deemed a waiver by Owner of any other right or remedy Owner has under this Agreement or in law or equity by reason of such default or waiver of any such rights or remedies Owner has by reason of a future default by Manager.

## **ARTICLE 18.** **MISCELLANEOUS**

18.1 No Assignment. Owner has entered into this Agreement in reliance upon the experience and ability of Manager and, therefore, this Agreement and all rights hereunder, shall not be assignable by Manager without the prior written consent of Owner.

18.2 Consent and Approvals. Owner's consents or approvals may be given only by representatives of Owner from time to time designated in writing by Owner. All such consents or approvals shall also be in writing.

18.3 Pronouns. The pronouns used in this Agreement referring to Manager shall be understood and construed to apply whether Manager be an individual, partnership, corporation or any other entity or individual or individuals doing business under a firm or trade name.

18.4 Amendments. Except as otherwise herein provided, any and all amendments, additions or deletions to this Agreement shall be null and void unless approved by both parties in writing.

18.5 Headings. All headings herein are inserted only for convenience and ease of reference and are not considered in the construction or interpretation of any provision of this Agreement.

18.6 Time of the Essence. Time is of the essence in this Agreement.

18.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

18.8 No Advertising. No publication, announcement or other public advertisement of Owner's name in connection with the Property shall be made by Manager, except in connection with leases or agreements entered into by Manager in Owner's name as expressly provided for herein, or as may be required by applicable law.

18.9 Severability. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.

18.10 Relationship of the Parties. Manager is an independent contractor hired by Owner pursuant to the terms hereof. Nothing contained in this Agreement, nor any acts of the parties hereto, shall be deemed or construed by the parties hereto, or either of them, or any third party, to create: (a) a principal and agent relationship (except as specifically provided above); or (b) a partnership or a joint venture, between the parties hereto.

18.11 No Third-Party Beneficiaries. Owner and Manager acknowledge that this Agreement is solely for their own benefit and, except as provided in Section 18.1, that no third party shall have any rights or claims arising hereunder.

18.12 Waiver, Entire Agreement. No modification, amendment, discharge or change of this Agreement, except as otherwise provided herein, shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, amendment, discharge or change is sought. No waiver of any breach of any covenant, condition or agreement contained herein shall be construed to be a subsequent waiver of the covenant, condition or agreement or of any subsequent breach thereof or of this Agreement.

18.13 Interpretation. In interpreting this Agreement, the provisions in the Agreement shall not be construed against or in favor of either party on the basis of which party drafted this Agreement.

18.14 Attorney's Fees. In the event either party hereto institutes legal action against the other party to interpret or enforce this Agreement or to obtain damages for any alleged breach hereof, the prevailing party in such action shall be entitled to an award of reasonable attorney's fees.

18.15 Representations. Manager represents and warrants that it is fully qualified and licensed.

18.16 Addendum. The provisions of that certain Public Housing Mixed Finance Rider to Management Agreement executed by Owner and Manager of substantially even date herewith are incorporated herein by reference. (If applicable)

18.17 Complete Agreement. The agreement supersedes and takes the place of any and all previous management, leasing and consulting agreements between the parties hereto relating to the Property.

18.18 HUD Requirements. In the event that there is a conflict between the rules, regulations and requirements of HUD (the "HUD Requirements") including those set forth in Exhibit B attached hereto and the requirements of this Agreement, the HUD Requirements shall govern this Agreement and prevail, and this Agreement shall be amended and restated to take into account the applicable HUD Requirements.

18.19 Management Office. If there is to be a Management Office at the Project, all necessary office furnishings (for example: desks, chairs, filing facilities, copier, etc.), necessary office equipment (for example: computer, monitor, calculators, etc.), necessary office supplies and expenses, and utilities, shall be provided from the project Operating Account as a Project expense. Expenses of the office of the management Manager not at the Project may not be treated as Project expenses. These expenses include, but are not limited to, all necessary office supplies (for example: files, forms, letterhead, stationary, etc.) and all bookkeeping, clerical and other necessary management overhead expense (for example: postage, transportation for management Manager personnel, telephone, etc.).

18.20 Defined Terms.

The following terms when used in this Agreement and initially capitalized shall have the following meaning prescribed to each:

- (a) “Agreement”: This Management Agreement.
- (b) “Initial Occupancy”: The date the first dwelling unit of the project is first occupied by a resident under the Residential lease agreement.
- (c) “Fidelity Bond”: Equivalent to one (1) month’s income potential.
- (d) “Initial Operating Year”: That period of time falling between the Initial Occupancy and the beginning of the Owner’s next following fiscal year.
- (e) “Occupancy Date”: Date upon which the first residential unit is certified for occupancy.
- (f) “Operating Budget”: That itemization of project expenses, income and related data for a certain period of time.
- (g) “Operating Year”: That period of time consisting of twelve (12) full calendar months commencing the first day of the Owner’s fiscal year following the end of the Initial Operating Year and terminating on the last day of the following twelfth month.
- (h) “Principal Parties”: The Owner and Manager.
- (i) “Project”: The housing development consisting of land, buildings and other improvements, as stated on recital A. of this agreement.

SIGNATURES ON FOLLOWING PAGE

INTENDING TO BE LEGALLY BOUND HEREBY:

MANAGER:

OWNER:

**TRG MANAGEMENT COMPANY, LLP**

RUDG, LLC or Affiliates

By: \_\_\_\_\_

By: \_\_\_\_\_,

Matthew J. Allen  
Vice President of JMP Management, Inc.  
The General Partner of  
TRG Management Company LLP

Tony Del Pozzo  
Vice President  
RUDG, LLC or Affiliates

## Exhibit “A “– Applicable Fees

**Property Management Fee: \$5,000 per month or 5% Management Fee, whichever is greater**

“Gross income”, for purposes of the Management Fee computation will include all income received at the Project except:

- security deposits unless and not until such deposits are applied as rental income or other charges upon termination of a lease
- rents paid in advance of the date until the month in which such payments are to apply as rental income;
- sale, finance, refinance, condemnation or insurance proceeds;
- rebilling of utilities;
- tenant reimbursements;
- monies collected for capital items which are paid for by tenants; and
- interest income

**Compliance Reporting Fee: \$5 Per Unit per Month** (payable out of available cash flow)

**Construction Supervisory Fee.** The Manager may receive a market rate construction supervisory fee for capital repairs and replacements in excess of \$25,000 to the Project, such fee to be approved by Owner in accordance with local custom, shall not exceed any limits imposed under HUD rules and regulations, and such fee shall not exceed five percent (5%) of the actual construction costs incurred for such capital repair and replacement.

No such fees due hereunder shall exceed the maximum allowable fees permitted under applicable HUD rules and regulations.

**Exhibit “B”**

**PBV RAD Rider to Management Agreement**

Notwithstanding any other provision in this Management Agreement, and so long as the RAD Use Agreement, as defined below, is recorded against the property on which RUDG, LLC or Affiliates (the “**Project**”) sits, the following provisions shall apply:

**A. Definitions**

“**HUD**” means the U.S. Department of Housing and Urban Development.

“**RCC**” means the RAD Conversion Commitment dated\_\_\_\_\_, 2021, as amended or extended.

“**RAD HAP Contract**” means the Section 8 Project-Based Voucher Housing Assistance Payment Contract by and between Owner and Miami-Dade County governing the RAD Units.

“**RAD Documents**” means the RCC, RAD HAP Contract and RAD Use Agreement.

“**RAD Program**” means the Rental Assistance Demonstration (RAD) Program created by the Consolidated and Further Continuing Appropriations Act of 2012, and Notice PIH-2012-32, as amended.

“**RAD Requirements**” means all applicable statutes, regulations and guidance and other requirements issued by HUD for the RAD Program, as they become effective, including but not limited to (1) the Consolidated and Further Continuing Appropriations Act of 2012, all applicable statutes and any regulations issued by HUD for the RAD Program, as they become effective and (2) all current requirements in HUD handbooks and guides, notices (including but not limited to, HUD Notice H-2019-09 PIH-2019-23 (HA) REV-4, as it may be amended from time to time), the Multifamily Occupancy Handbook, and Mortgagee letters (if any) for the RAD Program, (3) the RAD HAP Contract, RAD Use Agreement, and RCC, (4) RAD Requirements, and (5) and all future updates, changes and amendments thereto, as they become effective.

“**RAD Units**” means the fifty-eight (58) former public housing units.

“**RAD Use Agreement**” means that certain RAD Use Agreement executed by Owner, the Miami-Dade County and HUD substantially even date herewith with respect to permitted uses of the Project.

**B. RAD Required Provisions.** Notwithstanding any other provision in this Management Agreement, and so long as the RAD Use Agreement, as may be amended from time to time is in effect, the following provisions shall apply:

**i. RAD Compliance.** In carrying out their respective duties, responsibilities and obligations hereunder, the Owner and Agent shall comply with all applicable RAD Requirements.

**ii. Admissions.** Agent shall utilize the required waiting list and maintain a current list of acceptable prospective tenants and undertake all arrangements necessary and incidental to the acceptance of rental applications and the execution of leases, according to the requirements of 24 CFR Parts 5 and 880, and the RAD Requirements. Agent acknowledges and agrees that Agent shall be responsible for conducting all other eligibility determinations and screening required under the Management Agreement and this Amendment; provided however, that **no tenant residing in the Project on the date of this Amendment shall be subject to eligibility determination or screening as part of the conversion.**

**iii. RAD Unit Leases.** Agent shall not enter into any lease which has a term greater or less than twelve (12) months. Each lease shall include a RAD Unit Lease Rider, which is attached as Exhibit C

**iv. Books and Records.** Agent shall provide access by HUD, the Comptroller General of the United States and their authorized agents, upon reasonable notice to Owner, to books and records maintained by Agent and/or Owner and their agents relating to the Project.

**v. Conflicts.** If any provision of the Management Agreement conflicts with RAD Required Provisions outlined herein, the terms of the RAD Required Provisions shall control. If there is any ambiguity between the Management Agreement and the RAD Requirements, such ambiguity shall be interpreted in a manner which is consistent with the RAD Requirements.

**vi. Elderly Preference.** With respect to the RAD Units and Non-RAD PBV Units the Agent shall provide a primary occupancy preference for elderly families. For purposes of this preference “elderly family” is defined at 24 C.F.R. §5.403 and includes families whose head, co-head or spouse is at least sixty-two (62) years of age.

## Exhibit C

### RAD UNIT LEASE RIDER

This RAD Unit Lease Rider (“**RAD Rider**”) is entered into on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between RUDG, LLC or Affiliates (“**Owner**”) and \_\_\_\_\_ (“**Tenant**”) to amend that certain lease between Owner and Tenant entered into as of the date hereof for Unit (the “**Lease**”) to reflect certain requirements of the Rental Assistance Demonstration (“**RAD**”) program administered by the U.S. Department of Housing and Urban Development (“**HUD**”) through Miami-Dade County (the “**County**”), which governs the Unit covered by the Lease and the apartment complex in which the Unit is located (the “**Property**”).

Under RAD, the County has converted the Property from HUD’s public housing program to HUD’s project-based voucher (“**PBV**”) program under 24 CFR Part 983, as such may be amended from time to time. The Property is subject to requirements of the RAD program under HUD Notice H-2019-09 PIH-2019-23 (HA) REV-4, issued September 5, 2019, as such may be amended from time to time (the “**RAD Requirements**”).

The RAD Requirements are in addition to, and may modify, the requirements of the PBV program, including the Tenancy Addendum for the PBV program which is executed herewith. In the event of a conflict between the RAD Requirements and the requirements of the Lease, the RAD Requirements shall control.

Owner and Tenant hereby agree that the Lease is amended by the following provisions:

**1. Termination Notification.** Owner shall renew the Lease upon expiration, unless good cause under 24 C.F.R. § 983.257(a) exists for non-renewal of a lease. Further, Owner shall provide adequate written notice of termination of the Lease which shall not be less than:

- a. A reasonable period of time, but not to exceed 30 days:
  - i. If the health or safety of other tenants, Owner or County employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - ii. In the event of any drug-related or violent criminal activity or any felony conviction;
- b. 14 days in the case of nonpayment of rent; and
- c. 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.

**2. Grievance Process.**

- a. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(vi), and in County’s Administrative Plan. Owner shall give Tenant an opportunity for an informal hearing for any dispute that Tenant may have

with respect to Owner's actions in accordance with the Lease that adversely affect Tenant's rights, obligations, welfare, or status:

- i. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), the hearing will be conducted in accordance with the procedures outlined in County's Administrative Plan; and
- ii. For any additional hearings required under RAD, an impartial member of the owner's staff shall perform the hearing.
- b. An informal hearing will not be required for class grievances or to disputes between Tenant and other tenant of the Property not involving Owner or County. This hearing requirement shall not apply to and is not intended as a forum for initiating or negotiating policy changes between tenants or groups of tenants of the Property and Owner or County.
- c. Owner hereby gives Tenant notice of Tenant's ability to request an informal hearing for circumstances that do not otherwise entitle Tenant to a hearing under County's Administrative Plan.
- d. Owner shall provide opportunity for an informal hearing before an eviction.

Tenant and Owner by signing below are hereby agreeing to the terms of and to be bound by this Rider.

**Tenant:**

By: \_\_\_\_\_  
(signature)

Printed name: \_\_\_\_\_

**Owner:**

RUDG, LLC or Affiliates

By: RUDG, LLC or Affiliates, a Florida limited liability company, its manager

By: \_\_\_\_\_  
(signature)

Printed name: Tony Del Pozzo, Vice President