



**MONUMENT**  

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**R E A L T Y L L C**

**PROPERTY MANAGEMENT  
PROCEDURES MANUAL**

**DECEMBER 2001**

# PROPERTY MANAGEMENT PROCEDURES MANUAL

No. A • 1     Statement

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## **Acknowledgement**

While employed at Monument Realty, the President of the company (Michael Darby) utilized Michael McCormick's broad business operational experience and requested the development of this Property Management Procedures Manual in conjunction with developing a Property Management transition plan to establish a Property Management division within the Company, allowing the Company to take over from the outsourced third party services provider.

Thank you to Michael McCormick for his extensive efforts to assist our organization with developing this manual and his continued contributions to improving and growing the company.

Thank you.

Michael Darby  
President & Managing Partner

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. A • 1      Statement

---

### **Overview**

The Procedures Manual shall serve as a standard agreement between the Owner and all self-managed and or third party management. The Procedures Manual implementation and administration is the responsibility of the Vice President of Property Management for the asset.

The primary purpose of the operations manual is to list the information that the Owner requires it's self-managed and or third party Managers to keep. Although there may be some topics that are not applicable to the asset, most of the topics cover information required by the Managers to be made available for audit purposes.

### **Philosophy**

The intent of the Operating Plan is to further establish and outline the procedures and practices that the Owner believes are important for operating a well-managed real estate investment. The intent and goal is to have all of our investment property well maintained with the belief that good management and maintenance procedures will enhance real estate value and promote good tenant relations. We also believe that operating expenses will be minimized with a preventive maintenance program that a) is properly conceived and routinely and consistently carried out, b) is performed by qualified technicians whether in-house or supplied by a contractor and c) follows manufacturers' recommendations for all maintenance, service and repair procedures to assure efficient and safe operation of all building components.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. A • 2      Property Information

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### **Documentation / Files**

The Manager will maintain a set of files for all properties including, but not limited to, the following:

- All correspondence
- Leases currently in force, and attachments (i.e., side letter agreements, amendments, addendums, letters of credit, estoppel certificates, certificates of occupancy, insurance certificates, etc.)
- Real estate tax file
- Insurance related correspondence
- Service and construction contracts, including all tenant improvement work
- Warranties and guarantees
- A current and complete rent roll (including tenant space number, tenant name, square footage, rental amount, monthly reimbursement amount, annual rental increases and percent of office for each warehouse space)
- Site plan, building plans and specs; tenant improvements space drawings
- Current list of tenant contacts (business name, address, phone number, and contact name, address and phone number).

Unless otherwise approved by the Owner, the Manager will use the attached Landlord's Waiver and Agreement (Exhibit A).

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. A • 2      Property Information

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### **Background Information**

The Manager will provide a list of persons working on the property and their responsibilities.

To provide proper management, the Manager will maintain the following minimum property information:

- Property type
- Name
- Address
- Location (for example: Northeast quadrant of I-235 and 42<sup>nd</sup> Street)
- Completion date (original construction, any rehab)
- Improvements (type of construction, number of buildings, number of stories)
- Zoning classification, description and jurisdiction
- Land (acres and square feet)
- Square footage of each building (gross, rentable and usable)
- Land to building ratio (i.e. land area in square feet / gross building area)
- Number of parking spaces
- Parking ratio (i.e. number of parking spaces / 1000 square feet of gross building area)
- Roof age, type and life expectancy
- Utility companies (gas, electric, sewer, water, telephone); security deposit amount or surety bond amount, if applicable; electrical capacity of buildings
- Underground / above ground tanks on property (Owner, type, capacity, location, age, use, past or existing problems)

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. A •3      Insurance

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### Property Insurance

Owner, at its expense, will obtain and keep in force all risk property insurance for the Property covered under this Agreement. Owner will also obtain and keep in force Boiler and Machinery coverage for the Property. Manager, at its expense, will keep in force an all risk property insurance policy covering Manager's furniture, furnishings and fixtures situated at the Property. Each of the policies shall contain appropriate clauses pursuant to which the respective insurance carriers shall waive all rights of subrogation with respect to losses payable under such policies. The policy insures against the loss, but is not limited to the perils of fire, lightning, windstorm, hail, riot or civil commotion, smoke, aircraft or vehicles, sonic boom, vandalism, flood and earthquake. The policy has a \$10,000 deductible except for flood and earthquake where the deductibles are higher.

The premiums are paid by the Owner and the property manager is notified in case reimbursements are to be made by the tenants.

If the property is damaged the Manager should notify the Owner as soon as possible and submit the Loss Notice form (Exhibit D). If the building has significant damage, the Manager should take immediate steps to prevent the building from any further damage. Items that may need immediate attention are bracing the building to prevent collapse or sealing the roof to prevent water damage in case of rain. The insurance company will pay the costs for securing the building, but not for preventable additional damage.

### Liability Insurance

**Owner's Insurance** - Owner, at its expense, will obtain and keep in force commercial general liability insurance coverage. Owner shall be the insured on such policy, with Manager named as an additional insured for accidents occurring on or about the Property. Neither Owner nor Owner's insurance company shall be liable to Manager for the gross negligence, malice or willful misconduct of Manager, its officers or employees, nor shall Owner or Owner's insurance company be liable to Manager for accidents arising from conditions solely created out of Manager's breach of the duties and obligations required by this Agreement to be performed by it. Owner may self-insure all or part of the risk described above. Owner's coverage will be primary with respect to claims not herein excluded. The foregoing is not intended to affect the general requirement of this Agreement that the Property shall be managed, operated and maintained in a safe condition and in a proper and careful manner.

Manager shall furnish at Owner's request for the purpose of establishing the placement of insurance coverage's and shall aid and cooperate in every reasonable way with respect to such insurance and any loss covered there under.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. A •3      Insurance

---

The Owner's commercial general liability policy covering bodily injury and property damage has a combined single limit per occurrence of \$1,000,000 and an aggregate limit of \$2,000,000. In addition the Owner carries excess policies totaling another \$25,000,000. The Owner's liability policy does not have a deductible. Contracted fee Managers are listed as additional insureds and a certificate of insurance will be sent annually upon renewal.

The Owner's policy also has a \$5,000 medical payment coverage limit, which pays for a person injured on the property whether or not it is the Owner's fault. If the medical bills of the injured party exceed the \$5,000 limit the bodily injury coverage will kick in but only if the injury is due to the Owner's fault.

Property damage coverage will cover the Owner in case the tenant claims their furniture, equipment and inventory are damaged due to the Owner's fault. It is not very common to see such a claim as the standard lease language states the tenant agrees that the Owner is not to be held liable for damage to their property. If such a case arises, notify the Owner as soon as possible using the Loss Notice (Exhibit D).

**3rd Party Additional Insurance** - Manager shall continuously maintain at its cost and furnish Owner certificates evidencing the existence of the following insurance policies:

1. Worker's Compensation - statutory limits in the state where the Property is located;
2. Employers' Liability - \$500,000 or such other higher limits imposed in accordance with the requirement, if any, of the laws of the state where the Property is located;
3. Employee dishonesty insurance with coverage of at least \$1,000,000;
4. Commercial General Liability - \$1,000,000 per occurrence and a \$2,000,000 general aggregate;
5. Business Auto Liability including hired and non-owned auto coverage - \$1,000,000 combined single limit;
6. Umbrella/Excess - \$5,000,000 per occurrence; and
7. Theft of Money and Security coverage with limits of \$10,000 for Inside the Premises and \$10,000 for Outside the Premises.

**Tenant's Insurance** - The property manager annually upon renewal should receive current certificates of liability insurance. The coverage limits should be per the terms of the lease and the Ownership should be shown as an additional insured. Refer to specific Certificate of Insurance instruction sheet for each property for the listing of "Additional Insured". The Tenant naming the Owner as an additional insured affects the Ownership's liability insurance premium.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. A •3      Insurance

---

Annually, by March 1, the property manger must submit a copy of each tenant's liability insurance certificate to the Owner, which in turn is sent to the Owner's liability carrier for review.

**Contractors' Insurance** - All service vendors and contractors must provide a certificate of insurance for bodily injury liability and property damage liability and workmen's compensation per the limits of coverage outlined below. It is important that the Ownership be shown as an additional insured.

1. Claim Reporting:
  - a. When any member of the public (except your employees or the Owner's employees) is injured in or about the building including sidewalks and parking lots, the Owner should be immediately notified of the injury. We have found that by notifying our insurance carrier promptly, the claims adjuster has been able to respond to the injured party on a timely basis and has had better results in minimizing the claim instead of animosity building up and the threat of a lawsuit against the Owner.
  - b. Personal injuries and property damage should be reported on the Loss Notice form provided by the Insurance carrier.
2. Manager shall require that all subcontractors brought onto the Property have insurance coverage at the subcontractor's expense, in the following minimum amounts:
  - a. Workers Compensation - Statutory Amount in the state where the Property is located;
  - b. Employer's Liability - \$500,000 or such other higher limits imposed in accordance with the requirement, if any, of the laws of the state where the Property is located;
  - c. Commercial General Liability - \$1,000,000 per occurrence, \$2,000,000 general aggregate with Products/Completed Operations coverage (with evidence of Products/Completed Operations Coverage shown for a minimum of two years following completion of the work described in the contract);
  - d. Business Auto Liability including hired and non-owned auto coverage - \$1,000,000 combined single limit; and
  - e. Umbrella/Excess - \$4,000,000.



# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. A •3      Insurance

---

### **Certificates of Insurance**

If any contract or tenant lease requires that such party maintain any insurance coverage, Manager shall obtain insurance certificates annually, or more frequently as required pursuant to the applicable lease or contract, from each such party and review the certificates for compliance with such lease or contract terms.

### **Mutual Waivers**

Owner, on behalf of itself and its insurers, waives its rights of recovery against Manager or Manager's officers, directors and employees, for damages sustained by Owner as a result of any damage to the Property arising from any risk or peril generally covered or coverable by any insurance policy actually carried by or required to be carried by Owner pursuant to the terms of this Agreement, regardless of cause, including negligence; and Owner agrees that no party shall have any such right of recovery by way of subrogation or assignment.

Manager, on behalf of itself and its insurers, waives its rights of recovery against Owner or any member in Owner, their officers, directors and employees, for damages sustained by Manager as a result of any damage to any Property arising from any risk or peril generally covered or coverable by any insurance policy actually carried by or required to be carried by Manager pursuant to the terms of this Agreement, regardless of cause, including negligence; and Manager agrees that no party shall have any such right of recovery by way of subrogation or assignment. Owner and Manager shall each notify their respective insurance carriers of the mutual waivers herein contained and shall cause their respective insurance policies required hereunder to be endorsed, if necessary, to prevent any invalidation of coverage as a result of the mutual waivers herein contained.

### **Cooperation with Insurance Carriers**

Manager shall cooperate with and provide reasonable access to the Property to agents of any and all insurance companies and/or insurance brokerages or agencies who may, from time to time, be involved with the issuance of insurance policies or with inspections of the Property in connection with insurance policies then in force. Manager agrees to use all reasonable efforts to comply with any and all requirements of such insurance companies or their agents, and agrees to exercise due care not to use the Property or permit the same to be used for any purpose which would make void or void able any of such insurance policies, and shall not keep or knowingly allow to be kept on the Property any material, machinery, equipment, substance or other things which may make void or void able any such insurance policies.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. A •3      Insurance

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### **Compliance with Insurance Policies**

Manager shall be responsible for full compliance with any insurance policy held by Owner with respect to the Property so as to avoid any loss insured thereunder from being uncollectable. In this regard, Owner will provide Manager with copies of all insurance policies and endorsements.

### **Insurance Claims**

Manager shall promptly investigate all accidents, claims or damage relating to the ownership, operation and maintenance of the Property and any damage or destruction to the Property. Manager shall prepare a written notice to the applicable insurance company describing the matter at issue and Manager shall send a copy of such notice to the Owner Asset Manager contemporaneously with sending such notice to the insurance company. Manager acknowledges receipt of a separate Claims Procedure Manual which outlines in more detail the steps and documentation to follow should a potential claim arise and Manager agrees to comply with the terms of such Claims Procedure Manual. Manager shall take no action which may operate, or omit to take any action which, if not taken, may operate, (a) to bar Owner from obtaining any protection or payment under any policies of insurance held by either Owner or Manager or (b) to prejudice Owner's defense in any legal proceeding arising out of, or otherwise prevent either Owner or Prudential from protecting their respective interests against, any such claim; provided, however, nothing herein shall be construed to prohibit or restrict Manager from cooperating with any investigation in good faith and honestly. If any such accident, claim, damage or destruction shall result in the commencement of a lawsuit or other similar proceeding, Manager shall provide such services in connection therewith as shall reasonably be necessary. Owner or its insurance carrier shall have the exclusive right, at Owner's option, to conduct the defense of any claim, demand, liability or suit. Manager shall have no right to settle, compromise or otherwise dispose of any claims, demands, liabilities or suits, whether or not covered by insurance, without the prior written consent of Owner.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 1      Management Responsibilities

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### **Management**

Manager shall manage, operate, maintain and service the Property in a manner consistent with first class professional property management services and the overall investment strategy of Owner. In no event shall the scope or quality of services provided by Manager hereunder is less than those generally performed by professional property managers of similar properties in the market where the Property is located. Manager shall make available to Owner the full benefit of the judgment, experience, and advice of the members of Manager's organization with respect to the policies to be pursued by Owner in operating the Property, and will perform the services set forth herein and such other services as may be requested by Owner in managing, operating, maintaining and servicing the Property. Manager shall act as a fiduciary to Owner with respect to the Property and in this capacity, Manager shall deal at arm's length with all third parties and Manager shall serve Owner's interests at all times.

### **Strategic Manager Policy and Procedures Manual**

Manager has received and reviewed this Procedures Manual, which has been provided to Manager by Owner (Procedures Manual, as amended from time to time, is herein called the "Procedures Manual"). The Procedures Manual is incorporated herein by this reference for all purposes. Manager agrees to perform its obligations under the Management Agreement in accordance with the Agreement and the policies and procedures contained in this Procedures Manual, as the same may be amended from time to time by notice in writing from Owner to Manager. The Procedures Manual is intended to clarify and provide additional guidance with respect to certain procedures and responsibilities of the Manager, however, nothing contained in the Procedures Manual is intended to supersede or replace any provisions of the Management Agreement unless the Procedures Manual contains an express provision that it shall supersede or replace a particular provision of any Management Agreement. In the event of a conflict between the terms of this Agreement and the terms of the Procedures Manual, the terms of this Agreement shall control unless the Procedures Manual contains an express provision that it shall control with respect to a particular issue.

### **Compliance with Laws**

Manager shall use commercially reasonable efforts to cause the Property to comply with all present and future federal, state, county, municipal or other governmental laws, ordinances, regulations and orders relative to the leasing, management, use, operation, repair, maintenance or occupancy of the Property and with the rules, regulations or orders of any national or local Board of Fire Underwriters or other similar body, and obtain or cause to be obtained, as applicable, all necessary certificates of occupancy, licenses and/or operating permits, if any, for the Property. Manager shall promptly notify the Owner Asset Manager upon receipt, but in any case within

# PROPERTY MANAGEMENT PROCEDURES MANUAL

## No. B • 1      Management Responsibilities

---

two (2) business days after receipt, of any notices of violation of any law, ordinance, rule, regulation or order and shall obtain the Owner Asset Manager's approval prior to remedying such violation. Notwithstanding the foregoing, Owner acknowledges and understands that Manager is not qualified to evaluate (i) the presence or absence of hazardous or toxic materials or wastes, asbestos or asbestos-containing materials, or the like (collectively, "Hazardous Substances") at the Property or (ii) compliance with laws relating to Hazardous Substances, and agrees that Manager's obligations with respect to Hazardous Substances shall be limited to immediately notifying Owner if Manager becomes aware of the existence of Hazardous Substances at the Property. Expenses incurred in remedying any such violations may be paid from the Operating Account provided such expenses do not exceed the amount approved by Owner. If the expense required to remedy any such violation is anticipated to exceed such amount or if the violation is one for which the Property title holder might be subject to criminal liability or a penalty, Manager shall notify the Owner Asset Manager by the end of the next business day so that prompt arrangements may be made to remedy the violation. Manager shall not contact or communicate with any governmental or administrative agency, without the prior written consent of the Owner Asset Manager except that such prior written consent shall not be required in connection with routine matters.

### **Legal Issues**

The Owner on all issues must approve the use of local counsel.

When the Owner employs local counsel, the Manager must follow these procedures:

1. Follow Owner's direction on all legal proceedings
2. See that Owner is copied on all correspondence to / from the attorney
3. Verify with the Owner the procedure for paying attorney fees - whether the Manager will be authorized to pay these bills.

**Hazardous Substance** - The following approved hazardous substance language must be incorporated into each lease document.

The term "Hazardous Substances," as used in this lease shall mean pollutants, contaminants, toxic or hazardous wastes, or any other substances, the use and/or the removal of which is required or the use of which is restricted, prohibited or penalized by any "Environmental Law," which term shall mean any federal, state or local law, ordinance or other statute of a governmental or quasi-governmental authority relating to pollution or protection of the environment. Lessee hereby agrees that (i) no activity will be conducted on the premises that will produce any Hazardous Substance, except for such activities that are part of the ordinary course of Lessee's business activities (the "Permitted Activities") provided said Permitted

# PROPERTY MANAGEMENT PROCEDURES MANUAL

## No. B • 1      Management Responsibilities

---

Activities are conducted in accordance with all Environmental Laws and have been approved in advance in writing by Lessor; Lessee shall be responsible for obtaining any required permits and paying any fees and providing any testing required by any governmental agency; (ii) the premises will not be used in any manner for the storage of any Hazardous Substances except for the temporary storage of such materials that are used in the ordinary course of Lessee's business (the "Permitted Materials") provided such Permitted Materials are properly stored in a manner and location meeting all Environmental Laws and approved in advance in writing by Lessor; Lessee shall be responsible for obtaining any required permits and paying any fees and providing any testing required by any governmental agency; (iii) no portion of the premises will be used as a landfill or a dump; (iv) Lessee will not install any underground tanks of any type; (v) Lessee will not allow any surface or subsurface conditions to exist or come into existence that constitute, or with the passage of time may constitute a public or private nuisance; (vi) Lessee will not permit any Hazardous Substances to be brought onto the premises, except for the Permitted Materials described below, and if so brought or found located thereon, the same shall be immediately removed, with proper disposal, and all required cleanup procedures shall be diligently undertaken pursuant to all Environmental Laws. Lessor or Lessor's representative shall have the right but not the obligation to enter the premises for the purpose of inspecting the storage, use and disposal of Permitted Materials to ensure compliance with all Environmental Laws. Should it be determined, in Lessor's sole opinion, that said Permitted Materials are being improperly stored, used, or disposed of, then Lessee shall immediately take such corrective action as requested by Lessor. Should Lessee fail to take such corrective action within 24 hours, Lessor shall have the right to perform such work and Lessee shall promptly reimburse Lessor for any and all costs associated with said work. If at any time during or after the term of the lease, the premises is found to be so contaminated or subject to said conditions, Lessee shall diligently institute proper and thorough cleanup procedures at Lessee's sole cost, and Lessee agrees to indemnify and hold Lessor harmless from all claims, demand, actions, liabilities, costs, expenses, damages and obligations of any nature arising from or as a result of the use of the premises by Lessee. The foregoing indemnification and the responsibilities of Lessee shall survive the termination or expiration of this Lease.

### **Legal Counsel**

Manager shall not retain or employ the services of legal counsel on behalf of Owner without Owner's prior written approval.

### **Compliance with Mortgages/Lenders**

Manager shall use diligent efforts to cause the Property to comply with all terms and conditions contained in any ground lease, operating agreement, mortgage, deed of trust or other security instruments affecting the Property; provided, however, Manager shall not be personally liable for

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

### No. B • 1      Management Responsibilities

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any payment or liability thereunder. Manager shall make required payments (from the Operating Account) on behalf of Owner, on any ground lease, mortgage or deed of trust affecting the Property (unless instructed to the contrary by Owner).

#### **Compliance with Leases and Other Agreements**

Manager shall use diligent efforts to cause the Property to comply with all terms and conditions contained in all leases, service contracts and other agreements required to be complied with by Owner with respect to the Property. Manager shall maintain all tenant files, any other records that relate to any tenant and all keys to the rental units, including, without limitation, all master keys, in a secure area, locked at all times, with controlled access by authorized personnel only.

#### **Collection of Rents and Other Income**

Manager shall use diligent efforts to collect all rents (including additional rental resulting from tenant participation in operating expenses, taxes, insurance and common area maintenance charges) and other charges, which may become due at any time from any tenant or from others in connection with the Property. Manager shall collect and identify any income due Owner from miscellaneous services provided to tenants or the public including, without limitation, parking income, tenant storage, and coin operated machines of all types (e.g., washers, dryers, vending machines, pay telephones, etc.), if any. All monies so collected shall be deposited in the Operating Account. Manager may not, without the prior written approval of Owner Asset Manager, collect any rent or other income more than one month in advance, or terminate any lease, lock-out a tenant, institute suit for rent or for use or occupancy, or institute proceedings for recovery of possession. In connection with any collection efforts by Manager, only legal counsel designated by Owner shall be retained. All legal expenses incurred in bringing such approved suit or proceedings shall be submitted to Owner Asset Manager for approval. The Owner Asset Manager must approve any write-offs. No accounts receivable should be written off unless the facts clearly indicate that the amounts are un-collectable and all reasonable efforts to collect such amounts have been made. Examples of facts that could lead to the conclusion of collect ability are set forth in the Procedures Manual. Manager must submit a quarterly report to the Owner Asset Manager listing all write-offs for that period. Use of collection agencies or outside counsel in connection with delinquent accounts should adhere to the procedures set forth in the Procedures Manual. Manager must maintain written documentation supporting the write-off.

#### **Taxes**

Manager shall obtain and verify bills for real estate and personal property taxes, improvement assessments and other like charges, which are or may become liens against the Property. In instances where such bills are sent directly to Owner, Manager will be responsible for obtaining

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

### No. B • 1      Management Responsibilities

---

such bills and insuring that the bills are properly processed and paid. Manager shall pay taxes from the Operating Account prior to incurring any late fees or charges. Any payments to be made "under protest" are to be checked by Manager to insure that they are properly marked and filed with the appropriate authorities. In the event any late fees or charges are incurred, Manager will reimburse these fees or charges.

If funds in the Operating Account are insufficient to cover the amounts due pursuant to such tax bills, Manager shall request funds from Owner sufficiently in advance to be sure that the required funds will be available. Manager will be expected to recommend both a plan for controlling real estate taxes and a real estate tax-consulting firm for approval by the Owner Asset Manager. The Owner Asset Manager must separately approve the use of any outside appraisers used in the tax appeal process. If an outside real estate tax-consulting firm is used, Manager shall fully cooperate with such firm. Owner may ask Manager to provide real estate tax consulting services with respect to the Property.

#### **Leasing and Cooperation by Manager**

Manager shall fully cooperate with brokers, leasing agents, tenant representatives, tenants and prospective tenants in order to obtain and retain desirable tenants for the Property. Manager agrees to perform whatever Owner may require in connection with the negotiation of leases or renewals, extensions, modifications, or cancellations thereof. No such cooperation by Manager shall give rise to a claim for commission for such leases unless Manager and Owner enter into a separate Leasing Agreement, in which event Manager shall be compensated in accordance with said separate Leasing Agreement. Approved leasing commissions will be paid from the Operating Account. For all prospective leases, Manager shall obtain and review tenant financial information to ascertain prospective tenants' financial condition and ability to meet lease obligations in accordance with the Procedures Manual.

#### **Execution of Leases**

Manager is generally authorized to negotiate as "Agent for Owner" any office lease for the Property; provided, however that prior to executing such lease, Manager must obtain the written consent of Owner Asset Manager. Owner reserves the right in its sole discretion to modify, limit or revoke the authority delegated to Manager in this paragraph. The Procedures Manual contains further restrictions and limitations on the authority delegated to Manager under this paragraph. The Owner Asset Manager must approve any leases that are outside of the authority delegated to Manager hereunder in writing.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 1      Management Responsibilities

---

### **Tenant / Public Relations**

The Owner in coordination with the Manager will develop a tenant / public relations plan for the property. The plan should include the following:

1. Procedure for moves ins and outs
  - Tenant handbook
    - Emergency numbers
    - Building rules and regulations
    - Building hours
    - Maintenance request procedure
    - Emergency procedure
    - After hours heating and cooling
  - Turning over the key
  - Security deposit
  - Space inspection
  - Space preparation for showing
2. Program for existing tenants / tenant retention
3. Enforcement of key rules and regulations
4. Procedure for lockouts
5. Procedure for press inquiries

Unless otherwise instructed by the Owner, all media inquiries shall not be commented on by the Manager, but shall be directed to the asset manager at Principal. All response will be coordinated with Principal's public relations department.

6. General procedures
  - In the event of a disaster
  - Regarding property improvement
  - Regarding tenant operations



# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 1      Management Responsibilities

---

### **Tenant Survey**

On an annual basis (and in some instances on a more frequent basis), the Owner will reserve the right to conduct a survey of the tenants regarding the management and leasing of the property. A sample copy of the survey will be provided to you prior to distribution to the tenants.

### **Promotions Fund / Merchants Association**

The Manager will develop, if directed by Owner, a promotions fund / merchants association plan for the property. The plan should include the following:

1. Promotions fund / merchant association's goals (current year, updated annually)
2. Merchants association's officers (current year, updated annually)
3. Planned promotions (current year, updated annually)
4. Procedure for promotions follow-up
5. Christmas gifts and decorations, other seasonal events
6. Survey – merchants' and customers' attitude and participation
7. Traffic count
8. Recommendations for future promotions.

### **Advertising**

Manager shall prepare advertising plans and promotional materials, including building photographs, to be used for leasing and re-leasing purposes. Such plans and materials shall only be used if approved in advance in writing by the Owner Asset Manager, and in conformance with such approval. Manager shall not use Owner's or Prudential's name in any advertising or promotional material without Owner's or Prudential's express prior written approval in each instance and no such advertisements shall indicate that Manager has the authority to offer the Property for sale or lease or otherwise hold Manager out as a broker. Advertising and promotional materials shall be prepared in full compliance with all federal, state, county, municipal and other governmental laws, ordinances, regulations and orders pertaining to fair housing or otherwise affecting the leasing and/or advertising of real property.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 1      Management Responsibilities

---

### **Employees; Independent Contractor**

Manager shall have in its employ and or outsourced at all times a sufficient number of capable employees to enable it to properly, adequately, safely and economically manage, operate, maintain, and account for the Property. All matters pertaining to the employment, supervision, compensation, promotion and discharge of such employees are the responsibility of Manager, which is in all respects the employer of such employees. Manager will negotiate with any union lawfully entitled to represent such employees and may execute in its own name, and not as agent for Owner, collective bargaining agreements or labor contracts resulting wherefrom. Manager shall fully comply with all federal, state, county, municipal and other governmental laws, ordinances, regulations and orders having to do with antidiscrimination, workmen's compensation, employer's liability insurance, social security, unemployment insurance, hours of labor, wages, working conditions, immigration and all other employer-employee related subjects (including, without limitation, tax withholding and information reporting requirements) and shall not do any act, nor permit any act to be done that would constitute a violation of any or all of such laws, ordinances, regulations or orders. Manager shall indemnify and hold Owner harmless from and against any and all claims, penalties, liabilities and expenses of whatsoever kind and nature which may be asserted by any governmental body or by any person claiming to be aggrieved by reason of any act or failure to act by Manager in accordance with or in violation of any said laws, ordinances, regulations or orders, so long as such act or failure to act is not caused or directed by Owner. Manager represents that it is and will continue to be an equal opportunity employer and must advertise as such and that Manager shall not engage in any form of discrimination in the employment or hiring as independent contractors, of any personnel, including, without limitation, discrimination as to race, color, creed, religion, age, gender, marital status, sexual preference, national origin or physical disability. All personnel responsible for providing services pursuant to the terms of this Agreement shall be direct employees and or outsourced personnel of Manager and Manager shall, for purposes of such employment relationship, be acting as an independent contractor and not as an agent or employee of Owner. All employment arrangements are solely Manager's concern and Owner shall have no liability with respect thereto.

Manager shall provide to Owner, annually with the Approved Budget, a schedule of employees to be employed "on-site" in the direct management of the Property. Such schedule shall include the number of employees and their title and salary range and shall also indicate which employees are bonded or are covered under Manager's comprehensive crime insurance policy. Manager shall identify in the same manner those additional employees whose salaries may from time to time be charged pro rata to the Property for direct services rendered to the Property. Employees whose salaries may not be charged pro rata include, but are not limited to, executive personnel, general management and off-site personnel, accountants, attorneys and auditors.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 1      Management Responsibilities

---

### **Political and Charitable Contributions**

Manager shall not make any political or charitable contributions on behalf of Owner without the prior written consent of Owner.

### **Minority and Union Vendors and Contractors**

It is Owner's policy to actively encourage the utilization of minority owned or operated vendors and contractors. It is also Owner's policy not to exclude contractors or vendors solely on the basis of organized affiliation. Bid lists should be prequalified for adequate representation of minority and union vendors and contractors. Manager shall provide a quarterly report to Owner's Asset Manager on the use of minority and union vendors and contractors at the Property.

### **Additional Operating Activities**

Manager shall perform the following additional operational activities:

1. In consultation with Owner, develop a plan to provide at all times adequate security in or about the Property in order to protect the assets of Owner;
2. Be available for communication with Owner and keep Owner advised of all items, which affect the Property in any significant manner;
3. Plan and coordinate the moving in and moving out of tenants at the Property and all construction, alteration and decoration work which Owner is required to perform for tenants under their respective leases so as to insure a minimum of disturbance to the operation of the Property and to other tenants then occupying or preparing to occupy space at the Property. Manager shall monitor all tenants to insure tenants' compliance with any obligation they may have to obtain (i) required permits and (ii) approval of plans from licensed engineers and Manager shall obtain and maintain copies of all such permits, approvals and plans;
4. In consultation with Owner, use diligent efforts to determine if any hazardous substance or waste is being stored, used or discharged by any tenant at the Property and immediately notify Owner of any storage, dumping, use or leakage of any such hazardous substance or waste on or near the Property. Manager shall promptly notify Owner of any areas of potential concern relating to hazardous substances or waste that may affect the Property.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 1      Management Responsibilities

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5. Prepare for Owner's approval, a life safety plan for the Property complying with all applicable laws, ordinances, regulations and orders, to be used in the event of fire or other casualty at the Property. Upon receipt of Owner's approval, Manager shall institute the plan by advising all tenants and occupants of the Property of such plan and having such number of practice drills as may be required to fully familiarize all tenants and occupants of the Property with the plan as same may be modified from time to time so as to comply with Owner's request or any applicable laws, ordinances, regulations and orders.
6. If requested by Owner, develop and submit to the Owner Asset Manager for its approval, a written energy conservation and waste-recycling plan for the Property. If approved by Owner, Manager shall implement such plan and shall submit energy and conservation reports of the Property if, as and when requested by Owner;
7. Maintain a current inventory of all equipment, supplies, furnishings, furniture and all other items of personal property now or hereafter owned by Owner and located upon or used in the management, operation or maintenance of the Property;
8. Pay all bills within the time required to obtain discounts, if any;
9. From time to time upon request by Owner in connection with a sale, financing or refinancing of the Property, certify that the rent roll and other information Manager maintains or is responsible for maintaining is true, correct and complete; and
10. Perform any other service or activity incidental to the normal and professional operation of a property of a similar type and character as the Property or as otherwise reasonably requested from time to time by Owner

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B •2      Building Operations

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### **Repairs and Maintenance**

Manager shall make periodic (but no less frequently than once quarterly) visual inspections of the Property consistent with its on-site employees' expertise. Manager shall give the Owner Asset Manager written notice of any material or latent defect in the Property known to Manager in the next quarterly report after such defect comes to Manager's attention. Manager shall maintain the Property or cause the Property to be maintained, at Owner's expense (except to the extent such costs are paid or reimbursed by tenants), in accordance with the standards specified in this Agreement or as otherwise required by Owner. Such maintenance shall include, without limitation, exterior grounds and landscaping services, repairs to improvements, maintenance of mechanical systems and equipment, and such other normal maintenance, alteration and repair work as may be reasonably necessary or advisable.

Manager shall be required to ascertain the existence of any contractor/subcontractor warranty or guaranty covering any defect or item-requiring repair and to submit a request to the appropriate contractor/subcontractor to repair the defect as necessary. Expenses to be incurred for such maintenance, alteration or repair must be (a) an ordinary and usual expense provided for in the Approved Budget (approved in accordance with Section C1), or (b) an expense which is incurred under such circumstances as Manager shall reasonably and in good faith deem to be an emergency necessary for the preservation or safety of the Property, or (c) otherwise permitted herein or approved in writing by the Owner Asset Manager. Expenditures to refurbish, rehabilitate, remodel, or otherwise prepare areas covered by new leases are excluded from this provision. Manager shall keep detailed records of all alterations, repairs and other work performed at the Property.

The competitive bid requirements set forth in the Procedures Manual shall apply with respect to contracts or expenditures under this Section B2. It is expressly agreed that notwithstanding anything herein contained to the contrary, whenever Manager is required to obtain the written consent of Owner or the Owner Asset Manager prior to the taking of any action under the terms of this Agreement, Manager may act without obtaining the written consent of Owner or the Owner Asset Manager if an emergency exists such that under the circumstances a delay in Manager's action would be imprudent and not in the best interests of Owner. In any such situation, Manager shall notify the Owner Asset Manager as soon as reasonably practicable and the consent of Owner or the Owner Asset Manager shall be confirmed as soon as reasonably practicable thereafter.

### **Capital Improvements**

The Approved Budget constitutes an authorization for Manager to expend money for projects up to \$250,000. With respect to the purchase and major capital improvements or repairs (cost in

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B •2      Building Operations

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excess of \$250,000), Manager shall obtain written approval of the Owner Asset Manager prior to incurring these expenses. 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. Owner reserves the right to revoke Manager's delegated authority under this Procedures Manual at any time and without notice. If requested by Owner, the plans and specifications for any major capital improvements or repairs shall be submitted to Owner for approval. The competitive bid requirements set forth in the Procedures Manual shall apply with respect to contracts or expenditures under this Section.

### **Service Contracts**

Manager shall use diligent efforts to advertise, promote and lease vacant space in and on the Property. Manager shall arrange for all services necessary for the operation of the Property, including, without limitation, electricity, gas, water, telephone and sewer service and pest control, landscaping, parking lot maintenance and trash removal. All service contracts shall: (a) be in the name of Manager as Agent for Owner, (b) be assignable, at Owner's option, to Owner or Owner's nominee, (c) include a provision for cancellation thereof without payment of a fee or penalty by Owner or Manager upon not more than thirty (30) days written notice and (d) shall require that all contractors provide evidence of sufficient insurance in accordance with this Procedures Manual. If this Agreement is terminated pursuant to hereof, Manager shall, at Owner's option, assign to Owner or Owner's nominee all service contracts pertaining to the Property.

### **Competitive Bidding**

Unless Owner specifically waives such requirements in writing, all expenditures for repairs, maintenance, capital improvements, goods or services exceeding \$5,000 shall be awarded on the basis of competitive bidding, solicited in accordance with the requirements of the Procedures Manual.

### **Maintenance Plan**

The Manager will develop and maintain a maintenance plan for each building in accordance with the Property Management Maintenance & Operations Manual (OP's Manual), policies and guidelines. The plan should include, but not be limited to, the following:

1. A completed frequency chart for the inspection and maintenance of the property and a service contract summary;
2. Historical and current, up-to-date information

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 2      Building Operations

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3. Procedures for the following:

- Snow and ice control
- Tenant space cleaning / vacant space cleaning
- Supply maintenance
  - Bulbs
  - Parts and supplies
  - Cleaning supplies
  - Uniforms
- Maintenance logs, including roof repair history

4. A schedule for the current calendar year (updated annually) of service contract negotiations

- |  |                    |
|--|--------------------|
| • Awning   | • Pest control     |
| • Copier equipment and maintenance                 | • Pond maintenance |
| • Elevator   | • Public relations |
| • Exterior landscape                               | • Roof             |
| • Exterior lighting                                | • Security         |
| • Fire alarm                                       | • Signage          |
| • Fire sprinkler                                   | • Telephone        |
| • Furniture rental                                 | • Trash removal    |
| • Heating, ventilation and air conditioning system | • Tree trimming    |
| • Interior lighting                                | • Typewriter       |
| • Interior plants                                  | • Vending          |
| • Irrigation repair                                | • Window cleaning  |
| • Janitorial                                       |                    |
| • P.A / music system                               |                    |
| • Parking sweeping                                 |                    |

5. Procedure for tenant maintenance requests

- Response time

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 2      Building Operations

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6. Procedure for maintaining an up-to-date list of furniture, fixtures, supplies and equipment owned as part of the building – the list should include number, type, age and capacity, and current value and replacement cost, if possible.

- Awning
- Elevator
- Exterior lighting
- Fire alarm system
- Fire sprinkler system
- Fountain
- Furniture and equipment used by tenant
- Grounds cleaning equipment
- Heating, ventilation and air conditioning system
- Irrigation system
- Lawn maintenance equipment
- Maintenance equipment
- Office furniture and equipment
- P.A. / music system
- Signage
- Snow removal equipment
- Transformer

7. Life safety equipment

All life safety equipment shall be independently tested annually by qualified person(s) / firm(s). The testing shall include, but not be limited to, the following systems:

- Emergency lighting / emergency power
- Smoke detectors
- Fire alarms
- Emergency phones in elevator(s)
- All fire extinguishers
- Fire sprinkler system(s)

If any of the life safety equipment fails inspection for any reason, notification of such failure shall be made immediately to the asset manager and a plan for repair / replacement shall be instituted.



# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 2      Building Operations

---

### **Tenant / Property Improvements**

The following serves as a GUIDELINE for tenant / property improvements. All costs associated with the improvements must be approved by the Owner prior to the service being rendered or the materials being purchased.

1. Identify Issue

- Does this issue stand alone or involve another issue?
- Why is it a concern?

2. Identify Key Players

- Who will this situation involve (contractors; subcontractors; consultants; architects; the county, state or federal agencies; the news media; the tenants; landscaper; space planner; interior designer; etc.)

3. Propose Rough Plan and Budget

- Based on own experience
- Based on conversations with qualified “experts”
- Include a rough idea of the stages involved and the time frame

4. Approval by Owner

5. Firm Up Plan

- Hire professional help as needed using a standard AIA contract with our modifications, obtain necessary specifications and working drawings
- Put together a milestone calendar
- Owner shall provide approved Lien Waiver documents to be attached to the construction contract. All external Lien Waivers must be approved by Owner prior to inclusion with the contract.

6. Obtain Bids and Firm Up Budget

- Two bids required on work totaling \$5,000-\$9,999
- Three bids required on work totaling \$10,000 and up
- Does contractor / subcontractor meet necessary insurance requirements? Licensing requirements?
- What is the contractor / subcontractor’s reputation?

# PROPERTY MANAGEMENT PROCEDURES MANUAL

No. B • 2      Building Operations

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- Which consideration is most important, time, quality or price?

7. Sign Contract

- A contract (approved by the Owner) must be signed by the Owner for work totally \$5,000 or more, before work commences
- If work involves TI's, an executed lease must exist before signing construction contract

8. Supervise Work According to Plan and Budget

- Notify Owner immediately of any delays or cost overruns
- Owner reserves the right to sign all change orders over \$1,000
- Obtain lien waivers from general contractor and any subcontractor whose total work exceeds \$10,000. Lien waivers must be signed and delivered to Owner before final payments are made.
- Contractor shall supply Owner, on a monthly basis a lien waiver report

9. Prepare Punchlist

- Hold 10% of total contract amount for 30 days, punchlist should be 100% complete, and all copies of the lien waivers, written warranties and as-constructed drawings must be submitted to Owner before paying off the contract.

10. Obtain Original Copies of Documents and Submit to Principal

- Obtain and submit the estoppel certificate from the tenant if work involves TI's
- Obtain and submit the certificate of occupancy (required by law)

11. Follow-up

- Consider news media coverage, tenant relations, etc. in conjunction with improvement work

12. Set Up Maintenance Schedule

- Refer to OP's Manual

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 3      Emergency and Environmental Risk Management

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### **Philosophy**

One of the primary obligations of building managers is to insure the safety and well being of building occupants. Preparedness in the event of emergency and the detection and management of environmental hazards are critical components of effective real estate asset management, affecting both life safety issues and the economic value of the asset.

### **Policy**

1. Property Managers are knowledgeable and proficient in their response to emergency situations including the use and maintenance of life-safety equipment and the execution of emergency response procedures.
2. Emergency equipment is inspected annually to insure proper performance.
3. Property Managers are knowledgeable regarding the various environmental risks that pose threats to commercial properties, the applicable laws and regulations, and procedures for testing, management and abatement of environmental contamination.

### **Emergency Plan**

The Manager will develop an emergency plan for each building. The plan should include the following:

1. Procedures for emergency situations during normal working hours should include, but not be limited to, the following:
  - Equipment failure
    - Elevator
    - Heating, ventilation and air conditioning system
    - Plumbing
    - Electrical
  - Building failure
    - Roof
    - Walls
    - Floor
  - Natural disaster
    - Earthquake
    - Flood
    - Tornado

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 3      Emergency and Environmental Risk Management

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Hurricane

Sinkhole

Lightning

- Illness / medical
- Fire
- Vehicle accident
- Bomb threat
- Terrorism
- Explosion
- Hazardous waste spill
- Theft / robbery
- Assault
- Vandalism

2. Procedures for emergency situations after hours
3. Procedures for emergency evacuation
4. Procedure for testing all life safety equipment

All life safety equipment shall be independently tested annually by qualified person(s) / firms(s). The testing shall include, but not be limited to, the following systems:

- Emergency lighting / emergency power
- Smoke detectors
- Fire alarms
- Emergency phone in elevator(s)
- All fire extinguishers in proper locations
- Fire sprinkler system(s)

If any of the life safety equipment fails inspection for any reason, notification of such failure shall be made immediately to the asset manager and a plan for repair / replacement shall be instituted.

5. Procedure for compliance with local, state and federal code
6. Procedure for tenant education of pertinent emergency procedures
7. Tenant contacts, office and home telephone numbers

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B •3      Emergency and Environmental Risk Management

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### **Emergency and Life Safety Procedures**

All property managers and building and maintenance staff should be trained to respond appropriately to various emergency situations. Prepare an emergency response plan for every building. Plans will vary based on building type and design. In each plan address the following emergency events:

1. Fire -

Contact the local fire department to obtain specific legal requirements and recommended procedures for responding to a fire including a building evacuation plan (see Paragraph g).

Address the following additional issues in completing the plan:

- Securing the property
- Making provisions for temporary space for displaced tenants
- Preventing vandalism
- Demolition of damaged areas
- Clean-up

Review the Monument Realty (MR) Insurance Procedures Manual for guidelines on processing insurance claims in the event of fire or other casualty losses. File claims promptly and reserve the right to file supplemental claims in the event additional cost is incurred or additional damage is discovered once demolition has begun and once the reconstruction process has begun. Be thorough and use caution not to settle too quickly; insurance adjustors often attempt to settle claims quickly so as to limit the total scope of claims.

2. Bomb Threats

In the event of a bomb threat, do not evacuate the building unless a threat has been identified or you are directed to do so by authorities. (Evacuations completed due to “false alarms” could subject the property management company and the owner to claims for business interruption by tenants.) Notify all tenants of the threat and of the fact that the authorities have been contacted. Request that they inspect their premises for a suspicious package. The decision to evacuate or take other precautions must be made by representatives of the tenants.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

### No. B • 3      Emergency and Environmental Risk Management

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MR personnel should inspect all mechanical and common areas for suspicious objects or packages. Notify authorities immediately upon discovery. In many municipalities, authorities will not be authorized to respond unless a suspicious object has been identified.

#### 3. Earthquake

Evacuate the building immediately if dangerous structural conditions exist. Secure the property until all necessary inspections have been completed.

Assemble a team, including systems and structural consultants, as quickly as possible to inspect the property. Take photographs of all damaged and surrounding areas.

For insurance purposes, an earthquake is considered one insurable loss or event; damage resulting from an aftershock must occur at least 72 hours after the initial quake to be classified as a second insured event

#### 4. Flooding (broken water lines)

In the event of broken water lines or other types of flooding, in addition to the obvious task of replacing water soaked foam padding, airing out carpeting, mildew treating dry wall, etc., it is important that all underground, sub floor or in-floor electrical telephone and computer wiring be checked. Contacts can become water soaked, causing shorts and causing major damage to computer hard drives, telephone switch panels, and other sensitive equipment.

#### 5. High Winds or Tornado

In high wind emergency situations building occupants should seek shelter in predetermined locations. Instruct occupants to move to those areas, away from window areas and towards the core of the building.

If advance warning is provided, maintenance personnel should secure the exterior of the property to reduce damage from blowing debris.

#### 6. Riot

Notify local police and secure the building in the event of a riot that threatens the building and/or building occupants. Instruct tenants to secure their premises and to stay away from exterior windows.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 3      Emergency and Environmental Risk Management

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### 7. Typical Emergency Evacuation Procedures

Each property manager must become familiar with the specific life safety requirements of the community, in which his property is located, including evacuation plans that may be dictated by the fire department or building and zoning regulations. Caution should be taken not to make statements or promises to tenants that could be construed as “guarantees” for life safety so as not to expose the property management company or building owner to unnecessary liability.

A “key” person for each tenant (normally the receptionist) is appointed to receive and distribute necessary information regarding the necessity to evacuate.

Use stairwells in single file. Exit building upon reaching ground level. All personnel should remain clear of the building until the emergency personnel announce it is safe to return.

If available, manual, pull-type alarms should be activated. This should activate an audible alarm system at the Fire Department.

In multi-story office buildings, most elevators systems are programmed to stop or return to the building lobby to discharge passengers into the lobby. Persons must evacuate by means of the stairwells from any floor. Elevators are not to be used for emergency evacuation of the building unless directed to do so by the emergency officials.

### **Security Plan**

The Manager will develop a security plan. The plan should include the following:

1. Types of security in place
  - Local law enforcement
  - Security firm
  - Alarm system
2. Procedures for securing the building, during business hours and after hours
  - Doors

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

### No. B • 3      Emergency and Environmental Risk Management

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- Gates
  - Hours
3. Procedures for handling the master key
    - A list of employees who have access to the master key
    - “Check-in” of master key when employee terminates

### **Guard Services**

1. Standing guard (high rise office and special assignments)

Standing guard service is comprised of one or more security personnel with project-specific responsibility for building security. Typical responsibilities of the standing guard include monitoring access to the facility, securing the facility at night and assisting during emergency situations.

2. Roving patrol services

Roving patrol services are often appropriate in large, multi-building projects, suburban projects and other projects that are not of sufficient size to afford standing guard service. The specific duties of the roving patrol guard should be clearly specified (e.g., escorting late evening employees to their vehicles, checking to ensure doors are locked as tenants leave buildings, and reporting acts of vandalism).

3. Patrol Stations

“Detex” type key stations can be located strategically within a building, or within a project of buildings, and security service personnel can be provided with a tape equipped clock to carry with them. The detex key is inserted in the clock, twisted and an impression is placed on the tape memorizing the time that the guard passed that particular patrol station. Property management personnel should control the possession of the clock during non-patrol hours, to use their own personnel to retrieve and replace tapes, and to audit tapes to ensure that security personnel are visiting patrol stations as agreed. In the event a tape impression is not located, property managers should immediately contact their security service.

### **Card Access and Locking Systems**



# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 3      Emergency and Environmental Risk Management

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Card access and locking systems are efficient security systems for smaller buildings that cannot bear the cost of personal guard services. However, card access and locking systems do not have the “detering” element provided by the presence of an individual. Card access and locking systems are subject to power or mechanical failure and must be well maintained. Card distribution must also be managed to prevent unauthorized access to the building.

### Exterior Lighting

#### 1. Types of Lighting

Commercial real estate lighting can be generally classified into one of two categories:

##### a. Architectural (specialty) lighting

Architectural lighting is decorative lighting designed to accentuate building and landscaping features. It is not designed to provide general illumination sufficient to provide security to building personnel.

##### b. Security or general illumination lighting

Security or general illumination lighting is used in common areas including parking garages, parking lots, walkways and other exterior areas where vehicular and pedestrian traffic exists. It is lighting of a sufficient level to meet local codes governing lighting levels and to provide a sense of security to individuals in the common areas after dark.

Inspect both types of lighting periodically to ensure that burned out light bulbs are replaced when necessary to provide a secure environment and to avoid liability claims for injury resulting in under-illuminated properties

#### 2. Hours of lighting

Common area, or general lighting should be provided at any time that natural illumination is not sufficient to provide adequate visibility. The hours of lighting can be controlled by the following basic methods:

##### a. Photo electric cell/time clock

The photoelectric cell is a sensory device that triggers the lighting system when the outside light level is reduced to a point to require artificial lighting. The time

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

### No. B •3 Emergency and Environmental Risk Management

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clock turns the lighting off at a pre-determined time or for pre-determined time periods (weekends, holidays).

b. Time clock

Time clocks turn lights on and off at pre-determined time periods. The disadvantage to time clocks alone is that they must be reset in the event of a power failure or in response to seasonal changes in number of daylight hours.

c. Manual Switch

The third method of lighting control is circuit breakers and switches. This is a less desirable method for controlling lighting due to its labor intensity, vulnerability to human error, and vulnerability to vandals or thieves.

In all cases, building and security lighting is one of the most visible testimonies to the attentiveness of property management maintenance and security personnel, and constant care must be given to ensure that lighting is working as designed.

### **Preventative Maintenance for Emergency Equipment**

Develop routine maintenance inspection schedules for each building for the following life safety/emergency equipment:

1. Sprinkler System

a. Wet System

Wet systems must be inspected periodically to ensure that they are not leaking, that flow alarms are working, and that monitoring devices are properly connected.

b. Dry System

Dry Systems must be inspected for above, plus pressure levels in the system must be verified to ensure that the dry system is functioning as designed.

If the systems are monitored by a central station, the central station controls, telephone lines, etc., must be inspected periodically to ensure effective performance.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

### No. B • 3      Emergency and Environmental Risk Management

---

#### 2.      Emergency Lighting

##### a.      Stairways, Hallways

Emergency lighting circuits are either direct-wired or battery-powered. Inspect the proper functioning of those circuits on a systematic, routine basis to ensure that all emergency lighting is functioning as designed.

##### b.      Exit Lights

Inspect all exit lights to ensure proper function according to code and design requirements.

Emergency lighting circuits can be monitored either with in-house maintenance personnel or on a contract basis. If monitored on a contract basis, property managers should not rely solely on the contractor for constant functioning of emergency lighting circuits. A bulb may burn out or a fixture fail shortly after an inspection; without constant and frequent inspection of stairways, hallways and other areas, emergency systems may cease to function without detection for long periods of time.

#### 3.      Fire Equipment

##### a.      Hose Stands

Hose Stands should be inspected regularly by property management personnel to ensure that no vandalism has occurred and that hose bibs, hoses, etc. are in place and in good condition. Older hoses may become brittle, deteriorate and lose functionality in the event of an emergency; they should be replaced as necessary.

##### b.      Pumps

All pumps, including fire pumps, pressure pumps, etc., should be maintained and tested on a regularly scheduled basis. The maintenance and testing schedule should be incorporated in the building operations plan and the maintenance supervisor and/or property manager should monitor compliance

##### c.      Fire Extinguisher

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

### No. B • 3      Emergency and Environmental Risk Management

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Fire extinguishers should be inspected on an annual basis according to the multi-year inspection plan provided by the manufacturer. Fire extinguisher inspection companies will perform this service for building owners and will re-certify each fire extinguisher. Building inspections should ensure that fire extinguishers are in place with current certification. In some cases, a wire or plastic seal should be placed on the fire extinguisher cabinet to discourage vandalism and theft of fire extinguisher.

### **Environmental Risk Management**

#### **Chemical Storage**

##### 1. Tenant

Modern lease provisions typically prohibit tenants from using and/or storing chemicals that are prohibited by state and federal environmental laws. Tenant spaces should be inspected periodically to ensure that the tenant's use of the premises has not changed and that tenants have not introduced hazardous materials into their premises. In the event a tenant introduces hazardous materials, property managers should take remedial action immediately to ensure that the tenant disposes of the materials in a manner consistent with procedures established by law.

##### 2. Building Owner

Certain types of chemicals used by building owners in the operations of their buildings (e.g. solvents, coolants) are classified as hazardous materials. Those materials must be managed; they must be manifested, stored and disposed of in accordance with all applicable rules and regulations. Failure to do so subjects property management personnel to possible fine and imprisonment.

#### **Asbestos**

##### 1. Identification

Property managers and maintenance personnel should be trained to identify potential asbestos containing material (ACM). Due to the complexity of its composition and various applications and the laws governing its treatment in commercial buildings, an environmental engineering consultant should be retained to determine the scope of contamination and degree of threat to building occupants if the presence of ACM is suspected. When the presence of ACM is confirmed, applicable federal, state and local

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

### No. B • 3      Emergency and Environmental Risk Management

---

environmental law should be consulted to determine the appropriate response. In some cases, abatement will not be mandatory but an EPA-sanctioned Operations and Management Plan may be required.

#### 2.      Removal

In the event of an asbestos abatement or removal program, an environmental attorney and environmental engineer should be consulted and made part of the team to ensure that the tenant's property and persons, as well as personnel of the property management company, are appropriately protected. In most cases, it will be necessary to notify state and/or environmental officials to obtain permits for the abatement procedures.

#### 3.      Maintenance

Maintenance of asbestos containing materials should only be performed by trained and qualified personnel. Continuing education classes are available in many locations that provide training seminars to educate personnel in the proper, appropriate and safe way to perform maintenance services in areas where asbestos is known to exist.

### **Storage Tanks**

There are two types of storage tanks typically used by tenants and building owners:

#### 1.      Underground Storage Tanks

Underground storage tanks, especially those placed in service over five years ago, are subject to rust, deterioration and leakage. In the event leakage is discovered, a remediation program will be necessary to remove contaminated materials and to restore the contaminated area to a condition that existed prior to any leakage. Tenants who have underground storage tanks should remove those storage tanks at the termination of their lease and be held responsible for any remediation or reclamation costs associated with the removal of the tanks and any contamination that exists.

#### 2.      Above Ground Storage Tanks

The risk of soil contamination also exists with aboveground storage tanks; however, leakage problems are more readily identified and, therefore, corrective action may be taken sooner to minimize costs. Aboveground storage tanks should be in safe, secure areas and should have controlled access to minimize the risk of vandalism, fire, etc.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 3      Emergency and Environmental Risk Management

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### Other

Property managers and marketing representatives can minimize environmental risk in their projects by qualifying the operations of lease prospects and by regular, periodic site visits to review the operations of existing tenants. Two forms should be developed to assist in this process, the Pre-Lease Environmental Exposure Questionnaire and the Environmental Audit Checklist which should be designed to identify lease prospects (in the case of the Pre-Leasing Environmental Exposure Questionnaire) who may introduce environmental hazards to buildings so that owners can determine 1) the desirability of the tenant and 2) if the tenant is allowed to take possession of an owner's property, what appropriate measures should be taken to monitor the tenant's operations to ensure environmental compliance.

The Environmental Audit Checklist provides a tool for completing periodic site inspections of tenants' premises and operations to identify environmental problems. The Environmental Audit Checklist should be utilized at least annually and, in cases of problematic tenants, should occur as often as monthly. The Environmental Audit Checklist provides an excellent record of environmental issues related to a tenant space, building or project which may be very valuable in resolving future conflict or misunderstanding related to environmental issues.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 4      Manager Responsibilities

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### **Specific Duties of Manager Representative**

Without limiting (and in addition to) the obligations of Manager otherwise set forth in this Agreement, the Manager Representative who will coordinate or perform the following functions and services:

### **Market Information**

Provide on a timely basis (in such format and delivered in such medium as Owner may determine in its sole discretion), the following historical market information and assessment of current market conditions and trends of:

1. The general City or Region where the Property being managed is located (which will be provided to the Owner Asset Manager on a quarterly basis);
2. The specific submarket of the Property (which will be provided to the Owner Asset Manager on a quarterly basis); and
3. The Property and the most current comparables competitive with the Property (which will be provided to the Owner Asset Manager on a quarterly basis).

### **Database**

Manager shall have and maintain at all times a complete and easily accessible database of sales and lease comparables; market inventory; vacancies; supply and demand absorption data; projects under construction; and estimated operating and fixed costs of competitive properties for the Property.

### **Budgets**

Develop the annual operating and capital expenditure budget (the "Budget") for the Property (in such format and delivered in such medium as Owner's Asset Manager may determine in its sole discretion). In connection with the budgeting process, the Manager Representative shall develop a "Property Strategic Plan" (the "PSP") for the Property, which is the documentation of Owner's annual property budgeting, planning and cash flow modeling process. The PSP shall include a description of the Property, a market summary, a leasing strategy and a recommended disposition strategy which includes supply and demand projections, projected values and returns and shall otherwise conform to the requirements set forth in the Procedures Manual. The Manager Representative will be responsible, subject to delegated authority, for implementing the Approved PSP and Approved Budget (each approved in accordance with Section C1 hereof). In

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

### No. B •4      Manager Responsibilities

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addition, as events arise that invalidate aspects of the Approved PSP or Approved Budget, the Manager Representative is responsible for notifying and working with the Owner Asset Manager to formulate alternatives consistent with the investment goals of the Property.

#### **Leasing and Marketing**

Oversee Owner's leasing and marketing team (the "Team") for the Property. The Manager Representative will be responsible for providing direction and motivation to the Team, performing tenant credit analysis, negotiating lease terms which are consistent with this Agreement and the approved elements of the Approved PSP and Approved Budget, determining the impact to cash flow and/or value of the proposed leases, ensuring (with the assistance of Owner's approved legal counsel) that lease documentation meets Owner's standards, and preparing lease authorization forms for approval by the Owner Asset Manager. The Owner Asset Manager will provide strategic direction to the Manager Representative on all leasing issues that are exceptions to this Agreement, the approved parameters of the Approved PSP, the Approved Budget, standard lease forms and the Leasing Guidelines. It is expected that the Team, under the direction of the Manager Representative, will implement the leasing and marketing elements of the Approved PSP and Approved Budget. No Team may be affiliated with Manager, without the prior written approval of the Owner Asset Manager, which approval may be withheld in Owner's sole discretion.

#### **Tenant Renewals**

Oversee all tenant renewal efforts. As part of the budget and PSP process, the Manager Representative will develop a marketing plan, which addresses tenant retention and satisfaction. The Manager Representative will be the principal contact for tenant complaints and requests and will insure that all tenant related matters are handled in a timely, professional and courteous manner.

#### **Vendor Services**

Be responsible for procurement of cost effective, quality services, labor and supplies for the management and operation of the Property in accordance with the terms of this Agreement. The Manager Representative will insure that all such services are provided by qualified companies, which have been selected through a competitive bidding process in accordance with the requirements of this Agreement.



# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B • 4      Manager Responsibilities

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### Tax Appeals

In furtherance of Manager's obligations under Section B1, Taxes, to insure that all real estate and personal property taxes are appealed and settled at an acceptable level and paid prior to delinquency or penalty. With respect to real estate taxes, the Manager Representative will work closely with the Owner Asset Manager and any real estate tax consultant.

### Property Condition

Oversee all repairs, maintenance and capital improvements of the Property expressly approved in accordance with this Agreement or an Approved Budget, or otherwise requested and/or approved in writing by Owner or the Owner Asset Manager, whether by providing direct engineering or construction support or acquiring this support efficiently and inexpensively from a third party construction manager. The Property will be maintained in a condition consistent with the Approved Budget, the Approved PSP and the direction of the Owner Asset Manager. Unless Owner elects in its sole discretion to utilize a third party construction manager with respect to a particular project, the Manager Representative's duties under this subsection (8) (Collectively, the "Construction Supervision Services") shall include, without limitation, monitoring the design and construction of tenant improvements as required or permitted under the leases and other construction or reconstruction at the Property, such as: scheduling meetings between space planners and tenants (or prospective tenants); performing valuing engineering for the work to be performed; obtaining tenants' written approval of working drawings; coordinating and directing pre-bid conferences with contractors; establishing a project time schedule; administering and coordinating jobsite construction meetings as necessary to insure the timely flow of information between tenants, space planners and contractors; reviewing and approving change orders; obtaining and reviewing all necessary lien releases; reviewing all payment requests pursuant to the contract documents; inspecting the construction of the improvements; insuring that the construction is completed in accordance with the plans and specifications and construction contract requirements; assisting contractors in obtaining notices of completion, certificates of occupancy, or equivalent documents; conducting final walk-through with tenants, space planners and contractors; obtaining tenants' written acceptance and acknowledgment of the substantial completion date of the improvements; assisting in the preparation of a final punch list which itemizes all work needing to be completed or requiring repair or adjustment; and obtaining from contractors, subcontractors, material suppliers or other consultants all such guarantees, instructions, equipment manuals, warranties and all other pertinent documents relating to the work. If requested, Manager shall furnish the Owner Asset Manager with reports summarizing the repairs, improvements and replacements being constructed on the Property, which reports shall also summarize any material problems or issues, which may result in connection with such work.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. B •4      Manager Responsibilities

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### Goals and Objectives

Be responsible for meeting specific Property goals and objectives. The Manager Representative shall prepare and present to the Owner Asset Manager on a quarterly basis in such format and delivered in such medium as Owner may determine in its sole discretion, a comprehensive status report for the Property. The quarterly reports will include the following information: Leasing Reports, Market Absorption Information, Vacancy, Sub-Market, Report on Lost Deals, General Market Information, Update on Proposals and Leases Outstanding, Status of Lease Renewals, Actual Property Performance versus Budget, Capital Projects Status, Accounts Receivable Status, and Write-Off Status. Following delivery of the quarterly report, the Manager Representative shall meet with the Owner Asset Manager to discuss the issues raised in the report or other topics of concern to the Owner Asset Manager. The Owner Asset Manager may require the Manager Representative or members of the Manager's staff to meet more frequently to discuss strategy, budget or other issues. The Manager Representative will provide quarterly reports regarding major variances to line item budget categories, except as otherwise provided in the Procedures Manual. The Manager Representative may be requested to provide additional information as the need arises in the course of business.

1. In furtherance of Manager's obligations under Section B1, will be responsible for overseeing the collection of rent, minimizing accounts receivable and bad debts.
2. Develop an estimate of the value of the Property, which would be used to support real estate investment decisions. The Manager Representative shall possess a high level of technical real estate knowledge and be well based in applying discounted cash flow valuation techniques. This valuation is a key component of the Approved Budget and Approved PSP approval process.
3. In the lease approval process, the Manager Representative shall provide the Owner Asset Manager with a detailed recommendation letter and credit analysis for each prospective tenant. This recommendation letter shall include the determination of a net effective rent (NER) calculation using such software as Owner may determine in its sole discretion and review of the impact of the transaction on value and cash flow.
4. The Manager Representative shall cooperate with and provide transaction support to Owner in connection with the acquisition and sale of the Property. With respect to dispositions, Manager Representative shall insure that all on-site Property files are up-to-date and available for review by potential buyers. The Manager Representative shall also insure that on-site representatives are available at the Property to provide tours to sales agents, prospective buyers or other parties designated by Owner. With respect to acquisitions, Manager and the Manager Representative shall provide property specific

**PROPERTY MANAGEMENT**  
PROCEDURES MANUAL

No. B • 4      Manager Responsibilities

---

due diligence review in accordance with a mutually agreed upon scope of services and compensation.

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. C •1      Financial Reporting

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### **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 properly and accurately recorded to the Property. Manager at Manager's shall maintain such books and records in accordance with Section C4 or at such other location as may be agreed upon in writing by Owner. Manager shall insure such control over accounting and financial transactions as is reasonably required to protect Owner's assets from theft, error or fraudulent activity on the part of Manager's employees or other agents. Losses arising from such instances are to be borne by Manager and shall include but not be limited to:

1. Theft of assets by Manager's employees or other agents,
2. Penalties, interest, or loss of vendor discounts due to delay in payment of invoices, bills or other like charges,
3. Overpayment or duplicate payment of invoices arising from either fraud or error,
4. Overpayment of labor costs arising from either fraud or error,
5. Manager's employees or associates arising from the purchase of goods or services for the Property, and
6. Unauthorized use of facilities by Manager's employees or associates.

Manager shall insure that all books and records, documentation, data and other information required to be maintained during the term of this Agreement shall be prepared and reported in a timely and accurate manner, and in accordance with required accounting policies and procedures. Manager will maintain the books and records for the Property, utilizing systems designated by Owner in accordance with the terms of this Agreement. Manager will from time to time be asked to respond to requests for information from the Owner Asset Manager, Owner or Owner Asset Manager's accounting group. Manager shall respond to such requests on a timely basis. Manager shall designate an individual with a minimum of five (5) years of real estate accounting experience, a degree in accounting and a Certified Public Accountant designation to be Owner's single point of contact for accounting related issues. This individual shall insure that all accounting and financial information for the Property is prepared and reported timely and accurately, and in accordance with required accounting policies and procedures. The Manager Representative and Manager will insure that the accounting function is staffed with appropriately competent staff to meet Owner's reporting requirements. Manager shall at all times maintain a control environment in accordance with the Committee of Sponsoring Organizations of the

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. C • 1      Financial Reporting

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Treadway Commission (COSO). All of Owner's accounting related issues will be supervised by the Owner Asset Manager's accounting group as designated by Owner's Asset Manager.

### **Account Classification**

Manager shall adopt Owner's Chart of Accounts, a copy of which will be delivered by Owner to Manager and which may be amended by Prudential in writing from time to time. Manager shall not make any amendments or modifications to the Chart of Accounts without Owner's prior written approval.

### **Reports**

Manager shall complete all accounting and record keeping for the current month by the 22nd of such month. Manager shall timely remit to Owner all reports, variance explanations and other Property and Tenant information required will be remitted to Owner or Prudential pursuant to the Procedures Manual, which reports, explanations and information shall be remitted in accordance with the policies and procedures set forth in the Procedures Manual. Manager shall also provide any written reports and information, which may from time to time be requested by Owner in such format and delivered in such medium as Owner may determine. Manager shall provide supporting documentation as requested by Owner.

### **Approved Budgets**

Manager shall prepare and submit to Owner the PSP and budget described in Section C1 above. Each proposed PSP and budget shall be delivered to Owner within ninety (90) days after the execution of this Agreement. A subsequent proposed PSP and budget shall be submitted no later than September 15 (or such other date as specified by Owner in writing) of each calendar year. Manager will reforecast the budget from time to time, and shall, at Owner's request, provide written variance explanations. Manager shall inform Owner at least quarterly of major variances in all budget categories including revenue, expenses and capital expenditures. Owner's approval of a PSP and budget shall be evidenced in writing (the approved PSP and budget being herein referred to as the "Approved PSP" and the "Approved Budget," respectively).

Manager agrees to use diligence and to employ all reasonable efforts to insure that the actual costs of maintaining and operating the Property shall not exceed the Approved Budget pertaining thereto either in total or in any one accounting category. All Property expenses must be charged to the proper account as specified in Owner's Chart of Accounts and no expense may be classified or reclassified for the purpose of avoiding excess in the annual budgeted amount of an accounting category. Manager shall secure the Owner Asset Manager's prior written approval for any expenditure that will result in any excess greater than \$5,000 or five percent (5%) of the

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. C • 1      Financial Reporting

---

annual budgeted amount in any one accounting category of the Approved Budget. During the calendar year Manager shall inform Owner of any major increases in costs and expenses that were not foreseen during the budget preparation period and thus were not reflected in either the Approved Budget or the reforecasted budget.

### **IRS Form 1099**

On Owner's behalf, Manager shall comply with all applicable provisions of the Internal Revenue Service Code and Regulations with respect to the preparation of IRS Form 1099. In preparing such forms, Manager shall use its own employer identification number and not that of Owner. Manager shall retain a copy of each completed form in its files.

### **Accounting Principles**

All financial statements and reports required by Owner will be prepared in accordance with generally accepted accounting principles and the Procedures Manual. To the extent of a conflict between generally accepted accounting principles and the Procedures Manual, the Procedures Manual shall control.

### **Ownership of Books and Records**

All books, records, lease and sale information, computer programs, correspondence and property related records are property of Owner and should be considered confidential and proprietary to Owner's interest.

### **Required Software**

In connection with the management of the Property, Manager shall acquire and utilize such computer software as Owner may require. Manager shall keep such software current and install all upgrades, enhancements and new versions of the software which may be from time to time released by the vendor and/or required by Owner (collectively, the "Required Software"). Manager shall cause all personnel who use the Required Software to attend and complete system-training programs offered by the vendor and licensor of the Required Software ("Licensor"). Manager shall also be responsible for obtaining and maintaining any equipment required for proper operation of the Required Software, including but not limited to, the communications equipment required for transmissions of Data (hereinafter defined) to Owner. Owner may from time to time require additional or substitute software to be included among the Required Software and shall provide not less than sixty (60) days' advance notice to Manager of such additions or substitutions. Manager shall use the Required Software to enter, process, store

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. C • 1      Financial Reporting

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and transmit Data to Owner as Owner may from time to time require and shall comply with any Data reporting standards as Owner may establish.

1. Manager shall enter into a licensing agreement directly with licensor for the right to use the Required Software (the "License Agreement"). In addition, Manager shall be required to maintain with Licensor, pursuant to the terms of the License Agreement, (i) a software maintenance agreement, ensuring that Licensor provides Manager with the version of the Required Software, as designated by Owner at its sole discretion, at all times during the term of the License Agreement ("Software Maintenance"), and (ii) a software support agreement, giving Manager the option to access by telephone Licensor's software support and help-line ("Phone Support"). In no event shall Manager make any changes to the Required Software without Owner's consent, which consent may be granted or denied in Owner's sole and absolute discretion. Any breach by Manager of the License Agreement shall constitute cause for Owner to terminate this Agreement.
2. Sample License Agreements, setting forth the minimum terms Licensor has agreed to provide to Owner's property managers with respect to the Required Software, are attached hereto as **TBD** and **TBD**. The terms of the License Agreement(s) shall be negotiated by Manager and Licensor and may be modified to reflect additional or different terms from that shown on **TBD** and **TBD**, respectively. Manager shall deliver to Owner a fully executed copy of the License Agreement(s) upon completion thereof. Manager shall pay all licensing, registration, transfer and other fees required under the terms of the License Agreement and shall otherwise be liable for any and all obligations incurred in connection the License Agreement(s).
3. Manager shall be responsible for and shall incur all costs and expenses in connection with the Required Software, Software Maintenance, Phone Support, software training, telecommunications costs of transferring Data (hereinafter defined) to Owner, the cost of telecommunications equipment required to transfer Data to Owner and any hardware upgrade required for proper operation of the Required Software.
4. Manager acknowledges that any and all data compiled by Manager with respect to the Property and used in connection with, entered, stored or transmitted through the Required Software (collectively, the "Data") are the property of Owner. Such Data constitutes confidential information and valuable trade secrets of Owner, and Manager shall not use or disclose the Data for any purpose other than performing its obligations under this Agreement. Manager will comply with all policies and procedures of Owner respecting the transmission of reports and Data through means of Required Software. Manager shall be solely responsible for ensuring security and backup procedures to avoid unauthorized access to or

# PROPERTY MANAGEMENT

## PROCEDURES MANUAL

No. C • 1      Financial Reporting

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inadvertent loss of Data stored on Manager's computer system. Owner shall have no liability whatsoever for loss or damaged Data.

5. Manager shall be required to copy all Data to a backup system at least one time per week utilizing a medium that is mutually agreed upon by Owner and Manager, and to store such Data in an off-site facility. If required by Owner, Manager will provide and maintain the necessary computer and communications equipment to permit remote access to the Required Software by Owner for the collection of Data.
6. Upon termination of this Agreement, whether in its entirety or with respect to the Property, Manager shall transfer all Data to Owner, or such Data as relates to the Property, or to such other party as Owner shall designate in writing to Manager, by magnetic media or such other method as designated by Owner. Manager shall remove all copies of the Data from its computers and computer storage devices, and shall certify to Owner in writing with respect to such cessation and removal.



# PROPERTY MANAGEMENT PROCEDURES MANUAL

No. C • 2      Compensation

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## **Management Fee**

During the term hereof, Manager shall receive from Owner the management fee set forth on **Schedule TBD** hereto (the "Management Fee") based upon a percentage of the rents actually collected and remitted during each month, which Management Fee shall be payable monthly. In no event shall Manager be entitled to any portion of any interest on investments, discounts, abatement of taxes or proceeds of any sales, insurance, condemnation and/or litigation, and the Management Fee shall not include a calculation based upon a percentage of any such income or proceeds. Upon remittance of the Property's net cash and the financial statements as required by **Section C1** above, Manager will submit to Owner a calculation of the Management Fee. Manager shall not be entitled to any compensation for performing Manager's responsibilities under this Agreement other than the Management Fee and, if applicable, the Construction Supervision Fee described in Section C2.

## **Exclusions from Management Fee**

For purposes of computing the Management Fee, rental will include all income actually received under a lease, except:

1. Security deposits or other deposits unless and not until such deposits are applied as rental income upon termination of a lease;
2. Rents paid more than thirty (30) days in advance of the due date until the month in which such payments are to apply as rental income;
3. Monies collected for capital items which are paid for by tenants;
4. Interest Income;
5. Parking Revenue (unless otherwise agreed to in writing by Owner);
6. Tenant service income (unless otherwise agreed to in writing by Owner);
7. Refunds; and
8. Lease termination payments.

## PROPERTY MANAGEMENT PROCEDURES MANUAL

No. C • 2      Compensation

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### **Leasing**

If Manager is selected as the Team in accordance with Section B3 above, Owner and Manager shall enter into the Leasing Agreement and Manager shall be compensated for such services solely in accordance with the terms thereof.

### **Construction Supervision Fee**

If Schedule TBD hereto is completed and attached hereto by the parties, Manager shall be entitled to a construction supervision fee as set forth therein and in accordance with the terms thereof. Notwithstanding anything herein to the contrary, if Owner elects in its sole discretion to utilize a third party construction manager with respect to particular project, Owner Manager shall not be entitled to any construction supervision fee with respect to such project.

## PROPERTY MANAGEMENT PROCEDURES MANUAL

No. C •3      Termination

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### **Termination with Notice**

Notwithstanding anything to the contrary contained in this Agreement, Owner may terminate this Agreement without cause by giving Manager at least thirty (30) days prior written notice. Manager may terminate this Agreement with or without cause by giving Owner and Prudential at least sixty (60) days prior written notice.

### **Termination without Notice**

Dissolution or termination of the corporate or partnership existence of Manager by merger, consolidation or otherwise; or an action having as its purpose a reorganization or reconstitution of Manager; or termination or suspension of Manager's real estate brokerage license, if such license is required as a condition to Manager's managing the Property; or death of Manager, if an individual, or death of any general partner of Manager, if a partnership; or cessation on Manager's part to continue to do business; or failure of Manager to properly deal with and account for trust funds; or bankruptcy, insolvency, or assignment for the benefit of the creditors of Manager; or appointment of a receiver, liquidator or trustee of Manager by court order; or gross negligence, intentional misconduct or fraud in the performance of Manager's duties and obligations under this Agreement; or breach of this Agreement by Manager; shall permit, at Owner's option, termination of this Agreement upon at least thirty (30) days written notice.

### **Immediate Termination with Notice**

Upon the occurrence of any of the events described in Section C3 hereof and in addition to the remedies provided therein, Owner may immediately terminate this Agreement by the service of a written notice to that effect on Manager. In such case, Owner shall pay Manager an amount equal to the next monthly installment of the Management Fee, or the Management Fee, which would normally have accrued to Manager on the collection of rents during the ensuing thirty (30) days immediately following the termination date, as the case may be. The foregoing provisions for payment in lieu of the actual Management Fee shall apply only in the case of immediate termination pursuant to this Section C3.

### **Termination on Sale, Casualty or Condemnation**

This Agreement shall terminate automatically and immediately upon sale of the Property by Owner or upon termination of Owner's right to collect the rents therefrom or, at Owner's option, in the event of damage to or destruction of the Property so that the same shall become untenable, or at Owner's option, in the event of a taking of a substantial portion of any specific

## PROPERTY MANAGEMENT PROCEDURES MANUAL

No. C •3      Termination

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Property, by condemnation, or similar proceedings. Owner reserves the right to continue to retain Manager, at Owner's option, for post-sale obligations (i.e. accounting, accounts receivable and ongoing litigation). Manager will be compensated for such post-sale services on an hourly basis or on a negotiated fee basis.

### **Authority to Execute Termination Notices**

The Owner Asset Manager must sign notice of termination on behalf of the Owner or other representative designated by Owner.

### **Final Accounting**

Upon termination of this Agreement for any reason or the withdrawal of the Property, Manager shall use all reasonable efforts to cooperate with Owner to accomplish an orderly transfer of the operation and management of the Property to a party designated by Owner must deliver to Owner the following:

1. A final accounting, reflecting the balance of income and expenses on the Property as of the date of termination or withdrawal to be delivered within thirty (30) days after such termination or withdrawal.
2. Any balance or monies of Owner and tenant security deposits held by Manager with respect to the Property to be delivered immediately upon such termination or withdrawal.
3. All original books and records, contracts, leases, receipts for deposits, unpaid bills, on and offsite inventory, Data, all computer database for all information related to the Property in Manager's computer database (or computer diskettes which may be accessed without the use of a special codeword or password) and other papers or documents which pertain to the Property to be delivered immediately upon such termination. Upon such termination or withdrawal, Owner will assume responsibility for payment of all approved or authorized unpaid bills.
4. As to the Property, Manager shall, at its sole cost and expense, remove all signs wherever located indicating that it is the managing agent which were installed by Manager as herein expressly provided and replace and restore any damage resulting therefrom.



# PROPERTY MANAGEMENT PROCEDURES MANUAL

No. D •1      Miscellaneous

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## **No Partnership**

Nothing herein contained shall constitute or be construed to be or create a partnership or joint venture between Owner and Manager and Manager is and shall remain an independent contractor in connection herewith.

## **No Assignment**

This Agreement and all rights hereunder, shall not be assignable by Manager without Owner's prior written consent, which consent may be withheld in Owner's sole discretion. This Agreement is assignable by Owner and Owner shall be released from liability hereunder arising after such assignment. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns to the extent assignment is permitted hereunder.

## **Consent and Approvals**

Only representatives of Owner may give owner's consents or approvals as designated in writing by Owner's contact located at the address provided in or pursuant to Section C4. All such consents or approvals shall also be in writing.

## **Pronouns**

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

## **Amendments**

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

## **Headings**

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

# PROPERTY MANAGEMENT PROCEDURES MANUAL

No. D •1      Miscellaneous

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## **Representations**

Manager represents and warrants that it is fully qualified and licensed, to the extent required by law, to manage real estate and perform all obligations assumed by Manager hereunder. Manager agrees to comply with all such laws now or hereafter in effect.

## **Indemnification by Manager**

Manager shall indemnify, defend and hold Owner and members in Owner, their officers and employees harmless from any and all claims, demands, causes of action, losses, damages, fines, penalties, liabilities, costs and expenses, including attorney's fees and court costs, (except to the extent covered by insurance carried by Owner pursuant to this Agreement) sustained or incurred by or asserted against Owner and member in Owner, their officers or employees by reason of or arising out of (i) Manager's or its agents' or employees' breach of the duties and obligations required to be performed by Manager pursuant to this Agreement, (ii) acts by Manager or its agents or employees outside of the scope of Manager's authority under this Agreement, or (iii) the negligence or willful misconduct of Manager or its agents or employees.

## **Indemnification by Owner**

Owner (but not any member of Owner) shall indemnify, defend and hold Manager and its affiliates and each of their officers and employees harmless from any and all claims, demands, causes of action, losses, damages, fines, penalties, liabilities, costs and expenses, including attorney's fees and court costs, (except to the extent covered by insurance carried by Manager pursuant to this Agreement) sustained or incurred by or asserted against Manager or its affiliates, or any of their officers or employees, by reason of or arising out of acts or omissions, of Manager related to Manager's activities, operations, management or supervision of the Property, except to the extent of Manager's obligations set forth in Section D1 Indemnification by Manager above.

1. The indemnities set forth in this Section D1 shall survive any expiration or termination of this Agreement.

## **Policy Respecting Business Ethics**

Owner and Prudential is/are committed to the highest standard of ethics in its business activities and has a policy respecting the actions of all of its employees in connection therewith. Owner requires that such policy apply, to the extent appropriate, to consultants performing work on its behalf. A statement of such policy (the "Ethics Policy") is contained in the Procedures Manual. Manager agrees to comply with terms of the Ethics Policy and further agrees that any breach of

## **PROPERTY MANAGEMENT PROCEDURES MANUAL**

No. D •1      Miscellaneous

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such terms shall constitute a breach of this Agreement, giving Owner the rights provided under Section C3 hereof.

### **Complete Agreement**

This Agreement and the Schedules attached hereto (which Schedules are incorporated herein by this reference for all purposes) supersede and take the place of any and all previous management agreements entered into between the parties hereto relating to the Properties covered by this Agreement.

### **Time of the Essence**

The parties agree that time is of the essence with respect to the deadlines set forth in and the term of this Agreement.

### **Fiduciary Standards**

Manager acknowledges that Prudential may hold an interest the Property as a fiduciary for third party clients, and is subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA") or comparable fiduciary obligations and, as such, may be required to, and shall be expressly permitted under this Agreement, to take or not to take such actions as Prudential deems necessary in order to preserve third party clients' tax exempt status, avoid the recognition of certain types of income that would be taxable to Prudential's third party clients as unrelated business taxable income under the Internal Revenue Code of 1986, as amended (the "Code") and comply with all laws and regulations applicable to employee benefit plans, including ERISA. Manager will act in all instances in a manner consistent with such fiduciary standards, including, but not limited to, Manager's obligation to act prudently and solely in the best interest of Prudential's clients and without conflict of interest.

Manager shall not knowingly engage in any non-exempt transaction which would be prohibited under the terms of Section 406 of ERISA or Section 4975 of the Code, including the leasing of any property to a "party-in-interest" or "disqualified person" with respect to one or more benefit plans having an interest in a Prudential separate account, regardless of the reasonableness or fairness of the transaction. Without in any way limiting the foregoing, Manager hereby agrees that Manager shall comply with the provisions respecting leases for properties held in Prudential accounts subject to ERISA.



## **PROPERTY MANAGEMENT PROCEDURES MANUAL**

No. D •1      Miscellaneous

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### **Governing Law**

This Agreement shall be deemed to have been made and shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Virginia. The parties hereto submit to personal jurisdiction in the Commonwealth of Virginia for the enforcement of the provisions of this Agreement and waive any and all rights to object to such jurisdiction for purposes of litigation to enforce this Agreement.

### **Non-Waiver**

The failure of Owner or Manager to seek redress for violation or to insist upon the strict performance of any covenant, agreement, provision or condition of this Agreement, shall not constitute a waiver of the terms of such covenant, agreement, provision or condition, and Owner and Manager shall have all remedies provided herein and by applicable law with respect to any subsequent act which would have originally constituted a violation.

### **Sale of Property**

Nothing herein contained shall be deemed to constitute Manager as the agent (exclusive or non-exclusive) with respect to the sale, mortgaging or other financing of the Property.

### **Attorneys' Fees**

In the event of any controversy, claim or dispute between the parties hereto arising out of or relating to the Property or this Agreement or the breach hereof, the prevailing party shall be entitled to recover from the losing party, reasonable expenses, attorneys' fees and costs.

### **Owner's Limited Liability**

Neither Owner nor members in Owner, whether direct or indirect, or any direct or indirect owners in such parties or any disclosed or undisclosed officers, shareholders, members, principals, directors, employees, partners, trustees, servants or agents of members in Owner, any third party client of members of Owner, or any of the foregoing or any investment advisor of members in Owner (including any assignee or successor of members in Owner) or other holder of any equity interest in members in Owner, shall be personally liable for the performance of Owner's obligations under this Agreement. The liability of Owner and members in Owner (including any third party client of members in Owner, or any assignee or successor of members in Owner or any third party client of members in Owner) for their obligations hereunder shall be limited to Owner's interest in the Property.

**PROPERTY MANAGEMENT**  
PROCEDURES MANUAL

No. D •1      Miscellaneous

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**Liens**

This Agreement shall not create an interest in real property and it shall not be recorded in the public records of any jurisdiction. Notwithstanding anything to the contrary contained herein, neither Manager nor any officer, partner, representative or agent thereof shall be entitled to place, file or record a lien upon the Property on account of any sums alleged to be due and payable to Manager.

**PROPERTY MANAGEMENT**  
PROCEDURES MANUAL

No. D •1      Miscellaneous

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**JURY TRIAL WAIVER**

OWNER AND MANAGER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER IN CONTRACT OR TORT) BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the date and year first above written.

OWNER:                      MONUMENT REALTY LLC

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

MANAGER:

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

# PROPERTY MANAGEMENT PROCEDURES MANUAL

## TABLE OF CONTENTS

<b>Section A • 1</b>	<b>Statements</b>	<b>Page</b>
	Overview	1
	Philosophy	1
<b>Section A • 2</b>	<b>Property Information</b>	<b>Page</b>
	Documentation/Files	1
	Background Information	2
<b>Section A • 3</b>	<b>Insurance</b>	
	Property Insurance	1
	Liability Insurance	1
	Owner's Insurance	1
	3 <sup>rd</sup> Party Additional Insurance	2
	Tenant's Insurance	2
	Contractor's Insurance	3
	Certificates of Insurance	4
	Mutual Waivers	4
	Cooperation with Insurance Carriers	4
	Compliance with Insurance Policies	5
	Insurance Claims	5
<b>Section B • 1</b>	<b>Management Responsibilities</b>	
	Management	1
	Strategic Manager Policy and Procedures Manual	1
	Compliance with Laws	1
	Legal Issues	2
	Hazardous Substance	2
	Legal Counsel	3
	Compliance with Mortgage/Lenders	3

# PROPERTY MANAGEMENT PROCEDURES MANUAL

## TABLE OF CONTENTS

<b>Section B • 1</b>	<b>Management Responsibilities – cont.</b>	<b>Page</b>
	Compliance with Lease and Other Agreements	4
	Collection of Rents and Other Income	4
	Taxes	4
	Leasing and Cooperation by Manager	5
	Execution of Leases	5
	Tenant/Public Relations	6
	Tenant Survey	7
	Promotion Fund/Merchants Association	7
	Advertising	7
	Employees; Independent Contractor	8
	Political and Charitable Contributions	9
	Minority and Union Vendors and Contractors	9
	Additional Operating Activities	9
<b>Section B • 2</b>	<b>Building Operations.</b>	
	Repairs and Maintenance	1
	Capital Improvements	1
	Service Contracts	2
	Competitive Bidding	2
	Maintenance Plan	2
	Tenant/Property Improvements	5
<b>Section B • 3</b>	<b>Emergency and Environmental Risk Management</b>	
	Philosophy	1
	Policy	1
	Emergency Plan	1
	Emergency and Life Safety	3

# PROPERTY MANAGEMENT PROCEDURES MANUAL

## TABLE OF CONTENTS

<b>Section B • 3</b>	<b>Emergency and Environmental Risk Management – cont.</b>	<b>Page</b>
	Emergency and Life Safety - continued	3
	Fire	3
	Bomb Threats	3
	Earthquake	4
	Flooding (broken water lines)	4
	High Winds or Tornado	4
	Riot	4
	Typical Emergency Evacuation Procedures	5
	Security Plan	5
	Guard Services	6
	Card Access and Locking Systems	6
	Exterior Lighting	7
	Preventative Maintenance for Emergency Equipment	8
	Environmental Risk Management	10
	Chemical Storage	10
	Asbestos	10
	Storage Tanks	11
	Other	11
<b>Section B • 4</b>	<b>Manager Responsibilities</b>	
	Specific Duties of Manager Representative	1
	Market Information	1
	Database	1
	Budgets	1
	Leasing and Marketing	2
	Tenant Renewals	2

# PROPERTY MANAGEMENT PROCEDURES MANUAL

## TABLE OF CONTENTS

<b>Section B • 4</b>	<b>Manager Responsibilities – cont.</b>	<b>Page</b>
	Vendor Services	2
	Tax Appeals	3
	Property Condition	3
	Goals and Objectives	4
<b>Section C • 1</b>	<b>Financial Reporting</b>	
	Books of Accounts	1
	Account Classification	2
	Reports	2
	Approved Budgets	2
	IRS Form 1099	3
	Accounting Principles	3
	Ownership of Books and Records	3
	Required Software	3
<b>Section C • 2</b>	<b>Compensation</b>	
	Management Fee	1
	Exclusions from Management Fee	1
	Leasing	2
	Construction Supervision Fee	2
<b>Section C • 3</b>	<b>Termination</b>	
	Termination with Notice	1
	Termination without Notice	1
	Immediate Termination with Notice	1
	Termination on Sale, Casualty or Condemnation	1
	Authority to Execute Termination Notices	2
	Final Accounting	2

**PROPERTY MANAGEMENT**  
PROCEDURES MANUAL

**TABLE OF CONTENTS**

<b>Section C • 4</b>	<b>Notices</b>	
	Owner	1
	Manager	1
<b>Section D • 1</b>	<b>Miscellaneous</b>	
	No Partnership	1
	No Assignment	1
	Consent and Approvals	1
	Pronouns	1
	Amendments	1
	Heading	1
	Representation	2
	Indemnification by Manager	2
	Indemnification by Owner	2
	Policy Respecting Business Ethics	2
	Complete Agreement	3
	Time of Essence	3
	Fiduciary Standards	3
	Governing Law	4
	Non-Waiver	4
	Sale of Property	4
	Attorney's Fees	4
	Owner's Limited Liability	4
	Liens	5
	Jury Trial Waiver	6



