

# STERLING MANAGEMENT & CONSULTING SERVICES, INC.

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## Management Agreement

THIS AGREEMENT is made and entered into by and between STERLING MANAGEMENT & CONSULTING SERVICES, INC., hereinafter referred to as "SMS," and \_\_\_\_\_, hereinafter referred to as "Client." NOW, THEREFORE, in consideration of the mutual promises herein contained, and intending to be legally bound hereby, the parties agree as follows:

1. Responsibilities and Authority of Manager. SMS shall operate and maintain Client's facility, described below and hereinafter referred to as "Facility," in a quality manner in substantial compliance with applicable statutes, ordinances, rules and regulations established by any governmental authority having jurisdiction over the Facility. Subject to Client's reasonable cooperation and support, and its ability to maintain the licenses, permits and approvals, SMS shall maintain in good standing all of Client's licenses, permits and approvals necessary for the operation of the Facility. Such licenses shall be in the name of the Client and be maintained by SMS at Client's expense.

2. Employees. SMS shall select, hire, train, promote, and supervise the work of, discharge and replace, on behalf of Client, all supervisory and non-supervisory personnel necessary to operate and maintain the Facility. All such persons employed at the Facility shall be hired as employees of  Client  SMS, and costs associated with such hiring and compensation for such persons shall be borne by Client as a necessary expense of operation, provided however, such costs shall be consistent with the Budget as set forth in Paragraph 6 below, approved in advance by Client.

In the event Client has elected that the employees are to be employed by SMS, Client acknowledges that such relationship basically "leases the employees" back to Client. Client will be subject to an administrative fee assigned to the overall W/C chargeback, which amount shall be part of the W/C line item in the approved budget. Further, Client shall tender to SMS, at the commencement of this Agreement, a security deposit equal to one month's projected employment expenses. SMS may require that the security deposit be increased by any increase in employment expenses.

3. Rates and Collection of Charges. SMS shall establish rates or changes in existing rate structures for the services provided to tenants or users of the Facility. SMS shall request, demand, collect, and receive any and all such charges, rents or payments as they become due. SMS shall, at Client's expense, evict tenants subject to the Self Storage Lien Laws or, with Client's prior written approval, take other legal action against tenants who are delinquent in the payment of any charges, rents or other payments due Client.

4. Improvement to Facility. SMS shall not be responsible for supervising improvements or renovations to the facility, the total price for which exceeds the amount of \$2,500.

5. Books and Records -- Accounting Responsibility. SMS shall maintain a system of office records and books of account for the Facility. Such books and records shall be maintained in accordance with standard accounting practices consistently applied. All such records shall be maintained at the facility or at SMS's corporate offices and will include, but not be limited to:

- (a) The preparation of a monthly balance sheet and profit and loss statement, general ledger, cash receipts and disbursements journal to be submitted to Client within thirty (30) days after the end of each period, all of which will be reconciled with the Facility on-site computer;
- (b) The maintenance of all tenant billing, accounts receivable, and collection records at the Facility;
- (c) The maintenance of all accounts payable records, and responsibility for their payment;
- (d) The maintenance of all payroll functions including preparation of payroll checks, payroll tax deposits for withholding taxes, and the filing of payroll reports and returns, payment of all such

- taxes, and the issuance of W-2 forms to all employees; and
- (e) The preparation of all reports and returns for all sales, use, and occupancy taxes.

Client shall receive a complete financial package that contains the key elements of the foregoing books and records.

6. Budget. On or before December 1st of each year, SMS shall prepare and submit to Client for approval an annual budget for the facility. The budget shall address all projected revenues and expenses of the Facility, including capital improvements, hereinafter referred to as "Budget."

7. Deposit and Disbursement of Funds. All revenues from operations and all monies otherwise received by the Facility shall be deposited in a local operating account at an FDIC insured institution. SMS is authorized to disburse any funds from the Operating Account in the name of, or on behalf of, the Facility as follows:

- (a) The ownership, maintenance, and operation of the facility;
- (b) Payment of costs, expenses, and expenditures described in this Agreement; and
- (c) Payment of management fees and reimbursements for which SMS is entitled pursuant to the terms of this Agreement.

8. Bank Accounts. Client shall be listed on all bank accounts and have complete and full access to any account contemplated herein. In the event SMS is directed by Client to disburse the deposited funds to Client, Client shall be obligated to provide all working capital required to pay all operating expenses of the Facility on a timely basis, including management fees, to the extent funds remaining, if any, are insufficient. Client agrees to maintain a balance in the facility operating account sufficient to cover expenses, together with a working capital reserve of \$5,000.

9. Responsibilities and Authority of Client. Client shall provide such computer hardware and software required, as determined by SMS, for the operation and management of the Facility. Client is also responsible for opening the initial bank account, obtaining all licenses, certificates of occupancy, sales tax ID, and compliance with all other governmental requirements to conduct its business.

10. Insurance. Client shall maintain in full force and effect all such insurance coverage necessary for the operation of the facility including general liability, property, theft, employee dishonesty/theft, commercial umbrella, and other such coverage required to be maintained or otherwise elected by Client. SMS shall not be responsible for investigating, cost comparing, or procuring insurance.

11. Accounting. Client hereby elects, after consultation with its tax advisor:

- cash basis of accounting       accrual basis of accounting

12. Equipment. Client shall provide SMS with necessary facilities, equipment, funds, and resources to enable SMS to perform the management services described herein, including mini storage operating software acceptable to SMS on-site at the Facility. Client agrees to spend capital improvement and deferred maintenance dollars to maintain the facility in top condition, including necessary upgrades to security, to remain competitive in the marketplace. Client or its nominee(s) shall have the right to enter upon any part of the Facility for the purposes of inspecting the operation of the Facility.

13. Expenses. All costs and expenses incurred in the operation of the Facility shall be considered an operating expense of, and shall be paid by, the Facility in accordance with the approved Budget. Without limitation, such expenses may include temporary coverage of the facility by SMS supervisory personnel (in the event of on-site manager turnover) and/or travel expenses. Client acknowledges that turnover is often unexpected and thus creates an emergency situation whereby costs to manage the Facility may be temporarily higher than, and will likely exceed the approved annual Budget. SMS will first solve the emergency and, as soon as practical thereafter, provide Client with an estimated Budget of costs to through the emergency. Client shall make available to SMS sufficient working capital to meet the operating expenses of the Facility, including all costs and expenses incurred by SMS on behalf of the Facility.

14. Client Meeting. SMS shall be available to meet with Client on a quarterly basis to review the annual plan and Budget compared to actual results of operation of the Facility. SMS will be available for less formal meetings by telephone or at SMS's principal office.

15. Co-Managing. Client agrees to **refrain** from co-managing the Facility and/or providing directives to on-site personnel (except in an emergency), and agrees to direct its comments, suggestions, directions, or concerns to SMS.

16. Term. The initial term of this agreement shall be for three years commencing on \_\_\_\_\_. This Agreement shall automatically renew for succeeding identical three year periods unless either party hereto notifies the other party, in writing, of its desire to terminate this Agreement no later than thirty (30) days preceding the end of the then three year term.

17. Management Fees. Concurrent with the commencement date of this Agreement and continuing for the term hereof, Client shall pay SMS a Management Fee of 6% which is a percentage of the Gross Operating Revenues collected each month on account of by the Facility during the term of this agreement, or a minimum fee \$2,500 (\$3,500 if zero occupancy/start-up project), whichever is greater. As used herein, Gross Operating Revenues shall mean all revenues generated by and collected on account of the Facility for rental of storage units, tenant charges and other operating revenues (exclusive of sales tax and security deposits). The parties agree that monthly percentage management fees shall be calculated on "cash receipts" exclusive of sales tax and security deposits. Client acknowledges that SMS's fee is for its services and management expertise.

18. Start-Up Fee. Client agrees to pay SMS a one-time start up fee of \$6,000 (\$8,000 if zero occupancy/start-up project) as compensation for the initial setup of all operating procedures, bank accounts, recruiting, staffing, training, and to prepare the initial Business Plan. This fee is due and payable upon execution of this agreement.

19. Operating Procedures. In the operation of the Facility, SMS shall utilize the procedures, systems, and controls, together with related forms, which have been developed by SMS for the purpose of providing effective management techniques and functions for the benefit of similar facilities. SMS shall do all things determined by SMS as reasonably necessary and proper to maintain the quality of service and efficient operation of the Facility.

21. Termination for Cause. This contract may be terminated by either party upon thirty (30) days notice at any time either during the initial term or any renewal periods for "just cause." As used herein, "just cause" shall mean the following circumstances as it relates to either party:

- (a) Insolvency, bankruptcy, destruction of all or a substantial part of the facility;
- (b) Failure of SMS to provide services as outlined herein, hereinafter referred to as "Material Breach," provided, however, Client has given written notice of such Material Breach to SMS, has given SMS thirty (30) days to correct such Material Breach, and SMS fails to correct such Material Breach within said 30 day notice period;
- (c) Client's interest in the Facility is sold, transferred, assigned, or leased. In such event, if SMS is not retained to manage the Facility thereafter to the expiration of this contract, then SMS shall be entitled to payment, and Client shall pay to SMS, the amount equal to the un-expired portion of this Agreement, not to exceed six (6) months;
- (d) In the event this Agreement is terminated for any reason not contemplated herein (**including Client's failure to perform as outlined in this Agreement**), SMS shall be entitled to payment, and Client shall pay to SMS, the amount equal to the un-expired portion of this Agreement or six (6) months management fee, whichever is greater; and
- (e) In the event this Agreement is canceled pursuant to (c) or (d) above, the computation of the payment due thereunder shall be based upon the average fee collected to that date, or the fee collected for the month immediately preceding cancellation, whichever is greater.

22. Termination without Cause. This Agreement may be terminated by either party, without cause, anytime during the first 90 days which shall begin on the later of the date this Agreement is executed. In such event, SMS shall be entitled to fees earned to that date, including start-up fees.

23. Indemnification. Client agrees to fully indemnify and hold harmless SMS, its officers, employees, and agents,

for any liability, cost or expense, including reasonable attorney's fees that SMS may suffer or incur as a result of claims, demands, costs, or judgments against it arising out of its relationship with Client or third parties in connection with this Agreement unless caused by the gross negligence or acts of fraud of SMS.

24. Confidential Information. SMS agrees to hold as confidential any proprietary information it obtains from Client, and any information regarding the operation and maintenance of the facility. Client agrees to hold as confidential and proprietary all such manuals, forms, marketing plans, and operating systems used by SMS in the operation of Client's facility.

25. Expiration. Upon expiration or termination of this agreement, SMS shall return to Client all of Client's original documents and all copies thereof providing Client has paid all fees pursuant to this Agreement. SMS may retain one copy of such documents for record purposes only.

26. Forms and Procedures. Client agrees that it shall at all times during the term of this Agreement utilize all of SMS's various forms, manuals and reporting systems. Client acknowledges that all such forms, manuals and systems of SMS are copyright protected shall be and remain the exclusive property and in the ownership of SMS, and shall not at any time during or subsequent to the term of this agreement, be duplicated or distributed by Client, nor given to third parties by Client.

27. Competition. Client and SMS acknowledge and agree that Client or SMS, their respective subsidiaries, and affiliates may in the future own, lease, and/or manage other new or existing facilities in the same market as the Facility. SMS shall not solicit Client's tenants in any manner.

28. Marketing. Client acknowledges that SMS may use the Facility, its managers, and its successful track record at Client's Facility to promote its management services to other Clients.

29. Employees. If SMS has recruited and hired the Facility employees, and if this contract is terminated for any reason, Client agrees to pay to SMS a finder's fee of \$10,000 for each SMS employee **if** hired by Client on either a temporary, permanent, or consulting basis within six months of the date of the contract termination. Client shall pay said fee if SMS employee(s) are hired by a subsidiary or by any company related to or affiliated with Client or purchaser of Client's Facility, or by reason of Client's introduction of any SMS employee to another employer.

30. Miscellaneous. This Agreement shall be governed by the laws of the state in which the Facility is located. This Agreement shall bind and inure to the benefit of the parties hereto and their successors and assigns. If any provision of this Agreement is held by a court of competent jurisdiction to be held invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated. Any notices to be given hereunder by either party to the other may be affected by either personal delivery in writing, or by certified mail, addressee only, return receipt requested, postage prepaid, to the person and at the address set forth at such signature below. Each party may change its address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of 48 hours after mailing. Each party to this Agreement agrees to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

31. Entire Agreement. This agreement constitutes the entire agreement between Client and SMS, and no covenant, condition or provision may be waived or modified except in writing signed by both Client and SMS.

32. Equitable Remedies for Certain Breaches. SMS and Client each agree that its obligations to maintain confidentiality of each other's confidential and proprietary information as set forth in this Agreement are necessary and reasonable in order to protect each other's business. SMS and Client each expressly agree that due to the unique nature of each other's confidential and proprietary information, monetary damages would be inadequate to compensate an injured party for any breach by a breaching party of its covenants and agreements set forth in this Agreement. Accordingly, SMS and Client each agree and acknowledge that any such violation or threatened violation shall cause irreparable injury to the injured party and that, in addition to any other remedies that may be available, in law, in equity, or otherwise, the injured party shall be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach by the breaching party, without the

necessity of proving actual damages.

33. Arbitration and Legal Fees. In the event that any dispute arises between the parties concerning this Agreement, such dispute shall be submitted to binding arbitration either by an arbitrator selected by the mutual agreement of the parties hereto, or if the parties hereby can not agree, then the parties hereby agree to submit the matter to binding arbitration before an arbitrator from the panel of the American Arbitration Association (“AAA”) or the Judicial Arbitration and Mediation Service (“Service”) office located in the jurisdiction in which the Facility is located. To the extent that the parties are unable to agree upon an arbitrator from the AAA or the Service, the parties hereby agree to submit to either the AAA or the Service the selection of an arbitrator. If the AAA is selected to arbitrate the dispute, then the parties shall be bound, in addition, by the AAA Commercial Arbitration Rules. The prevailing party in the dispute shall be entitled to recover from the other party or parties to the dispute all costs, expenses, and actual attorney’s fees relating to or arising from the enforcement or interpretation of, or any litigation or arbitration relating to or arising from a breach of this Agreement. Attorney’s fees incurred in enforcing any judgment are recoverable as a separate item, and this post judgment attorney’s fees incurred in enforcing any judgment are recoverable as a separate item, and this post judgment attorney’s fees provision is to be severable from the other provisions of the contract, to survive judgment, and is not to be deemed merged into the judgment.

IN WITNESS HEREOF, both parties agree to be bound by the terms of this agreement, and have executed same on this \_\_\_\_ day of \_\_\_\_\_ .

CLIENT

STERLING MANAGEMENT AND CONSULTING INC.

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

By: Sarah E. Even, President

CLIENT NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
TELEPHONE: \_\_\_\_\_

Corporate Office: Regional Office:  
5300 NW 33<sup>rd</sup> Ave. #200 550 Marina Pkwy.  
Ft. Lauderdale, FL 33309 Chula Vista, CA 91910  
(954) 677-1888 (619) 691-7947

### CLIENT INFORMATION SHEET

PLEASE PROVIDE THE FOLLOWING INFORMATION TO ENABLE US TO SET UP YOUR ACCOUNTING RECORDS:

1. Facility Legal Name: \_\_\_\_\_
2. Fictitious Name (or name facility is operated under): \_\_\_\_\_
3. Name of Bank: \_\_\_\_\_  
 Contact: \_\_\_\_\_  
 Account Nos: \_\_\_\_\_
4. Sales Tax ID # \_\_\_\_\_

State ID # \_\_\_\_\_ Federal ID # \_\_\_\_\_

5. Name of Accountant: \_\_\_\_\_  
Address/Telephone: \_\_\_\_\_

Who will provide us with opening balance sheet entries:

Owner  Accountant

7. Ownership:  
 Partnership  Corporation  Sole Proprietorship

8. Names of Owners: \_\_\_\_\_ (Primary Contact)  
\_\_\_\_\_  
\_\_\_\_\_

Primary Contact Telephone Numbers: \_\_\_\_\_

9. Name of Insurance Agent: \_\_\_\_\_  
Address/Telephone: \_\_\_\_\_

General Liability/Property Policy:

Carrier: \_\_\_\_\_  
Policy Number: \_\_\_\_\_  
Date for Renewal: \_\_\_\_\_

IF CLIENT HAS ELECTED, UNDER PARAGRAPH 2 OF THE MANAGEMENT AGREEMENT, TO HAVE FACILITY EMPLOYEES BE EMPLOYEES OF CLIENT, PLEASE PROVIDE THE FOLLOWING INFORMATION:

1. Date you can forward: \_\_\_\_\_  
Payroll Deposit Coupons (for Federal or State, as applicable)  
Copy of this fiscal year's Sales Tax Report  
Copy of Federal/State payroll filings for this fiscal year

2. Workers Comp Policy:  
Carrier: \_\_\_\_\_  
Policy Number: \_\_\_\_\_  
Date for Renewal: \_\_\_\_\_