



**Exclusive Right to Lease Listing Agreement**

4000 Eagle Point Corporate Dr  
Suite 240  
Birmingham, AL 35242

This is an agreement between Birmingham Home Leasing (“Broker”) and

Owner’s Name: \_\_\_\_\_, Hereinafter “Owner”.

Property Address: \_\_\_\_\_

Listing Term: from \_\_\_\_\_, 2018 through \_\_\_\_\_, 2019

Listing Price: \$\_\_\_\_\_ per month (Owner may adjust price with phone or email notification).

Lease Term: 12 months, non-renewing. Non-renewing means that both parties must enter into a new written agreement in order for the Tenant to remain in the premises after the expiration of the initial term.

Brokerage Fee Due at Lease Execution: 100% of the First Month’s Rent (MLS)

**Brokerage Services Provided:**

1. Listing in MLS with 50% of Commission Offered to Cooperating REALTORS®.
2. Listed on Hotpads and on Zillow, Trulia, and Realtor.com if not also listed for sale.
3. Standard For Rent yard signs. Custom HOA yard signs not provided.
4. All Showings conducted by Licensed REALTORS®.
5. 3 Bureau Credit Score Average and Credit History Report Summary.
6. Collection of Employment and Income Documents.
7. Nationwide Criminal Background Check and Eviction Check.
8. Global Homeland Security Terrorist Search.
9. Free Lease Renewal Service for existing Tenants.

\_\_\_\_ 1. THIS CONTRACT IS FOR RENTAL LISTING SERVICE ONLY: Monthly Property Management Service is optional and a separate contract is required. This contract is for Rental Listing Service only. Property Management Services can be added with an additional contract at any time before a Lease is signed.

**2. OWNER’S DUTY & RESPONSIBILITY TO DISCLOSE IMPORTANT PROPERTY CONDITIONS:**

A. The Owner has an Affirmative Duty to disclose any property conditions that could affect the health or safety of the Tenant. The types of conditions that should be disclosed include but are not limited to: Lead-based paint, Asbestos, Radon, Toxic Mold, Bed Bugs, Fleas etc.

\_\_\_\_ I am not aware of any dangerous conditions in the property that would affect the health or safety of the Tenant.

\_\_\_\_ I am aware of potentially dangerous conditions that possibly could affect the health and safety of the Tenant. Please contact me so that I can make a complete disclosure.

\_\_\_\_ 3. CONDITIONS THAT COULD POTENTIALLY INTERRUPT THE TENANCY: The Owner affirms that they are not aware of any conditions that could interrupt a Tenancy, including but not limited to:

- An order from a governmental authority to repair or to demolish,
- The need for Chinese drywall testing or remediation,
- The need for a roof or foundation repair or replacement, etc.

\_\_\_\_\_ 4. DEBTS & ACCOUNTS RELATED TO THE PREMISES: The OWNER declares that all debts and accounts related to the premises are current, including but not limited to: Mortgage(s), Property Taxes, Fire Dues, HOA Dues, Termite Bond, and Property Insurance.

\_\_\_\_\_ 5. THE BROKER DOES NOT PROVIDE LEGAL SERVICES: The Broker is responsible for producing a "Valid" Lease. A "Valid" Lease is defined as Lease which is legally enforceable in a Court of Law. The Broker is not a party to the Lease and therefore is not responsible for Lease enforcement. If the Tenant fails to perform on their promises agreed to in the Lease, the Owner, not the Broker will be responsible for hiring an Attorney and taking legal action. This includes, but is not limited to, the following situations:

- Evictions
- Property damage caused by negligence or direct action of the Tenant
- Tenant leaving before the end of the Lease and/or abandoning the premises
- Tenant causing bed bug or flea infestation

\_\_\_\_\_ 6. ON A MANAGED LEASE, BROKER WILL NOT OBEY INSTRUCTIONS FROM THE LANDLORD TO MAKE DEDUCTIONS FROM THE TENANT'S SECURITY DEPOSIT FOR SUBJECTIVE ISSUES: If you've never leased a property before with a Professional Property Manager, you may be surprised to learn that there are some instructions that you can give to your Broker that he will not obey. These instructions include, but are not limited to telling the Broker to make deductions from the Tenant's Security Deposit for house cleaning, carpet cleaning or issues related to the maintenance and care of the lawn and landscaping. If you want to reserve the right to judge whether or not the Tenant returned your property to you in the "Move-In Condition" with reasonable wear and tear expected, then do not sign the optional Management Agreement.

If you sign the Management Agreement, you will agree to abide by whatever decision the Broker makes concerning any deductions to the Tenant's Security Deposit. One of the most common Court Trials concerning Real Estate occurs when a Tenant challenges the Landlord's deduction from their Security Deposit which they do not feel is justified. Please consult with your own Attorney for a legal opinion on this matter, but it is the Broker's understanding that it is unlikely that a Landlord or a Broker representing a Landlord will prevail in a legal action against a Tenant concerning a subjective issue. In other words, it is subjective whether or not the Owner considers that the Tenant has returned the home to them as clean as it was when they delivered it to the Tenant. Even if time-stamped photographs were taken before and after, this is a difficult issue to "prove" in Court. Therefore, the Broker will not obey instructions from a Landlord to take a deduction from the Tenant's Security Deposit if he believes he will not prevail in a legal action and only waste money on legal fees.

If you sign a Management Agreement with the Broker, you will agree to pay for professional house cleaning before the Tenant takes occupancy and provide a receipt to the Broker to include in the Move-In Condition Report (which both parties will receive a copy of). In turn, the Broker will place a clause in the Lease requiring the Tenant to agree to pay for professional house cleaning when they eventually vacate. If the Tenant does not order and pay for professional house cleaning and you instruct the Broker to deduct the fee for professional house cleaning from the Tenant's Security Deposit, then the Broker will obey those instructions. The same principle works for carpet cleaning.

If you sign a Management Agreement with the Broker, the Lease will specify that the Tenant is responsible for mowing the lawn only. The Lease will specify that you are responsible for all other lawn care and landscaping, including but not limited to: fertilizing the lawn and treating for weeds and fire ants; replenishing the flower beds with mulch or pine straw; trimming the shrubs and weeding the flower beds; maintaining a raked lawn; and edging the lawn. The Broker recommends that you hire a professional vendor to perform those tasks at least once a year and preferably twice a year (Fall and Spring).

If you sign a Management Agreement with the Broker and wish to assign all of the lawn care and landscaping responsibilities to your Tenant, you may do so with the understanding that you will not request that the Broker make

deductions from the Tenant's Security Deposit if you find their care and maintenance of the lawn and landscaping unsatisfactory.

If you do not sign a Management Agreement, you will hold the Tenant's Security Deposit and you may take whatever deductions from the Tenant's Security Deposit that you feel is appropriate, but you will be assuming the complete risk for paying legal fees if the Tenant challenges you in Court. On an Unmanaged Lease, the Move-Out Condition Report provided by the Broker will not make any determination or recommendations to the Landlord concerning justifiable deductions from the Tenant's Security Deposit. If you attempt to involve the Broker in a legal action against your Tenant concerning deductions from the Tenant's Security Deposit, the Broker will not support you and the Broker will cancel the business relationship. If you want to hold the Tenant's Security Deposit and make deductions, the Broker strongly recommends that you do this with the assistance of an Attorney.

\_\_\_\_ 7. THE BROKER WILL NOT BE RESPONSIBLE FOR MONITORING OR MANAGING THE CONDITION OF THE LAWN AND/OR LANDSCAPING: The Broker strongly recommends that the Owner contract with trusted lawn care and landscaping Vendors to monitor and manage the condition of the lawn and landscaping while the property is being leased. The Owner may pay these fees or require the Tenant to pay these fees (if it is disclosed in the advertising). While the Owner retains the right to assign lawn care and landscaping duties to their Tenant and/or make the Tenant pay a Vendor, the Broker will not be responsible for the condition of the lawn and landscaping. If the Owner assigns some or all of the lawn and landscaping responsibilities to the Tenant, on a Managed Lease, the Owner will agree not to request deductions from the Tenant's Security Deposit for any of these issues if the lawn and landscaping was not considered to be maintained satisfactorily. In addition, the Owner will agree in the Rental Management Agreement to hold the Broker harmless for any damage caused by the negligence or direct action of the Tenant. Owners interested in requiring their Tenants to pay for professional lawn care and landscaping must disclose the exact monthly cost for these services before the online advertising begins.

\_\_\_\_ 8. DISCLOSURE CONCERNING TENANTS LEAVING THE LEASE BEFORE THE END OF THE INITIAL TERM: Our statistics indicate that approximately 4% of Tenants will request to leave the Lease early before the end of the initial term. Statutes are on the books that govern this situation. Landlords have the right to recover damages (loss of rental income) and Tenants have a responsibility to continue making rent payments unless and until they are replaced. The Broker's Attorney, who is a Lease Law Litigator, has advised the Broker that he's not aware of a situation where a Landlord was awarded more than confiscation of the Security Deposit in Court Trials where the Tenant left the Lease early. (This is not being presented as legal advice but as information only, the Broker advises the Owner to seek legal advice from their own Attorney on this matter.) According to the report of the Broker's Attorney, there seems to be a significant gap between the Landlord's legal rights and the Landlord's effective rights concerning the situation when a Tenant leaves the Lease early. For that reason, the Lease will contain an early termination clause which basically states that the Landlord agrees to release the Tenant early as long as the Landlord experiences no loss of rental income and/or Brokerage Fees. You may review this clause and the entire (managed) Lease at <https://birminghamhomeleasing.com/wp-content/uploads/2018/11/lease-template-sample.pdf>

\_\_\_\_ 9. THE BROKER DOES NOT ALLOW THE OWNER TO IGNORE A LEASE APPLICATION: The Broker requires Rental Customers to pre-apply and be approved in order to schedule showing appointments. The Broker will pre-approve or decline Pre-Applications based on Objective Criteria provided by the Owner. After a Rental Customer views a property and decides to proceed with leasing the property, they are required to complete their Lease Application by providing documentation for employment and income, tax documents, etc. In addition, the Broker will conduct a Background Investigation on the Applicant. These are subjective issues that the Owner is responsible for making a decision on. In other words, final Lease Application Approval is the sole responsibility of the Owner.

Since the Rental Customer's credit report was "pulled" during the Pre-Application process, the Federal Fair Credit Reporting Act (FCRA) requires that the Applicant be sent a FCRA Compliant Adverse Action Notice if their

Application is declined by the Owner. While the Law does not specifically require Owners to reply to all Lease Applications, the Broker does, in order to avoid a possible Fair Housing Complaint. If the Owner declines the Application, the Broker requires the Owner to state a legal (non-discriminatory) reason, but the Broker will not allow the Owner to ignore an Application. If the Owner refuses to respond in writing to an Application within 48 hours, the Broker will cancel the Rental Listing Agreement in order to protect themselves from a possible Fair Housing Complaint. This could possibly have the effect of increasing the Owner's exposure to a Fair Housing Complaint.

\_\_\_\_ 10. KEYS TO SECONDARY LOCKS: It is understood that the Owner will provide the Broker with keys to the primary locks on the premises. When a door has more than one lock on it, the Owner is required to provide all the keys for the locks on primary access doors. This includes keys to storm doors, etc. It is common for Owners or Agents to accidentally lock secondary locks when accessing the premises and make it impossible for the next Agent to gain access. Keys to these secondary locks will be secured on the premises in a second lock box.

\_\_\_\_ 11. EXPLAINING OBJECTIVE VS SUBJECTIVE CRITERIA & THE APPLICATION APPROVAL PROCESS: In order to streamline the Application Approval/Denial Process, the Owner assigns authority to the Broker to automatically deny Applications that do not meet the Broker's Objective Criteria for Lease Application Approval, which is incorporated into this Agreement by reference the Prescribed Objective Criteria described at <https://birminghamhomeleasing.com/published-minimum-requirements-for-lease-approval/>. It is not possible to objectively describe all desired criteria. For that reason, the Owner will be responsible for approving and denying subjective criteria which is also described at the URL address above.

\_\_\_\_ 12. OWNER GRANTS PERMISSION FOR BROKER TO DISCLOSE MULTIPLE OFFERS: The Owner grants the Broker permission to disclose any Pending Applications or Offers to the Applicant and/or Cooperating Agents.

\_\_\_\_ 13. DISCLOSURE – INSURANCE:

- The Owner is solely responsible for obtaining and maintaining their Termite Bond.
- The Owner is responsible for contacting their Homeowner's Insurance Agent to advise them they are accepting a Tenant.
- Renter's Insurance for Unmanaged Leases- By default, Unmanaged Leases will not contain a clause requiring the Tenant to purchase Renter's Insurance for their personal property and to show the Owner as "Additional Insured". If the Owner wants to require Renter's Insurance, it is their responsibility to inform the Broker and prescribe the amount they require in "Additional Insured" Liability Coverage.
- Renter's Insurance for Managed Leases - By default, Managed Leases will contain a clause requiring the Tenant to purchase Renter's Insurance sufficient to provide coverage for all their personal property and to show the Owner as "Additional Insured" for \$300,000 Liability Coverage. If the Owner wants Liability Coverage in excess of \$300,000, it is their responsibility to inform the Broker before the Lease is signed.

\_\_\_\_ 14. THE OWNER WILL BE REQUIRED TO SHOW THE BROKER AS "ADDITIONAL INSURED" ON THEIR HOMEOWNER'S POLICY ON A MANAGED LEASE: The Management Agreement will contain a standard "Indemnification Clause" requiring the Owner to show the Broker as "Additional Insured" on their Homeowner's Insurance Policy. This is a standard practice. If the Owner has questions or concerns about this requirement, they should consult with their Insurance Agent and/or their Attorney.

15. OPTIONAL MONTHLY PROPERTY MANAGEMENT FEES ARE DETERMINED BY THE AGE OF THE HOUSE: Unlike most Property Managers, Birmingham Home Leasing does not require Property Owners to contract and pay for monthly Property Management Services in order to use Leasing Service (Tenant Placement Only). For houses 1 to 30 years old, the fee for monthly management is \$100 per month. The fee increases due to the age of the house according to the chart below:

- \$100 per month – 1 to 30 years old
- \$150 per month – 31 to 40 years old
- \$200 per month – 41 to 50 years old
- \$250 per month – 51 to 60 years old
- \$300 per month – 61 to 70 years old

\_\_\_ I DO NOT request to sign a contract for Optional Monthly Property Management.

\_\_\_ I DO request to sign a contract for Flat Fee (\$100/month for houses 1 to 30 years old) Optional Monthly Property Management .

\_\_\_ 16. DISTRIBUTION OF LIQUIDATED DAMAGES: In the event that an Applicant forfeits the initial funds for Lease Execution by failing to take occupancy, the Security Deposit will belong to the Owner, the Brokerage Fee will be retained by the Broker and the Pet Deposit, if any, will be returned to the Applicant.

\_\_\_ 17.  FAIR HOUSING: It is illegal to discriminate in the sale or lease of real property based on race, color, religion, sex, handicap, national origin or familial status.

\_\_\_ 18. SEVERABILITY: In the event that this Agreement or any agreement between the parties is in violation of any local, state or Federal law, it is the intent of the Parties that the portion deemed to be in violation of any applicable law be stricken and the other portions of the Agreement remain intact.

\_\_\_ 19. INVESTMENT DISCLAIMER: If you purchase property as a Rental Investment, you do so at your own risk. No one knows if property values will increase, decrease or remain the same and the Broker makes no implied or expressed warranties about this issue.

\_\_\_ 20. VERIFICATION OF OWNER'S IDENTITY: Upon request, the Owner agrees to present a Government Issued Photo ID to the Broker for Identity Verification.

\_\_\_ 21. TERMINATION BY EITHER PARTY: Either party can cancel this agreement (effective immediately) at any time for any reason with written notice.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Agent

\_\_\_\_\_  
Owner