

**Birmingham Home Leasing**  
4000 Eagle Point Corporate Dr  
Suite 240  
Birmingham, AL 35242

## **Rental Listing & Residential Management Agreement**

1. This agreement is made by and between Birmingham Home Leasing, hereinafter referred to as Broker and \_\_\_\_\_, hereinafter referred to as Owner, to secure the services of the Broker for the leasing and management of real property known as: \_\_\_\_\_, hereinafter referred to as the premises, for a period beginning on \_\_\_\_\_, 2022 and running concurrent with the Lease which is to be signed for the premises.

The relationship of the parties to this Agreement shall be that of Principal and Agent (Broker), and all duties to be performed by Broker under this Agreement shall be for and on behalf of Owner, in Owner's name, and for Owner's account. In taking any action under this Agreement, Broker shall be acting only as Agent for Owner, and nothing in this Agreement shall be construed as creating a partnership, joint venture, or any other relationship between the parties to this Agreement except that of Owner/Principal and Agent (Broker), or as requiring Broker to bear any portion of losses arising out of or connected with the ownership or operation of the premises. Nor shall Broker at any time during the period of this Agreement be considered a direct employee of Owner. Neither party shall have the power to bind or obligate the other except as expressly set forth in this Agreement, except that Broker is authorized to act with such additional authority and power as may be necessary to carry out the spirit and intent of this Agreement.

2. HOAs MAY RESTRICT OR PROHIBIT LEASING THE PREMISES: This is an extremely important subject and the Broker requests that the Owner read the following carefully. In recent years, some HOAs are making new rules and restrictions related to Property Owners leasing their property.

The Lease will contain a clause stating that you acknowledge that you have a responsibility to check with your HOA or similar governing body and/or your County Probate Office to see if any restrictions or prohibitions apply to leasing the premises. Below, you will see that the Broker requires you to indemnify him if a legal problem develops about this issue.

HOAs and similar governing bodies are known to be difficult to communicate with. Sometimes a HOA will not reply to a request for information and it is not uncommon for them to provide delayed replies. The Broker's position is that the Owner of the premises is responsible for obtaining this information and giving it to the Broker. It is a mistake for an Owner to assume this is the Broker's responsibility and the Broker assumes no responsibility for this subject. If you already have knowledge that your HOA is restricting or prohibiting leasing the premises in any way, the Broker informs you that you have a responsibility to disclose this to him before signing this agreement. If you don't have certain information about this subject, it is your sole responsibility to contact your HOA or similar governing body to request that information.

The Owner agrees to check with their HOA or any similar governing body for any rules or restrictions related to leasing and to inform the Broker before signing this agreement. If a problem develops with the HOA after a Lease Application is approved or a Lease is executed, then the Owner agrees to indemnify, hold harmless, and defend Broker, its directors, officers, shareholders, attorneys, employees, agents, insurers,

successors, and assigns, from any and all losses, claims, expenses, liabilities, or lawsuits (including reasonable attorney's fees) arising out of or related to any claim or proceeding whatsoever which may be asserted by Tenant, HOA, or similar governing entity, against Broker arising out of or related to the Broker's performance or attempted performance to lease this property.

Does your neighborhood have a HOA or similar governing body? \_\_\_\_\_

If yes, please provide the name of the HOA and their email address:

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3. OWNER CONSENTS TO A BACKGROUND INVESTIGATION: The Owner gives the Broker permission to conduct a Background Investigation for the purpose of, including but not limited to: confirming the Owner's identity and current ownership of the premises, etc. Upon request, the Owner agrees to provide Government issued identification and relevant documents to the Broker.

4. OWNERS WHO ARE U.S. CITIZENS & WHO ARE NOT U.S. CITIZENS: Owners who are not U.S. citizens agree to produce proof that they are residing in the U.S. legally.

OWNER #1: I, \_\_\_\_\_, affirm that:


\_\_\_ I am a U.S. citizen.

\_\_\_ I am a U.S. resident alien and the Broker is not required by IRS Publication 515 Rules to withhold 30% of my gross rent receipts. I agree to provide relevant documentation upon request.

OWNER #2: I, \_\_\_\_\_, affirm that:

\_\_\_ I am a U.S. citizen.

\_\_\_ I am a U.S. resident alien and the Broker is not required by IRS Publication 515 Rules to withhold 30% of my gross rent receipts. I agree to provide relevant documentation upon request.

5.  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.

6. 12 MONTH TERM LEASE PRICE:

\_\_\_ 12 month non-renewing, fixed term @ \$\_\_\_ per month.

7. BROKER AUTHORIZED TO OFFER 6 MONTH OPTION:

The Owner authorizes the Broker to also offer a 6 month fixed term Lease at \$\_\_\_ per month that automatically converts to a month to month agreement after the initial 6 month fixed term. During the month to month conversion period, either party will have the right to terminate the Lease with a 30 day written notice. The month to month conversion period shall not exceed an additional 6 months.

\_\_\_ Yes, I authorize this option.

\_\_\_ No, I do not wish to authorize this option.

8. PET POLICY: Generally speaking, the decision to accept pets and what kind of pets is the prerogative of the Owner, however, the Broker reserves the right to limit their exposure to liability related to leasing to Tenants with dangerous breed dogs. The Broker will not execute a Lease with a Tenant who has a dangerous breed dog, unless required by law. Dangerous breeds include but are not limited to: Pit Bull Terriers, Staffordshire Terriers, Rottweilers, German Shepherds, Presa Canarios, Chow Chows, Doberman Pinschers, Akitas, Wolf-hybrids, Mastiffs, Cane Corsos, Great Danes, Alaskan Malamutes, Siberian Huskies.

The Owner prescribes their advertised pet policy below:

No pets. *This policy is not recommended since most Tenants have some kind of pet.*

The Owner will not allow cats, but will consider allowing one dog up to 25 lbs. on a case by case basis, that is not a dangerous breed. Pet Fee and/or Additional Pet Rent to be determined. *This is our recommended policy.*

Other: \_\_\_\_\_

9. TENANT PLACEMENT OR LEASING FEE DUE AT LEASE EXECUTION: The Brokerage Fee for leasing the property or placing the Tenant is due at Lease Execution and the fee is deducted from the initial funds presented by the Tenant.

10. SELECT A TENANT SELF-SHOWING OPTION: All options include advertising on Zillow, Trulia, Hotpads, etc., Tenant Screening and Lease preparation.

50% of the first month's rent Tenant Placement Fee. Most rental properties today are viewed by Rental Customers accessing the property via a lockbox hanging on the front door that delivers the key to them after they input a code that they were given when they registered with the showing service. Rently is, by far, the largest self-showing service provider for the rental industry at this time. Rently lockboxes are manufactured in China and the Broker has been advised by Rently to expect interruptions in the supply chain. For this reason, the Owner authorizes the Broker to use his discretion to install alternate keyless access deadbolts when necessary. As a general rule, keyless access deadbolts will be used for properties that rent for \$2,500 per month or more.

100% of the first month's rent for Tenant Placement Plus Enhanced Marketing. For an additional 50% of the first month's rent, the Broker will provide self-showing service plus take additional marketing photographs sufficient to provide Zillow virtual tours. According to Zillow, listings with a virtual tour get 45% more views than listings without a virtual tour.

11. THE BROKER EXPLAINS RISK ASSOCIATED WITH SELF-SHOWING ACCESS: It has become common for rental companies to use self-showing access. As the technology developed to provide this service, it becomes clear that the convenience it provides to the Rental Customer is preferred and expected. However, there are risks associated with allowing self-showing access. The additional risk associated with using self-showing access technology includes, but is not limited to: eviction, vandalism, theft, property damage, etc. The Broker does not make any warranty, representation, or guarantee to the Owner that there will be no loss or damage related to the Rental Customer self-showing process. The Broker requires indemnification from the Owner for additional risk associated with granting Rental Customers self-showing access.

The Owner understands and assumes all risks inherent in allowing a self-showing of the property. The Owner agrees to hold harmless and indemnify the Broker and the Broker's employees, agents and representatives from all loss, expense, damage, claim suits and costs whatsoever (including, without limitation, attorney's fees and expenses) incurred during, related to, or arising out of providing Rental Customer self-showing service hereunder, whether such damages are for personal injury and/or property damage suffered by any person whomsoever on or about the premises or otherwise.

12. THE OWNER ASSIGNS THE AUTHORITY & RESPONSIBILITY TO THE BROKER TO SCREEN THE TENANT:

The Owner assigns the authority and responsibility to the Broker to screen and verify that the Rental Customer (Prospective Tenant) meets the published criteria for Lease Application approval found at: <https://birminghamhomeleasing.com/published-minimum-requirements-for-lease-approval/>.

13. OWNER AUTHORIZES BROKER TO EXCLUSIVELY REPRESENT THE OWNER TO RENTAL CUSTOMERS/APPLICANTS: The Broker is authorized by Owner to deal with the Rental Customer/Applicant with regard to all aspects of the Property and the application process and negotiations. All communications to Owner are to go through Broker in this capacity, and Broker will relay the Rental Customer's/Applicant's communications and requests after which Broker will act upon Owner's responses. To prevent confusion and to preserve this line of communication, Rental Customer/Applicant will not have the option to communicate directly with Owner. In the event Broker's management agreement is terminated with Owner, Broker will provide contact information to the Rental Customer/Applicant for Owner, or Owner's newly appointed manager.

14. COPIES OF CREDIT REPORTS ARE NOT AVAILABLE TO THE OWNER TO REVIEW: The Broker's contract with the credit report vendor does not allow the Broker to share Applicant's credit reports with anyone, including the Owner and the Applicant. The Broker is required by Law to secure the personal information collected from Lease Applications. Since the Broker cannot assure the Applicant that the Owner would effectively secure the Applicant's personal information, the Broker will not comply with a request from the Owner to transfer copies of the Applicant's credit reports, tax documents, pay stubs, bank statements, etc.

15. OWNER WAIVES RIGHTS TO CONSIDER ADDITIONAL OFFERS AFTER APPROVING APPLICATION: The Owner waives their rights to receive and consider additional offers after approving a Lease Application. The Owner agrees that during the time in between approving the Application and signing the Lease, the property status shall be indicated as "Pending". If for any reason the Lease does not execute as planned, then the property will be immediately put back on the market.

16. OWNER AGREES TO MAINTAIN UTILITIES IN THEIR NAME FOR 5 DAYS AFTER PROPERTY IS LEASED: The Owner agrees to maintain all utility services in their name during the showing period and for at least 5 business days after the new Tenant takes occupancy. The Broker will not prepare a Lease for signature on a property if all utility services are not active.

17. PROPERTY CONDITION DISCLOSURE: The Broker requires the Owner to disclose any 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: Flooding, Radon, Toxic Mold, Bed Bugs, Fleas, etc. If you have no actual knowledge of conditions that require disclosure, please proceed to acknowledge below. If you are aware of conditions that could affect the health or safety of the Tenant, discontinue filling out this Listing Agreement and contact the Broker.

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

\_\_\_\_ The Owner acknowledges that the Broker and the Broker's Licensees do not have the responsibility to discover latent defects in the property or to advise on matters outside the scope of their licenses.

18. DISCLOSURE FOR OLDER PROPERTIES: Properties built on or before 1981 will contain a general disclosure about the possibility of materials containing asbestos being commonly used in construction until that time. This disclosure is not a requirement of Law the same as a Lead Based Paint Disclosure required for properties being leased or sold that were built before 1978, the Asbestos Disclosure is a requirement of the Broker. The Broker informs the Owner that they have an Affirmative Duty to disclose whether or not they have "actual knowledge" of materials containing asbestos in the premises or if they have knowledge of an inspection for asbestos has been conducted for the premises.

\_\_\_\_ I am not aware of the presence of any materials containing asbestos in the premises. In addition, I am not aware of any asbestos inspection that has been previously conducted by me or another party for the premises.

\_\_\_\_ I am aware of the presence of materials containing asbestos in the premises and/or I am aware of an asbestos inspection that has been previously conducted for the premises. Please contact me so that I can make a complete disclosure.

19. 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:

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

20. 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.

21. ASSIGNMENT OF RENTS: Upon receipt of notice from the Lender to transfer future rent payments to the Lender and upon receipt of proof that the Lender has the right to make such a demand via an Assignment of Rents clause, etc., then the Broker will immediately cancel this Agreement with the Owner and immediately transfer the Tenant's Security Deposit to the Owner.

22. FORECLOSURE: If the Broker has actual knowledge that the premises has been foreclosed, then this Residential Management Agreement is no longer in effect with the Owner and the Broker will transfer the Tenant's Security Deposit to the Tenant.

23. SITUATIONS WHEN THE BROKER WILL INTERPLEAD RENT: If and to the extent Broker has current rents in Broker's possession that would otherwise be transferred to Owner at the time Broker receives demand from Lender for payment of rents or notice of an actual foreclosure, then the following terms shall apply: In such event, Broker will give notice to Owner of Broker's intent to pay over said rents to Lender seven (7) days after Broker's notice to Owner. If Owner objects within said time to Broker disbursing said rents to Lender, then

Broker will be forced to interplead said rents into a Court of competent jurisdiction and Owner hereby agrees to pay any and all fees, costs, and expenses for said interpleader action, including any attorney's fees. Owner further agrees under any circumstance to indemnify and hold Broker harmless from any and all actions by Lender against Broker related to or arising out of Broker's management of the Property, including but not limited to Broker's handling of rents and security deposits.

**24. THE BROKER DOES NOT PROVIDE LEGAL SERVICES:** The Broker does not provide legal services. If necessary, the Owner agrees to hire an attorney for any legal actions that need to be taken against the Tenant. 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:

- a. Filing for Unlawful Detainer and/or Evictions
- b. Property damage caused by negligence or direct action of the Tenant
- c. Tenant leaving before the end of the Lease and/or abandoning the premises
- d. Tenant causing bed bug or flea infestation

**25. THE BROKER REQUIRES THAT THE OWNER REPLY TO ALL ATTEMPTS TO COMMUNICATE PROMPTLY:** This Listing Agreement gives the Broker "limited Power of Attorney" to represent the Owner. For that reason, during the rental showing and application process, the Broker will have to correspond with the Owner frequently in order to proceed through the process. The Broker cannot practically or effectively represent the Owner without prompt communication. The Broker reserves the right to cancel the Listing Agreement at any time with written notice if he deems that the Owner is not responding promptly to all attempts to communicate. During the rental showing process, the Broker requires that all attempts to communicate be replied to within 24 hours. The Broker requires a reply from the Owner on Lease Applications within 48 hours.

**26. DISCLOSURE ABOUT OWNER'S LIMITED RIGHTS RELATED TO TENANTS WITH "ASSISTANCE ANIMALS":** The Owner, not the Broker, is solely responsible for determining whether or not they will accept Tenants with pets. If the Owner decides to accept pets, they also reserve the right to limit the types and breeds of pets they will allow. Assistance Animals are defined by HUD to include (1) service animals, and (2) other trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities. The Broker advises the Owner that when a Prospective Tenant declares they have an Assistance Animal and requests "reasonable accommodation", then the Owner has very limited rights in refusing the request. In addition, the Prospective Tenant cannot be charged a Pet Deposit, Pet Fee, or Pet Rent since Assistance Animals are not considered "pets" under the current law. If you have questions or concerns about your limited rights leasing property to Tenants with Assistance Animals, please consult with an Attorney.

**27. DISCLOSURE OF POTENTIAL RISKS INVOLVING AN APPLICANT WHO IS IN THE PROCESS OF GETTING A DIVORCE:** The potential risk involved in this situation is that there's no way to predict how the Court will distribute the marital estate's assets and liabilities. This could impact the Applicant's ability to qualify

individually after the divorce is adjudicated. The Broker has been advised by Legal Counsel that making a policy against considering Lease Applications from individuals who are divorcing could be viewed as punitive and challenged by legal action. Therefore, it is the Broker's policy to process Applications for individuals who are getting a divorce with the requirement that both spouses cooperate by presenting a Joint Application and also requiring the non-occupying spouse to sign a Cosigner Agreement.

28. 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.

29. 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 - By default, the Lease will contain a clause requiring the Tenant to purchase Renter's Insurance for their personal property.

30. 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.

31. FOR RENT SIGNS ARE NOT PROVIDED: For Rent signs are not indicated as a provided service in this agreement because the Broker feels that they are obsolete and counterproductive. Upon request, the Broker will consider providing For Rent signs on a case by case basis. The Broker will not place a For Rent sign in the following situations:

- a. Neighborhoods where the HOA requires special and expensive signage
- b. New or developing neighborhoods

32. BROKER CANNOT PROVIDE UNINTERRUPTED OCCUPANCY IN BETWEEN TENANTS: Rental Customers are required to approve the condition of the premises after they are vacant and cleaned before they are allowed to sign a Lease. For that reason, the Broker cannot provide uninterrupted occupancy in between Tenants.

33. EXPLAINING THE RENTAL INDUSTRY'S CUSTOMARY INTERPRETATION OF THE 30 DAY NOTICE PERIOD: This clause will only apply if a Lease contains a month to month provision or is edited to add a month to month provision. In the home rental industry, it is commonly understood that the actual time period for a written notice to be delivered for termination is not a literal 30 day period, but is understood to be delivery of notice before the next calendar month. In the Broker's opinion, it is not reasonable to assume that a modern Tenant understands or respects this intricacy. Therefore, it shall be the Broker's policy to accept a literal 30 day notice if and when a Tenant insists. If the Owner disputes this policy, then the Broker reserves the right to settle with the Owner by paying the prorated difference. In this situation, the Broker would not continue a business relationship with the Owner.

34. ASSIGNMENT OF LAWN CARE & LANDSCAPING RESPONSIBILITIES: The Tenant shall only be responsible for mowing the lawn or paying a vendor to mow the lawn. The Owner agrees to obtain and maintain an annual contract with a professional vendor to fertilize the lawn and treat it for weeds.

The Broker will not obey instructions from the Owner to make any deductions from the Tenant's Security Deposit concerning the other maintenance of the lawn and landscaping, including deductions for damage or loss. The satisfactory maintenance of the other lawn care and landscaping responsibilities is subjective and the Broker will not enter into a dispute with the Owner over this subjective issue. These responsibilities include but are not limited to:

- a. Edging the lawn, as needed
- b. Removing leaves, pine straw, debris from the lawn, as needed
- c. Treating the lawn and landscaping for ants, as needed
- d. Trimming the shrubs, as needed
- e. Weeding the flowerbeds, as needed
- f. Replenishing the flowerbeds with mulch or pine straw, as needed
- g. Tree maintenance, as needed
- h. Gutter cleaning, as needed

35. IN-GROUND SPRINKLER SYSTEM: If the premises has an in-ground sprinkler system, the Lease will require the Tenant to use enough water to prevent the lawn from turning brown and dying in a drought. For that reason, the Broker requires the Owner to maintain the sprinkler system in good working order. The Tenant will be responsible for reporting the need for service and repairs of the sprinkler system to the Broker.

36. SECURITY DEPOSIT ACCOUNTING: The Owner appoints the authority and responsibility to the Broker to provide accounting related to the deposit and return of the escrowed funds (Tenant's Security Deposit and Pet Deposit, if applicable).

37. SECURITY DEPOSIT RETURN: The Owner agrees that the Broker shall have sole reasonable discretion to apply Security Deposit funds (and Pet Deposit funds, if applicable) under the Lease and to refund Security Deposit funds (and Pet Deposit funds, if applicable) to the Tenant according to Alabama Law and according to the Broker's understanding of how certain types of allowances are usually made for the Owner's recovery of damages. The Owner agrees to be bound by any such decision of the Broker.

38. OWNER AGREES TO ALLOW FOR "NORMAL WEAR & TEAR": The Owner acknowledges and agrees that the Tenant has the legal right to return the premises to them in the condition that they received it, "with normal wear and tear". The Owner agrees not to request that the Broker make deductions from the Tenant's Security Deposit for conditions that the Broker determines to be normal wear and tear.

39. EXPLAINING THE CONCEPT OF NORMAL WEAR & TEAR: (The following is not set forth as legal advice, but is provided by the Broker as general information. Please consult with an Attorney for legal advice.) Alabama Code Section 35-9A-201 gives the Landlord the right to make deductions from the Tenant's Security Deposit for "damages". The code doesn't define damages and there is a general understanding in Lease Law



that the Landlord must allow for what is usually referred to as “normal wear and tear”. Each legal jurisdiction may have its own definition of normal wear and tear and damages. Online sources defining normal wear and tear versus damage do not all exactly agree. The Lease to be signed by the Landlord and Tenant will include approximate definitions of normal wear and tear for hardwood floors, carpets, interior walls, but if a Court Trial develops, the legal jurisdiction’s definition will govern.

- a. Normal Wear & Tear for Hardwood Floors - The Lease between the Landlord and Tenant will approximately define normal wear and tear for hardwood floors as “Worn and scuff marks in the finish in high traffic areas”.
- b. Normal Wear & Tear for Carpets - The Lease between the Landlord and Tenant will approximately define normal wear and tear for carpets as “Worn areas on carpet in high traffic areas, indentations caused by furniture, and permanent stains (non-pet)”.
- c. Normal Wear & Tear for Interior Walls - The Lease between the Landlord and Tenant will approximately define normal wear and tear for interior walls as “If the walls become slightly dirty and/or scuffed and faded in certain areas, fading, peeling, or cracked paint, slightly torn or faded wallpaper, crayon marks, small nail holes in interior walls caused from hanging pictures”. The Broker will deduct from the Tenant’s Security Deposit to repair damage caused by installing/removing TV mounts, drywall anchor bolts and large nails or screws ¼ inch in diameter or greater. The Broker will not deduct anything from the Tenant’s Security Deposit to repair normal wear and tear. The Landlord will be responsible for paying to have the walls repainted to recover from the effects of allowed normal wear and tear to the interior walls.

40. INCLUDED PROPERTY MANAGEMENT SERVICES: For a flat fee of \$50 per month, the Broker will provide the following services:

- a. COLLECTING & TRANSFERRING RENT: The Owner appoints the authority and responsibility to the Broker to collect and receipt for rents and transfer it electronically to the Owner. Broker is authorized to withdraw from Rent Receipts all funds needed for proper disbursements for expenses payable by the Owner, including but not limited to Broker’s compensation and vendor payments, prior to transferring balance to the Owner.
- b. ACCOUNTING: The Owner appoints the authority and responsibility to the Broker to provide monthly and annual accounting and file IRS Form 1099 annually. However, under this agreement, the Broker shall have no responsibility or duty to include accounting for expenses paid directly by the Owner. The Broker’s accounting responsibilities will only include accounting for expenses paid by the Broker on behalf of the Owner.
- c. SECURITY DEPOSIT ESCROW, ACCOUNTING & RETURN: The Owner appoints the authority and responsibility to the Broker to escrow, provide accounting for and return the Tenant’s Security Deposit (and Pet Deposit, if applicable).
- d. SURVEYING THE PREMISES: The Owner appoints the authority and responsibility to the Broker to conduct a Move-In and Move-Out Condition Report if time in between Tenants allows.
- e. ORDERING REPAIRS & MAINTENANCE: The Owner assigns authority and responsibility to the Broker to order repairs and maintenance services as follows:
  - i. The Owner assigns authority and responsibility to the Broker to order service calls, quotes for repairs and/or repairs that cost no more than approximately \$(This amount is to be determined (TBD) by

agreement between the Owner and the Broker. The figure cannot be less than \$400 or more than \$799.) per incident, as he deems necessary.

ii. The Owner does not assign authority and responsibility to the Broker to order repairs or maintenance services that cost in excess of \$TBD, unless:

- if, in the opinion of Broker, such repairs are necessary to protect the property from damage or loss, or
- if the health, safety, and welfare of the Tenants is at risk.

iii. Under this agreement, the Owner will deposit and maintain a \$300 Repair Reserve with the Broker.

iv. Under this agreement, the Broker will not have a duty to order or provide multiple quotes. While the Broker has an effective network of vendors established to provide repair and maintenance services, the Broker really does not work with more than one plumber or one electrician or one appliance repairman, etc. Under this agreement, the Broker will provide one quote, which the Owner will approve or decline. In the situation where the Owner declines a quote provided by the Broker, then the Owner will be responsible for obtaining additional quotes and ordering and paying for the service. When the Owner orders their own service for the premises, they cannot instruct the Broker to pay the vendor or show the transaction in the property accounting.

v. The average cost of a repair that the Broker orders is less than \$400. Most of the repairs that the Broker orders are for a plumber, followed by an electrician, appliance repairmen, etc. Generally speaking, when you order a service call from a licensed and insured professional for the purpose of diagnosing a problem and generating a repair quote, you will pay an average of \$100. Since most repair costs are less than \$400, the Owner will set a maximum automatic approval limit for the Broker to use when the problem can be immediately repaired. When a quote is more than the Broker's automatic approval limit, then the Broker will instruct the vendor to write up the quote so the Broker can have the Owner approve the quote later. In this situation, there will be a second service call fee when the vendor returns to the property to make the repair. The automatic approval for the \$50 per month plan cannot be less than \$400 or more than \$799. The higher the Owner sets the automatic approval limit, the less likely there will be the possibility of a second service call fee.

vi. Under this agreement, the Broker has no duty to expend the Broker's individual funds for any repair on the Premises. However, the Broker agrees to deduct the cost of a repair from the next month's rent receipts as long as it doesn't exceed the amount of one month's rent. In the situation where a repair or service costs more than the amount of one month's rent, the Owner agrees to promptly pre-pay the amount before the Broker is required to order the service. The Owner also agrees to pay applicable transaction processing fees charged by the financial institution.

vii. In the event that the Owner approves a repair or maintenance quote that exceeds the amount of one month's rent, then the Owner also agrees to promptly prepay that amount. The Owner also agrees that the Broker will not be required to order the repair service before receiving documentation of the prepayment.

viii. In the event that the Owner's prepayment fails to be received by the Broker for any reason, then the Broker will ask the Owner to promptly remedy the situation. If the situation is not promptly resolved to the Broker's satisfaction, then the Owner understands, acknowledges, and agrees that Broker's provision of materials, supplies, or labor to improve, repair, or beautify Owner's property may give rise to a materialman's lien in favor of Broker, which Broker will perfect according to Alabama law if expended funds remain unpaid.

ix. The Broker will not be held responsible for any loss related to the Owner failing to provide prepayment or payment for repairs or services that exceed the amount of one month's rent.

41. **SERVICES NOT PROVIDED UNDER THIS AGREEMENT:** The following services are not provided under this agreement:

- a. Periodic Inspections, including but not limited to:
  - i. HVAC
  - ii. Gutters
  - iii. Septic tank
  - iv. Ejector pump
  - v. Sump pump
  - vi. Grinder pump
  - vii. Chimney/fireplace
- b. Paying bills on behalf of the Owner, including but not limited to:
  - i. Property taxes
  - ii. Fire dues
  - iii. HOA dues
  - iv. Termite bond and renewals
  - v. Property insurance
  - vi. Utilities
- c. Filing insurance claims on behalf of the Owner
- d. Paying legal fees, including but not limited to, paying legal fees for enforcement of the Lease
- e. Legal representation. In the situation where a Tenant needs to be evicted, the Broker will not provide legal services, but will recommend that the Owner hire an Attorney.
- f. Representation at hearings, including but not limited to:
  - i. Court hearings
  - ii. Rent board hearings
  - iii. Depositions
  - iv. Homeowner meetings
  - v. Property tax assessment appeal hearings
  - vi. Department of building inspection director hearings
  - vii. Other exceptional building related events

42. **NO DEFERRED MAINTENANCE:** Broker expects Owner to keep and maintain the Premises in a good and habitable condition so as to comply with Alabama law. To avoid issues with the Tenant, Broker expects the Owner to not defer any maintenance on the Property that a reasonable homeowner would undertake in the

normal course of homeownership. Broker reserves the right to terminate this Agreement in the event there is unresolved disagreement with the Owner regarding any particular aspect of deferred maintenance that Owner refuses to undertake.

43. SITUATIONS WHERE THE BROKER WILL REQUIRE ABATEMENT OF RENT: The Broker will not require abatement of rent when habitability is lost due to the negligence or direct action of the Tenant. The situations where the Broker will require abatement of rent include but are not limited to:

- a. Loss of HVAC service due to required repair or replacement
- b. Loss of habitability due to the need to conduct a repair to the plumbing, sewage, septic, electrical, etc.

44. OWNER AGREES TO REIMBURSE TENANT FOR LOSS OF FOOD IN CERTAIN SITUATIONS: The Owner is not responsible to reimburse the Tenant for loss of food due to a power outage. However, if a refrigeration and/or freezer system provided by the Owner fails, the Owner agrees to reimburse the Tenant according to the size of the system at the rate of \$10 per cubic foot (for example, the reimbursement for a 17 cubic foot refrigerator would be \$170), provided that the system did not fail due to negligence or direct action by the Tenant.

45. OWNER'S USE OF AN ANNUAL HOME WARRANTY POLICY STRICTLY PROHIBITED: Under this agreement, the Owner agrees not to use a comprehensive Annual Home Warranty policy (such as American Home Shield, Old Republic, Choice, etc.) to facilitate repairs and maintenance services. The Owner may purchase an annual service maintenance policy for their HVAC system. If the Owner attempts to use a comprehensive Annual Home Warranty policy to facilitate repairs and maintenance services, it shall be cause for the Broker to terminate this Management Agreement.

46. OWNERS OF NEW CONSTRUCTION HOMES WITH A BUILDER'S WARRANTY: The Owner is solely responsible for the enforcement of their rights under a Builder's Warranty. The Broker cannot represent the Owner on this matter, therefore, Owners of new construction property with a Builder's Warranty are responsible for ordering any repairs or services covered by their Builder's Warranty.

47. THE OWNER SHALL BE SOLELY RESPONSIBLE FOR REPLACING ITEMS THAT REQUIRE SPECIAL ACCESS: For the purpose of this clause, special access shall be defined as anything that the Tenant feels uncomfortable doing. This includes replacing HVAC filters, smoke detectors, lights, etc that are reasonably beyond the ability of a Tenant to perform without a high ladder and/or special equipment.

48. APPLIANCES THAT REQUIRE GAS SERVICE: Do you have any gas appliances, including but not limited to, oven, cook top, furnace, fireplace, dryer, etc.? \_\_\_\_\_

49. MOLD/TOXIC SUBSTANCE REMEDIATION PROCEDURE: The Broker and the Owner shall not ignore or be dismissive about reports by the Tenant of the potential discovery of mold or a toxic substance. In the event that the Tenant reports that they believe they have found mold or a toxic substance, then:

- a. The Owner agrees to immediately inform their Insurance Carrier of the Tenant's report and request an inspection by the Insurance Carrier to determine whether or not the issue is covered by the Owner's Insurance Policy.
- b. The Owner agrees to allow the Broker to ask the Tenant if they want to order and pay for their own inspection to be done before remediation work begins.
- c. The Owner agrees to allow the Broker to ask the Tenant if they are concerned enough about their health and safety to request that they be permitted to leave the Lease early without penalty and with the understanding that their Security Deposit remains refundable less any itemized deductions allowed by law.
- d. The Broker does not require or recommend that the Owner order an air quality test after the remediation is completed. The Broker strongly recommends that the Owner consult with an Attorney before ordering an air quality test.

50. SERVICES ORDERED: The Owner agrees that all providers of repair and maintenance services shall be deemed to be acting on behalf of the Owner and not the Broker. The Broker will not be liable to the Owner or others for any act, default or negligence on the part of such persons, contractors or other workmen, providing the Broker has taken reasonable care in engaging them or their employers.

51. OWNER INDEMNIFIES THE BROKER: The Owner agrees to hold harmless and indemnify the Broker and the Broker's employees, agents and representatives from all loss, expense, damage, claim suits and costs whatsoever (including without limitation attorney's fees and expenses) incurred during, related to, or arising out of performance or attempted performance by the Broker of his duties and powers hereunder whether for personal injury and/or property damage suffered by any person whomsoever on or about the premises or otherwise. The Broker also shall not be liable for any error of judgment or for any mistake of fact or law or for anything; which, the Broker may do or refrain from doing, hereinafter, except in cases of willful misconduct or gross negligence. The Broker shall not be responsible for any damage to the premises, under any circumstances, caused by the Tenant or others.

52. OWNER AGREES TO ADD BROKER TO THEIR INSURANCE AS ADDITIONAL INSURED: The Owner agrees to maintain homeowner's insurance for the premises so long as the Broker manages the subject premises on behalf of the Owner. The Owner agrees to immediately advise their homeowner's insurance company that they have leased the premises. In addition, the Owner will include the Broker as an additional insured under the liability portion of this policy with a minimum limit of no less than \$300,000. Said policies shall be written to protect the Broker in the same manner and to the same extent as the Owner. The Owner shall provide to the Broker evidence of insurance naming the Broker as additional insured within 15 days of Lease execution and at time of each renewal.

53. INDEMNIFICATION SURVIVES TERMINATION: All indemnification and other provisions of this Agreement which benefit the Broker shall survive any termination of this agreement. The Owner agrees that if problems arise in the future and lawsuits are brought based on the Broker's work, the Owner will pay for all legal fees and any related damages.

54. ESCROWED FUNDS: The Broker shall not incur any liability for bankruptcy or failure of the Broker's financial depository.

55. LEGAL NOTICES: The Broker is empowered to serve notices on behalf of the Owner, including but not limited to:

- a. Notice of Lease Non-Renewal
- b. Termination of Lease (at the expiration of the initial term)
- c. 7 Day Notice to Remedy or Vacate

56. BUILDING COMPLIANCE: Broker does not assume and is given no responsibility for compliance of the premises or any building thereon or any equipment therein with the requirements of any building codes or with any statute, ordinance, law, or regulation of any governmental body or of any public authority or official thereof having jurisdiction, except to notify Owner promptly or forward to Owner promptly any complaints, warnings, notices, or summonses received by Broker relating to such matters. Owner represents that to the best of Owner's knowledge the premises and all such equipment comply with all such requirements, and Owner authorizes Broker to disclose the ownership of the premises to any such officials and agrees to indemnify and hold Broker, its representatives, servants, and employees, harmless of and from all loss, cost, expense, and liability whatsoever which may be imposed by reason of any present or future violation or alleged violation of such laws, ordinances, statutes, or regulations.

57. DISCLOSURE CONCERNING OWNER'S RESPONSIBILITY TO KEEP DATA & RECORDS: The Owner agrees to make available to the Broker, all data, records and documents pertaining to the premises, which the Broker may require to properly exercise his duties hereunder.

58. ELECTRONIC TRANSFER OF RENT: The Owner shall provide to the Broker a voided check or sufficient bank information for the purpose of facilitating electronic transfer of monthly rent payments.

59. IRS: The Owner agrees to complete IRS Form W-9 provided.

60. THE OWNER AGREES TO RECEIVE COMMUNICATIONS FROM THE BROKER VIA EMAIL AND/OR TEXT: When the Broker needs to obtain approval for a repair/maintenance quote and/or the Broker needs to inform the Owner that they are responsible to facilitate a repair, then the Broker will email the Owner and text the Owner to check their email. The Owner agrees to receive such communications from the Broker at the phone number and email address below.

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

61. ABOUT REQUIRING THE TENANT TO SHOW THE OWNER AS ADDITIONAL INSURED ON THE TENANT'S RENTER'S INSURANCE POLICY: The Broker informs the Owner that it is advisable to require Tenants to add the Owner of the premises (you or your company) as an "additional insured" on the Renter's Insurance policy being purchased by the Tenant. In order to add the Owner as an additional insured, the insurance company requires a valid physical address for the Owner. While it is the Owner's choice to disclose

their address or not, by choosing not to do so, the Owner could be foregoing coverage on the premises from which the Owner could benefit in certain scenarios. The Broker suggests taking whatever action is necessary to become an additional insured and recommends this course of action, but please note that the Broker does not guarantee any particular outcome from a claim on the policy if issued. It is simply a better business practice to be listed on the policy as an additional insured than to not be listed. The Broker cannot use its address or act as the Owner's agent in this regard.

Yes, I do want to be listed as additional insured on the Tenant's Renters Insurance Policy. Provide my mailing address as follows: \_\_\_\_\_

No, I do not want to be listed as additional insured on the Tenant's Renters Insurance Policy.

62. OWNER AGREES TO NOTIFY BROKER IF TENANT'S RENTER'S INSURANCE POLICY CHANGES OR LAPSES: If the Owner chooses to be named as additional insured on the Tenant's Renter's Insurance policy, then the Owner will be notified by the Insurance Carrier if the Tenant's Renter's Insurance Policy changes or lapses. In this situation, the Owner agrees to be responsible for notifying the Broker of any important changes to the Renter's Insurance Policy.

63. FORCE MAJEURE: Any delays in the performance of any responsibility of the Broker under this Agreement shall be excused to the extent that such delays are caused by wars, national emergencies, natural disasters, strikes, labor disputes, utility failures, governmental regulations, riots, adverse weather, and other similar causes not within the control of the Broker, and any time periods required for performance shall be extended accordingly.

64. BINDING EFFECT: This agreement shall be binding on, and for the benefit of the parties hereto and their respective heirs, successors and assigns.

65. BINDING AUTHORITY: This agreement shall be binding upon the successors and assigns of the Broker, and upon the heirs, administrators, executors, successors, and assigns of the Owner.

66. GOVERNING LAW: This agreement shall be governed by, interpreted under and enforced in accord with the law of the State of Alabama.

67. FACSIMILE AND OTHER ELECTRONIC MEANS: The parties agree that this agreement may be communicated by use of secure electronic means, including but not limited to electronic mail and the internet, and the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

68. BROKER RESERVES THE RIGHT TO NOT MANAGE HOLDOVER TENANTS: A "holdover" Tenant is a renter who remains in the premises after the expiration of the Lease term with the permission of the Owner and without signing a new Lease. The Broker will not be required to manage a "holdover" Tenant and reserves the right to terminate this Management Agreement. On a case by case basis the Broker will consider managing a

“holdover” Tenant for a very short term if the Broker determines it’s in the best interest of the Owner and the Broker.

69. SELLING THE PROPERTY: When the Broker receives notice or actual knowledge that the Owner is listing the premises or intends to list the premises for sale with another Agent, before the end of the Lease, then the Broker will immediately cancel this Management Agreement and transfer the Tenant’s Security Deposit to the Owner. The Broker will continue to manage the premises for the Owner through the end of the Lease if the Owner signs a Sales Listing Agreement with the Broker.

70. COMPLETION OF CONTRACT: Alabama Law allows the Owner/Broker up to 60 days to return the Tenant’s Security Deposit minus any itemized deductions. When the Security Deposit is returned and all accounts are settled with the Owner, this contract shall be considered completed and no longer in effect and the Broker will have no management responsibility for the premises.

71. OWNER’S RIGHT TO CANCEL THIS AGREEMENT WITH 30 DAY WRITTEN NOTICE IS LIMITED: The Owner may terminate this Agreement with a 30 day written notice, however, the termination shall not be effective unless and until the Owner has a clear account with the Broker. In the situation where the Owner notifies the Broker that Owner is terminating the Agreement, the management of the property will not terminate until the Owner clears its account with Broker and Broker will not provide direction to the Tenant to redirect rent to the Owner unless and until the termination is effective. Furthermore, the Owner authorizes the Broker to retain those funds necessary to satisfy the amounts incurred for repairs and services (Broker will not deduct from Security Deposits, but Rent Receipts only).

72. THE OWNER MAY NOT TERMINATE THIS AGREEMENT WITHIN THE LAST 90 DAYS OF THE LEASE TERM ENDING: The Owner may not obstruct or attempt to prevent the Broker from fulfilling his duty to return the Security Deposit according to Alabama Law within the last 90 days of the Lease term and/or after the Tenant vacates and surrenders the premises. During that 90 day period and after the Tenant vacates, the Owner does not have the right to terminate this agreement and demand the transfer of the Tenant’s Security Deposit.

73. THE BROKER HAS THE LEGAL RIGHT AND THE ETHICAL DUTY UNDER CERTAIN CONDITIONS TO IMMEDIATELY TERMINATE THE AGREEMENT:

- a. The Broker may immediately terminate this management agreement with written notice to the Owner if the Owner breaches any representations or warranties in the agreement.
- b. The Broker may immediately terminate this management agreement with written notice to the Owner if the Broker deems the continuation of this agreement is in breach of its duties to the Tenant(s), other parties or the law.
- c. If, in the opinion of the Broker, the Tenant has failed to fulfill their obligations of the Lease and the Broker advises the Owner to hire an Attorney for the purpose of taking legal action against the Tenant and the Owner refuses to hire an Attorney and take legal action against the Tenant, then the Broker may immediately cancel this management agreement and transfer the Security Deposit and Pet Deposit (if any) to the Owner.



- d. The Broker may immediately terminate this management agreement with written notice to the Owner if the Broker deems the continuation of this agreement subjects the Broker to liability.
- e. Upon written notice of the immediate termination of the management agreement, the Broker shall not be required to conduct a Move-Out Condition Report and/or be responsible for making determinations about possible deductions from the Tenant's Security Deposit.
- f. Upon written notice of the immediate termination of the management agreement, the Broker shall transfer the Security Deposit and Pet Deposit (if any) to the Owner and inform the Tenant.

74. CAPTIONS: Any heading preceding the text of any paragraph hereof are inserted solely for convenience of reference and shall not constitute a part of this management agreement, nor shall they affect its meaning, construction or effect.

75. ENTIRE AGREEMENT: This Agreement contains the entire agreement of the parties, and there are no other promises or conditions in any other agreement, whether oral or written concerning the subject matter of this Agreement. This Agreement supersedes any prior written or oral agreements between the parties. This agreement can only be amended through a written agreement signed by both parties.

76. SEVERABILITY: If any provision of this Agreement or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

77. REFORMATION OF TIME GEOGRAPHICAL AND OCCUPATIONAL LIMITATIONS; BLUE-PENCILING: In the event that any provision in this Agreement is held to be unenforceable by a court of competent jurisdiction because it exceeds the maximum time, geographical or occupational limitations permitted by applicable law, then such provision(s) shall be and hereby are reformed to the maximum time, geographical and occupational limitations as may be permitted by applicable law.

78. NEW OR DIFFERENT FACTS NO EFFECT: Except as provided herein, this Agreement shall be, and remain, in effect despite any discovery after the Effective Date of the existence of (i) any new or additional fact, or (ii) any fact different from that which either Party now knows or believes to be true, solely related to the Matter. Notwithstanding any provision contained herein, nothing in this Agreement shall be construed as, or constitute, a release of any Party's rights to enforce the terms of this Agreement or this Agreement.

79. RELIANCE ON OWN COUNSEL: In entering into this Agreement, the parties acknowledge that they have relied upon the legal advice of their respective attorneys, who are the attorneys of their own choosing, that such terms are fully understood and voluntarily accepted by them, and that, other than the consideration set forth herein, no promises or representations of any kind have been made to them by the other Party. The parties represent and acknowledge that in executing this Agreement they did not rely, and have not relied upon any representation or statement, whether oral or written, made by the other Party or by that other Party's agents, representatives or attorneys with regard to the subject matter, basis or effect of this Agreement or otherwise.

80. AMENDMENTS AND MODIFICATIONS; FURTHER ASSURANCE: The parties agree that any amendments or modifications to this Agreement shall be deemed null and void unless such amendments and modifications are in writing and signed by both parties.

81. ADDITIONAL TERMS:

\_\_\_\_\_  
OWNER DATE

\_\_\_\_\_  
BROKER DATE  
Birmingham Home Leasing

\_\_\_\_\_  
OWNER DATE

SAMPLE