

State law prohibits Broker from representing Owner as a client without first entering into a written agreement with Owner under O.C.G.A. § 10-6A-1 et. seq.

THIS AGREEMENT, made and entered into this date of _____ by and between _____ (hereinafter referred to as "Owner") and _____ (hereinafter referred to as "Broker");

WHEREAS, Owner desires to retain Broker as Owner's agent to exclusively rent and lease certain real property located at _____, Georgia _____ ("Property") for and on behalf of Owner;

NOW THEREFORE, in consideration of the mutual covenants herein set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Leasing.

- A. Term:** Broker is hereby hired to exclusively lease Property on behalf of Owner for a minimum term of _____ days from the date of this Agreement. Owner authorizes Broker to offer Property for lease for a term of no more than _____ months nor less than _____ months at a monthly rental of at least \$ _____. Property shall be available for occupancy by a Tenant obtained by Broker as of the following date: _____. Any such lease shall be in writing on Broker's standard lease form then in use.
- B. Commission:** Upon receipt of the first month's rent, Owner will pay Broker a real estate commission equal to \$ _____ or _____% of the total rent paid during the initial term of the Lease for leasing the Property. If Owner renews, extends the Lease or enters into a new lease with Tenant, Owner shall pay Broker a commission for each such renewal or extension equal to \$ _____ or _____% of the total rent to be paid during the renewal, extension or new lease term. This amount shall be paid to Broker upon receipt of the first month's rent for the renewal, extension or new lease term. This obligation shall survive the termination of this Agreement. Owner authorizes Broker to apply the rent received from the new tenant toward Broker's commission. Any excess rent will be forwarded to Owner and any balance due on the commission will be immediately paid by Owner. Both Owner and Broker acknowledge that the security deposit paid by tenant shall not be applied toward Broker's commission but must be deposited in accordance with Georgia law.
- C. Management by Owner:** Unless Owner signs a separate management agreement, Broker shall not be responsible for managing Property and Broker shall have no further obligations under this Agreement to Landlord upon the leasing of the Property to a Tenant.

2. Marketing.

- A. Advertisements:** Broker may advertise Property for lease in all media and reproduce and distribute images of Property in connection therewith. Owner agrees not to place any advertisements on Property or to advertise Property for lease in any media except with the prior written consent of Broker. Broker is hereby authorized to place Broker's "For Rent" sign on Property. Broker is authorized to procure Tenants to lease Property in cooperation with other real estate brokers and their affiliated licensees. Broker may distribute leasing information (including the rent to be paid) to them and other members of the multiple listing service(s), and said cooperating brokers and their licensees may with permission of Broker (which permission may be granted or denied in the sole discretion of Broker) republish such information in other media. Broker and other real estate brokers and their affiliated licensees may show Property without first notifying Owner.
- B. Lockboxes:** A lockbox may be used in connection with the marketing of Property. There have been isolated instances of reported burglaries of homes on which lockboxes have been placed and for which the lockbox has been alleged to have been used to access the home. In order to minimize the risk of misuse of the lockbox, Broker recommends against the use of lockboxes on door handles that can be unscrewed from the outside or on other parts of the dwelling from which the lockbox can be easily removed. Since others will have access to Property, Owner agrees to either remove all valuables, prescription drugs and/or keys, or put them in a secure place.
- C. Multiple Listing Service(s):** Broker agrees to file the listing with the following multiple listing service(s): _____

Owner acknowledges that the Service(s) is/are not a party to this Agreement and is/are not responsible for errors or omissions on the part of Owner or Broker. Owner agrees to indemnify Service(s) from and against any and all claims, liabilities, damages or losses arising out of or related to the listing and lease of Property.

3. Limits on Broker's Authority and Responsibility. Owner acknowledges and agrees that Broker:

- A. may show other properties to prospective Tenants who are interested in Property;
- B. shall not be responsible to advise Owner on any matter including but not limited to the following: any matter which could have been revealed through a survey, title search or inspection of Property; the condition of Property, any portion thereof, or any item therein; building products and construction techniques; the necessity or cost of any repairs to Property; mold; hazardous or toxic materials or substances; termites and other wood destroying organisms; the tax or legal consequences of this transaction; the availability and cost of utilities or community amenities; the appraised or future value of Property; any condition(s) existing off Property which may affect Property; the terms, conditions and availability of financing; and the uses and zoning of Property whether permitted or proposed. Owner acknowledges that Broker is not an expert with respect to the above matters and that, if any of these matters or any other matters are of concern, Owner should seek independent expert advice relative thereto. Owner acknowledge that Broker shall not be responsible to monitor or supervise any portion of any construction or repairs to Property and that such tasks clearly fall outside the scope of real estate brokerage services;
- C. shall owe no duties to Owner nor have any authority to act on behalf of Owner other than what is set forth in this Agreement;
- D. shall make all disclosures required by law;
- E. may disclose all information about Property to others; and
- F. shall, under no circumstances, have any liability greater than the amount of the real estate commission paid hereunder to Broker (excluding any commission amount paid to a cooperating real estate broker, if any) or, if no real estate commission is paid to Broker, than a sum not to exceed one hundred dollars; and
- G. shall be held harmless from any and all claims, causes of action, or damages arising out of or relating to:
 - 1. inaccurate and/or incomplete information provided by Broker to a prospective Tenant;
 - 2. earnest money handled by anyone other than Broker; or
 - 3. any injury to persons on Property and/or loss of or damage to Property or anything contained therein.

4. Disclosures.

- A. Broker agrees to keep confidential all information which Owner asks to be kept confidential by express request or instruction unless the Owner permits such disclosure by subsequent word or conduct or such disclosure is required by law. Owner acknowledges, however, that Tenant and Tenant's broker may possibly not treat any offer made by Owner (including its existence, terms and conditions) as confidential unless those parties have entered into a Confidentiality Agreement with Owner.
- B. Broker may not knowingly give customers false information.
- C. In the event of a conflict between Broker's duty not to give customers false information and the duty to keep the confidences of Owner, the duty not to give customers false information shall prevail.
- D. Unless specified below, Broker has no other known agency relationships with other parties that would conflict with any interests of Owner (except that Broker may represent other buyers, sellers, landlords, and tenants in buying, selling or leasing property).
- E. In the event Owner has unilaterally terminated a Listing Agreement on the Property with a different broker, Owner acknowledges that in addition to Owner's commission obligations to Broker set forth herein, Owner may also owe a real estate commission to the previous broker in certain circumstances.

5. Broker's Policy on Agency. Unless Broker indicates below that Broker is not offering a specific agency relationship, the types of agency relationships offered by Broker are: seller agency, buyer agency, designated agency, dual agency, sub-agency, landlord agency, and tenant agency. The agency relationship(s), if any, not offered by Broker is/are the following:

6. Dual Agency Disclosure. *[Applicable only if Broker's agency policy is to practice dual agency]* If Owner and a prospective Tenant are both being represented by the same Broker, Owner is aware that Broker is acting as a dual agent in this transaction and consents to the same. Owner has been advised that:

- A. In serving as a dual agent, Broker is representing two clients whose interests are or at times could be different or even adverse;
- B. Broker will disclose all adverse, material facts relevant to the transaction and actually known to the dual agent to all parties in the transaction except for information made confidential by request or instructions from another client which is not otherwise required to be disclosed by law;
- C. Owner does not have to consent to dual agency and, the consent of Owner to dual agency has been given voluntarily and Owner has read and understands the brokerage engagement agreement.
- D. Notwithstanding any provision to the contrary contained herein, Owner hereby directs Broker, while acting as a dual agent, to keep confidential and not reveal to the other party any information which could materially and adversely affect Owner's negotiating position.
- E. Broker or Broker's affiliated licensees will timely disclose to each client the nature of any material relationship with either client other than those which are incidental to the transaction. A material relationship shall mean any actually known personal, familial, or business relationship between Broker and a client which would impair the ability of Broker to exercise fair and independent judgment relative to another client. The other party whom broker may represent in the event of dual agency may or may not be identified at the time a Tenant enters into this Agreement. If any party is identified after the Agreement and has a material relationship with Broker, then Broker shall timely provide to Owner a disclosure of the nature of such relationship.

7. Designated Agency Disclosure. *[Applicable only if Broker's agency policy is to practice designated agency]* Owner hereby consents to Broker acting in a designated agency capacity in transactions in which Broker is representing Owner and a prospective Tenant. With designated agency, Broker assigns one or more of its affiliated licensees exclusively to represent Owner and one or more of its other affiliated licensees exclusively to represent the prospective Tenant.

- 8. Arbitration.** All claims arising out of or relating to this Agreement and the alleged acts or omissions of any or all the parties hereunder shall be resolved by arbitration in accordance with the Federal Arbitration Act 9 U.S.C. § 1 et. seq. and the rules and procedures of the arbitration company selected to administer the arbitration. Upon making or receiving a demand for arbitration, the parties shall work together in good faith to select a mutually acceptable arbitration company with offices in Georgia to administer and conduct the arbitration. If the parties cannot mutually agree on an arbitration company, the company shall be selected as follows. Each party shall simultaneously exchange with the other party a list of three arbitration companies with offices in Georgia acceptable to that party to administer and conduct the arbitration. If there is only one (1) arbitration company that is common to both lists, that company shall administer and conduct the arbitration. If there is more than one arbitration company that is common to both lists, the parties shall either mutually agree on which arbitration company shall be selected or flip a coin to select the arbitration company. If there is not initially a common arbitration company on the lists, the parties shall repeat the process by expanding their lists by two each time until there is a common name on the lists selected by the parties. The decision of the arbitrator shall be final and the arbitrator shall have authority to award attorneys' fees and allocate the costs of arbitration as part of any final award. All claims shall be brought by a party in his or her individual capacity and not as a plaintiff or class member in any purported class or representative proceeding. The arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. Notwithstanding anything to the contrary contained herein, this agreement to arbitrate shall not apply to: (1) any claim regarding the handling and disbursement of earnest money; and (2) any claim of Broker regarding the entitlement to or the non-payment of a real estate commission hereunder.
- 9. Condition of Property.** Owner warrants that all heating, cooling, plumbing and electrical systems and all appliances being leased as part of the Property are in good working condition. Owner certifies that Property is in good and habitable condition now and Owner will at all times, while this Agreement is in effect, be responsible for the maintenance of Property in a good and habitable condition, and in compliance with all applicable laws, ordinances, and regulations of all government authorities. Owner certifies that to the Owner's knowledge, the Property is free from hazardous materials or substances as defined under federal, environmental laws. Owner certifies that the roof does not leak and that water does not enter living or basement areas from rain or other subterranean sources. Owner will ensure that Property is clean and the grounds are in good condition at the time of occupancy by a Tenant. Upon the execution of this Agreement, Owner will provide Broker with two sets of keys for Property.
- 10. Lead-Based Paint.** If any part of a dwelling located on Property was built before 1978, Owner agrees to provide the following to a prospective Tenant for review prior to entering into any lease with respect to said dwelling:
- A. a copy of the federally approved pamphlet on lead poisoning and prevention entitled "Protect Your Family from Lead in Your Home";
 - B. a written disclosure by Owner of the presence of known lead-based paint and/or lead-based paint hazards, if any, in any dwelling on the Property.
- 11. Indemnity.** Owner agrees to hold Broker harmless from any and all claims, damages, or suits in connection with the leasing of the Property or the performance by Broker of its other obligations herein. Broker shall not be liable for any mistake, error of judgment or negligence in discharging its duties hereunder except for Broker's intentional wrongful acts. For the purpose of this paragraph, the term "Broker" shall specifically include Broker and Broker's affiliated licensees and employees.
- 12. Sale of Property.** In the event Tenant purchases or contracts to purchase the Property (including an option to purchase agreement) either during the lease term or within ____ years after the end of the lease term, Landlord agrees to pay Broker upon the closing of the sale of the Property a real estate commission equal to the following:

In addition, if Tenant pays Owner a separate consideration to acquire an option to purchase the Property, Owner shall pay Broker from that amount a real estate commission of \$ _____ for procuring said option. Said commission shall be earned at the time the option to purchase is granted.

- 13. Optional Additional Services.** With respect to Tenants or prospective Tenants procured by Broker, Broker agrees to perform the optional additional services selected below for the fee specified below. If the box next to the service is not selected, the service will not be performed by Broker and Owner shall be fully responsible for the same.

SERVICE

FEE OF BROKER

- A. **Credit Check.** Broker agrees to engage a third party credit reporting company at Owner's cost to obtain basic credit information about prospective Tenants.
- B. **Criminal Background Check.** Broker agrees to engage a third party company at Owner's cost to run a criminal background check on whether prospective Tenants have criminal backgrounds in Georgia **OR** nationwide.
- C. **Reference Checks.** Broker agrees to call the references provided by each prospective Tenant.
- D. **Move-In Agreement.** Prior to collecting a security deposit from Tenant, Broker agrees to do a move-in inspection of the Property with Tenant and to complete the move-in portion of the GAR Move-In/Move-Out Inspection Form (Form F43) in accordance with the instructions on that form.
- E. **Writing Declination Letters.** Broker agrees to send a written declination letter to any person whose application to be a Tenant is denied.
- F. **Holding Security Deposit.** Broker agrees to hold the security deposit paid by Tenant and to disburse the same in accordance with the terms of the Lease Agreement and the rules and regulations of the Georgia Real Estate Commission.

14. Disclaimer on Credit, Criminal and Reference Checks. Owner acknowledges that any credit and criminal background checks requested by Owner hereunder are being performed by third party credit reporting companies, that the information obtained from such companies may be incomplete and/or inaccurate and that the scope of such checks may vary from company to company with some checks being limited to Georgia while others apply nationwide. Owner shall specify in writing to Broker if Owner wants the credit reporting company to perform a national search. Owner further acknowledges that in checking references the information provided to Broker may also be false, incomplete and/or inaccurate. While Broker may obtain or cause to be obtained certain information regarding the background of prospective Tenants, the decision to rent or not rent to any prospective Tenant shall be made by Owner rather than Broker. In filling out any Move-In portion of the Move-In/Move-Out Agreement (GAR Form 43) all parties acknowledge that defects in the Property may not always be noticed.

15. Miscellaneous.

- A. Referrals.** Owner hereby authorizes Broker to refer Owner to another real estate licensee or broker for brokerage or relocation services not related to the lease of the Property. Owner acknowledges and agrees that Broker may receive a valuable consideration for the referral.
- B. No Imputed Knowledge.** Owner acknowledges and agrees that with regard to any property in which Owner intends to rent, there shall be no knowledge imputed between Broker and Broker's licensees or between the different licensees of Broker. Broker and each of Broker's licensees shall be deemed to have only actual knowledge of such properties.
- C. Governing Law.** This Agreement may be signed in multiple counterparts and shall be governed by and interpreted pursuant to the laws of the State of Georgia.
- D. Survival.** The commission rights of Broker and the commission obligations of Tenant set forth herein shall survive termination or expiration of this Agreement.
- E. Entire Agreement.** This Agreement constitutes the sole and entire agreement between the parties. No representation, promise or inducement not included in this Agreement shall be binding upon any party hereto. This Agreement and the terms and conditions herein may not be amended, modified or waived except by the written agreement of Owner. The failure of the parties to adhere strictly to the terms and conditions of this Agreement shall not constitute a waiver of the right of the parties later to insist on such strict adherence.
- F. Assignment.** This Agreement may be assigned by Broker to another brokerage firm. Any assignee shall fulfill all the terms and conditions of this Agreement.
- G. Time of Essence.** Time is of the essence of this Agreement.
- H. Terminology.** As the context may require in this Agreement, the singular shall mean the plural and vice versa and all pronouns shall mean and include the person, entity, firm, or corporation to which they relate.
- I. Owner Warranties.** Owner warrants that Owner is the record title owner of the Property and is legally entitled to authorize Broker to lease the Property. Owner warrants that if there is a mortgage or mortgages on the Property, Owner is current with regard to payments owing under such mortgage or mortgages.
- J. Fair Housing Disclosure.** Owner acknowledges that Broker is committed to providing equal housing opportunities to all persons and that Owner and Broker are obligated to comply with state and federal fair housing laws in leasing the Property. Owner agrees not to discriminate in the lease of the Property on the basis of race, color, religion, national origin, sex, familial status, disability or sexual orientation.
- K. Independent Contractor Relationship.** This Agreement shall create an independent contractor relationship between Broker and Owner. Broker shall at no time be considered an employee of Owner. If there are affiliated licensees of Broker assisting Broker in performing Broker's obligations herein, said licensees may be either employees or independent contractors of Broker.
- L. Definition of Tenant.** The term "Tenant" as used in this Agreement shall include Tenant, all members of Tenant's immediate family, any legal entity in which Tenant or any member of Tenant's immediate family owns or controls, directly or indirectly, more than ten percent (10%) of the shares or interests therein, and any third party who is acting under the direction or control of any of the above parties.

16. GAR Forms. The Georgia Association of REALTORS®, Inc. ("GAR") issues certain standard real estate forms. These GAR forms are frequently provided to the parties in real estate transactions. No party is required to use any GAR form. Since these forms are generic and written with the interests of multiple parties in mind, they may need to be modified to meet the specific needs of the parties using them. If any party has any questions about his or her rights and obligations under any GAR form he or she should consult an attorney. The parties hereto agree that the GAR forms may only be used in accordance with the licensing agreement of GAR. While GAR forms may be modified by the parties, no GAR form may be reproduced with sections removed, altered or modified unless the changes are visible on the form itself or in a stipulation, addendum, exhibit or amendment thereto.

17. Notices.

- A. Communications Regarding Real Estate Transactions.** Owner acknowledges that many communications and notices in real estate transactions are of a time sensitive nature and that the failure to be available to receive such notices and communications can have adverse legal, business and financial consequences. During the term of this Agreement, Owner agrees to remain reasonably available to receive communications from Broker.
- B. Notices between Broker and Client Regarding this Agreement.** Owner and Broker agree that communications and notices between them regarding the terms of this Agreement shall be in writing, signed by the party giving the notice, and may be delivered in person or to any address, e-mail address and/or facsimile number to the person to whom the communication or notice is being given specifically set forth in this Agreement. It is the intent of the parties that those means of transmitting notices for which a party has not provided an address or number shall not be used for receiving notices and communications. For example, if a party has not provided an e-mail address in this Agreement, it shall mean that the party is not accepting notices or communications sent by this means.

C. Owner Contact Information.

The contact information of Owner(s) is set forth below:

Owner Name

Business Telephone: _____

Address for Receiving Notice

Home Telephone: _____

Cell Phone: _____

Facsimile Number: _____

E-mail Address: _____

Owner Name

Business Telephone: _____

Address for Receiving Notice

Home Telephone: _____

Cell Phone: _____

Facsimile Number: _____

E-mail Address: _____

Owner agrees to immediately update Broker of any changes to the above referenced information.

SPECIAL STIPULATIONS: The following Special Stipulations, if conflicting with any exhibit, addendum, or preceding paragraph, shall control:

Additional Special Stipulations are or are not attached.

THIS FORM IS COPYRIGHTED AND MAY ONLY BE USED IN REAL ESTATE TRANSACTIONS IN WHICH Neil Sutherland IS INVOLVED AS A REAL ESTATE LICENSEE. UNAUTHORIZED USE OF THE FORM MAY RESULT IN LEGAL SANCTIONS BEING BROUGHT AGAINST THE USER AND SHOULD BE REPORTED TO THE GEORGIA ASSOCIATION OF REALTORS® AT (770) 451-1831.

BY SIGNING THIS AGREEMENT, OWNER ACKNOWLEDGES THAT: (1) OWNER HAS READ ALL PROVISIONS MADE HEREIN; (2) OWNER UNDERSTANDS ALL SUCH PROVISIONS AND DISCLOSURES AND HAS ENTERED INTO THIS AGREEMENT VOLUNTARILY; AND (3) OWNER IS NOT SUBJECT TO A CURRENT LEASING LISTING AGREEMENT WITH ANY OTHER BROKER.

RECEIPT OF A COPY OF THIS AGREEMENT IS HEREBY ACKNOWLEDGED BY OWNER.

The above Agreement is hereby accepted, _____ o'clock _____.m., on the date of _____.

Broker

Owner's Signature

Address: _____

Print or Type Name

Owner's Signature

MLS Office Code Brokerage Firm License Number

Print or Type Name

Broker's Phone# & FAX#

By: _____
Broker or Broker's Affiliated Licensee

Print or Type Name

Agent's Georgia Real Estate License Number

Email Address:

Member of: _____ of REALTORS®