

Form 11-5

Residential Lease

Basic Terms

Date:

Landlord:

Landlord's Address:

Tenant:

Tenant's Address:

Premises

Street address/suite:

City, state, zip:

Include or attach any additional necessary legal description.

Monthly Rent:

Term (months):

Commencement Date:

Termination Date:

Security Deposit:

Permitted Use: Private residence

Occupants (other than Tenant):

Utilities to Be Provided by Landlord:

Tenant's Insurance: As required by Insurance Addendum

Landlord's Insurance: As required by Insurance Addendum

Definitions

“Injury” means (a) harm to or impairment or loss of property or its use or (b) harm to or death of a person.

“Landlord” means Landlord[s] and [his/her/their/its] agents, employees, invitees, licensees, or visitors.

“Rent” means Monthly Rent plus any other amounts of money payable by Tenant to Landlord.

“Tenant” means Tenant[s] and [his/her/their] contractors, invitees, or visitors.

Clauses and Covenants

A. Tenant agrees to—

1. Lease the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.
2. Accept the Premises in their present condition “AS IS,” the Premises being currently suitable for the Permitted Use.
3. Obey all laws, ordinances, orders, rules, regulations, and covenants applicable to the Permitted Use, condition, and occupancy of the Premises.
4. Pay monthly, in advance, on the first day of the month, the Monthly Rent to Landlord at Landlord's Address.

5. Pay, as additional Rent, all other amounts due under this lease.
6. Pay a late charge of 5 percent of any Rent not received by Landlord by the tenth day after it is due.
7. Pay for all utility services used by Tenant and not provided by Landlord.
8. Allow Landlord to enter the Premises to perform Landlord's obligations, inspect the Premises, and show the Premises to prospective purchasers or tenants.
9. Repair any damage to the Premises caused by Tenant or the occupants listed under "Occupants (other than Tenant)."
10. Submit in writing to Landlord any request for repairs, replacement, and maintenance that are the obligations of Landlord.
11. Move out of the Premises at the end of the Term.
12. Pay Rent by check, money order, or other traceable or negotiable instrument.
13. INDEMNIFY, DEFEND, AND HOLD LANDLORD HARMLESS FROM ANY INJURY (AND ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES AND OTHER FEES AND COURT AND OTHER COSTS) OCCURRING IN ANY PORTION OF THE PREMISES. **THE INDEMNITY CONTAINED IN THIS PARAGRAPH (a) WILL SURVIVE THE END OF THE TERM AND (b) WILL APPLY EVEN IF AN INJURY IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF LANDLORD BUT WILL NOT APPLY TO THE EXTENT AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD.**

B. Tenant agrees not to—

1. Use the Premises other than as a residence occupied by the named Tenant and the occupants listed under "Occupants (other than Tenant)."

2. Create or permit a nuisance or interfere with any neighbor's use of its Premises.
3. Change Landlord's lock system.
4. Alter the Premises.
5. Allow a lien to be placed on the Premises.
6. Assign this lease or sublease any portion of the Premises without Landlord's written consent.

C. Landlord agrees to—

1. Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.
2. Obey all laws, ordinances, orders, rules, regulations, and covenants applicable to the use, condition, and occupancy of the Premises.
3. Provide the utilities specified in the lease.
4. Use reasonable efforts to make repairs to the Premises, but Landlord will not be required to repair a condition unless Tenant notifies Landlord of the condition and Tenant has paid all Rent then due. Landlord will not be required to repair conditions caused by Tenant or the occupants listed on the first page of this lease, unless caused by normal wear and tear, and will not be required to recarpet or repaint the Premises.
5. Return the Security Deposit to Tenant within thirty days following the end of the Term, after subtracting from the Security Deposit all amounts applied to cure any breach of the lease by Tenant as provided below, provided that Tenant has given Landlord written notice of Tenant's new address.

D. Landlord and Tenant agree to the following:

1. *Insurance.* Tenant and Landlord will maintain the respective insurance coverages described in the attached Insurance Addendum.

2. *Release of Claims/Subrogation.* LANDLORD AND TENANT RELEASE EACH OTHER FROM ALL CLAIMS OR LIABILITIES FOR DAMAGE TO THE PREMISES OR DAMAGE TO OR LOSS OF PERSONAL PROPERTY WITHIN THE PREMISES THAT ARE COVERED BY THE RELEASING PARTY'S PROPERTY INSURANCE OR THAT WOULD HAVE BEEN COVERED BY THE REQUIRED INSURANCE IF THE PARTY FAILS TO MAINTAIN THE PROPERTY COVERAGES REQUIRED BY THIS LEASE. THE PARTY INCURRING THE DAMAGE OR LOSS WILL BE RESPONSIBLE FOR ANY DEDUCTIBLE OR SELF-INSURED RETENTION UNDER ITS PROPERTY INSURANCE. LANDLORD AND TENANT WILL NOTIFY THE ISSUING PROPERTY INSURANCE COMPANIES OF THE RELEASE SET FORTH IN THIS PARAGRAPH AND WILL HAVE THE PROPERTY INSURANCE POLICIES ENDORSED, IF NECESSARY, TO PREVENT INVALIDATION OF COVERAGE. THIS RELEASE WILL NOT APPLY IF IT INVALIDATES THE PROPERTY INSURANCE COVERAGE OF THE RELEASING PARTY. **THE RELEASE IN THIS PARAGRAPH WILL APPLY EVEN IF THE DAMAGE OR LOSS IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF THE RELEASED PARTY BUT WILL NOT APPLY TO THE EXTENT THE DAMAGE OR LOSS IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE RELEASED PARTY.**

3. *Casualty/Condemnation.* If the Premises are damaged by fire or other casualty or are condemned, then either Landlord or Tenant may terminate this lease by notifying the other. Any Rent prepaid by Tenant will be returned to Tenant on termination.

4. *Default by Landlord/Events.* Defaults by Landlord are failing to comply with any provision of this lease within thirty days after written notice and failing to remedy a condition that materially affects the physical health or safety of an ordinary tenant within ten days after written notice, unless such condition results from Tenant's actions.

5. *Default by Landlord/Tenant's Remedies.* Tenant's remedies for Landlord's default are to sue for damages and, if Landlord does not remedy a condition (not resulting from Tenant's actions) that materially affects the physical health or safety of an ordinary tenant for thirty days after notice, terminate this lease.

a. Provided Tenant is not delinquent in the payment of Rent when Tenant provides Landlord any required notices and subject to applicable limitations in section 92.056 of the Texas Property Code, if Landlord has not repaired or remedied within a reasonable time or if Landlord is not making a diligent effort to repair or remedy any condition that materially affects the physical health or safety of an ordinary tenant, and Landlord is obligated under this lease to repair or remedy the condition, then Tenant may, following notice to Landlord (i) by certified mail, return receipt requested, or by registered mail or (ii) by notice to the person to whom or at the place where Tenant's Rent is normally paid, followed by a subsequent written notice if the condition is not remedied or repaired within a reasonable period of time following the first notice—

i. terminate this lease;

ii. have the condition repaired or remedied according to section 92.0561 of the Texas Property Code if the condition involves any of the following and at least one of Tenant's notices to Landlord includes a reasonable description of the proposed repair or remedy, along with a statement that Tenant intends to repair or remedy the condition:

(a) the backup or overflow of raw sewage inside the Premises or the flooding from broken pipes or natural drainage inside the Premises;

- (b) potable water service to the Premises is not available, and Landlord has expressly or impliedly agreed in this lease to furnish potable water to the Premises;
 - (c) heating or cooling equipment serving the Premises is producing inadequate heat or cooled air, Landlord has expressly or impliedly agreed in this lease to furnish heating or cooling equipment, and Landlord has been notified in writing by the appropriate local housing, building, or health official or other official having jurisdiction that the lack of heat or cooling materially affects the health or safety of an ordinary tenant; or
 - (d) any other condition exists at the Premises that materially affects the health or safety of an ordinary tenant, and Landlord has been notified in writing by the appropriate local housing, building, or health official or other official having jurisdiction of such condition;
- iii. deduct from Tenant's Rent, without necessity of judicial action, the cost of the repair or remedy of any condition listed in section 5.a.ii. in compliance with section 92.0561 of the Texas Property Code; or
 - iv. obtain judicial remedies according to section 92.0563 of the Texas Property Code.
- b. If Tenant elects to terminate this lease, Tenant is—
 - i. entitled to a pro rata refund of Rent from the date of termination or the date Tenant moves out, whichever is later;

- ii. entitled to deduct Tenant's Security Deposit from Tenant's Rent without the necessity of lawsuit or to obtain a refund of Tenant's Security Deposit according to law; and
 - iii. not entitled to the other repair-and-deduct remedies under section 92.0561 of the Texas Property Code or the judicial remedies under subdivisions (1) and (2) of subsection (a) of section 92.0563 of the Texas Property Code.
- c. If Tenant elects to have the condition repaired or remedied following the requirements of section 92.0561 of the Texas Property Code, Tenant may have the condition repaired or remedied—
- i. immediately following Tenant's notice of intent to repair if the condition involves sewage or flooding;
 - ii. within three days following Tenant's delivery of notice of intent to repair if the condition involves a cessation of potable water or inadequate heat or cooled air; or
 - iii. within seven days following Tenant's notice of intent to repair or remedy the condition if the condition involves any other matter affecting the physical health or safety of an ordinary tenant; and

Tenant may deduct the cost to repair or remedy the condition from a subsequent Rent payment, but the deduction may not exceed the amount of one month's Rent under the lease or \$500, whichever is greater. When deducting the cost of repairs from the Rent, Tenant must furnish Landlord, along with payment of the balance of the Rent, a copy of the repair bill and the receipt for its payment. A repair bill and receipt may be the same document. Repairs and deductions may be made as often as necessary as long as Tenant other-

wise complies with section 92.0561 of the Texas Property Code and the total repairs and deductions in any one month do not exceed one month's Rent or \$500, whichever is greater.

- d. If Tenant's Rent is subsidized in whole or in part by a governmental agency, the deduction limitation of one month's Rent shall mean the fair market rent for the dwelling and not the Rent that Tenant pays. The fair market rent shall be determined by the governmental agency subsidizing the Rent, or in the absence of such a determination, it shall be a reasonable amount of rent under the circumstances.
- e. Tenant repairs pursuant to section 92.0561 of the Texas Property Code must be made by a company, contractor, or repairman listed in the yellow or business pages of the telephone directory or in the classified advertising section of a newspaper of the local city, county, or adjacent county at the time of Tenant's notice of intent to repair and must be made in compliance with applicable building codes, including a building permit when required. Unless otherwise agreed between Tenant and Landlord, any repairs made pursuant to section 92.0561 of the Texas Property Code may not be made by Tenant, Tenant's immediate family, Tenant's employer or employees, or a company in which Tenant has an ownership interest. In addition, repairs may not be made by Tenant under section 92.0561 of the Texas Property Code to the foundation or load-bearing structural elements of a building of which the Premises is a part if the building contains two or more dwelling units.
- f. If Landlord repairs or remedies the condition or delivers to Tenant an affidavit for delay under section 92.0562 of the Texas Property Code after Tenant has contacted a repairman but before the repairman commences work, Landlord shall be liable for the cost incurred by Tenant for the repairman's trip

charge and Tenant may deduct the charge from Tenant's Rent as if it were a repair cost.

- g. If Tenant elects to pursue judicial remedies against Landlord pursuant to section 92.0563 of the Texas Property Code, those remedies include—
- i. an order directing Landlord to take reasonable action to repair or remedy the condition;
 - ii. an order reducing Tenant's Rent, from the date of the first repair notice, in proportion to the reduced rental value resulting from the condition until the condition is repaired or remedied;
 - iii. a judgment against Landlord for a civil penalty of one month's Rent plus \$500;
 - iv. a judgment against Landlord for the amount of Tenant's actual damages; and
 - v. court costs and attorney's fees, excluding any attorney's fees for a cause of action for damages relating to a personal injury.

6. *Default by Tenant/Events.* Defaults by Tenant are (a) failing to timely pay Rent, (b) abandoning or vacating a substantial portion of the Premises, and (c) failing to comply within ten days after written notice with any provision of this lease other than the defaults set forth in (a) and (b) above.

7. *Default by Tenant/Landlord's Remedies.* Landlord's remedies for Tenant's default are to (a) enter and take possession of the Premises, after which Landlord may relet the Premises on behalf of Tenant and receive the Rent directly by reason of the reletting, and Tenant agrees to reimburse Landlord for any expenditures made in order to relet; (b) enter the Premises and perform Tenant's obligations; and (c) terminate this lease by written notice and sue for possession or damages or both.

8. *Mitigation.* Landlord and Tenant have a duty to mitigate damages.

9. *Security Deposit.* If Tenant defaults, Landlord may use the Security Deposit to pay arrears of Rent, to repair any damage or injury, or to pay any expense or liability incurred by Landlord as a result of the default.

10. *Holdover.* If Tenant does not vacate the Premises following termination of this lease, Tenant will become a tenant at will and must vacate the Premises on receipt of notice from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the Term.

11. *Alternative Dispute Resolution.* Landlord and Tenant agree to mediate in good faith before filing a suit for damages.

12. *Attorney's Fees.* If either party retains an attorney to enforce this lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and any other costs.

13. *Venue.* Exclusive venue is in the county in which the Premises are located.

14. *Entire Agreement.* This lease, together with the attached exhibits and riders, is the entire agreement of the parties, and there are no oral representations, warranties, agreements, or promises pertaining to this lease or to any expressly mentioned exhibits and riders not incorporated in writing in this lease.

15. *Amendment of Lease.* This lease may be amended only by an instrument in writing signed by Landlord and Tenant.

16. *Limitation of Warranties.* THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.

17. *Notices.* Any notice required or permitted under this lease must be in writing. Any notice required by this lease will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this lease. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

18. *Texas Property Code.* Landlord and Tenant each acknowledge that chapter 92 of the Texas Property Code, which deals with residential tenancies, affords certain rights and imposes certain duties on them.

19. *Abandoned Property.* Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the Term.

20. *Tenant’s Statutory Right to Terminate.* Tenant may have special statutory rights to terminate the lease early in certain situations involving family violence or military deployment or transfer.

21. *Emergencies.* Tenant may call [**telephone number**] to report emergencies that affect the Premises and that threaten Tenant’s physical health or safety.

Attach insurance addendum. If applicable, include additional clauses like those suggested in form 11-10 and/or a list of exhibits and riders.

[Name of landlord]

[Name of tenant]

Insurance Addendum to Lease

Lease

Date:

Landlord:

Tenant:

This insurance addendum is part of the lease.

A. Tenant agrees to—

1. Maintain the property and liability insurance policy required below during the Term and any period before or after the Term when Tenant is present on the Premises:

Type of Insurance

Minimum Policy Limit

Tenant’s homeowner’s (also known as tenant’s or renter’s)

Personal Liability:

Per occurrence: \$ _____

Aggregate: \$ _____

Property:

100 percent of replacement cost of all Tenant’s furniture, fixtures, equipment, and other personal property located in the Premises

2. Deliver a certificate of insurance to Landlord before entering the Premises and thereafter at least ten days before the expiration of the policies.

B. Landlord agrees to maintain the property insurance policy required below during the Term:

Type of Insurance

Minimum Policy Limit

Causes of loss—special form property

100 percent of replacement cost of the building in which Premises are located, exclusive of foundation, footings, infrastructure, and site-work