

North Carolina, Durham County

AGREEMENT OF LEASE

This Contract made and entered into this _____ day of _____, 20____ by and between Bob Schmitz Properties, (herein referred to as Owner) and: _____ (herein referred to as Tenant(s));

WITNESSETH:

That subject to the terms and conditions herein set out, Tenant leases from Owner, and Owner accepts as Tenant, a dwelling (also referred to as Premises) in Durham, North Carolina, known as: _____

1. LEASE TERM: This lease shall begin the _____ day of _____, 20____ at noon and, unless sooner terminated as herein provided, shall exist until noon of the last day of _____, 20____. Upon sale of dwelling, this lease term becomes month to month.

2. RENT: The Tenant agrees to pay \$_____ for the partial month ending on_____. The rent shall be payable in equal installments of \$_____ on or before the first of each month. There will be a late fee of \$15.00 or 5% of the unpaid balance, whichever is greater, on any rent received after the fifth day of the month. If Tenants fail to pay any month's installment of rent for a period of 30 days after the same becomes due and payable, then all installments of rent for the whole term hereof shall become due and payable at once. The Tenant agrees that any monies received from the Tenant will be used to pay the oldest outstanding charges first. Late rent notices will be sent out on the first business day after the 5th of the month. Tenant will then be given 10 days in which to pay the rent before the Owner files court papers for eviction. Should the Owner have to file court papers for non-payment of rent, payment after the fact will only be accepted in the form of a cashiers check or money order. If Owner is required to file court papers Tenant will be charged the assessment for court costs. A \$25.00 charge will be assessed on any check that is returned to Owner by a bank or other entity for any reason. In addition, the Tenant will be charged for any bank processing fees incurred by the Owner as a result of the returned check. If the check is for rent a late fee will also be charged. If two (2) checks are dishonored, Tenant will be required to pay outstanding charges by certified check, cashier's check or money order.

3. SECURITY DEPOSIT: Tenant agrees to a security deposit of \$_____. THE SECURITY DEPOSIT MAY BE DEPOSITED IN AN INTEREST-BEARING ACCOUNT WITH ANY INTEREST EARNED UPON THE SECURITY DEPOSIT, WHETHER THE SECURITY DEPOSIT IS DEPOSITED IN A TRUST ACCOUNT OR HELD OTHERWISE, SHALL ACCRUE FOR THE BENEFIT OF THE OWNER. The security deposit will be held in BB&T Bank in Durham, NC. The security deposit will be refunded only at the end of the lease when the keys are returned, the dwelling is vacated, cleaned and repaired at the expense of the Tenant as outlined in sections 4 and 6 below, and only after the last month's rent is paid in full. The security deposit is NOT to be used as the last month's rent. In the case of multiple Tenants the security deposit will be returned in one check made payable to all of the tenants on the lease unless otherwise specified by the Tenants in writing. The security deposit will be returned after deductions within 30 days of vacating the Premises or the end of the lease term whichever is later. The security deposit is due in full at lease signing unless other arrangements are made in writing as part of this lease. If the full security deposit is not paid within 30 days from the beginning of the lease term, it shall be considered a violation of the lease terms and the Tenant would be subject to eviction. Tenants are responsible for rent for anytime the dwelling is vacant during the lease term, including after the lease term has expired if the dwelling, in the sole opinion of the Owner, is un-rentable because of Tenant caused damages requiring repairs and/or cleaning. In such a case, the Tenant agrees to pay rent and utilities while Owner repairs, cleans, and/or repaints dwelling until it is in rentable condition.

4. CONDITION OF DWELLING: The Tenant has inspected the dwelling and is satisfied with the physical condition thereof; and the Tenant's taking possession of the dwelling shall be conclusive evidence that the same were in good condition and repair, except as may otherwise be specified in writing on the move-in inspection form. The

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Tenant agrees that no representation as to the condition or repair of the dwelling has been made except as herein contained and that no promise to decorate, alter, repair, or improve the dwelling prior to or during the term has been made, unless provided in this lease. The Tenant agrees to reimburse owner for all necessary repairs for breakage during the term of this lease unless the Tenant notifies Owner immediately and can demonstrate that such breakage was not due to the Tenant's actions. The Owner may periodically, at Owner's discretion, inspect the property for damages and repair those damages during the tenancy, and bill the tenant at that time. Such payment will be made by the Tenant on demand and failure to pay will be a default under this lease. No alteration, addition, repairs, painting or improvement may be made on the dwelling without the written consent of the Owner. Any alteration will become the property of the Owner when the Tenant departs. Locks may not be installed or changed without the written consent of the Owner. At the termination of the lease, the Tenant agrees to surrender the dwelling to the Owner in as good condition as it now is, ordinary wear and tear excepted. The standard of ordinary wear and tear is the standard to which an owner-occupant would hold him or herself (e.g. an owner occupant would not expect to paint his/her home each year). Damages caused by cigarettes and cigarette smoke are not considered ordinary wear and tear. Repair costs determined at move-out will be deducted from the security deposit. All damages to walls and ceilings must be repaired and repainted to their original condition and color. Please talk to our office about the colors of your apartment before touching up any paint. Any and all damages will be the shared responsibility of the Tenants. Any costs exceeding the amount of the security deposit will be due upon termination of the lease. Should excess costs not be paid at that time, they will be sought in court. Any costs incurred by the Owner to collect monies owed by the Tenant will be added to the amount owed by that Tenant, including but not limited to court costs, credit report filing costs and collection agency costs (which can be up to 50%). Interest of 1% per month will be added to the amount due starting 30 days after debt is incurred. In the event Owner can not deliver possession of the Premises to Tenant upon the commencement of the Lease term, through no fault of Owner, then Owner shall have no liability, but the rental herein provided shall abate until possession is given. Owner shall have thirty (30) days in which to give possession, and if possession is tendered within such time, Tenant agrees to accept the Premises and pay the rental herein provided from that date. In the event possession cannot be delivered within such time, through no fault of Owner, then this Agreement and all rights hereunder shall terminate.

5. PAINTING: Tenant is not allowed to paint the dwelling any other color than "Schmitz Grey" semi-gloss without written permission from the owner and completion of a paint agreement form. Tenant will be responsible for the cost of repainting any painted rooms regardless of whether the colors are "accepted" by the subsequent tenants. These charges will be in the \$250 - \$400 per room price range.

6. CLEANING: Occupancy of the dwelling shall be conclusive evidence that the dwelling, including all appliances, fixtures, yard etc., are in clean and acceptable condition at the time of occupancy, except as otherwise specified in writing within ten (10) days of said occupancy. Before the security deposit will be refunded, the kitchen and bathroom must be completely cleaned including the stove, refrigerator, sink, toilets, tubs, and all other fixtures and appliances. All rooms must be swept and vacuumed. All light fixtures, windows, and woodwork including doors, trim, and baseboards must be cleaned. All items listed under Tenant's Responsibilities must be fulfilled and in working order. Personal items and all trash and debris must be removed from Premises. Leaving items at street is not acceptable as the City of Durham will not pick them up unless in a City green bin. The yard must be cut unless Owner is responsible for grass in paragraph 13 of this lease. A more complete list of cleaning responsibilities of the Tenants can be provided upon request, and is included in the move-in packet provided. All cleaning and repairs must be completed prior to the lease expiration to avoid deductions from Tenant's security deposit amount.

7. USE OF PREMISES: The Tenant covenants and agrees that Tenant will make no unlawful or offensive use of the dwelling and will at all times comply with any and all laws, ordinances, rules and orders of any and all governmental or quasi-governmental authorities affecting cleanliness, use, occupancy and preservation of the Premises including the three (3) person rule which states that more than three unrelated persons not related by blood, marriage, or adoption (unless they are household employees) shall not occupy the dwelling. Landlord shall have the sole discretion to determine what is an "offensive" use of the premises. Tenants are responsible for payment of any governmental charges, fines and/or assessments due to Tenant's non-compliance. Lease can be terminated at the sole discretion of the Landlord for a violation of this section.

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8. NOTICE: The Tenants agree to give the Owner written notice AT LEAST sixty (60) days prior to the termination of this lease agreement of the intent to vacate the dwelling. Failure to provide proper notice will result in additional rent due if notice is not given 60 days before the end of the lease. This does not guarantee the Tenants the right to renew until that time. Offers to renew may be asserted by the Owner at any time. Refusal to renew at that time may result in loss of the renewal option and re-renting the Premises to a new tenant. If any lease is not renewed prior to lease termination date and Tenant remains in possession of Premises with consent of Owner, an additional \$20 per day charge will be added to monthly rent until new lease is signed. This does not in anyway give Owner's permission for month-to-month tenancy.

9. BREAKING A LEASE: Occasionally tenants need to move out before the expiration of the lease. The Tenant must notify the Owner in writing, on a form to be provided by Owner, as soon as Tenant knows that Tenant will vacate the dwelling. The Tenant is responsible for rent payment until the dwelling can be re-rented. Utilities must be kept on at the Tenant's expense until the dwelling is re-rented. Tenant is also responsible for all expenses involved in re-renting the dwelling including cleaning, repairs, advertising, and office expense to handle specific inquiries about the dwelling and time involved in showing the dwelling to prospective tenants. A minimum Break Lease fee of \$200 will be charged to tenant's ledger on the day that Break Lease Notice is signed. This amount is due and payable immediately and may not be paid from the Security Deposit. Should office costs to re-rent the property exceed the minimum fee, additional charges will be posted at the owner's discretion. These charges include, but are not limited to, a fee of \$20 per showing and other necessary costs and expenses.

10. ABANDONMENT: If at any time during the term of this Agreement Tenant abandons the Premises or any part thereof, Owner may, at Owner's option, obtain possession of the Premises in the manner provided by law and without becoming liable to Tenant for damages or for any payment of any kind whatever. If Owner's right of reentry is exercised following abandonment of the Premises by Tenant, then Owner shall consider any personal property left on the Premises to also have been abandoned, in which case Owner may dispose of all such personal property in any manner Owner shall deem proper and Owner is hereby relieved of all liability for doing so.

11. PERMITTED OCCUPANTS: This lease shall not be assigned, nor the dwelling sublet, without prior written consent of the Owner and any such sublet or assignment shall be absolutely null and void and shall, at Owner's sole option, terminate this Agreement. Occupation of the dwelling shall be limited to the Tenants listed on this lease except for a temporary guest who occupies the dwelling for no more than 10 days in the course of a year. Prior written consent of Owner is necessary in order to change Tenants. If Tenants are changed without the Owner's prior written consent, the original Tenant(s) will remain liable for any default including the payment of rent by the new tenant. Each Tenant is jointly and severally liable for all lease obligations. Violations of the lease or rules by any Tenant, guest or occupant are deemed a violation by all Tenants. Requests and notices from Owner to any Tenant constitutes notice to all Tenants and occupants and service of notice through the US Mail is deemed sufficient. Notices from any Tenant (including notices of lease termination and repair requests) are deemed to be from all Tenants. In eviction suits, any one of multiple tenants shall be deemed the agent of all other tenants in the dwelling for purposes of judicial service of citation. In the case of roommate replacement, the departing Tenant will not be released from liability for the remaining term of this lease unless the Owner agrees in writing. The departing Tenant's claim to any Deposit will automatically transfer to the replacing tenant upon the date of Owner's approval, and the departing Tenant shall have no rights or claims in the Deposit against Owner. Deposit refunds may be made by one check jointly payable to all remaining Tenants, and the check and any deduction itemizations may be mailed to one remaining Tenant.

12. PETS: No pets or animals will be allowed on the dwelling for even one day without written consent of the Owner. A minimum, non-refundable \$225 pet fee per dog and \$100 per cat will be charged if Owner's consent is given. This fee does not cover any damages caused by the pet. If pets are in the dwelling without permission the minimum fees charged will be double, and the Owner may require that the pets are removed. Pets may not be tied up or chained outside. Pets which are deemed to be destructive or dangerous in sole opinion of Owner must be removed on written request by Owner within five days. Tenant is responsible for all clean-up and damages from pet excrement inside and outside of the Premises. **NO FERRETS ALLOWED.**

Allowed pets: _____ Pet Fee Charged: _____.

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13. TENANTS RESPONSIBILITIES:

- The Tenant will keep the premises as clean and as safe as possible.
- The Tenant agrees to maintain utility services on at the Premises as are directly billed to Tenant (gas, water, electric) as applicable, and to use the primary heat source provided by Owner. Tenant may not use kerosene heaters inside the Premises and may not use electric space heaters as the primary source of heat.
- The Tenant is responsible for loss or damage of interior water pipes and plumbing fixtures from freezing which will be repaired at the expense of the Tenant. Such freezing can be prevented by leaving the dwelling heat on during cold weather or while away on vacation.
- The Tenant at Tenant's expense is responsible for changing all heat and/or HVAC air filters monthly. Filters can be obtained at any hardware store. The Tenant agrees that service calls or damage to the heating and air system due to clogged or unchanged filters will be paid for by the Tenants (such damages can be quite expensive). Owner may check the filters as often as monthly and if the filter(s) are dirty, Owner will replace the filter(s) and charge the tenant \$20 per filter for reimbursement.
- The Tenant is responsible for minor maintenance such as replacement of fuses, light bulbs and smoke detector batteries. Owner will initially furnish light bulbs for the dwelling, thereafter, light bulbs will be replaced by the Tenant at Tenant's expense.
- The cleaning of fireplace chimneys and flues is necessary before using fireplaces and is the responsibility of the Tenant.
- The Tenant will unstop and keep clear all waste pipes. The Tenant understands that the toilets are designed to handle human waste and toilet paper only, not feminine products, paper towels, food, etc. If the drains are clogged with inappropriate materials, the Tenant will be responsible for all expenses incurred for unclogging the drain and repairing the pipes and fixtures. A minimum of \$45 will be charged.
- The Tenant will park vehicles only in driveways and on yard surfaces paved or graveled for parking. Vehicles parked in unauthorized areas of the yard and/or inoperable or unlicensed and/or uninspected vehicles are subject to immediate towing at Tenant's expense. Vehicle maintenance may not be performed on multi-family properties.
- The Tenant is responsible for any ant infestations. This can be accomplished by keeping food cleaned up and spraying with ant spray, or using Terro Ant liquid.
- The Tenant will keep up and preserve in good condition the lawn and grounds. The _____ will be responsible for keeping the grass cut. If it is the Tenant's responsibility and the grass is not kept cut the Owner may have the grass cut and charge this expenses to the Tenant (a minimum of \$45). The Tenant will remove ice and snow as necessary to keep walkways clear.
- The Tenant will keep the premises neat and free from rubbish and/or hazards including storage of hazardous and/or flammable materials in or near the Premises. The Tenant is responsible for keeping porches, yards and common areas free of upholstered furniture or other debris. Tenants may not store personal items in common hallways. The Owner must give three (3) days written or e-mailed notice to remove such items. After that time, the Owner may remove the items at the Tenant's expense (a minimum of \$75 per trip).. Most dwellings are provided with white mini-blinds for the windows. All interior window treatments provided by Tenants must be white or white-backed, so that only white is showing to the outside. TV dishes are not allowed on the building or property and will be removed by Owner at Tenants' expense. A minimum of \$75 will be charged.
- The Tenant will not use or permit to be used, a grill, oven, stove or heater of any kind, other than appliances provided by the Owner, within ten feet of the dwelling or on any wooden deck or porch.
- All keys received by Tenant are the property of Owner and must be returned when Tenant vacates the dwelling. There will be a \$20.00 per key charge for each lost or not returned key in addition to any charges to re-key the lock. Tenant acknowledges receipt of ____ keys to the dwelling, ____ mailbox keys, _____ front door keys, and _____ laundry room keys.

14. OWNER RESPONSIBILITIES: Consistent with N.C.G.S. S42-42 and this Agreement, Owner agrees to maintain the Premises in a fit and habitable condition. Tenant understands and agrees that Owner is entitled to a reasonable time to make any necessary repairs or maintenance and Tenant shall not be entitled to any abatement for any inconvenience or annoyance during that reasonable time. Tenant further understands that rent may not be withheld under any circumstance, regardless of any alleged failure by Owner to repair in a reasonable time. The Owner is responsible for keeping the following in good working order: plumbing, electrical, heating, stove, refrigerator, and all other appliances provided by the Owner; except where damage is due to Tenant's inattention or negligence. The Tenant will also be charged for the expense of repairing screens and cracked windows, and doors

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unless they can demonstrate that the damage was beyond their control. The Tenant agrees to promptly notify the Owner if there is any malfunction of these systems or appliances. The Tenant will be responsible for any damages and costs incurred before the Owner is notified. The Owner is not required to provide off-hour, weekend, or evening maintenance services. The Owner will not be liable for nor pay for any expense contracted by the Tenant to service any portion of the premises. The Owner will pay to exterminate carpenter ants, termites, and other wood boring insects. The expense to eradicate all other insects including cockroaches, water bugs, crickets and ants, will be borne by Tenant. The Tenant must notify the Owner within ten days of the commencement of this lease of any pre-existing vermin problems, and the Owner shall take prompt action to rectify said problems.

The appliances and equipment provided by Owner are as follows: stove, refrigerator, smoke alarm, fire extinguisher, security system, _____.

The Tenants will provide all utilities with any exceptions noted here: NONE.

Tenants are responsible for calling the utility companies on their own to set up service, and for maintaining service (for gas, electric and water, as applicable) during the term of the lease even if they do not take possession on the lease start date. Failure to maintain services may result in Owner setting up service and billing Tenant. Any utilities which are billed by the Owner are to be paid in a timely manner, and if such utilities are not paid within one month of billing, it will be considered a violation of the lease terms and Tenant will be subject to eviction.

15. **LIABILITY:** It is expressly understood and agreed by and between the parties of this agreement that the Owner will not be liable for any death, loss, damage or injury to any person or persons which may occur on the premises for the duration of this agreement; nor will the Owner be liable for any personal property which is stolen or damaged due to flooding, leaks, fire, malfunction of equipment, structural problems, weather related causes or for any reason whatsoever. All persons and personal property in or on the premises will be at the sole risk and responsibility of the Tenant. **OWNER IS NOT AN INSURER. OWNER STRONGLY RECOMMENDS THAT TENANT SECURE INSURANCE TO PROTECT AGAINST ALL OF THE ABOVE AND OTHER SIMILAR OCCURRENCES.** Owner shall have no duty regarding security on the premises other than to make necessary repairs to security devices, in a timely manner, when notified by Tenant and Tenant expressly acknowledges that Owner has made no representations, agreements, promises or warranties regarding security of the premises or the surrounding community.

16. **UNINHABITABILITY:** If during the term of this lease the dwelling is so damaged by fire, wind, or other catastrophe as to render the same uninhabitable, this lease shall terminate.

17. **COST OF BREACH:** The Tenant shall pay and discharge all costs, expenses, attorney's fees and collection fees which shall be incurred or expended by Owner due to breach of covenants and agreements of this lease by Tenant, or due to Owner's successful defense of any lawsuit brought against the Owner by Tenant.

18. **FORFEITURE CLAUSE AND DEBT COLLECTION:** If the Tenant fails to make any payment of rent when due, or neglects to perform or breaches any other covenant or condition herein set out to be performed or observed by the Tenant, the Owner may, at the Owner's sole discretion, and without any oral or written notice to the Tenant, terminate this lease agreement, upon which termination Tenant becomes a Tenant at will or sufferance. Upon such termination of the lease the Owner may enter the dwelling and expel the Tenants there from without prejudice to other remedies. Notice to quit possession and every other formality is hereby expressly waived by the Tenant in event of default or other breach. This section replaces and renders inapplicable the implied forfeiture and rental default cure provisions currently appearing in Sections 42-3 and 42-33 of the North Carolina General Statutes.

If any debt is incurred by Tenant as a result of the enforcement of this lease, and debt is unpaid, the account may be turned over to a collection agency, at the sole discretion of the Owner. For any account turned over to a collection

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agency, the debt amount will be increased to cover the fee charged by the collection agency. Collection agencies currently charge 50%, which means that the debt would be doubled to cover this expense.

19. OWNER’S RIGHT OF ACCESS: The Owner or agents thereof reserves the right to enter the dwelling mentioned herein at all reasonable times, for the purposes of repairing the dwelling or appliances located there or to ascertain condition of dwelling, or showing the dwelling to a prospective tenant or purchaser, regardless of Tenant being home.

20. LEASE APPLICATION: Lease is contingent upon the approval of the lease application(s).

21. FORMS RECEIVED: Tenant received with this lease - 1) Move-In Checklist, 2) Maintenance Procedures, 3) Move Out Instructions, 4) Winter Weather Procedures 5) Alarm Instructions (if applicable) 6) Lead Paint Protection brochure and disclosure, 7) Mold and Mildew Addendum, 8) List of Possible Repair Charges, 9) Welcome Letter and 10) City of Durham trash and recycling procedures.

22. FULL AGREEMENT: This contract contains the full agreement of the parties, in that there are no representations made, oral, or otherwise, that are not expressed in this agreement. No modification of this agreement is valid unless executed in writing between the parties.

In testimony whereof, said parties have executed this contract in duplicate originals, one of which is retained by each of the parties, the day and year first above written.

_____(seal)
Lessor/Owner (or Authorized Agent)

_____(seal)
Lessee/Tenant

Robert L. Schmitz
1222 Broad Street, Apt A.
Durham, NC 27705
(919) 416-0393

_____(seal)
Lessee/Tenant

_____(seal)
Lessee/Tenant

DUKE POWER COMPANY M-F 8am to 5pm 1- 800-777-9898	PUBLIC SERVICE GAS COMPANY M-F 8 am-5pm 1-877-776-2427	DURHAM WATER AND CUSTOMER SERVICE M-F 8am-5pm 919-560-4411
	FRONTIER COMMUNICATIONS M-F 8:00am to 10pm 1-800-272-8262	TIME WARNER CABLE 919-595-4892

Revised 01/24/2013

Initials of Tenant(s) _____